



# FEDERAL MARITIME COMMISSION

COMPETITION AND INTEGRITY FOR AMERICA'S OCEAN SUPPLY CHAIN

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## New Era of Flexibility for Service Contract Filing Requirements

Posted April 19, 2021

Shippers and carriers will soon have more flexibility in meeting service contract filing requirements as the result of a rule change approved by the Federal Maritime Commission going into effect this June.

The Final Rule amends existing regulations so ocean carriers will be able to file original service contracts with the Commission up to 30-days after they go into effect. Current FMC regulations require the filing of initial service contracts with the FMC before an ocean carrier is permitted to receive and move cargo under the terms of that contract.

The amended rule will take effect on June 2, 2021.

The Commission was prompted to consider permanently amending its regulations following the positive response of the industry to the temporary service contract filing relief provided over the past year to minimize COVID-19 related impacts to the supply chain. That relief expires on June 1, 2021. As a result of this experience, the Commission determined to update the filing requirements to better reflect contemporary business practices. Additionally, these changes will set conditions that allow ocean carriers to contemplate new ways to make their services available to shippers.

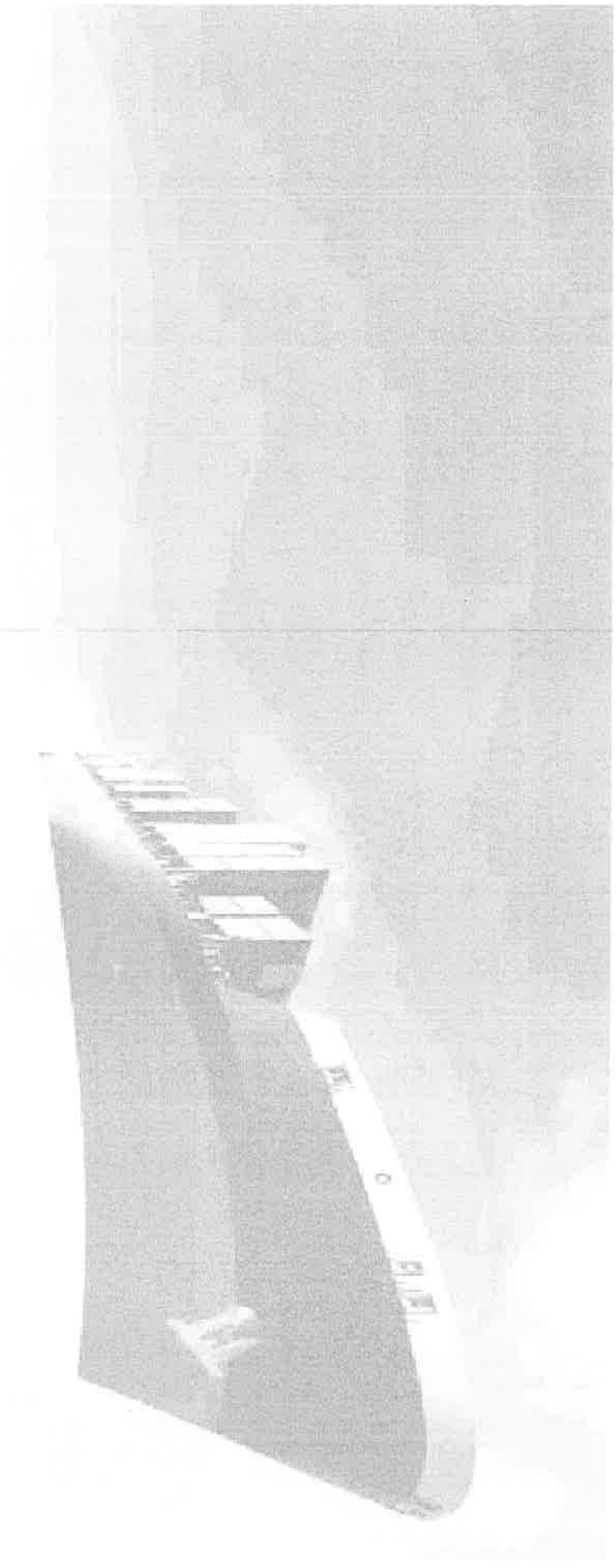
The Final Rule will be published in the Federal Register in the coming weeks. In the interim, the Commission is making available as a courtesy an [unofficial copy of the rule](#).



Federal Maritime Commission  
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Washington, D.C. 20573

Our mission is to **ensure a competitive and reliable international ocean transportation supply system** that supports the U.S. economy and protects the public from unfair and deceptive practices.

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# **FMC TARIFF REGULATION: KEY POINTS FOR NVOCCS**

# 1. ALL RATES MUST BE FILED

All rates / surcharges applied on NVOCC HB/Ls, (or equivalent shipping documents) to/from the USA must be documented using either a:

- 1) Tariff rate filed in your FMC tariff
- 2) NVOCC Service Arrangement (NSA)
- 3) NVOCC Negotiated Rate Arrangement (NRA)



# 1. ALL RATES MUST BE FILED

<b>HOUSE BILL OF LADING</b>
_____
_____
_____
_____
_____
_____
Container(s): 1
Ocean Freight: US\$ 1500.00
BAF: US\$ 300 per ctr
Doc Fee: US\$ 100 per BL
PSS: US\$ 250 per ctr

OR

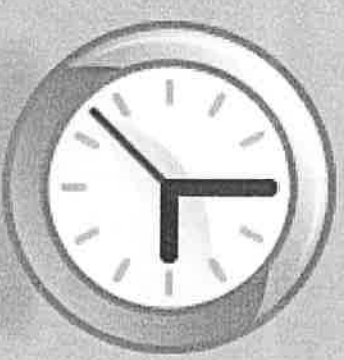
**FMC TARIFF  
RATE**

OR

**NSA**

OR

**NRA**



## **2. FILING REQUIRED BY CARGO RECEIPT DATE:**

Rates must be filed and effective in FMC tariffs (or filed in an NSA or NRA) no later than the date cargo is received at the origin shown on the NVOCCs house bill of lading (HBL).

## **3. TARIFF RATES MUST BE FILED FOR A MINIMUM OF 30 DAYS:**

Rates can be filed with or without expiration dates, but must be 'on file' for a minimum of 30 days. This 30 day requirement does not apply to rates in NRAs or NSAs.

## **4. RATES FOR NEW CARGO MOVEMENTS MAY BE EFFECTIVE UPON FILING:**

By 'new' we mean a rate that is not already in effect in the tariff for a specific commodity description, origin, destination, container size, rate basis, or other variable allowed by FMC. A wide range of variables is allowed by FMC, most NVOCCs use these to enjoy flexibility in their pricing.



## **5. TARIFF RATES MUST NOT BE FILED BY SHIPPER / CONSIGNEE NAME**

The FMC is quite flexible in the variables it will allow for the specifications of tariff rates, but it will never allow rates that apply only for specifically named shippers or consignees.

Also, tariff rates that apply to a specific type or class or shipper are not allowed; for example, freight consolidators.

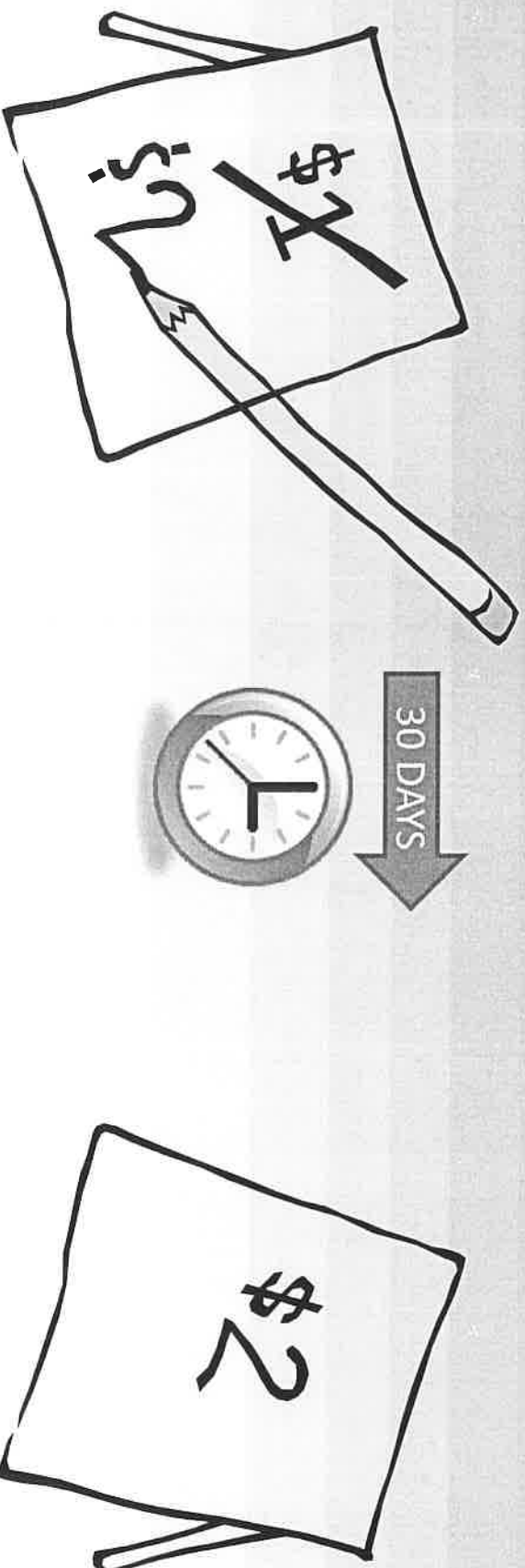
On the other hand, NSAs and NRAs always apply to specifically named shippers or consignees.

*Example: “Rate applies to ~~XYZ Shipper~~ only”*



## 6. INCREASES TO TARIFF RATES & SURCHARGES REQUIRE 30 DAYS NOTICE

Any increase to an existing tariff rate or surcharge must be filed 30 days before its effective date. On the other hand, rates and surcharges in NRAs and NSAs may be increased effective the same day the NRA or NSA is accepted by the shipper.



## **TARIFF RATE FILE REQUEST: DPI'S ONLINE RATE FILE REQUEST PROCESS**

DPI's online Rate File Request process for FMC tariff rate filing has built in options to take advantage of your rate filing options as an NVOCC.

Built in quality controls help ensure that you are in full compliance with FMC regulations, and your DPI Account Representative will continue to review all of your requests before filing into your FMC tariff.

See a video tutorial on DPI's Tariff Rate File Request process by clicking below:



**New File Request**  
DPI's online tariff rate filing request process on  
[www.dpiusa.com](http://www.dpiusa.com)

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# NVOCC NEGOTIATED RATE ARRANGEMENTS (NRAs)

## What are NRAs?

- An NRA is a written arrangement between an NVOCC and their customer which documents the agreed rate(s) for shipment(s) of a specific cargo quantity.
- NRAs may act as a substitute for tariff rate filing.
- Apply to a specific shipper named in the NRA.
- NRAs may be amended.
- May list additional charges including pass-through charges which are invoiced with no markup, and charges in NVOCC's rules tariff which must be **FIXED** once first shipment is received, subject to amendment of the NRA.
- Unlike tariff rates, NRAs remain confidential.
- NRAs may be valid for any time period; 30 days is not required.

NVOCCs must satisfy several requirements before filing NRAs, and NRAs themselves must adhere to the FMC NRA regulations. DPL offers an NRA Management System (NRAMS) to assist with these requirements. For more information on the requirements for filing NRAs, see [DPL's NRA video tutorial](#).

# NVOCC SERVICE ARRANGEMENTS (NSAs)

## What are NSAs?

- An NSA is a written contract between an NVOCC and its shipper customer. The terms and rates are unique to the named NSA shipper.
- NSAs may include minimum quantity commitment (MQC), non-performance penalties, and apply over a fixed period of time.
- Rates filed in an NSA are not filed in FMC tariffs.
- NSAs may be amended
- Unlike tariff rates, NSA rates are confidential.
- NSAs are best used for validity of 90 days or more.

DPI offers its members our recommended templates for NSAs and our expert advise on how to best use NSAs to meet commercial requirements.

For more information on the requirements for filing NSAs, visit [www.dpiusa.com/videos/nsa\\_information](http://www.dpiusa.com/videos/nsa_information)



## SUMMARY OF KEY DIFFERENCES: Tariff Rates, NSAs and NRAs

	Tariff Rates	NSAs	NRAs
<b>RATES AND TERMS</b>	<ul style="list-style-type: none"> <li>Commodity rates are never shipper specific.</li> <li>Terms only as provided in tariff rules</li> </ul>	<ul style="list-style-type: none"> <li>Always provide shipper specific rates</li> <li>Must include terms listed in 46 CFR 531.6(a):</li> <li>May include any other terms</li> </ul>	<ul style="list-style-type: none"> <li>Always provide shipper specific rates</li> <li>Must include the rate and any applicable non-rate economic terms.</li> </ul>
<b>VALIDITY</b>	30 days, except as provided in 46 CFR 520.8	Any time period agreed by NVOCC and Shipper	Any time period agreed by NVOCC and Shipper
<b>SURCHARGES</b>	<ul style="list-style-type: none"> <li>Surcharges as per tariff rules, with exceptions for individual tariff rate items as noted.</li> <li>Surcharges updated by NVOCC, subject to 30 day-notice requirement.</li> </ul>	<ul style="list-style-type: none"> <li>Surcharges as per tariff rules and/or as provided in NSA.</li> <li>Surcharges as per tariff updated by NVOCC, subject to 30 day-notice requirement.</li> </ul>	<ul style="list-style-type: none"> <li>Must include any applicable surcharges and assessorial charges not included in the rate, including pass-through charges.</li> <li>Surcharges are fixed at time of first shipment; can change only if NRA is amended by NVOCC.</li> </ul>

### Key Points for NVOCCs

## SUMMARY OF KEY DIFFERENCES: Tariff Rates, NSAs and NRAs

	Tariff Rates	NSAs	NRAs
<b>ACCEPTANCE</b>	Not required	Must be signed by NVOCC and Shipper	Shipper may accept terms by: 1) Signing agreement, or 2) Communicating acceptance in writing, including by e-mail, or 3) Booking a shipment after receipt of NRA terms, if NRA includes required notice
<b>ENFORCEABILITY</b>	Binding upon receipt of cargo	Binding upon signatures of NVOCC and Shipper	Binding upon shipper: 1) providing NVOCC with signed agreement; 2) sending written communication accepting NRA terms; or 3) booking shipment after receiving prominent notice
<b>FMC FILING</b>	No, but tariff must be registered with FMC	No	No
<b>PUBLICATION</b>	Yes	No, but tariff rules must be published	No, but tariff rules must be published

Source: FMC Docket 17-10, Final Rule, Part IV, F., with additional clarifications added by DPI

*For clarification, examples, or more information on any of the information shown here please contact us at*

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