

§ 41310. Charge complaints

(a) **IN GENERAL.**—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning complaints about charges assessed by a common carrier. The information submitted to the Commission shall include the bill of lading numbers and invoices, and may include any other relevant information.

(b) **INVESTIGATION.**—Upon receipt of a submission under subsection (a), with respect to a charge assessed by a common carrier, the Commission shall promptly investigate the charge with regard to compliance with section 41104(a) and section 41102. The common carrier shall—

(1) be provided an opportunity to submit additional information related to the charge in question; and

(2) bear the burden of establishing the reasonableness of any demurrage or detention charges pursuant to section 545.5 of title 46, Code of Federal Regulations (or successor regulations).

(c) **REFUND.**—Upon receipt of submissions under subsection (a), if the Commission determines that a charge does not comply with section 41104(a) or 41102, the Commission shall promptly order the refund of charges paid.

(d) **PENALTIES.**—In the event of a finding that a charge does not comply with section 41104(a) or 41102 after submission under subsection (a), a civil penalty under section 41107 shall be applied to the common carrier making such charge.

(e) **CONSIDERATIONS.**—If the common carrier assessing the charge is acting in the capacity of a non-vessel-operating common carrier, the Commission shall, while conducting an investigation under subsection (b), consider—

(1) whether the non-vessel-operating common carrier is responsible for the noncompliant assessment of the charge, in whole or in part; and

(2) whether another party is ultimately responsible in whole or in part and potentially subject to action under subsections (c) and (d).

(Added Pub. L. 117-146, §10(a), June 16, 2022, 136 Stat. 1278.)

PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

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§ 42101. Regulations of the Commission

(a) **UNFAVORABLE CONDITIONS.**—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission

shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

(b) **INITIATION OF REGULATION.**—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1548.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42101(a)	46 App.:876(a)(2).	June 5, 1920, ch. 250, §19(a)(2), (e), 41 Stat. 995; Ex. Ord. No. 6166, §12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; Pub. L. 97-31, §12(46), Aug. 6, 1981, 95 Stat. 157; Pub. L. 101-595, title I, §103, Nov. 16, 1990, 104 Stat. 2979; Pub. L. 102-587, title VI, §6205(b), Nov. 4, 1992, 106 Stat. 5094; Pub. L. 105-258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.
	46 App.:1710a(h) (related to 876(a)(2)).	Pub. L. 100-418, title X, §10002(h) (related to §19(b)(1)(b)), Aug. 23, 1988, 102 Stat. 1572; Pub. L. 105-258, title I, §111(7), Oct. 14, 1998, 112 Stat. 1911.
42101(b)	46 App.:876(e).	

In subsection (a), the word “shall” is substituted for “is authorized and directed”, and the words “prescribe regulations” are substituted for “make rules and regulations”, for consistency in the revised title and to eliminate unnecessary words. The text of 46 App. U.S.C. 1710a(h), insofar as it relates to 46 App. U.S.C. 876(a)(2), is omitted as unnecessary because this chapter already provides for the same remedies as those authorized by the omitted provision.

In subsection (b), the words “on the petition of any person, including another component of the United States Government” are substituted for “pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers’ association, ocean transportation intermediary, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under subsection (a)(2) of this section.” for consistency with section 42302(b) of the revised title and to eliminate unnecessary words.

§ 42102. Regulations of other agencies

(a) **REQUEST TO AGENCY.**—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations

relating to the Public Health Service, the Consular Service, or the inspection of vessels.

(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1549.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42102(a)	46 App.:876(a)(3).	June 5, 1920, ch. 250, §19(a)(3), (b), (c), 41 Stat. 995; Ex. Ord. No. 6166, §12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; Pub. L. 97–31, §12(46), Aug. 6, 1981, 95 Stat. 157; Pub. L. 105–258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.
42102(b)	46 App.:876(b).	
42102(c)	46 App.:876(c).	

In this section, the words “department, agency, or instrumentality” are substituted for “department, board, bureau, or agency” for consistency in the revised title. The words “the inspection of vessels” are substituted for “the steamboat inspection service” because the Steamboat Inspection Service has been abolished and its functions are now carried out by the Coast Guard.

In subsection (a), the word “shall” is substituted for “is authorized and directed” for consistency in the revised title and to eliminate unnecessary words.

§ 42103. No preference to Government-owned vessels

A regulation may not give a vessel owned by the United States Government a preference over a vessel owned by citizens of the United States and documented under the laws of the United States.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1549.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42103	46 App.:876(d).	June 5, 1920, ch. 250, §19(d), 41 Stat. 995; Ex. Ord. No. 6166, §12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; Pub. L. 105–258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.

§ 42104. Information, witnesses, and evidence

(a) ORDER TO SUPPLY INFORMATION.—In carrying out section 42101 of this title, the Federal Maritime Commission may order any person (including a common carrier, tramp operator, bulk

operator, shipper, shippers’ association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

(b) SUBPOENAS AND DISCOVERY.—In carrying out section 42101 of this title, the Commission may—

- (1) subpoena witnesses and evidence; and
- (2) authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

(c) WITNESS FEES.—Unless otherwise prohibited by law, and subject to funds being appropriated, a witness in a proceeding under section 42101 of this title is entitled to the same fees and mileage as in the courts of the United States.

(d) PENALTIES.—For failure to supply information ordered to be produced or compelled by subpoena under this section, the Commission may—

- (1) after notice and opportunity for a hearing, suspend tariffs and service contracts of a common carrier or the common carrier’s right to use tariffs of conferences and service contracts of agreements of which it is a member; or
- (2) assess a civil penalty of not more than \$5,000 for each day that the information is not provided.

(e) ENFORCEMENT.—If a person does not comply with an order or subpoena of the Commission under this section, the Commission may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the order or subpoena was regularly made and duly issued, the court shall enforce the order or subpoena.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1549.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42104(a)	46 App.:876(f)(1)–(3).	June 5, 1920, ch. 250, §19(f), (g); as added Pub. L. 101–595, title I, §103(2), Nov. 16, 1990, 104 Stat. 2979; Pub. L. 102–587, title VI, §6205(b)(2), Nov. 4, 1992, 106 Stat. 5094; Pub. L. 105–258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.
42104(b)	46 App.:876(g)(1), (2).	
42104(c)	46 App.:876(g)(3).	
42104(d)	46 App.:876(f)(4), (g)(4).	
42104(e)	46 App.:876(g)(5).	

In subsections (a) and (b), the words “In carrying out” are substituted for “In furtherance of the purposes of” and “In proceedings under” for clarity and consistency.

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