

§ 502.321

record in this proceeding by [mailing, delivering to courier, or delivering in person], a copy to each such person in sufficient time to reach such person on the date the document is due to be filed with the Commission.

Dated at _____ this
19____ day of _____,

(Signature) _____
(For) _____

[Rule 320.]

§ 502.321 Applicability of other rules of this part.

Except as specifically provided in this part, rules in subparts A through Q, inclusive, of this part do not apply to situations covered by this subpart. [Rule 321.]

[64 FR 7812, Feb. 17, 1999]

Subpart U—Alternative Dispute Resolution

SOURCE: 66 FR 43513, Aug. 20, 2001, unless otherwise noted.

§ 502.401 Policy.

It is the policy of the Federal Maritime Commission to use alternative means of dispute resolution to the fullest extent compatible with the law and the agency's mission and resources. The Commission will consider using ADR in all areas including workplace issues, formal and informal adjudication, issuance of regulations, enforcement and compliance, issuing and revoking licenses and permits, contract award and administration, litigation brought by or against the Commission, and other interactions with the public and the regulated community. The Commission will provide learning and development opportunities for its employees to develop their ability to use conflict resolution skills, instill knowledge of the theory and practice of ADR, and to facilitate appropriate use of ADR. To this end, all parties to matters under this part are required to consider use of a wide range of alternative means to resolve disputes at an early stage. Parties are encouraged to pursue use of alternative means through the Commission's Office of Consumer Affairs and Dispute Resolution Services in lieu of or prior to initi-

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

ating a Commission proceeding. All employees and persons who interact with the Commission are encouraged to identify opportunities for collaborative, consensual approaches to dispute resolution or rulemaking.

[66 FR 43513, Aug. 20, 2001, as amended at 70 FR 7669, Feb. 15, 2005; 70 FR 44867, Aug. 4, 2005]

§ 502.402 Definitions.

(a) *Alternative means of dispute resolution* means any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombuds, or any combination thereof;

(b) *Award* means any decision by an arbitrator resolving the issues in controversy;

(c) *Dispute resolution communication* means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(d) *Dispute resolution proceeding* means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(e) *In confidence* means, with respect to information, that the information is provided—

(1) With the expressed intent of the source that it not be disclosed; or

(2) Under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(f) *Issue in controversy* means an issue which is material to a decision concerning a program of the Commission, and with which there is disagreement—

(1) Between the Commission and persons who would be substantially affected by the decision; or

(2) Between persons who would be substantially affected by the decision;

(g) *Neutral* means an individual who, with respect to an issue in controversy,