correction published on February 22, 2011 at 76 FR 9714 are withdrawn as of November 30, 2017.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1170 to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On January 7, 2011, FEMA published a proposed rule at 76 FR 1125 and 1126, and a correction on February 22, 2011 at 76 FR 9714, proposing flood elevation determinations along one or more flooding sources in Snohomish County, Washington and Incorporated Areas. FEMA is withdrawing the proposed rule because FEMA has issued a Revised Preliminary Flood Insurance Rate Map featuring updated flood hazard information. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper following issuance of the Revised Preliminary Flood Insurance Rate Map.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: November 2, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2017–25620 Filed 11–29–17; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Parts 531 and 532

[Docket No. 17–10]

RIN 3072–AC68

Amendments to Regulations Governing NVOCC Negotiated Rate Arrangements and NVOCC Service Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking; notice of availability of finding of no significant impact.

SUMMARY: The Federal Maritime Commission (FMC or Commission) proposes to amend its rules governing Non-Vessel-Operating Common Carrier (NVOCC) Negotiated Rate Arrangements and NVOCC Service Arrangements. The proposed rule is intended to modernize, update, and reduce regulatory burdens.

DATES: Submit comments on or before January 29, 2018.

In compliance with the Paperwork Reduction Act (PRA), the Commission is also seeking comment on revisions to two information collections. See the Paperwork Reduction Act section under Rulemaking Analyses and Notices below. Please submit all comments relating to the revised information collection requirements to the FMC and to the Office of Management and Budget (OMB) at the address listed below under **ADDRESSES** on or before January 29, 2018. Comments to OMB are most useful if submitted within 30 days of publication.

Petitions for review of the Commission's finding of no significant impact (FONSI) under NEPA must be submitted on or before December 11, 2017.

ADDRESSES: You may submit comments and petitions for review of the FONSI, identified by the Docket No. 17–10 by the following methods:

- *Email: secretary@fmc.gov.* For comments, include in the subject line: ''Docket 17–10, Comments on Proposed NSA/NRA Regulations.'' For petitions for review of the FONSI, include in the subject line: ''Docket 17–10, Petition for Review of FONSI.'' Comments and petitions for review should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential and public versions of confidential comments and petitions should be submitted by email.
- *Mail:* Rachel E. Dickon, Assistant Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001.

Comments regarding the proposed revisions to the relevant information collections should be submitted to the FMC through one of the preceding methods and a copy should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Maritime Commission, 725 17th Street NW., Washington, DC 20503; by Fax: (202) 395–5167; or by email: *OIRA_Submission@OMB.EOP.GOV.*

Instructions: For detailed instructions on submitting comments, including requesting confidential treatment of comments, and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to the Commission's Web site, unless the commenter has requested confidential treatment.

Docket: For access to the docket to read background documents or comments received, go to the Commission's Electronic Reading Room at: *http://www.fmc.gov/17-10,* or to the Docket Activity Library at 800 North Capitol Street NW., Washington, DC 20573, between 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays. Telephone: (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: For questions regarding submitting comments or petitions for review of the FONSI, or the treatment of confidential information, contact Rachel E. Dickon, Assistant Secretary. *Phone:* (202) 523–5725. *Email: secretary@fmc.gov.* For technical questions, contact Florence A. Carr, Director, Bureau of Trade Analysis. *Phone:* (202) 523–5796. *Email: tradeanalysis@fmc.gov.* For legal questions, contact Tyler J. Wood, General Counsel. *Phone:* (202) 523–5740. *Email: generalcounsel@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
II. Background
  A. NVOCC Service Arrangements (NSAs)
  B. NVOCC Negotiated Rate Arrangements (NRAs)
  C. NCBFAA Petition for Rulemaking and Overview of Comments
III. The Commission's Proposed Rule
  A. Overview
  B. Remove the NSA Filing and Publication Requirements
  C. Authorize Amendments of NRAs and Shipper Acceptance Upon Booking
IV. Public Participation
V. Rulemaking Analyses and Notices

I. Executive Summary

The Commission proposes to amend its rules at 46 CFR part 531 governing NVOCC Service Arrangements to remove the NSA filing and publication requirements. The Commission also proposes to amend its rules at 46 CFR part 532 to permit NRAs to be modified at any time. In addition, an NVOCC may provide for the shipper's acceptance of the NRA by booking a shipment thereunder, subject to the NVOCC incorporating a prominent written notice to such effect in each NRA or amendment.

II. Background

The Shipping Act of 1984 (the Shipping Act or the Act) expanded the options for pricing liner services by introducing the concept of carriage under service contracts filed with the

Commission. Public Law No. 98–237, § 8(c). Liner services could be priced via negotiated contracts between ocean common carriers and their shipper customers, rather than solely by public tariffs. Per the Shipping Act and FMC regulations, ocean freight rates, surcharges, and accessorial charges had to be published in tariffs or agreed to via a service contract filed with the Commission. Contemporaneous with the filing of service contracts, ocean carriers were required to make publicly available a statement of essential terms in tariff format.

The Ocean Shipping Reform Act of 1998 (OSRA) amended the Shipping Act of 1984 as it related to service contracts. Public Law No. 105–258, § 106. No longer did contract rates need to be published in the tariff publication, and the essential terms publication was limited to: Origin and destination port ranges, commodities, minimum volume or portion, and duration. Nevertheless, though the Shipping Act and its amendments provided for more efficiency and flexibility for ocean common carriers through the use of service contracts, similar relief was not extended to NVOCCs, which were still required to publish tariffs and adhere to those tariffs when transporting cargo.

A. NVOCC Service Arrangements (NSAs)

In 2003, NCBFAA filed a petition to seek exemption from some of the tariff requirements of the Shipping Act of 1984. *See* Docket No. P5–03, *Petition of the National Customs Brokers and Forwarders Association of America. Inc. for Limited Exemption of Certain Tariff Requirements of the Shipping Act of 1984.* In response, the Commission issued a notice of proposed rulemaking (NPRM) in which it determined that it had the statutory authority to exempt NVOCCs from the provisions of the Shipping Act, subject to certain conditions. 69 FR 63981, 63985. (Nov. 3, 2004). The Commission distinguished itself from other agencies who, pursuant to the findings in *Maislin Industries, U.S. Inc.* v. *Primary Steel, Inc.,* 497 U.S. 116, 126 (1990) and *MCI Telecommunications Corp.* v. *American Tel. & Tel. Co.,* 512 U.S. 218 (1994) had lacked exemption authority. 69 FR at 63985. The Commission determined that in order to ensure there was no substantial reduction in competition among NVOCCs, the exemption had to be available to all NVOCCs compliant with both section 19 of the Shipping Act and the conditions of the exemption. *Id.* The Commission proposed that ''the exemption be conditioned on the same statutory and regulatory requirements and protections applicable to VOCCs' service contracts: Namely, filing of executed agreements; publication of essential terms of those agreements; and confidential treatment, similar to that set forth in 46 CFR part 530.'' 69 FR at 63986. The Commission also proposed the required publication of the essential terms of all NSAs in automated systems and the confidential filing of the text of those NSAs with the Commission. 69 FR at 63987. The Commission further proposed ''making applicable to carriage under an NSA, those provisions of the Shipping Act that would be applicable to service contracts.'' *Id.* The Commission's final rule provided a limited exemption, Non-Vessel Operating Service Arrangements (''NSAs''), similar to service contracts, with required filing and publication requirements. (46 CFR part 531) *Non-Vessel Operating Service Arrangements,* 69 FR 75850 (Dec. 20, 2004). To ''ensure that the exemption as proposed [would] not result in a substantial reduction in competition,'' the Commission limited the exemption to individual NVOCCs acting in their capacity as carriers. 69 FR at 75851. The Commission also decided to allow affiliated NVOCCs to jointly offer NSAs. 69 FR at 75852.

B. NVOCC Negotiated Rate Arrangements (NRAs)

In 2008, the NCBFAA filed another petition with the Commission. This petition sought an exemption from mandatory rate tariff publication. *See* Docket No. P1–08, *Petition of the National Customs Brokers and Forwarders Association of America. Inc. for Exemption from Mandatory Rate Tariff Publication* (filed July 31, 2008). The proposal sought to exempt from the provisions of the Shipping Act of 1984 the requirement for NVOCCs to publish and/or adhere to rate tariffs ''in those instances where they have individually negotiated rates with their shipping customers and memorialized those rates in writing.'' NCBFAA Petition in Docket No. P1–08, at 10.

By Notice of Proposed Rulemaking (''NPRM'') issued May 7, 2010, the Commission proposed that the use of NRAs would be allowed, subject to conditions, including (1) a requirement for NVOCCs to continue publishing standard rules tariffs with contractual terms and conditions governing shipments, including any accessorial charges and surcharges, (2) a requirement to make available NVOCC rules tariffs to shippers free of charge; (3) a requirement that NRA rates must be mutually agreed to and memorialized in writing by the date the cargo is received for shipment; and (4) a requirement that NVOCCs who use NRAs must retain, and make available upon request to the Commission, documentation confirming the terms, and agreed rate, for each shipment for a period of five years. *NVOCC Negotiated Rate Arrangements,* 75 FR 25150, 25154. (May 7, 2010). In the NPRM, the Commission also determined that under Section 16 of the Shipping Act the exemption could be granted as doing so ''would not result in substantial reduction in competition or be detrimental to commerce.'' 75 FR at 25153.

The Commission subsequently granted the exemption, relieving NVOCCs from the burden and costs of tariff rate publication when using this new class of carrier rate arrangements. *NVOCC Negotiated Rate Arrangements,* 76 FR 11351 (Mar.2, 2011) (2011 NRA Final Rule). In determining whether to grant the exemption the Commission considered: Competition among NVOCCs; competition between NVOCCs and VOCCs; among VOCCs; as well as competition among shippers. 76 FR at 11352. The Commission determined that granting the exemption would not result in a substantial reduction in competition in any of the above categories. 76 FR at 11352–11353. Analyzing whether granting the exemption would be detrimental to commerce, the Commission determined that such NRAs would be beneficial to commerce because the exemption would ''reduce NVOCC operating costs and increase competition in the U.S. trades.'' 76 FR at 11353. The Commission also determined that ''NVOCCs entering into NRAs continue to be subject to the applicable requirements and strictures of the Shipping Act, including oversight by the Commission.'' 76 FR at 11354.

As a condition to offering NRAs, NVOCCs were required to provide their rules tariffs to the public free of charge. 76 FR at 11358. The Commission also determined not to allow for amendment of an NRA after receipt of the cargo by the carrier or its agent. *Id.* Consistent with the Petition's focus upon negotiated rates only, the Commission determined not to permit NRAs to include non-rate economic terms, such as rate methodology, credit and payment terms, forum selection or arbitration clauses, or minimum quantities. 76 FR at 11355.

C. NCBFAA Petition for Rulemaking and Overview of Comments

NCBFAA petitioned the FMC on April 16, 2015, to initiate a rulemaking to eliminate the NSA provisions in 46 CFR part 531 in their entirety, or

alternatively, eliminate the filing and essential terms publication requirements for NSAs. Consolidated with that request, NCBFAA also asked the Commission to expand the NRA exemption in 46 CFR part 532 to include economic terms beyond rates, and to delete 46 CFR 532.5(e) that precludes any amendment or modification of an NRA.

On April 28, 2015, the Commission published a Notice of Filing and Request for Comments. 80 FR 23549 (Apr. 28. 2015). Comments were received from Mainfreight, Inc. (Mainfreight); ABS Consulting (ABS); Mohawk Global Statistics (Mohawk); Global Logistics Solutions (GLS); World Shipping Council (WSC); DJR Logistics, Inc. (DJR); Crowley Latin America Services, LLC and Crowley Caribbean Services, LLC (Crowley); New York New Jersey Foreign Freight Forwarders and Brokers Association, Inc. (NYNJFFF&BA); National Industrial Transportation League (NITL); CaroTrans International, Inc., (CaroTrans); Vanguard Logistics Services (USA), Inc., (Vanguard); Serra International, Inc., (Serra); C. H. Powell Company (Powell); BDG International, Inc., dba Seagull Express Lines, (BDG); John S. James Co. (James); and UPS Ocean Freight Services, Inc., UPS Europe SPRL, and UPS Asia Group Pte., Ltd. collectively submitting one comment (UPS). The comments represent a broad cross-section of industry stakeholders, including licensed NVOCCs and freight forwarders, a major trade association representing beneficial cargo owners, and vessel-operating common carriers (VOCCs). However, the Commission did not receive comments directly from beneficial owners of cargo shipped by NVOCCs under either NRAs or NSAs.

A majority of the OTI comments expressed general support for the petition. Commenters supported either the elimination of 46 CFR part 531 in its entirety, or eliminating the filing and essential terms publication requirements for NSAs. Many supported allowing economic terms beyond rates in NRAs, as well as the modification of NRAs at any time, upon mutual agreement.

The World Shipping Counsel, while not opposing the Petition, urged even-handed regulatory relief with respect to VOCCs as well. WSC cites prior requests that VOCCs have made for changes to the Commission's regulations governing service contract amendment filings. WSC's comments were supported by Crowley.

NITL, while supporting the negotiation of economic terms between NVOCCs and shippers, as well as the elimination of the filing and essential terms publication requirement of NSAs, did not support the elimination of part 531 in its entirety. UPS also opposed any restrictions upon, or the elimination of, part 531, expressing support for the continued use of NSAs.

On August 2, 2016, the Commission granted NCBFAA's petition to ''initiate a rulemaking with respect to the revisions discussed in the petition.'' However, because the Commission was in the process of a separate rulemaking to amend portions of part 531 related to NSAs (Docket No. 16–05, *Service Contracts and NVOCC Service Arrangements*), the Commission delayed initiating the requested rulemaking until after the rulemaking in Docket No. 16–05 was concluded.

III. The Commission's Proposed Rule

A. Overview

NCBFAA has proposed deleting in its entirety the NSA exemption in 46 CFR part 531, or alternatively, eliminate the filing and essential terms publication requirements for NSAs. NCBFAA also sought to expand the NRA exemption in 46 CFR part 532 to allow inclusion of economic terms beyond rates into NRAs. NCBFAA Petition at 14. NCBFAA argues that, whereas the NSA exemption currently benefits few NVOCCs, NVOCCs and shippers often seek to negotiate one-on-one on a broad range of service terms including: Rate or service amendments; liability; minimum volumes or time/volume rates; liquidated damages; credit terms; service guarantees and/or service benchmarks; measurements and penalties; surcharges; GRIs or other pass-through charges from the carriers or ports; rate amendment processes; EDI services; and dispute resolution. *Id.* at 8. NCBFAA urges that ''each of these terms are relevant to some extent to every rate and service negotiation between an NVOCC and an existing or prospective customer. Yet, none of the items on this list can properly be included in an NRA.'' *Id.* at 9. NCBFAA contends that ''the FMC should now look to meld the features of NSAs and NRAs into a single arrangement.'' *Id.* at 13.

Mainfreight, ABS, Powell, Mohawk, and John S. James support the elimination of 46 CFR part 531. Mainfreight states that granting the petition ''would eliminate a regulatory burden that, over time, has come to represent a significant hurdle to the profitability and sustainability of the NVOCC business model.'' Mainfreight at 1.[1] ABS states that the petition ''clearly reflects how shippers negotiate and contract with NVOCC's today and it will greatly simplify the process and make it easier for NVOCC's [*sic*] and shippers to cooperate and eliminate burdensome and not needed requirements and associated costs.'' ABS at 1. Powell believes that NRAs and NSAs are ''two imperfect methods for memorializing NVOCC rates,'' and supports the petition's argument to eliminate the NSA exemption. Powell at 1. John S. James Co. likewise supports the petition from the NCBFAA to eliminate NSAs and expand the use of NRAs. James at 1.

Mohawk commented that given the current limitations on NRAs, which allow no provisions ''that cover free time, demurrage, per diem and other similar components related to the transport of goods,'' both Mohawk and its clients had a desire for NRAs to include more terms and provisions. Mohawk at 2. BDG asserts that since BDG is ''able to privately negotiate rates with our customers without publishing them in a tariff; it is difficult to understand why other economic terms that we also negotiate have to be treated differently and filed as NSAs.'' BDG at 2.

Global and NYNJFFF&BA support either eliminating the filing of essential terms publication requirements of NSAs or eliminating part 531 in its entirety. Global at 2; NYNJFFF&BA at 3. Global states that it has not used NRAs or NSAs and finds the provisions confusing. Global believes that combining NRAs and NSAs as one exemption would be more efficient and beneficial to ''allow negotiated agreements to be fully comprehensive and cover rates and service arrangements.'' *Id.* at 1. NYNJFF&BA insists that if existing restrictions on NRAs were removed, there would no longer be a commercial need for NSAs. NYNJFF&BA at 3.

NITL does not support eliminating part 531. While advocating generally for greater flexibility for NVOCCs in the commercial marketplace, NITL ''believes that NSAs should remain as an option for any shippers and NVOCCs that desire the increased formality of the NSA requirements.'' NITL at 6.

UPS urges that NSAs be preserved regardless of any changes to the NRA regulations to improve flexibility of the latter. UPS at 4. UPS states that ''NSAs

[1] Mainfreight asserts that regulatory relief also is needed to stem a decline in the NVOCC share of the ocean freight business. *Id.* FMC review of current PIERS data for January 2014 through July 2017 indicates that NVOCC cargo as a share of U.S. ocean trades continues to increase overall, exceeding 50% for all U.S. import trades.

are the only method by which larger-volume NVOCCs can maintain an equal playing field with the Vessel Operating Common Carriers (VOCCs),'' *id.* at 3, pointing out that ''many NSAs are longer term, multi-year large volume contracts between NVOCCs and their shipper customers, often including multiple affiliated companies as additional shippers or consignees, [and] often covering global trade lanes.'' *Id.* at 2. Whereas NRAs ''may not be the most suitable format for certain types of transactions.'' *id.,* UPS believes that preservation of NSAs allows pricing and service benefits ''for shippers of all sizes, bringing the benefits of the Commission's [NSA] exemption to the marketplace.'' *Id.* UPS urges the Commission to allow the continued use of NSAs for ''those NVOCCs that are now successfully using them, and for the benefit of their shippers.'' *Id.* at 2.

The World Shipping Council urges that the issues raised by the NCBFAA Petition ''are most logically and equitably considered alongside requests that vessel operating common carriers have made for changes to the Commission's regulations governing service contract amendment filing.'' WSC, at 1. WSC thus proposes that service contract amendments be permitted to be filed within 90 days of the filing of the underlying commercial agreement. *Id.* at 9. WSC asserts that the NCBFAA Petition provides an opportunity for the Commission to address changes to its NRA and NSA regulations at the same time that it considers changes to its VOCC service contract amendment filing regulations. *Id.* at 8. Crowley supports WSC's comments, and states that the Commission should ''initiate a rulemaking proceeding which would amend the FMC's regulations to permit amendments to service contracts and NSAs to be filed within a specified period of time after the parties agree on the amendment.'' Crowley, at 5.

Some commenters claim that the NSA exemption benefits few NVOCCs, citing the low volume of filed NSAs and higher costs and filing formalities attendant to NSAs. However, UPS' description of NSAs as comprising ''multi-year large-volume contracts'' with its shipper customers, containing ''hundreds or even a thousand or more individual rates'' establishes a compelling factual parallel between the content of NSA and service contracts first anticipated by the Commission in creating an exemption for NSAs. Indeed, the exemption was expressly ''conditioned on the same statutory and regulatory requirements and protections applicable to VOCCs' service contracts: Namely, filing of executed agreements; publication of essential terms of those agreements; and confidential treatment, similar to that set forth in 46 CFR part 530.'' 69 FR at 63986.

Like service contracts, NSAs can contain non-rate economic terms, such as rate methodology, credit and payment terms, forum selection or arbitration clauses, or minimum quantities, which delineate the contractual terms and conditions binding both the carrier and shipper signatories. These latter provisions were excluded from application in NRAs. 76 FR at 11355. Indeed, in the Commission's 2011 Final Rule as to NRAs, a number of commenters therein insisted upon the need for a rate-based NRA exemption notwithstanding the ability of NVOCCs to contractually enter into NSAs. These concerns were premised largely upon the perspectives of their customers, shippers who ''do not want or need to engage in a formal contract process.'' 76 FR at 11353.[2] This outlook continues to hold sway today. See, *e.g.* DJR comments, at 1 (''We will limit our comments to the NRA filing as we have never been able to secure a NSA from one of our clients. They rejected the idea stating that they did not want to be committed to a long term contract should our service levels fail to meet their requirements.'') Other commenters likewise have shared the view that the contractual formalities of NSAs are deemed too time consuming and burdensome, Serra at 1; Vanguard at 2; Powell at 1; and that ''[c]hasing down signatures on amendments'' had proven problematic. Mohawk at 2.

UPS insists that elimination of NSAs would create competitive conditions unfair to those larger NVOCCs who have invested heavily in building up procedures and business methods for this type of contracting. UPS points to the success of its own efforts and focus upon marketing NSAs, where more than one-third of their container volume in a major US trade lane is now shipped under NSAs. NITL likewise echoes the commercial importance of these contractual distinctions between NRAs and NSAs, and urges that ''NSAs should remain as an option for any shippers and NVOCCs that desire the increased formality of the NSA requirements.'' *Id.* at 6.

Consistent with recent Executive Orders,[3] the Commission's mission is best fulfilled by recognizing and facilitating the further development of emerging business models, including the more contractually complex and service-oriented NSAs. Whereas NSA contracts bear service provisions and terms more equivalent to VOCC service contracts, that differentiation (from NRAs) was at the heart of creating an exemption for a rate-based vehicle for NVOCC shippers, whom the Petitioner previously described as ''most of whom are LCL shippers,'' [4] ''who do not want to sign formal written contracts,'' *id.* at 9, or just do not like the formality of NSAs, *id.* The Commission perceives little value, therefore, in mandating a narrowing of NVOCCs' choices for contracting with their customers, when it appears that substantial volumes of cargo are now moving successfully under the NSA contract model. UPS, at 2. Rather, where those contracting models may be substantially improved without compromising carrier duties or conditions intended for the protection of the shipper, the Commission has been unafraid to consider further loosening of the restrictions or limitations previously established upon an exemption. The Commission is persuaded that it can do so here by removing unnecessary or burdensome regulatory impediments upon the further development of NSAs, without eliminating the NSA provisions in part 531 in their entirety.

In doing so, the Commission also re-affirms its intention, first stated in Docket No. 10–03, that NRAs should facilitate a new business model conducive to those NVOCCs who could not then, and cannot now, utilize NSAs. While some NVOCCs may wish to issue a NSA to obtain a volume commitment from their shipper customer, many small and medium enterprises continue to work on a quotation basis, without need to engage in a formal contract process. 76 FR at 11353. See also DJR at 1; NYNJFF&BA at 3 (NSAs are not ''practical particularly for our smaller members when moving lower or less

[2] See also supporting attachments to NCBFAA's seminal Petition in Docket No. P1–08, including Verified Supporting Statement of Anthony Kozlowski, at 2; Verified Support Statement of Edward M. Piza, at 2; Verified Supporting Statement of Cas Pouderoyen, at 2. As summarized by Ms. Paulette Kolba of Panalpina: We realize and appreciate the ruling allowing NVOCCs to issue NSAs (NVOCC Service Arrangements) to our customers. NSAs, however, have proven to have limited value, especially to the small and medium sized companies who do not want to get involved in signing a legal contract. They are perfectly happy with the written quotation and rarely understand the need for the NSA. The main benefit of NSAs that we see is in being able to customize rates and services to the unique conditions of some customers.

Verified Supporting Statement of Panalpina, Inc. at 4.

[3] See *e.g.* Executive Order 13771, *Reducing Regulation and Controlling Regulatory Costs* (Jan. 30, 2017 and Executive Order 13777, *Enforcing the Regulatory Reform Agenda* (Feb. 24, 2017).

[4] NCBFAA Petition in Docket No. P1–08, at 6.

frequent freight volumes.'') For such NVOCCs, and their customers, NRAs continue to provide a lower cost, competitive niche in today's commercial marketplace, made possible by a Commission-issued exemption from the otherwise-applicable requirements of the Shipping Act.

The Commission invites further public comment, particularly from shippers currently using NRAs, on how expanding the NRA exemption to allow inclusion in NRAs of non-rate economic terms may impact their commercial business operations. Non-rate economic terms could include but are not limited to such terms as: Service amendments; per-package liability limits; provision of free time, detention or demurrage charges; provisions for arbitration, dispute resolution or forum selection; minimum volumes or time/volume rates; liquidated damages; credit terms and late payment interest; service guarantees and/or service benchmarks, measurements and penalties; surcharges, GRIs or other pass-through charges from the carriers or ports; rate amendment processes; and EDI services, etc.

B. Remove the NSA Filing and Publication Requirements

NCBFAA argues that the NSA exemption benefits few NVOCCs. As NSAs must be filed with the Commission, and essential terms of NSAs also need to be published in tariffs, NCBFAA opines that NSAs are more burdensome than regular rate tariffs. NCBFAA Petition at 7–8. NCBFAA also argues that continuing the filing requirement for NSAs does not appear to provide any regulatory benefit. *Id.* at 12–13.

A substantial majority of the NVOCC commenters support the NCBFAA position. Commenting on NSAs, Mohawk states ''the filing burden and rules of use run parallel to tariff filing. NSAs by their nature are more restrictive than the NRA we have opted to use. They require 30 days advanced filing to increase rates, and must be maintained electronically,'' Mohawk at 2. Serra asserts that NSAs, due to the filing requirements, are ''far too time consuming and costly both for ourselves and our customers.'' Serra, at 2. Carotrans and Vanguard insist that ''NSAs are often of little utility to most NVOCCs due to the formality, burden, and cost of its publication and filing requirements.'' Carotrans, at 2; Vanguard, at 2. NYNJFF&BA summarizes the current requirements surrounding NSAs as ''more formal, more costly, and more time-consuming to put in place.'' NYNJFF&BA, at 3. NITL supports ''the elimination of the filing and essential terms publication requirement of NSAs,'' NITL at 5, but recommends continuation of provisions that would require ''NVOCCs to provide NSA contract terms to the Commission upon its request.'' *Id.*

The OTI commenters have made a substantial case that continuing the filing requirement for NSAs does not appear to offer any regulatory benefit. NCBFAA suggests that these filing requirements may be impeding broader commercial acceptance of NSAs by shippers and NVOCCs, noting that approximately 2,300 NVOCCs have instead taken advantage of the NRA exemption. Petition at 7. UPS takes no issue with removing the filing and essential terms publication requirements so long as NSAs are not eliminated nor any material additional restrictions imposed upon NSAs. UPS, at 4. NITL also supports elimination of these requirements, asserting that the Commission ''does not (and need not) rely on these submissions to fulfill its enforcement duties.'' NITL, at 5.

WSC cites the need for ''even-handed regulatory relief'' with respect to VOCCs as well. WSC, at 9. While the WSC does not oppose most issues in the petition, WSC does oppose eliminating the filing requirement for NVOCCs because it would create a disparity between NVOCCs and VOCCs. WSC asserts that the NCBFAA Petition provides an opportunity to consider changes to the VOCC service contract amendment filing regulations at the same time the Commission addresses Petitioner's request for changes to the NRA and NSA regulations. *Id.* at 8. Specifically, WSC cites prior requests that VOCCs have made for changes to the Commission's regulations permitting contract amendments to be filed subsequent to the execution of such contract amendments. WSC's comments were supported by Crowley.

As noted, the Commission previously approved initiating a separate rulemaking to amend portions of parts 530 and 531 related to service contracts and NSAs, Docket No. 16–05, *Service Contracts and NVOCC Service Arrangements.* In granting the NCBFAA Petition, the Commission delayed initiating the requested rulemaking until after the rulemaking in Docket No. 16–05 was concluded. A final rule in Docket 16–05 was published on April 4, 2017. 82 FR 16288. The relief granted by the Commission in Docket 16–05 allows amendments to service contracts, including multiple service contract amendments, to become effective during a 30-day period prior to being filed with the Commission. The Commission therefore has substantially met WSC's specific request for regulatory relief for VOCCs. Any further relief to VOCCs for service contracts may be undertaken by the Commission after it has had an opportunity to analyze the impact of the 30-day filing period on VOCC operations and shipper feedback.[5]

The Commission proposes to exempt NSAs from both the SERVCON filing requirement and also the requirement that the NVOCC publish, in tariff format, the essential terms of any NSA. See 46 CFR 531.9. The essential terms requirement for NSAs currently mirrors those provisions set forth for VOCC service contracts, 46 CFR 530.12, while recognizing that the VOCCs' statutory obligation of disclosure to labor organizations for work covered by a collective bargaining agreement extended solely to service contracts, not NSAs. See 46 U.S.C. 40502 and 46 CFR 530.7. Inasmuch as most NVOCCs are not subject to collective bargaining agreements with shoreside labor unions, the Commission solicits public comments why the essential terms publication requirement should not now be removed as an unnecessary burden upon the use of NSAs. Shippers, who were identified by the Commission as the beneficiaries of essential terms in the original 2003 NSA rulemaking, have not since commented on the continuing utility of essential terms publications, and thus maintaining the essential terms publication requirement appears to provide little regulatory benefit.[6]

In removing the NSA filing and essential terms publication requirements, the Commission seeks to preserve the NVOCC's current range of pricing and contracting choices, while eliminating the filing and publication costs currently associated with NSAs. According to the commenters, this regulatory relief is likely to make NSAs a more attractive pricing and contracting tool and thereby encourage increased use of NSAs. The Commission is mindful that NSAs, comprising both

[5] While the VOCC commenters to the subject Petition did not expressly request relief from the current service contract filing requirements as to essential terms, the Commission would invite the VOCC community to submit an appropriate request for relief.

[6] As noted in the Commission's earlier rulemaking, the most critical elements of both VOCC service contracts and NVOCC NSAs are the important statutory protections provided to shippers that ensure against detriment to commerce. See 69 FR 53969. To ensure consistency with VOCC treatment, the Commission will continue applying to carriage under an NSA, those provisions of the Shipping Act that would be applicable to service contracts which relate to protecting shippers. These include the prohibited acts contained in sections 10(b)(1), (2), (5) and (9), 46 U.S.C. 41104(1), (2), (5) and (9).

rate and service provisions, may remain impractical for smaller NVOCCs or shippers moving lower or less frequent freight volumes. It has been shown, however, that substantial volumes of cargo are already moving under this contract model, and that the NVOCC members of Petitioner NCBFAA would prefer the flexibility of including both service and rate-related items in their contract offerings if relieved of the filing and publication burdens of same. Appropriate regulatory relief thus will allow parties to increase the use and reliance upon NSAs as a means to more efficiently engage in the movement of U.S. import and export cargo, while continuing to protect NSA shippers from potential financial harm for non-performance.

C. Authorize Amendments of NRAs and Shipper Acceptance Upon Booking

NCBFAA has proposed deleting 46 CFR 532.5(e) and expanding the NRA exemption in 46 CFR part 532 to allow modification of NRAs at any time upon mutual agreement between NVOCCs and their customers. NCBFAA Petition at 14.

Mainfreight, ABS, Mohawk, GLS, DJR, NYNJFFF&BA, NITL, CaroTrans, Vanguard, Serra, Powell, and BDG support the NCBFAA petitioner's request to allow modification of NRAs, at any time, upon mutual agreement. DJR states that, under current NRA requirements, either ''the NVOCC faces the serious loss of revenue and potentially being put out of business by issuing long period NRAs, or the NVOCC issues 1 day or 1 week NRAs which increases the NVOCCs' operational expense and floods the shipper with constantly changing pricing.'' DJR at 2–3. NYNJFFF&BA also supports the NCBFAA recommendation that NRAs be allowed to be amended at any time after the receipt of cargo. NYNJFFF&BA states ''if NRAs can be amended in conjunction with the shipper's agreement the NRA will become more directly responsive to competitive market conditions and business practices prevalent in the current marketplace.'' NYNJFF&BA, at 3.

CaroTrans supports allowing modification of NRAs, as it believes it will improve efficiency and prevent the current ''nonsensical'' and ''inefficient'' approach to modification, which entails terminating the current NRA and entering into a new one. CaroTrans at 3. Serra and Powell also support allowing amendment of NRAs after the cargo is received if the shipper and the NVOCC both agree in writing. Serra at 2; Powell at 1–2. NITL supports ''allowing a shipper and NVOCC the power to modify an NRA at any time but only to the extent that the modification is based on a mutual written agreement between the parties and, such agreement should not be in the form of the NVOCC's tariff, bill of lading, or other shipping document that is not subject to mutual negotiation.'' NITL, at 5.

Due to their smaller cargo volume, recent history has shown, and the commenters' statements support that NRAs tend to be transactional in nature and are generally short term. With their singular focus upon rates, NRAs are more aligned with the ''spot market.'' [7] This relationship heightens, rather than diminishes, the need for NRAs to respond to an ever-changing marketplace. It appears appropriate, and in keeping with the Commission's commitment to reduce regulatory burden where feasible, to therefore permit NRAs to be extended or amended upon acceptance or agreement by the shipper customer. In initially creating NRAs, the accelerating need for parties to have greater flexibility to more quickly respond to fast-paced market rate fluctuations does not appear to have been fully anticipated. The NVOCC and its customer should not be compelled to create a new NRA in every instance simply because the rules do not currently provide for amendment.

While not expressly included in the NCBFAA Petition, the Commission proposes a further change to enhance the use and competitiveness of NRAs. As noted in the comments of DGR Logistics, the requirement at 46 CFR 532.5(c) that an NRA ''be agreed to'' by the shipper prior to receipt of cargo by the common carrier or its agent may itself pose logistical and regulatory challenges to the NVOCC. See DGR, at 2. Rather than continuing a persistent practice requiring that shipper acceptance in all cases be memorialized through a formal writing or email, the Commission proposes also to allow NRAs to be more flexibly created, or be amended, upon the shipper's acceptance in the form of a request for booking pursuant to the NRA.[8] This practice more closely corresponds to the manner in which an NVOCC encounters shipper acceptance when responding to a written rate quote under standard tariff rates and rules, *i.e.* by communicating its agreement solely in terms of instructing the NVOCC to book the cargo for shipment thereunder. To ensure continued protection of the shipper and avoid confusion or potential disputes as to this new means to conclude an NRA, the Commission proposes that each NVOCC that seeks to recognize shipper acceptance of an NRA through the act of booking must incorporate a prominent written notice to that effect on each such NRA or amendment. As this additional NRA methodology is intended to be optional to the NVOCC and its shipper customers, the Commission will not eliminate the requirement that a shipper's agreement to an NRA should otherwise be in writing or by email. The Commission invites public comment on the desirability of permitting NRA acceptance by booking, and whether the Commission should require particular wording in order to more prominently give notice as to the NVOCC's practice with respect to booking.

[7] UPS has described NRAs as ''flexible and confidential rate offerings designed to react quickly to a very fluid marketplace''. Comments of UPS in Docket No. 10–03, *NVOCC Negotiated Rate Arrangements,* at 4.

[8] Towards this same result, NCBFAA recently submitted comments in Docket No. 17–04, *Regulatory Reform Initiative,* requesting changes to the NRA rules to ''make it clear that a shipper's tendering or booking of cargo constitutes acceptance of an NRA,'' NCBFAA Comments at 12.

IV. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number of this document in your comments.

You may submit your comments via email to the email address listed above under **ADDRESSES**. Please include the docket number associated with this notice and the subject matter in the subject line of the email. Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential and public versions of confidential comments should be submitted by email.

You may also submit comments by mail to the address listed above under **ADDRESSES**.

How do I submit confidential business information?

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law. If your comments contain confidential information, you must submit the following by mail to the address listed above under **ADDRESSES**:

- A transmittal letter requesting confidential treatment that identifies the specific information in the comments or which protection is sought and demonstrates that the information is a

trade secret or other confidential research, development, or commercial information.

• A confidential copy of your comments, consisting of the complete filing with a cover page marked ''Confidential-Restricted,'' and the confidential material clearly marked on each page. You should submit the confidential copy to the Commission by mail.

• A public version of your comments with the confidential information excluded. The public version must state ''Public Version—confidential materials excluded'' on the cover page and on each affected page, and must clearly indicate any information withheld. You may submit the public version to the Commission by email or mail.

Will the Commission consider late comments?

The Commission will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. If the Commission receives a comment too late to consider in developing a final rule (assuming that one is issued), the Commission will consider that comment as an informal suggestion for future rulemaking action.

How can I read comments submitted by other people?

You may read the comments received by the Commission at the Commission's Electronic Reading Room or the Docket Activity Library at the addresses listed above under **ADDRESSES**.

Please note that even after the comment closing date, we may continue to file relevant information in the docket as it becomes available. Further, some commenters may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

V. Rulemaking Analyses and Notices

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act (APA) (5 U.S.C. 553), the agency must prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the impact of the proposed rule on small entities, unless the head of the agency certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605.

The Commission recognizes that the majority of businesses affected by these rules qualify as small entities under the guidelines of the Small Business Administration. The rule as to Part 531 (NSAs) poses no economic detriment to small business. In this regard, the rule pertains to an NSA entered into between a NVOCC and a shipper, which is an optional pricing arrangement that benefits the shipping public and relieves NVOCCs from the burden of the statutory tariff filing requirements in 46 U.S.C. 40501. In that the proposed rule would eliminate the requirements that NVOCCs file NSAs with the Commission and publish essential terms of such NSAs, the regulatory burden on NVOCCs utilizing NSAs would be reduced. The rule as to part 532 (NRAs) would establish an optional method for NVOCCs to amend an NRA, and to garner shipper agreement to an NRA or amendment thereto, to be used at the NVOCC's discretion. In that the proposed rule would eliminate the prohibition on amendments to NRAs after an initial shipment is received by the carrier and would permit NVOCCs to more flexibly create and amend such NRAs, the regulatory burden on NVOCCs utilizing NRAs would be reduced.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11.

The information collection requirements for part 531, NVOCC Service Arrangements, and part 532 NVOCC Negotiated Rate Arrangements are currently authorized under OMB Control Numbers 3072–0070: 46 CFR part 531, NVOCC Service Arrangements, and 3072–0071: 46 CFR 532—NVOCC Negotiated Rate Arrangements, respectively. In compliance with the PRA, the Commission has submitted the proposed revised information collections to the Office of Management and Budget.

The proposed rule would eliminate the requirement that NVOCCs file NSAs with the Commission and the requirement that NVOCCs publish the essential terms of NSAs. Public burden for the collection of information pursuant to part 531, NVOCC Service Arrangements, as revised, would comprise 79 likely respondents and an estimated 3,328 annual instances. Given that the proposed rule eliminates the NSA filing requirement as well as the essential terms publication requirement, the burden estimate has been significantly reduced from 831 hours (2016 estimate) to 127 hours, a difference of 704 hours.

The proposed rule would also permit NRAs to be modified after the receipt of the initial shipment by the carrier, and permit shippers' acceptance of the NRA by booking a shipment thereunder, subject to the NVOCC incorporating a prominent written notice to such effect in each NRA or amendment. No new information collection or reporting requirements are proposed with respect to part 532, NVOCC Negotiated Rate Arrangements, as revised.

Comments are invited on:

• Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

• Whether the Commission's estimate for the burden of the information collection is accurate;

• Ways to enhance the quality, utility, and clarity of the information to be collected;

• Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Please submit any comments, identified by the docket number in the heading of this document, by any of the methods described in the **ADDRESSES** section of this document.

National Environmental Policy Act

Upon completion of an environmental assessment, the Commission has determined that the proposed rule will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.,* and that preparation of an environmental impact statement is not required. This FONSI will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed by any of the methods described in the **ADDRESSES** section of the document. The FONSI and environmental assessment are available for inspection at the Commission's Electronic Reading Room at: *http://www.fmc.gov/17–10,* and at the Docket Activity Library at 800 North Capitol Street NW., Washington, DC 20573, between 9:00 a.m. to 5:00 p.m., Monday

through Friday, except Federal holidays. Telephone: (202) 523–5725.

Executive Order 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in E.O. 12988 titled, ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects in 46 CFR Part 531

Freight, Maritime carriers, Report and recordkeeping requirements.

For the reasons stated in the supplementary information, the Federal Maritime Commission proposes to amend 46 CFR part 531 as follows:

PART 531—NVOCC SERVICE ARRANGEMENTS

■ 1. The authority citation for part 531 continues to read as:

Authority: 46 U.S.C. 40103.

■ 2. Revise § 531.1 to read as follows:

§ 531.1 Purpose

The purpose of this part is to facilitate NVOCC Service Arrangements (''NSAs'') as they are exempt from the otherwise applicable provisions of the Shipping Act of 1984 (''the Act'').

■ 3. Amend § 531.3 by:

■ a. Revising paragraph (c);

■ b. Removing paragraphs (d) through (g), (m), and (n);

■ c. Redesignating paragraphs (h) and (i) as paragraphs (d) and (e), respectively;

■ d. Redesignating paragraphs (k) and (l) as paragraphs (f) and (g), respectively;

■ e. Redesignating paragraphs (o) and (p) as paragraphs (h) and (i), respectively;

■ f. Revising newly redesignated paragraphs (f) and (j).

The revisions to read as follows:

§ 531.3 Definitions.

* * * * *

(c) *Amendment* means any change to a NSA which has prospective effect and which is mutually agreed upon by all parties to the NSA.

* * * * *

(f) *Effective date* means the date upon which an NSA or amendment is scheduled to go into effect by the parties to the NSA. An NSA or amendment becomes effective at 12:01 a.m. Eastern Standard Time on the beginning of the effective date. The effective date cannot be prior to the date of the NSA or amendment.

* * * * *

(j) *Rules tariff* means a tariff or the portion of a tariff, as defined by 46 CFR 520.2, containing the terms and conditions governing the charges, classifications, rules, regulations and practices of an NVOCC, but does not include a rate.

■ 4. Revise § 531.4 to read as follows:

§ 531.4 NVOCC rules tariff.

(a) Before entering into NSAs under this Part, an NVOCC must provide electronic access to its rules tariffs to the public free of charge.

(b) An NVOCC wishing to invoke an exemption pursuant to this part must indicate that intention to the Commission and the public by a prominent notice in its rules tariff.

§ 531.5 [Removed and reserved]

■ 5. Remove and reserve § 531.5

■ 6. Revise the Subpart B heading to read as follows:

Subpart B—Requirements

■ 7. Amend § 531.6 by:

■ a. Removing paragraphs (a), (f), and (g):

■ b. Redesignating paragraphs (b) through (e) as paragraphs (a) through (d), respectively;

■ c. Revising the introductory text of newly redesignated paragraph (a);

■ d. Revising the newly redesignated paragraph (c)(1) paragraph and adding paragraph (c)(5);

■ e. Revising newly redesignated paragraph (d) to read as follows:

§ 531.6 NVOCC Service Arrangements.

(a) Every NSA shall include the complete terms of the NSA including, but not limited to, the following:

* * * * *

(c) *Other requirements.* (1) For service pursuant to an NSA, no NVOCC may, either alone or in conjunction with any other person, directly or indirectly, provide service in the liner trade that is not in accordance with the rates, charges, classifications, rules and practices contained in a NSA.

* * * * *

(5) Except for the carrier party's rules tariff, the requirement in 46 U.S.C. 40501(a)–(c) that the NVOCC include its rates in a tariff open to public inspection in an automated tariff system and the Commission's corresponding regulations at 46 CFR part 520 shall not apply.

(d) *Format requirements.* Every NSA shall include:

(1) A unique NSA number of more than one (1) but less than ten (10) alphanumeric characters in length (''NSA Number''); and

(2) A consecutively numbered amendment number no more than three digits in length, with initial NSAs using ''0'' (''Amendment number'').

* * * * *

§ 531.7 [Removed and reserved]

■ 8. Remove and reserve § 531.7

■ 9. Revise § 531.8 to read as follows:

§ 531.8 Amendment.

(a) NSAs may be amended by mutual agreement of the parties.

(b) Where feasible, NSAs should be amended by amending only the affected specific term(s) or subterms.

(c) Each time any part of an NSA is amended, a consecutive amendment number (up to three digits), beginning with the number ''1'' shall be assigned.

(d) Each time any part of a NSA is amended, the ''Effective Date'' will be the date of the amendment.

§ 531.9 [Removed and Reserved]

■ 10. Remove and Reserve § 531.9.

§ 531.10 [Amended].

■ 11. Amend § 531.10 by removing paragraphs (c) and (d).

■ 12. Revise § 531.11 to read as follows:

§ 531.11 Implementation.

Generally. Performance under an NSA or amendment thereto may not begin before the day it is effective.

■ 13. Revise § 531.99 to read as follows

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

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is 3072–0070.

Appendix A to Part 531 [Removed]

■ 14. Remove Appendix A to part 531.

PART 532—NVOCC NEGOTIATED RATE ARRANGEMENTS

■ 15. The authority citation for part 532 continues to read as:

Authority: 46 U.S.C. 40103.

■ 16. Amend § 532.5 by revising paragraphs (c) and (e) to read as follows:

§ 532.5 Requirements for NVOCC negotiated rate arrangements.

* * * * *

(c) Be agreed to by both NRA shipper and NVOCC, prior to receipt of cargo by the common carrier or its agent (including originating carriers in the case of through transportation). Shipper acceptance of the NRA may be demonstrated through a signed agreement or written communication, including email, from the shipper. Shipper acceptance of an NRA may also be demonstrated by booking a shipment after receiving the NRA terms from the NVOCC if the NVOCC incorporates a prominent written notice that booking constitutes acceptance of the NRA terms in each NRA or amendment.

(1) To comply with paragraph (c), the NVOCC shall incorporate the following text in bold font or by use of all uppercase letters: ''SHIPPER MAY ACCEPT THIS NRA OR NRA AMENDMENT BY BOOKING A SHIPMENT AFTER RECEIVING THE TERMS HEREOF.''

(2) Reserved.

* * * * *

(e) May be amended after the time the initial shipment is received by the carrier or its agent (including originating carriers in the case of through transportation), but such changes may only apply prospectively to shipments not yet received by the carrier or its agent.

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

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