

OCEAN SHIPPING REFORM IMPLEMENTATION
ACT OF 2023

SEPTEMBER 26, 2023.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. GRAVES of Missouri, from the Committee on Transportation
and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1836]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 1836) to amend title 46, United States
Code, to make technical corrections with respect to ocean shipping
authorities, and for other purposes, having considered the same, re-
ports favorably thereon with an amendment and recommends that
the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ocean Shipping Reform Implementation Act of 2023”.

TITLE I—FEDERAL MARITIME COMMISSION**SEC. 101. PURPOSES.**

Section 40101 of title 46, United States Code, is amended—

- (1) in paragraph (1) by striking “with” and all that follows through “regulatory costs”;
- (2) in paragraph (2) by striking “in the ocean commerce of the United States” and inserting “for the common carriage of goods by water in the foreign commerce of the United States”;
- (3) in paragraph (3) by striking “and” at the end;
- (4) in paragraph (4)—
 - (A) by striking “promote” and inserting “support”; and
 - (B) by striking “, and” and all that follows through the period and inserting “, and”; and
- (5) by adding at the end the following:

“(5) promote reciprocal trade in the common carriage of goods by water in the foreign commerce of the United States.”.

SEC. 102. DEFINITIONS.

(a) **IN GENERAL.**—Section 40102(9) of title 46, United States Code, is amended—

- (1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively and by moving the margins of clauses (i) and (ii), as redesignated, accordingly;
- (2) by striking “means an ocean common carrier” and inserting the following:

“means—

 - “(A) an ocean common carrier”;
- (3) in subparagraph (A)(ii), as so redesignated, by striking the period and inserting “, or”; and
- (4) by adding at the end the following:

“(B) such a carrier that is owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—

 - “(i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;
 - “(ii) identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or
 - “(iii) subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).”.

(b) **CONFORMING AMENDMENT.**—Section 46106(b)(7) of title 46, United States Code, is amended by striking “ocean common carriers, particularly such carriers that are controlled carriers” and all that follows through the period at the end and inserting “controlled carriers”.

SEC. 103. COMPLAINTS AGAINST SHIPPING EXCHANGES.

(a) **IN GENERAL.**—Section 40504(c) of title 46, United States Code, is amended—

- (1) in the subsection heading by striking “EXEMPTION” and inserting “EXEMPTION AND INVESTIGATION”;
- (2) by striking the period at the end and inserting “, and”;
- (3) by striking “may exempt” and inserting the following: “may—
- “(1) exempt”; and
- (4) by adding at the end the following:

“(2) investigate complaints submitted under section 40505.”.

(b) **COMPLAINTS AGAINST SHIPPING EXCHANGES.**—Chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“§ 40505. Complaints against shipping exchanges

“(a) **IN GENERAL.**—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning alleged incidents of market manipulation or other anticompetitive practices by shipping exchanges registered under section 40504.

“(b) INVESTIGATION.—Upon receipt of a submission of information under subsection (a), the Commission shall promptly investigate the accuracy of such information.

“(c) REPORT TO CONGRESS.—The Commission shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the results of any investigation in which the Commission finds incidents of market manipulation or anticompetitive practices by shipping exchanges registered under section 40504.”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“40505. Complaints against shipping exchanges.”.

SEC. 104. REPEAL.

(a) IN GENERAL.—Section 40706 of title 46, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 407 of title 46, United States Code, is amended by striking the item relating to section 40706.

SEC. 105. DATA COLLECTION.

Section 41110 of title 46, United States Code, is amended—

(1) by striking “The Federal Maritime Commission” and inserting “(a) QUARTERLY REPORT.—The Federal Maritime Commission”; and

(2) by adding at the end the following:

“(b) LIMITATION ON DUPLICATION.—Unless the data described in paragraphs (1) and (2) is not available in a timely manner or in a form that allows the Commission to meet the requirements of subsection (a), data required to be reported under subsection (a) may not duplicate information—

“(1) submitted to the Corps of Engineers pursuant to section 11 of the Act entitled ‘An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes’, approved September 22, 1922 (33 U.S.C. 555), by an ocean common carrier acting as a vessel operator;

“(2) submitted pursuant to section 481 of the Tariff Act of 1930 (19 U.S.C. 1481) to U.S. Customs and Border Protection by merchandise importers; or

“(3) submitted to the Department of Commerce pursuant to section 301 of title 13.”.

SEC. 106. NATIONAL ADVISORY COMMITTEES.

(a) NATIONAL SHIPPER ADVISORY COMMITTEE.—Section 42502 of title 46, United States Code, is amended—

(1) in subsection (a) by striking “Committee.” and inserting “Committee (in this section referred to as the ‘Shipper Committee’)”;

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (b); and

(4) in subsection (b), as so redesignated, by striking “Committee” each place it appears and inserting “Shipper Committee”.

(b) NATIONAL PORT ADVISORY COMMITTEE.—Chapter 425 of title 46, United States Code, is amended—

(1) by redesignating section 42503 as section 42506; and

(2) by inserting after section 42502 the following:

“§ 42503. National Port Advisory Committee

“(a) ESTABLISHMENT.—There is established a National Port Advisory Committee (in this section referred to as the ‘Port Committee’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Port Committee shall consist of 13 members appointed by the Commission in accordance with this section.

“(2) EXPERTISE.—Each member of the Port Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Port Committee.

“(3) REPRESENTATION.—Members of the Port Committee shall be appointed as follows:

“(A) 5 members shall represent marine terminal operators, as defined in section 40102.

“(B) 5 members shall represent port authorities.

“(C) 3 members shall represent longshore and maritime labor.

“§ 42504. National Ocean Carrier Advisory Committee

“(a) ESTABLISHMENT.—There is established a National Ocean Carrier Advisory Committee (in this section referred to as the ‘Carrier Committee’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Carrier Committee shall consist of 9 members appointed by the Commission in accordance with this section.

“(2) EXPERTISE.—Each member of the Carrier Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

“(3) REPRESENTATION.—Members of the Carrier Committee shall represent ocean carriers serving such seaports and terminals, of which at least three shall be ocean transportation intermediaries (as such term is defined in section 40102)”.

“§ 42505. Function

“The covered Committees shall advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, and efficiency of the international ocean freight delivery system.”

(c) CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 42501 of title 46, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) COVERED COMMITTEE.—The term ‘covered Committee’ means—

“(A) the National Shipper Advisory Committee established under section 42502;

“(B) the National Seaport Advisory Committee established under section 42503; and

“(C) the National Ocean Carrier Advisory Committee established under section 52504.”.

(2) ADMINISTRATION.—Section 42506 of title 46, United States Code, as redesignated by subsection (b)(1), is amended—

(A) by striking “The Committee” each place it appears except in subsection (k) and inserting “Each covered Committee”;

(B) in subsection (a) by striking “the Committee” and inserting “each such Committee”;

(C) in subsections (b), (c), (d), (e), (f), and (j) by striking “the Committee” each place it appears and inserting “a covered Committee”;

(D) in subsection (h)—

(i) in paragraph (1)—

(I) by striking “Chair of the Committee” and inserting “Chair of each covered Committee”; and

(II) by striking “function of the Committee” and inserting “function of the applicable Committee”; and

(ii) in paragraph (2) by striking “the Committee” and inserting “each covered Committee”;

(E) in subsection (i)—

(i) in paragraph (1) by striking “the Committee if the function of the Committee” and inserting “any relevant covered Committee if the function of such Committee”;

(ii) in paragraph (2) by striking “the Committee” and inserting “each such Committee”;

(iii) in paragraph (3)—

(I) by striking “from the Committee” and inserting “from a covered Committee”; and

(II) in subparagraph (B) by striking “to the Committee” and inserting “to the submitting Committee”; and

(iv) in paragraph (4) by striking “from the Committee” and inserting “from a covered Committee”; and

(F) in subsection (k) by striking “The Committee” and inserting “Covered Committees”.

SEC. 107. ANNUAL REPORT AND PUBLIC DISCLOSURES.

(a) REPORT ON FOREIGN LAWS AND PRACTICES.—Section 46106(b) of title 46, United States Code, is amended—

(1) in paragraph (6)—

(A) by striking “and” at the end; and

(B) by striking “under this part” and inserting “under chapter 403”;

(2) in paragraph (7)—

(A) by inserting “anticompetitive, nonreciprocal trade, or” before “otherwise concerning practices”;

(B) by inserting “or marine terminal operators” after “controlled carriers”; and

(C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(8) an analysis of any trade imbalance resulting from the business practices of ocean common carriers, including an analysis of the data collected under section 41110; and

“(9) the aggregated findings and results of the Vessel-Operating Common Carrier Audit Program established by the Commission on July 18, 2021, pursuant to the Commission rule interpreting section 41102(c).”.

(b) PUBLIC DISCLOSURE.—Section 46106(d)(2) of title 46, United States Code, is amended by inserting “or marine terminal operator” after “common carrier”.

SEC. 108. CONTAINERIZED FREIGHT INDEXES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Maritime Commission shall promulgate an advance notice of proposed rulemaking on price indexes for containerized ocean freight for shippers (as such term is defined in section 40102 of title 46, United States Code) in the United States published by a shipping exchange registered under section 40504 of title 46, United States Code.

(b) FINAL RULE.— Not later than 3 years after the date of enactment of this Act, the Commission shall publish a final rule with respect to the advance notice of proposed rulemaking under subsection (a).

TITLE II—OTHER AGENCIES

SEC. 201. DATA STANDARD FOR MARITIME FREIGHT LOGISTICS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Maritime Commission shall promulgate an advance notice of proposed rulemaking on a data standard for maritime freight logistics and ocean transportation in the foreign commerce of the United States.

(b) CONSULTATION.—During the public comment period for the rulemaking under subsection (a), the Commission shall consult with—

(1) the National Shippers Advisory Board established under section 42502 of title 46, United States Code; and

(2) the Secretaries of Transportation, Commerce, and Agriculture.

(c) CONTENTS.—The rulemaking under subsection (a) shall—

(1) develop a data standard for the voluntary sharing of appropriate supply chain data with—

(A) a common lexicon of standard terms and methods of measurements;

(B) a method to exchange data in real time amongst relevant stakeholders;

(C) appropriate data protections to ensure confidentiality of proprietary business information; and

(D) appropriate cybersecurity measures to protect data from unauthorized use;

(2) incorporate data from stakeholders to facilitate—

(A) the arrival, unloading, loading, and departure of vessels;

(B) cargo availability and pick up reservation;

(C) chassis availability; and

(D) other data elements the Commission consider prudent; and

(3) consider relevant data standards used or under development within the private sector and whether to adopt or otherwise incorporate such standards into the rule finalized under this subsection, with priority given to standards that—

(A) are developed in open, transparent, impartial, balanced, consensus-based processes;

(B) are performance-based, technology neutral, and vendor neutral;

(C) are interoperable, allowing for the exchange and use of data between devices and systems;

(D) are market relevant and globally applicable;

(E) are nonduplicative of, and coherent with, other relevant standards, guides, best practices, and frameworks; and

(F) allow information owners to control what information is shared, when information is shared, with whom, and for what purpose; and

(4) be consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113; 15 U.S.C. 272 note) including any standard for the voluntary sharing of appropriate supply chain data developed thereunder.

(d) THIRD-PARTY AGREEMENT.—The Commission may enter into an agreement with 1 or more appropriate independent entities based in the United States that operate as voluntary consensus standards setting organizations as defined for pur-

poses of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119, published in the Federal Register on January 27, 2016 (81 Fed. Reg. 4673), to develop the data standard for maritime freight logistics and ocean transportation in the foreign commerce of the United States for the rulemaking under subsection (a) and for procurement or other relevant programmatic activities, consistent with the requirements of this section.

(e) **GRANT CRITERION.**—If the rulemaking under subsection (a) is finalized, the Secretary of Transportation may require a covered port authority to adopt any data standard issued pursuant to this section for relevant operational use cases, as determined by the Secretary.

(f) **DEFINITION OF COVERED PORT AUTHORITY.**—In this section, the term “covered port authority” means a port authority that receives funding after the date on which a rule is finalized under this section under—

(1) the port infrastructure development program under section 54301(a) of title 46, United States Code; or

(2) the maritime transportation system emergency relief program under section 50308 of title 46, United States Code.

(g) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to require the Commission to develop a data standard that violates the confidentiality and disclosure policies established under subchapter III of chapter 35 of title 44, United States Code.

SEC. 202. INDEPENDENT STUDY AND REPORT ON SHANGHAI SHIPPING EXCHANGE.

(a) **STUDY.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall enter into an agreement with an appropriate independent entity described in subsection (d) to conduct a study and assessment of the business practices of the Shanghai Shipping Exchange, including—

(1) any anticompetitive advantages benefitting the Shanghai Shipping Exchange; and

(2) the ability of the Ministry of Transport of the People’s Republic of China and the Shanghai Shipping Exchange to manipulate container freight markets.

(b) **ELEMENTS.**—The study and assessment required under subsection (a) shall address the following:

(1) The influence of the government of the People’s Republic of China on the Shanghai Shipping Exchange.

(2) The impact of such business practices or influence on American consumers and businesses.

(3) The ability of a shipping exchange registered under section 40504 of title 46, United States Code, and based in the United States to identify market manipulation as described in subsection (a)(2) or any otherwise concerning practices by the Shanghai Shipping Exchange and report such incidents to the Federal Maritime Commission and other Federal regulators.

(4) Any other matters the Secretary or the appropriate independent entity that enters into an agreement under this section determines to be appropriate for the purposes of the study.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date on which the Secretary of Transportation enters into an agreement under this section, the appropriate independent entity shall submit to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report setting forth the results of the study conducted under subsection (a).

(2) **PUBLIC AVAILABILITY.**—The Secretary shall publish the report required under paragraph (1) on a publicly accessible website of the Department of Transportation.

(d) **APPROPRIATE INDEPENDENT ENTITY DESCRIBED.**—An appropriate independent entity described in this subsection is—

(1) a federally funded research and development center sponsored by a Federal agency;

(2) the Transportation Research Board of the National Academies;

(3) the Government Accountability Office; or

(4) an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(e) **OBTAINING OFFICIAL DATA.**—The appropriate independent entity that enters into an agreement under this section may secure directly from any department or agency of the Federal Government information necessary to enable such entity to carry out this section. Upon request of such entity, the head of such department or

agency shall furnish such information to the appropriate independent entity, unless doing so would not be in the public interest.

SEC. 203. POLICY WITH RESPECT TO LOGINK.

(a) IN GENERAL.—Chapter 503 of title 46, United States Code, is amended by adding at the end the following:

“§ 50309. Prohibited use

“(a) IN GENERAL.—A covered entity shall not utilize covered logistics software.

“(b) GUIDANCE.—The Secretary of Transportation shall publish on the website of the Department of Transportation, and update regularly, a list of prohibited logistics information technologies provided by the People’s Republic of China or Chinese state-affiliated entities.

“(c) CONSULTATION.—The Secretary shall consult with the United States-China Economic and Security Review Commission established under section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) in carrying out this section.

“(d) REVIEW.—In preparing the guidance under subsection (b), the Secretary shall review the list of Chinese state-affiliated entities included in—

“(1) the list of Communist Chinese military companies released by the Department of Defense in accordance with section 1260H of the National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note); and

“(2) the most recent ‘Non-SDN Chinese Military-Industrial Complex Companies List’ published by the Secretary of the Treasury pursuant to Executive Order 14032 of June 3, 2021 (86 Fed. Reg. 30145; relating to Addressing the Threat From Securities Investments That Finance Certain Companies of the People’s Republic of China).

“(e) DEFINITIONS.—In this section:

“(1) COVERED LOGISTICS SOFTWARE.—The term ‘covered logistics software’ means—

“(A) the public, open, shared logistics information network known as the ‘National Public Information Platform for Transportation & Logistics’ by the Ministry of Transport of China or any affiliate or successor entity;

“(B) any other transportation logistics software designed to be used by covered entities subject to the jurisdiction, ownership, direction, or control of a foreign adversary; or

“(C) any other logistics platform or software that shares data with a system described in paragraphs (a) or (b).

“(2) COVERED ENTITY.—The term ‘covered entity’ means an entity that receives funding after the date of enactment of this section under—

“(A) the port infrastructure development program under subsections (a) and (b) of section 54301; or

“(B) the maritime transportation system emergency relief program under section 50308.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 503 of title 46, United States Code, is amended by adding at the end the following:

“50309. Prohibited use.”.

TITLE III—TECHNICAL AMENDMENTS

SEC. 301. TECHNICAL AMENDMENTS.

(a) ADMINISTRATION.—Section 15109 of title 46, United States Code, is amended—

(1) in subsection (a)(2) by striking “15102,” and inserting “15102”; and

(2) in subsection (k)(1) by inserting “or to which this chapter applies” after “under this chapter”.

(b) INVESTIGATIONS.—Section 41302(a) of title 46, United States Code, is amended by striking “conduct agreement” and inserting “conduct, agreement”.

(c) AWARD OF REPARATIONS.—Section 41305(c) is amended by striking “section subsection” and inserting “subsection”.

(d) NATIONAL SHIPPER ADVISORY COMMITTEE.—Section 42502(b)(3) of title 46, United States Code, as redesignated by the preceding provisions of this Act, is amended by striking “(3) REPRESENTATION” and all that follows through “Twelve members” and inserting the following:

“(3) REPRESENTATION.—Members of the Committee shall be appointed as follows:

“(A) Twelve members”.

(e) **MONETARY PENALTIES OR REFUNDS.**—The analysis for chapter 411 of title 46, United States Code, is amended by striking the item relating to section 41107 and inserting the following:

“41107. Monetary penalties or refunds.”.

(f) **NATIONAL ADVISORY COMMITTEES.**—The analysis for subtitle IV of title 46, United States Code, is amended by striking the item relating to chapter 425 and inserting the following:

“425. National Advisory Committees 42501”.

(g) **ANALYSIS.**—The heading and analysis for chapter 425 of title 46, United States Code, is amended to read as follows:

“CHAPTER 425—NATIONAL PORT ADVISORY COMMITTEE

“Sec.

“42501. Definitions.

“42502. National Shipper Advisory Committee.

“42503. National Seaport Advisory Committee.

“42504. National Ocean Carrier Advisory Committee.

“42505. Function.

“42506. Administration.”.

(h) **ANNUAL REPORT AND PUBLIC DISCLOSURE.**—

(1) **CONFORMING AMENDMENT.**—The heading for section 46106 of title 46, United States Code, is amended by inserting “**and public disclosure**” after “**report**”.

(2) **CLERICAL AMENDMENT.**—The analysis for chapter 461 of title 46, United States Code, is amended by striking the item relating to section 46106 and inserting the following:

“46106. Annual report and public disclosure.”.

PURPOSE OF LEGISLATION

The purpose of H.R. 1836, as amended, is to amend title 46, United States Code, amending certain regulatory authorities, and updating Federal policies governing international ocean shipping and limiting foreign influence over United States supply chains.

BACKGROUND AND NEED FOR LEGISLATION

During the height of the pandemic, the supply chain faced unprecedented strain. With activities and travel limited and hindered by COVID–19 spread and government responses, consumers repurposed their cash toward manufactured goods and merchandise instead of going to the movies, dining out, or other activities.¹ This increased demand for manufactured consumer goods, a large part of which are moved by shipping containers, strained shipping capacity.² As inventory began to run low, manufacturers and retailers pressured shipping companies to expeditiously move cargo, as they tried to keep up with the outsized demand.

The consequence was an imbalance in maritime trade flows. Consumer demand in the Western Hemisphere for goods like electronics, furniture, and clothes outpaced that of the Eastern Hemisphere where many such goods are manufactured.³ This imbalance drove shipping companies to ship empty containers to top Eastern manufacturing countries like China, Japan, India, and South

¹Anshu Siripurapu, *What Happened to Supply Chains in 2021*, COUNCIL ON FOREIGN RELATIONS, (Dec. 13, 2021) available at <https://www.cfr.org/article/what-happened-supply-chains-2021>.

²*Shipping during COVID–19: Why container freight rates have surged*, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, (Apr. 23, 2021) available at <https://unctad.org/news/shipping-during-covid-19-why-container-freight-rates-have-surged>.

³Roslan Khasawneh & Muyu Xu, *China-U.S. container shipping rates sale past \$20,000 to record*, REUTERS, (Aug. 5, 2021), available at <https://www.reuters.com/business/china-us-container-shipping-rates-sail-past-20000-record-2021-08-05/> [hereinafter Khasawneh & Xu].

Korea, for rapid loading of cargo to be transported to countries like the United States, where demand for consumer goods surged.⁴ This induced a sharp rise in ocean shipping costs creating a seller's market for global container shipping and allowing shipping companies to charge four to ten times the previously prevailing price to ship cargoes.⁵ At its peak, the cost to ship one container from China to the United States reached a record high of over \$20,000.⁶

In addition to increased container shipping rates, cargo wait times soared as cargo volumes at major United States ports rose precipitously. Large ports like the Port of Los Angeles and Long Beach experienced long delays for ships waiting to berth, at one point reaching a peak of 109 ships in January 2022.⁷

In response to the supply chain challenges, Congress approved the *Ocean Shipping Reform Act of 2022*, which was signed into law on June 16, 2022.⁸ This law strengthened authorities with the Federal Maritime Commission (FMC) to promote the growth and development of United States exports through an ocean transportation system that is competitive, efficient, and economical.⁹ Furthermore, it authorized appropriations for FMC through Fiscal Year (FY) 2025; set standards for detention and demurrage charges, as well as penalties for charges deemed inaccurate; allowed FMC to set minimum contract standards for ocean shipping service contracts to protect United States shippers from actions which leave export cargoes stranded at United States ports; and increased protections for United States shippers from retaliation by foreign ocean carriers.¹⁰ The version signed into law stemmed from S. 3580. However, prior to S. 3580's introduction, H.R. 4996, the *Ocean Shipping Reform Act of 2021*, was introduced in the House on August 10, 2021, by Mr. Garamendi of California and Mr. Johnson of South Dakota.¹¹ The measure was approved by the House on December 8, 2021.

H.R. 1836, as amended, builds upon the *Ocean Shipping Reform Act of 2022*, and further strengthens protections against anti-competitive practices that could imperil the United States supply chain. The bill also protects against logistics software created by companies under the control of the Chinese Communist Party that could be used for malicious purposes.

HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 118th Congress, the following hearings were used to develop or consider H.R. 1836:

On March 23, 2023, the Subcommittee on Coast Guard and Maritime Transportation held a hearing entitled, "*Review of Fiscal Year 2024 Budget Request for Federal Maritime Transportation Programs, and Implementation of the Ocean Shipping Reform Act of*

⁴ See Top 10 Manufacturing Countries in the World, SAFEGUARD GLOBAL, (Dec. 20, 2022), available at <https://www.safeguardglobal.com/resources/blog/top-10-manufacturing-countries-in-the-world>; see also Khasawneh & Xu, *supra* note 3.

⁵ Khasawneh & Xu, *supra* note 3.

⁶ *Id.*

⁷ Paul Berger, *Southern California's Notorious Container Ship Backup Ends*, THE WALL ST. J., (Oct. 21, 2022), available at <https://www.wsj.com/articles/southern-californias-notorious-container-ship-backup-ends-11666344603>.

⁸ Ocean Shipping Reform Act of 2022, Pub. L. No. 117-146.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Ocean Shipping Reform Act of 2021, H.R. 4996, 117th Cong (2021).

2022.” The hearing examined the President’s Fiscal Year 2024 Budget Request for the Federal Maritime Commission and the Maritime Administration. The Subcommittee received testimony from Rear Admiral Ann C. Phillips (Ret.), Administrator, United States Maritime Administration, United States Department of Transportation; the Honorable Daniel B. Maffei, Chairman, United States Federal Maritime Commission; and Nancy Wallace, Director, Marine Debris Program, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration, United States Department of Commerce.

Additionally, on March 28, 2023, the Subcommittee on Coast Guard and Maritime Transportation held a hearing entitled, “*Maritime Transportation Supply Chain Issues*.” The hearing examined implementation of the *Ocean Shipping Reform Act of 2022* and continued to examine supply chain issues from the stakeholder perspective. The Subcommittee received testimony from Bud Darr, Executive Vice President, MSC Group on behalf of the World Shipping Council; Matthew Leech, President and Chief Executive Officer, Ports America; William H. “Buddy” Allen, President and Chief Executive Officer, American Cotton Shippers Association; and Mario Cordero, Executive Director, Port of Long Beach, California.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 1836, the “*Ocean Shipping Reform Implementation Act of 2023*,” was introduced in the United States House of Representatives on March 28, 2023, by Mr. Johnson of South Dakota and Mr. Garamendi of California and referred to the Committee on Transportation and Infrastructure. Within the Committee on Transportation and Infrastructure, H.R. 1836 was referred to the Subcommittee on Coast Guard and Maritime Transportation. The Subcommittee on Coast Guard and Maritime Transportation was discharged from further consideration of H.R. 1836 on May 23, 2023.

The Committee considered H.R. 1836 on May 23, 2023, and ordered the measure to be reported to the House with a favorable recommendation, with amendment, by a recorded vote of 58 yeas to 1 nay.

The following amendments were offered:

An Amendment in the Nature of a Substitute to H.R. 1836, as amended, offered by Mr. Johnson of South Dakota (#2A) was AGREED TO by voice vote.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1836, offered by Mr. Garamendi (048) (#2B); Strike section 201 and insert the following: SEC. 201. DATA STANDARD FOR MARITIME FREIGHT LOGISTICS. (a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Maritime Commission shall promulgate an advance notice of proposed rulemaking on a data standard for maritime freight logistics and ocean transportation in the foreign commerce of the United States. (b) CONSULTATION.—During the public comment period for the rulemaking under subsection (a), the Commission shall consult with—(1) the National Shippers Advisory Board established under section 42502 of title 46, United States Code; and (2) the Secretaries of Transportation, Commerce, and Agriculture. (c) CONTENTS.—The rulemaking under subsection (a) shall—(1) develop a data standard for the voluntary sharing of appropriate sup-

ply chain data with—(A) a common lexicon of standard terms and methods of measurements; (B) a method to exchange data in real time amongst relevant stakeholders; (C) appropriate data protections to ensure confidentiality of proprietary business information; and (D) appropriate cybersecurity measures to protect data from unauthorized use; (2) incorporate data from stakeholders to facilitate—(A) the arrival, unloading, loading, and departure of vessels; (B) cargo availability and pick up reservation; (C) chassis availability; and (D) other data elements the Commission consider prudent; and (3) consider relevant data standards used or under development within the private sector and whether to adopt or otherwise incorporate such standards into the rule finalized under this subsection, with priority given to standards that—(A) are developed in open, transparent, impartial, balanced, consensus-based processes; (B) are performance-based, technology neutral, and vendor neutral; (C) are interoperable, allowing for the exchange and use of data between devices and systems; (D) are market relevant and globally applicable; (E) are nonduplicative of, and coherent with, other relevant standards, guides, best practices, and frameworks; and (F) allow information owners to control what information is shared, when information is shared, with whom, and for what purpose; and (4) be consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113; 15 U.S.C. 272 note) including any standard for the voluntary sharing of appropriate supply chain data developed thereunder. (d) **THIRD-PARTY AGREEMENT.**—The Commission may enter into an agreement with 1 or more appropriate independent entities based in the United States that operate as voluntary consensus standards setting organizations as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119, published in the Federal Register on January 27, 2016 (81 Fed. Reg. 4673), to develop the data standard for maritime freight logistics and ocean transportation in the foreign commerce of the United States for the rulemaking under subsection (a) and for procurement or other relevant programmatic activities, consistent with the requirements of this section. (e) **GRANT CRITERION.**—If the rulemaking under subsection (a) is finalized, the Secretary of Transportation may require a covered port authority to adopt any data standard issued pursuant to this section for relevant operational use cases, as determined by the Secretary. (f) **DEFINITION OF COVERED PORT AUTHORITY.**—In this section, the term “covered port authority” means a port authority that receives funding after the date on which a rule is finalized under this section under—(1) the port infrastructure development program under section 54301(a) of title 46, United States Code; or (2) the maritime transportation system emergency relief program under section 50308 of title 46, United States Code. (g) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to require the Commission to develop a data standard that violates the confidentiality and disclosure policies established under subchapter III of chapter 35 of title 44, United States Code.; was **AGREED TO** by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1836, offered by Mr. Garamendi (043) (#2C);

Page 13, after line 6, insert the following: SEC. 109. INJUNCTIVE RELIEF BY THE COMMISSION. (a) IN GENERAL.—Section 41307 of title 46, United States Code, is amended—(1) in the heading by striking “sought”; and (2) in subsection (b)—(A) in paragraph (1) by striking “, may bring a civil” and all that follows through the period at the end of the sentence and inserting “and an opportunity to be heard under expedited procedures established by the Commission with due regard for confidential or proprietary information, may enjoin the operation of the agreement. An injunction under this paragraph shall constitute a final order of the Commission.”; (B) by striking paragraphs (2) and (3) and inserting the following: “(2) THIRD PARTY INTERVENTION.—The Commission may allow a third party to intervene in a proceeding before the Commission under this subsection.”; and (C) by redesignating paragraph (4) as paragraph (3). (b) CLERICAL AMENDMENT.—The item relating to section 41307 in the analysis for chapter 413 of title 46, United States Code, is amended by striking “sought”.; (Garamendi -044) (#2C); Page 13, after line 6, insert the following: SEC. 109. MEMORANDUM OF UNDERSTANDING. (a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Federal Maritime Commission and the Surface Transportation Board shall enter into a Memorandum of Understanding regarding the jurisdiction of the Commission for demurrage charges for rail storage in the United States under service contracts with ocean common carriers with a through bill of lading. The memorandum may be updated as necessary pursuant to the requirements of this section. (b) REQUIREMENTS.—Such memorandum shall ensure that every demurrage charge for rail storage is subject to regulation by either the Federal Maritime Commission or the Surface Transportation Board, including the purchase of rail service in the United States pursuant to 49 U.S.C. § 10709 under service contracts with ocean common carriers with a through bill of lading. (c) PUBLIC NOTICE AND COMMENT.—The Federal Maritime Commission and the Surface Transportation Board shall publish the draft Memorandum of Under-; and (2) in subsection standing required under subsection (a) in the Federal Register for a period of public comment of not less than 60 days before finalizing such Memorandum. (d) CONGRESSIONAL NOTIFICATION.—Not less than 30 days before publishing the draft Memorandum of Understanding in the Federal Register pursuant to subsection (c), the Federal Maritime Commission and the Surface Transportation Board shall submit such Memorandum to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. SEC. 110. INTERMODAL TRANSPORTATION SERVICE CONTRACTS. (a) IN GENERAL.—Section 41104 of title 46, United States Code, is amended by adding at the end the following: “(g) THIRD-PARTY DEMURRAGE OR STORAGE CHARGES.—“(1) THROUGH BILLS OF LADING.—A common carrier shall be the billing party for third-party demurrage or storage charges assessed by such carrier’s contractors for any container transported under contract with an ocean common carrier with a through bill of lading. “(2) INVOICING.—All invoices subject to paragraph (1) shall be issued in accordance with the requirements of Subsections (a)(14) and (15), (d), (e) and (f) of Section

41104 (of title 46, United States Code).”. (b) APPLICABLE REGULATION.—Demurrage charges for rail storage under service contracts with ocean common carriers with a through bill of lading including the purchase of rail service in the United States regulated by the Federal Maritime Commission pursuant to the Memorandum of Understanding required under section 2 (of this Act) shall be subject to the rule finalized by the Federal Maritime Commission pursuant to Section 7 (b) of the Ocean Shipping Reform Act of 2022 (Public Law 117–146) or successive regulation. SEC. 111. PUBLIC AVAILABILITY OF WATER CARRIER TARIFFS. Section 13702(b) of title 49, United States Code, is amended—(1) by amending paragraph (1) to read as follows: “(1) TARIFF AVAILABILITY.—A carrier providing transportation or service described in subsection (a)(1) shall make its tariffs available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.”; (2) in paragraph (3), by striking “tariff filings” and inserting “tariffs”; (3) in paragraph (4), by striking “filed under this subsection”; and (4) in paragraph (5), by striking “filing complete tariffs under this subsection” and inserting “changing their complete electronic tariffs”. SEC. 112. TECHNICAL CORRECTIONS. (a) REGISTRATION.—The analysis for chapter 139 of title 49, United States Code, is amended in the item relating to section 13901 by striking “Requirement” and inserting “Requirements”. (b) EFFECTIVE PERIODS OF REGISTRATION.—Section 13905(d)(2)(B)(iii) of title 49, United States Code, is amended by striking “for failure”. (c) SECURITY OF MOTOR CARRIERS, MOTOR PRIVATE CARRIERS, BROKERS, AND FREIGHT FORWARDERS.—Section 13906 of title 49, United States Code, is amended—(1) in subsection (a)(1) by striking “paragraph (3)” and inserting “paragraph (4)” (2) in subsection (b)(7)(C) by striking “provider” and inserting “provide”; and (3) in subsection (c)(2)(A)(ii) by inserting “that” after “in the case”. (d) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Section 14504a of title 49, United States Code, is amended—(1) in subsection (b) by striking “13903(b)” and inserting “13903(d)”; and (2) in subsection (c)(2) by inserting “for” after “fee or tax”.; was WITHDRAWN.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1836, offered by Mr. Perry (180) (#2D); Strike section 101 of the bill (and redesignate accordingly).; was NOT AGREED TO by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

Committee on Transportation and Infrastructure Roll Call Vote No. 008

On: agreeing to Final passage of H.R. 1836, as amended
Agreed to: 58 yeas and 1 nay.

Member	Vote	Member	Vote
Mr. Graves of MO	Yea	Mr. Larsen of WA	Yea
Mr. Crawford	Yea	<i>Ms. Norton</i>	Yea
Mr. Webster of FL	Yea	Mrs. Napolitano .....	.....
Mr. Massie	Yea	Mr. Cohen	Yea
Mr. Perry	Nay	Mr. Garamendi	Yea
Mr. Babin	Yea	Mr. Johnson of GA	Yea
Mr. Graves of LA .....	.....	Mr. Carson	Yea
Mr. Rouzer	Yea	Ms. Titus	Yea
Mr. Bost	Yea	Mr. Huffman	Yea
Mr. LaMalfa	Yea	Ms. Brownley	Yea
Mr. Westerman	Yea	Ms. Wilson of FL	Yea
Mr. Mast	Yea	Mr. Payne	Yea
<i>Mrs. González-Colón</i>	Yea	Mr. DeSaulnier	Yea
Mr. Stauber	Yea	Mr. Carbajal	Yea
Mr. Burchett	Yea	Mr. Stanton	Yea
Mr. Johnson of SD	Yea	Mr. Allred	Yea
Mr. Van Drew	Yea	Ms. Davids of KS	Yea
Mr. Nehls .....	.....	Mr. García of IL	Yea
Mr. Gooden of TX	Yea	Mr. Pappas .....	.....
Mr. Mann	Yea	Mr. Moulton	Yea
Mr. Owens	Yea	Mr. Auchincloss	Yea
Mr. Yakym	Yea	Ms. Strickland	Yea
Mrs. Chavez-DeRemer	Yea	Mr. Carter of LA	Yea
Mr. Edwards	Yea	Mr. Ryan	Yea
Mr. Kean of NJ .....	.....	Mrs. Peltola	Yea
Mr. D'Esposito	Yea	Mr. Menendez	Yea
Mr. Burlison	Yea	Ms. Hoyle of OR	Yea
Mr. James	Yea	Mrs. Sykes	Yea
Mr. Van Orden	Yea	Ms. Scholten .....	.....
Mr. Williams of NY	Yea	Mrs. Foushee	Yea
Mr. Molinaro	Yea		
Mr. Collins	Yea		
Mr. Ezell	Yea		
Mr. Duarte	Yea		
Mr. Bean of FL	Yea		

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974* has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 1836, as amended, from the Director of the Congressional Budget Office:

At a Glance

Supply Chain Legislation

As ordered reported by the House Committee on Transportation and Infrastructure on May 23, 2023

On May 23, 2023, the House Committee on Transportation and Infrastructure ordered the following 12 bills to be reported—all aimed at easing concerns about the U.S. supply chain. This single, comprehensive document provides estimates for those bills.

Pay-as-you-go procedures apply to three bills that would affect direct spending—and thus affect the deficit. One bill would affect only direct spending; two bills would affect direct spending and spending subject to appropriation. Nine bills would affect only spending subject to appropriation. None of the bills would affect revenues.

None of the bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2034.

None of the bills would impose intergovernmental or private-sector mandates.

Details of the estimated costs of each bill are discussed in the text below.

Bill	Net Increase or Decrease (-) in the Deficit Over the 2023-2033 Period (Millions of Dollars)	Changes in Spending Subject to Appropriation Over the 2023-2028 Period (Outlays, Millions of Dollars)	Mandate Effects?
H.R. 915	0	*	No
H.R. 1500	0	30	No
H.R. 1836	0	7	No
H.R. 2948	0	*	No
H.R. 3013	0	*	No
H.R. 3316	*	*	No
H.R. 3317 ^a	*	0	No
H.R. 3318	0	*	No
H.R. 3365 ^a	*	*	No
H.R. 3372	0	*	No
H.R. 3395	0	*	No
H.R. 3447	0	*	No

* = between -\$500,000 and \$500,000.

a. Funding for programs affected by H.R. 3317 and H.R. 3365 was designated as an emergency requirement in keeping with section 4112(a) of H. Con. Res. 71 (115th Congress); the Concurrent Resolution on the Budget for Fiscal Year 2018; and section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Summary: On May 23, 2023, the House Committee on Transportation and Infrastructure considered multiple pieces of legislation. This document provides estimates for 12 bills that were ordered reported.

The bills would, among other things, direct the Department of Transportation (DOT) or the Federal Maritime Commission to:

- Prioritize grant applications for projects that would improve the resiliency of the supply chain and revise the permitting process for certain port, airport, and pipeline projects, with the goal of accelerating approval;
- Change restrictions on the type, size, and weight of vehicles that can travel on the Interstate highways; and
- Require data collection and new studies aimed at improving the safety and efficiency of domestic transportation systems.

Estimated Federal cost: The bills' estimated budgetary effects are shown in Table 1. This cost estimate does not include any effects of interaction among the bills. If all 12 bills were combined and enacted as a single piece of legislation, the effects could be different

from the sum of the separate estimates, although CBO expects that any differences would be small. The bills' costs fall within budget function 400 (transportation).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF THE SUPPLY CHAIN LEGISLATION

	By fiscal year, millions of dollars—						
	2023	2024	2025	2026	2027	2028	2023–2028
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
H.R. 1500, Intelligent Transportation Integration Act:							
Estimated Authorization	0	6	6	6	6	7	31
Estimated Outlays	0	5	6	6	6	7	30
H.R. 1836, Ocean Shipping Reform Implementation Act of 2023:							
Estimated Authorization	0	1	1	1	2	2	7
Estimated Outlays	0	1	1	1	2	2	7

CBO estimates that H.R. 915, H.R. 2948, H.R. 3013, H.R. 3316, H.R. 3318, H.R. 3365, H.R. 3372, H.R. 3395, and H.R. 3447, would each increase spending subject to appropriation by less than \$500,000 in every year and over the 2023–2028 period.

CBO estimates that H.R. 3316, H.R. 3317, and H.R. 3365 would each affect direct spending by less than \$500,000 in every year and over the 2023–2033 period.

Basis of estimate: For this estimate, CBO assumes that the bills will be enacted near the end of fiscal year 2023 and that the authorized and estimated amounts will be appropriated each year. Outlays for discretionary programs are estimated based on historical spending patterns for similar programs.

As discussed below, one bill would affect direct spending only and two bills would affect both direct spending and spending subject to appropriation. CBO estimates that the effects of each bill on direct spending would be insignificant over the 2023–2033 period. The other bills would affect spending subject to appropriation alone. None of the bills would affect revenues.

Bill that affects direct spending only: CBO estimates that just one bill would have an insignificant effect on direct spending and no effects on revenues or spending subject to appropriation.

H.R. 3317, the Rolling Stock Protection Act, would remove an exemption from current law that allows a small number of public transit agencies to procure rolling stock from entities owned, controlled, or associated with certain countries. CBO estimates that enacting the bill could change the pace of spending for amounts previously appropriated for the Federal Transit Administration's Capital Investment Grants, relative to current law. (Those amounts could include funds that were designated as an emergency requirement under the Infrastructure Investment and Jobs Act.) However, because few transit agencies would be affected, CBO expects that any changes in spending would total less than \$500,000 in any year and over the 2023–2033 period.

Bills that affect direct spending and spending subject to appropriation: CBO estimates that two bills could have insignificant effects on direct spending and spending subject to appropriation but would not affect revenues.

H.R. 3316, a bill to amend titles 46 and 49, United States Code, to streamline the environmental review process for major projects, and for other purposes, would require DOT to revise the permitting process for certain port, airport, and pipeline projects, with the aim of making the process more efficient. The bill also would require

DOT to maintain a database of projects and to update agency regulations.

Under current law, if an agency fails to meet certain permitting deadlines, specified amounts of funding would be rescinded from that agency's account. Because the bill would expand the number of projects subject to those conditions, enacting H.R. 3316 could reduce direct spending. CBO estimates that any effect would not be significant over the 2023–2033 period because of the small number of projects likely to be affected.

CBO estimates that implementing the bill would increase spending subject to appropriation by less than \$500,000 over the 2023–2028 period, mostly for administrative activities.

H.R. 3365, the Supply Chain Improvement Act, would direct DOT to prioritize consideration of grant applications for projects aimed at improving resiliency in the supply chain, unless those projects support the use of electric vehicles. In particular, the requirement would apply to grants under the Nationally Significant Multimodal Freight and Highway Projects program (known as the INFRA grant program) and the National Infrastructure Project Assistance program. The bill would increase the share of INFRA grants that could be used for intermodal freight rail projects.

The Infrastructure Investment and Jobs Act provided \$21 billion for those two programs over the 2022–2026 period. (The appropriated amounts were designated as an emergency requirement.) CBO estimates that H.R. 3365 could alter the spending patterns for those previously appropriated amounts, which would be recorded as changes in direct spending. CBO estimates that, on net, those changes would amount to less than \$500,000 in any year and over the 2023–2033 period.

H.R. 3365 also would direct the Government Accountability Office to report on the effects of electric vehicles in several areas, including infrastructure integrity and grid security. The bill also would prevent agencies from prioritizing any project seeking to use grants that would support electric vehicles until a subsequent act of Congress has been passed allowing such prioritization. Using information about similar reports, CBO estimates that the report would cost less than \$500,000 over the 2023–2028 period; such spending would be subject to the availability of appropriated amounts.

Bills that affect spending subject to appropriation by a significant amount: CBO estimates that two bills would affect spending subject to appropriation by more than \$500,000 over the 2023–2028 period. The costs for those two bills are shown in Table 1. Neither bill would affect direct spending or revenues.

H.R. 1500, the Intelligent Transportation Integration Act, would require DOT to purchase certain data from public and private entities to help improve the department's management of traffic and transportation infrastructure. DOT would be required to report to the Congress annually on those activities. Using information from the agency about similar contracting activities, CBO estimates that implementing H.R. 1500 would cost \$30 million over the 2023–2028 period, assuming appropriation of the estimated amounts.

H.R. 1836, the Ocean Shipping Reform Implementation Act of 2023, would create additional administrative and reporting requirements for the Federal Maritime Commission, including a require-

ment to issue two new regulations and publish a study. The bill also would establish two advisory committees to assist the commission in creating policies to ensure competitiveness, reliability, and efficiency in international ocean shipping.

Using information on similar administrative requirements and accounting for anticipated inflation, CBO estimates that implementing H.R. 1836 would cost \$7 million over the 2023–2028 period; any spending would be subject to the availability of appropriated amounts.

Bills that affect spending subject to appropriation by an insignificant amount: CBO estimates that implementing the following seven bills would cost less than \$500,000 each over the 2023–2028 period. None of the bills would affect direct spending or revenues.

H.R. 915, the Motor Carrier Safety Selection Standard Act, would create new standards for certain motor carriers that transport goods, require DOT to update regulations to be consistent with those standards, and direct the department to stipulate the method for revoking a motor carrier’s registration.

H.R. 2948, the CARS Act, would require states to allow certain stinger-steered automobile transporters to operate on Interstate highways. (Such transporters have a fifth wheel located below the rear-most axle of the power unit.)

H.R. 3013, the LICENSE Act of 2023, would require DOT to issue regulations updating the qualifications to be a commercial driver’s license examiner. The bill also would allow states to administer those tests to out-of-state applicants.

H.R. 3318, a bill to amend title 23, United States Code, to establish an axle weight tolerance for certain commercial motor vehicles transporting dry bulk goods, and for other purposes, would increase the maximum weight per axle that a commercial vehicle transporting dry bulk goods can carry on an Interstate highway. The bill would not change the overall gross vehicle weight limits for such vehicles.

H.R. 3372, a bill to amend title 23, United States Code, to establish a safety data collection program for certain 6-axle vehicles, and for other purposes, would create a pilot program allowing certain six-axle vehicles to be operated on Interstate highways. Under the bill, participating states would issue permits by vehicle or by group of vehicles that would specify acceptable routes and require permit holders to report on accidents and other details. The program would be discontinued after five years, although DOT could extend the program for five years.

H.R. 3395, the U.S. Supply Chain Security Review Act of 2023, would require the Federal Maritime Commission to study the effects of foreign ownership of domestic marine terminals on U.S. economic security and report those findings to the Congress.

H.R. 3447, a bill to amend title 23, United States Code, to authorize a hydrogen powered vehicle to exceed certain weight limits on the Interstate Highway System, and for other purposes, would authorize hydrogen-powered vehicles to exceed certain weight limits specified under current law.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Over the

2023–2033 period, CBO estimates that none of the bills would increase direct spending by more than \$500,000.

Increase in long-term net direct spending and deficits: None.

Mandates: None.

Estimate prepared by: Federal Costs: Aaron Krupkin (for Federal Maritime Commission), Robert Reese (for Department of Transportation), Mandates: Brandon Lever.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit, Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to amend title 46, United States Code, with respect to certain authorities which regulate ocean shipping, and to make technical corrections with respect to ocean shipping authorities.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1836, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 1836 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

Section 5(b) of the *Federal Advisory Committee Act* requires the report of any Committee establishing, or authorizing the establishment of any advisory committee, to include a statement as to whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. The Committee finds that the National Port Advisory Committee and the National Ocean Carrier Advisory Committee established by Sec. 106 of H.R. 1836, as amended, do not duplicate the work of existing federal advisory committees.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This act may be cited as the “*Ocean Shipping Reform Implementation Act of 2023*.”

TITLE I—FEDERAL MARITIME COMMISSION

Section 101. Purposes

This section updates the purposes of the Act to better reflect current Federal policy governing international ocean shipping and establishes reciprocal trade as part of Federal Maritime Commission’s (FMC’s or Commission’s) mission in enforcing the Act.

Section 102. Definitions

This section amends the definition of “controlled carrier” in section 40102 of title 46, United States Code, to include state-controlled enterprises in non-market economies, like the People’s Republic of China.

Section 103. Complaints against shipping exchanges

This section establishes a formal process for reporting alleged incidents of market manipulation and anti-competitive practices by shipping exchanges to the FMC for investigation.

Section 104. Repeal

This section repeals the exception in current law for the application of Federal Maritime Commission rules for controlled carriers of a foreign company which are entitled by treaty of the United States to receive National or most-favored-nation treatment, or as in trade served solely by controlled carriers.

Section 105. Data collection

This section prohibits the FMC from requiring ocean carriers to report information already reported to other Federal agencies unless the otherwise reported information is not reported in manner

which the Commission requires to meet statutory deadlines for publishing data.

Section 106. National advisory committees

This section establishes a Federal Maritime Commission National Port Advisory Committee comprised of port authorities, marine terminal operators, and maritime labor, and establishes a National Ocean Carrier Advisory Committee comprised of ocean carriers and ocean transportation intermediaries. This section provides ports, marine terminal operators, and ocean carriers the same ability to advise the Federal Maritime Commission as shippers were provided in the National Shippers Advisory Committee established by the *Ocean Shipping Reform Act of 2022*.

Section 107. Annual report and public disclosures

This section adds to the FMC's annual report to Congress an analysis of any anticompetitive business practices or nonreciprocal trade practices exacerbating the United States' trade imbalance with foreign exporting countries. The section also requires the Federal Maritime Commission to publish results of its Vessel-Operating Common Carrier Audit Program established in July 2021 in the Commission's annual report to Congress and directs the Federal Maritime Commission to publish online all penalties imposed on both marine terminal operators and ocean carriers.

Section 108. Containerized freight indexes

This section directs the FMC to set Federal standards for price indexes for containerized freight published by shipping exchanges, like the New York Shipping Exchange.

TITLE II—OTHER AGENCIES

Section 201. Data standard for maritime freight logistics

This section directs the FMC to establish voluntary data standards for maritime freight logistics. The section also allows the Secretary of Transportation to require adoption of the data standard by port authorities and other entities as a condition for receiving Federal Port Infrastructure Development Grants or other grants from the Maritime Administration.

Section 202. Independent study and report on Shanghai Shipping Exchange

This section directs the United States Department of Transportation to contract with an independent auditor to examine the influence of the People's Republic of China on the business practices of the Shanghai Shipping Exchange and report to Congress.

Section 203. Policy with respect to LOGINK

This section bans covered recipients, including the United States territories, that receive Federal grant dollars from using the Chinese state-sponsored National Transportation Logistics Public Information Platform (LOGINK) and similar state-controlled software.

TITLE III—TECHNICAL AMENDMENTS

Section 301. Technical amendments

This section corrects typos, errors, and citations in current law pertaining to the Federal Maritime Commission or subtitle IV, Regulation of Ocean Shipping, of title 46, United States Code.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 46, UNITED STATES CODE

* * * * *

SUBTITLE II—VESSELS AND SEAMEN

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**PART K—NATIONAL MARITIME
TRANSPORTATION ADVISORY COMMITTEES**

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**CHAPTER 151—NATIONAL MARITIME TRANSPORTATION
ADVISORY COMMITTEES**

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§ 15109. Administration

(a) MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each committee established under this chapter or to which this chapter applies shall, at least once each year, meet at the call of the Secretary or a majority of the members of the committee.

(2) MINIMUM REQUIREMENTS.—The committee established under section [15102,] 15102 shall—

(A) meet in-person, not less frequently than twice each year, at the call of the Secretary of a majority of the members of the committee;

(B) hold additional meetings as necessary;

- (C) post the minutes of each meeting of the committee on a publicly available website not later than 2 weeks after the date on which a meeting concludes; and
- (D) provide reasonable public notice of any meeting of the committee, and publish such notice in the Federal Register and on a publicly available website.
- (b) **EMPLOYEE STATUS.**—A member of a committee established under this chapter or to which this chapter applies shall not be considered an employee of the Federal Government by reason of service on such committee, except for the purposes of the following:
 - (1) Chapter 81 of title 5.
 - (2) Chapter 171 of title 28 and any other Federal law relating to tort liability.
- (c) **COMPENSATION.**—Notwithstanding subsection (b), a member of a committee established under this chapter or to which this chapter applies, when actually engaged in the performance of the duties of such committee, may—
 - (1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5; or
 - (2) if not compensated in accordance with paragraph (1)—
 - (A) be reimbursed for actual and reasonable expenses incurred in the performance of such duties; or
 - (B) be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.
- (d) **ACCEPTANCE OF VOLUNTEER SERVICES.**—A member of a committee established under this chapter or to which this chapter applies may serve on such committee on a voluntary basis without pay without regard to section 1342 of title 31 or any other law.
- (e) **STATUS OF MEMBERS.**—
 - (1) **IN GENERAL.**—Except as provided in paragraph (2), with respect to a member of a committee established under this chapter or to which this chapter applies whom the Secretary appoints to represent an entity or group—
 - (A) the member is authorized to represent the interests of the applicable entity or group; and
 - (B) requirements under Federal law that would interfere with such representation and that apply to a special Government employee (as defined in section 202(a) of title 18), including requirements relating to employee conduct, political activities, ethics, conflicts of interest, and corruption, do not apply to the member.
 - (2) **EXCEPTION.**—Notwithstanding subsection (b), a member of a committee established under this chapter or to which this chapter applies shall be treated as a special Government employee for purposes of the committee service of the member if—
 - (A) the Secretary appointed the member to represent the general public; or
 - (B) the member, without regard to service on the committee, is a special Government employee.
- (f) **SERVICE ON COMMITTEE.**—
 - (1) **SOLICITATION OF NOMINATIONS.**—Before appointing an individual as a member of a committee established under this chapter or to which this chapter applies, the Secretary shall

publish, in the Federal Register, a timely notice soliciting nominations for membership on such committee.

(2) APPOINTMENTS.—

(A) IN GENERAL.—After considering nominations received pursuant to a notice published under paragraph (1), the Secretary may, as necessary, appoint a member to the applicable committee established under this chapter or to which this chapter applies.

(B) PROHIBITION.—The Secretary shall not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to any committee established under this chapter or to which this chapter applies.

(3) SERVICE AT PLEASURE OF THE SECRETARY.—

(A) IN GENERAL.—Each member of a committee established under this chapter or to which this chapter applies shall serve at the pleasure of the Secretary.

(B) EXCEPTION.—Notwithstanding subparagraph (A), a member of the committee established under section 15102 may only be removed prior to the end of the term of that member for just cause.

(4) SECURITY BACKGROUND EXAMINATIONS.—The Secretary may require an individual to have passed an appropriate security background examination before appointment to a committee established under this chapter or to which this chapter applies.

(5) PROHIBITION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a Federal employee may not be appointed as a member of a committee established under this chapter or to which this chapter applies.

(B) SPECIAL RULE FOR NATIONAL MERCHANT MARINE PERSONNEL ADVISORY COMMITTEE.—The Secretary may appoint a Federal employee to serve as a member of the National Merchant Marine Personnel Advisory Committee to represent the interests of the United States Merchant Marine Academy and, notwithstanding paragraphs (1) and (2), may do so without soliciting, receiving, or considering nominations for such appointment.

(6) TERMS.—

(A) IN GENERAL.—The term of each member of a committee established under this chapter or to which this chapter applies shall expire on December 31 of the third full year after the effective date of the appointment.

(B) CONTINUED SERVICE AFTER TERM.—When the term of a member of a committee established under this chapter or to which this chapter applies ends, the member, for a period not to exceed 1 year, may continue to serve as a member until a successor is appointed.

(7) VACANCIES.—A vacancy on a committee established under this chapter or to which this chapter applies shall be filled in the same manner as the original appointment.

(8) SPECIAL RULE FOR REAPPOINTMENTS.—

(A) REAPPOINTMENT.—Notwithstanding paragraphs (1) and (2), the Secretary may reappoint a member of a com-

mittee established under this chapter or to which this chapter applies for any term, other than the first term of the member, without soliciting, receiving, or considering nominations for such appointment.

(B) LIMITATION.—With respect to the committee established under section 15102, members may serve not more than 3 terms.

(g) STAFF SERVICES.—The Secretary shall furnish to each committee established under this chapter or to which this chapter applies any staff and services considered by the Secretary to be necessary for the conduct of the committee's functions.

(h) CHAIRMAN; VICE CHAIRMAN.—

(1) IN GENERAL.—Each committee established under this chapter or to which this chapter applies shall elect a Chairman and Vice Chairman from among the committee's members.

(2) VICE CHAIRMAN ACTING AS CHAIRMAN.—The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(i) SUBCOMMITTEES AND WORKING GROUPS.—

(1) IN GENERAL.—The Chairman of a committee established under this chapter or to which this chapter applies may establish and disestablish subcommittees and working groups for any purpose consistent with the function of the committee.

(2) PARTICIPANTS.—Subject to conditions imposed by the Chairman, members of a committee established under this chapter or to which this chapter applies and additional individuals drawn from entities or groups designated by this chapter to be represented on the committee or the general public may be assigned to subcommittees and working groups established under paragraph (1).

(3) CHAIR.—Only committee members may chair subcommittees and working groups established under paragraph (1).

(j) CONSULTATION, ADVICE, REPORTS, AND RECOMMENDATIONS.—

(1) CONSULTATION.—

(A) IN GENERAL.—Before taking any significant action, the Secretary shall consult with, and consider the information, advice, and recommendations of, a committee established under this chapter or to which this chapter applies if the function of the committee is to advise the Secretary on matters related to the significant action.

(B) INCLUSION.—For purposes of this paragraph, regulations proposed under chapter 45 of this title are significant actions.

(2) ADVICE, REPORTS, AND RECOMMENDATIONS.—Each committee established under this chapter or to which this chapter applies shall submit, in writing, to the Secretary its advice, reports, and recommendations, in a form and at a frequency determined appropriate by the committee.

(3) EXPLANATION OF ACTIONS TAKEN.—Not later than 60 days after the date on which the Secretary receives recommendations from a committee under paragraph (2), the Secretary shall—

(A) publish the recommendations on a website accessible at no charge to the public;

(B) if the recommendations are from the committee established under section 15102, establish a mechanism for the submission of public comments on the recommendations;

(C) respond, in writing, to the committee regarding the recommendations, including by providing an explanation of actions taken regarding the recommendations; and

(D) make all responses required by subparagraph (C) which are related to recommendations made by the committee established under section 15102 available to the public not later than 30 days after the date of response.

(4) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the advice, reports, and recommendations received from committees under paragraph (2).

(B) ADDITIONAL SUBMISSION.—With respect to a committee established under section 70112 and to which this section applies, the Secretary shall submit the advice, reports, and recommendations received from the committee under paragraph (2) to the Committee on Homeland Security of the House of Representatives in addition to the committees specified in subparagraph (A).

(k) OBSERVERS.—

(1) IN GENERAL.—Any Federal agency with matters under such agency's administrative jurisdiction related to the function of a committee established under this chapter *or to which this chapter applies* may designate a representative to—

(A) attend any meeting of such committee; and

(B) participate as an observer at meetings of such committee that relate to such a matter.

(2) NATIONAL COMMERCIAL FISHING SAFETY ADVISORY COMMITTEE.—With respect to the committee established under section 15102, the Commandant of the Coast Guard shall designate a representative under paragraph (1).

(l) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide technical assistance to the Committee if requested by the Chairman.

(2) COMMITTEE CONSULTATION.—With respect to the committee established under section 15102, the Chairman of the committee shall seek expertise from the fishing industry, marine safety experts, the shipbuilding industry, and others as the committee determines appropriate.

(m) TERMINATION.—Each committee established under this chapter or to which this chapter applies shall terminate on September 30, 2029.

(n) SAVINGS CLAUSE.—Nothing in this section shall preclude the Secretary from taking emergency action to ensure safety and preservation of life at sea.

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SUBTITLE IV—REGULATION OF OCEAN SHIPPING

PART A—OCEAN SHIPPING

Chap.		Sec.
401.	General	40101
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PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

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	425. National Shipper Advisory Committee	42501
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PART A—OCEAN SHIPPING

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CHAPTER 401—GENERAL

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§ 40101. Purposes

The purposes of this part are to—

- (1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States [with a minimum of government intervention and regulatory costs];
- (2) ensure an efficient, competitive, and economical transportation system [in the ocean commerce of the United States] *for the common carriage of goods by water in the foreign commerce of the United States* ;
- (3) encourage the development of an economically sound and efficient liner fleet of vessels of the United States capable of meeting national security needs and supporting commerce; [and]
- (4) [promote] *support* the growth and development of United States exports through a competitive and efficient system for the carriage of goods by water in the foreign commerce of the United States[, and by placing a greater reliance on the marketplace.]; *and*
- (5) *promote reciprocal trade in the common carriage of goods by water in the foreign commerce of the United States.*

§ 40102. Definitions

In this part:

- (1) AGREEMENT.—The term “agreement”—
 - (A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but
 - (B) does not include a maritime labor agreement.
- (2) ANTITRUST LAWS.—The term “antitrust laws” means—
 - (A) the Sherman Act (15 U.S.C. 1 et seq.);
 - (B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

- (C) the Clayton Act (15 U.S.C. 12 et seq.);
 - (D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);
 - (E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);
 - (F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and
 - (G) Acts supplementary to those Acts.
- (3) **ASSESSMENT AGREEMENT.**—The term “assessment agreement” means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.
- (4) **BULK CARGO.**—The term “bulk cargo” means cargo that is loaded and carried in bulk without mark or count.
- (5) **CERTAIN COVERED SERVICES.**—For purposes of sections 41105 and 41307, the term “certain covered services” means, with respect to a vessel—
- (A) the berthing or bunkering of the vessel;
 - (B) the loading or unloading of cargo to or from the vessel to or from a point on a wharf or terminal;
 - (C) the positioning, removal, or replacement of buoys related to the movement of the vessel; and
 - (D) with respect to injunctive relief under section 41307, towing vessel services provided to such a vessel.
- (6) **CHEMICAL PARCEL-TANKER.**—The term “chemical parcel-tanker” means a vessel that has—
- (A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—
 - (i) are a permanent part of the vessel; and
 - (ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and
 - (B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.
- (7) **COMMON CARRIER.**—The term “common carrier”—
- (A) means a person that—
 - (i) holds 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;
 - (ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and
 - (iii) uses, 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; but
 - (B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tank-

er, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

(i) if the 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.

(8) CONFERENCE.—The term “conference”—

(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

(9) CONTROLLED CARRIER.—The term “controlled carrier” [means an ocean common carrier] *means—*

(A) *an ocean common carrier* that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

[(A)] (i) a majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

[(B)] (ii) 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[.]; or

(B) *such a carrier that is owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—*

(i) *identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;*

(ii) *identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or*

(iii) *subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).*

(10) DEFERRED REBATE.—The term “deferred rebate” means a return by a common carrier of any freight money to a shipper, where the return is—

(A) consideration for the shipper giving all or any portion of its shipments to that or any other common carrier over a fixed period of time;

(B) deferred beyond the completion of the service for which it was paid; and

(C) made only if the shipper has agreed to make a further shipment with that or any other common carrier.

(11) **FOREST PRODUCTS.**—The term “forest products” includes 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, and paper and paper board in rolls or in pallet or skid-sized sheets.

(12) **INLAND DIVISION.**—The term “inland division” means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

(13) **INLAND PORTION.**—The term “inland portion” means the charge to the public by a common carrier for the non-ocean portion of through transportation.

(14) **LOYALTY CONTRACT.**—The term “loyalty contract” means a contract with an ocean common carrier or agreement providing for—

(A) a shipper to obtain lower rates by committing all or a fixed portion of its cargo to that carrier or agreement; and

(B) a deferred rebate arrangement.

(15) **MARINE TERMINAL OPERATOR.**—The term “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.

(16) **MARITIME LABOR AGREEMENT.**—The term “maritime labor agreement”—

(A) means—

(i) a collective bargaining agreement between an employer subject to this part, or a group of such employers, and a labor organization representing employees in the maritime or stevedoring industry;

(ii) an agreement preparatory to such a collective bargaining agreement among members of a multi-employer bargaining group; or

(iii) an agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group; but

(B) does not include an assessment agreement.

(17) **NON-VESSEL-OPERATING COMMON CARRIER.**—The term “non-vessel-operating common carrier” means a common carrier that—

(A) does not operate the vessels by which the ocean transportation is provided; and

(B) is a shipper in its relationship with an ocean common carrier.

(18) **OCEAN COMMON CARRIER.**—The term “ocean common carrier” means a vessel-operating common carrier.

(19) **OCEAN FREIGHT FORWARDER.**—The term “ocean freight forwarder” means a person that—

(A) in the United States, dispatches shipments from the United States via a common carrier and books or other-

wise arranges space for those shipments on behalf of shippers; and

(B) processes the documentation or performs related activities incident to those shipments.

(20) OCEAN TRANSPORTATION INTERMEDIARY.—The term “ocean transportation intermediary” means an ocean freight forwarder or a non-vessel-operating common carrier.

(21) SERVICE CONTRACT.—The term “service contract” means a written contract, other than a bill of lading or receipt, between one or more shippers, on the one hand, and an individual ocean common carrier or an agreement between or among ocean common carriers, on the other, in which—

(A) the shipper or shippers commit to providing a certain volume or portion of cargo over a fixed time period; and

(B) the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features.

(22) SHIPMENT.—The term “shipment” means all of the cargo carried under the terms of a single bill of lading.

(23) SHIPPER.—The term “shipper” means—

(A) a cargo owner;

(B) the person for whose account the ocean transportation of cargo is provided;

(C) the person to whom delivery is to be made;

(D) a shippers’ association; or

(E) a non-vessel-operating common carrier that accepts responsibility for payment of all charges applicable under the tariff or service contract.

(24) SHIPPERS’ ASSOCIATION.—The term “shippers’ association” means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group to obtain carload, truckload, or other volume rates or service contracts.

(25) THROUGH RATE.—The term “through rate” means the single amount charged by a common carrier in connection with through transportation.

(26) THROUGH TRANSPORTATION.—The term “through transportation” means continuous transportation between origin and destination 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 port or point and a foreign port or point.

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CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS

Sec.

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40505. *Complaints against shipping exchanges.*

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§ 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] EXEMPTION AND INVESTIGATION.**—The Commission **[may exempt] may**—

(1) *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~~].~~; and

(2) *investigate complaints submitted under section 40505.*

(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.

§ 40505. Complaints against shipping exchanges

(a) **IN GENERAL.**—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning alleged incidents of market manipulation or other anticompetitive practices by shipping exchanges registered under section 40504.

(b) **INVESTIGATION.**—Upon receipt of a submission of information under subsection (a), the Commission shall promptly investigate the accuracy of such information.

(c) **REPORT TO CONGRESS.**—The Commission shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the results of any investigation in which the Commission finds incidents of market manipulation or anticompetitive practices by shipping exchanges registered under section 40504.

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CHAPTER 407—CONTROLLED CARRIERS

Sec.

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[40706. Exceptions.]						
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[§ 40706. Exceptions

[This chapter does not apply to—

[(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

[(2) a trade served only by controlled carriers.]

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CHAPTER 411—PROHIBITIONS AND PENALTIES

Sec.

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[41107. Monetary penalties.]						
41107. <i>Monetary penalties or refunds.</i>						
*	*	*	*	*	*	*

§ 41110. Data collection

[The Federal Maritime Commission] (a) *QUARTERLY REPORT.*—*The Federal Maritime Commission* shall publish on its website a calendar quarterly report that describes the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel (making port in the United States, including any territory or possession of the United States) operated by each ocean common carrier covered under this chapter. Ocean common carriers under this chapter shall provide to the Commission all necessary information, as determined by the Commission, for completion of this report.

(b) *LIMITATION ON DUPLICATION.*—*Unless the data described in paragraphs (1) and (2) is not available in a timely manner or in a form that allows the Commission to meet the requirements of subsection (a), data required to be reported under subsection (a) may not duplicate information—*

(1) *submitted to the Corps of Engineers pursuant to section 11 of the Act entitled “An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved September 22, 1922 (33 U.S.C. 555), by an ocean common carrier acting as a vessel operator;*

(2) *submitted pursuant to section 481 of the Tariff Act of 1930 (19 U.S.C. 1481) to U.S. Customs and Border Protection by merchandise importers; or*

(3) *submitted to the Department of Commerce pursuant to section 301 of title 13.*

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CHAPTER 413—ENFORCEMENT

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§ 41302. Investigations

(a) **IN GENERAL.**—The Federal Maritime Commission, on complaint or its own motion, may investigate any **conduct agreement** *conduct, agreement*, fee, or charge that the Commission believes may be in violation of this part. The Commission may by order disapprove, cancel, or modify any agreement that operates in violation of this part.

(b) **EFFECTIVENESS OF AGREEMENT, FEE, OR CHARGE DURING INVESTIGATION.**—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement, fee, or charge under investigation by the Commission remains in effect until the Commission issues its order.

(c) **DATE FOR DECISION.**—Within 10 days after the initiation of a proceeding under this section or section 41301 of this title, the Commission shall set a date by which it will issue its final decision. The Commission by order may extend the date for good cause.

(d) **SANCTIONS FOR DELAY.**—If, within the period for final decision under subsection (c), the Commission determines that it is unable to issue a final decision because of undue delay caused by a party to the proceeding, the Commission may impose sanctions, including issuing a decision adverse to the delaying party.

(e) **REPORT.**—The Commission shall make a written report of every investigation under this part in which a hearing was held, stating its conclusions, decisions, findings of fact, and order. The Commission shall provide a copy of the report to all parties and publish the report for public information. A published report is competent evidence in a court of the United States.

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§ 41305. Award of reparations

(a) **DEFINITION.**—In this section, the term “actual injury” includes the loss of interest at commercial rates compounded from the date of injury.

(b) **BASIC AMOUNT.**—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part.

(c) **ADDITIONAL AMOUNTS.**—On a showing that the injury was caused by an activity prohibited by **section subsection** *subsection* (b) or (c) of section 41102, paragraph (3) or (6) of section 41104(a), or paragraph (1) or (3) of section 41105, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

(d) **DIFFERENCE BETWEEN RATES.**—If the injury was caused by an activity prohibited by subparagraph (A) or (B) of section 41104(a)(4), the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

(e) ATTORNEY FEES.—In any action brought under section 41301, the prevailing party may be awarded reasonable attorney fees.

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PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

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CHAPTER 425 NATIONAL PORT ADVISORY COMMITTEE— [NATIONAL SHIPPER ADVISORY COMMITTEE] NA- TIONAL PORT ADVISORY COMMITTEE

[Sec.

42501. Definitions.

42502. National Shipper Advisory Committee.

42503. Administration.]

Sec.

42501. Definitions.

42502. National Shipper Advisory Committee.

42503. National Port Advisory Committee.

42504. National Ocean Carrier Advisory Committee.

42505. Function.

42506. Administration.

§ 42501. Definitions

In this chapter:

(1) COMMISSION.—The term “Commission” means the Federal Maritime Commission.

[(2) COMMITTEE.—The term “Committee” means the National Shipper Advisory Committee established under section 42502.]

(2) COVERED COMMITTEE.—The term “covered Committee” means—

(A) the National Shipper Advisory Committee established under section 42502;

(B) the National Seaport Advisory Committee established under section 42503; and

(C) the National Ocean Carrier Advisory Committee established under section 52504.

§ 42502. National Shipper Advisory Committee

(a) ESTABLISHMENT.—There is established a National Shipper Advisory [Committee.] Committee (in this section referred to as the “Shipper Committee”).

[(b) FUNCTION.—The Committee shall advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.]

[(c)] (b) MEMBERSHIP.—

(1) IN GENERAL.—The [Committee] Shipper Committee shall consist of 24 members appointed by the Commission in accordance with this section.

(2) EXPERTISE.—Each member of the [Committee] Shipper Committee shall have particular expertise, knowledge, and ex-

perience in matters relating to the function of the **[Committee]** *Shipper Committee*.

[(3) REPRESENTATION.—Members of the Committee shall be appointed as follows: — **]**

[(A) Twelve members]

(3) *REPRESENTATION.—Members of the Shipper Committee shall be appointed as follows:*

(A) *Twelve members* shall represent entities who import cargo to the United States using ocean common carriers.

(B) *Twelve members* shall represent entities who export cargo from the United States using ocean common carriers.

§ 42503. National Port Advisory Committee

(a) *ESTABLISHMENT.—There is established a National Port Advisory Committee (in this section referred to as the “Port Committee”).*

(b) *MEMBERSHIP.—*

(1) *IN GENERAL.—The Port Committee shall consist of 13 members appointed by the Commission in accordance with this section.*

(2) *EXPERTISE.—Each member of the Port Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Port Committee.*

(3) *REPRESENTATION.—Members of the Port Committee shall be appointed as follows:*

(A) *5 members* shall represent marine terminal operators, as defined in section 40102.

(B) *5 members* shall represent port authorities.

(C) *3 members* shall represent longshore and maritime labor.

§ 42504. National Ocean Carrier Advisory Committee

(a) *ESTABLISHMENT.—There is established a National Ocean Carrier Advisory Committee (in this section referred to as the Carrier Committee’).*

(b) *MEMBERSHIP.—*

(1) *IN GENERAL.—The Carrier Committee shall consist of 9 members appointed by the Commission in accordance with this section.*

(2) *EXPERTISE.—Each member of the Carrier Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.*

(3) *REPRESENTATION.—Members of the Carrier Committee shall represent ocean carriers serving such seaports and terminals, of which at least three shall be ocean transportation intermediaries (as such term is defined in section 40102).’*

§ 42505. Function

The covered Committees shall advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, and efficiency of the international ocean freight delivery system.

§ [42503.] 42506. Administration

(a) *MEETINGS.— [The Committee] Each covered Committee shall, not less than once each year, meet at the call of the Commission*

or a majority of the members of [the Committee] *each such Committee* .

(b) **EMPLOYEE STATUS.**—A member of [the Committee] *a covered Committee* shall not be considered an employee of the Federal Government by reason of service on such Committee, except for the purposes of the following:

(1) Chapter 81 of title 5.

(2) Chapter 171 of title 28 and any other Federal law relating to tort liability.

(c) **VOLUNTEER SERVICES AND COMPENSATION.**—

(1) Notwithstanding any other provision of law, a member of [the Committee] *a covered Committee* may serve on such committee on a voluntary basis without pay.

(2) No member of [the Committee] *a covered Committee* shall receive compensation for service on [the Committee] *a covered Committee* .

(d) **STATUS OF MEMBERS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), with respect to a member of [the Committee] *a covered Committee* whom the Commission appoints to represent an entity or group—

(A) the member is authorized to represent the interests of the applicable entity or group; and

(B) requirements under Federal law that would interfere with such representation and that apply to a special Government employee (as defined in section 202(a) of title 18), including requirements relating to employee conduct, political activities, ethics, conflicts of interest, and corruption, do not apply to the member.

(2) **EXCEPTION.**—Notwithstanding subsection (b), a member of [the Committee] *a covered Committee* shall be treated as a special Government employee for purposes of the committee service of the member if the member, without regard to service on [the Committee] *a covered Committee*, is a special Government employee.

(e) **SERVICE ON COMMITTEE.**—

(1) **SOLICITATION OF NOMINATIONS.**—Before appointing an individual as a member of [the Committee] *a covered Committee*, the Commission shall publish a timely notice in the Federal Register soliciting nominations for membership on such Committee.

(2) **APPOINTMENTS.**—

(A) **IN GENERAL.**—After considering nominations received pursuant to a notice published under paragraph (1), the Commission may appoint a member to [the Committee] *a covered Committee* .

(B) **PROHIBITION.**—The Commission shall not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to [the Committee] *a covered Committee*.

(3) **SERVICE AT PLEASURE OF COMMISSION.**—Each member of [the Committee] *a covered Committee* shall serve at the pleasure of the Commission.

(4) **SECURITY BACKGROUND EXAMINATIONS.**—The Commission may require an individual to have passed an appropriate secu-

riety background examination before appointment to [the Committee] *a covered Committee* .

(5) PROHIBITION.—A Federal employee may not be appointed as a member of [the Committee] *a covered Committee* .

(6) TERMS.—

(A) IN GENERAL.—The term of each member of [the Committee] *a covered Committee* shall expire on December 31 of the third full year after the effective date of the appointment.

(B) CONTINUED SERVICE AFTER TERM.—When the term of a member of [the Committee] *a covered Committee* ends, the member, for a period not to exceed 1 year, may continue to serve as a member until a successor is appointed.

(7) VACANCIES.—A vacancy on [the Committee] *a covered Committee* shall be filled in the same manner as the original appointment.

(8) SPECIAL RULE FOR REAPPOINTMENTS.—Notwithstanding paragraphs (1) and (2), the Commission may reappoint a member of a committee for any term, other than the first term of the member, without soliciting, receiving, or considering nominations for such appointment.

(f) STAFF SERVICES.—The Commission shall furnish to [the Committee] *a covered Committee* any staff and services considered by the Commission to be necessary for the conduct of the Committee's functions.

(g) CHAIR; VICE CHAIR.—

(1) IN GENERAL.—[The Committee] *Each covered Committee* shall elect a Chair and Vice Chair from among the committee's members.

(2) VICE CHAIRMAN ACTING AS CHAIRMAN.—The Vice Chair shall act as Chair in the absence or incapacity of, or in the event of a vacancy in the office of, the Chair.

(h) SUBCOMMITTEES AND WORKING GROUPS.—

(1) IN GENERAL.—The [Chair of the Committee] *Chair of each covered Committee* may establish and disestablish subcommittees and working groups for any purpose consistent with the [function of the Committee] *function of the applicable Committee* .

(2) PARTICIPANTS.—Subject to conditions imposed by the Chair, members of [the Committee] *each covered Committee* may be assigned to subcommittees and working groups established under paragraph (1).

(i) CONSULTATION, ADVICE, REPORTS, AND RECOMMENDATIONS.—

(1) CONSULTATION.—Before taking any significant action, the Commission shall consult with, and consider the information, advice, and recommendations of, [the Committee if the function of the Committee] *any relevant covered Committee if the function of such Committee* is to advise the Commission on matters related to the significant action.

(2) ADVICE, REPORTS, AND RECOMMENDATIONS.—[The Committee] *Each covered Committee* shall submit, in writing, to the Commission its advice, reports, and recommendations, in a form and at a frequency determined appropriate by [the Committee] *each such Committee* .

(3) EXPLANATION OF ACTIONS TAKEN.—Not later than 60 days after the date on which the Commission receives recommendations ~~from the Committee~~ *from a covered Committee* under paragraph (2), the Commission shall—

(A) publish the recommendations on a public website; and

(B) respond, in writing, ~~to the Committee~~ *to the submitting Committee* regarding the recommendations, including by providing an explanation of actions taken regarding the recommendations.

(4) SUBMISSION TO CONGRESS.—The Commission shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the advice, reports, and recommendations received ~~from the Committee~~ *from a covered Committee* under paragraph (2).

(j) OBSERVERS.—The Commission may designate a representative to—

(1) attend any meeting of ~~the Committee~~ *a covered Committee*; and

(2) participate as an observer at such meeting.

(k) TERMINATION.—The Committee shall terminate on September 30, 2029.

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PART D—FEDERAL MARITIME COMMISSION

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CHAPTER 461—FEDERAL MARITIME COMMISSION

Sec.

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[46106. Annual report.]

46106. Annual report and public disclosure.

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§ 46106. Annual report and public disclosure

(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

(2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;

(3) any actions being taken by the Commission to offset those conditions;

(4) any recommendations for additional legislation to offset those conditions;

(5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection;

(6) an analysis of the impacts on competition for the purchase of certain covered services by alliances of ocean common carriers acting pursuant to an agreement **under this part under chapter 403** between or among ocean common carriers, including a summary of actions, including corrective actions, taken by the Commission to promote such competition; **and**

(7) an identification of any *anticompetitive, nonreciprocal trade*, or otherwise concerning practices by **ocean common carriers**, particularly such carriers that are controlled carriers, that are— **controlled carriers or marine terminal operators**;

(A) State-owned or State-controlled enterprises; or

(B) owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—

(i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;

(ii) identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or

(iii) subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416). **]**

(8) *an analysis of any trade imbalance resulting from the business practices of ocean common carriers, including an analysis of the data collected under section 41110; and*

(9) *the aggregated findings and results of the Vessel-Operating Common Carrier Audit Program established by the Commission on July 18, 2021, pursuant to the Commission rule interpreting section 41102(c).*

(c) **DEFINITION OF CERTAIN COVERED SERVICES.**—In this section, the term “certain covered services” has the meaning given the term in section 40102.

(d) **PUBLIC DISCLOSURES.**—The Federal Maritime Commission shall publish, and annually update, on the website of the Commission—

(1) all findings by the Commission of false detention and demurrage invoice information by common carriers under section 41104(a)(15) of this title; and

(2) all penalties imposed or assessed against common carriers, as applicable, under sections 41107, 41108, and 41109, listed by each common carrier *or marine terminal operator* .

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SUBTITLE V—MERCHANT MARINE

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PART A—GENERAL

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CHAPTER 503—ADMINISTRATIVE

Sec.

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50309. *Prohibited use.*

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§ 50309. *Prohibited use*

(a) *IN GENERAL.*—A covered entity shall not utilize covered logistics software.

(b) *GUIDANCE.*—The Secretary of Transportation shall publish on the website of the Department of Transportation, and update regularly, a list of prohibited logistics information technologies provided by the People’s Republic of China or Chinese state-affiliated entities.

(c) *CONSULTATION.*—The Secretary shall consult with the United States-China Economic and Security Review Commission established under section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) in carrying out this section.

(d) *REVIEW.*—In preparing the guidance under subsection (b), the Secretary shall review the list of Chinese state-affiliated entities included in—

(1) the list of Communist Chinese military companies released by the Department of Defense in accordance with section 1260H of the National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note); and

(2) the most recent “Non-SDN Chinese Military-Industrial Complex Companies List” published by the Secretary of the Treasury pursuant to Executive Order 14032 of June 3, 2021 (86 Fed. Reg. 30145; relating to Addressing the Threat From Securities Investments That Finance Certain Companies of the People’s Republic of China).

(e) *DEFINITIONS.*—In this section:

(1) *COVERED LOGISTICS SOFTWARE.*—The term “covered logistics software” means—

(A) the public, open, shared logistics information network known as the “National Public Information Platform for Transportation & Logistics” by the Ministry of Transport of China or any affiliate or successor entity;

(B) any other transportation logistics software designed to be used by covered entities subject to the jurisdiction, ownership, direction, or control of a foreign adversary; or

(C) any other logistics platform or software that shares data with a system described in paragraphs (a) or (b).

(2) *COVERED ENTITY.*—The term “covered entity” means an entity that receives funding after the date of enactment of this section under—

(A) the port infrastructure development program under subsections (a) and (b) of section 54301; or

*(B) the maritime transportation system emergency relief
program under section 50308.*

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