

§ 300.16

in the appropriate file of the matter by the General Counsel or such person.

§ 300.16 Waivers.

(a) A former Board member, Board employee or DOT employee with outstanding scientific or technological qualifications who is disqualified from acting in a representative capacity under the provisions of §300.13 or §300.14 of this chapter may nevertheless participate in a proceeding in a scientific or technological field pursuant to the terms of a certificate issued in compliance with the proviso following 18 U.S.C. 207 (a) and (b).

(b) An employee who believes his or her prior employment relationships will not affect the integrity of his or her services may request that the prohibition of §300.9 or §300.10 of this chapter be waived by the appropriate Ethics Counselor under 49 CFR 99.735-71.

§ 300.17 Disqualification of partners of DOT employees.

No partner of a DOT employee shall act as agent or attorney for anyone other than the United States in any DOT proceeding or matter in which such employee participates or has participated personally and substantially through decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, or which is the subject of his or her official responsibility.

§ 300.18 Motions to disqualify DOT employee in review of hearing matters.

In cases to be determined on an evidentiary record, a party desiring that a concerned DOT employee disqualify himself or herself from participating in a DOT decision shall file a motion supported by an affidavit setting forth the grounds for such disqualification in the form and within the periods prescribed in §302.11 of this chapter. Where review of the administrative law judge's decision can be obtained only upon the filing of a petition for discretionary review, such motions must be filed on or before the date answers are due pursuant to §302.32. In cases where exceptions are filed to recommended, initial, or tentative decisions or where the DOT decisionmaker orders review of an

14 CFR Ch. II (1-1-08 Edition)

initial or recommended decision on his or her own initiative, such motions must be filed on or before the date briefs are due pursuant to §302.35 or §302.218, as applicable. Failure to file a timely motion will be deemed a waiver of disqualification. Applications for leave to file an untimely motion seeking disqualification of a concerned DOT employee must be accompanied by an affidavit setting forth in detail why the facts relied upon as grounds for disqualification were not known and could not have been discovered with reasonable diligence within the prescribed time.

[Doc. No. OST-97-2090, 65 FR 6456, Feb. 9, 2000]

§ 300.19 Use of confidential information.

No former CAB member or employee or DOT employee, or any person associated with him or her, shall ever use or undertake to use in any DOT proceeding or matter any confidential facts or information which came into the possession of such Member or employee or to his or her attention by reason of his or her employment with the CAB or DOT without first applying for and obtaining the consent of the appropriate ethics counselor for the use of such facts or information.

§ 300.20 Violations.

(a) DOT may disqualify, and deny temporarily or permanently the privilege of appearing or practicing before it in any way to, any person who is found by DOT after written notice of charges and hearing to have engaged in unethical or improper professional conduct. Any violation of this part shall be deemed to be such conduct.

(b) When appropriate in the public interest, DOT may deny any application or other request of a party in a proceeding subject to this part where DOT finds after hearing that such party has, in connection with any DOT proceeding, violated any of the provisions of this part or any of the provisions of Chapter 11 of Title 18 of the United States Code. DOT may also condition its further consideration of such party's application or other request or the effectiveness of any order granting such application or other request upon

such party's first taking such action as DOT may deem necessary or appropriate to remedy the violation of this part or Chapter 11 of Title 18 of the United States Code to prevent or deter any repetition of such violation. DOT may in addition issue a cease and desist order against any repetition of such or similar misconduct.

(c) The actions authorized by this section may take place within the framework of the matter during or concerning which the violations occur or in a separate matter, as the DOT decisionmaker or the presiding administrative law judge may direct. A complaint alleging that a violation has occurred in the course of a matter shall be filed in the docket or appropriate public file of such matter unless such complaint is made after DOT's decision of the matter has become final, in which event such complaint may be filed pursuant to part 302, subpart D of the rules of practice. A violation in the course of a matter which may be attributable to or affect the fitness of a party will ordinarily either be disposed of within the framework of such matter or be considered within the context of any subsequent matter involving the interests of such party. Other violations will ordinarily be disposed of in a separate proceeding.

(d) In the case of any violation of the provisions of this part, the violator may be subject to civil penalties under the provisions of 49 U.S.C. 46301. The violator may also be subject to a proceeding brought under 49 U.S.C. 46101 before the Department, or sections 46106 through 46108 of the Statute before a U.S. District Court, as the case may be, to compel compliance with civil penalties which have been imposed.

[Docket No. 82, 50 FR 2380, Jan. 16, 1985, as amended at 60 FR 43528, Aug. 22, 1995; 65 FR 6456, Feb. 9, 2000]

PART 302—RULES OF PRACTICE IN PROCEEDINGS

Sec.

- 302.1 Applicability and description of part.
302.2 Definitions.

Subpart A—Rules of General Applicability

- 302.3 Filing of documents.

- 302.4 General requirements as to documents.
302.5 Amendment of documents.
302.6 Responsive documents.
302.7 Service of documents.
302.8 Computation of time.
302.9 Continuances and extensions of time.
302.10 Parties.
302.11 Motions.
302.12 Objections to public disclosure of information.
302.13 Consolidation of proceedings.
302.14 Petitions for reconsideration.

NON-HEARING PROCEEDINGS

- 302.15 Non-hearing procedures.

RULEMAKING PROCEEDINGS

- 302.16 Petitions for rulemaking.

ORAL EVIDENTIARY HEARING PROCEEDINGS

- 302.17 Administrative law judges.
302.18 DOT decisionmaker.
302.19 Participation by persons not parties.
302.20 Formal intervention.
302.21 Appearances.
302.22 Prehearing conference.
302.23 Hearing.
302.24 Evidence.
302.25 Subpoenas.
302.26 Depositions.
302.27 Rights of witnesses; attendance fees and mileage.
302.28 Transcripts of hearings.
302.29 Argument before the administrative law judge.
302.30 Briefs to the administrative law judge.
302.31 Initial and recommended decisions; certification of the record.
302.32 Petitions for discretionary review of initial or recommended decisions; review proceedings.
302.33 Tentative decision of the DOT decisionmaker.
302.34 Exceptions to tentative decisions of the DOT decisionmaker.
302.35 Briefs to the DOT decisionmaker.
302.36 Oral argument before the DOT decisionmaker.
302.37 Waiver of procedural steps after hearing.
302.38 Final decision of the DOT decisionmaker.

Subpart B—Rules Applicable to U.S. Air Carrier Certificate and Foreign Air Carrier Permit Licensing Proceedings

- 302.201 Applicability.
302.202 Contents of applications.
302.203 Service of documents.
302.204 Responsive documents.
302.205 Economic data and other facts.
302.206 Verification.