

## § 821.15

motion shall not automatically alter or extend the time fixed in this part (or any extension thereof previously granted) for the parties to take any actions.

### **§ 821.15 Motion to disqualify a Board Member.**

A motion requesting that a Board Member disqualify himself or herself from participating in a proceeding under this part shall be filed in writing with the Board.

### **§ 821.16 Interlocutory appeals from law judges' rulings on motions.**

Rulings of law judges on motions which are not dispositive of the proceeding as a whole may not be appealed to the Board prior to its consideration of the entire proceeding, except in extraordinary circumstances and with the consent of the law judge who made the ruling. Interlocutory appeals shall be disallowed unless the law judge finds, either orally on the record or in writing, that to allow such an appeal is necessary to prevent substantial detriment to the public interest or undue prejudice to a party. If an interlocutory appeal is allowed, any party may file a brief with the Board within such time as the law judge directs. No oral argument will be heard unless the Board directs otherwise.

### **§ 821.17 Motions to dismiss, for judgment on the pleadings and for summary judgment.**

(a) *Motions to dismiss petition for review or complaint.* A motion to dismiss a petition for review or a complaint may be filed in lieu of an answer, within the time limit for filing an answer set forth in § 821.24(c) or § 821.31(b). If such motion is not granted in its entirety, the answer shall be filed within 10 days after service of the law judge's order on the motion.

(b) *Motions to dismiss for lack of jurisdiction.* A motion to dismiss on the ground that the Board lacks jurisdiction may be made by any party at any time.

(c) *Motions for judgment on the pleadings.* A party may file a motion for judgment on the pleadings on the basis that no answer has been filed, or that the pleadings disclose that there are no material issues of fact to be resolved

## 49 CFR Ch. VIII (10–1–12 Edition)

and that party is entitled to judgment as a matter of law.

(d) *Motions for summary judgment.* A party may file a motion for summary judgment on the basis that the pleadings and other supporting documentation establish that there are no material issues of fact to be resolved and that party is entitled to judgment as a matter of law.

(e) *Appeals of dismissal, judgment on the pleadings and summary judgment orders.* When a law judge grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment, and terminates the proceeding without a hearing, an appeal of such order to the Board may be filed pursuant to the provisions of § 821.47. When a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment is granted in part, § 821.16 applies.

### **§ 821.18 Motion for a more definite statement.**

(a) A party may, in lieu of an answer, file a motion requesting that the petitioner's statement of reasons and supporting facts in a petition for review or the Administrator's allegations of fact in a complaint be made more definite and certain. The motion shall cite the defects complained of and the details sought. If the motion is granted and the law judge's order is not complied with within 15 days after service thereof, the law judge shall strike the portion or portions of the petition for review or complaint to which the motion is directed. If the motion is denied, the moving party shall file an answer within 10 days after service of the law judge's order on the motion.

(b) A party may file a motion to clarify an answer in the event that the answer fails to respond clearly to the petition for review or the complaint.

### **§ 821.19 Depositions and other discovery.**

(a) *Depositions.* After a petition for review or a complaint is filed, any party may take the testimony of any person, including a party, by deposition, upon oral examination or written questions, without seeking prior Board approval. Reasonable notice shall be given in writing to the other parties,