

§ 560.9

§ 560.9 Postponement, discontinuance, or suspension of action.

(a) The Commission may, on its own motion or upon a petition, postpone, discontinue, or suspend any action taken by it under the provisions of this part. Such a petition will be served on all other parties and will not, in and of itself, stay the effective date of Commission action.

(b) The Commission shall postpone, discontinue or suspend any action provided for in its final decision if so directed by the President for reasons of national defense or foreign policy of the United States as provided in § 560.8.

[49 FR 45406, Nov. 15, 1984. Redesignated at 64 FR 8009, Feb. 18, 1999, and amended at 67 FR 39862, June 11, 2002]

PART 565—CONTROLLED CARRIERS

Sec.

- 565.1 Purpose and scope.
- 565.2 Definitions.
- 565.3 Classification as controlled carrier.
- 565.4 Notification to Commission of change in control.
- 565.5 Exceptions.
- 565.6 Level of rates and charges generally.
- 565.7 Effective dates.
- 565.8 Special permission.
- 565.9 Commission review, suspension and prohibition of rates, charges, classifications, rules or regulations.
- 565.10 Suspension procedures, period of suspension, and replacement rates.
- 565.11 Presidential review.
- 565.12 Stay, postponement, discontinuance or suspension of action.
- 565.13 OMB control number assigned pursuant to the Paperwork Reduction Act

AUTHORITY: 46 U.S.C. 40701–40706.

SOURCE: 64 FR 8010, Feb. 18, 1999, unless otherwise noted.

§ 565.1 Purpose and scope.

(a) *Purpose.* The regulations of this part are intended to carry out the Commission's mandate under section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706), as amended by the Ocean Shipping Reform Act of 1998, to monitor the practices of controlled carriers and ensure that they do not:

(1) Maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor

46 CFR Ch. IV (10–1–10 Edition)

(2) Establish, maintain or enforce unjust or unreasonable classifications, rules or regulations in those tariffs or service contracts which result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level.

(b) *Scope.* The regulations contained in this part set forth the special procedures whereby controlled carriers' tariffs and service contracts become effective and are reviewed by the Commission. These regulations in no way exempt controlled carriers from other Commission regulations or statutory authority to which they may otherwise be subject as ocean common carriers. These regulations apply to all controlled carriers operating in the foreign commerce of the United States unless excepted under section 9(f) of the Shipping Act of 1984 (46 U.S.C. 40706), as reflected by § 565.5.

[64 FR 8010, Feb. 18, 1999, as amended at 74 FR 50735, Oct. 1, 2009]

§ 565.2 Definitions.

(a) *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 ocean common carrier if:

(1) A majority portion of the interest in the carrier is owned or 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 carrier.

(b) *Effective date* has the same meaning it has in 46 CFR part 520.

§ 565.3 Classification as controlled carrier.

(a) *Notification.* The Commission will periodically review the ocean common carriers operating in the foreign commerce of the United States and will notify any ocean common carrier of any change in its classification as a controlled carrier.

(b) *Rebuttal of classification.* (1) Any ocean common carrier contesting such