

§ 201.122

upon request of any interested party upon tender of an original and two copies of such subpoena. A record of the issuance of such a subpoena shall be entered in the docket.

§ 201.122 Application for subpoena duces tecum.

An application for a subpoena duces tecum for documentary or tangible evidence shall be in duplicate except that for good cause shown it may be made during the course of a hearing on the record to the presiding officer. Such application need not be served upon all parties. All such applications, whether written or oral, shall contain a statement or showing of general relevance and reasonable scope of the evidence sought and shall be accompanied by an original and two copies of the subpoena sought which shall describe the documentary or tangible evidence to be subpoenaed with as much particularity as is feasible.

§ 201.123 Standards for issuance of subpoena duces tecum.

The officer considering any application for a subpoena duces tecum shall issue the subpoena requested if he is satisfied the application complies with this section and the request is not unreasonable, oppressive, excessive in scope or unduly burdensome. No attempt shall be made to determine the admissibility of evidence in passing upon an application for a subpoena duces tecum and no detailed or burdensome showing shall be required as a condition to the issuance of any subpoena.

§ 201.124 Service and quashing of subpoenas.

Subpoenas issued under this section may be served upon the person to whom directed in accordance with subpart D of this part. Any person upon whom a subpoena is served may within seven (7) days after service or at any time prior to the return date thereof, whichever is earlier, file a motion to quash or modify the subpoena with the officer who issued the subpoena for action by him, and serve a copy of such motion to quash upon the party requesting the subpoena. If the person to whom the motion to modify or quash

46 CFR Ch. II (10–1–10 Edition)

the subpoena has been addressed or directed has not acted upon such a motion by the return date, such date shall be stayed pending his final action thereon. The Administration may at any time review, upon its own initiative, the ruling of the officer denying a motion to quash a subpoena. In such cases, the Administration may at any time order that the return date of a subpoena which it has elected to review be stayed pending Administration action thereon.

§ 201.125 Attendance and mileage fees.

Persons attending hearings under requirement of subpoenas are entitled to the same fees and mileage as in the courts of the United States, to be paid by the party at whose instance the persons are called.

§ 201.126 Service of subpoenas.

If service of subpoena is made by a United States marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpoena. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by required return, affidavit, or statement, shall be returned without delay to the Administration, or if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear.

§ 201.127 Subpoena of Administration employees, documents, or things.

No subpoena for the attendance of an Administration officer or employee, or for the production of Administration documents or things shall be complied with except upon written authorization of the General Counsel upon written application by the party requesting the subpoena.