

§ 16.221

14 CFR Ch. I (1–1–08 Edition)

(2) Subpoenas shall be served by personal service, or upon an agent designated in writing for the purpose, or by certified mail, return receipt addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

(3) A subpoena issued under this part is effective throughout the United States or any territory or possession thereof.

(c) *Motions to quash or modify subpoena.* (1) A party or any person upon whom a subpoena has been served may file a motion to quash or modify the subpoena with the hearing officer at or before the time specified in the subpoena for the filing of such motions. The applicant shall describe in detail the basis for the application to quash or modify the subpoena including, but not limited to, a statement that the testimony, document, or tangible evidence is not relevant to the proceeding, that the subpoena is not reasonably tailored to the scope of the proceeding, or that the subpoena is unreasonable and oppressive.

(2) A motion to quash or modify the subpoena stays the effect of the subpoena pending a decision by the hearing officer on the motion.

§ 16.221 Witness fees.

(a) The party on whose behalf a witness appears is responsible for paying any witness fees and mileage expenses.

(b) Except for employees of the United States summoned to testify as to matters related to their public employment, witnesses summoned by subpoena shall be paid the same fees and mileage expenses as are paid to a witness in a court of the United States in comparable circumstances.

§ 16.223 Evidence.

(a) *General.* A party may submit direct and rebuttal evidence in accordance with this section.

(b) *Requirement for written testimony and evidence.* Except in the case of evidence obtained by subpoena, or in the case of a special ruling by the hearing officer to admit oral testimony, a party's direct and rebuttal evidence shall be submitted in written form in ad-

vance of the oral hearing pursuant to the schedule established in the hearing officer's prehearing conference report. Written direct and rebuttal fact testimony shall be certified by the witness as true and correct. Subject to the same exception (for evidence obtained by subpoena or subject to a special ruling by the hearing officer), oral examination of a party's own witness is limited to certification of the accuracy of written evidence, including correction and updating, if necessary, and reexamination following cross-examination by other parties.

(c) *Subpoenaed testimony.* Testimony of witnesses appearing under subpoena may be obtained orally.

(d) *Cross-examination.* A party may conduct cross-examination that may be required for disclosure of the facts, subject to control by the hearing officer for fairness, expedition and exclusion of extraneous matters.

(e) *Hearsay evidence.* Hearsay evidence is admissible in proceedings governed by this part. The fact that evidence is hearsay goes to the weight of evidence and does not affect its admissibility.

(f) *Admission of evidence.* The hearing officer admits evidence introduced by a party in support of its case in accordance with this section, but may exclude irrelevant, immaterial, or unduly repetitious evidence.

(g) *Expert or opinion witnesses.* An employee of the FAA or DOT may not be called as an expert or opinion witness for any party other than the agency except as provided in Department of Transportation regulations at 49 CFR part 9.

§ 16.225 Public disclosure of evidence.

(a) Except as provided in this section, the hearing shall be open to the public.

(b) The hearing officer may order that any information contained in the record be withheld from public disclosure. Any person may object to disclosure of information in the record by filing a written motion to withhold specific information with the hearing officer. The person shall state specific grounds for nondisclosure in the motion.

(c) The hearing officer shall grant the motion to withhold information from