

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 13-05

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

COMMENTS OF A. N. DERINGER, INC.

As the Sr. Vice President of A. N. Deringer, Inc., I, Melisande Mayotte, provide the follow comments related to Docket No. 13-05, Amendments to Regulations Governing Ocean Transportation Intermediary Licensing and Financial Responsibility Requirements, and General Duties.

A.N. Deringer, Inc. is a privately held leading provider of international logistics services including Customs Brokerage, Freight Forwarding, Warehousing & Distribution, Logistics Consulting, Cargo Insurance, and Meat Inspection. Deringer combines over 30 US offices with a global agency network to facilitate the movement of cargo throughout the world. Operating as an NVOCC, under license number 1853N/F, we have the following offices operating under this license and with the appropriate bond, FMC48:

St Albans, VT	Blaine, WA	Elk Grove, IL	Houston, TX
Highgate Springs, VT	Chelsea, MA	Erlanger, KY	Rancho Dominguez, CA
Alexandria Bay, NY	Cheektowaga, NY	Romulus, MI	Valley Stream, NY
Atlanta, GA	Champlain, NY	East Granby, CT	Tukwila, WA

Deringer has been in business since 1919 and has built a sterling reputation in the industry as an efficient, highly ethical company that prides itself on providing excellent service to its customers. Deringer has been a leader in the industry in automating its operations to match the developing IT systems of the government and the various steamship lines and airlines that provide services to shippers in both international and domestic trade.

Although Deringer is licensed both as an ocean forwarder and NVOCC, it is also a licensed customs broker and is registered with the FMCSA as a motor carrier property broker. Deringer is also approved by the Transportation Security Administration (TSA) as an indirect air carrier (or air forwarder) and is certified by US Customs and Border Protection as a participant in its Customs-Trade Partnership Against Terrorism. Deringer is active in the NCBFAA, and its employees are very active in various trade/governmental organizations that are intended to both facilitate trade and ensure that all necessary oversight and regulation is carried out thoroughly and efficiently.

In addition to leveraging our U.S. based operations, Deringer works collaboratively with various foreign agents to support the services needed by our international clientele, and so is directly affected by several of the proposals contained in this ANPRM.

A. N. Deringer, Inc. has been monitoring the issues raised by the ANPRM and has several concerns with the proposed changes to the regulations which are addressed below:

Proposed requirement that all forwarders and NVOCC's must renew licenses every two years by filing an application and paying a fee.

- This is unnecessary because Deringer is already required to keep the Commission informed of any changes in its corporate structure, officers and directors, and locations of its headquarters and branch offices that are providing OTI services. We have accepted that responsibility and always done that timely.
- 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.
- 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. Lengthening the process so that the renewal process would be extended to every three or four years would not resolve this concern. It seems to be a valueless process, especially as it is not clear what the Commission would do with the renewal applications once they came in.
- 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. We would need to delegate the responsibility of keeping track of this process to one of our staff, who would then need to draft the necessary renewal application and have it reviewed by management. In short, while this may not be the biggest problem Deringer faces, it is an added burden to our business model.
- Unlike the situation with other applications we might file with government agencies, by having to renew our license, Deringer would not be seeking any benefit or new license from the Commission. Accordingly, we see no reason to have to pay any filing or user fee for this.
- 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 there is a reason to do so.
- 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. For example, if we have a dispute over a lease with a landlord, we probably would need to provide FMC staff with

documentation and explanation about that during the renewal process. This is likely to cause the use of significantly more resources by both the industry and the Commission's staff than the ANPRM appears to recognize.

- 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?

Proposed requirement 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.

- 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.
- 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?
- Most commercial shippers are insured against cargo loss and damage, so that the issue of bonds is largely not relevant to protecting them from mainstream OTIs.
- 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.
- 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.
- 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.

Proposed requirement that the FMC institute a priority system for paying claims that are made against bonds.

- There is no reason why shippers should have a priority over OTIs, since NVOs are also shippers in their relationship to the carriers.
- Similarly, if Deringer 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.

Proposed requirement that the Commission 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.

- 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.
- 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.
- 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.

Proposed requirement whereby the Commission requires that any shipping documentation or advertising by the agents bear the name and license number of the principal OTI.

- 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?
- 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 Deringer to have a written arrangement with certain companies that could be acting as our agents.
- Parenthetically, Deringer does try to have written agency agreements with all of the agents it uses where it has cooperative working arrangements. But, sometimes, due to differences in language or perhaps to lawyers' demands, it isn't possible to reach a final version of an agreement that is acceptable to both sides before traffic begins to move, even though the operational details and responsibilities of the parties are clear and acceptable to both sides. For example, we may not be able to reach an agreement about where any dispute between the parties needs to be brought or what law governs such disagreements. Nonetheless, the absence of a written agreement has not and would not leave our customers unprotected.
- 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.
- 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?
- 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.

* * * *

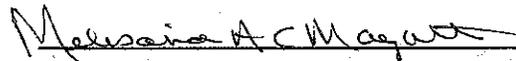
In addition to the comments noted above, Deringer, Inc. would like to express its support for the NCBFAA's request that the Commission consider several additional issues, such as:

- Total elimination of OTI rate tariff publication, so as to avoid any procedural requirements.
- The elimination of the need for NVOCCs to file NVOCC Service Agreements ("NSAs") or publish their essential terms.
- 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.
- 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.

By taking these actions, the Commission would be helping make the OTI industry even more efficient and competitive and could be significantly helpful in facilitating the movement of cargo during periods of severe congestion at the ports.

Thank you for giving us the opportunity to comment on these proposals.

DATED: August 26, 2013



Melisande A. C. Mayotte