

Agricultural Marketing Service, USDA

§ 900.64

(b) *Application for subpoena duces tecum.* Subpenas for the production of documentary evidence, unless issued by the judge upon his own motion, shall be issued only upon a certified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity for their production.

(c) *Service of subpoenas.* Subpenas may be served (1) by a United States Marshal or his deputy, or (2) by any other person who is not less than 18 years of age, or (3) by registering and mailing a copy of the subpoena addressed to the person to be served at his or its last known residence or principal place of business or residence. Proof of service may be made by the return of service on the subpoena by the United States Marshal or his deputy; or, if served by an individual other than a United States Marshal or his deputy, by an affidavit of such person stating that he personally served a copy of the subpoena upon the person named therein; or, if service was by registered mail, by an affidavit made by the person mailing the subpoena that it was mailed as provided in this paragraph and by the signed return post office receipt: *Provided*, That, if the subpoena is issued on behalf of the Department, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.

[25 FR 5907, June 28, 1960, as amended 67 FR 10829, Mar. 11, 2002]

§ 900.63 Fees and mileage.

Witnesses who are subpoenaed and who appear in such 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, as to witnesses subpoenaed on behalf of the Department, shall be proved before the person issuing the subpoena, and, as to witnesses subpoenaed on behalf of any other party, shall be presented to such party.

§ 900.64 The Judge's decision.

(a) *Corrections to and certification of transcript.* (1) At such time as the judge may specify, but not later than the time fixed for filing proposed findings of fact, conclusions and order, or briefs, as the case may be, the parties may file with the judge proposed corrections to the transcript.

(2) As soon as practicable after the filing of proposed findings of fact, conclusions and order, or briefs, as the case may be, the judge shall file with the hearing clerk his certificate indicating any corrections to be made in the transcript, and stating that, to the best of his knowledge and belief, the transcript, as corrected, is a true, correct, and complete transcript of the testimony given at the hearing, and that the exhibits are all the exhibits properly a part of the hearing record. The original of such certificate shall be attached to the original transcript and a copy of such certificate shall be served upon each of the parties by the hearing clerk who shall also enter onto the transcript (without obscuring the text) any correction noted in the certification.

(b) *Proposed findings of fact, conclusions, and orders.* Within 10 days (unless the judge shall have announced at the hearing a shorter or longer period of time) after the transcript has been filed with the hearing clerk, as provided in paragraph (a) of this section, each party may file with the hearing clerk proposed findings of fact, conclusions, and order, based solely upon the evidence of record, and briefs in support thereof.

(c) *Judge's Decision.* The judge, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare upon the basis of