

REPLY FROM FEDERAL MARITIME COMMISSION

FEDERAL MARITIME COMMISSION,
Washington, D.C., March 16, 1965.

HON. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your letter of February 12, 1965, relative to the study of the availability of information from Federal agencies by the Foreign Operations and Government Information Subcommittee, and its particular concern with section 3 of the Administrative Procedure Act of 1946 (5 U.S.C. 1902).

In response to your request we have reviewed the application and effect of section 3 upon the functions of the Federal Maritime Commission and we are listing below the answers to the specific questions propounded in your letter. These answers are given to correspond with the order and sequence of your questions.

1. The functions of the Federal Maritime Commission to which 5 U.S.C. 1002 apply are set out in section 105 of the Reorganization Plan No. 7, 1961, which provides in part: "(a) The Commission shall have the authority to delegate, by published order or rule, any of the functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board, including functions which respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter * * *." Section 3 applies to all divisions, bureaus and units of the Commission.

2. (a) Descriptions of central and field organizations and delegations of authority to all individuals and organizational components are published in the Federal Register and in the Commission's Manual of Orders, the latter are available upon request.

2. (b) Statements of the general course and method by which the Commission's functions are channeled are published in this agency's Manual of Orders; forms and instructions as to the contents of all papers and reports are published in the Federal Register and in the Commission's general orders and in its manual of orders, as appropriate, prior clearance of the Bureau of the Budget is obtained pursuant to the Federal Reports Acts.

2. (c) Substantive rules of the Commission are published in the Federal Register and the Code of Federal Regulations.

2. (d) Statements of general policy formulated and adopted by the Commission for the guidance of the public are published in the Federal Register and the Code of Federal Regulations and in the Commission's general orders and circular letters, distributed to the regulated industry and interested public.

2. (e) Normally such rules are served upon named persons in accordance with law and are not published in the Federal Register. However, on occasion where multiple persons are involved and/or the matter is of public interest publication in the Register has been made in addition to service upon such person.

NOTE.—In addition to the publication as indicated in the foregoing answers, considerable unofficial publication is made through the news media (news-papers, trade journals, news service, etc.).

3. All final and interim opinions or orders in the adjudication of cases are: (a) served on all parties to any proceeding before the Commission; (b) available to any person upon request to be placed on this agency's mailing list at a specific user charge, also single copies are available upon request without charge; (c) open for public inspection in the Commission's docket room and public reference room; and (d) all final Commission opinions and orders are published in bound volumes as the Federal Maritime Commission reports and are available for purchase at the office of Superintendent of Documents, Government Printing Office.

4. To date, the Commission has not found it necessary to refrain from publishing interim and final opinions or orders in the interest of confidentiality. Rule 1(e) (2) of the Commission's Rules of Practice and Procedure states, however, that "orders, rules, rulings, opinions, and decisions (initial, recommended, tentative, and final) may be inspected at the Washington office of the Board (Commission), except those held by the Board (Commission) for good cause to be confidential and not cited as precedents."

5. Unpublished opinions and orders are not cited or used as precedents in other proceedings.