

§ 258.2

§ 258.2 Witnesses.

(a) In any hearing held pursuant to the provisions of this part, witnesses may be compelled to appear, give testimony, and produce records and documents.

(b) Designation by the Board of any person as an examiner to preside at and conduct such hearings shall constitute a delegation of authority to such examiner to require and compel the attendance of witnesses and the production of records and documents, to administer oaths, and to take testimony.

§ 258.3 Application for witnesses.

(a) Any person or persons conducting a hearing pursuant to the provisions of this part or part 260 of this chapter may, upon such person's or persons' own motion or upon application of any party to such hearing, issue a subpoena for a witness or witnesses. An application for a subpoena shall be by affidavit filed with the person or persons conducting the hearing within such period of time as will permit service and return of a subpoena prior to the date set for the hearing at which the witness is to appear, but in no case shall such application be filed later than 10 days prior to the date of hearing. The application shall set forth:

- (1) The name and address of the witness;
- (2) The title of the matter to be heard, i.e., names of parties;
- (3) The issue to which the testimony of the witness will be directed;
- (4) The substance of the testimony which such witness is expected to give or the facts to which such witness will testify; and
- (5) The specific books, papers or documents which are requested, if a subpoena duces tecum is applied for.

(b) In addition to the above, the party filing such application shall, at the time of filing, deposit therewith a sum of money sufficient to cover the fees and transportation allowance of the witness, or, in lieu thereof, shall state in the application that satisfactory arrangements have been made with the witness for the direct payment of his or her fees and transportation allowance and any other allowable expense.

20 CFR Ch. II (4-1-07 Edition)

§ 258.4 Service of subpoenas.

Service of subpoenas issued under § 258.3 may be made by any individual designated by the Board. Such individual shall deliver a copy of the subpoena to the person or persons named therein, and shall at that time tender to that person or persons the fees for one day's attendance and the transportation allowance authorized by law; *Provided, however,* That if the witness or witnesses be summoned to appear upon motion of the person or persons designated to conduct the hearing, no fees or transportation allowance need be tendered. Fees and transportation allowances shall be in the same amount as is allowed to witnesses in the courts of the United States. The person serving the subpoena shall make certification of the manner and time of service on the original subpoena and shall file such original subpoena with the person or persons by whom it was issued.

§ 258.5 Exhibits.

Copies of all exhibits admitted in evidence at any hearing held pursuant to the provisions of this part shall be furnished by the party offering the same to all other parties participating in the proceedings.

§ 258.6 Procedure when examiner appointed.

(a) Where an examiner has been designated by the Board under this part to conduct a hearing with respect to a matter before it, the examiner shall preside at the hearing and shall cause all testimony to be recorded. The examiner shall, as soon as practicable following the conclusion of the hearing, mail to each party at the address stated in his or her appearance a free transcript of the record of the proceedings had before the examiner. Thereafter, the examiner shall give all parties participating in the hearing the opportunity to present argument upon both law and facts. Upon conclusion of the proceedings before him or her, the examiner shall prepare a report which, together with the record of the proceedings before him or her, shall be submitted to the Board. The report shall set forth the examiner's findings