

The words “have exclusive jurisdiction” are substituted for “shall have exclusive jurisdiction”.

In paragraph (1), the word “by” is substituted for “in accordance with”.

In paragraph (3), the word “now” is omitted as unnecessary. The word “under” is substituted for “pursuant to the provisions of”. Reference to “Federal Maritime Commission” is substituted for “Federal Maritime Board” on authority of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 75 Stat. 840. Reference to the United States Maritime Commission is omitted because that Commission was abolished by 1950 Reorg. Plan No. 21, §306, eff. May 24, 1951, 64 Stat. 1277, and any existing rights are preserved by technical sections 7 and 8.

### Editorial Notes

#### REFERENCES IN TEXT

Section 305 of title 46, referred to in par. (3)(B), was redesignated section 46105 of Title 46, Shipping, by Pub. L. 116-283, div. G, title LVXXXVI, §8605(a)(3), Jan. 1, 2021, 134 Stat. 4765.

Section 812 of the Fair Housing Act, referred to in par. (6), is classified to section 3612 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2006—Par. (3)(A). Pub. L. 109-304, §17(f)(3)(A), substituted “section 50501, 50502, 56101-56104, or 57109 of title 46” for “section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)”.

Par. (3)(B). Pub. L. 109-304, §17(f)(3)(B), added subpar. (B) and struck out former subpar. (B) which read as follows:

“(B) the Federal Maritime Commission issued pursuant to—

“(i) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

“(ii) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

“(iii) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d));”.

2005—Par. (3)(A). Pub. L. 109-59 inserted “, subchapter III of chapter 311, chapter 313, or chapter 315” before “of title 49”.

1996—Par. (3)(A). Pub. L. 104-287 amended Pub. L. 104-88, §305(d)(6). See 1995 Amendment note below.

1995—Par. (3)(A). Pub. L. 104-88, §305(d)(6), as amended by Pub. L. 104-287, inserted “or pursuant to part B or C of subtitle IV of title 49” before the semicolon.

Pub. L. 104-88, §305(d)(5), substituted “or 41” for “41, or 43”.

Par. (3)(B). Pub. L. 104-88, §305(d)(7), redesignated cls. (ii), (iv), and (v) as (i), (ii), and (iii), respectively, and struck out former cls. (i) and (iii) which read as follows:

“(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 822, 824, or 841a);

“(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. App. 844, 845, 845a, or 845b);”.

Par. (5). Pub. L. 104-88, §305(d)(8), added par. (5) and struck out former par. (5) which read as follows: “all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of title 49, United States Code;”.

1994—Par. (7). Pub. L. 103-272 substituted “section 20114(c) of title 49” for “section 202(f) of the Federal Railroad Safety Act of 1970”.

1992—Par. (7). Pub. L. 102-365, which directed the addition of par. (7) at end, was executed by adding par. (7) after par. (6) and before concluding provisions, to reflect the probable intent of Congress.

1988—Par. (6). Pub. L. 100-430 added par. (6).

1986—Par. (3). Pub. L. 99-336 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “such final orders of the Federal Maritime Commission or the Maritime Administration entered under chapters 23 and 23A of title 46 as are subject to judicial review under section 830 of title 46;”.

1984—Par. (5). Pub. L. 98-554 substituted “11901(j)(2)” for “11901(i)(2)”.

1982—Pub. L. 97-164 inserted “(other than the United States Court of Appeals for the Federal Circuit)” after “court of appeals” in provisions preceding par. (1), and struck out par. (6) which had given the court of appeals jurisdiction in cases involving all final orders of the Merit Systems Protection Board except as provided for in section 7703(b) of title 5. See section 1295(a)(9) of this title.

1980—Par. (5). Pub. L. 96-454 inserted “and all final orders of such Commission made reviewable under section 11901(i)(2) of title 49, United States Code” after “section 2321 of this title”.

1978—Par. (6). Pub. L. 95-454 added par. (6).

1975—Par. (5). Pub. L. 93-584 added par. (5).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-287, §6(f), Oct. 11, 1996, 110 Stat. 3399, provided that the amendment made by that section is effective Dec. 29, 1995.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-336, §5(b), June 19, 1986, 100 Stat. 638, provided that: “The amendment made by this section [amending this section] shall apply with respect to any rule, regulation, or final order described in such amendment which is issued on or after the date of the enactment of this Act [June 19, 1986].”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-584 not applicable to actions commenced on or before last day of first month beginning after Jan. 2, 1975, and actions to enjoin or suspend orders of Interstate Commerce Commission which are pending when this amendment becomes effective shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced, see section 10 of Pub. L. 93-584, set out as a note under section 2321 of this title.

#### TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

### § 2343. Venue

The venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 622.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1033.	Dec. 29, 1950, ch. 1189, §3, 64 Stat. 1130.

The section is reorganized for clarity and conciseness. The word "is" is substituted for "shall be". The word "petitioner" is substituted for "party or any of the parties filing the petition for review" in view of the definition of "petitioner" in section 2341 of this title.

§ 2344. Review of orders; time; notice; contents of petition; service

On the entry of a final order reviewable under this chapter, the agency shall promptly give notice thereof by service or publication in accordance with its rules. Any party aggrieved by the final order may, within 60 days after its entry, file a petition to review the order in the court of appeals wherein venue lies. The action shall be against the United States. The petition shall contain a concise statement of—

- (1) the nature of the proceedings as to which review is sought;
- (2) the facts on which venue is based;
- (3) the grounds on which relief is sought; and
- (4) the relief prayed.

The petitioner shall attach to the petition, as exhibits, copies of the order, report, or decision of the agency. The clerk shall serve a true copy of the petition on the agency and on the Attorney General by registered mail, with request for a return receipt.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 622.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1034.	Dec. 29, 1950, ch. 1189, §4, 64 Stat. 1130.

The section is reorganized, with minor changes in phraseology. The words "as prescribed by section 1033 of this title" are omitted as surplusage. The words "of the United States" following "Attorney General" are omitted as unnecessary.

§ 2345. Prehearing conference

The court of appeals may hold a prehearing conference or direct a judge of the court to hold a prehearing conference.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 622.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1035.	Dec. 29, 1950, ch. 1189, §5, 64 Stat. 1130.

§ 2346. Certification of record on review

Unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk the record on review as provided by section 2112 of this title.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 623.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1036.	Dec. 29, 1950, ch. 1189, §6, 64 Stat. 1130. Aug. 28, 1958, Pub. L. 85-791, §31(a), 72 Stat. 951.

The words "of the court of appeals in which the proceeding is pending" are omitted as unnecessary in view of the definition of "clerk" in section 2341 of this title, and by reason of the exclusive jurisdiction of the court of appeals set forth in section 2342 of this title.

§ 2347. Petitions to review; proceedings

(a) Unless determined on a motion to dismiss, petitions to review orders reviewable under this chapter are heard in the court of appeals on the record of the pleadings, evidence adduced, and proceedings before the agency, when the agency has held a hearing whether or not required to do so by law.

(b) When the agency has not held a hearing before taking the action of which review is sought by the petition, the court of appeals shall determine whether a hearing is required by law. After that determination, the court shall—

- (1) remand the proceedings to the agency to hold a hearing, when a hearing is required by law;
- (2) pass on the issues presented, when a hearing is not required by law and it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or
- (3) transfer the proceedings to a district court for the district in which the petitioner resides or has its principal office for a hearing and determination as if the proceedings were originally initiated in the district court, when a hearing is not required by law and a genuine issue of material fact is presented. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure.

(c) If a party to a proceeding to review applies to the court of appeals in which the proceeding is pending for leave to adduce additional evidence and shows to the satisfaction of the court that—

- (1) the additional evidence is material; and
- (2) there were reasonable grounds for failure to adduce the evidence before the agency;

the court may order the additional evidence and any counterevidence the opposite party desires to offer to be taken by the agency. The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken, and may modify or set aside its order, and shall file in the court the additional evidence, the modified findings or new findings, and the modified order or the order setting aside the original order.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 623.)