

Federal Maritime Commission

§ 525.1

II—UNIT CODES—Continued

| | |
|--|------|
| Trunk, Salesmen Samp | TSS |
| Tub | TUB |
| Unpacked | UNP |
| Unit | UNT |
| Vehicles | VEH |
| Van Pack | VPK |
| On Own Wheels | WHE |
| Wheeled Carrier | WLC |
| Wood Crates | WC |
| Wrapped | WRP |
| Not Applicable | N/A |
| K. Shipment Stowage Location Codes: | |
| Not Applicable | N/A |
| On Deck | OD |
| Bottom Stowage | BS |
| L. Hazard Codes: | |
| Not Applicable | N/A |
| IMD Stow Category A | A |
| IMD Stow Category B | B |
| IMD Stow Category C | C |
| IMD Stow Category D | D |
| IMD Stow Category E | E |
| Hazardous | HAZ |
| Non-Hazardous | NHZ |
| M. Stuffing/Stripping Modes: | |
| Not Applicable | N/A |
| Mechanical | MECH |
| Hand Loading | HAND |
| N. Inland Transportation Modes: | |
| Not Applicable | N/A |
| Motor | M |
| Rail | R |
| Barge | B |
| Motor/Rail | MR |
| Rail/Motor | RM |
| Motor/Barge | MB |
| Barge/Motor | BM |
| Rail/Barge | RB |
| Barge/Rail | BR |
| O. Shipment Service Types: | |
| Barge | B |
| Door | D |
| House | H |
| Motor | M |
| Ocean Port | O |
| Pier | P |
| Rail Yard | R |
| Container Station | S |
| Terminal | T |
| Container Yard | Y |
| Rail Siding | U |
| Team Tracks | X |
| P. Freight Forwarder/Broker Type Codes: | |
| Not Applicable | N/A |
| Freight Forwarder | FF |
| Customs House Broker | CB |
| Other | OTH |
| Q. Tariff Type Codes: | |
| Bill of Lading Tariff | BL |
| Equipment Interchange Agreement Tariff | EI |
| Essential Terms Publication | ET |
| Foreign Commodity Tariff | FC |
| Foreign Rules Tariff | FR |
| Terminal Tariff | TM |
| Service Contracts | SC |

PART 525—MARINE TERMINAL OPERATOR SCHEDULES

- Sec.
525.1 Purpose and scope.
525.2 Terminal schedules.

525.3 Availability of marine terminal operator schedules.

525.4 OMB Control number assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 46 U.S.C. 40102, 40501, 41101-41106.

SOURCE: 64 FR 9283, Feb. 25, 1999, unless otherwise noted.

§ 525.1 Purpose and scope.

(a) *Purpose.* This part implements the Shipping Act of 1984, as amended (46 U.S.C. 40101-41309). The requirements of this part are necessary to enable the Commission to meet its responsibilities with regard to identifying and preventing unreasonable preference or prejudice and unjust discrimination pursuant to section 10 of the Act (46 U.S.C. 41101-41106).

(b) *Scope.* This part sets forth the regulations of the publication of terminal schedules by marine terminal operators. Information made available under this part may be used to determine marine terminal operators' compliance with shipping statutes and regulations.

(c) *Definitions.* The following definitions apply to the regulations of this part:

(1) *Act* means the Shipping Act of 1984, as amended.

(2) *Bulk cargo* means cargo that is loaded and carried in bulk without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk containerized cargo tendered by the shipper is subject to mark and count and is, therefore, subject to the requirements of this part.

(3) *Checking* means the service of counting and checking cargo against appropriate documents for the account of the cargo or the vessel, or other person requesting same.

(4) *Commission* means the Federal Maritime Commission.

(5) *Dockage* means the charge assessed against a vessel for berthing at a wharf, pier, bulkhead structure, or bank or for mooring to a vessel so berthed.

(6) *Effective date* means the date a schedule or an element of a schedule becomes effective. Where there are multiple publications on the same day, the last schedule or element of a schedule published with the same effective date is the one effective for that day.

(7) *Expiration date* means the last day after which the entire schedule or a single element of the schedule, is no longer in effect.

(8) *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.

(9) *Free time* means the period specified in the terminal schedule during which cargo may occupy space assigned to it on terminal property, including off-dock facilities, free of wharf demurrage or terminal storage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel.

(10) *Handling* means the service of physically moving cargo between point of rest and any place on the terminal facility, other than the end of ship's tackle.

(11) *Heavy lift* means the service of providing heavy lift cranes and equipment for lifting cargo.

(12) *Loading and unloading* means the service of loading or unloading cargo between any place on the terminal and railroad cars, trucks, lighters or barges or any other means of conveyance to or from the terminal facility.

(13) *Marine terminal operator* means a person engaged in the United States in the business of providing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to Subchapter II of Chapter 135 of Title 49, United States Code. A marine terminal operator includes, but is not limited to, terminals owned or operated by states and their political subdivisions; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousemen who operate port terminal facilities. For the purposes of this part, marine terminal operator includes con-

ferences of marine terminal operators. This term does not include shippers or consignees who exclusively provide their own marine terminal facilities in connection with tendering or receiving proprietary cargo from a common carrier or water carrier.

(14) *Organization name* means an entity's name on file with the Commission and for which the Commission assigns an organizational number.

(15) *Person* includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

(16) *Rate* means a price quoted in a schedule for providing a specified level of marine terminal service or facility for a stated cargo quantity, on and after a stated effective date or within a defined time frame.

(17) *Schedule* means a publication containing the actual rates, charges, classifications, regulations and practices of a marine terminal operator. The term "practices" refers to those usages, customs or modes of operation which in any way affect, determine or change the rates, charges or services provided by a marine terminal operator.

(18) *Terminal facilities* means one or more structures comprising a terminal unit, which include, but are not limited to docks, berths, piers, aprons, wharves, warehouses, covered and/or open storage spaces, cold storage plants, cranes, grain elevators and/or bulk cargo loading and/or unloading structures, landings, and receiving stations, used for the transmission, care and convenience of cargo and/or passengers in the interchange of same between land and ocean common carriers or between two ocean common carriers.

(19) *Terminal services* includes checking, dockage, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, and wharf demurrage, as defined in this section. The definitions of terminal services set forth in this section shall be set forth in terminal schedules, except that other definitions of terminal services may be used if they are correlated by footnote, or other appropriate method, to the definitions set forth herein. Any additional services

which are offered shall be listed and charges therefor shall be shown in the terminal schedule.

(20) *Terminal storage* means the service of providing warehouse or other terminal facilities for the storage of inbound or outbound cargo after the expiration of free time, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage and refrigerated storage.

(21) *United States* means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

(22) *Usage* means the use of a terminal facility by any rail carrier, lighter operator, trucker, shipper or consignee, its agents, servants, and/or employees, when it performs its own car, lighter or truck loading or unloading, or the use of said facilities for any other gainful purpose for which a charge is not otherwise specified.

(23) *Wharf demurrage* means a charge assessed against cargo remaining in or on terminal facilities after the expiration of free time, unless arrangements have been made for storage.

(24) *Wharfage* means a charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto, or under wharves or between vessels (to or from barge, lighter, or water), when berthed at wharf or when moored in slip adjacent to a wharf. Wharfage is solely the charge for use of a wharf and does not include charges for any other service.

[64 FR 9283, Feb. 25, 1999, as amended at 74 FR 50723, Oct. 1, 2009; 87 FR 15125, Mar. 17, 2022]

EDITORIAL NOTE: At 87 FR 15125, Mar. 17, 2022, § 525.1 was amended by revising paragraph (c)(19). However, due to inaccurate amendatory instruction, the amendment could not be incorporated.

§ 525.2 Terminal schedules.

(a) *Marine terminal operator schedules.* A marine terminal operator, at its discretion, may make available to the public, subject to section 10(d) of the Act (46 U.S.C. 41102(c), 41103, 41106), a

schedule of its rates, regulations, and practices.

(1) *Limitations of liability.* Any limitations of liability for cargo loss or damage pertaining to receiving, delivering, handling, or storing property at the marine terminal contained in a terminal schedule must be consistent with domestic law and international conventions and agreements adopted by the United States; such terminal schedules cannot contain provisions that exculpate or relieve marine terminal operators from liability for their own negligence, or that impose upon others the obligation to indemnify or hold-harmless the terminals from liability for their own negligence.

(2) *Enforcement of terminal schedules.* Any schedule that is made available to the public by the marine terminal operator shall be enforceable by an appropriate court as an implied contract between the marine terminal operator and the party receiving the services rendered by the marine terminal operator, without proof that such party has actual knowledge of the provisions of the applicable terminal schedule.

(3) *Contracts for terminal services.* If the marine terminal operator has an actual contract with a party covering the services rendered by the marine terminal operator to that party, an existing terminal schedule covering those same services shall not be enforceable as an implied contract.

(b) *Cargo types not subject to this part.*
 (1) Except as set forth in paragraph (b)(2) of this section, this part does not apply to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper and paper waste in terminal schedules.

(2) Marine terminal operators which voluntarily make available terminal schedules covering any of the commodities identified in paragraph (b)(1) of this section thereby subject their services with respect to those commodities to the requirements of this part.

(c) *Marine terminal operator agreements.* The regulations relating to agreements to which a marine terminal operator is a party are located at part 535 of this chapter.

[64 FR 9283, Feb. 25, 1999, as amended at 74 FR 50723, Oct. 1, 2009]

§ 525.3 Availability of marine terminal operator schedules.

(a) *Availability of terminal schedules—*
 (1) *Availability to the Commission.* A complete and current set of terminal schedules used by a marine terminal operator, or to which it is a party, shall be maintained in its office(s) for a period of five (5) years, whether or not made available to the public, and shall promptly be made available to the Commission upon request.

(2) *Availability to the public.* Any terminal schedule that is made available to the public shall be available during normal business hours and in electronic form. The public may be assessed a reasonable nondiscriminatory charge for access to the terminal schedules; no charge will be assessed against the Commission.

(b) *Access to electronically published schedules.* Marine terminal operators shall provide access to their terminal schedules via the internet.

(c) *Internet connection.* (1) The internet connection requires that systems provide a uniform resource locator (URL) internet address (e.g., <http://www.tariffsrus.com> or <http://1.2.3.4>).

(2) Marine terminal operators shall ensure that their internet service providers provide static internet addresses.

(d) *Notification.* Each marine terminal operator shall notify the Commission's Bureau of Trade Analysis (BTA), prior to the commencement of marine terminal operations, of its organization name, home office address, contact information for its representative, the location of its terminal schedule(s), and the publisher, if any, used to maintain its terminal schedule, 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 within 30 calendar days. BTA has the authority to accept submitted Form FMC-1 filings and revisions. Form FMC-1 filings are pending until accepted. The Commission will publish, on its website, the location of any terminal schedule made available to the public.

(e) *Form and manner.* A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limita-

tions of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions. Each terminal schedule made available by a marine terminal operator shall contain an individual identification number, effective date, expiration date, if any, and the terminal schedule in full text and/or data format showing the relevant rates, charges, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities.

(f) *Notification.* Each marine terminal operator shall notify the Commission's Bureau of Tariffs, Certification and Licensing ("BTCL"), prior to the commencement of marine terminal operations, of its organization name, organization number, home office address, name and telephone number of firm's representative, the location of its terminal schedule(s), and the publisher, if any, used to maintain its terminal schedule, 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 BTCL. The Commission will publish a list on its website of the location of any terminal schedule made available to the public.

(g) *Form and manner.* Each terminal schedule made available by a marine terminal operator shall contain an individual identification number, effective date, expiration date, if any, and the complete terminal schedule in full text and/or data format showing all its rates, charges, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities.

[64 FR 9283, Feb. 25, 1999, as amended at 87 FR 15125, Mar. 17, 2022]

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

The Commission has received Office of Management and Budget approval for this collection of information pursuant to the Paperwork Reduction Act

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of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. In this regard, the valid control number for this collection of information is 3072-0061.

PART 530—SERVICE CONTRACTS

Subpart A—General Provisions

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- 530.8 Service contracts.
530.9 Notices.
530.10 Amendment, correction, cancellation, and electronic transmission errors.
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- 530.12 Rules and notices.

Subpart D—Exceptions and Implementation

- 530.13 Exceptions and exemptions.
530.14 Implementation.

Subpart E—Recordkeeping and Audit

- 530.15 Recordkeeping and audit.
530.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

APPENDIX A TO PART 530—INSTRUCTIONS FOR THE FILING OF SERVICE CONTRACTS
EXHIBIT 1 TO PART 530—SERVICE CONTRACT REGISTRATION [FORM FMC-83]

AUTHORITY: 5 U.S.C. 553; 46 U.S.C., 40301-40306, 40501-40503, 41307, 46105.

SOURCE: 64 FR 11206, Mar. 8, 1999, unless otherwise noted.

Subpart A—General Provisions

§ 530.1 Purpose.

The purpose of this part is to facilitate the filing of service contracts as required by section 8(c) of the Shipping Act of 1984 (“the Act”) (46 U.S.C. 40502). This part enables the Commission to review service contracts to ensure that these contracts and the parties to them

comport with the requirements of the Act. This part also implements electronic filing provisions for service contracts to facilitate compliance and minimize the filing burdens on the oceanborne commerce of the United States.

[64 FR 11206, Mar. 8, 1999, as amended at 74 FR 50723, Oct. 1, 2009; 85 FR 38089, June 25, 2020]

§ 530.2 Scope and applicability.

An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of the Act.

§ 530.3 Definitions.

When used in this part:

(a) *Act* means the Shipping Act of 1984 as amended by the Ocean Shipping Reform Act of 1998.

(b) *Agreement* means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof which has been filed and effective under part 535 of this chapter with the Commission. The term does not include a maritime labor agreement.

(c) *Authorized person* means a carrier or a duly appointed agent who is authorized to file service contracts on behalf of the carrier party to a service contract and is registered by the Commission to file under § 530.5(c) and appendix A to this part.

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

(e) *Commission* means the Federal Maritime Commission.

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

(1) Assumes responsibility for the transportation from the 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