

## Maritime Administration, DOT

## § 201.72

### § 201.55 Postponement of hearing.

Applications for postponement of any hearing date may be granted upon a showing of good cause on the part of the applicant. Answers to such applications are permitted.

### Subpart F—Rule Making (Rule 6)

#### § 201.61 Petition for issuance, amendment, or repeal of rule or regulation.

Any interested person may file with the Administration 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 Administration. 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 subscribed to. 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 all other aspects to subpart D of this part. Answers to such petition shall conform to the requirements of subpart D of this part.

#### § 201.62 Notice of proposed rule making.

After receipt of petitions and any answers thereto described in § 201.61, or upon its own initiative, the Administration may, in its discretion, direct that notice thereof be published in the FEDERAL REGISTER unless all persons subject thereto are named and either are personally served or otherwise have actual notice thereof in accordance with law. Except where publication of notice of proposed rule making and public hearing is required by statute, this section shall not apply to interpretative rules, general statements of policy, organization rules, rules of procedure, or practice of the Administration, or amendments thereto, or any situation in which the Administration for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

### § 201.63 Participation in rule making.

Interested persons will be afforded an opportunity to participate in rule making through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner: *Provided*, That where the proposed rules are such as are required by statute to be made on the record after opportunity for a hearing, or where a hearing is ordered by the Administration upon petition of any party or upon its own initiative, such hearing shall be conducted pursuant to sections 7 and 8 of the Administrative Procedure Act.

### § 201.64 Contents of rules.

The Administration will incorporate in any rule to be adopted a concise general statement of their basis and purpose.

### § 201.65 Effective date of rules.

The publication or service of any substantive rule shall be made not less than 30 days prior to its effective date except: (a) As otherwise provided by the Administration 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, and statements of policy.

### Subpart G—Formal Proceedings, Notice, Pleadings, Replies (Rule 7)

#### § 201.71 Commencement of proceedings.

Formal proceedings may be commenced with respect to any phase of an application for Government aid or other relief, the processing of which by statute requires a public hearing. The Administration may, in its discretion, also direct the holding of a hearing not required by statute for any purpose authorized in the statutes it administers.

### § 201.72 Notice.

Notice of any matter which may result in or involves the institution of a formal proceeding will be given by publication in the FEDERAL REGISTER in sufficient detail and in sufficient time to apprise interested persons of the nature of the issues to be heard and to

**§ 201.73**

allow for an opportunity to file petitions for leave to intervene.

**§ 201.73 Joinder of proceedings.**

(a) Two or more matters which have been set for hearing by the Administration, and which involve similar issues, may be consolidated for the purpose of hearing. Such consolidation may, at the discretion of the Administration, or Presiding Officer after hearing has been ordered, be ordered upon petition of any party to said hearing or upon the initiative of the Administration.

(b) A petition to consolidate shall be filed not later than the first prehearing conference in the proceeding with which consolidation is requested, and shall relate only to then pending applications. If made at such conference, the petition may be oral. A petition which is not timely filed shall be dismissed unless the petitioner shall clearly show good cause for the failure to file said petition on time. A petition which does not relate to an application pending at the time of or before a prehearing conference in a proceeding with which consolidation is requested, shall likewise be dismissed unless the petitioner shall clearly show good cause for a failure to file the application within the prescribed period.

**§ 201.74 Declaratory orders.**

The Administration may issue a declaratory order to terminate a proceeding or to remove uncertainty. Petitions for the issuance thereof shall state clearly and concisely the nature of the controversy or uncertainty, shall cite the statutory authority involved, shall include a complete statement of the facts and grounds supporting the petition, together with a full disclosure of petitioner's interest.

**§ 201.75 Petitions—general.**

All petitions shall be written and shall state the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought, and shall cite the authority upon which the petition rests. The petition shall be served upon all parties named therein or affected thereby. Answers to petitions may be filed.

**46 CFR Ch. II (10-1-06 Edition)**

**§ 201.76 Applications for Government aid.**

Applications for operating-differential subsidies, charter of Government-owned vessels, and other types of Government aid shall conform to the requirements set forth in the various general orders and other regulations of the Administration specifically provided therefor.

**§ 201.77 Amendments or supplements to pleadings.**

Amendments or supplements to any pleading will be allowed or refused in the discretion of the Administration if the case has not been assigned for hearing, otherwise in the discretion of the presiding officer designated to conduct the hearing; *Provided*, That after a prehearing conference has been held no amendment shall be allowed which would substantially broaden the issues, unless an opportunity is afforded all parties to answer such amended pleadings and to prepare for hearing upon the broadened issues. The presiding officer may direct a party to state its case more fully and in more detail by way of amendment. If a response to an amended pleading is necessary, it may be filed and served. Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading. Whenever by the regulations in this part a pleading is required to be subscribed, the amendment or supplement shall also be subscribed.

**§ 201.78 Petition for leave to intervene.**

A petition for leave to intervene may be filed in any proceeding before the Administration. The petition will be granted by the presiding officer if the proposed intervenor establishes that it has a substantial interest in the proceeding and will not unduly broaden the issues therein or unduly delay the proceeding. All such petitions shall be filed prior to the opening of the prehearing conference, or if none is held, before the commencement of hearing, unless petitioner shows good cause for allowing the petition at a later time. Intervention petitions shall be served in the same manner as other petitions, and shall be subject to answer. Intervention petitions will be granted where