This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(b)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the Federal Register. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.
This action corrects an error in the final rule published in the Federal Register of February 8, 2012, modifying significant new uses of tris carbamoyl triazine; it does not otherwise amend or impose any other requirements. This action is not a “significant regulatory action” under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Further, this action does not impose new or change any information collection burden that requires additional review by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The information collection activities contained in the regulations are already approved under OMB control numbers 2070–0012. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9 and on corresponding collection instruments, as applicable.

On February 18, 2012, EPA certified pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true: (1) A significant number of significant new use notices (SNUNs) would not be submitted by small entities in response to the SNUR, and (2) the SNUR submitted by any small entity would not cost significantly more than $8,300. A copy of that certification is available in the docket for this rule.

This action is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in the final modified SNUR and EPA’s experience promulgating SNURs (discussed in the certification), EPA believes that the following are true: (1) A significant number of SNUNs would not be submitted by small entities in response to the SNUR and (2) submission of the SNUR would not cost any small entity significantly more than $8,300. Therefore, this technical correction would not have a significant economic impact on a substantial number of small entities.

State, local, and tribal governments were not expected to be affected by the February 8, 2012 final rule (see Unit IX.D. through Unit IX.F. of the preamble to that action), and, similarly, this action is not expected to affect these governments. Accordingly, pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538), EPA has determined that this action is not subject to the requirements in UMRA sections 202 and 205 because...
it does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or for the private sector in any 1 year. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in UMRA sections 203 and 204. For the same reasons, EPA has determined that this action does not have “federalism implications” as specified in Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), because it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the order. Thus, Executive Order 13132 does not apply to this action. Nor does it have “tribal implications” as specified in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 22951, November 9, 2000). Thus, Executive Order 13175 does not apply to this action.

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) and Executive Order 13211, entitled Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001). In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, which is not the case in this action.

This action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

This action does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, this action does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

V. Congressional Review Act
The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the Federal Register. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721
Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.


Maria J. Doa, Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2012–5392 Filed 3–6–12; 8:45 am]

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FEDERAL MARITIME COMMISSION
46 CFR Parts 530 and 531
[Docket No. 11–17]
RIN 3072–AC47
Certainty of Terms of Service Contracts and NVOCC Service Arrangements
AGENCY: Federal Maritime Commission.
ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends its rules regarding certainty of terms of service contracts and non-vessel-operating common carrier service arrangements. The rule provides common carriers and shippers with certainty and flexibility by facilitating their use of long-term contracts that adjust based upon an index reflecting changes in market conditions.

DATES: The Final Rule is effective March 7, 2012.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Phone: (202) 523–5725.

SUPPLEMENTARY INFORMATION:
Background
By Notice of Proposed Rulemaking (NPR) published on October 13, 2011, 76 FR 63581, the Federal Maritime Commission (FMC or Commission) proposed to amend its rules for terms of service contracts and Non-Vessel-Operating Common Carrier service arrangements (NSA). The NPR was intended to remove uncertainty in the use of freight rate or other indices in service contracts and NSAs, while also assisting common carriers and shippers in pursuing stability and flexibility through long-term contracts.

The Commission found that an increasing number of service contracts filed with the Commission reference indices. The ocean freight rates in those service contracts adjust in increments based upon the changes in the referenced index levels or their annual or quarterly averages. The Commission believes that this trend has started to appear because carriers and shippers in the ocean transportation industry are seeking stability through long-term contracts, while trying to preserve flexibility to adjust contract rates reflecting changes in market conditions.

The Commission’s current regulation with respect to terms of service contracts and NSAs require that the terms, if they are not explicitly contained in the contracts, must be “contained in a publication widely available to the public and well known within the industry.” 46 CFR 530.8(c)(2), 531.6(c)(2). The Commission has received inquiries from the industry as to whether certain freight rate indices meet the Commission’s requirement. For example, until August 2011, the Transpacific Stabilization Agreement (TSA) index was not available to the public, even though some service contracts referenced the TSA index before its publication. In addition, although many index publishers’ current index levels are available to the public mostly without charge, access to their historical data often requires payment of subscription fees that can reach up to several thousand dollars per year.

While the Commission began to consider whether the service contracts referencing indices comport with its regulation, the Commission also sought to revise its regulations so that they are not unnecessarily burdensome and do not impede innovation and flexibility in commercial arrangements between common carriers and shippers.

The final rule would facilitate references to indices in service contracts and NSAs so that contracting parties can pursue long-term contracts with rates that adjust through an agreed and ascertainable manner.