

Re: Docket No. 21-03, Comments on Coloading.

I would suggest expanding on the definition of Coloading:

1. LCL: The physical combining of LCL shipments in a single shipping container by two or more NVOCCs for tendering to a NVOCC under the name of one or more of the NVOCCs.
2. FCL: The tendering of one or more shipping containers by one NVOCC to another NVOCC under the name of the NVOCC.
3. It should not be "*tendering by one NVOCC to an ocean common carrier*" because the ocean common carrier can also be a VOCC, in which case this is not a coload. Coload is specific to between NVOs only.

If the proposed requirement to annotate FCL shipments with the name of all NVOCCs associated with the cargo becomes law, it will automatically create violations beyond our control and, most importantly, despite our efforts to comply with FMC regulations. The reason is when we coload, we really don't know how many other NVOs are involved. This is especially true since the Covid lockdown, whereby everyone was choked for vessel, space and equipment but pressured by BCOs to move cargo nonetheless. The situation gave rise to a sudden explosion of so-called agents who, at the very core, were acting as NVOCCs but without the proper FMC credentials to operate in the commerce of the United States:

- These agents were somehow able to get space/equipment and move the cargo when no one else could and sold that space/equipment/move to NVOs who in turn sold to other NVOs.
- No FMC registration/license, no FMC bond, no FMC Tariff, no bills of lading, just pocket the profit free of liabilities, risks, and compliance to any USA regulations (FMC and CBP's AMS).
- There could be up to 5 different such parties involved in one shipment, almost half of whom fly under FMC's radar.
- All these agents don't want us to know from whom they got the space/equipment. They keep the 'real source' a secret in order to prevent us from going directly to the 'real source' so as not to cut into their profit.

Thus, I believe a BCO's desire/need/requirement for transparency and control when it comes to multiple NVOCCs involved in the BCO's cargo is better addressed with a simple instruction to the NVO prior to the beginning of a shipment's lifecycle, "I don't want you to coload with any NVOs. If you coload, I'll take my business elsewhere," rather than annotating documentation with the names of all NVOs involved.

Re: Docket No. 21-03, Comments on Carrier Automated Tariffs Rulemaking.

We are a NVOCC and do not have the large resources to create, publish and maintain our Tariff on our website, such as the necessary technology/software and human resources. As a result, we pay a Tariff publisher for these services. I believe this is the case for the majority of NVOCCs.

Our Tariff publisher assesses a reasonable fee (\$35, I believe) for anyone who wishes to access our Tariff. Although a universal free tariff access certainly has its merits, for those NVOs who use a Tariff publisher, implementing such free access would result in a revenue loss for tariff publishers who would naturally attempt to recover by charging the NVO, thus creating more financial burden on the NVO.

Next, in serving our customers for the past 5 decades or so, we have encountered only a handful of customers who asked us for access to our tariff. Although the tariff publication regulations serve to protect our customers' interests, such as providing free access as proposed [which makes perfect sense], the reality is it is the carrier's competition who is most interested in accessing the carrier's tariff: The VOCCs and the NVOCCs. A VOCC can access our tariff, download it in its entirety in an excel file, then perform analytics to determine if we are 'messing up' the market for them, or what our 'market rate' is, etc.

Because it is the competition that wants to access a carrier's tariff, and the carrier doesn't want to divulge such sensitive survival information, some carriers are discouraging access via unreasonably high access fee.

Thus, I would suggest imposing conditions in lieu of the proposed universal free tariff access such as:

1. If carrier publishes on own website: Free access
2. If carrier publishes through a tariff publisher: Allow carrier to recover costs incurred by carrier in making its tariff accessible to the public. Ex: If tariff publisher charges \$35, we charge the customer/NVO/VOCC \$35.