

BEFORE THE
FEDERAL MARITIME COMMISSION

COMMENTS TO NOTICE OF PROPOSED RULEMAKING

46 CFR Part 545

RIN: 3072-AC71

INTERPRETIVE RULE; SHIPPING ACT OF 1984

DOCKET NO. 18-06

COMMENTS OF THE INTERNATIONAL TRADE SURETY ASSOCIATION

Submitted by:

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COMMENTS OF THE INTERNATIONAL TRADE SURETY ASSOCIATION

The International Trade Surety Association (“ITSA”) submits the following comments to FMC Docket No. 18-06, Notice of Proposed Rulemaking, 46 CFR Part 545, RIN 3072–AC71, Interpretive Rule, Shipping Act of 1984.¹

INTRODUCTION AND SUMMARY

ITSA is an association whose members primarily consist of surety companies and insurance brokers that provide specialty insurance products and services, including ocean transportation intermediary (“OTI”) bonds required by the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998. ITSA estimates that its members underwrite approximately 60% of the OTI bonds on file with the FMC.

ITSA and its members have long worked constructively with the FMC on regulatory matters that pertain to OTIs, especially those involving liability and evidence of financial responsibility.

ITSA submits the following regarding the Proposed Interpretive Rule.

1. ITSA fully supports the FMC’s proposed interpretation of the scope of the Shipping Act’s prohibition against failing to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property,
2. ITSA supports the FMC’s decision to set forth this interpretation in part 545 of the FMC regulations, and
3. ITSA supports the proposed language set forth in the *Federal Register* notice.


¹ 83 FR 45367

The adoption of the proposed interpretation by codifying it in the FMC regulations will not cause a barrier to claimants with legitimate disputes. Shippers, ocean carriers, and other affected persons, may still file claims for review pursuant to the claim procedures set forth in 46 CFR §515.23, and if those claims are not satisfactorily resolved, the claimant has other options, such as utilizing the FMC's ADR services, presenting a claim to an OTI's surety, or bringing an action in a proper legal venue. Private commercial disputes are best resolved by these long-standing adjudicatory systems, while disputes addressing regulations and practices prohibited by the Shipping Act are best addressed by the FMC.

We thank you for providing an opportunity to comment on this Notice of Proposed Rulemaking.

Respectfully submitted,

International Trade Surety Association

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