

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41301(b)	46 App.:1710(b) (1st sentence).	
41301(c)	46 App.:1710(b) (last sentence).	

In subsection (a), the words “If the complaint is filed within 3 years after the claim accrues” are substituted for “For any complaint filed within 3 years after the cause of action accrued” in 46 App. U.S.C. 1710(g) to alert the reader to that time limitation.

§ 41302. Investigations

(a) IN GENERAL.—The Federal Maritime Commission, on complaint or its own motion, may investigate any conduct or agreement 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 DURING INVESTIGATION.—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement 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.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1545.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41302(a)	46 App.:1710(c) (1st, 3d sentences).	Pub. L. 98-237, §11(c)-(f), Mar. 20, 1984, 98 Stat. 80.
41302(b)	46 App.:1710(c) (2d sentence).	
41302(c)	46 App.:1710(d).	
41302(d)	46 App.:1710(e).	
41302(e)	46 App.:1710(f).	

§ 41303. Discovery and subpoenas

(a) IN GENERAL.—In an investigation or adjudicatory proceeding under this part—

(1) the Federal Maritime Commission may subpoena witnesses and evidence; and

(2) a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform

to the Federal Rules of Civil Procedure (28 App. U.S.C.).

(b) WITNESS FEES.—Unless otherwise prohibited by law, a witness is entitled to the same fees and mileage as in the courts of the United States.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1545.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41303	46 App.:1711.	Pub. L. 98-237, §12, Mar. 20, 1984, 98 Stat. 81.

In subsection (a)(1), the words “may subpoena witnesses and evidence” are substituted for “may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence” to eliminate unnecessary words.

In subsection (a)(2), the words “shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.)” are substituted for “shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States” for clarity.

§ 41304. Hearings and orders

(a) OPPORTUNITY FOR HEARING.—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order relating to a violation of this part or a regulation prescribed under this part.

(b) MODIFICATION OF ORDER.—The Commission may reverse, suspend, or modify any of its orders.

(c) REHEARING.—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

(d) PERIOD OF EFFECTIVENESS.—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1546.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41304(a)	46 App.:1713(a) (1st sentence).	Pub. L. 98-237, §14(a), (b), Mar. 20, 1984, 98 Stat. 83.
41304(b)	46 App.:1713(b) (1st sentence 1st-12th words).	
41304(c)	46 App.:1713(b) (1st sentence 13th-last words, last sentence).	
41304(d)	46 App.:1713(a) (last sentence).	

In subsection (a), the words “upon sworn complaint or on its own motion” are omitted as unnecessary.

§ 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 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, 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 section 41104(4)(A) or (B) of this title, 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.

(Pub. L. 109–304, § 7, Oct. 6, 2006, 120 Stat. 1546; Pub. L. 113–281, title IV, § 402, Dec. 18, 2014, 128 Stat. 3056.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41305	46 App.:1710(g) (less time limit).	Pub. L. 98–237, §11(g) (less time limit), Mar. 20, 1984, 98 Stat. 80; Pub. L. 98–595, §3(b)(2), Oct. 30, 1984, 98 Stat. 3132; Pub. L. 105–258, title I, §110, Oct. 14, 1998, 112 Stat. 1911.

In subsection (b), the words “within the period specified in section 41301(a) of this title” are substituted for “within 3 years after the cause of action accrued” because the time limit is restated in section 41301(a) instead of in this section. The words “upon petition of the complainant” are omitted as unnecessary. The words “after notice and hearing” are omitted as unnecessary because of section 41304(a) of the revised title.

Editorial Notes

AMENDMENTS

2014—Subsec. (b). Pub. L. 113–281, §402(1), struck out “, plus reasonable attorney fees” before period at end.
 Subsec. (e). Pub. L. 113–281, §402(2), added subsec. (e).

§ 41306. Injunctive relief sought by complainants

(a) **IN GENERAL.**—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

(b) **VENUE.**—The action must be brought in the judicial district in which—

- (1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or
- (2) the defendant resides or transacts business, if the Commission has not brought such an action.

(c) **REMEDIES BY COURT.**—After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint.

(d) **ATTORNEY FEES.**—A defendant prevailing in a civil action under this section shall be allowed

reasonable attorney fees to be assessed and collected as part of the costs of the action.

(Pub. L. 109–304, § 7, Oct. 6, 2006, 120 Stat. 1546.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41306	46 App.:1710(h)(2).	Pub. L. 98–237, §11(h)(2), Mar. 20, 1984, 98 Stat. 81.

§ 41307. Injunctive relief sought by the Commission

(a) **GENERAL VIOLATIONS.**—In connection with an investigation under section 41301 or 41302 of this title, the Federal Maritime Commission may bring a civil action to enjoin conduct in violation of this part. The action must be brought in the district court of the United States for any judicial district in which the defendant resides or transacts business. After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation.

(b) **REDUCTION IN COMPETITION.**—

(1) **ACTION BY COMMISSION.**—If, at any time after the filing or effective date of an agreement under chapter 403 of this title, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost or to substantially lessen competition in the purchasing of certain covered services, the Commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement. The Commission’s sole remedy with respect to an agreement likely to have such an effect is an action under this subsection.

(2) **REMEDIES BY COURT.**—In an action under this subsection, the court may issue—

- (A) a temporary restraining order or a preliminary injunction; and
- (B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

(3) **BURDEN OF PROOF AND THIRD PARTIES.**—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

(4) **COMPETITION FACTORS.**—In making a determination under this subsection regarding whether an agreement is likely to substantially lessen competition in the purchasing of certain covered services, the Commission may consider any relevant competition factors in affected markets, including, without limitation, the competitive effect of agreements other than the agreement under review.

(c) **FAILURE TO PROVIDE INFORMATION.**—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for