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June 1, 2010



Karen V. Gregory
Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Room 1046
Washington DC 20573-0001

Dear Ms. Gregory:

This is commentary additional to that expressed in my letters of May 24 and May 27, especially as it relates to the possible extension of rate publication exemption to unlicensed overseas NVOCCs.

1. I mentioned in my commentary of May 27 that the FMC knows literally nothing about an unlicensed overseas NVOCC but I should have added that the FMC *does* know the surety, bond number and stateside Agent ( Tariff Rule 24 ).

2. What the FMC does *not* know about these entities, and I think important in deciding to extend the publication exemption, can readily be ascertained by reviewing the information requirements in Form FMC-18 for licensing, among them: Who are the principals? Do they have a "history" with the FMC in another guise? Do they have a criminal history? What corporate or personal entanglements does the NVOCC and/or its principals have with other persons with vested interests in ocean shipping to or from the United States, including other NVOCC's, or perhaps even shippers? Do they have a financial interest in the cargoes themselves?

I think that letting these unlicensed entities "fly under the radar", exempting them from rate publication requirements would be very unwise. In so doing, they are being almost entirely removed from FMC oversight, especially given the paucity of information about them mentioned above. Granted, they are required to maintain NRA records – but, in many cases, in offices half a world away, and accessing those records for investigation and enforcement activities could prove troublesome.

Returning to the issue of rate publication exemption for licensed overseas NVOCCs, some thought might be given to requiring them to produce NRA's and subsidiary house bills of lading and other relevant documents ( proposed 46 CFR 532.7 (b)) or *bona fide* copies thereof, in their stateside unincorporated branch office, which they are required to maintain. This would obviate the need for extensive – and expensive - foreign travel by FMC enforcement personnel.

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I do not see any requirement in proposed 46 CFR 532 that NRAs be written in the English language. The subordinate house bills of lading are, of course, for cargo to or from the United States, but the governing NRA, perhaps covering many shipments and house bills of lading, might be in Chinese, or Korean, or Vietnamese, etc. since they are not required to be filed with the FMC. That should be addressed in the proposed 46 CFR 532, either requiring that the NRA be in English or allowing use of another language. Use of another language might be troublesome for investigation and enforcement purposes, but of course ( and this may not be a matter of great concern to the FMC ) an NRA contract dispute between the NVOCC and, say, a shipper customer, would be heard in the courts of the foreign jurisdiction in which the NRA was executed. If the use of English in NRA's is mandated, I think most foreign courts would accept an "official" translation into the native language and then allow the case to proceed.

Thank you again for the opportunity to express my concerns in this matter.

Very truly yours,

Stewart M. Crawford
President
Kaslea Corporation dba U.S. Traffic Service