

**NARRATIVE SUPPORTING STATEMENT
FOR 46 CFR PART 515
AND RELATED FORMS FMC-18, 48, 48A, 67, 68, 69 AND 69A**

A. Justification

1. Section 19 of the Shipping Act of 1984, as modified by Public Law 105-258 (The Ocean Shipping Reform Act of 1998) and Section 424 of Public Law 105-383 (The Coast Guard Authorization Act of 1998), requires that all ocean transportation intermediaries (OTIs) in the United States be licensed by the Commission (46 U.S.C. §§ 40101-41309 (2006)). These requirements are implemented in regulations contained in 46 CFR Part 515.

2. Information obtained under this part and through Form FMC-18 is used to determine the qualifications of OTIs and their compliance with shipping statutes and regulations and to enable the Commission to discharge its duties under the Act by ensuring that OTIs maintain acceptable evidence of financial responsibility. If the collection of information were not conducted, there would be no basis upon which the Commission could determine if applicants are qualified for licensing. The FMC actively participates in the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE) and verifies licensed or registered status of OTIs under the Trade Act of 2002 and related CBP requirements.

3. Under the final rule published August 10, 2007, 72 F.R. 44976, applicants for an OTI license were provided the option of filing Form FMC-18 electronically through an automated system. The Commission intends to make electronic filing the standard. However, a Proposed Rulemaking to make electronic filing the standard has been put on hold while the agency works on revision of the rules which will streamline and clarify the filing process. Forms FMC-18, FMC-48, FMC-48A, FMC-69, and FMC-69A currently are available for downloading from the FMC homepage and the government forms site, www.forms.gov. Form FMC-18 is also available electronically (fillable/fileable). Forms FMC-67 and FMC-68 are available only in paper form.

4. The information requested by the Commission is necessary to the agency's licensing process, and does not duplicate any information that would normally be collected elsewhere.

5. The FMC cannot certify that this collection of information does not have a significant economic impact on a substantial number of small entities. However, the Commission believes that the burden imposed on OTIs is justified and necessary in light of legislative intent, and because of the benefit to the shipping public and to carriers gained by licensing and requiring evidence of financial responsibility of all OTIs. The Commission believes, moreover, that the information collected is maintained in the normal course of business and is readily available.

6. If the information were not collected, the Commission would not have information upon which to support a finding that an applicant, or existing licensee, is qualified for licensing or continues to meet the regulatory requirements of an OTI. Failure to collect this information would also prevent the Commission from adequately protecting the public by ensuring that OTIs have obtained acceptable evidence of financial responsibility as required by section 19 of the Shipping Act. Therefore, the Commission would be unable to fulfill its statutory mandate.

7. This information collection does not (1) require respondents to report information to the agency more often than quarterly; (2) require respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (3) require respondents to submit more than an original and two copies of any document; (4) include confidentiality pledges that are not supported by established statutory authority; or (5) require respondents to submit proprietary information without protecting such information to the full extent of the law. 46 CFR 515.33 does require that certain records be kept for five years. This requirement is consistent with the statute of limitations, provisions for civil penalty cases, and is consistent with the requirements contained in section 13 of the Shipping Act of 1984 (46 U.S.C. ' 41109). Any confidential information required under this collection (Social Security Numbers, information regarding bankruptcies, violations related to shipping and bill of lading statutes, convictions for drug distribution or possession, felonies, etc.) is protected by the Privacy Act and by security and privacy policies developed by the bureau responsible for this collection.

8. The Final Rule was published in the *Federal Register* on August 28, 2012, at 77 FR 51935 and became effective on November 23, 2012.

In response to the comments the Commission received, the rule amends Appendix E to Subpart C of Part 515 (individual NVOCC bonds) to remove pre-specified rider amounts to account for variances in NVOCCs' combined total surety levels maintained to meet the Commission's other financial responsibility requirements, including \$10,000 in bond coverage that NVOCCs maintain for each of their branch offices pursuant to 46 CFR § 515.21(a)(4). This recognition means that NVOCCs with branch offices may have rider amounts that vary to satisfy the level of coverage requested by the PRC, so long as their total coverage equals \$125,000.

We received only one comment that discusses the information collection burden:

Mohawk Global Logistics: Richard J. Roche submitted comments on behalf of Mohawk Global Logistics. Mohawk believes that the optional rider method of conducting business is “a fair and equitable” solution to the alternative of posting a cash bond in China. Mohawk prefers bond coverage to cash deposit because it allows Mohawk to “expand [its] offering in China without having to make a significant investment of cash.” Similarly, Mohawk understands currency fluctuations, and “agree[s] that an increase in demonstrated bond coverage is warranted due to the lower value of the U.S. dollar today.” Mohawk did not identify disadvantages to the increase, other than the minor administrative burden of possibly prorating bonds in effect, addressing different bond premium dates, and the incremental increase in the cost of the

China Bond Rider coverage. These disadvantages would be multiplied if the Commission added an automatic trigger based on a currency fluctuation of a defined percentage. If currencies fluctuated rapidly or drastically, it could cause additional administrative burdens on bondholders. Mohawk did not see this outcome as likely, and believed that an automatic trigger for additional coverage could prove workable. Mohawk also agreed with Econocaribe that many bondholders already demonstrate 800,000 RMB worth of coverage if one includes the aggregate amount posted for branch offices. In Mohawk's view, a more reasonable approach might be for China to set and exchange value as of a given date, and allow NVOCC's to offset the bond coverage based on total bond value, adding any additional coverage as might be required to make up any shortfall not already covered by multiple branch offices. This would limit the bond transactions significantly, while providing simplicity and stability for all involved.

9. Not applicable – The Commission does not provide any payments or gifts to respondents.

10. The information filed by applicants is subject to the limitations of the Freedom of Information Act and the Privacy Act. The bureau involved in this collection of information also has strict policies in place regarding the handling of confidential or sensitive information.

11. Form FMC-18 asks that respondents give information regarding involvement in bankruptcies, violations related to shipping and bill of lading statutes, as well as convictions for drug distribution or possession or other felonies, if applicable. The Commission considers this information necessary because the applicant will be representing others in a fiduciary capacity or assuming responsibility for the safe transportation of cargo. The Commission uses this information to assist in evaluation of the applicant. Form FMC-18 includes a "Privacy Act Notice" explaining the need for and the use of the information. There are no questions of a sensitive nature in Forms FMC-48, 48A, 67, 68, 69, and 69A.

12. There is currently an estimated universe of 5,400 OTIs under 46 CFR 515. The Commission estimates that this collection of information imposes, in varying degrees, a reporting burden to the entire respondent universe. The burden is calculated on the estimated amount of time necessary to comply with various requirements of 46 CFR 515, as set forth in the Attachment to this document. The Attachment shows the breakdown of the estimated burden of 5,163 hours for respondents to comply with 46 CFR 515.

The annual cost to respondents is estimated at \$322,775. This cost has been calculated in consideration of the time to gather information and furnish it to the Commission, as well as comply with the requirements of 46 CFR 515. It also includes clerical time, as well as overhead and operational expenses. No time is allocated for disclosure, as there are no disclosure requirements involved in this collection.

13. In addition to the total person-hour cost burden, respondents incurred costs for filing fees for the Form FMC-18 of approximately \$151,474. Aside from the foregoing filing fees, respondents have no capital or start-up costs associated with this regulation. This cost had not

been reported in previous years until it was clarified by FMC's desk officer that filing fees are in fact a cost burden for respondents.

14. The cost to the Federal Government for this collection of information is estimated to be \$1,379,996, and is based on a burden of approximately 18,988 person-hours. This includes wages, overhead, and benefits. This cost is offset by the collection of approximately \$151,474 in required filing fees. The net estimated total annual cost to the government of this collection of information is \$1,228,522.

15. The Final Rule amends the amount of bond coverage used to evidence additional Non-Vessel-Operating Common Carrier (NVOCC) financial responsibility when operating in the trade with the People's Republic of China (PRC). It also revises the optional China Bond Rider Forms to recognize fluctuations in the exchange rate between the U.S. Dollar and the Chinese Renminbi since the regulation was first adopted in 2004, and to give NVOCCs more flexibility to demonstrate their financial responsibility by aggregating their total bond coverage, including bond coverage that they maintain for their branch offices, so long as their total coverage equals \$125,000. In accordance with the Final Rule, Form FMC-48A was revised to remove pre-specified rider amounts; and Form FMC-69A was revised to increase the amount specified from \$21,000 to \$50,000.

There are no changes to the burden estimate for this collection of information. The burden estimate was last updated and submitted to OMB on October 26, 2010, in connection with the extension of this collection.

16. Not applicable – no information will be published.

17. Not applicable – the expiration date will be displayed.

18. Not applicable – no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.

(Revised December 2012)

ATTACHMENT

INDUSTRY BURDEN FOR PART 515 FORMS

Requirement	Respondents (See Note 1)	Annual Instances	Average Person- hours Per Response (See Note 2)	Total Person- hours	Frequency (See Note 6)
OTI Licensing: 46 CFR 515.12					
FMC-18 paper form (new/amended)		80	2 (See Note 3)	160 hours	On occasion
FMC-18 electronic form (new/amended)		679	2 (See Note 3)	1,358 hours	On occasion
Financial Responsibility: 46 CFR 515.22					
FMC-48 - OTI Bond (new/amended)		10,796 (See Note 4)	20 minutes (See Note 5)	3,598 hours & 40 minutes	On occasion
FMC-67 - Insurance		0	0	0	On occasion
FMC-68 Guaranty		0	0	0	On occasion
FMC-69 Group Bond (new/amended)		69	20 minutes (See Note 5)	23 hours	On occasion
Financial Responsibility: 46 CFR 515.25					
FMC-48A Optional Rider		68	20 minutes (See Note 5)	22 hours & 40 minutes	On occasion
FMC-69A Optional Group Rider		0	0	0	On occasion
GRAND TOTAL		11,692		5,162 hours & 20 minutes	

Note 1 - The total respondent universe is estimated at 5,400

Note 2 - For each entry in this column, the average industry person-hours must be subdivided into 3 categories, as follows:

- Recordkeeping (collecting documents);
- Reporting (completing form); and
- Disclosure (to 3rd parties, if any).

Example: FMC-18 paper form - 2 hours total consisting of: recordkeeping - 30 minutes; reporting - 1 hour 30 minutes; disclosure - 0 minutes.

Note 3 - Preparation time varies from 1 hour to a maximum of 5 hours. On average, it is estimated that it would take 2 hours to complete an application. The estimated average time of 2 hours is allocated as: recordkeeping - 30 minutes; reporting - 1 hour 30 minutes; and disclosure - 0 minutes.

Note 4 - This figure reflects the number of annual changes made to the Proof of Financial Responsibility, including terminations, by freight forwarders and NVOCCs.

Note 5 - The estimated time of 20 minutes is allocated as: recordkeeping - 10 minutes; reporting - 10 minutes; and disclosure - 0 minutes.

Note 6 - Biennially, decade, monthly, once, semi-annually, annually, daily, hourly, on occasion, quarterly, or weekly

Estimated Burden and Costs, Including Overhead, to Respondents

1,518 person-hours (Form FMC-18) + 3,598.67 person-hours (Form FMC-48) + 22.67 person-hours (Form FMC-48A) + 23 person-hours (Form FMC-69) = 5,162.33 total person-hours

75% Transportation Manager (3,871.75 hours)

25% Clerical (1,290.58 hours)

The annual salary calculations have been formulated using the Department of Labor's *2010 National Industry-Specific Occupational Employment and Wage Estimates*, (overhead of \$20.10 per hour and benefits of 24.23% have been added to the basic salary).

Formula: Hourly salary + benefits (24.23%) + overhead (\$20.10) = adjusted hourly salary

$\$41.09 + (\$41.09 \times 24.23\%) = \$51.05 + \$20.10 = \$71.15 =$ Transportation Manager adjusted hourly salary

$\$13.32 + (\$13.32 \times 24.23\%) = \$16.55 + \$20.10 = \$36.65 =$ Clerical adjusted hourly salary

Employee	Hourly Salary	Number of Hours	Total
Transportation Manager	\$71.15	3,871.75	\$275,475
Clerical	\$36.65	1,290.58	\$ 47,300
TOTALS			\$322,775