

**§ 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

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necessary to protect substantial interests of the petitioner and where intervention will not materially broaden the issues. A person granted permission to intervene becomes a party to the proceeding.

### § 201.79 Motions.

All motions and requests for rulings shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, such motions shall be in writing. If made at the hearing, they may be stated orally: *Provided, however,* That the presiding officer may require that such motion be reduced to writing and filed and served in the same manner as a formal motion. Answers to formal motions shall comply with the requirements of § 201.80. Motions and answers thereto shall be addressed to the presiding officer if the case is pending before such officer. Oral argument upon a written motion in which an answer has been filed may be granted within the discretion of the Administration or the presiding officer, as the case may be. A repetitious motion will not be entertained.

### § 201.80 Answers to applications, petitions, or motions.

A pleading filed in response to an application, petition, or motion is called an answer. An answer may be filed to any application, petition, motion or pleading which is required to be served on the answering party or noticed in the FEDERAL REGISTER. An answer to a written application, petition, or motion shall be in writing and shall be filed within ten days after service of the pleading which it answers. Any new matter raised in an answer shall be deemed to be controverted. A response to an answer is called a reply. A short reply restricted to such new matters may be filed within five days of service of the answer.

## Subpart H—Responsibilities and Duties of Presiding Officer (Rule 8)

### § 201.85 Commencement of functions of Department of Transportation Office of Hearings.

In proceedings handled by the Department of Transportation Office of

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Hearings, its functions shall attach upon notice of the institution of a formal proceeding involving a prehearing conference and/or a hearing by the Administration.

[General Order 41, 3d Rev., 29 FR 14475, Oct. 22, 1964; 29 FR 15374, Nov. 17, 1964, as amended at 63 FR 9157, Feb. 24, 1998]

### § 201.86 Presiding officer.

An Administrative Law Judge in the Department of Transportation Office of Hearings will be designated by the Department's Chief Administrative Law Judge to preside at hearings required by statute, or directed to be held under the Administration's discretionary authority in hearings not required by statute, in rotation so far as practicable, unless the Administration shall designate one or more of its officials to serve as presiding officer(s) in hearings required by statute, or member(s) of the staff in proceedings not required by statute.

[63 FR 9157, Feb. 24, 1998]

### § 201.87 Authority of presiding officer.

The officer designated to hear a case shall have authority to arrange and issue notice of the date, time and place of hearings; under appropriate circumstances consolidate dockets for joint hearing; sign and issue subpoenas authorized by law; take or cause depositions to be taken; rule upon proposed amendments or supplements to pleadings; hold conferences for the settlement or simplification of matters embraced in the proceedings; regulate the course of the hearing; prescribe the order in which evidence shall be presented; dispose of procedural requests or similar matters; hear and initially rule upon all motions and petitions before him; administer oaths and affirmations; examine witnesses, direct witnesses to testify or produce available evidence and to submit reports, studies and analyses of data available to them which may be generally relevant and material to the determination of any questions of fact in issue; rule upon offers of proof and receive competent,