



Revisions and Additions to

F.M.C. Agreement No. 7345

California Association of Port Authorities

COPY OF

FEDERAL MARITIME COMMISSION

AGREEMENT NO. 7345-16

1. Proposed Addition to Article 3.

(e) Consideration of tariff changes and all other actions taken by the Committee on Tariffs and Practices and by the Traffic Committee of Operating Members shall be in accordance with this Agreement, and with procedures adopted by the Committees, approved by the Association and filed with the Federal Maritime Commission.

2. Deletion of the words "a Secretary" in Article 10 - Officers to read:

The officers of the Association shall be a President, a First Vice President, a Second Vice President, and a Treasurer. These officers shall be elected by the members by a majority vote at each annual meeting of the Association and shall serve, without compensation for one year or until their successors have been duly elected and installed in office. They shall perform the duties ordinarily performed by such officers and such other duties as may be assigned to them by the members. In the event the offices of either President or First Vice President shall for any reason become vacant during the term for which those officers were elected, the next lower ranking officer shall automatically succeed to the next higher office respectively; and in the event of any such vacancy in the office of Second Vice President, the members of the Association may fill the vacancy by a majority vote.

3. Insert the word "Executive" in Article 14 - DUTIES OF EXECUTIVE SECRETARY

ARTICLE 14 - DUTIES OF EXECUTIVE SECRETARY
(Amended April 12, 1966 - Agreement No. 7345-11)

The Executive Secretary shall keep an accurate record of the proceedings of the Association and shall issue all calls and notices ordered by the President. He shall have custody of all official papers and records, except those of the Treasurer. He shall furnish promptly

to the Federal Maritime Commission, Washington, D. C., and to each member of the Association a copy of the Minutes of each meeting.

4. Delete the word "Secretary" from the text of Article 16.

The President, First Vice President, Second Vice President and Treasurer shall constitute the Executive Committee of which the President shall be the Chairman.

It shall carry on the customary routine executive duties of the Association, subject at all times to the directions and orders of the Association.

5. Addition of the word "Executive" in Paragraph (b) of Article 18.

(b) Special Meetings of the membership shall be called by the President at his own discretion or upon the written request of five (5) members. The purpose of such special meeting shall be set forth in the notice which shall be mailed by the Executive Secretary to the members at least one (1) week before the date of the meeting, and no business other than that for which the meeting is called shall be transacted, provided, however, if all members are present and unanimously agree, any other matters within the scope of the agreement may be dealt with at such meetings.

6. Addition of the following Paragraph (e) to Article 18 to read as follows:

(e) The Committee on Tariffs and Practices and the Traffic Committee of Operating Members shall conduct their business in regular or special meetings, or in meetings by telephone or by correspondence in accordance with procedures adopted by the Committees, approved by the Association and filed with the Federal Maritime Commission.

7. Add new sentence to Article 19 to read as follows:

For the purpose of transacting business at a meeting of the Association, a quorum shall consist of not less than one-half (1/2) of the membership of the Association in good standing. For the purpose of transacting business at a meeting of the Committee on Tariffs and Practices or of the Traffic Committee of Operating Members, a quorum shall consist of not less than two-thirds (2/3) of the entire membership of such Committee.

8. Insert the word "Executive" before the word "Secretary" in two places in the second unnumbered paragraph of Article 20.

Except as provided in Articles 1, 10, 17 and 25, all action shall be taken in behalf of the Association by a three-fourths vote of the members, provided that no action shall be taken in behalf of the Association relative to approving the amendment, supplementing, or reissuance of, or agreeing to amend, supplement or reissue, any or all of the tariffs of members with respect to any of the rates, charges, classifications, rules, regulations or practices prescribed therein except on unanimous vote of the members.

At all Association meetings (other than meetings by correspondence), any member may have more than one representative present who may participate in the discussions and offer motion, but each member is limited to one vote, provided that any member absent or present and recorded as not voting, may subsequently on proposed action that require an unanimous vote or that have failed to pass without the vote or votes of any such absent or non-voting member or members, within ten (10) days from the date of mailing of registered notice, which shall be sent forthwith by the Executive Secretary to the member thus entitled, cast the vote of such member thereon in writing by registered mail to the Executive Secretary; provided further, that if no dissenting vote is cast, said member's vote, after said ten (10) days' limitation, shall be declared to have been cast in the affirmative.

No member of the Association shall have the right to vote at any meeting, or to be represented on any committee, or to participate in any other Association activity, if delinquent in the payment of any assessment or if delinquent two (2) months or more in the payment of dues, and any such member so delinquent shall be excluded in determining the number of members required to constitute a "majority vote", a "three-fourths vote", or an "unanimous vote", wherever such terms are used in this Agreement.

9. Add the following unnumbered paragraph to Article 20 to read as follows:

The vote of a member of the Association entitled to vote at a meeting of the Association or at a meeting of any committee of the Association shall be cast at such meeting for such member by the accredited delegate or duly appointed alternate representative, or by the holder of a written proxy from such member.

PROCEDURE OF THE COMMITTEE ON TARIFFS AND PRACTICES
AND THE TRAFFIC COMMITTEE OF OPERATING MEMBERS

For the purpose of complying with the provisions of Federal Maritime Commission Agreement No. 7345, as amended, the procedure hereinafter set forth is adopted by the Committee on Tariffs and Practices and the Traffic Committee of Operating Members.

I. DOCKET PROCEDURE

Any member desiring to have a subject placed on the agenda for consideration by the Committee shall address a letter to each member of the Committee with copy to the Executive Secretary. Upon receipt, the Executive Secretary's office shall prepare a Docket Data Sheet on which shall be designated (1) the number assigned thereto; (2) the date of the proposal; (3) the title of the subject; (4) the number of the meeting and the date on which the meeting, at which the subject is to be considered, will be held; and (5) details of the proposal.

Docket Data Sheets bearing appropriate prefix numbers and the next consecutive suffix number under the particular heading shall be assigned in accordance with the following subject outline:

- Prefix No. 1 - General Rules and Regulations
- Prefix No. 2 - Car Loading and Unloading
- Prefix No. 3 - Dockage
- Prefix No. 4 - Service and Facilities Charges
- Prefix No. 5 - Tariff Definitions
- Prefix No. 6 - Wharfage
- Prefix No. 7 - Wharf Demurrage and Storage
- Prefix No. 8 - Miscellaneous Matters Relating to Members' Tariffs
- Prefix No. 9 - Miscellaneous Matters Not Related to Members' Tariffs
- Prefix No. 10 - Tariff Interpretations

In those instances where a particular subject is to be acted upon by the Traffic Committee of Operating Members, the suffix letters "TR" shall be used to denote subjects considered by the Traffic Committee of Operating Members. Proposals submitted under the Emergency Docket Procedure, hereinafter set forth, shall be designated by the suffix letter "E".

Requests or complaints from shippers received in the office of the Executive Secretary shall be docketed in the same manner as hereinabove outlined. The nature of the request or complaint shall be summarized in the space provided for the proposal on the Docket Data Sheet or, in the alternative, the Executive Secretary shall prepare photocopies of the shipper's request or complaint for attachment to the Docket Data Sheet at the time of transmittal to the members.

II. EMERGENCY DOCKET PROCEDURE

The Emergency Docket Procedure is for the purpose of giving immediate consideration to matters which cannot be deferred for a regularly scheduled meeting. Emergency proposals shall be prepared by the proponent on forms supplied by the Executive Secretary. A sufficient number of copies of each proposal shall be prepared to furnish each member with one copy together with a copy to the Executive Secretary. In the preparation of an Emergency Docket Proposal the following shall be observed:

- (1) The subject shall be designated in the same manner as listed in the docket designation hereinabove mentioned (e.g., "Dockage", "Service and Facilities Charges", "Wharfage", etc.). If a rate is proposed to be established or amended in connection with a particular commodity the name of the commodity and the trade in which the movement is to take place shall be stated together with the rate or rates involved (e.g., Foreign Trade - Inbound or Foreign Trade - Outbound, etc.).
- (2) The proposal shall be set forth in sufficient detail to clearly designate the proposed change together with reference to the number of the tariff item in which publication is intended to be made. Wherever possible, the proposed effective date of the tariff change shall also be designated.
- (3) Justification for the proposed change shall be set forth in sufficient detail to enable members of the designated Committee to cast their ballots without the necessity of additional communication with the proponent.
- (4) The Emergency Docket Procedure is invoked by mailing the Emergency Docket Proposal, and is governed exclusively by these provisions, to the Executive Secretary and each member of the Committee to which the proposal is directed.
- (5) Immediately upon receipt of an Emergency Docket Proposal, the Executive Secretary shall assign a docket number thereto and submit Docket Data Sheets to all members of the designated Committee to whom the Emergency Docket Proposal was directed. Each member shall, within 96 hours after the receipt of the emergency docket proposal by the Executive Secretary, excluding Saturdays, Sundays and legal holidays, cast a ballot in the office of the Executive Secretary. Whenever a member does not cast his vote within the 96 hour period such member's vote will be considered as cast in the negative and will be so recorded by the Executive Secretary. The Executive Secretary shall, promptly upon the recording of all the ballots on an Emergency Docket Proposal, but in no event later than 96 hours, as hereinabove provided, notify the proponent of the vote on such proposal and shall thereafter place the docket on the agenda for confirmatory action by the Committee at its next regular meeting.

III. COMMITTEE MEETINGS

(a) Regular and Special Meetings

Meetings of the Committee on Tariffs and Practices shall be regularly scheduled to be held approximately every six weeks. Meetings of the Traffic Committee of Operating Members shall be subject to the call of its Chairman, but shall be held with sufficient frequency to consider all items on their agenda with reasonable promptness. Special meetings of either Committee shall be subject to the call of the Chairman.

Notice of the date and place at which meetings are to be held shall be given by the Executive Secretary as reasonably far in advance as practicable.

An agenda of the subjects to be considered at each committee meeting shall be prepared by the Executive Secretary and transmitted to the committee members not less than one week preceding the date of the meeting. Any matter not on the agenda may be brought up for consideration at such meeting upon consent of the members of the committee, provided, however, that a matter proposed to be added to the agenda for the meeting of the Traffic Committee of Operating Members must be within the purview of such Committee. When a matter is thus added to a Committee's agenda, the Executive Secretary shall designate the docket number assigned to the subject and upon return to his office shall immediately cause a Docket Data Sheet to be prepared thereon and forwarded to the members of the committee in the event that the subject has not been previously docketed.

Meetings shall be conducted under procedures established by Robert's Rules of Order subject to the following:

- (1) Action to amend a member's tariff must be by unanimous vote. Actions proposed to be taken in the name of the Association in connection with tariffs other than those of a member of the Association must also be by unanimous vote.
- (2) A member is privileged to withhold its vote at a meeting in which event it may cast its ballot with the Executive Secretary within 96 hours; excluding Saturdays, Sundays and legal holidays, after adjournment of the committee meeting. In the event the abstaining member fails to record its vote, as herein provided, the Executive Secretary is authorized to record such member's vote against the proposal as stated in the motion relating thereto.
- (3) In the case of amended or substitute motions vote must be taken thereon before the taking of a vote on the original motion and, if favorably voted upon, there is no need for a vote on the original motion. In the event the amended or substitute motion is not adopted, vote must then be taken on the original or main motion.
- (4) A motion to table, when seconded, takes precedence over any other motion pending at the time and is not subject to debate or discussion. When a motion to table has been adopted a motion to remove from the table is necessary in order to bring the subject up for consideration at a future meeting.

- (5) A motion to postpone for future consideration takes precedence over a motion to amend. Unlike a motion to table, a motion to postpone does not require further action in order to be placed on the agenda for a future meeting.
- (6) A member has the right to change his vote up to the time the vote is finally announced. If all members of the Committee are present and have voted on a subject the result of the vote shall be announced by the Chairman. If a member has abstained from voting during the course of the meeting and later records his vote with the Executive Secretary, or in the event of the abstaining member failing to record his vote within the 96-hour period, and a ballot recorded for such member as hereinabove provided, the result of the vote will be announced by the Executive Secretary in the form of a communication addressed to all members.

(b) Meetings by Correspondence.

A Committee Chairman, at his own discretion, may, or upon the written request of two (2) members, shall, call a meeting by correspondence and the Chairman shall fix the date thereof. A notice of the call of any meeting by correspondence shall be given by the Executive Secretary in writing by mail to each member of the Committee and shall be postmarked not less than five (5) days prior to the date fixed for any such meeting by correspondence, which notice shall state the manner of call of said meeting by correspondence, state the date fixed for said meeting by correspondence, contain the subject or subjects to be voted upon at such meeting together with the text of any resolutions or any other actions proposed for vote, contain a ballot form of subjects corresponding to the agenda by which the members may register their votes upon any or all of the subjects set forth in the agenda for such meeting by correspondence, and contain a docket data sheet or sheets. A member shall be deemed to have voted on a subject at a meeting by correspondence (a) if the member shall have communicated its vote, in the affirmative or in the negative, on such subject to the Executive Secretary in writing, by mail or otherwise, and if such communication is received by the Executive Secretary or is postmarked prior to midnight of the date fixed for such meeting by correspondence or (b) if the member shall have failed to communicate its vote on such subject to the Executive Secretary in the manner and within the time specified in Clause (a) above, in such event its vote on such subject shall be deemed to be and shall be entered as in the negative. Any resolution or other action proposed and adopted at a meeting by correspondence shall have the same force and effect as though such resolution or other action had been adopted or taken at a regular or special meeting of the Committee.

(c) Meetings by Telephone.

A Committee Chairman, at his own discretion, when in his judgment time is of the essence and a special meeting or a meeting by correspondence will result in undue delay, may, or upon the request of two (2) members, shall, call a Committee meeting by telephone and fix the date and purpose thereof.

The notice of the call of any meeting by telephone shall be given by the Executive Secretary to each member by telephone and by arranging a telephonic conference on the date so fixed between the Chairman and all or so many of the members (but not less than one-half (1/2) of the membership of the Committee) as may be available, and by stating at such telephonic conference the manner of call of said meeting by telephone and the purposes for which such meeting is called, together

with the text of any resolutions or other actions proposed. No business other than that which is within the purposes for which the meeting by telephone was called shall be transacted, provided, however, if all members are present and unanimously agree, any other matters within the jurisdiction of the Committee may be dealt with at such meeting by telephone. The Chairman shall preside at such meeting by telephone and shall entertain motions, seconds and discussion, put matters to vote and otherwise carry on the business of the meeting by telephone as if such meeting were a regular or special meeting of the Committee in person.

In the event any member is absent from a meeting by telephone, the Executive Secretary shall, as soon after such meeting has adjourned as such absent member may be reached by telephone, advise such member of the purposes of the call and the subject or subjects acted upon at such meeting, of the text of any resolutions or other actions voted upon or taken at such meeting together with the vote thereon, and shall ask for, receive, and, subject to confirmation by telegram or other written communication within twenty-four hours thereafter by such absent member, record such member's vote on each of such resolutions or other actions.

Any resolution or other action proposed and adopted at a meeting by telephone shall have the same force and effect as though such resolution or other action had been adopted or taken at a regular or special meeting of the Committee.

IV. TARIFF CHANGES

Tariff changes which are authorized to be made, when involving the tariffs of two or more members, shall, wherever practical, be published upon a uniform effective date which shall be agreed upon at the time the change is authorized.

V. INDEPENDENT ACTION

Any proposal involving a change in a member's tariff which has failed to obtain the unanimous approval of the committee having jurisdiction of the subject matter may be made the subject of independent action on the part of the proponent, provided, however, that such action can only be taken by the proponent after giving not less than ten days' prior written notice thereof to the President, the Executive Secretary and each member of the Association. The prior written notice requirement is interpreted by the Association to mean that within such ten day period tariff publication shall be held in abeyance until after the holding of the special meeting called by the President for the purpose of enabling the members to confer with each other regarding the matter on which notice of independent action has been given. The Executive Secretary shall thereafter notify the members of the committee of the disposition or conclusion reached and record the action in the minutes of the next following meeting of the committee having jurisdiction of the subject matter.

VI. SHIPPER'S REQUESTS AND COMPLAINTS

Shippers' requests or complaints filed with the Executive Secretary shall be promptly submitted to the Committee on Tariffs and Practices or the Traffic Committee of Operating Members and to each member of the Association. Submission to the designated committee shall be made by the issuance of a Docket Data Sheet thereon in accordance with the procedure hereinbefore provided.

The committee shall consider shippers' requests and complaints at the next meeting following receipt in the office of the Executive Secretary. The committee need not restrict its action to the exact scope of such request or complaint but may include other points or recommendations varying from but which are either directly or indirectly related thereto.

The Executive Secretary shall promptly give written notice to the proponent or complainant of the docketing of his request or complaint and the date of the meeting of the designated committee at which the subject will be considered. If the proponent or complainant desires to be heard the committee shall afford the proponent or complainant full opportunity to do so.

The conclusions and recommendations of the committee shall be submitted by the Executive Secretary to the members of the Association for decision and the Executive Secretary shall thereafter, in writing, promptly advise the proponent or complainant thereof. In the event the members of the Association reach a decision different from that of the conclusions and recommendations of the committee, the members of the committee shall promptly be advised thereof.

Adopted: March 10, 1972

- The End -