

- (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).	
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

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