BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 13-05

OCEAN TRANSPORTATION INTERMEDIARY LICENSING AND FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES

COMMENTS OF SHAWN CUMMINGS

I am President of North American Logistics, Inc FMC license number 14233N, located at 710 Fox Glen, Barrington, Illinois, 60010.

The NPRM proposal to require all forwarders and NVOCCs to provide updated corporate information through a process that would renew licenses every three years is unnecessary because all OTIs are already required to keep the Commission informed of any changes in their corporate structure, officers and directors, and locations of their headquarters and branch offices.

- The FMC has advised that there are approximately 5900 companies either licensed or registered with the FMC. Assuming that the time spent by applicants, their attorneys and the FMC staff is 20 hours (or more) for each application cycle, the corresponding costs are easily in millions if not tens of millions of dollars.
- Assuming any additional regulation is really required for this, a much simpler way to ensure that the information is up to date would be to simply require a triennial reporting, rather than license renewal.

- It is unclear whether any problems the company might have, such as claims by shippers or carriers or the pendency of some investigation by BOE, would jeopardize the license renewal. If so, that puts the company's license at inappropriate risk.

The NPRM proposes the Commission to require sureties to file with the FMC a list of any claims made to them that relate in any way to the transportation activities of a forwarder or NVOCC.

- Even if not published on the FMC's website, the release of this data could be very damaging to the company, especially since those claims may have little or no merit.
- Even with a disclaimer that the Commission is not making any judgment about the veracity of the allegations, any release of this type of information could have an unfair, damaging effect on the company's reputation and would threaten its business and viability.
- When our company has valid claims against it, either we or our insurance companies pay those claims, so that there has never been an occasion when a claimant has been forced to move against our FMC bond; accordingly, this requirement has little or no relevance to the commercial realities of how business is done.

The NPRM proposes regulations relating to the advertising of various third party vendors (such as truckers, consolidators, break bulk agents, etc.) and their advertising. The Commission proposes regulations precluding any advertising by these companies unless they have an OTI license or registration.

It is not clear which parties would be covered by the regulation. For example, we might engage any number of third parties to provide some various services, such as drayage companies, warehouses, railroads, truckers, packing companies, breakbulk and loading agents and even steamship lines. Are they all covered by this advertising prohibition?

- Many breakbulk agents, sales agents and other types of companies providing a portion of the services for which we contract with our customers represent a number of OTIs but do not themselves actually book cargo or provide all of the functions of NVOCCs or forwarders. It would therefore be very difficult, if not impossible, for them to obtain an OTI license or registration.
- If the real problem the FMC is addressing relates to companies engaged in moving household goods in the so-called barrel trade, it is not clear why the Commission should be imposing these new regulations on regular, commercial OTIs.

If The Federal Maritime Commission is sincere and would like to "amend its rules governing the licensing, financial responsibility requirements and duties of Ocean Transportation Intermediaries and propose rules intended to adapt to changing industry conditions, improve regulatory effectiveness, improve transparency, streamline processes and reduce regulatory burdens there should be serious consideration to:

- Totally eliminate OTI rate tariff publication.
- Eliminate filing NVOCC Service Agreements ("NSAs") or publish their essential terms.

In my individual capacity, I have been associated with the NVOCC business for over 10 years. Not once has a customer ever inquired about rates on file with the FMC. Clearly, one has to question the value of a regulation that requires the daily accumulation of and filing of tariff rates that have never once been accessed or provide any public service benefit.

Tens of millions of dollars are spent annually on the rate publishing requirement. This is a waste of both private sector and taxpayer funds. OTIs devote significant resources (i.e., employees, computer systems and payments to tariff bureaus) to publish rates that are seldom, if ever, accessed by the shipping public. Ultimately, shippers and taxpayers pay the price of unnecessary tariff filing regulations. Tariff filing regulations require OTIs to maintain rate publishing systems and the FMC to focus its limited resources and staff on corresponding tariff compliance and enforcement activities, all for information (which though in the public domain) is not accessed by the public. The question needs to be asked: why spend tens of millions of dollars to accumulate and regulate information that is basically archived, never used and serves no public or commercial purpose.

President Obama has stated that small businesses are the economy's economic engine and his administration will take steps to eliminate unnecessary regulation so small business can lead our economy out of the current recession. Unnecessary regulations, such as those outlined in the NPRM and tariff rate filing regulations, unduly burden small businesses that are integral to our nation's economic success. The choice is simple. We either spend funds on regulations that contribute little if anything to the public good or which serve no useful purpose or we use our very limited capital in a productive manner including job creation and hiring new employees.

DATED: December 4, 2014 Shawn Cummings