

**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 ROBERT GARDENIER

I am Robert Gardenier, President of M.E.Dey & Co., Inc.

M.E.Dey & Co., Inc., Freight Forwarder license number 860N. Is in the business of providing services relating to the transportation of goods into and out of the USA. It has offices in Milwaukee and Chicago. M.E.Dey & Co., Inc has no offices overseas.

M.E.Dey & Co., Inc is a member of the NCBFAA and I am familiar with the issues raised by the ANPRM. I am concerned about several issues raised by the ANPRM.

As to the proposal to require all forwarders and NVOCCs to renew licenses every two years by filing an application and paying a fee. This is an egregious regulatory burden. 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.

As to the whether 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. It is unclear 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.

I am opposed to the 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:

1. 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.
2. 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.
3. 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.]

I would disagree with the proposal 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.

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.]

I disagree with the proposal 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.

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. 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.]

I am 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.

1. 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?
2. 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.]

DATED: August 24, 2013
