

plete 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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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 adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

(c) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

(d) VESSEL SHARING AGREEMENTS.—

(1) IN GENERAL.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a liner vessel documented under section 12103 or 12111(c) of this title may agree with an ocean common carrier described in paragraph (2) to which it charters or subcharters the vessel or space on the vessel that the charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for vessels of the United States.

(2) CARRIER DESCRIBED.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of liner vessels of the United States that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1529.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40303(a)	46 App.:1704(c).	Pub. L. 98-237, §5(b)-(d), Mar. 20, 1984, 98 Stat. 70; Pub. L. 105-258, title I, §104(a), Oct. 14, 1998, 112 Stat. 1904.
40303(b)	46 App.:1704(b).	
40303(c)	46 App.:1704(d).	
40303(d)	46 App.:1704(g).	Pub. L. 98-237, §5(g), Mar. 20, 1984; as added Pub. L. 105-383, title IV, §424(a), Nov. 13, 1998, 112 Stat. 3440.

In subsection (c)(8), the word “calendar” is omitted as unnecessary.

In subsection (d), the words “vessel of the United States” are substituted for “United States-flag vessel” (and similar variations) for consistency in the revised title.

§ 40304. Commission action

(a) NOTICE OF FILING.—Not later than 7 days after the date an agreement is filed, the Federal Maritime Commission shall—

- (1) transmit a notice of the filing to the Federal Register for publication; and
- (2) request interested persons to submit relevant information and documents.

(b) PRELIMINARY REVIEW AND REJECTION.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

(c) REVIEW AND EFFECTIVE DATE.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

- (1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or
- (2) if additional information or documents are requested under subsection (d)—
 - (A) on the 45th day after the Commission receives all the additional information and documents; or
 - (B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

(d) REQUEST FOR ADDITIONAL INFORMATION.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this part.

(e) MODIFICATION OF REVIEW PERIOD.—

(1) SHORTENING.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

(2) EXTENSION.—The period specified in subsection (c)(2) may be extended only by the United States District Court for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

(f) FIXED TERMS.—The Commission may not limit the effectiveness of an agreement to a fixed term.

(Pub. L. 109–304, § 7, Oct. 6, 2006, 120 Stat. 1530; Pub. L. 115–282, title VII, § 706(a), (b), Dec. 4, 2018, 132 Stat. 4295.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40304(a)	46 App.:1705(a).	Pub. L. 98–237, §6(a)–(f), Mar. 20, 1984, 98 Stat. 72.
40304(b)	46 App.:1705(b).	
40304(c)	46 App.:1705(c) (1st sentence).	
40304(d)	46 App.:1705(d).	
40304(e)(1) ..	46 App.:1705(e).	
40304(e)(2) ..	46 App.:1705(c) (last sentence).	
40304(f)	46 App.:1705(f).	

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–282, §706(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.”

Subsec. (d). Pub. L. 115–282, §706(b), substituted “part” for “section”.

Statutory Notes and Related Subsidiaries

SAVING CLAUSE

Pub. L. 115–282, title VII, §706(c), Dec. 4, 2018, 132 Stat. 4295, provided that: “Nothing in this section [amending this section], or the amendments made by this section, may be construed—

- “(1) to prevent the Federal Maritime Commission from requesting from a person, at any time, any additional information or documents the Commission considers necessary to carry out chapter 403 of title 46, United States Code;
- “(2) to prescribe a specific deadline for the submission of relevant information and documents in response to a request under section 40304(a)(2) of title 46, United States Code; or
- “(3) to limit the authority of the Commission to request information under section 40304(d) of title 46, United States Code.”

§ 40305. Assessment agreements

(a) FILING REQUIREMENT.—An assessment agreement shall be filed with the Federal Maritime Commission and is effective on filing.

(b) COMPLAINTS.—If a complaint is filed with the Commission within 2 years after the date of an assessment agreement, the Commission shall disapprove, cancel, or modify the agreement, or an assessment or charge pursuant to the agreement, that the Commission finds, after notice and opportunity for a hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in the proceeding within one year after the date the complaint is filed.

(c) ADJUSTMENTS OF ASSESSMENTS AND CHARGES.—To the extent that the Commission finds under subsection (b) that an assessment or charge is unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall adjust the assessment or charge for the period between the filing of the complaint and the final decision by awarding prospective credits or debits to future assessments and charges. However, if the complainant has ceased activities subject to the assessment or charge, the Commission may award reparations.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1531.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40305	46 App.:1704(e) (less last sentence).	Pub. L. 98–237, §5(e) (less last sentence), Mar. 20, 1984, 98 Stat. 70; Pub. L. 105–258, title I, §104(a)(2), (b)(1), Oct. 14, 1998, 112 Stat. 1904, 1905.

§ 40306. Nondisclosure of information

Information and documents (other than an agreement) filed with the Federal Maritime Commission under this chapter are exempt from