

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

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**DOCKET NO. 13-05**

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**AMENDMENTS TO REGULATIONS GOVERNING OCEAN TRANSPORTATION  
INTERMEDIARY LICENSING AND FINANCIAL RESPONSIBILITY  
REQUIREMENTS, AND GENERAL DUTIES**

**COMMENTS OF PAUL “BUTCH” CONNOR IN RESPONSE TO**

**AMENDMENTS TO REGULATIONS GOVERNING OCEAN TRANSPORTATION**

**INTERMEDIARY LICENSING AND FINANCIAL RESPONSIBILITY**

**REQUIREMENTS, AND GENERAL DUTIES**

I am Paul “Butch” Connor, Vice President and Director of Ocean Operations at John S. Connor, Inc.

Our company is a full service global logistics provider that has been in business for 97 years. This includes operating as a licensed OTI (No. 496NF) and Freight Forwarder (No. 496). We currently have our headquarters in Glen Burnie, MD (Baltimore) and offices in Dulles, VA, Glen Burnie, MD, Louisville, KY, Newark, NJ and Norfolk, VA. Our company also has an office in Shanghai, China. As part of our operations, we have business partnerships with numerous overseas companies that act as agents on our behalf.

John S. Connor, Inc. is a member of the NCBFAA and I am the Treasurer on the NCBFAASA Board. We are also certified C-TPAT participants and a TSA approved Certified

Cargo Screening Facility (“CCSF”). I am familiar with the issues raised by the ANPRM and am very concerned about the issues raised by the ANPRM.

In reference to the FMC’s proposal to require all forwarders and NVOCCs to renew licenses every two years by filing an application and paying a fee, we believe:

1. *This 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.*
2. *If the Commission is concerned that some OTIs are not complying with this obligation, a simpler proposal would be to require all OTIs to file an annual certification, without requiring a formal application.*
3. *Requiring applications necessarily means that someone at the agency will be required to review and approve them, but the Commission has neither the staff nor budget to handle the added burden of doing this every two years for all OTIs.*
4. *This would require a significant expenditure of time to complete the application by our staff which is already fully engaged in providing services to our customer base, so it is an added burden to our business model.*
5. *There is no reason to have to pay any filing or user fee for this, as we are not seeking any benefit or new license from the Commission.*
6. *Requiring recent certificates of good standing to be filed as part of this application renewal process is costly and burdensome, and is unnecessary since the Commission can quickly obtain proof of a company’s good standing when and if that issue becomes relevant.*

7. *In view of the information Commission staff often seeks during the process of reviewing a license application, there is reason for concern that the renewal process will take up a great deal of time looking for information that has little or no relevance to the company's performance.*
8. *It is unclear whether any problems the FMC might have with a QI at the time of license renewal would also jeopardize the license of the company; for example, would a company's license be jeopardized because its QI is engaged in litigation over some alleged debt?*

Addressing the FMC's point of requiring three years of experience for a potential Qualifying Individual must be based on work done while employed by a licensed OTI, shipper or VOCC, we provide comments as follows:

*It is not clear whether experience gained lawfully overseas would count, whether this imposes undue hardship on potential new entrants, and whether this would be counterproductive from the standpoint of companies that are currently conducting OTI business without a license brought within the umbrella of FMC regulation.*

There is noticeable concern of the FMC's proposal to increase the bond amount from \$50,000 to \$75,000 for ocean forwarders, from \$75,000 to \$100,000 for NVOCCs, and \$150,000 to \$200,000 for foreign registered NVOCCs. We state the following:

1. *This would be an increase in the cost of business for small OTIs, which just increases cost without providing any benefit in the services that are being provided.*
2. *No good reason has been given for why any increase is appropriate.*

3. *It is not clear why OTIs are being singled out for these increased bonds; if VOCCs go bankrupt or experience mishaps where a vessel sinks or it is necessary to declare general average, the shippers are hurt far worse, so why is the FMC focusing on OTIs?*
4. *Most commercial shippers are insured against cargo loss and damage.*
5. *If we had a legitimate claim from a shipper, we would pay it, so that there is no reason for anyone to proceed against our bond; indeed, no one ever has.*
6. *If the real problem that the Commission is facing deals with the transportation of household goods for non-commercial shippers, there is no reason to increase the bonds for mainstream OTIs that do not handle such items.*
7. *There is no indication in the ANPRM that any claim has been made against a licensed forwarder's bond, so that there is no rationale for increasing forwarder bonds.*

We do not believe it is appropriate for the FMC to institute a priority system for paying claims that are made against bonds; as proposed, the Commission would require that the sureties pay, first, any shippers with claims, then any carriers and OTIs; and third, any government claims. We oppose this position based on the following:

1. *There is no reason why shippers should have a priority over OTIs, since NVOs are also shippers in their relationship to the carriers.*
2. *Similarly, if an OTI is a claimant, any monies that may be due from another OTI under the bond is money for which the claimant cannot be insured, unlike the situation with shippers, so it is unfair for the Commission to pick winners and losers.*

We feel it is inappropriate for the Commission to require carriers and sureties to file with the FMC a list of any claims made by them that relate in any way to the transportation activities of a forwarder or NVOCC, when that listing will be made public on the Commission's website.

We have grave concerns about this requirement as follows :

- 1. The publication by the FMC of claims made against OTIs, especially since those claims may have little or no merit, could be very damaging to the company.*
- 2. Even with a disclaimer that the Commission is not making any judgment about the veracity of the allegations, this listing would likely have a damaging effect on the company's reputation and would threaten its business and viability.*
- 3. When our company has valid claims against it, either it or its 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 required publication has little or no relevance to the commercial realities of how business is done.*

John S. Connor, Inc. conducts international business daily which involves our partnering with foreign agents. We are greatly concerned about the proposed FMC regulations relating to agents and their advertising. In that regard, the Commission proposes regulations requiring that any shipping documentation or advertising by the agents bear the name and license number of the principal OTI. We believe this is a poor initiative due to:

- 1. It is not clear which agents would be covered by the regulation; for example, an agent could be considered to be an accounting firm, drayage companies,*

*warehouses, railroads, truckers, packing companies, and not just breakbulk and loading agents. Are they all covered?*

- 2. It is not clear whether written agency agreements should really be required. Again, given the nature of the vast array of agency arrangements that necessarily arise in this industry, it may be impossible for any OTI to have a written arrangement with certain companies.*
- 3. Many breakbulk agents, sales agents and other types of companies providing agency services represent a number of OTIs. It would therefore be very difficult, if not impossible, for them to always list the name of the relevant principal they are representing on all of their advertising.*
- 4. It is not clear why any regulation of this nature is required, since the principal would always be responsible for the actions of the agent anyway; accordingly, why impose new regulations that relate to how the principal and agent interact?*
- 5. If the real problem the FMC is having relates to agents 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.*

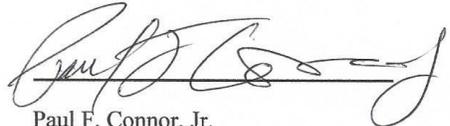
One consideration we see is that the Commission should issue a special license for OTIs providing service in the small package household goods barrel trade business.

Since the Commission has sought comments on this ANPRM, this is probably a good opportunity for the trade to suggest changes that will be helpful in alleviating unnecessary regulation while not compromising the FMC's oversight responsibilities. We would like to present the following proposals:

1. Total elimination of OTI rate tariff publication, so as to avoid any procedural requirements.
2. The elimination of the need for NVOCCs to file NVOCC Service Agreements (“NSAs”) or publish their essential terms.
3. The FMC should require the vessel operators to file their contingency plans with the Commission, which could be posted on the Commission’s website, so that the trade can be advised of those plans in the event there are severe weather or labor issues that could lead to significant service disruptions.
4. The Commission could work with the FMCSA to establish a common bond for OTIs and motor carrier property brokers, which would reduce the financial burden on intermediaries.

We thank the FMC for its work and appreciate the opportunity to comment on the proposals set forth in the ANPRM.

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