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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1994-0001; FRL-9274-1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the AT&SF Albuquerque Superfund Site

AGENCY: Environmental Protection Agency.
ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces the deletion of the northern 62-acre parcel of the AT&SF Albuquerque Superfund Site (Site) located in Albuquerque, Bernalillo County, New Mexico, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to the soil and ground water associated with the northern 62-acre parcel. After this deletion, these 62 acres will no longer be part of the Site. The other 27 acres will remain on the NPL and are not being considered for deletion as part of this action. The EPA and the State of New Mexico, through the New Mexico Environment Department (NMED), have determined that all appropriate response actions for this parcel under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, the deletion of these parcels does not preclude future actions under Superfund.

DATES: *Effective Date:* This action is effective March 2, 2011.
ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-HQ-SFUND-1994-0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories. Locations, contacts, and phone numbers are:

- U.S. EPA Region 6 Library, 7th Floor, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, (214) 665-6424;
- Albuquerque Public Library, Main Downtown Branch, 501 Copper Avenue, NW., Albuquerque, New Mexico 87102, Contact: John Vittal; and,
- New Mexico Environment Department, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, New Mexico 87505.

FOR FURTHER INFORMATION CONTACT: Katrina Higgins-Coltrain, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF-RL), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-8143 or 1-800-533-3508 (coltrain.katrina@epa.gov).

SUPPLEMENTARY INFORMATION:
 The portion of the site to be deleted from the NPL is: Northern 62-acre parcel of the AT&SF Albuquerque Superfund Site, located in Albuquerque, Bernalillo County, New Mexico. A Notice of Intent for Partial Deletion for this Site was published in the **Federal Register** on January 5, 2011 (76 FR 510).

The closing date for comments on the Notice of Intent for Partial Deletion was February 4, 2011. One anonymous public comment was received and supported the partial deletion of the Site. EPA, in conjunction with the NMED, believes the partial deletion action remains appropriate.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion of a site from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of portions of a site from the NPL does not affect responsible party liability, in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: February 16, 2011.

Al Armendariz,
Regional Administrator, Region 6.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by revising the entry under NM for “AT&SF (Albuquerque)” to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes (a)
NM	AT&SF Albuquerque	Albuquerque	P

(a) * * *
 P = Sites with partial deletion(s).

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FEDERAL MARITIME COMMISSION**46 CFR Parts 520 and 532**

[Docket No. 10-03]

RIN 3072-AC38

Non-Vessel-Operating Common Carrier Negotiated Rate Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is exempting licensed non-vessel-operating common carriers that enter into negotiated rate arrangements from the tariff rate publication requirements of the Shipping Act of 1984 and certain provisions and requirements of the Commission's regulations.

DATES: The final rule is effective April 18, 2011.

FOR FURTHER INFORMATION CONTACT:

Legal information: Elisa Holland, 202-523-5740,

generalcounsel@fmc.gov.

Technical information: George A. Quadrino, 202-523-5800; Gary G. Kardian, 202-523-5856, *tradeanalysis@fmc.gov.*

SUPPLEMENTARY INFORMATION:**I. Background***a. Summary of Proposed Rule*

On May 7, 2010, the Federal Maritime Commission (FMC or Commission) issued a notice of proposed rulemaking (NPR), pursuant to its authority under sections 16 and 17 of the Shipping Act of 1984 (Shipping Act), 46 U.S.C. 40103 and 46 U.S.C. 42101, seeking comments on a proposal to exempt licensed non-vessel-operating common carriers (NVOCCs) from the rate publication requirements of the Shipping Act, subject to certain conditions.¹ The

¹ 75 FR 25151 (May 7, 2010). The proposed rule was issued following a petition filed by the National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA) requesting the Commission to exercise its authority under 46 U.S.C. 40103 to exempt NVOCCs from provisions of the Shipping Act requiring publication and adherence to rate tariffs for ocean transportation to the extent such transportation is provided under individually negotiated rates with shipping customers and memorialized in writing. Petition No. P1-08, *Petition of the National Customs Brokers and Freight Forwarders Association of America, Inc. for Exemption from Mandatory Rate Tariff Publication* ("Petition"), published for comment on August 11, 2008. After consideration of the Petition and the comments received, the Commission determined to initiate a rulemaking to relieve

Commission found that it was within its statutory authority under Section 16 of the Shipping Act to grant such an exemption, subject to certain conditions, as doing so would not result in substantial reduction in competition or be detrimental to commerce, consistent with the Shipping Act. See 46 U.S.C. 40103(a). As proposed, the exemption would relieve licensed NVOCCs from their tariff rate publication obligations when entering into a "negotiated rate arrangement" (NRA). An NRA is defined as "a written and binding arrangement between a shipper and an eligible NVOCC to provide specific transportation service for a stated cargo quantity, from origin to destination, on and after the receipt of the cargo by the carrier or its agent (or the originating carrier in the case of through transportation)." Proposed Section 532.3(a). The use of NRAs would be subject to several conditions, including (1) NVOCCs who use NRAs would be required to continue publishing standard rules tariffs containing contractual terms and conditions governing shipments, including any accessorial charges and surcharges, and would be required to make their rules tariffs available to shippers free of charge; (2) NRA rates charged by NVOCCs must be mutually agreed and memorialized in writing by the date cargo is received for shipment; and (3) NVOCCs who use NRAs must retain documentation confirming the agreed rate and terms for each shipment for a period of five years, and must make such documentation promptly upon request available to the Commission pursuant to the Commission's regulations at 46 CFR 515.31(g).

Licensed NVOCCs, to the extent they enter into NRAs, would be exempt by regulation from the following provisions of the Shipping Act: Section 8(a), codified at 46 U.S.C. 40501(a)-(c) (obligation to publish an automated rate tariff); Section 8(b), codified at 46 U.S.C. 40501(d) (time volume rates); Section 8(d), codified at 46 U.S.C. 40501(e) (tariff rate increases may not be effective on less than 30 days notice but decreases may be effective immediately); Section 8(e), codified at 46 U.S.C. 40503 (carrier refunds due to a tariff error); and Section 10(b)(2)(A), codified at 46 U.S.C. 41104 (requiring adherence to published tariff rates).

The Commission also sought public comment on whether the exemption should be extended to the prohibitions of Section 10(b)(4), codified at 46 U.S.C.

licensed NVOCCs from the costs and burdens of tariff rate publication.

41104(4) (prohibiting common carriers from unfair or unjustly discriminatory practices in services pursuant to a tariff), and Section 10(b)(8), codified at 46 U.S.C. 41104(8) (prohibiting common carriers from undue or unreasonable preference or advantage or undue or unreasonable prejudice or disadvantage for tariff service). Additionally, the Commission requested interested parties to submit comments on whether the exemption should be extended to foreign-based NVOCCs who are unlicensed but bonded pursuant to 46 CFR 515.21(a)(3), and on which elements, if any, qualify an NRA for a "safe harbor" that affords a presumption that the corresponding shipment is not subject to the tariff rate publication requirement.

b. Comments Received

The Commission received a total of forty-four public comments: one comment from two members of Congress; two comments from other federal agencies; nineteen from U.S.-based, licensed NVOCCs; seven from foreign unlicensed NVOCCs; four from U.S.-based trade associations; three from foreign-based trade associations; two from consultants; and six from tariff publishers and their employees.² On

² The Commission received written comments on the NPR from: Congressmen Mike Doyle, 14th District, Pennsylvania and Tim Murphy, 18th District, Pennsylvania (Joint Congressional Commenter); the Department of Justice, Antitrust Division, Transportation, Energy & Agriculture Section; the Department of Transportation, Office of General Counsel; Econocaribe Consolidators, Inc.; John S. Connor, Inc.; AIReS, A1 Relocation Solutions; J.W. Allen & Co., Inc.; C.H. Powell Company, NVOCC Division; The Camelot Company; BDG International, Inc.; Hanseatic Container Line Ltd. and Mid-America Overseas, Inc.; Lori Fleissner, President, Global Airways, Inc.; M.E. Dey & Co., Inc.; Nakamura (USA) Inc.; CV International; Mohawk Global Logistics; NACA Logistics (USA) Inc. d/b/a Vanguard Logistics Services; BDP Transport, Inc.; CaroTrans International, Inc. and Mallory Alexander International Logistics, LLC (Joint Commenters); UPS Ocean Freight Services; UTI, United States, Inc.; DHL-Danzas d/b/a DHL Global Forwarding d/b/a Danmar Lines Ltd.; Ocean World Lines, Inc.; Alfred Balguerie, S.A.; Damco A/S; Trans Service Line; Schenker Ocean Limited; CDS Global Logistics, Inc.; Juerge Bandle, Senior Vice President, Kuehne + Nagel, Inc., agent of Blue Anchor Line, Division of Transpac Container System Ltd., Hong Kong; Panalpina, Inc. as agent for and on behalf of Pantainer, Ltd.; New York New Jersey Foreign Freight Forwarders & Brokers Association, Inc. (NYNJFFF&BA); National Industrial Transportation League (NIT League); Transportation Intermediaries Association (TIA); National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA); China Association of Shipping Agencies & Non-Vessel-Operating Common Carriers (CASA); British International Freight Association; Fedespedi-Federazione Nazionale delle Imprese di Spedizioni Internazionali; Albert Saphir d/b/a ABS Consulting; Stan Levy, Stan Levy Consulting, LLC; The Descartes Systems Group, Inc.; RateWave Tariff

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