

- TTY, FCC Consumer Center, Toll-Free Telephone Service: 1-888-TELL-FCC (1-888-835-5322)

- Enforcement Bureau: 202-418-7450

- Web site Locations:

- FCC Homepage and News Location: <http://www.fcc.gov>

- Office of Communications Business Opportunities (OCBO): <http://www.fcc.gov/ocbo/>

- Consumer Alerts and Factsheets—Directory: [http://www.fcc.gov/cgb/information\\_directory.htm](http://www.fcc.gov/cgb/information_directory.htm)

- Small Entity Compliance Guides: <http://www.fcc.gov/ocbo/guides.html>

- Current Major Initiatives: <http://www.fcc.gov/initiatives.html>

- Consumer and Governmental Affairs Bureau: <http://www.fcc.gov/cgb/>

- Enforcement Bureau: <http://www.fcc.gov/eb/>

Federal Communications Commission  
Single Point of Contact: U.S. Federal Communication Commission, Office of Communications Business Opportunities, 445 12th Street, SW., Telephone: 202-418-0990. E-mail: [ocboinfo@fcc.gov](mailto:ocboinfo@fcc.gov).

#### *Federal Deposit Insurance Corporation*

Office of the Ombudsman: <http://www.fdic.gov/regulations/resources/ombudsman.html>.

Federal Deposit Insurance Corporation Single Point of Contact: Edward F. Gerber, Associate Ombudsman, 550 Seventeenth Street, NW., PA-1730-2122, Washington, DC 20429, Telephone: 202-942-3869, Fax: 202-942-3401, E-mail: [egerber@fdic.gov](mailto:egerber@fdic.gov).

#### *Federal Energy Regulatory Commission*

Federal Energy Regulatory Commission Single Point of Contact: Thomas Russo, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: 202-502-8004, E-mail: [thomas.russo@ferc.gov](mailto:thomas.russo@ferc.gov).

#### *Federal Maritime Commission*

##### *Overview*

The purpose of this guidance is to assist drafters of Federal Maritime Commission ("FMC" or "Commission") rules in appropriately implementing the requirements of the Regulatory Flexibility Act ("RFA"), as amended by the Small Business Regulatory Enforcement Fairness Act ("SBREFA"). In general, SBREFA amended the RFA to establish certain formal procedural and analytical requirements (described below) for rules the agency may develop which have the potential to impose a

significant economic impact on a substantial number of small entities. If a rule will impose significant economic impact on a substantial number of small entities, a more formal analysis of the potential adverse economic impacts on small entities must be prepared. Additionally, Executive Order 13272 of August 13, 2002 ("EO 13272"), requires agencies to issue and publish written procedures and policies for use in considering the potential impact of draft rules on small entities.

This guidance is not a binding Commission procedural rule. In determining and mitigating impacts on small entities, the FMC anticipates that there may be some situations in which agency staff and management must exercise considerable judgment. Nevertheless, we intend this guidance to provide an analytic and sequential structure that should be sufficient for most rulemakings. This guidance will be published on the Commission's Internet Web site (<http://www.fmc.gov>) for informational purposes.

The purpose of RFA/SBREFA is "to fit regulatory and informational requirements to the scale of the businesses, organizations and governmental jurisdictions subject to the regulation." To achieve this objective, agencies are required to "solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." RFA/SBREFA does not require an agency necessarily to minimize a rule's impact on small entities if there are legal, policy, factual or other reasons for not doing so. RFA/SBREFA requires only that an agency determine, to the extent feasible, the rule's economic impact on small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain its ultimate choice of regulatory approach.

Since its enactment, RFA has required every federal agency to prepare a regulatory flexibility analysis for any rule for which the agency is required to issue a notice of proposed rulemaking under the Administrative Procedure Act ("APA") or any other statute, unless the agency certifies that the rule "will not, if promulgated, have a significant economic impact on a substantial number of small entities." When SBREFA became law in 1996, the FMC developed procedures and guidelines to implement the applicable statutory requirements. The guidelines are being updated below to ensure continuing compliance with RFA/SBREFA requirements, as well as EO 13272.

In general, RFA/SBREFA requirements will apply to the FMC's rules subject to the notice-and-comment rulemaking requirements under the APA or any other statute. Exempt from the RFA requirement regarding a regulatory flexibility analysis or certification are Commission actions that are not rules (e.g., orders or adjudications), and rules that the Commission is not required by statute to propose before promulgating.

#### *RFA/SBREFA Preliminary Analysis: Assessing the Impact on Small Entities*

This part describes the procedures to follow for determining whether a regulatory flexibility analysis or certification of no significant economic impact on a substantial number of entities should be prepared for a proposed or final rule. It is a six-step process.

1. Is the rule subject to notice-and-comment rulemaking requirements?

As mentioned earlier, most, if not all, FMC proposed and final rules will be subject to notice-and-comment and therefore subject to RFA/SBREFA.

2. What types of entities will be subject to the rule's requirement?

The Commission has adopted small business standards pursuant to the North American Industrial Classification System ("NAICS") published by the Executive Office of the President, Office of Management and Budget. The staff has identified the following NAICS categories and codes defined by the Small Business Administration ("SBA") that fall within the Commission's regulatory jurisdiction:

483111 Deep Sea Foreign Transport of Freight—Vessel Operating Common Carriers ("VOCCs")

483112 Deep Sea Transportation of Passengers—Passenger Vessel Operators ("PVOs")

488320 Marine Cargo Handling—Marine Terminal Operators ("MTOs")

488510 Arrangement of Transportation of Freight and Cargo—Ocean Transportation Intermediaries ("OTIs")

Categories 483111 and 483112 are evaluated by the SBA according to their number of employees. The SBA has determined that if such a business establishment has less than 500 employees, it qualifies as a small business for SBA purposes. Business establishments in categories 488320 and 488510 are evaluated by their annual receipts in millions of dollars. In these categories, SBA determines that business establishments with annual