



**FEDERAL MARITIME COMMISSION**  
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January 14, 2025

The Honorable Kamala D. Harris  
President of the Senate  
Washington, DC 20510

*Via UPS: Tracking No. 1Z 1Y2 R54 NT 9664 6186*

Dear Madam President,

Pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), I hereby submit to the United States Senate a Final Rule on Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier, 46 C.F.R. Part 542. Also enclosed with this letter is the Congressional Review Act submission form.

The Federal Maritime Commission is publishing this final rule to announce the effective date for the requirements for ocean common carriers to annually file a documented export policy with the Commission and to provide implementing instructions.

Sincerely,

David Eng  
Secretary

Enclosures



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January 14, 2025

The Honorable Mike Johnson  
Speaker of the U.S. House of Representatives  
Washington, DC 20515

*Via UPS: Tracking No. 1Z Y2 R54 NT 9927 6179*

Dear Mr. Speaker,

Pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), I hereby submit to the United States House of Representatives a Final Rule on Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier, 46 C.F.R. Part 542. Also enclosed with this letter is the Congressional Review Act submission form.

The Federal Maritime Commission is publishing this final rule to announce the effective date for the requirements for ocean common carriers to annually file a documented export policy with the Commission and to provide implementing instructions.

Sincerely,

David Eng  
Secretary

Enclosures

**FEDERAL MARITIME COMMISSION**

**46 CFR Part 542**

**[Docket No. FMC-2023-0010]**

**RIN: 3072-AC92**

**Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel  
Space Accommodations Provided by an Ocean Common Carrier**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** The Federal Maritime Commission (FMC or Commission) received approval from the Office of Management and Budget (OMB) for an information collection request associated with the final rule, “Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier.” This rule announces the effective date for the requirements for ocean common carriers to annually file a documented export policy with the Commission and provides implementing instructions. In the final rule published July 23, 2024, the Commission stated it would publish a document in the **Federal Register** (FR) announcing the effective date of the collection-of-information-related sections upon OMB approval. This rule establishes the effective date of the relevant provisions.

**DATES:** The amendments adding 46 CFR 542.1(j) (instruction 2) and 46 CFR 542.99 (instruction 3), published on July 23, 2024 (89 FR 59648), are effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Parties required to file a documented export policy must file their initial documented export policy with the Commission on or before March 1, 2025. Subsequent annual documented export policies must subsequently be filed on or before March 1 for each calendar year.

**ADDRESSES:** Background documents associated with this collection are available on *www.reginfo.gov* (search OMB Control No. 3072-0076) and *www.regulations.gov* (search Docket No. FMC-2023-0010).

**FOR FURTHER INFORMATION CONTACT:** David Eng, Secretary; Phone: (202) 523-5725; Email: [secretary@fmc.gov](mailto:secretary@fmc.gov).

**SUPPLEMENTARY INFORMATION:**

On July 23, 2024, in accordance with the Ocean Shipping Reform Act of 2022, the Federal Maritime Commission published the final rule, “Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier.” The final rule contained two provisions, 46 CFR 542.1(j), and 46 CFR 542.99, that were delayed indefinitely, pending information collection approval from OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. On September 27, 2024, OMB, Office of Information and Regulatory Affairs, approved the information collection requirements ([https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202407-3072-001](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202407-3072-001)). The assigned OMB Control Number is 3072-0076. Accordingly, FMC announces that 46 CFR 542.1(j) and 46 CFR 542.99 are effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

## **Filing Instructions**

Unless superseded by subsequent Commission order or filing instructions issued by the Commission:

1. Parties required under 46 CFR 542.4(j) to file a documented export policy must file their initial documented export policy with the Commission on or before **March 1, 2025**. Subsequent annual documented export policies must be filed with the Commission on or before March 1 of each calendar year. A documented export policy should cover the time period until the next policy is due for submission; carriers may file updated versions more frequently as needed.

2. Documents must be submitted in English, and any monetary terms shall be expressed in terms of U.S. currency.

3. If any topics listed under 541.2(j)(1)(i), 541.2(j)(1)(ii), and/or 541.2(j)(1)(iii) are not addressed in a documented export policy because they are not applicable, the documented export policy should attest to this inapplicability clearly and unambiguously and provide an explanation for non-applicability.

4. Submissions shall be signed by a duly authorized officer of the regulated party with a copy of evidence of the officer's authority.

## **List of Subject in 46 CFR Part 542**

Administrative practice and procedure, Non-vessel-operating common carriers, Ocean common carrier, Refusal to deal or negotiate, Vessel-operating common carriers, Vessel space accommodations.

For the reasons set forth in the preamble, FMC amends 46 CFR part 542 to read as follows:

1. The authority citation for part 542 continues to read as follows:

**Authority:** 5 U.S.C. 553; and 46 U.S.C. 40104, 46105, 40307, 40501–40503, 40901–40904, 41101–41106.

2. In § 542.1 add paragraph (j) to read as follows:

**§ 542.1 Definition of unreasonable refusal of cargo space accommodations when available and unreasonable refusal to deal or negotiate with respect to vessel space provided by an ocean common carrier.**

\* \* \* \* \*

(j) *Documented export policy.* Ocean common carriers must file with the Federal Maritime Commission a documented export policy that enables the timely and efficient movement of export cargo.

(1) Each ocean common carrier must submit a documented export policy to the Commission once per calendar year and include, in a manner prescribed by the Commission, pricing strategies, services offered, strategies for equipment provision, and descriptions of markets served. Updates may be submitted more than once per year if the ocean common carrier chooses to do so. Other topics a documented export policy should also address, if applicable, include:

(i) The effect of blank sailings or other schedule disruptions on the ocean common carrier's ability to accept shipments;

(ii) The ocean common carrier's rules and practices for the designation and use of sweeper vessels; and

(iii) The alternative remedies or assistance the ocean common carrier would make available to a shipper to whom it refused vessel space accommodations.

(2) A documented export policy required to be filed by this part must be submitted to: Director, Bureau of Trade Analysis, Federal Maritime Commission, [exportpolicy@fmc.gov](mailto:exportpolicy@fmc.gov).

(3) The documented export policies filed in accordance with this section shall not be circulated outside of the Federal Maritime Commission. These documents, and the information contained therein, shall not be publicly disclosable, in whole or in part, including in response to requests under the Freedom of Information Act. The information may, however, be disclosed to the extent that it is relevant to an administrative or judicial action or proceeding; or to either House of Congress, or a duly authorized committee or subcommittee of Congress.

3. Add § 542.99 to read as follows:

**§ 542.99 OMB control number assigned pursuant to the Paperwork Reduction Act.**

The Commission has received Office of Management and Budget approval for the collection of information in § 542.1(j) of this part pursuant to the Paperwork Reduction Act of 1995, as amended. The valid control number for this collection is 3072-0076.

By the Commission.

David Eng,  
Secretary.