

Sec.	
42302.	Investigations.
42303.	Information requests.
42304.	Action against foreign carriers.
42305.	Refusal of clearance and entry.
42306.	Submission of determinations to President.
42307.	Review of regulations and orders.

§ 42301. Definitions

(a) DEFINED IN PART A.—In this chapter, the terms “common carrier”, “marine terminal operator”, “ocean common carrier”, “ocean transportation intermediary”, “shipper”, and “shippers’ association” have the meaning given those terms in section 40102 of this title.

(b) OTHER DEFINITIONS.—In this chapter:

(1) FOREIGN CARRIER.—The term “foreign carrier” means an ocean common carrier a majority of whose vessels are documented under the laws of a foreign country.

(2) MARITIME SERVICES.—The term “maritime services” means port-to-port transportation of cargo by vessels operated by an ocean common carrier.

(3) MARITIME-RELATED SERVICES.—The term “maritime-related services” means intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others.

(4) UNITED STATES CARRIER.—The term “United States carrier” means an ocean common carrier operating vessels documented under the laws of the United States.

(5) UNITED STATES OCEANBORNE TRADE.—The term “United States oceanborne trade” means the carriage of cargo between the United States and a foreign country, whether directly or indirectly, by an ocean common carrier.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1551.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42301	46 App.:1710a(a).	Pub. L. 100-418, title X, §10002(a), Aug. 23, 1988, 102 Stat. 1570; Pub. L. 105-258, title I, §111(1)-(3), Oct. 14, 1998, 112 Stat. 1911.

§ 42302. Investigations

(a) IN GENERAL.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of a foreign government, or any practices of a foreign carrier or other person providing maritime or maritime-related services in a foreign country, result in the existence of conditions that—

(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

(b) INITIATION OF INVESTIGATION.—An investigation under subsection (a) may be initiated

by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

(c) TIME FOR DECISION.—The Commission shall complete an investigation under this section and render a decision within 120 days after it is initiated. However, the Commission may extend this 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (a) exists. A notice providing an extension shall state clearly the reasons for the extension.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1552.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42302(a)	46 App.:1710a(b).	Pub. L. 100-418, title X, §10002(b), (c), Aug. 23, 1988, 102 Stat. 1570; Pub. L. 105-258, title I, §111(4), Oct. 14, 1998, 112 Stat. 1911.
42302(b)	46 App.:1710a(c)(1).	
42302(c)	46 App.:1710a(c)(2).	

In subsection (b), the words “including another component of the United States Government” are substituted for “including any common carrier, shipper, shippers’ association, ocean transportation intermediary, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States” for consistency with section 42101(b) of the revised title and to eliminate unnecessary words.

§ 42303. Information requests

(a) IN GENERAL.—To further the purposes of section 42302(a) of this title, the Federal Maritime Commission may order any person (including a common carrier, shipper, shippers’ association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

(b) SUBPOENAS.—In an investigation under section 42302 of this title, the Commission may subpoena witnesses and evidence.

(c) NONDISCLOSURE.—Notwithstanding any other provision of law, the Commission may determine that any information submitted to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1552.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42303	46 App.:1710a(d)	Pub. L. 100-418, title X, §10002(d), Aug. 23, 1988, 102 Stat. 1571; Pub. L. 105-258, title I, §111(4), Oct. 14, 1998, 112 Stat. 1911.

In subsection (b), the words “subpoena witnesses and evidence” are substituted for “issue subpoenas to compel the attendance and testimony of witnesses and the

production of records or other evidence” for consistency in the revised title and to eliminate unnecessary words.

In subsection (c), the words “in its discretion” are omitted as unnecessary.

§ 42304. Action against foreign carriers

(a) IN GENERAL.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier’s right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

(3) suspension, in whole or in part, of an ocean common carrier’s right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers; and

(4) a fee not to exceed \$1,000,000 per voyage.

(b) CONSULTATION.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1553.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 42304(a) and 42304(b).

In subsection (a), the words “Subject to section 42306 of this title” are added to alert the reader to the application of that section.

§ 42305. Refusal of clearance and entry

Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title; and

(2) the Secretary of the department in which the Coast Guard is operating shall—

(A) deny entry, for purposes of oceanborne trade, of a vessel of a foreign carrier that is

identified by the Commission under section 42304 of this title, to a port or place in the United States or the navigable waters of the United States; or

(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1553.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 42305.

Before paragraph (1), the words “Subject to section 42306 of this title” are added to alert the reader to the application of that section. The word “determines” is substituted for “finds” for consistency with section 42306 of the revised title.

In paragraph (1), the words “Secretary of Homeland Security” are substituted for “collector of customs at any port or place of destination in the United States” because the functions of the Customs Service and of the Secretary of the Treasury relating thereto were transferred to the Secretary of Homeland Security by section 403(1) of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2178). The functions of the collector of customs previously were vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950, and the office of collector of customs previously was abolished by Reorganization Plan No. 1 of 1965.

§ 42306. Submission of determinations to President

Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1553.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 42306.

§ 42307. Review of regulations and orders

A regulation or final order of the Federal Maritime Commission under this chapter is reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1554.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 42307.