

(c) Any petition for rulemaking and any reply to the petition will be kept in a public file open for inspection.

[CGD 95-057, 60 FR 34148, June 30, 1995, as amended by USCG-2003-15404, 68 FR 37740, June 25, 2003]

§ 1.05-25 Public docket.

(a) A public file is maintained for each petition for rulemaking and each Coast Guard regulation and notice published in the FEDERAL REGISTER. Each file contains copies of every rulemaking document published for the project, public comments received, summaries of public meetings or hearings, regulatory assessments, and other publicly-available information. Members of the public may inspect the public docket and copy any documents in the file. Each rulemaking document will identify where the public file for that rulemaking is maintained. Public dockets for rulemakings originating at Coast Guard Headquarters are kept at a Docket Management Facility (DMS) maintained by the Department of Transportation, at the Nassif Building, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001. These dockets are available electronically through the DMS Web site at <http://dms.dot.gov>.

(b) The public dockets for Coast Guard rulemaking activity initiated by Coast Guard District Commanders are available for public inspection at the appropriate Coast Guard District office.

(c) The public dockets for Coast Guard rulemaking activity initiated by Captains of the Port are available for inspection at the appropriate Captain of the Port office.

[CGD 95-057, 60 FR 34148, June 30, 1995, as amended by USCG-2003-14505, 68 FR 9534, Feb. 28, 2003]

§ 1.05-30 Advance notice of proposed rulemaking (ANPRM).

An advance notice of proposed rulemaking may be used to alert the affected public about a new regulatory project, or when the Coast Guard needs more information about what form proposed regulations should take, the actual need for a regulation, the cost of a proposal, or any other information. The ANPRM may solicit general infor-

mation or ask the public to respond to specific questions.

§ 1.05-35 Notice of proposed rulemaking (NPRM).

Under the Administrative Procedure Act (APA), 5 U.S.C. 553, an NPRM is generally published in the FEDERAL REGISTER for Coast Guard rulemakings. The NPRM normally contains a preamble statement in sufficient detail to explain the proposal, its background, basis, and purpose, and the various issues involved. It also contains a discussion of any comments received in response to prior notices, a citation of legal authority for the rule, and the text of the proposed rule.

§ 1.05-40 Supplemental notice of proposed rulemaking (SNPRM).

An SNPRM may be issued if a proposed rule has been substantially changed from the original notice of proposed rulemaking. The supplemental notice advises the public of the revised proposal and provides an opportunity for additional comment. To give the public a reasonable opportunity to become reacquainted with a rulemaking, a supplemental notice may also be issued if considerable time has elapsed since publication of a notice of proposed rulemaking. An SNPRM contains the same type of information generally included in an NPRM.

§ 1.05-45 Interim rule.

(a) An interim rule may be issued when it is in the public interest to promulgate an effective rule while keeping the rulemaking open for further refinement. For example, an interim rule may be issued in instances when normal procedures for notice and comment prior to issuing an effective rule are not required, minor changes to the final rule may be necessary after the interim rule has been in place for some time, or the interim rule only implements portions of a proposed rule, while other portions of the proposed rule are still under development.

(b) An interim rule will be published in the FEDERAL REGISTER with an effective date that will generally be at least 30 days after the date of publication. After the effective date, an interim rule is enforceable and is codified in

the next annual revision of the appropriate title of the Code of Federal Regulations.

§ 1.05-50 Final rule.

In some instances, a final rule may be issued without prior notice and comment. When notice and comment procedures have been used, and after all comments received have been considered, a final rule is issued. A final rule document contains a preamble that discusses comments received, responses to comments and changes made from the proposed or interim rule, a citation of legal authority, and the text of the rule.

§ 1.05-55 Direct final rule.

(a) A direct final rule may be issued to allow noncontroversial rules that are unlikely to result in adverse public comment to become effective more quickly.

(b) A direct final rule will be published in the FEDERAL REGISTER with an effective date that is generally at least 90 days after the date of publication.

(c) The public will usually be given at least 60 days from the date of publication in which to submit comments or notice of intent to submit comments.

(d) If no adverse comment or notice of intent to submit an adverse comment is received within the specified period, the Coast Guard will publish a notice in the FEDERAL REGISTER to confirm that the rule will go into effect as scheduled.

(e) If the Coast Guard receives a written adverse comment or a written notice of intent to submit an adverse comment, the Coast Guard will publish a notice in the final rule section of the FEDERAL REGISTER to announce withdrawal of the direct final rule. If an adverse comment clearly applies to only part of a rule, and it is possible to remove that part without affecting the remaining portions, the Coast Guard may adopt as final those parts of the rule on which no adverse comment was received. Any part of a rule that is the subject of an adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of an adverse comment, a separate Notice of Proposed Rulemaking

(NPRM) will be published unless an exception to the Administrative Procedure Act requirements for notice and comment applies.

(f) A comment is considered adverse if the comment explains why the rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

[CGD 94-105, 60 FR 49224, Sept. 22, 1995]

§ 1.05-60 Negotiated rulemaking.

(a) The Coast Guard may establish a negotiated rulemaking committee under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) when it is in the public interest.

(b) Generally, the Coast Guard will consider negotiated rulemaking when:

(1) There is a need for a rule;

(2) There are a limited number of representatives for identifiable parties affected by the rule;

(3) There is a reasonable chance that balanced representation can be reached in the negotiated rulemaking committee and that the committee members will negotiate in good faith;

(4) There is a likelihood of a committee consensus in a fixed time period;

(5) The negotiated rulemaking process will not unreasonably delay the rule;

(6) The Coast Guard has resources to do negotiated rulemaking; and

(7) The Coast Guard can use the consensus of the committee in formulating the NPRM and final rule.

Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

AUTHORITY: 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100-690, 102 Stat. 4181; 49 CFR 1.46.

SOURCE: CGD 78-82, 43 FR 54186, Nov. 20, 1978, unless otherwise noted.

§ 1.07-1 Purpose.

This part describes procedures for enforcement and administration of all statutory penalty provisions that the Coast Guard is authorized to enforce.