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## **HOT TOPICS Archives**

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### **Ocean Shipping Reform Acts of 1998**

The Ocean Shipping Reform Act of 1998 will become effective on May 1, 1999, and will bring major changes to international shipping. The Federal Maritime Commission is charged with enforcing the Act, and has already published many proposed regulations.

Key provisions of the Act may be summarized as follows:

- Although ocean carriers will still need to publish tariffs, they will no longer be filed with the FMC, but will be publicly available through private tariff services.
- Service contracts will continue to be filed with the FMC, but important key provisions, such as rates, will be kept confidential.
- Conferences are weakened by a reduction in the notice period for independent action from 10 business days to 5 calendar days, and by a prohibition for conferences to issue rules governing the service contracts of their members.
- Groups of ocean carriers will be able to negotiate with inland carriers for rates and services, subject to antitrust laws.
- Non-vessel operating common carriers (NVOCC's) will be allowed to sign service contracts as shippers with ocean common carriers, but will not be allowed to sign as carriers, themselves, with shippers.

The ACT identifies and introduces a new entity: the ocean transportation intermediary (OTI). The OTI is a comprehensive term, which includes the ocean freight forwarder, and the NVOCC. Under the Act, all OTI's will have to be licensed, and regulations indicate that bond requirements for ocean freight forwarders be increase to \$50,000, those for NVOCCs to \$75,000. For entities operating as both ocean freight forwarders and NVOCCs, to \$100,000 and for foreign based entities, \$150,000. NVOCCs that are currently operating will be allowed to continue on May 1, 1999 as long as they have increased their bond amount and filed a license application by that day.

It should be noted that proposed rules would alter the relationship between OTIs, sureties and claimants. One proposal would allow claimants and surety companies to settle before a judgement is issued. Currently sureties are required to pay on judgements. Another proposed rule would permit the surety to determine whether the facts against which a claimant seeks recompense are indeed transportation related activities which, it is understood, will be defined by proposed regulation.

It is important for OTIs to pay attention to the evolving regulatory scheme, to make comments on proposed regulations within the required period and to make provisions for compliance once the Act and its implementing regulations go into effect on May 1, 1999.

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