

cluding 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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 42304(a) and 42304(b).

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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 42305.

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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 42306.

§ 42307. Review of regulations and orders

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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 42307.

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.

1 Editorially supplied.

(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.—REPRESENTATION.—¹Members of the Committee shall be appointed as follows:—¹

(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.)

§ 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.

(5) PROHIBITION.—A Federal employee may not be appointed as a member of the Committee.

(6) TERMS.—

(A) IN GENERAL.—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(B) CONTINUED SERVICE AFTER TERM.—When the term of a member of the Committee ends, the member, for a period not to exceed 1 year, may continue to serve as a member until a successor is appointed.

(7) VACANCIES.—A vacancy on the Committee shall be filled in the same manner as the original appointment.

(8) SPECIAL RULE FOR REAPPOINTMENTS.—Notwithstanding paragraphs (1) and (2), the Commission may reappoint a member of a committee for any term, other than the first term of the member, without soliciting, receiving, or considering nominations for such appointment.

(f) STAFF SERVICES.—The Commission shall furnish to the Committee any staff and services considered by the Commission to be necessary for the conduct of the Committee's functions.

(g) CHAIR; VICE CHAIR.—

(1) IN GENERAL.—The Committee shall elect a Chair and Vice Chair from among the committee's members.

(2) VICE CHAIRMAN ACTING AS CHAIRMAN.—The Vice Chair shall act as Chair in the absence or incapacity of, or in the event of a vacancy in the office of, the Chair.

(h) SUBCOMMITTEES AND WORKING GROUPS.—

(1) IN GENERAL.—The Chair of the Committee may establish and disestablish subcommittees and working groups for any purpose consistent with the function of the Committee.

(2) PARTICIPANTS.—Subject to conditions imposed by the Chair, members of the Committee may be assigned to subcommittees and working groups established under paragraph (1).

(i) CONSULTATION, ADVICE, REPORTS, AND RECOMMENDATIONS.—

(1) CONSULTATION.—Before taking any significant action, the Commission shall consult with, and consider the information, advice, and recommendations of, the Committee if the function of the Committee is to advise the

¹ So in original.