

tangible evidence, for the purpose of taking depositions or at a hearing, may be issued by the presiding law judge (or the chief law judge, if the proceeding has not been assigned to a law judge) upon application by any party. The application shall show the general relevance and reasonable scope of the evidence sought. Any person upon whom a subpoena is served may, within 7 days after service of the subpoena, but in any event prior to the return date thereof, file with the law judge who issued the subpoena a motion to quash or modify the subpoena, and such filing shall stay the effectiveness of the subpoena pending final action by the law judge on the motion.

(b) *Witness fees.* Witnesses shall be entitled to the same fees and expenses for mileage as are paid to witnesses in the courts of the United States. The fees and expenses shall be paid by the party at whose request the witness is subpoenaed or appears. The Board may decline to process a proceeding further should a party fail to compensate a witness pursuant to this paragraph.

(c) *Board Members, officers and employees.* In order to encourage a free flow of information to the Board's accident investigators, the Board disfavors the use of its personnel in enforcement proceedings. Therefore, the provisions of paragraph (a) of this section are not applicable to Board Members, officers and employees, or the production of documents in their custody. Applications for subpoenas requiring the attendance of such persons, or the production of such documents, must be addressed to the General Counsel, and shall set forth the need of the moving party for the testimony or documents sought, and a showing that such material is not now, and was not otherwise, reasonably available from other sources. Only upon the General Counsel's written approval for the issuance of a subpoena requiring a Board Member, officer or employee to provide testimony and/or to produce documents in connection with discovery or at a hearing may a law judge issue such a subpoena. The law judge shall not permit the testimony or documentary evidence provided by a Board Member, officer or employee to include any expression of opinion, or any account of

statements of a party made during the Board's investigation of any accident.

§ 821.21 Official notice.

Where a law judge or the Board intends to take official notice of a material fact not appearing in the evidence in the record, notice shall be given to all parties, who may within 10 days file a petition disputing that fact.

Subpart C—Special Rules Applicable to Proceedings Under 49 U.S.C. 44703

§ 821.24 Initiation of proceeding.

(a) *Petition for review.* Where the Administrator has denied an application for the issuance or renewal of an airman certificate, the applicant may file with the Board a petition for review of the Administrator's denial. The petition must be filed with the Board within 60 days after the date on which notice of the Administrator's denial was served on the petitioner.

(b) *Form and content of petition.* The petition may be in letter form. It shall identify the Administrator's certificate denial action, and contain a complete but concise statement of the reasons why the petitioner believes the certificate denial was erroneous.

(c) *Answer to petition.* The Administrator shall file an answer to the petition for review within 20 days after the date of service of the petition. The answer shall specifically address each of the reasons set forth in the petition as to why the petitioner believes the certificate denial was erroneous.

(d) *Stay of proceeding pending request for special issuance (restricted) medical certificate.* The Board lacks the authority to review requests for special issuance (restricted) medical certificates, or to direct that they be issued. Where a request for a special issuance certificate has been filed with the Administrator pursuant to the Federal Aviation Regulations, the Board will, upon the petitioner's written request, hold a petition for review of a denial of an unrestricted medical certificate in abeyance pending final action by the Administrator on the special issuance request, but for no longer than 180 days