



U.S. Department
Of Transportation
Federal Motor Carrier
Safety Administration

49 CFR Part 9 – Filing a Subpoena
Request for Employee Testimony

GUIDANCE

REGULATION

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| 1. | You must request testimony (do not demand) at least 30 days before it is to be taken or received | 49 C.F.R. § 9.15 (a) |
| 2. | You must submit request to agency counsel and include: | 49 C.F.R. § 9.15 (a)(1) |
| | a. Title of the case, docket number, and the court, or otherwise clearly identify the legal proceeding involved | 49 C.F.R. § 9.15 (a)(2) |
| | b. Statement of the basic facts in the case | 49 C.F.R. § 9.15 (a)(3) |
| | c. Summary of the unresolved issues | 49 C.F.R. § 9.15 (a)(4) |
| | d. Summary of the testimony sought and its relevance | 49 C.F.R. § 9.15 (a)(5) |
| | e. Certification with support, that you can not easily obtain the information from other sources | 49 C.F.R. § 9.15 (a)(6) |
| | f. Affidavit or certification describing the extent of your search for parties or potential parties as well as a list of the names of parties or potential parties notified | 49 C.F.R. § 9.15 (a)(7) |
| | g. Statement that you will not seek expert or opinion testimony from the witness | 49 C.F.R. § 9.15 (a)(7) |
| | h. Statement that you will not seek the testimony of the witness at a hearing or trial in the proceeding | 49 C.F.R. § 9.15 (a)(7) |
| 3. | You must specify the form of testimony you are seeking (deposition, affidavit, declaration, or answers to interrogatories) and the date you need it | |
| | a. If approved, the form of testimony that is least burdensome to the Department will be provided | |
| 4. | You must include a copy of any prior request(s) to the Department or other agency for records on the same matter being litigated and any responses (do not include the actual records) | 49 C.F.R. § 9.15 (b) |
| 5. | The agency will notify you regarding the outcome | 49 C.F.R. § 9.15 (c) |
| | a. There may be special conditions to the approval | |

Please Note: Following these steps does NOT guarantee approval of employee testimony