

**Federal
Maritime
Commission**

**Proposed FMC Amendments to Regulations Governing OTI Licensing and
Financial Requirements and General Duties**

Derek Ho <derek.ho@gatewaylogistics.com>
To: secretary@fmc.gov
Cc: Bonds@riskmgtgroup.com, peter.kan@gatewaylogistics.com

Thu, Jul 18, 2013 at 11:29 PM

Dear Karen,

Well noted on the proposed changes and FMC amendments to the regulations, we have some comments below in regards of the proposed changes.

When looking at the inflation for US in May 2013 was recorded to be about at 1.362% and the total average annual inflation in 2012 to be 2.069%. Considering the FMC bond increase to be at 33.33% (from \$150,000 to \$200,000), it seems to be fairly high. Furthermore, for those NVOCCs which do not have any claims record or irregularity in the past years, shouldn't they be entitled to some exemptions on the increase; even if there are increases it should be inline with the inflation.

Best Regards,

Derek Ho

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Tel +852 2408 8830

From: Bond Department - RMIB [mailto:Bonds@riskmgtgroup.com]

Sent: Monday, July 08, 2013 3:23 PM

To: Peter Kan

Subject: Proposed FMC Amendments to Regulations Governing OTI Licensing and Financial Requirements and General Duties

Dear Peter,

Below please find a summary of the **proposed** changes and FMC amendments to regulations governing OTI licensing and financial requirements and general duties that may be relevant to you:

1. Bond minimums will increase and FMC will eliminate the \$10,000/branch requirement. Increase will occur by a fixed date, but can be done by rider. FMC states the justification is to reflect inflation and because "these levels have proven inadequate to provide security sufficient to cover claims against OTI bonds."

- a. OTI-FF increases from \$50,000 to \$75,000
- b. OTI-NVO increases from \$75,000 to \$100,000
- c. Foreign NVO increases from \$150,000 to \$200,000

2. For foreign-based NVOCCs that chose to operate as registered NVOCCs, rather than obtaining an OTI license, they must submit a registration form, the required fee and evidence of financial responsibility pursuant to section 515.21(a)(3). Registrations can be renewed with the submission of an updated registration form and required fee. New and renewal registration will be issued for a period of two years.

3. Handling of claims changes:

- a. When payment is made under a bond, the OTI must replenish the bond back to its minimum amount within 60 days (typically, the surety terminates such bond), and the OTI cannot conduct new business until it is replenished
- b. Creating payment priorities (each layer is paid before the next layer can be paid): (1) Shippers/consignees, (2) Carriers (VOCCs/NVOCCs), ports, terminals, and other third-party creditors, and (3) FMC civil penalties.
- c. Sureties must consult FMC website for notices of court actions and claims before paying bond claims
- d. Defer payment of claims for no less than 5 months (to allow for other claims) when a single claim exceeds 20% of the bond amount, or when more than one claim is made (or posted on the FMC website). In the event there is only one claim made, the surety can adjust it without waiting 5 months, however the surety must check the FMC website prior to issuing payment to see if a new claim has been posted - if there is a new claim, then the 5-month wait period kicks in.

4. Possible creation of a new class of OTI for businesses promoting the "barrel trade" (sending small shipments of personal goods to relatives and friends in an immigrant's home country on a semi-regular basis), which may involve an OTI bond smaller than that for a FF/NVO.

5. Because sometimes a bond might be executed concurrent with a pending license application, license approvals (and registrations for foreigners) may now be conditioned on timely filing (within 120 days) of other necessary things - conditional approval expires if the bond, FMC Form 1, and tariff publication are not handled timely.

If you have any comments, you can contact the FMC directly before July 31, 2013. Their contact information is shown below:

Karen V Gregory
Secretary, Federal Maritime Commission
800North Capitol Street, NW
Washington DC 20573-0001
Phone: (202) 523-5725
Email: secretary@fmc.gov

We will continue to monitor the situation and inform you of any further developments. If you have any questions, please feel free to contact myself or Caesar.

Best regards,

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