

not later than 15 days after service of the ruling granting the motion. If the agency attorney fails to supply a more definite statement, the administrative law judge must strike the allegations in the complaint to which the motion is directed. If the administrative law judge denies the motion, the respondent must file an answer and must serve a copy of the answer on each party not later than 20 days after service of the order of denial.

(ii) *Answer.* An agency attorney may file a motion requesting a more definite statement if an answer fails to respond clearly to the allegations in the complaint. If the administrative law judge grants the motion, the respondent must supply a more definite statement not later than 15 days after service of the ruling on the motion. If the respondent fails to supply a more definite statement, the administrative law judge must strike those statements in the answer to which the motion is directed. The respondent's failure to supply a more definite statement may be deemed an admission of unanswered allegations in the complaint.

(4) *Motion to strike.* Any party may make a motion to strike any insufficient allegation or defense, or any redundant, immaterial, or irrelevant matter in a pleading. A party must file a motion to strike before a response is required under this subpart or, if a response is not required, not later than 10 days after service of the pleading.

(5) *Motion for decision.* A party may make a motion for decision, regarding all or any part of the proceedings, at any time before the administrative law judge has issued an initial decision in the proceedings. The administrative law judge must grant a party's motion for decision if the pleadings, depositions, answers to interrogatories, admissions, matters that the administrative law judge has officially noticed, or evidence introduced during the hearing show that there is no genuine issue of material fact and that the party making the motion is entitled to a decision as a matter of law. The party making the motion for decision has the burden of showing that there is no genuine issue of material fact.

(6) *Motion for disqualification.* A party may file the motion at any time after

the administrative law judge has been assigned to the proceedings but must make the motion before the administrative law judge files an initial decision in the proceedings.

(i) *Motion and supporting affidavit.* A party must state the grounds for disqualification, including, but not limited to, personal bias, pecuniary interest, or other factors showing disqualification, in the motion for disqualification. A party must submit an affidavit with the motion for disqualification that sets forth, in detail, the matters alleged to constitute grounds for disqualification.

(ii) *Answer.* A party must respond to the motion for disqualification not later than 5 days after service of the motion for disqualification.

(iii) *Decision on motion for disqualification.* The administrative law judge must render a decision on the motion for disqualification not later than 20 days after the motion has been filed. If the administrative law judge finds that the motion for disqualification and supporting affidavit show a basis for disqualification, the administrative law judge must withdraw from the proceedings immediately. If the administrative law judge finds that disqualification is not warranted, the administrative law judge must deny the motion and state the grounds for the denial on the record. If the administrative law judge fails to rule on a party's motion for disqualification within 20 days after the motion has been filed, the motion is deemed granted.

(iv) *Appeal.* A party may appeal the administrative law judge's denial of the motion for disqualification in accordance with § 1503.219(b).

#### § 1503.219 Interlocutory appeals.

(a) *General.* Unless otherwise provided in this subpart, a party may not appeal a ruling or decision of the administrative law judge to the TSA decision maker until the initial decision has been entered on the record. A decision or order of the TSA decision maker on the interlocutory appeal does not constitute a final order of the Administrator for the purposes of judicial appellate review under 49 U.S.C. 46110.

(b) *Interlocutory appeal for cause.* If a party files a written request for an interlocutory appeal for cause with the administrative law judge, or orally requests an interlocutory appeal for cause, the proceedings are stayed until the administrative law judge issues a decision on the request. If the administrative law judge grants the request, the proceedings are stayed until the TSA decision maker issues a decision on the interlocutory appeal. The administrative law judge must grant an interlocutory appeal for cause if a party shows that delay of the appeal would be detrimental to the public interest or would result in undue prejudice to any party.

(c) *Interlocutory appeals of right.* If a party notifies the administrative law judge of an interlocutory appeal of right, the proceedings are stayed until the TSA decision maker issues a decision on the interlocutory appeal. A party may file an interlocutory appeal, without the consent of the administrative law judge, before an initial decision has been entered in the case of:

(1) A ruling or order by the administrative law judge barring a person from the proceedings.

(2) Failure of the administrative law judge to dismiss the proceedings in accordance with § 1503.215.

(3) A ruling or order by the administrative law judge in violation of § 1503.205(b).

(4) A ruling or order by the administrative law judge regarding public access to a particular docket or documents.

(d) *Procedure.* Not later than 10 days after the administrative law judge's decision forming the basis of an interlocutory appeal of right or not later than 10 days after the administrative law judge's decision granting an interlocutory appeal for cause, a party must file a notice of interlocutory appeal, with supporting documents, and the party must serve a copy of the notice and supporting documents on each party. Not later than 10 days after service of the appeal brief, a party must file a reply brief, if any, and the party must serve a copy of the reply brief on each party. The TSA decision maker must render a decision on the interlocutory appeal, on the record and

as a part of the decision in the proceedings, within a reasonable time after receipt of the interlocutory appeal.

(e) *Frivolous appeals.* The TSA decision maker may reject frivolous, repetitive, or dilatory appeals, and may issue an order precluding one or more parties from making further interlocutory appeals in a proceeding in which there have been frivolous, repetitive, or dilatory interlocutory appeals.

#### § 1503.220 Discovery.

(a) *Initiation of discovery.* Any party may initiate discovery described in this section, without the consent or approval of the administrative law judge, at any time after a complaint has been filed in the proceedings.

(b) *Methods of discovery.* The following methods of discovery are permitted under this section: depositions on oral examination or written questions of any person; written interrogatories directed to a party; requests for production of documents or tangible items to any person; and requests for admission by a party. A party is not required to file written discovery requests and responses with the administrative law judge or the Enforcement Docket Clerk. In the event of a discovery dispute, a party must attach a copy of these documents in support of a motion made under this section.

(c) *Service on the agency.* A party must serve each discovery request directed to the agency or any agency employee on the agency attorney of record.

(d) *Time for response to discovery requests.* Unless otherwise directed by this subpart or agreed by the parties, a party must respond to a request for discovery, including filing objections to a request for discovery, not later than 30 days after service of the request.

(e) *Scope of discovery.* Subject to the limits on discovery set forth in paragraph (f) of this section, a party may discover any matter that is not privileged and that is relevant to the subject matter of the proceeding. A party may discover information that relates to the claim or defense of any party including the existence, description, nature, custody, condition, and location