

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.

In subsection (b)(2), the words “conform to the Federal Rules of Civil Procedure (28 App. U.S.C.)” are substituted for “are in conformity with the rules applicable in civil proceedings in the district courts of the United States” for clarity.

In subsection (d)(2), the penalties from 46 App. U.S.C. 876(f)(4) and (g)(4)(B) are combined because they are redundant.

In subsection (e), the words “by an appropriate injunction or other process, mandatory or otherwise” are omitted as unnecessary.

§ 42105. Disclosure to public

Notwithstanding any other provision of law, the Federal Maritime Commission may refuse to disclose to the public a response or other information submitted to it under this chapter.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1550.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 42105, 46 App.:876(h), June 5, 1920, ch. 250, §19(h); as added Pub. L. 101-595, title I, §103(2), Nov. 16, 1990, 104 Stat. 2979; Pub. L. 105-258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.

§ 42106. Other actions to remedy unfavorable conditions

If the Federal Maritime Commission finds that conditions unfavorable to shipping in foreign trade as described in section 42101 of this title exist, the Commission may—

- (1) limit voyages to and from United States ports or the amount or type of cargo carried;
(2) suspend, in whole or in part, tariffs and service contracts for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences and service contracts of agreements in United States trades of which it is a member for any period the Commission specifies;
(3) suspend, in whole or in part, an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers;
(4) impose a fee not to exceed \$1,000,000 per voyage; or
(5) 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.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1550.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 42106, 46 App.:876(i), June 5, 1920, ch. 250, §19(i); as added Pub. L. 101-595, title I, §103(2), Nov. 16, 1990, 104 Stat. 2979; Pub. L. 105-258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.

§ 42107. Refusal of clearance and entry

At the request of the Federal Maritime Commission—

(1) the Secretary of Homeland Security shall—

(A) refuse the clearance required by section 60105 of this title to a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title; and

(B) collect any fees imposed by the Commission under section 42106(4) of this title; and

(2) the Secretary of the department in which the Coast Guard is operating shall—

(A) deny entry, for purposes of oceanborne trade, of a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title, to a port or place in the United States or the navigable waters of the United States; or

(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1551.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 42107, 46 App.:876(j), June 5, 1920, ch. 250, §19(j); as added Pub. L. 101-595, title I, §103(2), Nov. 16, 1990, 104 Stat. 2979; Pub. L. 105-258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.

In paragraph (1), the words “Secretary of Homeland Security” are substituted for “collector of customs at the port or place of destination in the United States” because the functions of the Customs Service and of the Secretary of the Treasury relating thereto were transferred to the Secretary of Homeland Security by section 403(1) of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 Stat. 2178). The functions of the collector of customs previously were vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950, and the office of collector of customs previously was abolished by Reorganization Plan No. 1 of 1965.

§ 42108. Penalty for operating under suspended tariff or service contract

A common carrier that accepts or handles cargo for carriage under a tariff or service contract that has been suspended under section 42104(d)(1) or 42106(2) of this title, or after its right to use another tariff or service contract has been suspended under those provisions, is liable to the United States Government for a civil penalty of not more than \$50,000 for each day that it is found to be operating under a suspended tariff or service contract.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1551.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 42108, 46 App.:876(k), June 5, 1920, ch. 250, §19(k); as added Pub. L. 101-595, title I, §103(2), Nov. 16, 1990, 104 Stat. 2979; Pub. L. 105-258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.

§ 42109. Consultation with other agencies

The Federal Maritime Commission may consult with, seek the cooperation of, or make rec-