

## **§510.7**

the right to sign or the fact of the witness' unavailability or inability or refusal to sign together with the reasons, if any, given therefor.

(e) The transcript of the testimony of a witness will be inspected by NHTSA to determine if there are any errors in the transcription of the questions posed to the witness and the testimony in response to those questions. If NHTSA discovers any errors, it notes that fact and forwards the notation of errors together with the transcript to the witness, requesting the witness to stipulate that the transcript is in error and that the corrections made by NHTSA are accurate. If the witness will not make this stipulation, NHTSA may make a motion to the presiding officer to include its notation of error and its corrections in the record along with the version of the testimony signed by the witness.

(f)(1) Upon payment of lawfully prescribed costs, any person who is required by subpoena or designated by a sole proprietorship, partnership, corporation, or other entity that is required by subpoena to appear as a witness at an administrative deposition may procure a copy of the deposition as recorded, except that in a nonpublic investigatory proceeding, the witness may, for good cause, be limited to an inspection of the record of the deposition.

(2) A copy of the record of the deposition may be furnished to the witness without charge or at a reduced charge if the Associate Administrator for Administration determines that waiver of the fee is in the public interest because furnishing the copy can be considered as primarily benefitting the general public. Any witness who seeks a waiver of the copying charge may apply in writing to the Associate Administrator for Administration, and shall state the reasons justifying waiver of the fee in the application.

(g) The testimony obtained in an administrative deposition may be used or considered by the NHTSA in any of its activities, and may be used or offered into evidence in any administrative proceeding in accordance with the provisions of 5 U.S.C. 554, or in any judicial proceeding.

## **49 CFR Ch. V (10–1–13 Edition)**

### **§510.7 General or special orders.**

The NHTSA may require by the issuance of general or special orders any person, sole proprietorship, partnership, corporation, or other entity to file with the NHTSA, in such form as NHTSA may prescribe, periodic or special reports or answers in writing to specific questions. The responses to general or special orders will provide NHTSA with such information as it may require, including, but not limited to, information relating to the organization of that person, sole proprietorship, partnership, corporation, or other entity, its business, conduct, practices, management, and relation to any other person or entity. General or special orders which are required to be answered under oath are issued by the Chief Counsel. Any general or special order issued under this section contains the information specified in §510.3(b). Reports and answers filed in response to general or special orders must be made under oath, or otherwise, as NHTSA may prescribe.

### **§510.8 Written requests for the production of documents and things.**

The NHTSA may, by the issuance of a written request for the production of documents and things, require any person, sole proprietorship, partnership, corporation, or other entity to produce documents or things. A written request for the production of documents and things may be issued alone, or as a part of a general or special order issued under §510.7. Written requests for the production of documents and things are issued by the Chief Counsel. Any written request for the production of documents and things issued under this section shall contain the information specified in §510.3(b).

### **§510.9 Motions to modify, limit, or quash process.**

(a)(1) Any person, sole proprietorship, partnership, corporation, or other entity served with a subpoena issued under §510.4 may file with the Deputy Administrator a motion to modify, limit, or quash that subpoena. If there is no Deputy Administrator, or the Deputy Administrator is not available, such motions shall be filed with and decided

by the Associate Administrator for Administration. A motion to modify, limit, or quash must be filed not later than 15 days after the service of the process or five days before the return date specified in the process, whichever is earlier, except that, if the process is served within five days of its return date, such motion may be filed at any time before the return date. Any motion must set forth the grounds and theories of why and how the party believes the process should be modified, limited, or quashed and must contain all facts and arguments which support those grounds and theories.

(2) The Deputy Administrator may, upon receiving a motion filed pursuant to paragraph (a)(1) of this section:

- (i) Deny the motion;
- (ii) Modify the return date of the subpoena;
- (iii) Modify, limit or quash the subpoena;
- (iv) Condition granting the motion upon certain requirements; or
- (v) Take any other action he or she believes to be appropriate in the circumstances.

(3) The Office of the Deputy Administrator serves the decision on the motion on the moving party or the counsel or representative of the moving party. This service may be made by personal service, by registered or certified mail, or by reading a copy of the decision to the moving party or the counsel or representative of the moving party.

(4) A denial of any motion properly filed under this section shall be in writing, and shall contain a brief statement of the facts involved and the conclusions drawn from those facts by the Deputy Administrator.

(b) The Deputy Administrator's decision on the motion to modify, limit, or quash, filed under paragraph (a) of this section is not subject to reconsideration by NHTSA.

**§ 510.10 Supplementation of responses to process.**

(a) A person, sole proprietorship, partnership, corporation, or other entity which has provided NHTSA with information under this part, which information was complete and accurate at the time the information was given to

NHTSA, is not required to supplement that information in the light of after acquired information, except:

(1) The person or entity to whom the process is addressed shall supplement the response with respect to any question directly addressed to the identity and location of persons having knowledge of information obtainable under this part.

(2) The person or entity to whom the process is addressed shall seasonably amend a prior response if that person or entity obtains information upon the basis of which the person or entity knows that the response was incorrect when made or the person or entity knows that the response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(b) The requirement to supplement information set forth in paragraph (a) of this section terminates when:

(1) The compulsory process stated that it was issued in connection with a contemplated rulemaking action, and a final rule is issued on that subject or a notice is issued announcing that the rulemaking action has been suspended or terminated.

(2) The compulsory process stated that it was issued in connection with an enforcement investigation, and the investigation is closed.

(3) The compulsory process does not state that it is issued in connection with a specific rulemaking action or enforcement investigation, and 18 months have passed since the date of the original response.

(c) This section in no way limits NHTSA's authority to obtain supplemental information by specific demands through the means specified in § 510.3.

**§ 510.11 Fees.**

Any person compelled to appear in person in response to a subpoena issued under this part at an information gathering hearing or an administrative deposition is paid the same attendance and mileage fees as are paid witnesses in the courts of the United States, in accordance with title 28, U.S.C., section 1821.