

## § 502.42

1984, the parties to the agreement shall be designated as “proponents” and the parties protesting the agreement shall be designated as “protestants.” A person who has been permitted to intervene under § 502.72 shall be designated as “intervenor”. All persons or parties designated in this section shall become parties to the proceeding involved without further pleadings, and no person other than a party or its representative may introduce evidence or examine witnesses at hearings. [Rule 41.]

[49 FR 44369, Nov. 6, 1984, as amended at 61 FR 66617, Dec. 18, 1996]

### § 502.42 Bureau of Enforcement.

The Director, Bureau of Enforcement, shall be a party to all proceedings governed by the rules in this part except that in complaint proceedings under § 502.62, the Director may become a party only upon leave to intervene granted pursuant to § 502.72, in rulemaking proceedings and in proceedings considering petitions the Director may become a party by designation if the Commission determines that the circumstances of the proceeding warrant such participation, and the Director will not ordinarily be a party to small claims proceedings under § 502.304 and special docket proceedings under § 502.271. The Director or the Director’s representative shall be served with copies of all papers, pleadings, and documents in every proceeding in which the Bureau of Enforcement is a party. The Bureau of Enforcement shall actively participate in any proceeding to which the Director is a party, to the extent required in the public interest, subject to the separation of functions required by section 5(c) of the Administrative Procedure Act. (See § 502.224). [Rule 42.]

[64 FR 7807, Feb. 17, 1999]

### § 502.43 Substitution of parties.

In appropriate circumstances, the Commission or presiding officer may order an appropriate substitution of parties. [Rule 43.]

### § 502.44 Necessary and proper parties in certain complaint proceedings.

(a) If a complaint relates to through transportation by continuous carriage or transshipment, all carriers partici-

## 46 CFR Ch. IV (10–1–06 Edition)

pating in such through transportation shall be joined as respondents.

(b) If the complaint relates to more than one carrier or other person subject to the shipping acts, all carriers or other persons against whom a rule or order is sought shall be made respondents.

(c) If complaint is made with respect to an agreement filed under section 5(a) of the Shipping Act of 1984, the parties to the agreement shall be made respondents. (Rule 44).

[49 FR 44369, Nov. 6, 1984, as amended at 65 FR 81759, Dec. 27, 2000]

## Subpart D—Rulemaking

### § 502.51 Initiation of procedure to issue, amend, or repeal a rule.

(a) *By petition.* Any interested party may file with the Commission a petition for the issuance, amendment, or repeal of a rule designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements of the Commission. The petition shall set forth the interest of petitioner and the nature of the relief desired, shall include any facts, views, arguments, and data deemed relevant by petitioner, and shall be verified. If such petition is for the amendment or repeal of a rule, it shall be accompanied by proof of service on all persons, if any, specifically named in such rule, and shall conform in other aspects to subpart H of this part. Petitions shall be accompanied by remittance of a \$241 filing fee. Replies to such petition shall conform to the requirements of § 502.74.

(b) *By the Commission.* The Commission on its own initiative may initiate the issuance, amendment, or repeal of a rule through notice of proposed rulemaking or advanced notice of proposed rulemaking. [Rule 51.]

[64 FR 7808, Feb. 17, 1999, as amended at 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005]

### § 502.52 Notice of proposed rulemaking.

(a) General notice of proposed rulemaking, including the information specified in § 502.143, shall be published in the FEDERAL REGISTER, unless all persons subject thereto are named and,

## Federal Maritime Commission

## § 502.61

either are personally served, or otherwise have actual notice thereof in accordance with law.

(b) Except where notice of hearing is required by statute, this section shall not apply to interpretative rules, general statements of policy, organization rules, procedure, or practice of the Commission, or any situation in which the Commission for good cause finds (and incorporates such findings in such rule) that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. [Rule 52.]

### § 502.53 Participation in rulemaking.

(a) Interested persons will be afforded an opportunity to participate in rulemaking through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner. No replies to the written submissions will be allowed unless, because of the nature of the proceeding, the Commission indicates that replies would be necessary or desirable for the formulation of a just and reasonable rule, except that, where the proposed rules are such as are required by statute to be made on the record after opportunity for a hearing, such hearing shall be conducted pursuant to 5 U.S.C. 556 and 557, and the procedure shall be the same as stated in subpart J of this part. In the event that replies or succeeding rounds of comments are permitted, copies shall be served on all prior participants in the proceeding. A list of participants may be obtained from the Secretary of the Commission.

(b) In those proceedings in which respondents are named, interested persons who wish to participate shall file a petition to intervene in accordance with the provisions of § 502.72 [Rule 53.]

[49 FR 44369, Nov. 6, 1984, as amended at 55 FR 28399, July 11, 1990]

### § 502.54 Contents of rules.

The Commission will incorporate in any rules adopted a concise general statement of their basis and purpose. [Rule 54.]

### § 502.55 Effective date of rules.

The publication or service of any substantive rule shall be made not less than thirty (30) days prior to its effective

date except (a) as otherwise provided by the Commission for good cause found and published in the FEDERAL REGISTER or (b) in the case of rules granting or recognizing exemption or relieving restriction; interpretative rules; or statements of policy. [Rule 55.]

### § 502.56 Negotiated rulemaking.

The Commission, either upon petition of interested persons or upon its own motion, may establish a negotiated rulemaking committee to negotiate and develop consensus on a proposed rule, if, upon consideration of the criteria of 5 U.S.C. 563, use of such a committee is determined by the Commission to be in the public interest. [Rule 56.]

[58 FR 38649, July 19, 1993, as amended at 64 FR 7808, Feb. 17, 1999]

## Subpart E—Proceedings; Pleadings; Motions; Replies

### § 502.61 Proceedings.

(a) Proceedings are commenced by the filing of a complaint, or by order of the Commission upon petition or upon its own motion, or by reference by the Commission to the formal docket of a petition for a declaratory order.

(b) In proceedings referred to the Office of Administrative Law Judges, the Commission shall specify a date on or before which hearing shall commence, which date shall be no more than six months from the date of publication in the FEDERAL REGISTER of the Commission's order instituting the proceedings or notice of complaint filed. Hearing dates may be deferred by the presiding judge only to prevent substantial delay, expense, detriment to the public interest or undue prejudice to a party.

(c) In the order instituting a proceeding or in the notice of filing of complaint and assignment, the Commission shall establish dates by which the initial decision and the final Commission decision will be issued. These dates may be extended by order of the Commission for good cause shown.

(d) All orders instituting a proceeding or noticing the filing of a complaint will contain language requiring that at an early stage of the proceeding