

## Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

## Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.451, paragraphs (c), (d), and (e) are redesignated paragraphs (d), (e), and (f) and a new paragraph (c) is added to read as follows:

#### § 117.451 Gulf Intracoastal Waterway.

\* \* \* \* \*

(c) The draw of the SR 1 (West Larose) Bridge, mile 35.6 west of Harvey Lock, at Larose, shall open on signal; except that, from August 15 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m.

\* \* \* \* \*

Dated: August 26, 2005.

**Kevin L. Marshall,**

*Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.*

[FR Doc. 05–17510 Filed 9–1–05; 8:45 am]

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## FEDERAL MARITIME COMMISSION

### 46 CFR Part 531

[Docket No. 05–06]

### Non-Vessel-Operating Common Carrier Service Arrangements

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Federal Maritime Commission is requesting comments on possible changes to its exemption for non-vessel-operating common carriers (NVOCCs) from certain tariff publication requirements of the Shipping Act of 1984.

**DATES:** Submit original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 10, Microsoft Word 2003, or earlier versions of these applications, no later than October 6, 2005.

**ADDRESSES:** Address all comments to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001. [Secretary@fmc.gov](mailto:Secretary@fmc.gov).

**FOR FURTHER INFORMATION CONTACT:** Amy W. Larson, General Counsel, Federal Maritime Commission, 800 N. Capitol St., NW., Washington, DC 20573–0001. (202) 523–5740. [generalcounsel@fmc.gov](mailto:generalcounsel@fmc.gov).

**SUPPLEMENTARY INFORMATION:** On January 19, 2005, a final rule of the Federal Maritime Commission ("FMC" or "Commission") exempting non-vessel-operating common carriers ("NVOCCs") from certain tariff publication requirements of the Shipping Act of 1984 ("Shipping Act") became effective. 69 FR 75850 (December 20, 2004). The rule was issued pursuant to the Commission's authority under section 16 of the Shipping Act, 46 U.S.C. app. 1715. The exemption enables individual NVOCCs to offer NVOCC Service Arrangements ("NSAs") to NSA shippers, provided that such NSAs are filed with the Commission and their essential terms are published in the NVOCC's tariff. The rule defines an NSA as "a written contract, other than a bill of lading or receipt, between one or more NSA shippers and an individual NVOCC in which the NSA shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the NVOCC commits to a certain rate or rate schedule and a defined service level." 46 CFR 531.3(p).

Since the publication of the proposal that led to the final NSA rule, the

Commission has heard from participants in the NVOCC industry that it would be useful if the exemption permitted NSAs to be jointly offered by unaffiliated NVOCCs. At its meeting of August 3, 2005, the Commission determined that it would seek further comment on the issue. The Commission now seeks comment on the following specific questions:

1. In what manner could two or more unaffiliated NVOCCs jointly offer NSAs? Would two or more NVOCCs use a single document to offer their services as carriers to other NVOCCs acting as shippers? Would two or more NVOCCs offer identical services or rates in separately-filed NSAs? Are there other possibilities?

2. How would rates and defined service levels for such jointly offered NSAs be determined?

3. Would unaffiliated NVOCCs jointly offering NSAs keep the terms of such NSAs confidential from non-participating NVOCCs? From other shippers (including NVOCCs)?

4. How would such an exemption meet the statutory requirements of section 16 of the Shipping Act of 1984? Would such an exemption cause a substantial reduction in:

- Competition among NVOCCs;
- Competition between NVOCCs and vessel-operating common carriers (VOCCs);
- Competition among beneficial cargo owners; and
- Other competition?

5. Would such an exemption cause detriment to commerce by any general or specific adverse economic impacts on the carriage of cargo in the U.S.-foreign trade or U.S. commerce generally?

6. What might be the benefits or harm to beneficial cargo owners of jointly-offered NSAs?

7. Do any issues with regard to NVOCC financial responsibility arise stemming from jointly-offered NSAs? For example, should a joint bond or higher individual bond be required for NVOCCs that jointly offer NSAs? If so, how should the amount be determined?

8. Would there likely be any specific benefits or harm to small NVOCCs if jointly offered NSAs were permitted?

9. If jointly offered NSAs are allowed, should there be limits on the number (or combined market share) of the NVOCCs participating in a single joint NSA? If so, how should the relevant market be defined? Should the Commission or the parties determine the market share? Should NVOCCs be required to obtain Department of Justice business review letters prior to offering jointly offered NSAs?

10. What would be the likely impact, if any, of joint NSAs on individual rates offered by the participating NVOCCs in the same trade? In other trades?

11. Should the contract details which must be made publicly available ("essential terms") be more extensive for jointly offered NSAs than for other NSAs? For example, should the Commission require that the identities of each of the NVOCC carrier parties to the jointly offered NSA be made public?

12. Are there any additional procedures (e.g., registration, reporting, monitoring, measuring) that should be considered to ensure that each jointly-offered NSA does not result in a substantial reduction in competition or detriment to commerce?

13. Should the Commission require some type of notification to the VOCC carrying the cargo moving under a jointly offered NSA? If so, describe what form such notification should take and when it should be required.

14. How would bills of lading be issued for cargo moving under a joint NSA?

15. Please describe any other matters that may be relevant to the Commission's consideration of this issue.

In order best to facilitate the Commission's consideration of the issues raised in this Notice of Inquiry, commenters should provide detailed responses, and should supply examples whenever feasible.

By the Commission.

**Bryant L. VanBrakle,**  
*Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 697

[Docket No. 0104130930-5226-03; I.D. 032301C]

RIN 0648-AP18

#### Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes new and revised Federal American lobster

(*Homarus americanus*) regulations in response to recommendations by the Atlantic States Marine Fisheries Commission (Commission) in Addenda II and III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). The proposed lobster management measures are intended to increase protection to American lobster broodstock throughout the stock's range, and would apply to lobsters harvested in one or more of seven Lobster Conservation Management Areas (LCMA). In addition, NMFS proposes measures that would clarify existing Federal lobster regulations.

**DATES:** Written comments must be received no later than 5 p.m. Eastern Standard Time on or before October 17, 2005.

**ADDRESSES:** Written comments should be sent to Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "American Lobster Proposed Rule Comments." Comments may be sent via email at [Lob0305@noaa.gov](mailto:Lob0305@noaa.gov). Include in the subject line "American Lobster Proposed Rule Comments." Comments may also be sent via fax (978) 281-9117, or via the Federal e-Rulemaking Portal at [www.regulations.gov](http://www.regulations.gov).

Copies of the American lobster proposed rule, its Draft Environmental Assessment/Initial Regulatory Impact Review/Initial Regulatory Flexibility Analysis (DEA/IRIR/IRFA) are available from Harold Mears, Director, State, Federal and Constituent Programs Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Robert Ross, NMFS, Northeast Region, (978) 281-9234, fax (978) 281-9117.

#### SUPPLEMENTARY INFORMATION:

##### Statutory Authority

These proposed regulations would modify Federal lobster conservation management measures in the Exclusive Economic Zone (EEZ) under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, which states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce may implement regulations to govern