

Subchapter I. SANCTIONS.

§22.161. Sanctions.

- (a) **Enforcement of subpoenas or commissions for depositions.** If a person fails to comply with the subpoena or commission for deposition issued by the presiding officer, the commission or the party requesting the subpoena or commission for deposition may seek enforcement pursuant to APA.
- (b) **Causes for imposition of sanctions.** An administrative law judge, on the administrative law judge's own motion or on the motion of a party, after notice and an opportunity for a hearing, may impose appropriate sanctions against a party or its representative for:
 - (1) filing a motion or pleading that was brought in bad faith, for the purpose of harassment, or for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;
 - (2) abusing the discovery process in seeking, making or resisting discovery;
 - (3) failing to obey an order of an administrative law judge or the commission.
- (c) **Types of sanctions.** A sanction imposed under subsection (b) of this section may include, as appropriate and justified, issuance of an order:
 - (1) disallowing further discovery of any kind or a particular kind by the disobedient party;
 - (2) charging all or any part of the expenses of discovery against the offending party or its representative;
 - (3) holding that designated facts be deemed admitted for purposes of the proceeding;
 - (4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;
 - (5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;
 - (6) punishing the offending party or its representative for contempt to the same extent as a district court;
 - (7) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and
 - (8) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed.
- (d) **Imposition of sanctions by the commission.** In addition to the sanctions listed in subsection (c) of this section that may be imposed by an administrative law judge, except for Subsection (c)(6), any other presiding officer including the commission, after notice and opportunity for hearing, may impose sanctions including:
 - (1) disallow the disobedient party's rights to participate in the proceeding;
 - (2) dismiss the application with or without prejudice;
 - (3) institute civil action; or
 - (4) impose any other sanction available to the commission by law.
- (e) **Procedure.** A motion for sanctions may be filed at any time during the proceeding or may be initiated *sua sponte* by the presiding officer. A motion to compel discovery is not a prerequisite to the filing of a motion for sanctions. A motion should contain all factual allegations necessary to apprise the parties and the presiding officer of the conduct at issue, should request specific relief, and shall be verified by affidavit. A motion shall be served on all parties. Upon receipt of the motion, a hearing shall be held on the motion. Any order regarding sanctions issued by a presiding officer shall be appealable pursuant to §22.123 of this title (relating to Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission). Any sanction imposed by the presiding officer shall be automatically stayed to allow the party to appeal the imposition of the sanction to the commission.