

The Antitrust Civil Process Act, referred to in par. (2)(F), is Pub. L. 87-664, Sept. 19, 1962, 76 Stat. 548, which is classified principally to chapter 34 (§1311 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables.

AMENDMENTS

2018—Pars. (5) to (26). Pub. L. 115-282 added par. (5) and redesignated former pars. (5) to (25) as (6) to (26), respectively.

AGREEMENTS UNAFFECTED

Pub. L. 115-282, title VII, §714, Dec. 4, 2018, 132 Stat. 4299, provided that: “Nothing in this Act [probably should be “this title”], enacting section 41105A of this title, amending sections 303, 306, 308, 40102, 40104, 40304, 40307, 40901, 40902, 41104, 41105, and 41307 of this title, and enacting provisions set out as notes under sections 305, 40304, 41104, and 41307 of this title] may be construed—

“(1) to limit or amend the definition of ‘agreement’ in section 40102(1) of title 46, United States Code, with respect to the exclusion of maritime labor agreements; or

“(2) to apply to a maritime labor agreement (as defined in section 40102(15) of that title).”

§ 40103. Administrative exemptions

(a) IN GENERAL.—The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.

(b) OPPORTUNITY FOR HEARING.—An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1527.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 40103, 46 App.:1715, Pub. L. 98-237, §16, Mar. 20, 1984, 98 Stat. 84; Pub. L. 105-258, title I, §114, Oct. 14, 1998, 112 Stat. 1912.

§ 40104. Reports filed with the Commission

(a) REPORTS.—

(1) IN GENERAL.—The Federal Maritime Commission may require a common carrier or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee of the common carrier or marine terminal operator to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the common carrier or marine terminal operator, as applicable.

(2) REQUIREMENTS.—Any report, account, record, rate, charge, or memorandum required to be filed under paragraph (1) shall—

(A) be made under oath if the Commission requires; and

(B) be filed in the form and within the time prescribed by the Commission.

(3) LIMITATION.—The Commission shall—

(A) limit the scope of any filing ordered under this section to fulfill the objective of the order; and

(B) provide a reasonable period of time for respondents to respond based upon their capabilities and the scope of the order.

(b) CONFERENCE MINUTES.—Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1527; Pub. L. 115-282, title VII, §705, Dec. 4, 2018, 132 Stat. 4294.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 40104, 46 App.:1714, Pub. L. 98-237, §15, Mar. 20, 1984, 98 Stat. 84; Pub. L. 98-595, §3(b)(3), Oct. 30, 1984, 98 Stat. 3133; Pub. L. 105-258, title I, §113, Oct. 14, 1998, 112 Stat. 1912.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-282 amended subsec. (a) generally. Prior to amendment, text read as follows: “The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.”

CHAPTER 403—AGREEMENTS

- Sec. 40301. Application.
40302. Filing requirements.
40303. Content requirements.
40304. Commission action.
40305. Assessment agreements.
40306. Nondisclosure of information.
40307. Exemption from antitrust laws.

§ 40301. Application

(a) OCEAN COMMON CARRIER AGREEMENTS.—This part applies to an agreement between or among ocean common carriers to—

(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

(2) pool or apportion traffic, revenues, earnings, or losses;

(3) allot ports or regulate the number and character of voyages between ports;

(4) regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in an exclusive, preferential, or cooperative working arrangement between themselves or with a marine terminal operator;

(6) control, regulate, or prevent competition in international ocean transportation; or

(7) discuss and agree on any matter related to a service contract.

(b) MARINE TERMINAL OPERATOR AGREEMENTS.—This part applies to an agreement be-

tween or among marine terminal operators, or between or among one or more marine terminal operators and one or more ocean common carriers, to—

(1) discuss, fix, or regulate rates or other conditions of service; or

(2) engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States.

(c) ACQUISITIONS.—This part does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

(d) MARITIME LABOR AGREEMENTS.—This part does not apply to a maritime labor agreement. However, this subsection does not exempt from this part any rate, charge, regulation, or practice of a common carrier that is required to be set forth in a tariff or is an essential term of a service contract, whether or not the rate, charge, regulation, or practice arises out of, or is otherwise related to, a maritime labor agreement.

(e) ASSESSMENT AGREEMENTS.—This part (except sections 40305 and 40307(a)) does not apply to an assessment agreement.

(Pub. L. 109-304, § 7, Oct. 6, 2006, 120 Stat. 1528.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40301(a)	46 App.:1703(a).	Pub. L. 98-237, §4, Mar. 20, 1984, 98 Stat. 70; Pub. L. 105-258, title I, §103, Oct. 14, 1998, 112 Stat. 1904.
40301(b)	46 App.:1703(b).	Pub. L. 98-237, §5(e) (last sentence), (f), Mar. 20, 1984, 98 Stat. 70; Pub. L. 104-88, title III, §335(c)(2), Dec. 29, 1995, 109 Stat. 954; Pub. L. 105-258, title I, §104(a)(2), (b), Oct. 14, 1998, 112 Stat. 1904, 1905.
40301(c)	46 App.:1703(c).	
40301(d)	46 App.:1704(f).	
40301(e)	46 App.:1704(e) (last sentence).	

§ 40302. Filing requirements

(a) IN GENERAL.—A true copy of every agreement referred to in section 40301(a) or (b) of this title shall be filed with the Federal Maritime Commission. If the agreement is oral, a complete memorandum specifying in detail the substance of the agreement shall be filed.

(b) EXCEPTIONS.—Subsection (a) does not apply to—

(1) an agreement related to transportation to be performed within or between foreign countries; or

(2) an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States.

(c) REGULATIONS.—The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and any additional information and documents necessary to evaluate the agreement.

(Pub. L. 109-304, § 7, Oct. 6, 2006, 120 Stat. 1528.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40302	46 App.:1704(a).	Pub. L. 98-237, §5(a), Mar. 20, 1984, 98 Stat. 70; Pub. L. 98-595, §3(b)(1), Oct. 30, 1984, 98 Stat. 3132.

§ 40303. Content requirements

(a) OCEAN COMMON CARRIER AGREEMENTS.—

(1) RESTRICTIONS.—An ocean common carrier agreement may not—

(A) prohibit or restrict a member of the agreement from engaging in negotiations for a service contract with a shipper;

(B) require a member of the agreement to disclose a negotiation on a service contract, or the terms of a service contract, other than those terms required to be published under section 40502(d) of this title; or

(C) adopt mandatory rules or requirements affecting the right of an agreement member to negotiate and enter into a service contract.

(2) VOLUNTARY GUIDELINES.—An ocean common carrier agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. Any guidelines adopted shall be submitted confidentially to the Federal Maritime Commission.

(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

(1) state its purpose;

(2) provide reasonable and equal terms for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

(3) permit any member to withdraw from conference membership on reasonable notice without penalty;

(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

(5) prohibit the conference from engaging in conduct prohibited by section 41105(1) or (3) of this title;

(6) provide for a consultation process designed to promote—

(A) commercial resolution of disputes; and

(B) cooperation with shippers in preventing and eliminating malpractices;

(7) establish procedures for promptly and fairly considering requests and complaints of shippers; and

(8) provide that—

(A) any member of the conference may take independent action on a rate or service item on not more than 5 days' notice to the conference; and

(B) except for an exempt commodity not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 days after receipt of the notice, and by any other member that notifies the conference that it elects to