

Federal Maritime Commission  
Title: Container vessel imports and exports.  
ICR Reference No. 202303-3072-001

## **A. Justification**

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Ocean Shipping Reform Act of 2022 (OSRA 2022) includes the following language, “The Federal Maritime Commission shall publish on its website a calendar quarterly report that describes the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel (making port in the United States, including any territory or possession of the United States) operated by each ocean common carrier covered under this chapter. Ocean common carriers under this chapter shall provide to the Commission all necessary information, as determined by the Commission, for completion of this report.” Ocean Shipping Reform Act of 2022, Pub. L. 117-146, 136 Stat 1272 (2022) (codified at 46 U.S.C. 41110).

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information will be used to compile and publish a quarterly report on total import and export tonnage and total loaded and empty 20-foot equivalent units (TEUs) per vessel operated by common carriers. The universe will be vessel-operating common carriers that transport 1,500 or more 20-foot equivalent units per month (total across imports and exports, regardless of whether they are laden) in or out of the U.S. in oceanborne foreign commerce.

Specifically, data will be collected from vessel-operating common carriers on the characteristics of their containers loaded or unloaded at each port of call on any service that transports their containers. Specifically, for each port of call, carriers will report on the tonnage and number of empty and laden containers loaded or unloaded from the vessel. Containers will be further disaggregated into 20-foot, 40-foot, and 45-foot containers to allow computation of the TEU statistic specified in OSRA 2022.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses,

and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

This information will be collected via the Commission's eMonitoring system, which is the electronic system currently used for collection of data from regulated entities under 46 CFR Part 535. Respondents will be provided an Excel template to fill and submit via eMonitoring.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The report is mandated under OSRA 2022. There is currently no systematic, reliable information on the number of empty containers transported on vessels that is provided to the shipping public in a timely fashion and allows analysis of space at both the carrier and vessel level. The Army Corps of Engineers collects information on laden and empty containers by size at the vessel level. These data are aggregated and published with a two-year lag. The reporting unit is the vessel. Understanding the number of empty and full containers on a vessel is important, but an incomplete picture if it is not disaggregated by the carriers using space on that vessel. U.S. exporters and importers move cargo (under contract or on the spot market) with individual ocean carriers. Access to detailed information about individual carriers' containers and/or space allocation on a particular vessel is useful to shippers for their planning and contract negotiation/implementation purposes. Most container ships are not exclusively carrying containers for a single ocean common carrier. So, for example, knowing that a ship with 4,000 TEU capacity is sailing 75 percent empty when it leaves the United States does not necessarily imply that the operator of the ship is responsible for those empty containers. It could be the case that 1,500 units of capacity are held by another ocean common carrier, who has refused all export loads. Information on the vessel and how space is used at the carrier level on any given vessel is necessary to meet the statutory mandate.

While there are alternate sources of data on laden containers, these do not satisfy the requirements of the OSRA 2022 mandate; they are based on converting container weight to an estimated count of containers using sophisticated algorithms. Commercial vendors of this information acquire the underlying data from U.S. Customs and Border Protection and then spend considerable resources to refine the data and convert to estimated TEUs. Not only is it costly to produce this information using the commercial vendor approaches, but results in only estimated TEUs, is incomplete at the carrier/vessel level, and estimates can vary by methodology used. The FMC believes that using commercial vendor data or attempting to duplicate this data would not provide the information required to produce the report mandated by OSRA 2022. Moreover, attempting to duplicate commercial vendor methodologies to produce its own estimates would raise the risk of erroneous data, is not required to satisfy the OSRA 2022 mandate, and comes at a considerable and needless cost to taxpayers. Based on its research, the FMC believes the most cost effective, efficient, and reliable approach to meeting this OSRA 2022 reporting requirement is to collect the underlying data directly from the vessel-operating common carriers, who know precisely the quantity and

size of containers that they move on vessels (those under their control and those where they have a space allocation).

Finally, there is no source of information on tons or TEUs of freight that is on- or off-loaded at Canadian or Mexican ports on services that also call at U.S. ports. It is often the case that U.S. exporters and importers ship freight that moves through either Mexican or Canadian ports. For example, rail service from the Ports of Vancouver or Prince Rupert is used by U.S. exporters and importers in the upper Midwest.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

There will be no impact on small business. FMC policies and procedures on the Small Business Regulatory Enforcement Fairness Act are available here:

<https://www.fmc.gov/about-the-fmc/small-business-regulatory-enforcement-fairness-act-considerations/>. This information will be collected from vessel-operating common carriers serving the U.S. foreign oceanborne trades. To reduce the burden on these small companies, this data will be collected from vessel-operating common carriers who transport (either import or export) at least 1,500 TEUs per month. Vessel-operating common carriers transporting more than 1,500 TEUs per month are generally not small businesses. FMC Policy and Procedures regarding Proper Consideration of Small Entities in Rulemakings (Feb. 7, 2003), available at: [https://www.fmc.gov/wpcontent/uploads/2018/10/SBREFA\\_Guidelines\\_2003.pdf](https://www.fmc.gov/wpcontent/uploads/2018/10/SBREFA_Guidelines_2003.pdf).

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

This report is mandated under OSRA 2022. Failure to collect and publish this data will render the Commission unable to produce the report required by statute.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- \* requiring respondents to report information to the agency more often than quarterly;
- \* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- \* requiring respondents to submit more than an original and two copies of any document;
- \* requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- \* in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- \* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

\* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

\* requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

The information collection requires carriers to submit on a monthly basis. As Congress requires the FMC to publish a report quarterly, to meet key milestones and have the ability to properly review and validate submitted data, FMC needs to require monthly submission. Requiring less frequent submission would increase the time between data receipt and the quarterly publication, which would substantially impact the Commission's ability to comply with the OSRA 2022 mandate.

While the Customs and Border Protection and Army Corps of Engineers collections cannot be leveraged to create the data product required by the FMC, the FMC has leveraged the existing forms and templates for these other data reporting efforts and developed a data collection tool that uses identical measures and naming conventions in an effort to minimize additional costs to the respondents.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The FMC filed a 60-day notice in the Federal Register on August 8, 2022, at 87 FR 48182. The comment period closed on October 7, 2022. The Commission specifically requested comments on the necessity and utility of the data collection, the estimated burden, ways to enhance collection, and the use of automated collection techniques. The agency received six comments, four in support of collection and two opposed. The World Shipping Council and Maritime

Exchange for the Delaware River and Bay indicated their belief that the data collection was redundant with existing data collections, specifically those of Customs and Border Protection and Army Corps of Engineers. Our evaluation of the overlap of these data collections is addressed in detail in #4. We reiterate that while some parts of existing collections of other agencies do overlap with the proposed data collection, there is not sufficient overlap. Importantly, there are gaps in these existing information collections that would not allow timely and accurate reporting of loaded and empty containers per vessel at the carrier-level, preventing their use in meeting the reporting requirements mandated by OSRA 2022.

American Cotton Shippers Association, National Fisheries Institute, BassTech International, and National Industrial Transportation League indicated their support for the proposed data collection. The first two did not specifically address the questions posed by the Commission and focused their comments on other initiatives outside the scope of this data collection that they think should be FMC priorities. BassTech indicated that they would find it useful to have the statistics disaggregated by container size, that the burden estimates may be generous, encouraged consistency and specificity in defining data elements, and supported automated collection to reduce burden. Similarly, the National Industry Transportation League indicated that the burden estimates appeared reasonable, that ocean carriers should be required to submit the same elements in the same format, and that automated collection would reduce burden.

During the 60-day comment period, the FMC consulted with two ocean carriers to review potential template formats for data collection. Both carriers provided useful feedback that was incorporated into a revised data collection template. Additionally, a carrier suggested further breaking out the container categories by size, similar to the BassTech suggestion. Another carrier stressed the importance of accounting for Mexican and Canadian freight that is carried on vessels that have U.S. port calls, as that would be the most complete accounting for how the vessel capacity is utilized. As an example, if a vessel calls at Seattle and then Vancouver and the data only collects the Seattle port of call, it could appear as if the vessel is sailing with considerable available capacity, when, in fact, it is taking on export freight in Vancouver before returning to Asia.

The FMC filed a 30-day notice in the Federal Register on December 8, 2022, at 87 FR 75629. The 30-day notice invited feedback on the value of collecting information on cargo loaded and off-loaded outside of the U.S. on service strings that include U.S. port calls. The Commission received one response to the 30-day notice, from the World Shipping Council. Similar to their comments on the 60-day notice, the World Shipping Council contends that the PRA requires that the Commission not collect any information from respondents that might exist in other government databases or in commercial data sets. As described in #4, the Commission notes that while data are submitted to Customs and Border Protection and the Army Corps of Engineers, the data submitted to Army Corps of Engineers are limited to the name of the operator of the vessel, as opposed to carriers who have freight on a particular vessel. Further these data are available with a considerable lag that would not allow the Commission to meet the OSRA 2022 mandates.

The data submitted to Customs and Border Protection are at a much more disaggregated level than required by FMC and are not reviewed and processed by Customs and Border Protection with a goal of obtaining accurate counts of TEUs. The Customs and Border Protection data that are shared with commercial vendors, such as PIERS, are subsequently cleaned by the private vendor and an estimate of TEUs generated using an algorithm. Further, PIERS and other vendors are focused on reporting information on **laden** containers, and do not provide estimates of empty containers. Any model created to assume that empty containers would represent the difference between ship capacity and laden containers, would not necessarily be accurate. Vessels may leave the U.S. without reaching container capacity. Vessels may also depart the U.S. and take on freight at foreign ports. Thus, this information is insufficient to meet the mandates of OSRA 2022.

The FMC disagrees with the World Shipping Council assessment that OSRA 2022 does not allow the FMC to duplicate data collection. While it is not ideal to collect information on both full and empty containers, in the Commission's judgment, this is the only way to meet the requirements of OSRA 2022. OSRA 2022 requires data on laden and empty containers, and restricting the collection to only empty containers and then using PIERS or other data sources to understand full containers may lead to inaccuracies. Without an initial data collection, we are unable to ascertain how inaccurate the blended estimates would be. The Commission plans to study this and measure the disparity during our first year of direct data collection. The Commission will also work with Customs and Border Protection to evaluate the timing, feasibility, and cost of Customs and Border Protection creating a report for the Commission that would provide information on laden and empty containers by vessel name and carrier name.

We additionally note that in either of these scenarios, the data would not include information on containers loaded or unloaded at ports outside of the U.S. (primarily Canada and Mexico) which are then moved in or out of the U.S. This is only available through direct data collection.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Not applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

46 USC 41110(b) states, "Nothing in this section, and the amendment made by this section, shall be construed to compel the public disclosure of any confidential or proprietary data, in accordance with section 552(b)(4) of title 5, United States Code."

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency

considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Not applicable

12. Provide estimates of the hour burden of the collection of information. The statement should:

\* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices. \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.

\* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.

FMC assumes a respondent universe of 70 vessel-operating common carriers, based on data sources on vessels operated and containers carried over the past year obtained from PIERS (<https://ihsmarkit.com/products/piers.html>) and Alphaliner (<https://public.alphaliner.com/>).

Burden is estimated at 6.67 hours (6 hours, 20 minutes) per response (which would total 80 hours per year per carrier under monthly reporting).<sup>1</sup> This is based on FMC burden estimates for comparable levels of data collection in other programs, including Part 535. As the FMC believes the bulk of the collected data resides in existing systems, we assume 80% of the burden hours involve staff working with IT systems and the remaining 20% will involve management review and approval of the data submission. Total burden is estimated at 5,600 hours per year.

We use the most recent Occupational Employment and Wage Statistics (<https://www.bls.gov/oes/>) as the basis for the hourly wage estimates and select occupational codes most related to the functions identified above. Overhead is assumed to be 102.93%.

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<sup>1</sup> When the Commission calculated an estimated time per response in the two Federal Register notices, the Commission based this on the total yearly burden per vessel-operating common carrier. The Commission has broken this yearly per-carrier number into a burden estimate per-response. Vessel-operating common carriers are required to respond once a month. So, while the total annual burden on carriers has not changed and the time per monthly response has not changed, the Commission is reflecting a different number when reporting the estimated time per response.

Title (and SOC)	OEWS hourly wage estimate, 2021	with overhead	assumed hours	total
Manager (11-1021)	\$55.41	\$112.44	1,120	\$125,932.80
Computer Systems Analyst (11-3021)	\$49.14	\$99.72	4,480	\$446,745.60
			5,600	\$572,678.40

Total respondent burden is estimated to be \$572,678.40.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

\* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

\* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

\* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no capital/start-up or ongoing operation/maintenance costs associated with this information collection. The FMC anticipates that respondents will generate reports from existing systems, as the data collected is similar, but not identical to, data that is already submitted to other government agencies and clients on a flow basis.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The cost to the Federal Government for this collection of information is estimated to be \$245,105.58. This includes wages, overhead, and benefits for staff associated with the data collection, analysis, report formatting, and posting to the FMC website. Overhead is assumed to be 102.93%.

Title	GS level	2022 Annual	2022 hourly	with overhead	assumed hours	total
Operations Research Analyst	13/5	\$121,065	\$58.01	\$117.72	1,000	\$117,720
Economist	13/5	\$121,065	\$58.01	\$117.72	1,000	\$117,720
Operations Research Analyst	15/5	\$168,242	\$80.61	\$163.59	50	\$8,179.50
Program Support Specialist	11/5	\$84,941	\$40.70	\$82.59	12	\$991.08
Program Analyst	12/5	\$101,813	\$48.78	\$99.00	5	\$495.00
						\$245,105.58

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

Not applicable.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Collected data will be published on the FMC website. The OSRA 2022 language requires publication at the vessel level. However, as detailed in #4 above, in order to produce an accurate picture of total loaded and empty containers moving in U.S. foreign oceanborne trades at the vessel level, data must be collected at the carrier level. The FMC believes there will be utility to the shipping public by allowing users to easily view both the carrier- and vessel-level

information and intends to publish both. We will provide the data to the public via downloadable Excel workbook, and also provide a written report summarizing information at the carrier level, as well as in aggregate across all collected data.

The report is required to be published quarterly. The FMC anticipates requiring data submission 30 days after the end of each calendar month. Allowing 30 days to review and validate, develop data tables, and draft the report, will result in the quarterly report being published to the website roughly 60 days after the end of each calendar quarter.

With an anticipated start date of collection in early 2023, The FMC expects to publish the first quarterly report that aligns with Q1 2023 data, on June 14, 2023.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions,"

Not applicable.