

§ 585.602

46 CFR Ch. IV (10–1–96 Edition)

(e) Impose a fee, not to exceed \$1,000,000 per voyage;

(f) Request the collector of customs at the port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to a vessel of a foreign carrier which is or whose government is identified as contributing to the unfavorable conditions described in subpart C;

(g) Request the collector of customs at the port or place of destination in the United States to collect any fees imposed by the Commission under paragraph (e) of this section;

(h) Request the Secretary of the department in which the Coast Guard is operating to deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier which is or whose government is identified as contributing to the unfavorable conditions described in subpart C, to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States; or

(i) Take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

**§ 585.602 Penalty.**

A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended under § 585.505 or § 585.601 of this part, or after its right to use another tariff has been suspended under those sections, is subject to a civil penalty of not more than \$50,000 for each day that it is found to be operating under a suspended tariff.

**PART 586—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE**

Sec.

586.1 Actions to adjust or meet conditions unfavorable to shipping in specific trades.

586.3 Conditions unfavorable to shipping in the United States/Ecuador Trade.

AUTHORITY: 46 U.S.C. app. 876(1)(b); 46 U.S.C. app. 876(5) through (12); 46 CFR part 585; Reorganization Plan No. 7 of 1961, 26 FR 7315 (August 12, 1961).

**§ 586.1 Actions to adjust or meet conditions unfavorable to shipping in specific trades.**

Whenever the Commission determines that conditions unfavorable to shipping exist in the United States foreign trade with any nation and issues rules to adjust or meet such conditions, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) and 46 CFR part 585, such rules shall be published in the FEDERAL REGISTER and added to this part.

[55 FR 2076, Jan. 22, 1990]

**§ 586.3 Conditions unfavorable to shipping in the United States/Ecuador trade.**

(a) *Conditions unfavorable to shipping.*

(1) The Federal Maritime Commission has determined that the Government of Ecuador ("GOE") has created conditions unfavorable to shipping in the foreign trade of the United States by enacting, implementing and enforcing laws, decrees and regulations which unreasonably restrict non-Ecuadorian-flag carriers from competing in the liquid bulk trade from the United States to Ecuador on the same basis as Ecuadorian-flag carriers.

(2) Resolution No. 012/87 unilaterally reserves export liquid bulk cargoes from the United States to Ecuador for carriage by Ecuadorian-flag carriers who utilize Ecuadorian-flag vessels or charter third-flag vessels, or U.S.-flag carriers who utilize U.S.-flag vessels. The enforcement of this system discriminates against U.S. carriers and other maritime companies desirous of participating in this Trade through the charter of third-flag vessels, and denies to non-Ecuadorian-flag carriers effective and equal access to liquid bulk cargoes in the Trade. It also discriminates against U.S. shippers and exporters whose opportunities to select a carrier of their choice are restricted and whose ability to compete in international markets is hampered.

(b) *Ecuadorian-flag carrier—assessment of fees.* (1) *Voyage*, for purposes of this

section means an outbound movement from the United States to a foreign country by a vessel engaged in the United States trade. Each outbound movement constitutes a separate voyage. The transportation of cargo by water aboard a single outbound vessel between ports in the United States and ports in Ecuador under one or more bills of lading issued by or on behalf of the Ecuadorian-flag carrier Maritima Transligna, S.A. ("Transligna"), whether on board vessels owned or operated by Transligna or in space chartered by Transligna in vessels owned or operated by others shall be deemed to constitute a voyage.

(2) For each voyage completed after the effective date of this section, Transligna shall pay to the Federal Maritime Commission a fee in the amount of \$50,000. The fee for each voyage shall be paid by certified or cashiers check made payable to the Federal Maritime Commission within 14 calendar days of the completion of the voyage for which it is assessed.

(c) *Report.* Transligna shall file with the Federal Maritime Commission a report setting forth the names of vessels operated by Transligna in the Trade, whether owned or chartered; the names of vessels on which Transligna has chartered space for the carriage of cargo in the Trade, and the names and addresses of the owners of such vessels; the date of each voyage completed in the Trade; the amount of cargo carried; and the amount of fees assessed pursuant to paragraph (b)(2) of this section during the preceding calendar quarter. Each such report shall include a certification that all applicable fees assessed pursuant to paragraph (b)(2) of this section have been paid, and shall be executed by the Chief Executive Officer under oath. Each report shall be filed within 15 days of the end of the applicable calendar quarter.

(d) *Refusal of Clearance by the Collector of Customs.* If Transligna shall fail to pay any fee assessed by paragraph (b)(2) of this section, or fail to file any quarterly report required by paragraph (c) of this section within the prescribed period for filing, the Secretary of the Commission shall request the Chief, Carrier Rulings Branch of the U.S. Customs Service to direct the collectors of

customs at ports in the U.S. Gulf of Mexico to refuse the clearance required by section 4197 of the Revised Statutes (46 U.S.C. app. 91) to any vessel owned or operated by Transligna.

[55 FR 2076, Jan. 22, 1990]

#### PART 587—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

Sec.

587.1 Purpose; general provisions.

587.2 Factors indicating conditions unduly impairing access.

587.3 Petitions for relief.

587.4 Proceeding.

587.5 Receipt of relevant information.

587.6 Notification to Secretary of State.

587.7 Decision; sanctions; effective date.

587.8 Submission of decision to the President.

587.9 Postponement, discontinuance, or suspension of action.

AUTHORITY: 5 U.S.C. 553; secs. 13(b)(5), 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(5), 1714, and 1716; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a).

SOURCE: 49 FR 45406, Nov. 15, 1984, unless otherwise noted.

NOTE: In accordance with 44 U.S.C. 3518(c)(1)(B), and except for investigations undertaken with reference to a category of individuals or entities (e.g., an entire industry), any information request or requirement in this part is not subject to the requirements of section 3507(f) of the Paperwork Reduction Act because such collection of information is pursuant to a civil, administrative action or investigation by an agency of the United States against specific individuals or entities.

##### § 587.1 Purpose; general provisions.

(a)(1) It is the purpose of this part to enumerate certain conditions resulting from the action of a common carrier, acting alone or in concert with any person, or a foreign government, which unduly impair the access of a vessel documented under the laws of the United States whether liner, bulk, tramp or other vessel, (hereinafter *U.S. flag vessel*) to ocean trade between foreign ports, which includes intermodal movements, and to establish procedures by which the owner or operator of a U.S. flag vessel hereinafter *U.S. flag carrier*