

(D) the General Counsel of the Commission is present at the meeting.

(2) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Except as provided under paragraph (3), not later than 2 business days after the conclusion of a meeting under paragraph (1), the Commission shall make available to the public, in a place easily accessible to the public—

(A) a list of the individuals present at the meeting; and

(B) a summary of the matters discussed at the meeting, except for any matters the Commission properly determines may be withheld from the public under section 552b(c) of title 5.

(3) EXCEPTION.—If the Commission properly determines matters may be withheld from the public under section 552b(c) of title 5, the Commission shall provide a summary with as much general information as possible on those matters withheld from the public.

(4) ONGOING PROCEEDINGS.—If a meeting under paragraph (1) directly relates to an ongoing proceeding before the Commission, the Commission shall make the disclosure under paragraph (2) on the date of the final Commission decision.

(5) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.—Nothing in this subsection may be construed to limit the applicability of section 552b of title 5 with respect to a meeting of the Commissioners other than that described in this subsection.

(6) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed—

(A) to limit the applicability of section 552b of title 5 with respect to any information which is proposed to be withheld from the public under paragraph (2)(B) of this subsection; or

(B) to authorize the Commission to withhold from any individual any record that is accessible to that individual under section 552a of title 5.

(Pub. L. 109–304, § 4, Oct. 6, 2006, 120 Stat. 1489, § 303; Pub. L. 115–282, title VII, § 711(a), Dec. 4, 2018, 132 Stat. 4297; renumbered § 46103 and amended Pub. L. 116–283, div. G, title LVXXXVI [LXXXVI], § 8605(a)(3), (c), Jan. 1, 2021, 134 Stat. 4765.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303	46 App.:1111(c) (related to records).	June 29, 1936, ch. 858, title II, § 201(c) (related to records), 49 Stat. 1986.

The words “true” and “yea-and-nay” are omitted as unnecessary.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, § 8605(a)(3), renumbered section 303 of this title as this section.

Subsec. (c)(3). Pub. L. 116–283, § 8605(c), substituted “552b(c)” for “555b(c)”.

2018—Pub. L. 115–282 amended section generally. Prior to amendment, text read as follows: “The Federal Mari-

time Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.”

§ 46104. Delegation of authority

(a) DELEGATION.—The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

(b) REVIEW.—The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission’s own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

(c) DEEMED ACTION OF COMMISSION.—If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

(Pub. L. 109–304, § 4, Oct. 6, 2006, 120 Stat. 1489, § 304; renumbered § 46104, Pub. L. 116–283, div. G, title LVXXXVI [LXXXVI], § 8605(a)(3), Jan. 1, 2021, 134 Stat. 4765.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
304	46 App.:1111 note.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, § 105(a)-(c), 75 Stat. 841.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 renumbered section 304 of this title as this section.

§ 46105. Regulations

(a) IN GENERAL.—The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

(b) TRANSPARENCY.—

(1) IN GENERAL.—In conjunction with the transmittal by the President to the Congress of the Budget of the United States for fiscal year 2021 and biennially thereafter, the Federal Maritime Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives reports that describe the Commission’s progress toward addressing the issues raised in each unfinished regulatory proceeding, regardless of whether the proceeding is subject to a statutory or regulatory deadline.

(2) FORMAT OF REPORTS.—Each report under paragraph (1) shall, among other things, clear-

ly identify for each unfinished regulatory proceeding—

- (A) the popular title;
- (B) the current stage of the proceeding;
- (C) an abstract of the proceeding;
- (D) what prompted the action in question;
- (E) any applicable statutory, regulatory, or judicial deadline;
- (F) the associated docket number;
- (G) the date the rulemaking was initiated;
- (H) a date for the next action; and
- (I) if a date for the next action identified in the previous report is not met, the reason for the delay.

(Pub. L. 109-304, § 4, Oct. 6, 2006, 120 Stat. 1489, § 305; renumbered § 46105 and amended Pub. L. 116-283, div. G, title LVXXXVI [LXXXVI], §§ 8603, 8605(a)(3), Jan. 1, 2021, 134 Stat. 4761, 4765.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
305	46 App.:1111(c) (related to rules and regulations).	June 29, 1936, ch. 858, title II, § 201(c) (related to rules and regulations), 49 Stat. 1986.
	46 App.:1716.	Pub. L. 98-237, § 17, Mar. 20, 1984, 98 Stat. 84.

The words “to carry out its duties and powers” are substituted for “in regard to its procedure and the conduct of its business” in 46 App. U.S.C. 1111(c) and “to carry out this chapter” in 46 App. U.S.C. 1716(a) for consistency in the revised title. The text of 46 App. U.S.C. 1716(b) is omitted as executed and obsolete.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, § 8605(a)(3), renumbered section 305 of this title as this section.

Pub. L. 116-283, § 8603, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

TRANSPARENCY IN UNFINISHED REGULATORY PROCEEDINGS

Pub. L. 115-282, title VII, § 712, Dec. 4, 2018, 132 Stat. 4298, provided that:

“(a) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this Act [Dec. 4, 2018], the Federal Maritime Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives bi-annual reports that describe the Commission’s progress toward addressing the issues raised in each unfinished regulatory proceeding, regardless of whether the proceeding is subject to a statutory or regulatory deadline.

“(b) FORMAT OF REPORTS.—Each report under subsection (a) shall, among other things, clearly identify for each unfinished regulatory proceeding—

- “(1) the popular title;
- “(2) the current stage of the proceeding;
- “(3) an abstract of the proceeding;
- “(4) what prompted the action in question;
- “(5) any applicable statutory, regulatory, or judicial deadline;
- “(6) the associated docket number;
- “(7) the date the rulemaking was initiated;
- “(8) a date for the next action; and
- “(9) if a date for next action identified in the previous report is not met, the reason for the delay.”

§ 46106. Annual report and public disclosure

(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall

submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

- (1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;
- (2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;
- (3) any actions being taken by the Commission to offset those conditions;
- (4) any recommendations for additional legislation to offset those conditions;
- (5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection;
- (6) an analysis of the impacts on competition for the purchase of certain covered services by alliances of ocean common carriers acting pursuant to an agreement under this part¹ between or among ocean common carriers, including a summary of actions, including corrective actions, taken by the Commission to promote such competition; and
- (7) an identification of any otherwise concerning practices by ocean common carriers, particularly such carriers that are controlled carriers, that are—

- (A) State-owned or State-controlled enterprises; or
- (B) owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—

- (i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;
- (ii) identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or
- (iii) subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(c) DEFINITION OF CERTAIN COVERED SERVICES.—In this section, the term “certain covered services” has the meaning given the term in section 40102.

(d) PUBLIC DISCLOSURES.—The Federal Maritime Commission shall publish, and annually update, on the website of the Commission—

- (1) all findings by the Commission of false detention and demurrage invoice information by common carriers under section 41104(a)(15) of this title; and
- (2) all penalties imposed or assessed against common carriers, as applicable, under sections 41107, 41108, and 41109, listed by each common carrier.

¹ See References in Text note below.