

States” are substituted for 46 App. U.S.C. 817d(b) to eliminate unnecessary words. The words “or any State thereof or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any territory or possession of the United States” are omitted as unnecessary because of the definition of “United States” in chapter 1 of the revised title.

§ 44104. Civil penalty

A person that violates section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than \$5,000, plus \$200 for each passage sold, to be assessed by the Federal Maritime Commission. The Commission may remit or mitigate the penalty on terms the Commission considers proper.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1555.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 44104, 46 App.:817d(c), Pub. L. 89-777, §§2(c), 3(c), Nov. 6, 1966, 80 Stat. 1357. Row 2: 46 App.:817e(c).

§ 44105. Refusal of clearance

The Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title, at the port or place of departure from the United States, of a vessel that is subject to this chapter and does not have evidence issued by the Federal Maritime Commission of compliance with sections 44102 and 44103 of this title.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1555.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 44105, 46 App.:817d(e), Pub. L. 89-777, §§2(e), 3(e), Nov. 6, 1966, 80 Stat. 1357, 1358; Pub. L. 103-182, title VI, §689(c), Dec. 8, 1993, 107 Stat. 2222. Row 2: 46 App.:817e(e).

The words “Secretary of Homeland Security” are substituted for “Customs Service” 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).

§ 44106. Conduct of proceedings

Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1555.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 44106, 46 App.:817d(d), Pub. L. 89-777, §§2(d), 3(d), Nov. 6, 1966, 80 Stat. 1357, 1358; Pub. L. 104-324, title VII, §746(c), Oct. 19, 1996, 110 Stat. 3943. Row 2: 46 App.:817e(d).

The authority to prescribe regulations is omitted as unnecessary because it is already provided by section 305 of the revised title.

PART D—FEDERAL MARITIME COMMISSION

CHAPTER 461—FEDERAL MARITIME COMMISSION

- Sec. 46101. General organization. 46102. Quorum. 46103. Meetings. 46104. Delegation of authority. 46105. Regulations. 46106. Annual report. 46107. Expenditures. 46108. Authorization of appropriations.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, div. G, title LVXXXVI [LXXXVII], §8605(b)(6), Jan. 1, 2021, 134 Stat. 4765, which directed the general amendment of the analysis for this chapter “as so redesignated” by section 8605(a)(2) of Pub. L. 116-283 (see note below) by setting out only new items 46101 to 46108 with no chapter heading, was executed by substituting items 46101 to 46108 for former items 301 to 308 and not including the redesignated chapter heading, to reflect the probable intent of Congress and the separate enactment of the heading for this chapter by section 8605(a)(1) of Pub. L. 116-283.

Pub. L. 116-283, div. G, title LVXXXVI [LXXXVII], §8605(a)(2), Jan. 1, 2021, 134 Stat. 4765, renumbered chapter 3 of this title as this chapter.

2018—Pub. L. 115-282, title VII, §711(b), Dec. 4, 2018, 132 Stat. 4298, substituted “Meetings” for “Record of meetings and votes” in item 303.

2016—Pub. L. 114-120, title IV, §401(b), Feb. 8, 2016, 130 Stat. 67, added item 308.

§ 46101. General organization

(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

(b) COMMISSIONERS.—

(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

(2) TERMS.—The term of each Commissioner is 5 years. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified, but for a period not to exceed 2 years. Except as provided in paragraph (3), no individual may serve more than 3 terms.

(3) VACANCIES.—A vacancy shall be filled in the same manner as the original appointment. An individual appointed to fill a vacancy is appointed only for the unexpired term to which such individual is appointed. An individual appointed to fill a vacancy may serve 3 terms in addition to the remainder of the term for which such individual was appointed.

(4) CONFLICTS OF INTEREST.—

(A) LIMITATION ON RELATIONSHIPS WITH REGULATED ENTITIES.—A Commissioner may not have a pecuniary interest in, hold an official relation to, or own stocks or bonds of any entity the Commission regulates under chapter 401 of this title.

(B) LIMITATION ON OTHER ACTIVITIES.—A Commissioner may not engage in another business, vocation, or employment.

(5) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

(c) CHAIRMAN.—

(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

(3) PARTICULAR DUTIES.—

(A) IN GENERAL.—The Chairman shall—

(i) appoint and supervise officers and employees of the Commission;

(ii) appoint the heads of major organizational units (with such appointments subject to the approval of the Commission);

(iii) distribute the business of the Commission among personnel and organizational units;

(iv) supervise the expenditure of money for administrative purposes;

(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated to the Commission under section 46104 of this title; and

(vi) prepare and submit to the President and the Congress requests for appropriations for the Commission (with such requests subject to the approval of the Commission).

(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman’s jurisdiction to perform duties and powers of the Chairman, subject to the Chairman’s supervision and direction.

(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

(Pub. L. 109–304, § 4, Oct. 6, 2006, 120 Stat. 1488, § 301; Pub. L. 113–281, title IV, § 403(a), Dec. 18, 2014, 128 Stat. 3056; Pub. L. 114–120, title IV, § 402, Feb. 8, 2016, 130 Stat. 67; renumbered § 46101 and amended Pub. L. 116–283, div. G, title LVXXXVI [LXXXVI], § 8605(a)(3), (b)(1), Jan. 1, 2021, 134 Stat. 4765; Pub. L. 117–263, div. K, title CXVIII, § 11801(a), Dec. 23, 2022, 136 Stat. 4163.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
301(a)	46 App.:1111 note.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, §101, 75 Stat. 840.
301(b)	46 App.:1111 note.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, §102(a), (c), 75 Stat. 840; Pub. L. 88–426, title III, §305(19)(A), Aug. 14, 1964, 78 Stat. 425.
	46 App.:1111 note.	Pub. L. 89–56, June 30, 1965, 79 Stat. 195.
301(c)	46 App.:1111 note.	Reorg. Plan No. 6 of 1949, eff. Aug. 20, 1949, 63 Stat. 1069.
	46 App.:1111 note.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, §§102(b), 104, 105(d), 75 Stat. 840, 841.

HISTORICAL AND REVISION NOTES—CONTINUED

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

In subsection (a), the words “is an independent establishment” are substituted for “shall not be a part of any executive department or under the authority of the head of any executive department” for consistency with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b)(2), the words “The term of each Commissioner is 5 years, with each term beginning one year apart” are substituted for the language about terms in section 102(c) of Reorganization Plan No. 7 of 1961 (46 App. U.S.C. 1111 note) and the Act of June 30, 1965 (Pub. L. 89–56, 79 Stat. 195), for clarity and to eliminate executed and obsolete language.

In subsection (c), section 104 of Reorganization Plan No. 7 of 1961 is omitted as executed.

Subsection (c)(1) is based on section 102(b) of Reorganization Plan No. 7 of 1961. The words “from time to time” are omitted as unnecessary.

Subsection (c)(2) is based on section 1 of Reorganization Plan No. 6 of 1949.

Subsection (c)(3) is based on section 2 of Reorganization Plan No. 6 of 1949 and section 105(d) of Reorganization Plan No. 7 of 1961.

Subsection (c)(4) is based on section 3 of Reorganization Plan No. 6 of 1949.

Editorial Notes

AMENDMENTS

2022—Subsec. (b)(2). Pub. L. 117–263, §11801(a)(1), substituted “2 years” for “one year” and “3 terms” for “2 terms”.

Subsec. (b)(3). Pub. L. 117–263, §11801(a)(2), substituted “to which such individual is appointed” for “of the individual being succeeded”, “3 terms” for “2 terms”, and “such” for “the predecessor of that”.

2021—Pub. L. 116–283, §8605(a)(3), renumbered section 301 of this title as this section.

Subsec. (c)(3)(A)(v). Pub. L. 116–283, §8605(b)(1), substituted “46104” for “304”.

2016—Subsec. (c)(3)(A)(ii). Pub. L. 114–120, §402(1), substituted “units (with such appointments subject to the approval of the Commission);” for “units, but only after consultation with the other Commissioners;”.

Subsec. (c)(3)(A)(vi). Pub. L. 114–120, §402(2)–(4), added cl. (vi).

2014—Subsec. (b)(2). Pub. L. 113–281, §403(a)(1), amended par. (2) generally. Prior to amendment, text read as follows: “The term of each Commissioner is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified.”

Subsec. (b)(3) to (5). Pub. L. 113–281, §403(a)(2), added pars. (3) and (4) and redesignated former par. (3) as (5).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. K, title CXVIII, §11801(b), Dec. 23, 2022, 136 Stat. 4163, provided that: “The amendments made by this section [amending this section] shall not apply to Commissioners to whom section 403(b) of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (Public Law 113–281) [set out below] applies.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–281, title IV, §403(b), Dec. 18, 2014, 128 Stat. 3056, provided that: “The amendment made by sub-

section (a)(1) [amending this section] does not apply with respect to a Commissioner of the Federal Maritime Commission appointed and confirmed by the Senate before the date of the enactment of this Act [Dec. 18, 2014].”

§ 46102. 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, § 302; renumbered § 46102, Pub. L. 116-283, div. G, title LVXXXVI [LXXXVI], § 8605(a)(3), Jan. 1, 2021, 134 Stat. 4765.)

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.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 302 of this title as this section.

§ 46103. 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 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

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.

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 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.”

§ 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