



October 7, 2022

**Via Email:** [omd@fmc.gov](mailto:omd@fmc.gov)

Ms. Lucille L. Marvin, Managing Director  
Federal Maritime Commission  
800 North Capitol Street, NW  
Washington, DC 20573

Re: *Data Collection on Container Vessel Imports and Exports*; Fed. Reg. Doc. 2022-16891

Dear Managing Director Marvin:

The National Industrial Transportation League is pleased to submit its comments in response to the Federal Maritime Commission's ("FMC" or "Commission") Notice on a new data collection requirement included in the Ocean Shipping Reform Act of 2022 ("OSRA 2022") concerning ocean vessel imports and exports to and from the United States. OSRA 2022 specifically requires the FMC to "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." 46 U.S.C. § 41110. The requirement excludes "public disclosure of any confidential or proprietary data." *Id.*

In its Notice, the FMC stated that it intends to collect information monthly covering the "tonnage and 20-foot equivalent units from each identified common carrier." It also determined to limit the data reporting obligation to carriers that transport 1,500 or more 20-foot equivalent units per month (total across imports and exports, regardless of whether they are laden or empty) in or out of U.S. ports in international common carriage.

The FMC has requested comments on the following specific issues.

**(1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions.**

NITL strongly supports collection of the total import/export tonnage and total loaded and empty TEU data as required by Congress. As the FMC knows, the availability of vessel capacity during Q4 2020, 2021, and the first half of 2022 was a major challenge for NITL members and most other US exporters and importers, which caused significant supply chain disruptions. Exporters especially were unable to access containers for loading as ocean carriers reduced inland equipment repositioning services and increased the number of empty containers transported in the Trans-Pacific Westbound trade, arguably to capitalize on the highly profitable freight rates in the Trans-Pacific Eastbound trade. Exporters also experienced booking denials and cancellations at record levels. These challenges prevented many exporters from satisfying customer orders, reduced their access to overseas markets, and caused costly delays and loss of business. While the total export/import and tonnage/TEU data to be collected would not address the rationale underlying the carriers' operating decisions, the new reporting obligation



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would provide shippers, the FMC, and other stakeholders with important insight into the quarterly carriage trends for qualifying vessels. Indeed, the FMC is charged to “promote 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” 46 U.S.C. § 40101(4). Public access to the total carried imports and export and total tonnages and loaded/empty TEU information would highlight changes to the U.S. trade imbalance and could assist shippers with supply chain planning.

Additionally, in OSRA 2022, Congress added a prohibition that ocean common carriers shall not “unreasonably refuse cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods.” 46 U.S.C. § 41104(a)(3). While the new data collection obligations appear designed to promote greater transparency, it is possible that this data over time may provide indicators that are relevant to other FMC enforcement responsibilities. Finally, NITL believes that it would be beneficial for the FMC to consider collecting and publishing additional data, such as US ports served and types of intermodal equipment transported, for example, dry versus refrigerated equipment.

**(2) The accuracy of the estimated burden.**

The League notes that, as a general matter, the estimated compliance burden appears reasonable. However, because this estimate directly impacts the ocean common carriers covered by the Notice, the League believes that the carriers are best able to comment on this issue.

**(3) Ways to enhance the quality, utility, and clarity of the information to be collected.**

Requiring ocean carriers to submit the same data elements in the same format will ensure that the collected data would provide an “apples-to-apples” comparison. Promoting uniformity in the collection of the import and export information will facilitate review and aggregation of the data as needed, the existence of trends and anomalies, and the evaluation of potential impacts on the shipping public that may be gleaned from the data.

**(4) The use of automated collection techniques or other forms of information technology to minimize the information collection burden.**

NITL supports the use of automated collection techniques where possible to increase efficiencies and reduce burdens in the monthly submission and collection of the data. Information technology should be evaluated and adopted where appropriate if it can facilitate ocean carrier compliance with the new data collection obligations and the benefits outweigh any costs.

Thank you for your consideration of these comments.

Sincerely yours,

E. Nancy O'Liddy  
NITL Executive Director