

Federal Maritime Commission Final Rule Clarifying Evidentiary Standards

DECEMBER 21, 2016

The U.S. Federal Maritime Commission has notified publication of a Final Rule to occur on December 22, 2016, which aims to clarify evidentiary standards in Commission proceedings. The Rule states that the more liberal Administrative Procedure Act standard will be applied in Commission proceedings, but that Administrative Law Judges overseeing Shipping Act matters may look to the Federal Rules of Evidence for guidance.

In justifying the Final Rule, the Commission notes that the current rules attempt to provide for the application of both standards simultaneously, creating tension and lack of clarity as to whether the more lenient APA or more stringent Federal Rules standard applies. The change should help expedite and make less costly Commission proceedings by reducing technical disputes about the admissibility of evidence and disputes about what set of Rules apply before the Commission. The Final Rule also reorganizes the Commission's procedural rules.

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