

a remote terminal for electronic access under subsection (c).

(3) MARINE TERMINAL OPERATOR SCHEDULES.—The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.

(Pub. L. 109-304, § 7, Oct. 6, 2006, 120 Stat. 1532.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40501(a)	46 App.:1707(a)(1) (1st, 2d sentences).	Pub. L. 98-237, § 8(a), (b), (d), (f), (g), Mar. 20, 1984, 98 Stat. 74; Pub. L. 105-258, title I, § 106(a), (c), (e), (f), Oct. 14, 1998, 112 Stat. 1905, 1907.
40501(b)	46 App.:1707(a)(1) (last sentence).	
40501(c)	46 App.:1707(a)(2).	
40501(d)	46 App.:1707(b).	
40501(e)	46 App.:1707(d).	
40501(f)	46 App.:1707(f).	
40501(g)	46 App.:1707(g).	

In subsection (b)(3), the words “ocean freight forwarder” are substituted for “ocean transportation intermediary, as defined in section 1702(17)(A) of this Appendix” because the definition of “ocean transportation intermediary” in section 1702(17)(A) contains a definition of “ocean freight forwarder” which is restated as a separate definition.

In subsection (e), the word “calendar” is omitted as unnecessary.

In subsection (f)(1), the words “subject to section 1709(d) of this Appendix” are omitted as unnecessary.

§ 40502. Service contracts

(a) IN GENERAL.—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 this part.

(b) FILING REQUIREMENTS.—

(1) IN GENERAL.—Each service contract entered into under this section by an individual ocean common carrier or an agreement shall be filed confidentially with the Federal Maritime Commission.

(2) EXCEPTIONS.—Paragraph (1) does not apply to contracts regarding bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

(c) ESSENTIAL TERMS.—Each service contract shall include—

- (1) the origin and destination port ranges;
- (2) the origin and destination geographic areas in the case of through intermodal movements;
- (3) the commodities involved;
- (4) the minimum volume or portion;
- (5) the line-haul rate;
- (6) the duration;
- (7) service commitments;
- (8) the liquidated damages for nonperformance, if any; and
- (9) any other essential terms that the Federal Maritime Commission determines necessary or appropriate through a rulemaking process.

(d) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms specified in paragraphs (1), (3), (4),

and (6) of subsection (c) shall be published and made available to the general public in tariff format.

(e) DISCLOSURE OF CERTAIN TERMS.—

(1) DEFINITIONS.—In this subsection, the terms “dock area” and “within the port area” have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.

(2) DISCLOSURE.—An ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for the following work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract:

(A) The movement of the shipper’s cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area.

(B) The assignment of intraport carriage of the shipper’s cargo between areas on a dock or within the port area.

(C) The assignment of the carriage of the shipper’s cargo between a container yard on a dock area or within the port area and a rail yard adjacent to the container yard.

(D) The assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

(3) WITHIN REASONABLE TIME.—The common carrier shall provide the information described in paragraph (2) to the requesting labor organization within a reasonable period of time.

(4) EXISTENCE OF COLLECTIVE BARGAINING AGREEMENT.—This subsection does not require the disclosure of information by an ocean common carrier unless there exists an applicable and otherwise lawful collective bargaining agreement pertaining to that carrier. A disclosure by an ocean common carrier may not be deemed an admission or an agreement that any work is covered by a collective bargaining agreement. A dispute about whether any work is covered by a collective bargaining agreement and the responsibility of an ocean common carrier under a collective bargaining agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act (29 U.S.C. 151 et seq.), and without reference to this subsection.

(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect the lawfulness or unlawfulness under this part or any other Federal or State law of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract.

(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the exclusive remedy for a breach of a service contract is an action in an appropriate court. The contract dispute resolution forum may not be controlled by or in any way affiliated with a controlled carrier or by the government that owns or controls the carrier.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1533; Pub. L. 117–146, §3, June 16, 2022, 136 Stat. 1272.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40502(a)	46 App.:1707(c)(1) (1st sentence).	Pub. L. 98–237, §8(c), Mar. 20, 1984, 98 Stat. 75; re-stated Pub. L. 105–258, title I, §106(b), Oct. 14, 1998, 112 Stat. 1905.
40502(b)	46 App.:1707(c)(2) (1st sentence).	
40502(c)	46 App.:1707(c)(2) (last sentence).	
40502(d)	46 App.:1707(c)(3).	
40502(e)	46 App.:1707(c)(4).	
40502(f)	46 App.:1707(c)(1) (2d, last sentences).	

In subsection (e)(5), the words “the National Labor Relations Act [29 U.S.C. 151 et seq.], the Taft-Hartley Act [29 U.S.C. 141 et seq.], the Federal Trade Commission Act [15 U.S.C. 41 et seq.], the antitrust laws” are omitted as unnecessary because of the reference to “any other Federal or State law”.

Editorial Notes

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (e)(4), is act July 5, 1935, ch. 372, 49 Stat. 449, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

AMENDMENTS

2022—Subsec. (c)(9). Pub. L. 117–146 added par. (9).

§ 40503. Refunds and waivers

The Federal Maritime Commission, on application of a carrier or shipper, may permit a common carrier or conference to refund a portion of the freight charges collected from a shipper, or to waive collection of a portion of the charges from a shipper, if—

- (1) there is an error in a tariff, a failure to publish a new tariff, or an error in quoting a tariff, and the refund or waiver will not result in discrimination among shippers, ports, or carriers;
- (2) the common carrier or conference, before filing an application for authority to refund or waive any charges for an error in a tariff or a failure to publish a tariff, has published a new tariff setting forth the rate on which the refund or waiver would be based; and
- (3) the application for the refund or waiver is filed with the Commission within 180 days from the date of shipment.

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

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40503	46 App.:1707(e).	Pub. L. 98–237, §8(e), Mar. 20, 1984, 98 Stat. 75; Pub. L. 105–258, title I, §106(d), Oct. 14, 1998, 112 Stat. 1907.

In paragraph (1), the words “an error in a tariff, a failure to publish a new tariff” are substituted for “an error in a, in failing to publish a new tariff” to correct an obvious error in the underlying statute.

In paragraph (2), the words “or waive” are added for consistency with the reference to a waiver later in the paragraph.

§ 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

- Sec. 40701. Rates.
- 40702. Rate standards.
- 40703. Effective date of rates.