

Maritime Reform Is Needed Again

Ten years after the passage of the Ocean Shipping Reform Act of 1998 (OSRA), non-vessel operating common carriers (NVOCCs) are still mired in the bureaucratic morass of meaningless regulation of the maritime industry. The 1998 Act was intended to reduce the inefficiencies and inequities of ocean transportation regulation, by restoring marketplace economics and competition to the business of moving goods by ocean-going vessel. Instead, the Federal Maritime Commission (FMC) preserved, through regulation, the costly practice of requiring NVOCCs to file rate tariffs with the agency. Now, a petition has been filed by the National Customs Brokers and Forwarders Association of America (NCBFAA) with the FMC that seeks to exempt NVOCCs from the requirement of publishing these tariffs. ***We ask you to register your views with the FMC before the comment deadline of September 26.***

The Basics NVOCCs purchase space aboard an ocean-going vessel and then sell a portion of that space to an exporter, many of whom are small and medium-sized companies that lack the leverage or expertise to deal effectively with the various steamship lines. Often, using an NVOCC is more cost effective than dealing directly with the carrier and creates an element of price competition for American businesses selling their goods abroad. After negotiating these rates with their exporter customer, NVOCCs must still publish this information in formal rate tariffs that fully outline the terms of that agreement. This is an immensely costly process that serves no purpose. It was once designed to provide notice of rates that were available to all shippers, but OSRA has eliminated the "one size fits all" theory of regulation. Now this tariff publication is almost never reviewed or used by customers, NVOCC rates are almost uniformly negotiated individually with individual customers and only later published in rate form, and the cost of tariff publication needlessly increases NVOCC costs, reducing their flexibility and competitiveness.

The Petition NCBFAA's petition includes the following principles in its request for tariff publication exemption:

- The exemption would be voluntary rather than mandatory. (Shippers and NVOCCs who prefer to continue to use rate tariffs may continue to do so.)
- Negotiated NVOCC rates would, in the future, be governed solely by application of contracts law.
- NVOCC Service Arrangements (NSAs), which are formal agreements similar to the ocean service contracts used by steamship lines, would continue to be filed with the FMC.
- The FMC would continue to have access to these negotiated agreements and the files of NVOCCs.
- The exemption would not be construed so as to convey antitrust immunity on NVOCCs.
- The exemption would only be available to NVOCCs who are licensed or registered.

Our Request We ask that our Member of Congress or Senator express support for our petition by September 26. A suggested letter is provided on the reverse side.

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