

COFR Information Must Be Accurate – Update on Implications of New U.S. Port Fees



Executive Summary

SIGCo is providing this update to its members and brokers to remind you that when the U.S. Government issues a COFR, it relies on the information that you provide to us which we then include and forward in the COFR Application, which we file on your behalf pursuant to your Letter of Authority. In addition, the U.S. Government will now begin using COFR information for the application of certain new fees. This expanded use makes it all the more important to ensure that you provide SIGCo correct information about your vessels.

Why Accurate Operator Identification Matters for COFRs and U.S. Port Entry Filings

Historically, U.S. Coast Guard (“USCG”) regulations under the Oil Pollution Act of 1990 (“OPA 90”) have required that a COFR be issued in the name of the Operator (as defined under OPA 90 regulations; see [33 CFR §138.30](#)). These regulations require that applicants correctly identify the Operator to ensure the COFR is accurate.

The COFR information is typically then used on U.S. Customs and Border Protection (“US CBP”) Form 1300. Form 1300 is the entry declaration for a vessel arriving at a U.S. port. Among the various items of information on Form 1300, you must identify the operator of the vessel. Form 1300 states that this operator must be the same as listed on the COFR, unless there is a verifiable charter party or lease that identifies a different company as the operator. You may have a document like that on hand for your port agent, with instructions for them to fill in Form 1300 with that other operator. If you don’t, when your agent fills out a Form 1300 for arrival into a U.S. port, they must list the operator in the same way as on the COFR.

New U.S. Port Entry Costs for Chinese-Owned, Operated, or Built Ships

Recently, the U.S. government announced new fees targeting vessels built in China and Chinese vessel operators and owners. There are multiple categories of fee, including charges specifically applied to vessel operators from China. In general, the vessel operator is responsible for calculating and paying the applicable fee to US CBP. We have not included detailed information about the fees in this circular, as this area of regulation is evolving and potentially subject to frequent updates.

Additional LNG Export Requirements

There is also a new limitation requiring a minimum percentage of exports of liquefied natural gas to be transported on LNG carriers that are U.S.-built, U.S.-flagged, and U.S.-operated. Note that unlike the qualifications for coastwise trade under the Jones Act, this new limitation also requires vessels to have U.S. operators.

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COFR Operator Accuracy and Recommended Actions

It has always been important to ensure COFR documentation is accurate. But these new rules highlight that importance. Whether a vessel incurs a fee may depend on what company is the “operator,” and what company is responsible to US CBP for the fee depends on who is the “operator.”

Although multiple parties may play a role in maintaining, scheduling, or crewing a ship, USCG regulations define what party is to be identified as “Operator” on the COFR. If a vessel has one owner and that owner operates the vessel, that owner is the COFR Operator. In other cases, the COFR Operator must be the company that is “principally responsible for the operation” of the vessel. A bareboat charterer would become the COFR Operator for the vessel, but a time or voyage charterer ordinarily would not. However, if multiple parties could reasonably be appointed as the COFR Operator, they must agree among themselves on which will be designated as the COFR Operator.

We encourage you to review your COFR documentation and verify that you have identified the Operator correctly.

If you have any questions or would like further clarification on the forthcoming changes, please don’t hesitate to reach out to us at sigco@sigcogroup.com and we’ll try to assist as best we are able.

Sincerely,

Victor Falcao
Vice President
SIGCo Group

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