

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.