

§ 302. Quorum

A vacancy or vacancies in the membership of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

(Pub. L. 109-304, §4, Oct. 6, 2006, 120 Stat. 1489.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302	46 App.:1111 note.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, §102(d), 75 Stat. 840; Pub. L. 105-258, title II, §202, Oct. 14, 1998, 112 Stat. 1915.

§ 303. Meetings

(a) IN GENERAL.—The Federal Maritime Commission shall be deemed to be an agency for purposes of section 552b of title 5.

(b) RECORD.—The 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.

(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

(1) IN GENERAL.—Notwithstanding section 552b of title 5, a majority of the Commissioners may hold a meeting that is not open to public observation to discuss official agency business if—

(A) no formal or informal vote or other official agency action is taken at the meeting;

(B) each individual present at the meeting is a Commissioner or an employee of the Commission;

(C) at least 1 Commissioner from each political party is present at the meeting, if applicable; and

(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 555b(c)¹ 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; Pub. L. 115-282, title VII, §711(a), Dec. 4, 2018, 132 Stat. 4297.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.

AMENDMENTS

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

§ 304. 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.)

¹ So in original. Probably should be “section 552b(c)”.

HISTORICAL AND REVISION NOTES

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

§ 305. Regulations

The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

(Pub. L. 109–304, §4, Oct. 6, 2006, 120 Stat. 1489.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
305	46 App.:1111(c) (related to rules and regulations). 46 App.:1716.	June 29, 1936, ch. 858, title II, §201(c) (related to rules and regulations), 49 Stat. 1986. 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.

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.”

§ 306. Annual report

(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; and

(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.

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

(Pub. L. 109–304, §4, Oct. 6, 2006, 120 Stat. 1489; Pub. L. 115–282, title VII, §703, Dec. 4, 2018, 132 Stat. 4294.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306(a)	46 App.:1118 (related to Commission).	June 29, 1936, ch. 858, title II, §208 (related to Commission), 49 Stat. 1988; Pub. L. 94–273, §36, Apr. 21, 1976, 90 Stat. 380; Pub. L. 97–31, §12(65), Aug. 6, 1981, 95 Stat. 159.
306(b)	46 App.:1710a(g).	Pub. L. 100–418, title X, §10002(g), Aug. 23, 1988, 102 Stat. 1572.

In subsection (a), the words “a statement of all receipts under this chapter” are omitted as inapplicable to the Commission.

AMENDMENTS

2018—Subsec. (b)(6). Pub. L. 115–282, §703(1), added par. (6).

Subsec. (c). Pub. L. 115–282, §703(2), added subsec. (c).

§ 307. Expenditures

(a) IN GENERAL.—The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.

(b) PROHIBITION.—Notwithstanding subsection (a), the Federal Maritime Commission may not expend any funds appropriated or otherwise made available to it to a non-Federal entity to issue an award, prize, commendation, or other honor that is not related to the purposes set forth in section 40101.

(Pub. L. 109–304, §4, Oct. 6, 2006, 120 Stat. 1490; Pub. L. 114–120, title IV, §403, Feb. 8, 2016, 130 Stat. 67.)

¹ So in original. Subtitle I of title 46 does not contain parts.