



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

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

**GUIDANCE**

**REGULATION**

- |    |  |                         |
|----|--|-------------------------|
| 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