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 RICHARD A. COPE

I am Richard A. Cope, President of USA Cargo Services Co.

We are both a Freight Forwarder (License number 2468) and an NVOCC under our wholly-owned subsidiary, USA Shipping LLC. Our company is 32 years old, has 2 offices in Marietta and Savannah Georgia, and we are members of a Freight Forwarders' network called the Global Freight Group. This Group enables us to be connected to approximately 60 overseas agents. We are also active members of the NCBFAA, and are familiar with the issues raised by the ANPRM in the above referenced docket.

We are very much opposed 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. Our reasons are as follows:

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?]*

We also feel that the 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 feel that it only makes sense that unauthorized activities not be the basis for obtaining a license.

We very much oppose the proposal to increase the bond amount from $50,000 to $75,000 for ocean forwarders, from $75,000 to $100,000 for NVOCCs, for these reasons:

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.]*

Further, 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. Our reasons for opposition to this are:

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 are further opposed to having 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. Our thoughts are:

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.]

We are also opposed to the proposed 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. For these reasons:

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.]*

We understand that the Commission is seeking information relating to the economic impact of the proposed rules on businesses. In that regard, the ANPRM lists eight specific questions that seek information concerning the following:

1. *Your company's total revenues in 2012.* *$ 9,843,847.53*

2. *How much you pay for the FMC bonds.* *$ 1,687.50*

3. *The number of staff hours required to comply with the existing bonding requirements.* Approximately 8
4. *The number of staff hours that would be required to comply with the changes relating to the increased bond, priority and claim reporting system in the proposed rule.* The same
5. *How much of an increase would be required for the amount of the bond proposed in the ANPRM.* The increase would cost us $12.50 per thousand dollars
6. *Whether the proposal would change your type of coverage.* NO
7. *Your estimated annual cost of compliance with the new financial responsibility requirements.* Unknown

DATED: _August 18, 2013 Richard A.Cope

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