

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.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1523; Pub. L. 115–282, title VII, §704, Dec. 4, 2018, 132 Stat. 4294.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40102(1)	46 App.:1702(1).	Pub. L. 98–237, §3, Mar. 20, 1984, 98 Stat. 67; Pub. L. 99–307, §11, May 19, 1986, 100 Stat. 447; Pub. L. 105–258, title I, §102, Oct. 14, 1998, 112 Stat. 1902; Pub. L. 105–383, title IV, §424(d), Nov. 13, 1998, 112 Stat. 3441.
40102(2)	46 App.:1702(2).	
40102(3)	46 App.:1702(3).	
40102(4)	46 App.:1702(4).	
40102(5)	46 App.:1702(6) (last sentence).	
40102(6)	46 App.:1702(6) (1st sentence).	
40102(7)	46 App.:1702(7).	
40102(8)	46 App.:1702(8).	
40102(9)	46 App.:1702(9).	
40102(10)	46 App.:1702(10).	
40102(11)	46 App.:1702(11).	
40102(12)	46 App.:1702(12).	
40102(13)	46 App.:1702(13).	
40102(14)	46 App.:1702(14).	
40102(15)	46 App.:1702(15).	
40102(16)	46 App.:1702(17)(B).	
40102(17)	46 App.:1702(16).	
40102(18)	46 App.:1702(17)(A).	
40102(19)	46 App.:1702(17) (1st sentence).	
40102(20)	46 App.:1702(19).	
40102(21)	46 App.:1702(20).	
40102(22)	46 App.:1702(21).	
40102(23)	46 App.:1702(22).	
40102(24)	46 App.:1702(23).	
40102(25)	46 App.:1702(24).	

In the definition of “service contract”, the words “The contract may also specify provisions in the event of nonperformance on the part of any party” are omitted as unnecessary and inappropriate for a definition.

In the definition of “shipper”, the words “non-vessel-operating common carrier” are substituted for “ocean transportation intermediary, as defined in paragraph (17)(B) of this section” because paragraph (17)(B) contains a definition of “non-vessel-operating common carrier” which is restated as a separate definition.

The definition of “Commission” is omitted because the full name of the Federal Maritime Commission is used the first time the Commission is referred to in each section. The definition of “person” is omitted as unnecessary because of 1 U.S.C. 1. The definition of “United States” is omitted because the term is defined in chapter 1 of the revised title for purposes of the title.

REFERENCES IN TEXT

The Sherman Act, referred to in par. (2)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, which is classified to

sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in par. (2)(C), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

Act of June 19, 1936, referred to in par. (2)(D), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Act, the Robinson-Patman Anti-discrimination Act, and the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in par. (2)(E), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.

Sec.

- 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 between 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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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).	