

**FEDERAL MARITIME COMMISSION****46 CFR Parts 501 and 535****[Docket No. 03–15]****RIN 3072–AC28****Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984****AGENCY:** Federal Maritime Commission.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Maritime Commission proposes to amend its regulations governing agreements among ocean common carriers and marine terminal operators in response to changes in the shipping industry since the enactment of the Ocean Shipping Reform Act of 1998 (“OSRA”), which amended the Shipping Act of 1984 (“Shipping Act”). The Commission proposes to delegate additional authority to the Director of the Commission’s Bureau of Trade Analysis (46 CFR part 501). The Commission also proposes to update its rules relating to standards and exceptions for information that a filed agreement must contain and to revise its regulations pertaining to transshipment agreements (46 CFR part 535). Further, the Commission proposes to modify its Information Form and Monitoring Reports regulations and appendices (46 CFR part 535) to reflect changes in the amount and kind of data the Commission deems necessary to monitor carriers’ use of their antitrust immunity for filed agreements. Finally, the Commission proposes to revise its regulations regarding the filing of agreement minutes (46 CFR part 535). The revision would reduce inadequate inclusion or coverage of substantive issues and insufficient levels of detail to describe carrier discussions, clarify regulations on meetings for which minutes are required to be filed, and identify and provide for timely Commission access to materials used or discussed in such meetings.

**DATES:** Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 10, Microsoft Word 2000, or earlier versions of these applications, no later than January 30, 2004. Requests for meetings to make oral presentations to individual Commissioners must be received, and the meetings completed, by this date as well.

**ADDRESSES:** Address all comments concerning this proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North

Capitol Street, NW., Room 1046, Washington, DC 20573–0001, (202) 523–5725, E-mail: secretary@fmc.gov.

**FOR FURTHER INFORMATION CONTACT:**

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Florence A. Carr, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street, NW., Room 940, Washington, DC 20573–0001, (202) 523–5796, E-mail: tradeanalysis@fmc.gov.

**SUPPLEMENTARY INFORMATION:****Outline**

- I. Delegations to the Director, Bureau of Trade Analysis, 46 CFR 501.26.
- II. The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984, 46 CFR part 535, subparts A, B, C, and D.
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      - iii. Transshipment Agreements
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- III. Information Forms and Monitoring Reports, 46 CFR part 535, subparts E and G.
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A. Introduction

B. Discussion of the components of the current minutes rules and the proposed changes

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**I. Delegations to the Director, Bureau of Trade Analysis, 46 CFR 501.26**

The proposed rule amends § 501.26 to account for modifications in the delegations of the Commission’s authority to the Director, Bureau of Trade Analysis (“BTA”) in connection with the proposed modifications in 46 CFR part 535. Specifically, sections 501.26(c) and (d) are being revised to match the re-coded section numbers for applications for waivers to the reporting requirements for carrier agreements in part 535 of the proposed rule. Sections 501.26(o) and (p) are being added to provide new delegations of authority to the Director of BTA pertaining to the proposed Monitoring Report regulations for carrier agreements in part 535 of the proposed rule.

**II. The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984, 46 CFR Part 535, Subparts A, B, C, and D****A. Background—Docket No. 99–13****1. Introduction**

The Shipping Act of 1984, 46 U.S.C. app. §§ 1701–1719 (“Shipping Act”), requires, at section 5(a), the filing of certain types of commercial agreements by and among ocean common carriers and marine terminal operators with the Federal Maritime Commission (“Commission” or “FMC”). 46 U.S.C. app. § 1704(a). The Commission’s current regulations implementing this provision were first adopted by the Commission in that same year. Docket Nos. 84–26 and 84–32, *Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984*, 22 S.R.R. 1453, 49 FR 45320 (final rule) (November 15, 1984) (“Docket Nos. 84–26 and 84–32 (final rule)”). The Commission most recently amended its agreement rules in 1999, in response to changes made to the Shipping Act by the Ocean Shipping Reform Act of 1998, Public Law No.