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or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Requests for access to the records described in this section shall be made in accordance with procedures described in subparts C and D of this part.

(c) Records disclosed to the public under this section shall be furnished at the expense of the party requesting such access at the actual cost of duplication or transcription.

[49 FR 44401, Nov. 6, 1984, as amended at 64 FR 23549, May 3, 1999]

§ 503.87 Effect of provisions of this subpart on other subparts.

(a) Nothing in this subpart shall limit or expand the ability of any person to seek access to agency records under subpart D (§§ 503.31 to 503.36) of this part except that the exceptions of § 503.86 shall govern requests to copy or inspect any portion of any transcript, electronic recordings or minutes required to be kept under this subpart.

(b) Nothing in this subpart shall permit the withholding from any individual to whom a record pertains any record required by this subpart to be maintained by the agency which record is otherwise available to such an individual under the provisions of subpart G of this part.

[49 FR 44401, Nov. 6, 1984; 49 FR 47395, Dec. 4, 1984]

PART 504—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

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AUTHORITY: 5 U.S.C. 552, 553; 46 U.S.C. app. 1712 and 1716; 42 U.S.C. 4332(2)(b), and 42 U.S.C. 6362.

SOURCE: 49 FR 44415, Nov. 6, 1984, unless otherwise noted.

§ 504.1 Purpose and scope.

(a) This part implements the National Environmental Policy Act of 1969 (NEPA) and Executive Order 12114 and incorporates and complies with the Regulations of the Council on Environmental Quality (CEQ) (40 CFR part 1500 *et seq.*).

(b) This part applies to all actions of the Federal Maritime Commission (Commission). To the extent possible, the Commission shall integrate the requirements of NEPA with its obligations under section 382(b) of the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362.

(c) Information obtained under this part is used by the Commission to assess potential environmental impacts of proposed Federal Maritime Commission actions. Compliance is voluntary but may be made mandatory by Commission order to produce the information pursuant to section 15 of the Shipping Act of 1984. The penalty for violation of a Commission order under section 13 of the Shipping Act of 1984 may not exceed \$5,000 for each violation, unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$25,000 for each violation, as adjusted by § 506.4 of this chapter. (Each day of a continuing violation constitutes a separate offense.)

[49 FR 44415, Nov. 6, 1984, as amended at 64 FR 23549, May 3, 1999]

§ 504.2 Definitions.

(a) *Shipping Act of 1984* means the Shipping Act of 1984 (46 U.S.C. app. 1701—1720).

(b) *Common carrier* means any common carrier by water as defined in section 3 of the Shipping Act of 1984, including a conference of such carriers.

(c) *Environmental impact* means any alteration of existing environmental conditions or creation of a new set of environmental conditions, adverse or

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beneficial, caused or induced by the action under consideration.

(d) *Potential action* means the range of possible Commission actions that may result from a Commission proceeding in which the Commission has not yet formulated a proposal.

(e) *Proposed action* means that stage of activity where the Commission has determined to take a particular course of action and the effects of that course of action can be meaningfully evaluated.

(f) *Environmental assessment* means a concise document that serves to “provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact” (40 CFR 1508.9).

(g) *Recyclable* means any secondary material that can be used as a raw material in an industrial process in which it is transformed into a new product replacing the use of a depletable natural resource.

(h) *Marine Terminal Operator* means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of Title 49, United States Code.

(i) *Commission* means the Federal Maritime Commission, including any office or bureau to which the Commission may delegate its environmental policy analysis responsibilities.

[49 FR 44415, Nov. 6, 1984, as amended at 64 FR 23549, May 3, 1999]

§ 504.3 General information.

(a) All comments submitted pursuant to this part shall be addressed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001.

(b) A list of recent Commission actions, if any, for which a finding of no significant impact has been made or for which an environmental impact statement is being prepared will be maintained by the Commission in the Office of the Secretary and will be available for public inspection.

(c) Information or status reports on environmental statements and other

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elements of the NEPA process can be obtained from the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001.

[64 FR 23549, May 3, 1999]

§ 504.4 Categorical exclusions.

(a) No environmental analyses need be undertaken or environmental documents prepared in connection with actions which do not individually or cumulatively have a significant effect on the quality of the human environment because they are purely ministerial actions or because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. The following Commission actions, and rulemakings related thereto, are therefore excluded:

(1) Issuance, modification, denial and revocation of ocean transportation intermediary licenses.

(2) Certification of financial responsibility of passenger vessels pursuant to 46 CFR part 540.

(3) Receipt of surety bonds submitted by ocean transportation intermediaries.

(4) Promulgation of procedural rules pursuant to 46 CFR part 502.

(5) Receipt of service contracts.

(6) Consideration of special permission applications pursuant to part 520 of this chapter.

(7)-(8) [Reserved]

(9) Consideration of amendments to agreements filed pursuant to section 5 of the Shipping Act of 1984, which do not increase the authority set forth in the effective agreement.

(10) Consideration of agreements between common carriers which solely affect intraconference or inter-rate agreement relationships or pertain to administrative matters of conferences or rate agreements.

(11) Consideration of agreements between common carriers to discuss, propose or plan future action, the implementation of which requires filing a further agreement.

(12) Consideration of exclusive or non-exclusive equipment interchange or husbanding agreements.

(13) Receipt of non-exclusive transshipment agreements.

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(14) Action relating to collective bargaining agreements.

(15) Action pursuant to section 9 of the Shipping Act of 1984 concerning the justness and reasonableness of controlled carriers' rates, charges, classifications, rules or regulations.

(16) Receipt of self-policing reports or shipper requests and complaints.

(17) [Reserved]

(18) Consideration of actions solely affecting the environment of a foreign country.

(19) Action taken on special docket applications pursuant to §502.271 of this chapter.

(20) Consideration of matters related solely to the issue of Commission jurisdiction.

(21) [Reserved]

(22) Investigatory and adjudicatory proceedings, the purpose of which is to ascertain past violations of the Shipping Act of 1984.

(23) [Reserved]

(24) Action regarding access to public information pursuant to 46 CFR part 503.

(25) Action regarding receipt and retention of minutes of conference meetings.

(26) Administrative procurements (general supplies).

(27) Contracts for personal services.

(28) Personnel actions.

(29) Requests for appropriations.

(30) Consideration of all agreements involving marine terminal facilities and/or services except those requiring substantial levels of construction, dredging, land-fill, energy usage and other activities which may have a significant environmental effect.

(31) Consideration of agreements regulating employee wages, hours of work, working conditions or labor exchanges.

(32) Consideration of general agency agreements involving ministerial duties of a common carrier such as internal management, cargo solicitation, booking of cargo, or preparation of documents.

(33) Consideration of agreements pertaining to credit rules.

(34) Consideration of agreements involving performance bonds to a conference from a conference member guaranteeing compliance by the mem-

ber with the rules and regulations of the conference.

(35) Consideration of agreements between members of two or more conferences or other rate-fixing agreements to discuss and agree upon common self-policing systems and cargo inspection services.

(b) If interested persons allege that a categorically-excluded action will have a significant environmental effect (e.g., increased or decreased air, water or noise pollution; use of recyclables; use of fossil fuels or energy), they shall, by written submission to the Secretary, explain in detail their reasons. The Secretary shall refer these submissions for determination by the appropriate Commission official, not later than ten (10) days after receipt, whether to prepare an environmental assessment. Upon a determination not to prepare an environmental assessment, such persons may petition the Commission for review of the decision within ten (10) days of receipt of notice of such determination.

(c) If the individual or cumulative effect of a particular action otherwise categorically excluded offers a reasonable potential of having a significant environmental impact, an environmental assessment shall be prepared pursuant to §504.5.

[49 FR 44415, Nov. 6, 1984; 49 FR 47395, Dec. 4, 1984, as amended at 56 FR 50662, Oct. 8, 1991; 60 FR 27229, May 23, 1995; 61 FR 66617, Dec. 18, 1996; 64 FR 23549, May 3, 1999]

§ 504.5 Environmental assessments.

(a) Every Commission action not specifically excluded under §504.4 shall be subject to an environmental assessment.

(b) A notice of intent to prepare an environmental assessment briefly describing the nature of the potential or proposed action and inviting written comments to aid in the preparation of the environmental assessment and early identification of the significant environmental issues may be published in the FEDERAL REGISTER. Such comments must be received by the Commission no later than ten (10) days from the date of publication of the notice in the FEDERAL REGISTER.

[49 FR 44415, Nov. 6, 1984, as amended at 64 FR 23549, May 3, 1999]

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§ 504.6 Finding of no significant impact.

(a) If upon completion of an environmental assessment, it is determined that a potential or proposed action will not have a significant impact on the quality of the human environment of the United States or of the global commons, a finding of no significant impact shall be prepared and notice of its availability published in the FEDERAL REGISTER. This document shall include the environmental assessment or a summary of it, and shall briefly present the reasons why the potential or proposed action, not otherwise excluded under § 504.4, will not have a significant effect on the human environment and why, therefore, an environmental impact statement (EIS) will not be prepared.

(b) Petitions for review of a finding of no significant impact must be received by the Commission within ten (10) days from the date of publication of the notice of its availability in the FEDERAL REGISTER. The Commission shall review the petitions and either deny them or order prepared an EIS pursuant to § 504.7. The Commission shall, within ten (10) days of receipt of the petition, serve copies of its order upon all parties who filed comments concerning the potential or proposed action or who filed petitions for review.

[64 FR 23549, May 3, 1999]

§ 504.7 Environmental impact statements.

(a) *General.* (1) An environmental impact statement (EIS) shall be prepared when the environmental assessment indicates that a potential or proposed action may have a significant impact upon the environment of the United States or the global commons.

(2) The EIS process will commence:

(i) For adjudicatory proceedings, when the Commission issues an order of investigation or a complaint is filed;

(ii) For rulemaking or legislative proposals, upon issuance of the proposal by the Commission; and

(iii) For other actions, the time the action is noticed in the FEDERAL REGISTER.

(3) The major decision points in the EIS process are:

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(i) The issuance of an initial decision in those cases assigned to be heard by an Administrative Law Judge (ALJ); and

(ii) The issuance of the Commission's final decision or report on the action.

(4) The EIS shall consider potentially significant impacts upon the quality of the human environment of the United States and, in appropriate cases, upon the environment of the global commons outside the jurisdiction of any nation.

(b) *Draft environmental impact statements.* (1) A draft environmental impact statement (DEIS) will initially be prepared in accordance with 40 CFR part 1502.

(2) The DEIS shall be distributed to every party to a Commission proceeding for which it was prepared. There will be no fee charged to such parties. One copy per person will also be provided to interested persons at their request. The fee charged such persons shall be that provided in § 503.43 of this chapter.

(3) Comments on the DEIS must be received by the Commission within ten (10) days of the date the Environmental Protection Agency (EPA) publishes in the FEDERAL REGISTER notice that the DEIS was filed with it. Sixteen copies shall be submitted as provided in § 504.3(a). Comments shall be as specific as possible and may address the adequacy of the DEIS or the merits of the alternatives discussed in it. All comments received will be made available to the public. Extensions of time for commenting on the DEIS may be granted by the Commission for up to ten (10) days if good cause is shown.

(c) *Final environmental impact statements.* (1) After receipt of comments on the DEIS, a final environmental impact statement (FEIS) will be prepared pursuant to 40 CFR part 1502, which shall include a discussion of the possible alternative actions to a potential or proposed action. The FEIS will be distributed in the same manner as specified in paragraph (b)(2) of this section.

(2) The FEIS shall be prepared prior to the Commission's final decision and

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shall be filed with the Secretary, Federal Maritime Commission. Upon filing, it shall become part of the administrative record.

(3) For any Commission action which has been assigned to an ALJ for evidentiary hearing:

(i) The FEIS shall be submitted prior to the close of the record, and

(ii) The ALJ shall consider the environmental impacts and alternatives contained in the FEIS in preparing the initial decision.

(4)(i) For all proposed Commission actions, any party may, by petition to the Commission within ten (10) days following EPA's notice in the FEDERAL REGISTER, assert that the FEIS contains a substantial and material error of fact which can only be properly resolved by conducting an evidentiary hearing, and expressly request that such a hearing be held. Other parties may submit replies to the petition within ten (10) days of its receipt.

(ii) The Commission may delineate the issue(s) and refer them to an ALJ for expedited resolution or may elect to refer the petition to an ALJ for consideration.

(iii) The ALJ shall make findings of fact on the issue(s) and shall certify such findings to the Commission as a supplement to the FEIS. To the extent that such findings differ from the FEIS, it shall be modified by the supplement.

(iv) Discovery may be granted by the ALJ on a showing of good cause and, if granted, shall proceed on an expedited basis.

[49 FR 44415, Nov. 6, 1984; 49 FR 47395, Dec. 4, 1984, as amended at 64 FR 23550, May 3, 1999]

§ 504.8 Record of decision.

The Commission shall consider each alternative described in the FEIS in its decisionmaking and review process. At the time of its final report or order, the Commission shall prepare a record of decision pursuant to 40 CFR 1505.2.

§ 504.9 Information required by the Commission.

(a) Upon request, a person filing a complaint, protest, petition or agreement requesting Commission action shall submit, no later than ten (10) days from the date of the request, a

statement setting forth, in detail, the impact of the requested Commission action on the quality of the human environment, if such requested action will:

(1) Alter cargo routing patterns between ports or change modes of transportation;

(2) Change rates or services for recyclables;

(3) Change the type, capacity or number of vessels employed in a specific trade; or

(4) Alter terminal or port facilities.

(b) The statement submitted shall, to the fullest extent possible, include:

(1) The probable impact of the requested Commission action on the environment (*e.g.*, the use of energy or natural resources, the effect on air, noise, or water pollution), compared to the environmental impact created by existing uses in the area affected by it;

(2) Any adverse environmental effects which cannot be avoided if the Commission were to take or adopt the requested action; and

(3) Any alternatives to the requested Commission action.

(c) If environmental impacts, either adverse or beneficial, are alleged, they should be sufficiently identified and quantified to permit meaningful review. Individuals may contact the Secretary of the Federal Maritime Commission for informal assistance in preparing this statement. The Commission shall independently evaluate the information submitted and shall be responsible for assuring its accuracy if used by it in the preparation of an environmental assessment or EIS.

(d) In all cases, the Secretary may request every common carrier by water, or marine terminal operator, or any officer, agent or employee thereof, as well as all parties to proceedings before the Commission, to submit, within ten (10) days of such request, all material information necessary to comply with NEPA and this part. Information not produced in response to an informal request may be obtained by the Commission pursuant to section 15 of the Shipping Act of 1984.

[49 FR 44415, Nov. 6, 1984; 49 FR 47395, Dec. 4, 1984, as amended at 64 FR 23550, May 3, 1999]

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§ 504.10 Time constraints on final administrative actions.

No decision on a proposed action shall be made or recorded by the Commission until the later of the following dates unless reduced pursuant to 40 CFR 1506.10(d), or unless required by a statutorily-prescribed deadline on the Commission action:

(a) Forty (40) days after EPA's publication of the notice described in § 504.7(b) for a DEIS; or

(b) Ten (10) days after publication of EPA's notice for an FEIS.

§ 504.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Table with 2 columns: Section, Current OMB Control No. Rows include 504.4 through 504.7 and 504.9.

PART 505—ADMINISTRATIVE OFFSET

- Sec. 505.1 Scope of regulations. 505.2 Definitions. 505.3 General. 505.4 Notification procedures. 505.5 Agency review. 505.6 Written agreement for repayment. 505.7 Administrative offset. 505.8 Jeopardy procedure.

AUTHORITY: 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3716.

SOURCE: 61 FR 50444, Sept. 26, 1996, unless otherwise noted.

§ 505.1 Scope of regulations.

These regulations apply to the collection of debts owed to the United States arising from transactions with the

Commission, or where a request for an offset is received by the Commission from another agency. These regulations are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office as set forth in 4 CFR 102.3.

§ 505.2 Definitions.

(a) Administrative offset, as defined in 31 U.S.C. 3701(a)(1), means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) Person includes a natural person or persons, profit or non-profit corporation, partnership, association, trust, estate, consortium, or other entity which is capable of owing a debt to the United States Government except that agencies of the United States, or of any State or local government shall be excluded.

§ 505.3 General.

(a) The Chairman or his or her designee, after attempting to collect a debt from a person under section 3(a) of the Federal Claims Collection Act of 1966, as assembled (31 U.S.C. 3711(a)), may collect the debt by administrative offset subject to the following:

- (1) The debt is certain in amount; and (2) It is in the best interests of the United States to collect the debt by administrative offset because of the decreased costs of collection and the acceleration in the payment of the debt.

(b) The Chairman, or his or her designee, may initiate administrative offset with regard to debts owed by a person to another agency of the United States Government, upon receipt of a request from the head of another agency or his or her designee, and a certification that the debt exists and that the person has been afforded the necessary due process rights.

(c) The Chairman, or his or her designee, may request another agency that holds funds payable to a Commission debtor to offset the debt against the funds held and will provide certification that:

- (1) The debt exists; and