

§ 502.303

(b) A claim is deemed filed on the date it is received by the Commission. [Rule 302.]

[49 FR 44369, Nov. 6, 1984, as amended at 64 FR 7812, Feb. 17, 1999]

§ 502.303 [Reserved]

§ 502.304 Procedure and filing fee.

(a) A sworn claim under this subpart shall be filed in the form prescribed in Exhibit No. 1 to this subpart. Three (3) copies of this claim must be filed, together with the same number of copies of such supporting documents as may be deemed necessary to establish the claim. Copies of tariff pages need not be filed; reference to such tariffs or to pertinent parts thereof will be sufficient. Supporting documents may consist of affidavits, correspondence, bills of lading, paid freight bills, export declarations, dock or wharf receipts, or of such other documents as, in the judgment of the claimant, tend to establish the claim. The Settlement Officer may, if deemed necessary, request additional documents or information from claimants. Claimant may attach a memorandum, brief or other document containing discussion, argument, or legal authority in support of its claim. If a claim filed under this subpart involves any shipment which has been the subject of a previous claim filed with the Commission, formally or informally, full reference to such previous claim must be given.

(b) Claims under this subpart shall be addressed to the Office of the Secretary, Federal Maritime Commission, Washington, DC 20573. Such claims shall be accompanied by remittance of a \$67 filing fee.

(c) Each claim under this subpart will be acknowledged with a reference to the Informal Docket Number assigned. The number shall consist of a numeral(s) followed by capital "I" in parentheses. All further correspondence pertaining to such claims must refer to the assigned Informal Docket Number. If the documents filed fail to establish a claim for which relief may be granted, the parties affected will be so notified in writing. The claimant may thereafter, but only if the period of limitation has not run, resubmit its claim with such additional proof as

46 CFR Ch. IV (10-1-06 Edition)

may be necessary to establish the claim. In the event a complaint has been amended because it failed to state a claim upon which relief may be granted, it will be considered as a new complaint.

(d) A copy of each claim filed under this subpart, with attachments, shall be served by the Settlement Officer on the respondent involved.

(e) Within twenty-five (25) days from the date of service of the claim, the respondent shall serve upon the claimant and file with the Commission its response to the claim, together with an indication, in the form prescribed in Exhibit No. 2 to this subpart, as to whether the informal procedure provided in this subpart is consented to. Failure of the respondent to indicate refusal or consent in its response will be conclusively deemed to indicate such consent. The response shall consist of documents, arguments, legal authorities, or precedents, or any other matters considered by the respondent to be a defense to the claim. The Settlement Officer may request the respondent to furnish such further documents or information as deemed necessary, or he or she may require the claimant to reply to the defenses raised by the respondent.

(f) If the respondent refuses to consent to the claim being informally adjudicated pursuant to this subpart, the claim will be considered a complaint under § 502.311 and will be adjudicated under subpart T of this part.

(g) Both parties shall promptly be served with the Settlement Officer's decision which shall state the basis upon which the decision was made. Where appropriate, the Settlement Officer may require that the respondent publish notice in its tariff of the substance of the decision. This decision shall be final, unless, within thirty (30) days from the date of service of the decision, the Commission exercises its discretionary right to review the decision. The Commission shall not, on its own initiative, review any decision or order of dismissal unless such review is requested by an individual Commissioner. Any such request must be transmitted to the Secretary within thirty (30) days after date of service of the decision or order. Such request

Federal Maritime Commission

Pt. 502, Subpt. S, Exh. 1

shall be sufficient to bring the matter before the Commission for review.

(h) Within thirty (30) days after service of a final decision by a Settlement Officer, any party may file a petition for reconsideration. Such petition shall be directed to the Settlement Officer and shall act as a stay of the review period prescribed in paragraph (g) of this section. A petition will be subject to summary rejection unless it: (1) Specifies that there has been a change in material fact or in applicable law, which change has occurred after issuance of the decision or order; (2) identifies a substantive error in material fact contained in the decision or order; (3) addresses a material matter in the Settlement Officer's decision upon which the petitioner has not previously had the opportunity to comment. Petitions which merely elaborate upon or repeat arguments made prior to the decision or order will not be received. Upon issuance of a decision or order on reconsideration by the Settlement Officer, the review period prescribed in paragraph (g) of this section will recommence. [Rule 304.]

[49 FR 44369, Nov. 6, 1984, as amended at 59 FR 59170, Nov. 16, 1994; 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005]

§ 502.305 Applicability of other rules of this part.

Except §§ 502.253 and 502.254 or as otherwise specifically provided in this subpart, the rules in subparts A through Q, inclusive, of this part do not apply to situations covered by this subpart. [Rule 305.]

[64 FR 7812, Feb. 17, 1999]

EXHIBIT NO. 1 TO SUBPART S [§ 502.304(a)] OF PART 502—SMALL CLAIM FORM FOR INFORMAL ADJUDICATION AND INFORMATION CHECKLIST

Federal Maritime Commission, Washington, DC.

Informal Docket No. _____

(Claimant) vs.

(Respondent)

I. The claimant is [state in this paragraph whether claimant is an association, corpora-

tion, firm or partnership, and if a firm or partnership, the names of the individuals composing the same. State the nature and principal place of business.]

II. The respondent named above is [state in this paragraph whether respondent is an association, corporation, firm or partnership, and if a firm or partnership, the names of the individuals composing the same. State the nature and principal place of business.]

III. That [state in this and subsequent paragraphs to be lettered A, B, etc., the matters that gave rise to the claim. Name specifically each rate, charge, classification, regulation or practice which is challenged. Refer to tariffs, tariff items or rules, or agreement numbers, if known. If claim is based on the fact that a firm is a common carrier, state where it is engaged in transportation by water and which statute(s) it is subject to under the jurisdiction of the Federal Maritime Commission].

IV. If claim is for overcharges, state commodity, weight and cube, origin, destination, bill of lading description, bill of lading number and date, rate and/or charges assessed, date of delivery, date of payment, by whom paid, rate or charge claimed to be correct and amount claimed as overcharges. [Specify tariff item for rate or charge claimed to be proper].

V. State section of statute claimed to have been violated. (Not required if claim is for overcharges).

VI. State how claimant was injured and amount of damages requested.

VII. The undersigned authorizes the Settlement Officer to determine the above-stated claim pursuant to the informal procedure outlined in subpart S (46 CFR 502.301-502.305) of the Commission's informal procedure for adjudication of small claims subject to discretionary Commission review.

Attach memorandum or brief in support of claim. Also attach bill of lading, copies of correspondence or other documents in support of claim.

(Date)

(Claimant's signature)

(Claimant's address)

(Signature of agent or attorney)

(Agent's or attorney's address)

VERIFICATION

State of _____, County of _____, ss: _____, being first duly sworn on oath deposes and says that he or she is