

FEDERAL MARITIME COMMISSION

NOTICE OF INQUIRY: NON-VESSEL-
OPERATING COMMON CARRIER SERVICE
ARRANGEMENTS

Docket No. 05-06

Served: April 12, 2012

BY THE COMMISSION: Richard A. Lidinsky, Jr.,
Chairman; Joseph E. Brennan, Rebecca F. Dye, Michael A.
Khouri, and Mario Cordero, *Commissioners*.

Order Discontinuing Proceeding

In December 2004, the Commission issued a final rule exempting¹ non-vessel-operating common carriers (NVOCCs) who enter into NVOCC service arrangements (NSAs)² from certain tariff filing requirements of the Shipping Act of 1984 (Shipping Act). On August 30, 2005, the Commission determined to consider expanding the exemption to enable two or more

¹ Section 16 of the Shipping Act grants the Commission the authority to make rules exempting regulated entities from the requirements of the Shipping Act if the Commission finds such an exemption will not result in substantial reduction in competition or detriment to commerce. 46 U.S.C. § 40103. The Commission must make an affirmative finding, based on information gathered in a public record, that these adverse consequences will not result from any exemption it may grant.

² See 46 C.F.R. Part 531.

unaffiliated NVOCCs to jointly offer NSAs and issued a Notice of Inquiry (NOI). 70 Fed. Reg. 52345 (September 2, 2005). Commenters were asked to address a set of questions designed to provide information and perspectives on the likely impact of joint NSA authority. The Commission received comments from: the United States Department of Justice; the United States Department of Transportation; the World Shipping Council; the International Trade Surety Association; and Joint Comments of the National Industrial Transportation League, United Parcel Service, Inc., FEDEX Trade Networks Transport & Brokerage, Inc., Transportation Intermediaries Association, North Atlantic Alliance Association, Inc., and the Agriculture Ocean Transportation Coalition. All comments were supportive of expanding the exemption to enable two or more unaffiliated NVOCCs to jointly offer NSAs. The Commission considered action on this proceeding at its December 8, 2011, meeting.

Pursuant to the Commission's Plan for Retrospective Review of Existing Rules,³ the Commission intends to conduct a full review of its regulations in 46 C.F.R. Part 531 governing NSAs. The Commission will shortly be issuing a notice of inquiry seeking comments on changes to Part 531 and improvements to NSAs and will specifically request comments and current information on extending the exemption to allow two or more unaffiliated NVOCCs to jointly offer NSAs. Accordingly, the Commission has determined to discontinue this docket.

³ The Commission's Plan for Retrospective Review of Existing Rules, published on November 4, 2011, includes the Commission's intention to conduct a full review of Part 531 no later than 2013.

THEREFORE, IT IS ORDERED, That this proceeding is discontinued.

By the Commission.

Karen V. Gregory
Secretary