

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.

Under its authority in 46 U.S.C. 40104, the Commission is requiring ocean common carriers to regularly submit a documented export policy, in the form of a report, to the Commission. The report will allow the Commission to monitor the industry for unreasonable behavior prohibited by 46 U.S.C. 41104(a) (3) and (10). This in turn will better allow the Commission to meet two key purposes of the Shipping Act: (1) “ensur[ing] an efficient, competitive, and economical transportation system in the ocean commerce of the United States” (46 U.S.C. 40101(2)), and (2) “promot[ing] the growth and development of United States exports through a competitive and efficient system for the carriage of goods by water in the foreign commerce of the United States, and by placing greater reliance on the marketplace” (46 U.S.C. 40101(4)).

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.

Carriers are required to provide a documented export policy that includes pricing strategies, services offered, strategies for equipment provision, and descriptions of markets served. Policies should also include, if applicable, the effects of blank sailings on a carrier’s ability to accept shipments, and alternative remedies or assistance for shippers that have been refused vessel space. These elements would help the Commission determine whether an ocean common carrier's conduct in a specific matter aligns with their general policies.

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.

Respondents will submit the required information by email.

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 requested information is not submitted to any other U.S. Government agency and is not available through other means.

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

This collection of information does not have a significant impact on small businesses or other small entities.

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.

Collecting this information is a critical component of monitoring the industry for potential unreasonable activities concerning export carriage.

The yearly requirement is an appropriate interval for collection that balances respondent burden with Commission needs to monitor carrier behavior. An ocean common carrier can update their policy more frequently than once per year if it chooses to do so.

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.**

None of the above apply.

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 in response to the comments.

Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside FMC 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 report.

The FMC published a Notice of Proposed Rulemaking (NPRM) on September 21, 2022, at 87 FR 57674. The NPRM said that the Commission, in deciding if unreasonable conduct had occurred, would consider whether the common carrier follows a documented export strategy that enables the efficient movement of export cargo (proposed 46 CFR 542(b)(2)). The NPRM, however, did not contain any proposed requirement that regulated parties would have to create, retain, or submit a copy of such a document to the Commission. Comments received in response to that NPRM were summarized in a Supplemental Notice of Proposed Rulemaking (SNPRM) published on June 14, 2023, at 88 FR 38789.

On June 14, 2023, FMC published an SNPRM. The SNPRM proposes to require that ocean common carriers submit a documented export policy, in the form of a report, to the Commission once per calendar year (proposed 46 CFR 542.1(j)). The SNPRM specifically requests comments on whether the proposed information collection has practical utility; whether the burden estimate is accurate; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the burden of the collection of information on respondents (88 FR 38789, 38806).

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.

Any ocean common carrier's export policy filed with the Commission will remain confidential. Aggregate data may be provided in annual reports submitted to Congress or compiled for other purposes but will not reveal confidential information provided by or about individual carriers.

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 FMC 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’.**

The Commission anticipates an annual respondent universe of 140 ocean common carriers.

The Commission estimates 40 hours of burden for developing, documenting, and submitting an export policy using the parameters in proposed § 541.2(j) for the first year, assuming that no such policy already exists. For annual updates, the estimated burden would be 5 hours including review and revisions of the existing policy and submitting it electronically.

The Commission estimates the total person-hour burden at 5,600 hours for initial filing (140 carriers x 40 hours) and 700 hours (140 carriers x 5 hours) annually thereafter.

We assume the hours are split evenly between managers (SOC 11-1021, General and Operations Managers) and Attorneys (SOC 23-1011, Lawyers). BLS’s 2022 Occupational Employment and Wage Statistics report the average annual wages for these occupations as \$59.07 and \$78.74, respectively. We assume an overhead rate of 102.93%.

Costs for the initial filing are estimated at \$783,048 and decrease to \$97,881 for update years.

SOC		2022 OEWS	With overhead	hours per respondent	carriers	total
11-1021	General and Operations Managers	\$ 59.07	\$ 119.87	20	140	\$ 335,636.00
23-1011	Lawyers	\$ 78.74	\$ 159.79	20	140	\$ 447,412.00
						\$ 783,048.00
		2022 OEWS	With overhead	hours per respondent	carriers	total

11-1021	General and Operations Managers	\$ 59.07	\$ 119.87	2.5	140	\$ 41,954.50
23-1011	Lawyers	\$ 78.74	\$ 159.79	2.5	140	\$ 55,926.50
						\$ 97,881.00

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 additional cost burdens to respondents or recordkeepers other than those reported in item 12.

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 \$24,344.80. This includes wages, overhead, and benefits for staff associated with the data collection and review, and the preparation of reports on best practices and key provisions. Overhead is assumed to be 102.93%.

Title	GS level	2024 Annual	2024 Hourly	with overhead	assumed hours	total
Transportation Industry Analyst	13/5	\$133,692	\$64.06	\$130.00	140	\$18,200
Transportation Industry Analyst	14/5	\$157,982	\$75.70	\$153.62	40	\$6,144.80
						\$24,344.80

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

Not applicable. This is a new collection.

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.

There will be no tabulations. Annual publication of key provisions and best practices will be published.

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.

The Commission is not seeking approval to exclude the display of the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

The Commission proposes no exception to the certification statement on OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.