

Federal Maritime Commission

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(3) All written responses and memoranda stating the substance of all oral responses to the materials described in paragraphs (d)(1) and (d)(2) of this section;

(e) The Secretary shall place the materials described in paragraph (d) of this section in the correspondence part of the public docket of the proceeding and may take such other action as may be appropriate under the circumstances;

(f) Upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party to a proceeding, the Commission or the presiding officer may, to the extent consistent with the interests of justice and the policy of the statutes administered by the Commission, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of the making of such communication;

(g) An ex parte communication shall not constitute a part of the record for decision. The Commission or the presiding officer may, to the extent consistent with the interests of justice and the policy of the statutes administered by the Commission, consider a violation of paragraph (b) of this section sufficient grounds for a decision adverse to a party who has knowingly caused such violation to occur and may take such other action as may be appropriate under the circumstances. [Rule 11.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 64 FR 7807, Feb. 17, 1999; 64 FR 23551, May 3, 1999; 64 FR 33762, June 24, 1999]

§ 502.12 Applicability of Federal Rules of Civil Procedure.

In proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil Procedure will be followed to the extent that they are consistent with sound administrative practice. [Rule 12.]

[58 FR 27210, May 7, 1993, as amended at 64 FR 7807, Feb. 17, 1999]

§ 502.13 Privacy protection for filings made with the Commission.

(a) *Redacted filings.* Unless the Commission or presiding officer orders otherwise, in an electronic or paper filing that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:

(1) The last four digits of the social-security number and taxpayer-identification number;

(2) The year of the individual's birth;

(3) The minor's initials; and

(4) The last four digits of the financial-account number.

(b) *Exemptions from the redaction requirement.* The redaction requirement does not apply to the following:

(1) The record of an administrative or agency proceeding;

(2) The record of a state-court proceeding;

(3) The record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed; and

(4) A filing covered by paragraph (c) of this section.

(c) *Filings made under seal.* The Commission or presiding officer may order that a filing be made under seal without redaction. The Commission or presiding officer may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

(d) *Protective orders.* For good cause, the Commission or presiding officer may by order in a case:

(1) Require redaction of additional information; or

(2) Limit or prohibit a nonparty's remote electronic access to a document filed with the Commission.

(e) *Option for additional unredacted filing under seal.* A person making a redacted filing may also file an unredacted copy under seal. The Commission must retain the unredacted copy as part of the record.

(f) *Option for filing a reference list.* A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an

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appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

(g) *Waiver of protection of identifiers.* A person waives the protection of this rule as to the person's own information by filing it without redaction and not under seal. [Rule 13.]

[76 FR 10261, Feb. 24, 2011]

§ 502.14 Public hearings.

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.]

[49 FR 44369, Nov. 6, 1984. Redesignated at 81 FR 93836, Dec. 22, 2016]

Subpart B—Appearance and Practice Before the Commission

§ 502.21 Appearance.

(a) *Parties.* A party may appear in person or by an officer, partner, or regular employee of the party, or by or with counsel or other duly qualified representative, in any proceeding under the rules in this part. Any party or his or her representative may testify, produce and examine witnesses, and be heard upon brief and at oral argument if oral argument is granted.

(b) *Non-parties.* One who appears in person before the Commission or a representative thereof, either by compulsion from, or request or permission of the Commission, shall be accorded the right to be accompanied, represented, and advised by counsel.

(c) *Special appearance.* An appearance may be either general, that is, without reservation, or it may be special, that is, confined to a particular issue or question. A person who desires to appear specially must expressly so state when entering the appearance, and, at that time, shall also state the ques-

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tions or issues to which the appearance is confined; otherwise the appearance will be considered general. [Rule 21.]

[49 FR 44369, Nov. 6, 1984, as amended at 64 FR 7807, Feb. 17, 1999; 78 FR 45069, July 26, 2013]

§ 502.22 Authority for representation.

Any individual acting in a representative capacity in any proceeding before the Commission may be required to show his or her authority to act in such capacity. [Rule 22.]

§ 502.23 Notice of appearance; substitution and withdrawal of representative.

(a) Upon filing of a complaint instituting proceedings or filing of an answer to an order or complaint, the party filing shall notify the Commission of the name(s), address(es), telephone number(s), and email address(es) of the person or persons who will represent the party in the pending proceeding. Each person who appears in a representative capacity in a proceeding must deliver a written notice of appearance to the Secretary stating for whom the appearance is made. Such notice must indicate whether the representative wishes to be notified of notices, orders and decisions by either email or facsimile transmission. All appearances shall be noted in the record. Motions for leave to intervene must indicate the name(s), address(es), telephone number(s), and email address(es) of the person or persons who will represent the intervenor in the pending proceeding if the motion is granted.

(b) A Notice of Appearance should follow the form set forth in Exhibit No. 1 to this subpart.

(c) An attorney must represent in the Notice of Appearance that he is admitted to practice and in good standing. A non-attorney must describe his or her authority to act in such capacity.

(d) If an attorney or other representative of record is superseded, there shall be filed a stipulation of substitution signed both by the attorney(s) or representative(s) and by the party, or a written notice from the party to the Commission with a Notice of Appearance included. Substitution of counsel or representative will not, by