

which event the reasons for objection shall be stated. If objection is made to part of any item or category, the part shall be specified. The party submitting the request may move for an order under §210.33(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested. A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond to the categories in the request.

(c) *Persons not parties.* This section does not preclude issuance of an order against a person not a party to permit entry upon land.

§210.31 Requests for admission.

(a) *Form, content, and service of request for admission.* Any party may serve on any other party a written request for admission of the truth of any matters relevant to the investigation and set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been otherwise furnished or are known to be, and in the request are stated as being, in the possession of the other party. Each matter as to which an admission is requested shall be separately set forth. The request may be served upon a party whose complaint is the basis for the investigation after the date of publication in the FEDERAL REGISTER of the notice of investigation. The administrative law judge will determine the period within which a party may serve a request upon other parties.

(b) *Answers and objections to requests for admissions.* A party answering a request for admission shall repeat the request for admission immediately preceding his answer. The matter may be deemed admitted unless, within the period specified by the administrative law judge, the party to whom the request is directed serves upon the party requesting the admission a sworn written answer or objection addressed to the matter. If objection is made, the reason therefor shall be stated. The an-

swer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter as to which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known to or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter as to which an admission has been requested presents a genuine issue for a hearing may not object to the request on that ground alone; he may deny the matter or set forth reasons why he cannot admit or deny it.

(c) *Sufficiency of answers.* The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the objecting party sustains his burden of showing that the objection is justified, the administrative law judge shall order that an answer be served. If the administrative law judge determines that an answer does not comply with the requirements of this section, he may order either that the matter is admitted or that an amended answer be served. The administrative law judge may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to a hearing under this part.

(d) *Effect of admissions; withdrawal or amendment of admission.* Any matter admitted under this section may be conclusively established unless the administrative law judge on motion permits withdrawal or amendment of the admission. The administrative law judge may permit withdrawal or amendment when the presentation of the issues of the investigation will be subserved thereby and the party who obtained the admission fails to satisfy the administrative law judge that withdrawal or amendment will prejudice him in maintaining his position on the issue

of the investigation. Any admission made by a party under this section is for the purpose of the pending investigation only and is not an admission by him for any other purpose, nor may it be used against him in any other proceeding.

§ 210.32 Subpoenas.

(a) *Application for issuance of a subpoena—(1) Subpoena ad testificandum.* An application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at a hearing shall be made to the administrative law judge.

(2) *Subpoena duces tecum.* An application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specified documents, papers, books, or other physical exhibits at the taking of a deposition, at a prehearing conference, at a hearing, or under any other circumstances, shall be made in writing to the administrative law judge and shall specify the material to be produced as precisely as possible, showing the general relevancy of the material and the reasonableness of the scope of the subpoena.

(3) The administrative law judge shall rule on all applications filed under paragraph (a)(1) or (a)(2) of this section and may issue subpoenas when warranted.

(b) *Use of subpoena for discovery.* Subpoenas may be used by any party for purposes of discovery or for obtaining documents, papers, books or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits that constitute or contain evidence relevant to the subject matter involved and that are in the possession, custody, or control of such person.

(c) *Application for subpoenas for nonparty Commission records or personnel or for records and personnel of other Government agencies—(1) Procedure.* An application for issuance of a subpoena requiring the production of nonparty documents, papers, books, physical exhibits, or other material in the records

of the Commission, or requiring the production of records or personnel of other Government agencies shall specify as precisely as possible the material to be produced, the nature of the information to be disclosed, or the expected testimony of the official or employee, and shall contain a statement showing the general relevancy of the material, information, or testimony and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony or their substantial equivalent could not be obtained without undue hardship or by alternative means.

(2) *Ruling.* Such applications shall be ruled upon by the administrative law judge, and he may issue such subpoenas when warranted. To the extent that the motion is granted, the administrative law judge shall provide such terms and conditions for the production of the material, the disclosure of the information, or the appearance of the official or employee as may appear necessary and appropriate for the protection of the public interest.

(3) *Application for subpoena grounded upon the Freedom of Information Act.* No application for a subpoena for production of documents grounded upon the Freedom of Information Act (5 U.S.C. §552) shall be entertained by the administrative law judge.

(d) *Motion to limit or quash.* Any motion to limit or quash a subpoena shall be filed within such time as the administrative law judge may allow.

(e) *Ex parte rulings on applications for subpoenas.* Applications for the issuance of the subpoenas pursuant to the provisions of this section may be made ex parte, and, if so made, such applications and rulings thereon shall remain ex parte unless otherwise ordered by the administrative law judge.

(f) *Witness Fees—(1) Deponents and witnesses.* Any person compelled to appear in person to depose or testify in response to a subpoena shall be paid the same mileage as are paid witnesses with respect to proceedings in the courts of the United States; provided, that salaried employees of the United States summoned to depose or testify as to matters related to their public employment, irrespective of the party at whose instance they are summoned,