

§ 302.23

(b) *Actions during prehearing conference.* The administrative law judge may require a further conference, or responsive pleadings, or both. If a party refuses to produce documents requested by another party at the conference, the administrative law judge may compel the production of such documents prior to a hearing by subpoena issued in accordance with the provisions of §302.25 as though at a hearing. Applications for the production prior to hearing of documents in the Department's possession shall be addressed to the administrative law judge, in accordance with the provisions of §302.25(g), in the same manner as provided therein for production of documents at a hearing. The administrative law judge may also, on his or her own initiative or on motion of any party, direct any party to the proceeding (air carrier or non-air carrier) to prepare and submit exhibits setting forth studies, forecasts, or estimates on matters relevant to the issues in the proceeding.

(c) *Report of prehearing conference.* The administrative law judge shall issue a report of prehearing conference, defining the issues, giving an account of the results of the conference, specifying a schedule for the exchange of exhibits and rebuttal exhibits, the date of hearing, and specifying a time for the filing of objections to such report. The report shall be served upon all parties to the proceeding and any person who appeared at the conference. Objections to the report may be filed by any interested person within the time specified therein. The administrative law judge may revise his or her report in the light of the objections presented. The revised report, if any, shall be served upon the same persons as was the original report. Exceptions may be taken on the basis of any timely written objection that has not been met by a revision of the report if the exceptions are filed within the time specified in the revised report. Such report shall constitute the official account of the conference and shall control the subsequent course of the proceeding, but it may be reconsidered and modified at any time to protect the public interest or to prevent injustice.

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§ 302.23 Hearing.

The administrative law judge to whom the case is assigned or the DOT decisionmaker shall give the parties reasonable notice of a hearing or of the change in the date and place of a hearing and the nature of such hearing.

§ 302.24 Evidence.

(a) *Presenting evidence.* Presenting evidence at the hearing shall be limited to material evidence relevant to the issues as drawn by the pleadings or as defined in the report of prehearing conference, subject to such later modifications of the issues as may be necessary to protect the public interest or to prevent injustice, and shall not be unduly repetitious. Evidence shall be presented in such form by all parties as the administrative law judge may direct.

(b) *Objections to evidence.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument or debate except as ordered by the administrative law judge. Rulings on such objections shall be a part of the transcript.

(c) *Exhibits.* When exhibits are offered in evidence, one copy must be furnished to each of the parties at the hearing, and two copies to the administrative law judge, unless the parties previously have been furnished with copies or the administrative law judge directs otherwise. If the administrative law judge has not fixed a time for the exchange of exhibits, the parties shall exchange copies of exhibits at the earliest practicable time, preferably before the hearing or, at the latest, at the commencement of the hearing. Copies of exhibits may, at the discretion of the administrative law judge or the DOT decisionmaker, be furnished by use of electronic media in lieu of or in addition to a paper record copy.

(d) *Substitution of copies for original exhibits.* In his or her discretion, the administrative law judge may permit a party to withdraw original documents offered in evidence and substitute true copies in lieu thereof.