

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

(b) Except where notice or hearing is required by statute, paragraph (a) of this section shall not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice of the Commission, or when the Commission for good cause finds (and incorporates the findings and a brief statement of reasons therefor in the rules issued) that notice and public procedure are impracticable, un-

necessary, or contrary to the public interest. [Rule 52]

[49 FR 44369, Nov. 6, 1984, as amended at 78 FR 45071, July 26, 2013]

**§ 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 for oral presentation. 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 rulemaking 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.]

(c) Where a formal hearing is held in a rulemaking proceeding, interested persons will be afforded an opportunity to participate through submission of relevant, material, reliable, and probative written evidence properly verified, except that such evidence submitted by persons not present at the hearing will not be made a part of the record if objected to by any party on the ground that the person who submits the evidence is not present for cross-examination.

[49 FR 44369, Nov. 6, 1984, as amended at 55 FR 28399, July 11, 1990; 78 FR 45071, July 26, 2013]

**§ 502.54 Contents of rules.**

The Commission will incorporate in any publication of proposed or final

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rules a concise and general statement of their basis and purpose. [Rule 54.]

[78 FR 45071, July 26, 2013]

### § 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 that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest;

(b) In the case of rules granting or recognizing exemption or relieving restriction; interpretative rules; or statements of policy.

(c) Interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice. [Rule 55.]

[78 FR 45071, July 26, 2013]

### § 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]

### § 502.57 Service by parties of pleadings and other documents.

Service on all prior commenters must be shown when submitting comments or replies beyond the initial round on a notice of proposed rulemaking. A list of all participants may be obtained from the Secretary of the Commission.

[78 FR 45071, July 26, 2013]

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

SOURCE: 77 FR 61524, Oct. 10, 2012, unless otherwise noted.

## 46 CFR Ch. IV (10–1–13 Edition)

### § 502.61 Proceedings.

(a) Any person may commence a proceeding by filing a complaint (Rule 62) for a formal adjudication under normal or shortened procedures (subpart K) or by filing a claim for the informal adjudication of small claims (subpart S). A person may also file a petition for a rulemaking (Rule 51), for an exemption (Rule 74), for a declaratory order (Rule 75), or for other appropriate relief (Rule 76), which becomes a proceeding when the Commission assigns a formal docket number to the petition. The Commission may commence a proceeding for a rulemaking, for an adjudication (including Commission enforcement action under § 502.63), or a non-adjudicatory investigation upon petition or on its own initiative by issuing an appropriate order.

(b) In the order instituting a proceeding or in the notice of filing of complaint and assignment, the Commission must 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. [Rule 61.]

### § 502.62 Private party complaints for formal adjudication.

(a) *Filing a complaint for formal adjudication.* (1) A person may file a sworn complaint alleging violation of the Shipping Act of 1984, 46 U.S.C. 40101 *et seq.*

(2) *Form.* Complaints should be drafted in accordance with the rules in this section.

(3) *Content of complaint.* The complaint must be verified and must contain the following:

(i) The name, street address, and email address of each complainant, and the name, address, and email address of each complainant's attorney or representative, the name, address, and, if known, email address of each person against whom complaint is made;

(ii) A recitation of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(iii) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness