

§ 520.2

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(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; and

(4) The Commission to review and monitor the activities of controlled carriers pursuant to section 9 of the Act.

§ 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 containers 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

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 provides 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 condi-

tions, 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.

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§ 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,