

#### **§ 4.09-10**

##### **§ 4.09-10 Witnesses, payment of.**

Any witness subpoenaed under § 4.09-5 shall be paid such fees for his travel and attendance as shall be certified by the chairman of a Marine Board of Investigation or an investigating officer, in accordance with § 4.11-10.

##### **§ 4.09-15 Time and place of investigation, notice of; rights of witnesses, etc.**

Reasonable notice of the time and place of the investigation shall be given to any person whose conduct is or may be under investigation and to any other party in interest. All parties in interest shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses in their own behalf.

##### **§ 4.09-17 Sessions to be public.**

(a) All sessions of a Marine Board of Investigation for the purpose of obtaining evidence shall normally be open to the public, subject to the provision that the conduct of any person present shall not be allowed to interfere with the proper and orderly functioning of the Board. Sessions will not be open to the public when evidence of a classified nature or affecting national security is to be received.

##### **§ 4.09-20 Record of proceedings.**

The testimony of witnesses shall be transcribed and a complete record of the proceedings of a Marine Board of Investigation shall be kept. At the conclusion of the investigation a written report shall be made containing findings of fact, opinions, and recommendations to the Commandant for his consideration.

##### **§ 4.09-25 U.S. Attorney to be notified.**

The recorder of a Marine Board of Investigation shall notify the United States Attorney for the District in which the Marine Board of Investigation is being conducted of the nature of the casualty under investigation and time and place the investigation will be made.

##### **§ 4.09-30 Action on report.**

Upon approval of the report of a Marine Board of Investigation the Com-

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mandant will require to be placed into effect such recommendations as he may deem necessary for the better improvement and safety of life and property at sea.

##### **§ 4.09-35 Preferment of charges.**

(a) If in the course of an investigation by a Marine Board there appears probable cause for the preferment of charges against any licensed or certificated personnel, the Marine Board shall, either during or immediately following the investigation and before the witnesses have dispersed, apprise the District Commander of such evidence for possible action in accordance with part 5 of this subchapter, without waiting for the approval of the report by the Commandant. Such action or proceedings shall be independent and apart from any other action which may be later ordered by the Commandant or taken by other authorities.

#### **Subpart 4.11—Witnesses and Witness Fees**

##### **§ 4.11-1 Employees of vessels controlled by Army or Navy as witnesses.**

No officer, seaman, or other employee of any public vessel controlled by the Army or Navy (not including the Coast Guard) of the United States, shall be summoned or otherwise required to appear as a witness in connection with any investigation or other proceeding without the consent of the Government agency concerned.

##### **§ 4.11-5 Coercion of witnesses.**

Any attempt to coerce any witness or to induce him to testify falsely in connection with a shipping casualty, or to induce any witness to leave the jurisdiction of the United States, is punishable by a fine of \$5,000.00 or imprisonment for one year, or both such fine and imprisonment.

##### **§ 4.11-10 Witness fees and allowances.**

Witness fees and allowances are paid in accordance with 46 CFR 5.401.

[CGD 79-080, 45 FR 2046, Jan. 10, 1980, as amended by CGD 96-041, 61 FR 50726, Sept. 27, 1996]