

Window on Washington: Dealing with Dr. OSRA

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The COVID-19 pandemic impacted the lives of Americans in so many ways, and brought to national attention the vulnerability of the maritime supply chain. Consumers confined to their homes pivoted from the purchase of services to durable goods and home improvements, straining “just in time” inventories, spiking demand for container and vessel space, and disrupting the normal ebb and flow of shipping containers and chassis. Long-simmering tension between agricultural exporters in U.S. farm states and international ocean carriers rose to a boil, fueled by reports that carriers were returning containers empty to Asian manufacturers to capture high eastbound transpacific rates, refusing to deal with agricultural exporters, and leaving American farmers without any way to get their products to Asian consumers.

In response, Congress passed the Ocean Shipping Reform Act of 2022 (OSRA), providing a new arsenal to the Federal Maritime Commission (FMC). Among other provisions, OSRA required the FMC to undertake a rulemaking defining unreasonable refusal, or refusal to deal or negotiate, with respect to vessel cargo space.

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