

The Federal Maritime Commission Votes to Expand Flexibility in NVOCC Service Options

The Federal Maritime Commission today took a significant step forward in relieving regulatory burdens on Ocean Transportation Intermediaries (OTIs), while simultaneously giving shippers more choices and flexibility, by moving forward with a Final Rule that simplifies requirements for using NVOCC Negotiated Rate Arrangements (NRAs) and NVOCC Service Arrangements (NSAs).

Following final approval by the Commission of the new regulatory language, a Final Rule in Docket No. 17-10, "Amendments to Regulations Governing NVOCC Negotiated Rate Arrangements and NVOCC Service Arrangements", will be published early this summer.

Today's action is the culmination of a process initiated with the filing of a petition (Petition P2-15) at the Commission by National Customs Brokers and Forwarders Association of America (NCBFAA) to reduce the burdens of NRAs and NSAs.

As a result of today's action addressing NRAs, the Commission will be implementing three key changes: allowing NRAs to be amended at any time; allowing the inclusion of non-rate economic terms; and, allowing an NVOCC to provide for shipper's acceptance of the NRA by booking a shipment. With the Final Rule, the Commission will make NSAs easier and more attractive to use by removing filing and essential terms requirements.

Acting Chairman Michael Khouri stated that "The purpose of NRAs and NSAs was to make it faster, simpler, and less burdensome for shippers and NVOCCs to conduct business and move cargo efficiently. The NCBFAA petitioners pointed out where certain Commission rules and practices impeded those purposes. I believe that whenever a Section 16 exemption request will not result in substantial reduction in competition or be detrimental to commerce, then we have an obligation to openly consider well founded petitions that seek exemptions from requirements of the Shipping Act. I am pleased that today, we have moved this petition forward."

Commissioner Rebecca Dye said, "The motion I offered this morning, and was approved by the Commission, is consistent with the goal of the Shipping Act to create a competitive system in which rates and service between shippers and carriers are individually negotiated. The changes that will be made to NRAs and NSAs will remove impediments on the ability of NVOCCs and their customers to negotiate a single business arrangement that serves the interests of both parties. The Final Rule will provide industry with the flexibility and freedom to fully meet the business needs of their customers, not the government—as should be the case."

NSAs and NRAs are instruments created by the Commission, at the request of shipper and carrier stakeholders, respectively in 2004 and 2010. They provide shippers and OTIs with a more efficient way to comply with Shipping Act reporting requirements while relieving them from the tariff filing process.

Commissioner Daniel Maffei noted, "It's important that the Commission keep its regulations up to date so that we can apply proper oversight while providing real-world flexibility to the shipping community. I was honored to help in taking this first step in simplifying requirements for these increasingly used service arrangements."

The vote came during a public meeting of the Commission that also included a briefing on staff practices and procedures for monitoring ocean carrier and Marine Terminal Operator agreements.