

COMMITTEES

COMMITTEE ON THE BUDGET

COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON CAPITAL MARKETS,
INSURANCE AND
GOVERNMENT SPONSORED ENTERPRISES

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

SUBCOMMITTEE ON DOMESTIC AND
INTERNATIONAL MONETARY POLICY, TRADE, AND
TECHNOLOGY

TASK FORCE ON IDENTITY THEFT AND
FINANCIAL CRIMES, CHAIR

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON HEALTH

SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS, RANKING MEMBER

DEFENSE STUDY GROUP



**Congress of the United States
House of Representatives
Washington, D.C. 20515-3705**

DARLENE HOOLEY
5th DISTRICT OREGON

CONGRESSIONAL OFFICES:

2430 RAYBURN BUILDING
WASHINGTON, D C 20515
(202) 225-5711
(202) 225-5699 fax

315 MISSION ST, SUITE 101
SALEM, OREGON 97302
(503) 588-9100
(503) 588-5517 fax

21570 WILLAMETTE DRIVE
WEST LINN, OREGON 97068
(503) 557-1324
(503) 557-1981 fax

WWW.HOUSE.GOV/HOOLEY
TOLL FREE 1888 4-HOOLEY

September 22, 2003

Mr. Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

P3-03

RECEIVED
03 SEP 30 PM 2:47
FEDERAL MARITIME COMMISSION

Dear Mr. VanBrakle:

I write in support of the UPS petition filing for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers currently pending before the FMC.

During consideration of the *Ocean Shipping Reform Act* (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCs were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the state of the U.S ocean shipping industry has changed dramatically since passage of OSRA. There has been consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operates a sophisticated, integrated, intermodal transportation network, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its' asset-based transportation infrastructure. These facts set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I am hopeful the FMC will give the UPS petition its' utmost consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,

A handwritten signature in black ink that reads "Darlene Hooley". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail on the "y".

DARLENE HOOLEY
Member of Congress