

§ 502.136

46 CFR Ch. IV (10–1–10 Edition)

§ 502.136 Enforcement.

In the event of failure to comply with any subpoena or order issued in connection therewith, the Commission may seek enforcement as provided in § 502.210(b). [Rule 136.]

Subpart J—Hearings; Presiding Officers; Evidence

§ 502.141 Hearings not required by statute.

The Commission may call informal public hearings, not required by statute, to be conducted under the rules in this part where applicable, for the purpose of rulemaking or to obtain information necessary or helpful in the determination of its policies or the carrying out of its duties, and may require the attendance of witnesses and the production of evidence to the extent permitted by law. [Rule 141.]

§ 502.142 Hearings required by statute.

In complaint and answer cases, investigations on the Commission's own motion, and in other rulemaking and adjudication proceedings in which a hearing is required by statute, formal hearings shall be conducted pursuant to 5 U.S.C. 554. [Rule 142.]

§ 502.143 Notice of nature of hearing, jurisdiction and issues.

Persons entitled to notice of hearings, except those notified by complaint served under § 502.113, will be duly and timely informed of (a) the nature of the proceeding, (b) the legal authority and jurisdiction under which the proceeding is conducted, and (c) the terms, substance, and issues involved, or the matters of fact and law asserted, as the case may be. Such notice shall 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. [Rule 143.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 64 FR 7810, Feb. 17, 1999]

§ 502.144 Notice of time and place of hearing; postponement of hearing.

(a) Notice of hearing will designate the time and place thereof, the person or persons who will preside, and the

kind of decision to be issued. The date or place of a hearing for which notice has been issued may be changed when warranted. Reasonable notice will be given to the parties or their representatives of the time and place of the change thereof, due regard being had for the public interest and the convenience and necessity of the parties or their representatives. Notice may be served by mail or telegraph. Notice may be served by mail, facsimile transmission, or electronic mail.

(b) Motions for postponement of any hearing date shall be filed in accordance with § 502.104. [Rule 144.]

[49 FR 44369, Nov. 6, 1984, as amended at 64 FR 7810, Feb. 17, 1999; 64 FR 23551, May 3, 1999]

§ 502.145 Presiding officer.

(a) *Definition.* Presiding officer includes, where applicable, a member of the Commission or an administrative law judge. (See § 502.25.)

(b) *Designation of administrative law judge.* An administrative law judge will be designated by the Chief of the Commission's Office of Administrative Law Judges to preside at hearings required by statute, in rotation so far as practicable, unless the Commission or one or more members thereof shall preside, and will also preside at hearings not required by statute when designated to do so by the Commission.

(c) *Unavailability.* If the presiding officer assigned to a proceeding becomes unavailable to the Commission, the Commission, or Chief Judge (if such presiding officer was an administrative law judge), shall designate a qualified officer to take his or her place. Any motion predicated upon the substitution of a new presiding officer for one originally designated shall be made within ten (10) days after notice of such substitution. [Rule 145.]

§ 502.146 Commencement of functions of Office of Administrative Law Judges.

In proceedings handled by the Office of Administrative Law Judges, its functions shall attach:

(a) Upon the service by the Commission of a complaint filed pursuant to § 502.62, or § 502.182, or upon referral under subpart T of this part; or