

Briefing Paper: Ocean Shipping Reform Act

On August 10, the bipartisan [*Ocean Shipping Reform Act*](#) (H.R. 4996), was introduced in the U.S. House of Representatives by Congressmen John Garamendi (D-CA) and Dusty Johnson (R-SD). The legislation would revise the Shipping Act to provide new oversight and enforcement authority to the Federal Maritime Commission (FMC), expand opportunities for shippers to seek redress from ocean carriers, and increase transparency and accountability among ocean carriers and other parties.

The National Milk Producers Federation and U.S. Dairy Export Council worked closely with these offices in the development of the legislation and have endorsed this bill.

This legislation was drafted in response to the many challenges that American exporters, including dairy producers, have recently faced when dealing with ocean carriers and related port congestion. These export obstacles have included limited vessel bookings, cancellations and delays; unfair and escalating detention and demurrage charges; lack of availability of containers, chassis and other equipment; increasing costs for bookings, sometimes above agreed-upon service contracts; among many others.

More specifically, the *Ocean Shipping Reform Act* would undertake the following:

Improve the FMC's authority to oversee, regulate & enforce rules on ocean carriers, others:

- Expands the FMC's oversight of service contracts
- Directs the FMC to establish minimum service standards and regulate container availability
- Prohibits unreasonable denial of vessel bookings
- Puts limits on the carriage of empty containers when export shipments are available
- Prohibits ocean carriers from retaliating against shippers or their agents
- Permits the FMC to investigate these violations without a shipper complaint
- New rules would be enforceable through civil penalties

Establishes rigorous new rules regarding detention and demurrage charges

- Limits when charges can be levied on shippers, including when ports aren't open to truckers to pick up/drop off containers
- Requires carriers to provide timely notice of when containers can be retrieved/returned
- Requires ocean carriers to provide certification for detention and demurrage charges
- Issues new penalties to carriers for either failing to provide or providing false certification

- Expedited review process by FMC of detention and demurrage charges that lack certification or are false or inaccurate
- Shifts the burden of proof for any FMC proceeding on these charges to the carrier

Provides new means of redress and relief for shippers

- Relieves a shipper from responsibility to pay detention or demurrage charges if a carrier or marine terminal operators fail to provide certification for those charges
- Authorizes the FMC to order refund relief to shippers (in addition to civil penalties)
- Permits the FMC to order double refunds for certain violations against “unjust or unreasonable practices” in handling property by ocean carriers, or for intentional violations of detention and demurrage rules
- Allows shippers to seek payment of these refunds in federal court
- Permits third parties to seek injunctive relief against ocean carrier agreements that reduce competition

Increases transparency and accountability

- Requires FMC to post on its website all findings of false detention and demurrage charges, as well as all penalties levied against the carriers for Shipping Act violations
- Ocean carriers must maintain all detention and demurrage charge records for 5 years and provide them at request to an invoiced party or the FMC
- Ocean carriers must report to FMC quarterly on export/import tonnage and loaded/empty containers for each vessel making port in the U.S.
- Expands the current FMC annual report to Congress to include new information on any ocean carrier anti-competitive or nonreciprocal trade practices; trade imbalances resulting from ocean carrier efforts; or influence by governments on state-owned/state-controlled carriers or operations in non-market countries