

§ 40504. Shipping exchange registry

(a) IN GENERAL.—No person may operate a shipping exchange involving ocean transportation in the foreign commerce of the United States unless the shipping exchange is registered as a national shipping exchange under the terms and conditions provided in this section and the regulations issued pursuant to this section.

(b) REGISTRATION.—A person shall register a shipping exchange by filing with the Federal Maritime Commission an application for registration in such form as the Commission, by rule, may prescribe, containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate to complete a shipping exchange's registration.

(c) EXEMPTION.—The Commission may exempt, conditionally or unconditionally, a shipping exchange from registration under this section if the Commission finds that the shipping exchange is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in a foreign country where the shipping exchange is headquartered.

(d) REGULATIONS.—Not later than 3 years after the date of enactment of the Ocean Shipping Reform Act of 2022, the Commission shall issue regulations pursuant to subsection (a), which shall set standards necessary to carry out subtitle IV of this title for registered national shipping exchanges. For consideration of a service contract entered into by a shipping exchange, the Commission shall be limited to the minimum essential terms for service contracts established under section 40502 of this title.

(e) DEFINITION OF SHIPPING EXCHANGE.—In this section, the term "shipping exchange" means a platform (digital, over-the-counter, or otherwise) that connects shippers with common carriers for the purpose of entering into underlying agreements or contracts for the transport of cargo, by vessel or other modes of transportation.

(Added Pub. L. 117-146, §4(a), June 16, 2022, 136 Stat. 1272.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Ocean Shipping Reform Act of 2022, referred to in subsec. (d), is the date of enactment of Pub. L. 117-146, which was approved June 16, 2022.

Statutory Notes and Related Subsidiaries

APPLICABILITY OF REGISTRATION REQUIREMENT

Pub. L. 117-146, §4(b), June 16, 2022, 136 Stat. 1273, provided that: "The registration requirement under section 40504 of title 46, United States Code (as added by subsection (a)), shall take effect on the date on which the Federal Maritime Commission states the rule is effective in the regulations issued under such section."

CHAPTER 407—CONTROLLED CARRIERS

Table with 2 columns: Sec. and Description. Rows include 40701. Rates, 40702. Rate standards, and 40703. Effective date of rates.

Table with 2 columns: Sec. and Description. Rows include 40704. Commission review, 40705. Presidential review of Commission orders, and 40706. Exceptions.

§ 40701. Rates

(a) IN GENERAL.—A controlled carrier may not—

(1) maintain a rate or charge in a tariff or service contract, or charge or assess a rate, that is below a just and reasonable level; or

(2) establish, maintain, or enforce in a tariff or service contract a classification, rule, or regulation that results, or is likely to result, in the carriage or handling of cargo at a rate or charge that is below a just and reasonable level.

(b) COMMISSION PROHIBITION.—The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

(c) BURDEN OF PROOF.—In a proceeding under this section, the burden of proof is on the controlled carrier to demonstrate that its rate, charge, classification, rule, or regulation is just and reasonable.

(d) VOIDNESS.—A rate, charge, classification, rule, or regulation that has been suspended or prohibited by the Commission is void and its use is unlawful.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1535.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), and Source (Statutes at Large). Row 1: 40701, 46 App.:1708(a), Pub. L. 98-237, §9(a), Mar. 20, 1984, 98 Stat. 76; Pub. L. 102-100, §5(a), Aug. 17, 1991, 105 Stat. 492; Pub. L. 105-258, title I, §108(1)-(4), Oct. 14, 1998, 112 Stat. 1908.

§ 40702. Rate standards

(a) DEFINITION.—In this section, the term "constructive costs" means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade.

(b) STANDARDS.—In determining whether a rate, charge, classification, rule, or regulation of a controlled carrier is just and reasonable, the Federal Maritime Commission—

(1) shall take into account whether the rate or charge that has been published or assessed, or that would result from the pertinent classification, rule, or regulation, is below a level that is fully compensatory to the controlled carrier based on the carrier's actual costs or constructive costs; and

(2) may take into account other appropriate factors, including whether the rate, charge, classification, rule, or regulation is—

(A) the same as, or similar to, those published or assessed by other carriers in the same trade;

(B) required to ensure movement of particular cargo in the same trade; or

(C) required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.