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NVOCC *Negotiated* Rate Arrangements

My name is Laurie Zack-Olson. I am not a lawyer; I am simply an individual who has been blessed with a multitude of opportunities and experiences since 1978 in the ocean shipping industry. I have worked as a freight forwarder; I have successfully managed NVO operations worldwide for both a FF-affiliated and an independent NVO; and I have presented letter of credit and export documentation seminars to the U.S. shipping public. I am also the Past President & Executive Director of the International Association of NVOCCs, having served in these capacities from May of 1987 through June of 1999. Currently, I am the Vice President of Tariff Operations for RateWave Tariff Services, Inc. I also provide independent consulting services to individual NVOCC clients. Because of my experience in this industry, I have also created a training seminar called NVO 101 that I have conducted both privately and publicly since 1998 in the U.S. and around the world. This information is provided to you not by way of bragging but to point out that I have a unique, hands-on perspective on this industry.

With the Shipping Act of 1984, NVOCCs were for the first time given statutory recognition as an entity in the international shipping arena. By definition, a non-vessel-operating common carrier means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

According to this definition, NVOCCs are first and foremost common carriers. They are obligated to abide by the principles of common carriage; rates and all other applicable charges to be applied on shipments covered on their bills of lading must be filed in a tariff available for public inspection and applicable on all shipments of cargo of the same commodity having the same transportation characteristics. Discrimination based solely on the shipper or the owner of the goods is strictly prohibited under these principles as well as other U.S. statutes and regulations.

The Shipping Act of 1984 first introduced the concept of CONTRACT carriage by ocean common carriers by allowing vessel-operating common carriers and/or the conference and agreements in which they participated to enter into service contracts with their shipping customers. The newly-introduced service contract statutes maintained equity for shippers with "me-too" provisions, meaningful minimum volume commitments and deadfreight penalties for shortfalls; no changes in the terms, conditions or volume stated in the original service contract were allowed. Even with these restrictions, the use of service became popular as a means of obtaining discounted rates for volume cargo moving in a particular trade.

With the Ocean Shipping Reform Act of 1998, service contracts became confidential documents. Changes in the terms, conditions, minimum quantity commitment and rates or surcharges during the validity period of the contract were allowed. The application of CONTRACT carriage was expanded with this shipping reform. NVOCCs were subsequently granted the authority to use a similar "contracting" tool in 2005 when the proposed and final rulemakings for NVO Service Arrangements (NSA) were approved and implemented. The Ocean Shipping Reform Act of 1998 and the subsequent NSA regulations did not eliminate common carriage for vessel-operating or non-vessel-operating common carriers. These changes to the regulations simply broadened the scope of CONTRACT carriage due to the confidential nature of service contracts and NSAs. Discrimination by rates based solely on the owner or shipper of the goods and the flexibility to change the rates, terms, services and tonnage commitment are features of CONTRACT carriage when service contracts or NSAs are employed. Shipments moving in the foreign commerce of the U.S. that are covered by neither a service contract with an ocean common carrier nor an NSA with an NVOCC continue to be subject to the principles of COMMON carriage.

The Federal Maritime Commission was granted authority in the Ocean Shipping Reform Act of 1998 to grant exemptions from the statutes and their implementing regulations when the results of the exemptions would not result in a substantial reduction in competition or be detrimental to commerce. I do not believe that the Congress intended for the FMC to absolve NVOCCs or ocean common carriers from the principles of common carriage and the corresponding responsibility to file rates. It is also my belief that the granting of the proposed exception for NVOCCs to discontinue rate filing and use Negotiated Rate Agreements (NRA) in their stead will be very detrimental to commerce.

If the rate filing exemption is granted, similarly-situated shippers will no longer be protected from discriminatory practices. NVOCCs will be allowed through the use of NRAs to offer different rates for the same commodity moving between the same ports or points with the sole criteria for the different rates being the owner or shipper of the goods. Shippers with preferential status will be offered lower rates. Shippers will be harmed. Small- to mid-size shippers and/or shippers, who are newly-involved in international shipping, even though all may be shippers of the same commodity, will not be given the benefit of preferential rates or services.

Such discriminatory practices are specifically prohibited under the Shipping Act of 1984 as well as the FMC's implementing regulations contained in 46 CFR and are harmful to shippers.

Mr. Wardell, President of RateWave Tariff Services, Inc. has already addressed issues concerning the specific content of NRAs. I would like to address NRAs from a slight differently angle. NVOs and their representatives believe that the rate filing exemption and the use of NRAs will reduce the costs and workload of NVOs. Under the current rate filing regulations, a rate can be filed without an expiration date and can, therefore, be applied to ALL shipments of that commodity moving between the same port/points pairs ad infinitum. Because of fluctuating or new surcharges and accessorials in the various trade lanes, for all practical purposes, an NRA will only be valid for a single shipment. NVOs will have more work preparing and memorializing an NRA for each and every shipment covered on its bills of lading, thereby creating additional costs and work.

I also have serious concerns about the format of the "memorialized" document. When a shipper requests a quotation for an ocean freight move, the freight forwarder typically provides a single response containing ALL of the charges involved in the transaction. The ocean freight and accessorial charges are obviously provided. But the freight forwarder's quotation, depending on the Intoterms governing the transaction, may also contain pricing for inland freight, warehousing, storage, handling, document preparation, certification, insurance, destination clearance fees, destination duties and taxes, and destination delivery, to name a few, if not most, of the peripheral charges. There is no clear-cut delineation between the freight forwarding activities and the NVO activities when a FF-NVOCC handles a shipment. The NVO division of the company does not quote the ocean freight and accessorial charges to the freight forwarder division who then creates another document for the shipper by adding the charges for the peripheral services to the final quotation. The quotation process is completed by a single person acting as both FF and NVOCC that submits a single quotation document to the shipper inclusive of all services to be provided.

This being true, might it then be construed in the memorialization of the NRA that the services provided on the NVO's bill of lading include all of the peripheral services contained in the quotation, especially the door move from the shipper and the door move to the consignee? If so, might NVOs automatically be in violation of the proposed rules by continuing the standard practice of issuing their bills of lading from port-to-port, CY-to-CY or CFS-to-CFS as the ocean portion of the transaction even though the memorialized document includes the described peripheral services which would normally be billed to the shipper by the FF? Alternatively, might the NVO be obligated to expand its liability to cover these additional transportation services that are governed by other federal agencies or statutes other than the U.S. Carriage of Goods at Sea Act which demand different and higher amounts of limited liability? Clarity on the scope of the transaction covered by the NRA will protect the shipper.

I would also like to know how and where NRAs are intended to be memorialized. The proposed rulemaking does not contain this information. I certainly hope that the Commission does not allow NVOCCs to simply keep a copy of the NRA in the corresponding shipping file. Nor should NRAs be treated as a monthly rate sheet kept in the desk drawer of the ocean freight staff (as is the practice in the airfreight industry), referred on an ad hoc basis to quote freight rates. In order to maintain the integrity of the contents of the original NRA and give the Commission immediate access to the document for audit or dispute purposes, I believe that the memorialized documents have to be stored both in the shipping file and at a remote location, preferably at a third-party website. In today's hi-tech world, I can well imagine that documents could be altered by the shipper or the NVOCC to change the pricing, terms and/or scope of the services to suit their circumstances. The revised document could easily be re-printed and re-inserted in to the shipping file bearing the original date of the NRA. Changing of the memorialized document after the fact is not possible when the NRA is stored at a secondary location. Remote storage protects the shipper.

This alternative should be mandatory for all foreign-based registered NVOCCs who have named a law firm as their U.S. resident agent. When the U.S. resident agent named by a registered, foreign-based NVOCC is a law firm, it would be an exhausting if not impossible process to obtain the shipping records and memorialized quotations from an overseas location, firstly because of time and distance factors and secondly because overseas companies do not believe that the FMC has any jurisdiction whatsoever in their shipping practices. Registered, foreign-based NVOCCs who use a law firm as their U.S. - resident agent must be required to store memorialized NRAs at a third-party website resident in the U.S.A. When the foreign-based, registered NVOCC names their U.S.-incorporated freight forwarder or NVO partner as the U.S. resident agent, however, this requirement can be waived. For either inbound or outbound shipping transactions, the NRA documents could be obtained as warranted from within the United States from the U.S.-incorporated partner.

As for the rates themselves, you have been told by the NVO community, and shippers have concurred, that relief from rate filings will reduce the market rates for LCL and FCL shipments. What is a preposterous notion! Cargo is already moving at the lowest possible market rate levels. An NVOCC cannot – because the laws of supply and demand will not allow it -- offer rates above market levels in order to offset the cost of rate filing as an expense of operating as a compliant NVOCC. Rate levels will remain at whatever the market will bear with or without NVO rate filing.

If the rate filing exemption is granted, the monies saved, <u>if any</u>, will fall directly to the NVOCC's bottom line. I say "if any" because there will certainly be a cost in-house or to a third-party vendor to create a compliant system for issuing, memorializing and storing NRAs and to maintain the requisite records there for. Even if a savings of $25,000, $50,000 or more on general operating expenses were to be enjoyed by an individual NVOCC, these savings would have no impact on the rates levels offered. We are talking about capitalism. When a company saves money on internal operating expenses, it is not obliged to pass that savings along to its customers. For example, think about long-distance phone bills; they no longer exist by virtue of today's VOIP technology. No savings from eliminating long-distance phone charges impacts ocean freight rate levels. Only when market prices fall will NVOCCs be obligated, even forced by shippers, to reduce their rates. Shippers will not benefit in any way from the proposed NVO rate filing exemption.

You have also been told that relief from rate filings will create additional jobs the U.S. Another preposterous notion! If the function of coordinating rate filings and submitting the information for those rate filings to a tariff publisher no longer exists, then there will be fewer jobs at the NVO level. NVO operations are typically a "lean-and-mean" proposition. No money is spent and no personnel are hired unless new business and new profits are generated to cover the new expenses. The monies saved from not having to file rates will not be re-invested with new jobs in other areas of the company; those monies will fall directly to the bottom line -- a government-sanctioned windfall profit for each NVOCC. I will also add that there will be fewer jobs at the tariff publishing level.

Many members of the international ocean freight community believe that exemption for NVOs from their rate filing responsibilities is a step toward deregulation. Although the airfreight, railroad and motor carrier industries have been deregulated for a number of years, all in all, the deregulation has not been successful. Re-regulation of both the airfreight and railroad industries is either being discussed or re-legislated. Additionally, documents issued by these segments of the industry do not act in the same way as bills of lading issued by NVOCCs. Ocean bills of lading issued by either vessel-operators or non-vessel operators, are contracts of carriage; they are negotiable documents which control the release of funds against letters of credit and other financial instruments; and finally, they are instruments of title where ownership of the goods does not transfer from the shipper to the buyer unless payment, presentation of an original bill of lading or other terms have been met. Shippers may suffer from serious consequences of incorrect issuance, processing or collection of bills of lading by NVOs who have understood the proposed rulemaking to relieve them from all of their carrier responsibilities. If exempted from rate filing, NVOs may now think that they are unregulated entities and can move their cargoes on Forwarder's Cargo Receipts or other documents that bear no statement of liability and do not contain the carrier's terms and conditions. Shippers will be harmed.

I have long said that there is nothing in the statutes or the regulations prohibiting an NVOCC from filing a simple grid of its rates – one each for LCL and FCL traffic -- moving between named U.S. ports or CFS stations to ports and points by trade lanes throughout the world, using COMBINATION rates to provide door service when required. This grid system would solve the cumbersome nature of rate filings as well as minimize the costs of complying with the existing rate filing regulations. Now my question is: Why have NVOCCs not used this strategy to comply with the tariff filing regulations? The answer is a single 5-letter word: GREED. Why file a blanket rate for all commodities from New York to London, for example, at $90.00 per WM and restrict your level of compensation to this amount when you may find a shipper who is willing to pay $95.00 or more per freight ton? Capital is key. And, call if capitalism, free enterprise, entrepreneurship, whatever, I am all for it. But, there is a cost associated with the freedom of offering different rates to different shippers for different commodities under the principles of common carriage and that cost is the filing of rates in a public tariff.

I think the problem we are discussing today has less to do with tariff rate filing per se than it has to do with the evolution of the NVO industry and its practices. Since 1990, the number of NVOCCs who are licensed by and/or registered with the Commission has swelled to more than 4000 entities. That is an 800% growth in the number of companies operating as NVOCCs, an unprecedented proliferation in this or any other any industry. This growth can partially be attributed to:

1. Existing NVOCCs who become bonded and filed a freight tariff in order to comply with the NVO Bonding regulations that became effective in 1991;
2. Existing NVOCCs who had to apply to the FMC for a licenses or registration of their bills of lading as an NVO to comply with the Ocean Shipping Reform Act of 1998; and

3. New NVOCCs providing service in new markets or for new business.

I am not a statistician, but I -would estimate – and this is a very generous estimate -- that these types of "new" or newly-licensed and/or registered entities account for no more than a five hundred (500) companies, twice the number of NVOCCs that existed prior to 1991.

So, how does one account for the overwhelming expansion of the NVOCC industry by thousands upon thousands of companies? Have U.S. import and export cargoes increased seven-fold? I don't think so. And I think that the U.S. Census Bureau and the U.S. Customs Service statistics will support this statement.

Who are all of these "new" NVOCCs? Do they offer their own regular service in the import or export trades? Have they entered into service contracts with vessel-operating common carriers or into NSAs with other NVOCCs? The answer to this question is: NO. The majority of these so-called "new" NVOCCs provide their services strictly through the use of co-loading, and by co-loading, I mean illegal co-loading.

Here is a short history lesson: The co-loading regulations were implemented in 1985 to accommodate those situations where an NVOCC offering regularly-scheduled services needed an outlet to provide transportation for under- or over-flow cargo in a specific trade in a specific week. These regulations were intended to provide NVOCCs an opportunity to work co-operatively with one another, much like vessel-operators and the concept of slot chartering, so that container space was maximized and shippers were provided superior, uninterrupted service.

According to the regulations, as long as the name of each NVO whose cargo was stowed in the container appeared as shipper on the vessel-operators bill of lading, then a carrier-to-carrier relationship was presumed to exist. Rates were not required to be filed by the receiving NVO to cover the cost of the transportation provided to the tendering NVO(s) since sharing of the container space was to have been paid by pro-rata usage of the container space or by an agreed price per unit. Additionally, the receiving NVO was not to issue a bill of lading or assume any liability for the cargo tendered by the co-loading NVOCC(s).

Today, most NVOs use co-loading as the sole means of providing their LCL, and in some cases their FCL, transportation services. The name of the tendering NVOCC is not named on the master bill of lading issued by the vessel-operator. The tendering NVOCC receives a bill of lading, not a freight receipt of other non-negotiable document, making the relationship a shipper-to-carrier, and not a carrier-to-carrier, relationship. The rates covering these shipper-to-carrier transactions are not filed in the receiving carrier's tariff. And, finally, the house bills of lading issued by the tendering NVOCC are not annotated with the name of the NVOCC to whom the cargo was tendered for co-loading. In most cases, disclosure of co-loading activities is contained in neither the tendering nor the receiving NVOCC's tariffs.

If there is no carrier-to-carrier relationship between the co-loading NVOCCs, I have to ask: Is the tendering NVOCC really an NVOCC? By definition, an NVOCC "is a shipper in its relationship to an ocean common carrier." If the tendering NVOCC is not named on the ocean common carrier's bill of lading as shipper, how can an NVOCC who uses co-loading as the means for the transportation it provides meet the qualifications by definition of an NVOCC?

Moreover, a single shipment can be co-loaded multiple times, moving from NVO to NVO to NVO, without the knowledge of the shipper. Each time that the cargo changes hands, the freight charges are "marked-up" and the cargo is exposed to additional risk of loss, damage or shortage. In the case of a FF-NVO, remark-up of the freight charges means that the freight forwarder has vacated his fiduciary responsibility to his shipper customer. He has not offered the shipper the best price for the service offered. And, shippers who are obviously unaware that the cargo has been given to a 3rd, 4th, 5th or more party to provide the transportation, are paying the highest retail market prices for their cargo, and not the wholesale pricing available to the FF-NVOCCs. Co-loading in this fashion also delays receipt of cargo at destination because it is not always clear on the multiple bills of lading issued by each NVO from whom the cargo is to be obtained. Additional delays are created when payment is not made on a timely basis between the NVOCC(s).

All of these practices are knowingly and willfully committed by the participating NVOCCs and are clearly violations of the Shipping Act of 1984, its subsequent revisions and the regulations issued by the FMC implementing these statutes. With minor exceptions, these are the companies that are asking for economic relief from the costs associated with rate filing. Please consider the name of the trade association who submitted the original petition for exemption from rate filing, i.e., The National Customs Brokers and Freight Forwarders Association of America. I have no complaint with the NCBFAA; it is a very worthwhile organization that has been successful in protecting the rights and interests of customs brokers and freight forwarders throughout the United States for decades, largely due to the dedication of its general counsel, Mr. Greenberg. My complaint is with NVOCCs who have abused – or who have been allowed to abuse -- the co-loading regulations for the past twenty plus years and are now whimpering about the cost of doing business.

I have personally conducted cost study analyses for many freight forwarders who have considered expanding their operations to participate in the freight mark-up aspect of the shipping business by becoming an NVOCC. In nearly EVERY case, the numbers proved to be disadvantageous. The amount of freight forwarders compensation collected from other NVOCCs always generated greater revenues than the anticipated profit margins derived by the co-loading of LCL or FCL cargoes as an NVOCC less the costs of the license, the bond, the tariff, bill of lading stock cargo legal liability insurance, advertising and any other expense of doing business as an NVOCC. It is a losing proposition all-around.

Besides violating the co-loading regulations by utilizing "off tariff" rates contained in "carrier-to-carrier" agreements, many NVOCCs simply do not understand that tariff filing of both rules and rates is required. After the premature announcements by various trade organizations that NVOs were exempted from rate filing, many NVOs immediately self-exempted their rate and even tariff filing functions. Your records will also show that for at least the past three years the FMC has been in contact with many NVOs who filed their initial tariff based on Cargo, N.O.S. rates but failed to file any rates for the subsequent shipments moving on their bills of lading.

For some NVOs, it is simply a matter of ignorance; they have not bothered to read or understand the regulations. For others, it is a calculated risk, like driving down the highway at one hundred miles per hour and waiting to be caught for speeding. This latter attitude makes it very difficult for NVOCCs who are trying their very best to comply with all of the regulations. I frequently hear the question: "Why should I follow the regulations when my competitors appear not to be doing so?" It's like paying taxes: No one likes to take the time, effort or money to prepare tax forms but we all do it anyway because it is the law!

As I mentioned above, I conduct a seminar called NVO 101. About five hundred (500) people have attended this seminar throughout the course of the past twelve (12) years. Below are some of the preliminary questions that I ask prior to starting the presentation of the seminar materials:

1. The Federal Maritime Commission is part of what federal agency?
2. For what do the initials NVOCC stand?
3. When are rates required to be filed in order to be applied to a shipment?
4. What is the minimum number of days required before an increase to an existing rate may become effective?
5. Is the PierPASS (TMF) Fee a "pass-through" charge?
6. When is it acceptable to "pass-through" a VOCC surcharge to your customer?
7. When can an NVOCC collect FF compensation?
8. What is the shortest time required to expire an existing tariff rate?
9. When can you "pass-through" a trucker's fuel surcharge?
10. What are the consequences of filing an F.A.K. rate?
11. What are the three functions that an ocean bill of lading fulfills?
12. Is it acceptable to sign a house bill of lading as agent for a VOCC?
13. What is the difference between "Place of Receipt" and "Origin of Cargo" on a house bill of lading?
14. Is an NVOCC an ocean common carrier?

No one, including NVO qualifying individuals, company presidents and NVO operations mangers, has ever answered all or even most, of the questions correctly. Why? Because the umbrella term Ocean Transportation Intermediary has blurred the already-indistinct line between freight forwarder and NVOCC. Most members of the ocean shipping community are not fully aware of the distinctions between the services offered and liability assumed by one party or the other. This fact was made abundantly clear from the various comments made during today's hearing. OTIs do not understand the difference between consolidators, freight forwarders and NVOCCs.

Freight forwarders deal in arranging transportation and preparing documents in connection with the shipments they handle; freight forwarders are never liable for the cargo itself. For this reason, freight forwarders are not allowed to mark-up ocean freight rates to create profit on the cargo. Similarly, consolidators are responsible only for the warehousing of freight and subsequent stowage of that freight according to the shipper's instructions into containers or other transport conveyances for the purpose of ocean shipping. Consolidators are not liable for the cargo itself and do not issue ocean bills of lading. They are also prohibited from marking-up the freight charges for profit. Neither of these parties are common carriers. Because of their status as common carriers, only NVOs are allowed to enter into a contract of carriage by issuing an ocean bill of lading in exchange for receiving compensation for the transportation and assuming liability for the safe handling and delivery of the freight.

NVOCCs need to demonstrate a healthy respect for the tariff filing regulations before an exemption is granted. I believe that an exemption from rate filing should be awarded on an individual basis. There must be some criteria established so that NVOCCs qualify to the use the proposed NRA system and exempt themselves from the rate filing regulations. Such criteria might include:

1. Service contracts with VOCCs for FCL cargo;
2. Providing regularly-scheduled services in at least one trade lane for LCL cargo;

3. Having no complaints filed against them within a specified number of years;
4. Having a legal tariff in effect without suspension for a specified number of years; or
5. Having valid and current rates filed in the tariff.

NVOCCs also need to avail themselves of the existing exemption from rate filing granted with NSA authority in 2005. Because of the confidential nature, NSAs provide the ability to change the rates, terms, conditions, minimum quantity commitment, duration and service levels contained therein. With NSAs, NVOs already have the tools in hand to deal with their shipper customers on an equal basis as the vessel-operators using contract and not common carriage as the basis for the transportation. NVOs have not done so thus far. They cite non-acceptance by shippers as the reason for not using NSAs. I do not agree that shippers will not accept NSAs.

I believe that the NVOs themselves have sabotaged their ability to successfully enter into NSAs with their shipper customers. NVOs have told shippers that service contracts with individual vessel operators limit the scope of services and sailings available to handle their ocean freight shipment. NVOs have sold shippers rates and services based on multiple underlying carriers in each trade lane, reminding shippers that no contract is required to deal with them, the NVO. Meanwhile, NVOs have entered into service contracts with vessel-operators based on contract carriage while offering rates and services to their customers based on common carriage. They have placed themselves in the precarious position of being caught in between the immediate-notice of change aspect for surcharges and GRIs contained in vessel-operators service contracts while still having to comply with the 30-day notice requirements in their public freight tariffs. It would seem that the NVO's very sales tactics have backfired.

It is laziness and an inability to adapt, and not non-acceptance by shippers that have hindered the use of NSAs by NVOCCs. One of our customers recently implemented a policy by which pricing for all customers shipping a certain minimum quantity of containers or LCL cargo would be offered rates in the form of NSAs. Starting May 1, 2010, this NVOCC has filed about twenty-five (25) NSAs for its volume shippers. In just one month, this NVOCC reduced its tariff filing expenses by a whopping seventy-five (75%) percent. The use of NSA would dramatically reduce the cost of rate filing, simplify compliance and relieve the pressure of being caught in the middle of the carrier's surcharge and GRI game. But, rather than going the route of the NSAs, NVO's would rather just throw their hands up in the air and say, "Please exempt us from the rate filing regulations!"

Shall NVOCCs next be asking for an exemption from the AMS rules so that they no longer need to supply information to the vessel-operator for purposes of submitting the electronic manifest? Or will NVOs ask the U.S. Customs Service to exempt them from having to file a Carrier bond in order transfer AES data and link the shipper, the forwarder, the NVO(s) and the vessel-operator on export transactions? Shall NVOCCs be exempted from providing the Shipper's 10+2 ISF information on a timely basis to U.S. Customs for import shipments? These activities surely cost money; some effort had to be expended to create the systems to quickly relay the data required to comply with all of these government programs. Do these programs help the shipper? The answer is "Yes." Filing of tariff rates also benefits the shipper.

As you see, I am very passionate about this subject. Not only because I have made a successful career in this industry for many years, but because of the long-standing efforts of my dear friend, Raymond P. deMember. Mr. DeMember founded the International Association of

NVOCCs in 1978 to protect the rights, promote the services and enhance the reputation of NVOCCs. He gained statutory recognition for NVOCCs in the Shipping Act of 1984. He successfully defended the 50-Mile Container Rule on behalf of all NVOCCs, whether or not they were members of the IANVOCCs. And he enacted NVO Bonding Legislation that became effective in 1991. Mr. DeMember dedicated all of his efforts, if not his entire life, to the single cause of the NVO. Sadly, we lost Mr. DeMember in 1992 and, although I cannot presume to imagine what he might think of this proposed rulemaking, I strong believe that he would be mightily opposed to it and would feel that all of his efforts on behalf of NVOCCs since the early 1970s were for naught. Mr. deMember recognized the contribution that NVOs bring to the ocean freight shipping industry as carriers. He defended the principles of common carriage.

In order to preserve the principles of common carriage, I ask you respectfully not to allow the proposed blanket rate filing exemption for NVOCCs. The proposed exemption, if granted, should be based on specific criteria which individual licensed and/or registered NVOs must meet in order to qualify.

I appreciate your time and consideration of my comments for the benefit of the shipping public.