



Update: Remember Dray?!

BY FREDRIC MARCINAK & WILSON JACKSON

On June 16, 2022, President Biden signed the Ocean Shipping Reform Act (OSRA) into law. This bipartisan legislation is aimed at providing relief to companies in the ocean shipping industry, which have experienced shipping cost increases and supply chain disruptions since the beginning of the COVID-19 pandemic. It will equip the Federal Maritime Commission (FMC) with additional oversight and enforcement tools to cut down on exorbitant shipping costs and prejudice toward U.S. shippers, such as agricultural exporters.

These new changes include, but are not limited to, the following:

- Common carriers must certify that demurrage and detention charges comply with federal regulations. Additionally, OSRA requires invoices to provide the following details: (1) applicable demurrage and detention rule on which the daily rate is based; (2) applicable rate or rates per the applicable rule; (3) total amount due; (4) contact information for questions about fees; and (5) a statement that the common carrier's performance did not cause or contribute to the underlying invoiced charges.
- FMC will publish on its website: (1) all findings and penalties for false demurrage and detention invoice information by common carriers and (2) a quarterly report describing the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel operated by each ocean common carrier.
- Expanded prohibited common carrier retaliation activities, to include unreasonable refusal of otherwise available cargo space, improperly assessed charges, and inaccurate/incomplete detention and demurrage invoicing.
- FMC maintaining an Office of Consumer Affairs and Dispute Resolution Services to provide non-adjudicative ombuds assistance, mediation, facilitation, and arbitration to resolve challenges and disputes involving cargo shipments, household good shipments and cruises subject to FMC's jurisdiction.
- New provisions for data collection, which will require the FMC to publish new reports on regulated ocean common carriers.
- New provisions for a National Shipping Exchange Registry, which would require shipping exchanges to register with the FMC, among other new requirements.

These changes should encourage regulatory oversight through FMC as the ocean shipping industry. We anticipate that the ocean shipping reform bill will prompt some changes that will benefit the impacted companies. We will continue to monitor the application of OSRA developments to best serve our clients.