

From: **Diane Schexnayder** <diane01@wrzanes.com>
Date: Fri, Aug 9, 2013 at 5:17 PM
Subject: Docket No. 13-05 Amendment to Regulations Governing OTI Licensing & Financial Responsibility
To: secretary@fmc.gov
Cc: Bill Lusk <bill@wrzanes.com>, billstjohn@wrzanes.com

FEDERAL MARITIME COMMISSION
(VIA secretary@fmc.gov)

SUBJECT: Docket No. 13-05 Amendment to Regulations Governing OTI Licensing & Financial Responsibility

With regard to the ANPRM issued in FMC Docket No. 13-05, our comments are as follows:

LICENSES –

This is an extraordinary burden and costs on both the forwarder community and the Federal Maritime Commission, not to mention the additional cost for fees due from forwarders. All requested information is on file and under Part 515.12(a) and (d) of the FMC forwarder regulations, Forwarders are obligated to update as changes take place. The fact that a forwarder must be in good standing to secure the surety, should suffice in place of a “good standing certificate,” a cost to the forwarder to secure and supply to FMC. Further requiring “application for renewal” every 2 years, 60 days in advance of expiration of the current license, places both processing burden on the FMC, and both cost and risk to the forwarder’s business, should FMC act lately on the application process. No doubt FMC, staff would have to be enlarged for such and covered by fees paid by forwarders, which costs are unknown at this time.

SUSPENSION/REVOCAION OF LICENSES –

It should not be the forwarder who “polices” whether an NVOCC is properly bonded; that should be the governmental agency charged with that responsibility. The Shipping Act of 1984, Sec 19 (c) provides for notice and hearing on suspension and revocation of a forwarder who is found “not qualified” to render intermediary service or that

willfully failed to comply with a provision of this act or with a lawful order, rule, or regulation of the Board. In order to so act, the board must give basis for such action supported by matters which must be subject to the right of discovery by the forwarder charged. How else can such forwarder properly defend its right to avoid suspension or revocation, which is tantamount to putting the forwarder out of business. In our opinion, the law required such fair treatment on such an important action taken by the FMC.

FOREIGN REGISTERED NVOCC's (NVO's) –

W. R. Zanes & Co. has had a surety bond as a licensed freight forwarder since inception of such requirement. We know of no time that a claim was filed against our bond for any action taken as a freight forwarder. Believe this is true of the preponderance of forwarders. If a problem exists with others, such as those in the barrel trade or NVO's, then ONLY their bond requirements should increase. Finally, with ample time to correct, notice should be given the forwarder, if the FMC was notified of potential termination of a forwarder bond. Again, for most forwarders this will be an increase in operating cost, which on the face of it, is unnecessary.

AGENTS AND PRESUMPTIONS –

Forwarders work with many NVO's as agents. 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 an OTI to have a written arrangement with certain companies. An attempt at advertising agency relationships would be obsolete before hitting the presses or websites, as the vast array of shipping corridors, pricing changes, company buy-outs, etc. affect agency relationships daily. The maintenance overhead would be an astronomical burden, especially for the small to medium sized forwarder.

FREIGHT FORWARDER COMPENSATION –

This entire change in regulation will increase the cost of doing forwarder business. Such cost must be passed on to the consumer, who in this case is the owner of the product, be it an exporter or manufacturer. At a time when the expressed interest of our government is to increase export of

goods manufactured in the United States, such costs added to the processing of exports doesn't bode well for such intent.

It is our belief that this change in regulation in its present form should not be implemented at this time. While some changes might be necessary, discussions with the parties at interest, the exporters, forwarders, VOCC and NVO owners, and others should take place and be considered before going forward with any proposed changes in regulations.

Why the new rules in light of the Obama executive order "eliminate inefficient and burdensome regulations where possible", the FMC wishes to "increase" the regulatory burden, which in itself is more "process" than "benefit" to all involved, including the FMC.

Diane Schexnayder
President
W. R. ZANES & CO. OF LA., INC.
P. O. BOX 2330 (ZIP 70176)
223 TCHOUPTOULAS ST
NEW ORLEANS, LA 70130
PH: [504-524-1301](tel:504-524-1301)
FAX: [504-524-1309](tel:504-524-1309)
email: diane01@wrzanes.com

CC: SENATOR MARY LANDRIEU
CC: SENATOR DAVID VITTER

Importer Security Filings (ISF 10+2) are the responsibility of the Importer. Effective January 26, 2010, the pre-penalty period expired and Customs penalties of \$10,000 may now be assessed. Visit our website for a detailed pull-down .pdf or .xls form. Let ZANES assist you with timely ISF filings, giving us notice well in advance of exportation.

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