

agree with an ocean common carrier described in paragraph (2) to which it charters or sub-charters 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.—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.

(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 Commis-

sion considers necessary to make the determinations required by this section.

(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.)

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).	

§ 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 disclosure under section 552 of title 5 and may not be made public except as may be relevant to an administrative or judicial proceeding. This section does not prevent disclosure to either House of Congress or to a duly authorized committee or subcommittee of Congress.

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

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40306 .....	46 App.:1705(j).	Pub. L. 98-237, § 6(j), Mar. 20, 1984, 98 Stat. 73.

The words “judicial proceeding” are substituted for “judicial action or proceeding” to eliminate unnecessary words.

**§ 40307. Exemption from antitrust laws**

(a) IN GENERAL.—The antitrust laws do not apply to—

(1) an agreement (including an assessment agreement) that has been filed and is effective under this chapter;

(2) an agreement that is exempt under section 40103 of this title from any requirement of this part;

(3) an agreement or activity within the scope of this part, whether permitted under or prohibited by this part, undertaken or entered into with a reasonable basis to conclude that it is—

(A) pursuant to an agreement on file with the Federal Maritime Commission and in effect when the activity takes place; or

(B) exempt under section 40103 of this title from any filing or publication requirement of this part;

(4) an agreement or activity relating to transportation services within or between foreign countries, whether or not via the United States, unless the agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

(5) an agreement or activity relating to the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

(6) an agreement or activity to provide wharfage, dock, warehouse, or other terminal facilities outside the United States; or

(7) an agreement, modification, or cancellation approved before June 18, 1984, by the Commission under section 15 of the Shipping Act, 1916, or permitted under section 14b of that Act, and any properly published tariff, rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

(b) EXCEPTIONS.—This part does not extend antitrust immunity to—

(1) an agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this part relating to transportation within the United States;

(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

(4) a loyalty contract.

(c) RETROACTIVE EFFECT OF DETERMINATIONS.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

(d) RELIEF UNDER CLAYTON ACT.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

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

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40307 .....	46 App.:1706.	Pub. L. 98-237, § 7, Mar. 20, 1984, 98 Stat. 73; Pub. L. 105-258, title I, § 105, Oct. 14, 1998, 112 Stat. 1905.

Subsection (a)(1) is substituted for “any agreement that has been filed under section 1704 of this Appendix and is effective under section 1704(d) [redesignated as (e)] or section 1705 of this Appendix” for clarity and to eliminate unnecessary words.

Subsection (a)(2) is substituted for “any agreement that . . . is exempt under section 1715 of this Appendix from any requirement of this chapter” in 46 App. U.S.C. 1706(a)(1) for clarity.

In subsection (a)(7), the words “subject to section 1719(e)(2) of this Appendix” are omitted as obsolete.

REFERENCES IN TEXT

Section 15 of the Shipping Act, 1916, referred to in subsec. (a)(7), which was classified to section 814 of the former Appendix to this title, was repealed by Pub. L. 104-88, title III, § 335(b)(3), Dec. 29, 1996, 109 Stat. 954.

Section 14b of the Shipping Act, 1916, referred to in subsec. (a)(7), which was classified to section 813a of former Title 46, Shipping, was repealed by Pub. L. 98-237, § 20(a), Mar. 20, 1984, 98 Stat. 88.

**CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS**

Sec. 40501.	General rate and tariff requirements.
40502.	Service contracts.
40503.	Refunds and waivers.

**§ 40501. General rate and tariff requirements**

(a) AUTOMATED TARIFF SYSTEM.—

(1) IN GENERAL.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to bulk cargo, forest prod-