



WORLD SHIPPING COUNCIL
PARTNERS IN TRADE

Comments of the

World Shipping Council

Submitted to the

Federal Maritime Commission

In the Matter of

**Amendments to Regulations Governing Ocean Transportation Intermediary Licensing and
Financial Responsibility Requirements, and General Duties; Notice of Proposed Rulemaking**

Docket No. 13-05

December 10, 2014

The World Shipping Council (“WSC” or “the Council”) respectfully files these comments in response to the Notice of Proposed Rulemaking (“NPRM”) published in the above-referenced docket on October 10, 2014 (79 Fed. Reg. 61544). On July 18, 2013, WSC filed comments in response to the Commission’s Advance Notice of Proposed Rulemaking (“ANPRM”), published May 31, 2013 (78 Fed. Reg. 32946). WSC’s earlier comments focused on two specific points that are of interest to vessel operating common carriers (VOCCs). Those two issues are: (1) the ANPRM proposal for a priority system for claims against OTIs, and (2) the proposal that VOCCs be required to check license/registration status of NVOCCs in addition to checking tariff publication and proof of financial responsibility status.

As noted in more detail below, the Council supports the Commission’s revised approach to these two issues as set forth in the NPRM.

1. Claims Against OTIs

With respect to the first issue, the Council notes with approval that the Commission in its October 10 NPRM has chosen to leave unchanged its existing regulations governing claims against OTIs.

2. Confirmation of NVOCC Regulatory Status Using the Commission’s Website

With respect to the second issue, the Council supports the proposed approach to carrier verification of the regulatory status of NVOCCs. Specifically, the proposed changes to 46 C.F.R. § 515.27 (a)-(c), which make clear that common carriers may rely upon the Commission’s website to meet their obligation to avoid knowingly and willfully transporting cargo for an NVOCC unless the carrier has determined that the NVOCC has a license or registration, a tariff, and the required financial responsibility, should provide a workable compliance mechanism.

There is one further change to 46 C.F.R. § 515.27 that the Commission may wish to consider to make that section internally consistent. Because proposed revised subsection (b)(1) specifically provides that a common carrier may rely on the Commission’s website (as described in subsection (d)) to confirm an NVOCC’s compliance with applicable licensing, registration, tariff, and financial responsibility requirements, WSC encourages the Commission to make a conforming change to subsection (d) to harmonize the website functionality descriptions in subsections (b)(1) and (d). Specifically, just as the proposed revised subsection (b) makes reference to “OTI licensing, registration, tariff, and financial responsibility requirements,” subsection (d) should refer to the same list of information. As subsection (d) stands today, it

refers only to “a list of ocean transportation intermediaries who have furnished the Commission with evidence of financial responsibility. . . .”

One way to conform subsections (b) and (d) in 515.27 would be to revise the first sentence of subsection (d) to read as follows:

“The Commission will publish at its website, www.fmc.gov, a list of the locations of all carrier and conference tariffs, and a list of ocean transportation intermediaries (including a separate list for NVOCCs) who have met all of their applicable licensing, registration, tariff and financial responsibility requirements, current as of the date on which the list is updated.” (revised language underlined)

A change along the lines of the suggestion set forth above would simply conform and harmonize subsection (d) with the proposed changes to subsection (b), as well as revised subsections (a) and (c), all of which recite the full list of OTI “licensing, registration, tariff, and financial responsibility requirements. . . .” Because such a change to subsection (d) would be merely in the nature of clarification, it would not require additional notice or opportunity for public comment. The proposed change to subsection (d) would also more accurately reflect the current content of the Commission’s OTI website section, which states: “The OTIs listed have complied with the Commission’s regulatory requirements, as follows [remainder setting forth applicable requirements for OTIs generally and NVOCCs specifically].”

3. Conclusion

The World Shipping Council appreciates the Commission’s responsiveness to the comments filed in response to the ANPRM. The Council supports the Commission’s decision not to change the existing OTI claims regulations. The Council also supports the changes proposed to 46 C.F.R § 515.27, and urges the Commission to make the one additional conforming amendment to subsection 515.27(d) as described above.