

EPA's proposed denial and reasoning. In comments, petitioners were in agreement that the point of obligation should be moved to "position holders."

## II. Final Denial

The final decision document describing EPA's analysis of the petitions seeking a change in the definition of "obligated parties" under the RFS program and our rationale for denying the petitions is available in the docket referenced above (Docket ID No. EPA-HQ-OAR-2016-0544). In evaluating this matter, EPA's primary consideration was whether or not a change in the point of obligation would improve the effectiveness of the program to achieve Congress's goals. EPA does not believe the petitioners or commenters on the matter have demonstrated that this would be the case. At the same time, EPA believes that a change in the point of obligation would unnecessarily increase the complexity of the program and undermine the success of the RFS program, especially in the short term, as a result of increasing instability and uncertainty in programmatic obligations.

We believe that the current structure of the RFS program is working to incentivize the production, distribution, and use of renewable transportation fuels in the United States, while providing obligated parties a number of options for acquiring the RINs they need to comply with the RFS standards. We do not believe that petitioners have demonstrated that changing the point of obligation would likely result in increased use of renewable fuels. Changing the point of obligation would not address challenges associated with commercializing cellulosic biofuel technologies and the marketplace dynamics that inhibit the greater use of fuels containing higher levels of ethanol, two of the primary issues that inhibit the rate of growth in the supply of renewable fuels today. Changing the point of obligation could also disrupt investments reasonably made by participants in the fuels industry in reliance on the regulatory structure the agency established in 2007 and reaffirmed in 2010. While we do not anticipate a benefit from changing the point of obligation, we do believe that such a change would significantly increase the complexity of the RFS program, which could negatively impact its effectiveness. In the short term we believe that initiating a rulemaking to change the point of obligation could work to counter the program's goals by causing significant confusion and uncertainty in the fuels marketplace.

Such a dynamic would likely cause delays to the investments necessary to expand the supply of renewable fuels in the United States, particularly investments in cellulosic biofuels, the category of renewable fuels from which much of the majority of the statutory volume increases in future years is expected.

In addition, changing the point of obligation could cause restructuring of the fuels marketplace as newly obligated parties alter their business practices to avoid the compliance costs associated with being an obligated party under the RFS program. We believe these changes would have no beneficial impact on the RFS program or renewable fuel volumes and would decrease competition among parties that buy and sell transportation fuels at the rack, potentially increasing fuel prices for consumers and profit margins for refiners, especially those not involved in fuel marketing. In addition, we note that in comments on EPA's proposed denial, commenters favoring a change in the definition of "obligated party" were predominantly in favor of designating position holders as obligated parties. However, position holders are not all refiners, importers or blenders. Therefore, EPA believes the petitioners' proposal is not well aligned with the authority provided EPA in the statute to place the RFS obligation on "refineries, importers and blenders, as appropriate."

A number of parties that either petitioned EPA to change the definition of "obligated party," or commented favorably on those petitions also challenged the rule establishing RFS standards for 2014, 2015 and 2016, alleging both that EPA had a duty to annually reconsider the appropriate obligated parties under the RFS program and that it was required to do so in response to comments suggesting that it could potentially avoid or minimize its exercise of the inadequate domestic supply waiver authority if it did so. In a recent ruling in that litigation, the United States Court of Appeals for the District of Columbia Circuit declined to rule on the matter, and instead indicated that EPA could address the matter either in the context of a remand of the rule ordered on other grounds, or in response to the administrative petitions that are the subject of this notice. See *Americans for Clean Energy v. Environmental Protection Agency*, 864 F.3d 691 (D.C. Cir. 2017) ("ACE"). As noted above, EPA is denying the petitions seeking a change in the definition of "obligated parties." EPA also is re-affirming that the existing regulation applies in all years going forward unless and until it is revised.

EPA does not agree with the petitioners in the ACE case that the statute requires annual reconsideration of the matter and, to the extent that EPA has discretion under the statute to undertake such annual reevaluations, EPA declines to do so since we believe the lack of certainty that would be associated with such an approach would undermine success in the program.

EPA has determined that this action is nationally applicable for purposes of CAA section 307(b)(1). since the result of this action is that the current nationally-applicable regulation defining obligated parties who must comply with nationally applicable percentage standards developed under the RFS program remains in place. In the alternative, even if this action were considered to be only locally or regionally applicable, the action is of nationwide scope and effect for the same reason, and because the action impacts entities that are broadly distributed nationwide who must comply with the nationally-applicable RFS percentage standards, as well as other entities who are broadly distributed nationwide that could potentially have been subject to such requirements if EPA had elected to grant the petitions seeking a change in the definition of obligated parties.

Dated: November 22, 2017.

**E. Scott Pruitt,**  
Administrator.

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2017-0002; Internal Agency Docket No. FEMA-B-1170]

### Proposed Flood Elevation Determinations for Snohomish County, Washington and Incorporated Areas

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Snohomish County, Washington and Incorporated Areas.

**DATES:** The proposed rule published on January 7, 2011 at 76 FR 1125 and the

correction published on February 22, 2011 at 76 FR 9714 are withdrawn as of November 30, 2017.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA-B-1170 to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** On January 7, 2011, FEMA published a proposed rule at 76 FR 1125 and 1126, and a correction on February 22, 2011 at 76 FR 9714, proposing flood elevation determinations along one or more flooding sources in Snohomish County, Washington and Incorporated Areas. FEMA is withdrawing the proposed rule because FEMA has issued a Revised Preliminary Flood Insurance Rate Map featuring updated flood hazard information. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper following issuance of the Revised Preliminary Flood Insurance Rate Map.

**Authority:** 42 U.S.C. 4104; 44 CFR 67.4.

Dated: November 2, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

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## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 531 and 532

[Docket No. 17-10]

RIN 3072-AC68

#### Amendments to Regulations Governing NVOCC Negotiated Rate Arrangements and NVOCC Service Arrangements

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of proposed rulemaking; notice of availability of finding of no significant impact.

**SUMMARY:** The Federal Maritime Commission (FMC or Commission) proposes to amend its rules governing

Non-Vessel-Operating Common Carrier (NVOCC) Negotiated Rate Arrangements and NVOCC Service Arrangements. The proposed rule is intended to modernize, update, and reduce regulatory burdens.

**DATES:** Submit comments on or before January 29, 2018.

In compliance with the Paperwork Reduction Act (PRA), the Commission is also seeking comment on revisions to two information collections. See the Paperwork Reduction Act section under Rulemaking Analyses and Notices below. Please submit all comments relating to the revised information collection requirements to the FMC and to the Office of Management and Budget (OMB) at the address listed below under **ADDRESSES** on or before January 29, 2018. Comments to OMB are most useful if submitted within 30 days of publication.

Petitions for review of the Commission's finding of no significant impact (FONSI) under NEPA must be submitted on or before December 11, 2017.

**ADDRESSES:** You may submit comments and petitions for review of the FONSI, identified by the Docket No. 17-10 by the following methods:

- **Email:** [secretary@fmc.gov](mailto:secretary@fmc.gov). For comments, include in the subject line: "Docket 17-10, Comments on Proposed NSA/NRA Regulations." For petitions for review of the FONSI, include in the subject line: "Docket 17-10, Petition for Review of FONSI." Comments and petitions for review should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential and public versions of confidential comments and petitions should be submitted by email.
- **Mail:** Rachel E. Dickon, Assistant Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001.

Comments regarding the proposed revisions to the relevant information collections should be submitted to the FMC through one of the preceding methods and a copy should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Maritime Commission, 725 17th Street NW., Washington, DC 20503; by Fax: (202) 395-5167; or by email: [OIRA.Submission@OMB.EOP.GOV](mailto:OIRA.Submission@OMB.EOP.GOV).

**Instructions:** For detailed instructions on submitting comments, including requesting confidential treatment of comments, and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of

this document. Note that all comments received will be posted without change to the Commission's Web site, unless the commenter has requested confidential treatment.

**Docket:** For access to the docket to read background documents or comments received, go to the Commission's Electronic Reading Room at: <http://www.fmc.gov/17-10>, or to the Docket Activity Library at 800 North Capitol Street NW., Washington, DC 20573, between 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays. Telephone: (202) 523-5725.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding submitting comments or petitions for review of the FONSI, or the treatment of confidential information, contact Rachel E. Dickon, Assistant Secretary. **Phone:** (202) 523-5725. **Email:** [secretary@fmc.gov](mailto:secretary@fmc.gov). For technical questions, contact Florence A. Carr, Director, Bureau of Trade Analysis. **Phone:** (202) 523-5796. **Email:** [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov). For legal questions, contact Tyler J. Wood, General Counsel. **Phone:** (202) 523-5740. **Email:** [generalcounsel@fmc.gov](mailto:generalcounsel@fmc.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. Executive Summary

The Commission proposes to amend its rules at 46 CFR part 531 governing NVOCC Service Arrangements to remove the NSA filing and publication requirements. The Commission also proposes to amend its rules at 46 CFR part 532 to permit NRAs to be modified at any time. In addition, an NVOCC may provide for the shipper's acceptance of the NRA by booking a shipment thereunder, subject to the NVOCC incorporating a prominent written notice to such effect in each NRA or amendment.

#### II. Background

The Shipping Act of 1984 (the Shipping Act or the Act) expanded the options for pricing liner services by introducing the concept of carriage under service contracts filed with the