

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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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 regu-

lation 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.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-282 inserted “tug operators,” after “motor carriers,”.

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

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