

termine that any information submitted to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1552.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42303	46 App.:1710a(d)	Pub. L. 100-418, title X, §10002(d), Aug. 23, 1988, 102 Stat. 1571; Pub. L. 105-258, title I, §111(4), Oct. 14, 1998, 112 Stat. 1911.

In subsection (b), the words “subpoena witnesses and evidence” are substituted for “issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence” for consistency in the revised title and to eliminate unnecessary words.

In subsection (c), the words “in its discretion” are omitted as unnecessary.

§ 42304. Action against foreign carriers

(a) IN GENERAL.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier’s right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

(3) suspension, in whole or in part, of 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; and

(4) a fee not to exceed \$1,000,000 per voyage.

(b) CONSULTATION.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1553.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42304(a)	46 App.:1710a(e)(1).	Pub. L. 100-418, title X, §10002(e)(1), (2), Aug. 23, 1988, 102 Stat. 1571; Pub. L. 105-258, title I, §111(5), (6), Oct. 14, 1998, 112 Stat. 1911.
42304(b)	46 App.:1710a(e)(2).	

In subsection (a), the words “Subject to section 42306 of this title” are added to alert the reader to the application of that section.

§ 42305. Refusal of clearance and entry

Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 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 foreign carrier that is identified by the Commission under section 42304 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. 1553.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42305	46 App.:1710a(f).	Pub. L. 100-418, title X, §10002(f), Aug. 23, 1988, 102 Stat. 1572.

Before paragraph (1), the words “Subject to section 42306 of this title” are added to alert the reader to the application of that section. The word “determines” is substituted for “finds” for consistency with section 42306 of the revised title.

In paragraph (1), the words “Secretary of Homeland Security” are substituted for “collector of customs at any 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.

§ 42306. Submission of determinations to President

Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1553.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42306	46 App.:1710a(e)(3).	Pub. L. 100-418, title X, §10002(e)(3), Aug. 23, 1988, 102 Stat. 1572.

§ 42307. Review of regulations and orders

A regulation or final order of the Federal Maritime Commission under this chapter is review-

able exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1554.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42307	46 App.:1710a(i).	Pub. L. 100-418, title X, §10002(i), Aug. 23, 1988, 102 Stat. 1572.

CHAPTER 425—NATIONAL SHIPPER ADVISORY COMMITTEE

Sec.¹

- 42501. Definitions.
- 42502. National Shipper Advisory Committee.
- 42503. Administration.

§ 42501. Definitions

In this chapter:

- (1) COMMISSION.—The term “Commission” means the Federal Maritime Commission.
- (2) COMMITTEE.—The term “Committee” means the National Shipper Advisory Committee established under section 42502.

(Added Pub. L. 116-283, div. G, title LVXXXVI [LXXXVI], §8604(a), Jan. 1, 2021, 134 Stat. 4762.)

§ 42502. National Shipper Advisory Committee

(a) ESTABLISHMENT.—There is established a National Shipper Advisory Committee.

(b) FUNCTION.—The Committee shall advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall consist of 24 members appointed by the Commission in accordance with this section.

(2) EXPERTISE.—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

(3) REPRESENTATION.—Members of the Committee shall be appointed as follows:

(A) Twelve members shall represent entities who import cargo to the United States using ocean common carriers.

(B) Twelve members shall represent entities who export cargo from the United States using ocean common carriers.

(Added Pub. L. 116-283, div. G, title LVXXXVI [LXXXVI], §8604(a), Jan. 1, 2021, 134 Stat. 4762; amended Pub. L. 118-159, div. C, title XXXV, §3535(h), Dec. 23, 2024, 138 Stat. 2315.)

Editorial Notes

AMENDMENTS

2024—Subsec. (c)(3). Pub. L. 118-159 substituted “REPRESENTATION.—Members of the Committee shall be appointed as follows:” for “REPRESENTATION.—REPRESENTATION.—Members of the Committee shall be appointed as follows: —”.

¹ Editorially supplied.

¹ See References in Text note below.

§ 42503. Administration

(a) MEETINGS.—The Committee shall, not less than once each year, meet at the call of the Commission or a majority of the members of the Committee.

(b) EMPLOYEE STATUS.—A member of the Committee shall not be considered an employee of the Federal Government by reason of service on such Committee, except for the purposes of the following:

- (1) Chapter 81 of title 5.
- (2) Chapter 171 of title 28 and any other Federal law relating to tort liability.

(c) VOLUNTEER SERVICES AND COMPENSATION.—

(1) Notwithstanding any other provision of law, a member of the Committee may serve on such committee on a voluntary basis without pay.

(2) No member of the Committee shall receive compensation for service on the Committee.

(d) STATUS OF MEMBERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), with respect to a member of the Committee whom the Commission appoints to represent an entity or group—

(A) the member is authorized to represent the interests of the applicable entity or group; and

(B) requirements under Federal law that would interfere with such representation and that apply to a special Government employee (as defined in section 202(a) of title 18), including requirements relating to employee conduct, political activities, ethics, conflicts of interest, and corruption, do not apply to the member.

(2) EXCEPTION.—Notwithstanding subsection (b), a member of the Committee shall be treated as a special Government employee for purposes of the committee service of the member if the member, without regard to service on the Committee, is a special Government employee.

(e) SERVICE ON COMMITTEE.—

(1) SOLICITATION OF NOMINATIONS.—Before appointing an individual as a member of the Committee, the Commission shall publish a timely notice in the Federal Register soliciting nominations for membership on such Committee.

(2) APPOINTMENTS.—

(A) IN GENERAL.—After considering nominations received pursuant to a notice published under paragraph (1), the Commission may appoint a member to the Committee.

(B) PROHIBITION.—The Commission shall not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.

(3) SERVICE AT PLEASURE OF COMMISSION.—Each member of the Committee shall serve at the pleasure of the Commission.

(4) SECURITY BACKGROUND EXAMINATIONS.—The Commission may require an individual to have passed an appropriate security background examination before appointment to the Committee.