

Denny Rehberg
State of Montana

**Transportation and
Infrastructure Committee**
Highways and Transit
Aviation

Congress of the United States'
House of Representatives
Washington, DC 20515

Agriculture Committee
Department Operations, Oversight,
Nutrition and Forestry, *Vice Chairman*
General Farm Commodities and
Risk Management
Specialty Crops and Foreign
Agriculture Programs

Resources Committee
Energy and Mineral Resources,
Vice Chairman
Forests and Forest Health

9/17/2003

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

RECEIVED
03 SEP 29 PM 3:20
FEDERAL MARITIME COMMISSION

Dear Commissioners:

It is my understanding that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers. Due to the operational characteristics of UPS and recent developments within the ocean shipping marketplace, the antiquated regulatory scheme governing NVOCCs should be revised. I write in strong support of the UPS petition 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 unprecedented 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 the most sophisticated, integrated, inter-modal transportation network in the world, which includes air, rail and surface and NVOCC transportation, 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 alone 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

516 Cannon House Office Building
Washington, DC 20515
(202) 225-3211

1201 Grand Avenue, Suite 1
Billings, MT 59102
(406) 256-1019
Toll Free 1-888-232-2626

950 North Montana Avenue
Helena, MT 59601
(406) 443-7878

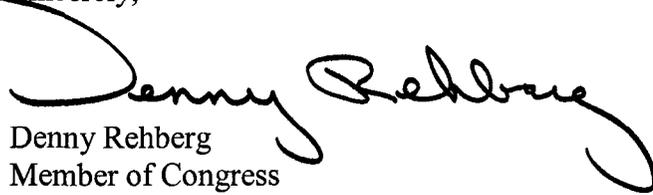
218 East Main
Suite B
Missoula, MT 59802
(406) 543-9550

105 Smelter Avenue, NE
Suite 116
Great Falls, MT 59404
(406) 454-1066

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, appearing to read "Denny Rehberg". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline that extends to the right.

Denny Rehberg
Member of Congress