

**NARRATIVE SUPPORTING STATEMENT  
FOR 46 CFR part 515 – Registration of Foreign-Based Unlicensed NVOCCs**

**A. Justification**

1. The Shipping Act of 1984 requires any person acting as an ocean transportation intermediary to furnish a bond, proof of insurance, or other surety in a form and amount determined by the Federal Maritime Commission (Commission). 46 U.S.C. § 40902. The Shipping Act further requires each common carrier to keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices. 46 U.S.C. § 40501-40503. The Commission's regulation also requires each common carrier to submit to the Commission information containing its organization number, home office address, name and telephone number of firm's representative, and the online location of its tariffs. 46 C.F.R. § 520.3(d).

To better ensure compliance with the above-referenced requirements of the Shipping Act and the Commission's regulation, the Commission proposes to require foreign-based, unlicensed non-vessel-operating common carriers (NVOCCs) to be registered with the Commission. The registration form is attached hereto.

2. Foreign-based, unlicensed NVOCCs must be registered with the Commission in accordance with § 515.19 of the Commission's proposed rule. Foreign-based, unlicensed NVOCCs are not subject to licensing. Without the collection of the information obtained through registration of foreign-based, unlicensed NVOCCs, however, the Commission basically has only the name and address of such NVOCCs. Those concerns brought to light the need for a registration process for foreign-based, unlicensed NVOCCs. The registration process requires such NVOCCs submit a registration form to the Commission that identifies the NVOCCs' legal name, trade name(s), principal address, contact information, including name and address of a contact person, and the name and address of the contact person for the designated legal agent for service of process in the United States. And the Commission proposes that the registration be renewed every three years so that the Commission can maintain accurate and updated information on foreign-based, unlicensed NVOCCs. With the information newly-collected from foreign-based, unlicensed NVOCCs, the Commission proposes that it will be able to better protect the shipping public in the United States.

3. Registration form may be submitted electronically.

4. Currently, the Commission has the name and address of foreign-based, unlicensed NVOCCs, which sometimes are outdated. The Commission proposes to collect more detailed information from such NVOCCs, which must be updated every three years through a renewal of registration.

5. The Commission believes that foreign-based, unlicensed NVOCCs may be primarily small entities, as that term is defined by the Regulatory Flexibility Act, 5 U.S.C. § 601. However, the Commission proposes to collect additional basic contact information of such NVOCCs and its legal agent for service of process in the United States. The registration form can be filled out easily without any outside assistance and may be submitted to the Commission electronically, which will minimize any possible burden to such NVOCCs.

6. The collection of the new information through registration of foreign-based, unlicensed NVOCCs (presently, the Commission knows only the name and address of such NVOCCs) will enable the Commission to identify the NVOCCs' legal name, trade name(s), principal address, contact information, including the name and address of a contact person and the name and address of the designated legal agent for service of process in the United States. The Commission proposes that the registration be renewed every three years so that it can maintain accurate and updated information.

7. There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 C.F.R. § 1320.6.

8. In accordance with the requirements of the Administrative Procedure Act, 5 U.S.C. § 553, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register for public comment. 78 FR 13011 (February 26, 2013). The Commission received six comments, four of which support the NPRM. One comment objecting the NPRM was based upon misunderstanding of the Shipping Act and the Commission's regulations. The Commission will explain in the Final Rule why the objection is misinformed. Another comment suggested an alternative to renewal of foreign-based unlicensed NVOCCs. The Commission will address in the Final Rule the commenter's concerns by informing that the Commission is preparing to automate the registration and renewal procedure to reduce burdens to such NVOCCs.

9. Not applicable - the Commission does not provide any payments or gifts to respondents.

10. None of the information contained in the NVOCC's registration form is confidential. The registration form only collects contact information of foreign-based unlicensed NVOCCs and their legal agent for service of process in the United States.

11. Not applicable - there are no questions of a sensitive nature.

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 5,484 hours for respondents to comply with 46 CFR 515.

The annual cost to respondents is estimated at \$342,836. 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. There are no capital or start-up costs associated with this regulation, nor are there any operational, maintenance, or purchase of service components.

14. The cost to the Federal Government for this collection of information is estimated to be \$1,228,522, and is based on a burden of approximately 18,988 person-hours. This includes wages, overhead, and benefits.

15. The burden estimate for this collection of information has increased since it was last submitted. The Commission proposes to require foreign-based, unlicensed NVOCCs to be registered with the Commission. Currently, there are 1,229 foreign-based, unlicensed NVOCCs. It is estimated that by the end of FY 2013 there will be 1,283 such NVOCCs. Under the proposed rule, all such NVOCCs must be registered with the Commission by submitting the registration form. The registration must be renewed every three years. Further, any changes to the submitted information must be reported to the Commission. This action increased the burden reflected on the current OMB inventory of 5,162 person-hours to an estimated 5,484 person-hours.

16. Not applicable – the Commission does not plan on performing analyses and developing statistics, reports, or other items.

17. Not applicable – the Commission plans to display OMB approval of the information on the registration form.

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

**B. Collections of Information Employing Statistical Methods**

This collection of information does not employ statistical methods.

**ATTACHMENT**

**INDUSTRY BURDEN FOR PART 515 FORMS**

<b>Requirement</b>	<b>Respondents (See Note 1)</b>	<b>Annual Instances</b>	<b>Average Person- hours Per Response (See Note 2)</b>	<b>Total Person- hours</b>	<b>Frequency (See Note 6)</b>
<b>OTI Licensing: 46 CFR 515.12</b>					
FMC-18 <b>paper</b> form (new/amended)		80	2 (See Note 3)	160 hours	On occasion
FMC-18 <b>electronic</b> form (new/amended)		679	2 (See Note 3)	1358 hours	On occasion
<b>Financial Responsibility: 46 CFR 515.22</b>					
FMC-48 - OTI Bond (new/amended)		10,796 (See Note 4)	20 minutes (See Note 5)	3598 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
<b>Financial Responsibility: 46 CFR 515.25</b>					
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
FMC-65		1283	0.25	321 hours	On occasion
<b>GRAND TOTAL</b>		<b>12,975</b>		<b>5483 hours &amp; 20 minutes</b>	

Note 1 - The total respondent universe is estimated at 5,200 (Grand Total of OTIs at end of FY 2012)

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 3<sup>rd</sup> 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 - Response 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 in FY 2006.

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) + 321 person-hours (Form FMC-65) = 5,483.20 total person-hours

75% Transportation Manager (4,112.40 hours)  
25% Clerical (1,370.80 hours)

The annual salary calculations have been formulated using the Department of Labor's 2012 *National Industry-Specific Occupational Employment and Wage Estimates*, (overhead of \$17.01 per hour and benefits of 21.99% 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

$\$13.32 + (\$13.24 \times 24.23\%) = \$16.55 + \$20.10 = \$36.65 =$  Clerical adjusted hourly salary

<b>Employee</b>	<b>Hourly Salary</b>	<b>Number of Hours</b>	<b>Total</b>
Transportation Manager	\$71.15	4112.40	\$292,597
Clerical	\$36.65	1370.80	\$ 50,239
<b>TOTALS</b>			<b>\$342,836</b>