

## Surface Transportation Board, DOT

## § 1114.24

thereof, should be appended to the appropriate pleading when used to support or to reply to a motion, or when used as an evidentiary submission.

[47 FR 49562, Nov. 1, 1982, as amended at 61 FR 52713, Oct. 8, 1996; 72 FR 51377, Sept. 7, 2007]

### § 1114.22 Deposition.

(a) *Purpose.* The testimony of any person, including a party, may be taken by deposition upon oral examination.

(b) *Request.* A party requesting to take a deposition and perpetuate testimony:

(1) Should notify all parties to the proceeding and the person sought to be deposed; and

(2) Should set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition will be taken.

(c) *Limitation under simplified standards.* In a case using the Three-Benchmark methodology, each party is limited to one deposition absent advance authorization from the Board.

[61 FR 52713, Oct. 8, 1996, as amended at 72 FR 51377, Sept. 7, 2007]

### § 1114.23 Depositions; location, officer, time, fees, absence, disqualification.

(a) *Where deposition should be taken.* Unless otherwise ordered or agreed to by stipulation, depositions should be taken in the city or municipality where the deponent is located.

(b) *Officer before whom taken.* Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions should be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. Within a foreign country, depositions may be taken before an officer or person designated by the Board or agreed upon by the parties by stipulation in writing to be filed with the Board.

(c) *Fees.* A witness whose deposition is taken pursuant to these rules and the officer taking same, unless he be employed by the Board, shall be entitled to the same fee paid for like service in the courts of the United States,

which fee should be paid by the party at whose instance the deposition is taken.

(d) *Failure to attend or to serve subpoena; expenses.* (1) If the party who filed a petition for discovery fails to attend and proceed with the taking of the deposition and another party attends in person or by representative pursuant to an order of the Board granting discovery the Board may order the party who filed the petition to pay to such other party the reasonable expenses incurred by him and his representative in so attending, including reasonable attorney's fees.

(2) If the party who filed a petition for discovery fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by representative because he expects the deposition of the witness to be taken, the Board may order the party who filed the petition to pay to such other party the reasonable expenses incurred by him and his representative in so attending, including reasonable attorney's fees.

(e) *Disqualification for interest.* No deposition should be taken before a person who is a relative or employee or representative or counsel of any of the parties, or is a relative or employee of such representative or counsel or is financially interested in the proceeding.

[47 FR 49562, Nov. 1, 1982, as amended at 61 FR 52713, Oct. 8, 1996]

### § 1114.24 Depositions; procedures.

(a) *Examination.* Examination and cross-examination of witnesses should proceed as permitted at a hearing and should be limited to the subject matter specified in the order granting discovery. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, should be noted by the officer upon the deposition. Evidence objected to should be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party