



To: Karen V. Gregory, Secretary;  
Federal Maritime Commission;  
800 North Capitol Street, N.W.;  
Washington, DC 20573-0001;  
Electronic version: to Secretary@fmc.gov.

**Docket No. 11-22. Negotiated Rate Arrangements - - Response to NOI**

NACA Logistics (USA), Inc. is a US based, licensed NVOCC under OTI License number 027237N.

We would like to express our appreciation to the FMC for having taken initial steps to provide NRAs.

The exemption evidences that the FMC recognizes that NVOCC tariffs are no longer used by the shipping public.

NACA has not yet begun to use NRAs for the following reasons:

**1. Rates in NRA cannot be made subject to GRIs and surcharge changes**

The inability to subject rates in an NRA to GRIs and changes in surcharges, and also service terms (such as credit, minimum quantities, penalty provisions) makes the process cumbersome and difficult to manage.

Allowing NRAs to be subject to GRIs, changes in surcharges and service terms would greatly increase the usefulness of an NRA.

**2. Maintain a RULES tariff**

Having to maintain a tariff just to file GRIs and surcharges on NRA rates is a costly endeavor for a system that is not utilized by the shipping public.

Further, additional programming cost would be incurred in making the Rules-only section available to the public free of charge.

As we are moving away from tariffs it would make more sense to handle all charges and conditions in an NRA rather than requiring a Rules tariff as an additional place to maintain information that impacts the rate charged.

**3. Not being able to amend or expire NRAs**

Especially for those NRAs that contain multiple rates and point pairs, covering multiple shipments, we find it is not efficient to issue a new NRA (and obtain written agreement from Customer) every time there is a change in surcharge or in case of a GRI. NACA would support the ability to either amend an existing NRA, or to replace the existing NRA with a new NRA.

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857 E 230<sup>th</sup> St Carson CA, 90745, USA. Tel: 310 847 3000 Fax: 310 847 3261

OTI# 017237



#### 4. Exemption to all lawful NVOCCs

The exemption should be extended to all lawful NVOCCs, including foreign registered, not just licensed companies. Making this exemption applicable to US-based licensed NVOCCs only would be discriminatory. The exemption was intended to be for the entire industry. In addition, this would be cause for concern that other foreign governments, perhaps the PRC, might take retaliatory action against US licensed NVOCCs if unjustified burdens were left on registered NVOCCs.

#### 5. NRA Proposed Process

Here is how NACA envisions the future of NRAs, using the following process:

1. NACA submits rate(s) to Customer
2. NACA receives a one-time writing from the Customer, evidencing acceptance of rates
3. NACA sends rated Booking Confirmation to Customer containing the following statement:  
"Unless otherwise indicated the rate(s) listed hereon are accepted as a valid NRA agreement between the Shipper and/or their authorized Agent and the named Carrier".
4. Customer's acceptance is evidenced by tendering the cargo to NACA
5. NACA bill of lading will reference the NRA number
6. NRA rate information is maintained for 5 years (items 2. and 5. )

In case of a GRI or change in Surcharges:

- a. NACA sends written notification to Customer of any GRIs, or changes in surcharges, prior to receipt of cargo
- b. NACA sends updated rates at the Customer's request
- c. Customer's acceptance is evidenced by tendering the cargo to NACA

NACA offers to send a knowledgeable representative to discuss ideas on how to make the NRA process more useful.

"I, Charles Brennan, declare under penalty of perjury that I have read the foregoing and it is true and correct to best of my knowledge, information and belief"

  
Charles Brennan,  
CEO

Executed on March 26, 2012

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