

sponse 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) **FLILING 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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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, tug operators, 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; Pub. L. 115–282, title VII, §709(c), Dec. 4, 2018, 132 Stat. 4297.)