

## Federal Maritime Commission

## § 520.2

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### PART 520—CARRIER AUTOMATED TARIFFS

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#### APPENDIX A TO PART 520—STANDARD TERMINOLOGY AND CODES

AUTHORITY: 5 U.S.C. 553; 46 U.S.C. 305, 40101-40102, 40501-40503, 40701-40706, 41101-41109.

SOURCE: 64 FR 11225, Mar. 8, 1999, unless otherwise noted.

#### § 520.1 Scope and purpose.

(a) *Scope.* The regulations of this part govern the publication of tariffs in automated systems by common carriers and conferences in the waterborne foreign commerce of the United States. They cover the transportation of property by such carriers, including through transportation with inland carriers. They implement the tariff publication requirements of section 8 of the Shipping Act of 1984 (“the Act”) (46 U.S.C. 40501-40503), as modified by the Ocean Shipping Reform Act of 1998 and section 424 of Public Law 105-258.

(b) *Purpose.* The requirements of this part are intended to permit:

(1) Shippers and other members of the public to obtain reliable and useful information concerning the rates and charges that will be assessed by common carriers and conferences for their transportation services;

(2) Carriers and conferences to meet their publication requirements pursuant to section 8 of the Act (46 U.S.C. 40501-40503);

(3) The Commission to ensure that carrier tariff publications are accurate

and accessible and to protect the public from violations by carriers of section 10 of the Act (46 U.S.C. 41101-41106); and

(4) The Commission to review and monitor the activities of controlled carriers pursuant to section 9 of the Act (46 U.S.C. 40701-40706).

[64 FR 11225, Mar. 8, 1999, as amended at 74 FR 50721, Oct. 1, 2009]

#### § 520.2 Definitions.

The following definitions shall apply to this part:

*Act* means the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998.

*Amendment* means any change, alteration, correction or modification of an existing tariff.

*Assessorial charge* means the amount that is added to the basic ocean freight rate.

*BTA* means the Commission’s Bureau of Trade Analysis or its successor bureau.

*Bulk cargo* means cargo that is loaded and carried in bulk without mark or count in a loose unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and is, therefore, subject to the requirements of this part.

*Co-loading* means the combining of cargo by two or more NVOCCs for tendering to an ocean common carrier under the name of one or more of the NVOCCs.

*Combination rate* means a rate for a shipment moving under intermodal transportation which is computed by the addition of a TRI, and an inland rate applicable from/to inland points not covered by the TRI.

*Commission* means the Federal Maritime Commission.

*Commodity description* means a comprehensive description of a commodity listed in a tariff, including a brief definition of the commodity.

*Commodity description number* means a number that may be used to identify a commodity description.

*Commodity index* means an index of the commodity descriptions contained in a tariff.

*Commodity rate* means a rate for shipping to or from specific locations a

commodity or commodities specifically named or described in the tariff in which the rate or rates are published.

*Common carrier* means a person holding itself out to the general public to provide transportation by water of cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from port or point of receipt to the port or point of destination; and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel tanker or by a vessel when primarily engaged in the carriage of perishable agricultural commodities:

(i) If the common carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities and

(ii) Only with respect to the carriage of those commodities.

*Conference* means an agreement between or among two or more ocean common carriers which provides for the fixing of and adherence to uniform tariff rates, charges, practices and conditions of service relating to the receipt, carriage, handling and/or delivery of passengers or cargo for all members, but the term does not include joint service, consortium, pooling, sailing, or transshipment agreements.

*Consignee* means the recipient of cargo from a shipper; the person to whom a transported commodity is to be delivered.

*Container* means a demountable and reusable freight-carrying unit designed to be transported by different modes of transportation and having construction, fittings, and fastenings able to withstand, without permanent distortion or additional exterior packaging or containment, the normal stresses that apply on continuous all-water and intermodal transportation. The term includes dry cargo, ventilated, insulated, refrigerated, flat rack, vehicle rack, liquid tank, and open-top con-

tainers without chassis, but does not include crates, boxes or pallets.

*Controlled carrier* means an ocean common carrier that is, or whose operating assets are, directly or indirectly owned or controlled by a government; ownership or control by a government shall be deemed to exist with respect to any common carrier if:

(1) A majority portion of the interest in the common carrier is owned or controlled in any manner by that government, by an agency thereof, or by any public or private person controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(2) That government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer or the chief executive officer of the common carrier.

*Effective date* means the date upon which a published tariff or tariff element is scheduled to go into effect. Where there are multiple publications to a tariff element on the same day, the last element published with the same effective date is the one effective for that day.

*Expiration date* means the last day after which the entire tariff or tariff element is no longer in effect.

*Foreign commerce* means that commerce under the jurisdiction of the Act.

*Forest products* means forest products including, but not limited to, lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper and paper board in rolls or in pallet or skid-sized sheets, liquid or granular by-products derived from pulping and papermaking, and engineered wood products.

*Harmonized Code* means the coding provisions of the Harmonized System.

*Harmonized System* means the Harmonized Tariff Schedule of the United States ("U.S. HTS"), based on the international Harmonized System, administered by the U.S. Customs Service for the U.S. International Trade

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Commission, and Schedule B, administered by the U.S. Census Bureau.

*Inland point* means any city and associated state/province, country, U.S. ZIP code, or U.S. ZIP code range, which lies beyond port terminal areas. (A city may share the name of a port: the immediate ship-side and terminal area is the port, but the rest of the city is considered an inland point.)

*Inland rate* means a rate specified from/to an ocean port to/from an inland point, for specified modes of overland transportation.

*Inland rate table* means a structured matrix of geographic inland locations (points, postal codes/postal code ranges, etc.) on one axis and transportation modes (truck, rail, etc.) on the other axis, with the inland rates specified at the matrix row and column intersections.

*Intermodal transportation* means continuous through transportation involving more than one mode of service (e.g., ship, rail, motor, air), for pickup and/or delivery at a point beyond the area of the port at which the vessel calls. The term “intermodal transportation” can apply to “through transportation (at through rates)” or transportation on through routes using combination rates.

*Joint rates* means rates or charges established by two or more common carriers for ocean transportation over the combined routes of such common carriers.

*Local rates* means rates or charges for transportation over the route of a single common carrier (or any one common carrier participating in a conference tariff), the application of which is not contingent upon a prior or subsequent movement.

*Location group* means a logical collection of geographic points, ports, states/provinces, countries, or combinations thereof, which is primarily used to identify, by location group name, a group that may represent tariff origin and/or destination scope and TRI origin and/or destination.

*Loyalty contract* means a contract with an ocean common carrier or agreement by which a shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or agreement and the contract pro-

vides for a deferred rebate arrangement.

*Motor vehicle* means a wheeled vehicle whose primary purpose is ordinarily the non-commercial transportation of passengers, including an automobile, pickup truck, minivan, or sport utility vehicle.

*Ocean common carrier* means a common carrier that operates, for all or part of its common carrier service, a vessel on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker.

*Ocean transportation intermediary* means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this part,

(1) *Ocean freight forwarder* means a person that—

(i) In the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

(ii) Processes the documentation or performs related activities incident to those shipments; and

(2) *Non-vessel-operating common carrier* (“NVOCC”) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

*Open rate* means a rate on a specified commodity or commodities over which a conference relinquishes or suspends its ratemaking authority in whole or in part, thereby permitting each individual ocean common carrier member of the conference to fix its own rate on such commodity or commodities.

*Organization name* means an entity’s name on file with the Commission and for which the Commission assigns an organization number.

*Organization record* means information regarding an entity, including its name, address, and organization type.

*Origin scope* means a location group defining the geographic range of cargo origins covered by a tariff.

*Person* includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations,

trustees, receivers, agents, assignees and personal representatives.

*Point of rest* means that area on the terminal facility which is assigned for the receipt of inbound cargo from the ship and from which inbound cargo may be delivered to the consignee, and that area which is assigned for the receipt of outbound cargo from shippers for vessel loading.

*Port* means a place at which a common carrier originates or terminates (by transshipment or otherwise) its actual ocean carriage of cargo or passengers as to any particular transportation movement.

*Project rates* means rates applicable to the transportation of materials and equipment to be employed in the construction or development of a named facility used for a major governmental, charitable, manufacturing, resource exploitation and public utility or public service purpose, including disaster relief projects.

*Proportional rates* means rates or charges assessed by a common carrier for transportation services, the application of which is conditioned upon a prior or subsequent movement.

*Publication date* means the date a tariff or tariff element is published in a carrier's or conference's tariff.

*Publisher* means an organization authorized to publish or amend tariff information.

*Rate* means a price stated in a tariff for providing a specified level of transportation service for a stated cargo quantity, from origin to destination, on and after a stated effective date or within a defined time frame.

*Retrieval* means the process by which a person accesses a tariff via dial-up telecommunications or a network link and interacts with the carrier's or publisher's system on a transaction-by-transaction basis to retrieve published tariff matter.

*Rules* means the stated terms and conditions set by the tariff owner which govern the application of tariff rates, charges and other matters.

*Scope* means the location group(s) (geographic groupings(s)) listing the ports or ranges of ports to and from which the tariff's rates apply.

*Shipment* means all of the cargo carried under the terms of a single bill of lading.

*Shipper* means:

- (1) A cargo owner;
- (2) The person for whose account the ocean transportation is provided;
- (3) The person to whom delivery is to be made;
- (4) A shipper's association; or
- (5) An NVOCC that accepts responsibility for payment of all charges applicable under the tariff or service contract.

*Shippers' association* means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

*Special permission* means permission, authorized by the Commission, for certain tariff publications that do not conform with applicable regulations, usually involving effectiveness on less than statutory notice.

*Tariff* means a publication containing the actual rates, charges, classifications, rules, regulations and practices of a common carrier or a conference of common carriers. The term "practices" refers to those usages, customs or modes of operation which in any way affect, determine or change the transportation rates, charges or services provided by a common carrier or conference and, in the case of conferences, must be restricted to activities authorized by the basic conference agreement.

*Tariff number* means a unique 3-digit number assigned by the publisher to distinguish it from other tariffs. Tariffs may be identified by the 6-digit organization number plus the user-assigned tariff number (e.g., 999999-001) or a Standard Carrier Alpha Code ("SCAC") plus the user-assigned tariff number.

*Tariff rate item ("TRI")* means a single freight rate, in effect on and after a specific date or for a specific time period, for the transportation of a stated cargo quantity, which may move from origin to destination under a single specified set of transportation conditions, such as container size or temperature.

*TRI number* means a number that consists of the numeric commodity code, if any, and a unique numeric suffix used to differentiate TRIs within the same commodity description. TRI numbers are not required in systems that do not use numeric commodity coding.

*Through rate* means the single amount charged by a common carrier in connection with through transportation.

*Through transportation* means continuous transportation between points of origin and destination, either or both of which lie beyond port terminal areas, for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port.

*Thru date* means the date after which an amendment to a tariff element is designated by the publisher to be unavailable for use and the previously effective tariff element automatically goes back into effect.

*Time/volume rate* means a rate published in a tariff which is conditioned upon receipt of a specified aggregate volume of cargo or aggregate freight revenue over a specified period of time.

*Trade name* means a name used for conducting business, but which is not necessarily its legal name. This is also known as a "d/b/a" (doing business as) name.

*Transshipment* means the physical transfer of cargo from a vessel of one carrier to a vessel of another in the course of all-water or through transportation, where at least one of the exchanging carriers is an ocean common carrier subject to the Commission's jurisdiction.

[64 FR 11225, Mar. 8, 1999, as amended at 64 FR 23022, Apr. 29, 1999; 65 FR 26512, May 8, 2000; 67 FR 39860, June 11, 2002]

### § 520.3 Publication responsibilities.

(a) *General.* Unless otherwise exempted by § 520.13, all common carriers and conferences shall keep open for public inspection, in automated tariff systems, tariffs showing all rates, charges, classifications, rules, and practices between all points or ports on their own

routes and on any through transportation route that has been established.

(b) *Conferences.* Conferences shall publish, in their automated tariff systems, rates offered pursuant to independent action by their members and may publish any open rates offered by their members. Alternatively, open rates may be published in individual tariffs of conference members.

(c) *Agents.* Common carriers or conferences may use agents to meet their publication requirements under this part.

(d) *Notification.* Each common carrier and conference shall notify BTA, prior to the commencement of common carrier service pursuant to a published tariff, of its organization name, organization number, home office address, name and telephone number of firm's representative, the location of its tariffs, and the publisher, if any, used to maintain its tariffs, by electronically submitting Form FMC-1 via the Commission's website at *www.fmc.gov*. Any changes to the above information shall be immediately transmitted to BTA. The Commission will provide a unique organization number to new entities operating as common carriers or conferences in the U.S. foreign commerce.

(e) *Location of tariffs.* The Commission will publish on its website, *www.fmc.gov*, a list of the locations of all carrier and conference tariffs. The Commission will update this list on a periodic basis.

[64 FR 11225, Mar. 8, 1999, as amended at 67 FR 39860, June 11, 2002]

### § 520.4 Tariff contents.

(a) *General.* Tariffs published pursuant to this part shall:

(1) State the places between which cargo will be carried;

(2) List each classification of cargo in use;

(3) State the level of ocean transportation intermediary, as defined by section 3(17)(A) of the Act (46 U.S.C. 40102(18)), compensation, if any, to be paid by a carrier or conference;

(4) State separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations