

## **§ 107.321 Hearing.**

(a) To the extent practicable, the hearing is held in the general vicinity of the place where the alleged violation occurred or at a place convenient to the respondent. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim.

(b) Hearings are conducted in accordance with the Federal Rules of Evidence and Federal Rules of Civil Procedure; however, the ALJ may modify them as he determines necessary in the interest of a full development of the facts. In addition, the ALJ may:

- (1) Administer oaths and affirmations;
  - (2) Issue subpoenas as provided by §105.45;
  - (3) Adopt procedures for the submission of motions, evidence, and other documents pertinent to the proceeding;
  - (4) Take or cause depositions to be taken;
  - (5) Rule on offers of proof and receive relevant evidence;
  - (6) Examine witnesses at the hearing;
  - (7) Convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;
  - (8) Hold conferences for settlement, simplification of the issues, or any other proper purpose; and
  - (9) Take any other action authorized by, or consistent with, the provisions of this subpart and permitted by law which may expedite the hearing or aid in the disposition of an issue raised therein.
- (c) The official who issued the notice of probable violation, or his representative, has the burden of proving the facts alleged therein.
- (d) The respondent may appear and be heard on his own behalf or through counsel of his choice. The respondent or his counsel may offer relevant information including testimony which he believes should be considered in opposition to the allegations or which may bear on the sanction being sought and conduct such cross-examination as may be required for a full disclosure of the facts.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended at 67 FR 61011, Sept. 27, 2002]