

## Chem. Safety and Hazard Invest. Board

## § 1611.6

analysis reports, as they contain staff analysis and/or CSB conclusions.

(d) Consistent with 42 U.S.C. 7412(r)(6)(G), a CSB employee may not use the CSB's investigation report for any purpose during his testimony.

(e) No employee may testify in any matter absent advance approval by the General Counsel as provided in this part.

### § 1611.4 Manner in which testimony is given in civil litigation.

(a) Testimony of CSB employees with unique, firsthand information may be made available for use in civil actions or civil suits for damages arising out of incidents through depositions or written interrogatories. CSB employees are not permitted to appear and testify in court in such actions.

(b) Normally, depositions will be taken and interrogatories answered at the CSB's headquarters in Washington, DC, and at a time arranged with the employee reasonably fixed to avoid substantial interference with the performance of his or her duties.

(c) CSB employees are authorized to testify only once in connection with any investigation they have made of an incident. Consequently, when more than one civil lawsuit arises as a result of an incident, it shall be the duty of counsel seeking the employee's deposition to ascertain the identity of all parties to the multiple lawsuits and their counsel, and to advise them of the fact that a deposition has been granted, so that all interested parties may be afforded the opportunity to participate therein.

(d) Upon completion of the deposition of a CSB employee, the original of the transcript will be provided to the deponent for signature and correction, which the CSB does not waive. A copy of the transcript of the testimony and any videotape shall be furnished, at the expense of the party requesting the deposition, to the CSB's General Counsel at Washington, DC headquarters for the CSB's files.

(e) If CSB employees are required to travel to testify, under the relevant substantive and procedural laws and regulations the party requesting the testimony must pay for the costs, including travel expenses. Costs must be

paid by check or money order payable to the Chemical Safety and Hazard Investigation Board.

### § 1611.5 Request for testimony in civil litigation.

(a) A written request for testimony by deposition or interrogatories of a CSB employee relating to an incident shall be addressed to the General Counsel, who may approve or deny the request consistent with this part. Such request shall set forth the title of the civil case, the court, the date and place of the incident, the reasons for desiring the testimony, and a showing that the information desired is not reasonably available from other sources.

(b) Where testimony is sought in connection with civil litigation, the General Counsel shall not approve it until the CSB's investigation report is issued.

(c) The General Counsel shall attach to the approval of any deposition such reasonable conditions as may be deemed appropriate in order that the testimony will be consistent with § 1611.1, will be limited to the matters delineated in § 1611.3, will not interfere with the performance of the duties of the employee as set forth in § 1611.4, and will otherwise conform to the policies of this part.

(d) A subpoena shall not be served upon a CSB employee in connection with the taking of a deposition in civil litigation.

### § 1611.6 Testimony of former CSB employees.

(a) It is not necessary to request CSB approval for testimony of a former CSB employee, nor is such testimony limited to depositions. However, the scope of permissible testimony continues to be constrained by all the limitations set forth in § 1611.3 and § 1611.4.

(b) Any former employee who is served with a subpoena to appear and testify in connection with civil litigation that relates to his or her work with the CSB, shall immediately notify the CSB General Counsel and provide all information requested by the General Counsel.

[66 FR 17366, Mar. 30, 2001, as amended at 66 FR 23854, May 10, 2001]