

the deposition, or any part thereof, in evidence.

[10 FR 2209, Feb. 27, 1945, as amended at 56 FR 174, Jan. 3, 1991; 60 FR 8461, Feb. 14, 1995]

§ 47.17 Subpoenas.

(a) *Issuance of subpoenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpoena, be required at any designated place of hearing or at any designated place for the taking of a deposition. Subpoenas may be issued by the Secretary, or by the examiner, over the facsimile signature of the Secretary upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof.

(b) *Application for subpoena duces tecum.* Subpoenas for the production of documentary evidence shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, materiality, and the necessity for their production.

(c) *Service of subpoenas.* Subpoenas may be served by any person not less than 18 years of age. The party at whose instance a subpoena is issued shall be responsible for service thereof. Subpoenas shall be served as provided in § 47.4.

[10 FR 2209, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946; 19 FR 57, Jan. 6, 1954, as amended at 38 FR 30445, Nov. 5, 1973; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995]

§ 47.18 Fees and mileage.

Witnesses who are subpoenaed and who appear in the proceeding, including witnesses whose depositions are taken, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and persons taking depositions shall be entitled to the same fees as are paid for like services in the courts of the United States, to be paid by the party at whose request the deposition is taken. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear, and claims therefor shall be presented to such party.

§ 47.19 Post-hearing procedure before the examiner.

(a) *Certification of transcript or recording.* As soon as practicable after receipt of the transcript or recording, the examiner shall prepare his or her certificate stating that, to the best of his or her knowledge and belief, the transcript or recording is a true, correct, and complete transcript or recording of the testimony given at the hearing, except in such particulars as the examiner shall specify, and that the exhibits transmitted are all the exhibits received in evidence at the hearing, with such exceptions as the examiner shall specify. The original of such certificate shall be attached to the original transcript or recording and a copy of such certificate shall be furnished to each of the parties and to the hearing clerk. The examiner shall correct the original copy of the transcript or recording by adding or crossing out (but without obscuring the text) at the appropriate places any words necessary to make the text conform to the correct meaning, as certified by the examiner.

(b) *Proposed findings of fact, conclusions, and order.* The examiner shall decide and shall announce at the hearing whether proposed findings of fact, conclusions, and order may be filed by the parties. If allowed by the examiner, he or she shall announce a definite calendar day as the time within which these documents may be filed. Such findings of fact, conclusions, and order shall be based solely upon the evidence of record. They may be accompanied by supporting briefs and by a statement of objections made to the rulings of the examiner at the hearing.

(c) *Briefs.* If the examiner does not allow proposed findings of fact, conclusions, and order to be filed, the parties shall be given until a definite calendar day to file briefs.

(d) *Claim for award of fees and expenses—(1) Filing.* Prior to the close of the hearing, or within 20 days thereafter, each party may file with the examiner a claim for the award of the fees and expenses which he incurred in connection with the oral hearing. No award of fees and expenses to the prevailing party and against the losing party shall be made unless a claim therefor has been filed, and failure to