judge shall be ground for summary exclusion from the proceeding. If a witness or party refuses to answer a question after being so directed, or refuses to obey an order to provide or permit discovery, the administrative law judge may make such orders with regard to the refusal as are just and proper, including the striking of all testimony previously given by such witness on related matters.

§ 1955.14 Ex parte communications.

(a) Except to the extent required for the disposition of *ex parte* matters, the administrative law judge shall not consult any interested person or party or their representative on any fact in issue or on the merits of any matter before him except upon notice and opportunity for all parties to participate.

(b)(1) Written or oral communications from interested persons outside the Department of Labor involving any substantive or procedural issues in a proceeding directed to the administrative law judge, the Secretary of Labor, the Assistant Secretary, the Associate Assistant Secretary for Regional Programs, the Solicitor of Labor, or the Associate Solicitor for Occupational Safety and Health, or their staffs shall be deemed *ex parte* communications and are not to be considered part of any record or the basis for any official decision, unless the communication is made by motion to the administrative law judge and served upon all the parties.

(2) To facilitate implementation of this requirement, the above-mentioned offices shall keep a log of such communications which shall be made available to the public and which may, by motion, be entered into the record.

(c) No employee or agent of the Department of Labor engaged in the investigation or presentation of the withdrawal proceeding governed by this part shall participate or advise in the initial or final decision, except as a witness or counsel in the proceeding.

§ 1955.15 Manner of service and filing.

(a) Service of any document upon any party may be made by personal delivery of, or by mailing a copy of the document by certified mail, to the last known address of the party or his representative. The person serving the document shall certify to the manner and date of service.

(b) In addition to serving a copy of any documents upon the parties, the original and two copies of each document shall be filed with the administrative law judge. With respect to exhibits and transcripts, only originals or certified copies need be filed.

§ 1955.16 Time.

Computation of any period of time under these rules shall begin with the first business day following that on which the act, event or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Labor is closed, the period shall run until the end of the next following business day. When such period of time is 7 days or less, each of the Saturdays, Sundays, and such holidays shall be excluded from the computation.

§ 1955.17 Determination of parties.

(a) The designated State agency or agencies and the Department of Labor, OSHA, shall be the initial parties to the proceedings. Other interested persons may, at the discretion of the administrative law judge, be granted the right to participate as parties if he determines that the final decision could substantially affect them or the class they represent or that they may contribute materially to the disposition of the proceedings.

(b)(1) Any person wishing to participate in any proceeding as a party under paragraph (a) of this section shall submit a petition to the administrative law judge within 30 days after the notice of such proceeding has been published in the FEDERAL REGISTER. The petition shall also be served upon the other parties. Such petition shall concisely state:

(i) Petitioner's interest in the proceeding;

(ii) How his participation as a party will contribute materially to the disposition of the proceeding;

(iii) Who will appear for petitioner;

(iv) The issue or issues as set out in the notice published under § 1955.10 of

this part on which petitioner wishes to participate; and

(v) Whether petitioner intends to present witnesses.

(2) The administrative law judge shall, within 5 days of receipt of the petition, ascertain what objections, if any, there are to the petition. He shall then determine whether the petitioner is qualified in his judgment to be a party in the proceedings and shall permit or deny participation accordingly. The administrative law judge shall give each petitioner written notice of the decision on his petition promptly. If the petition is denied, the notice shall briefly state the grounds for denial. Persons whose petition for party participation is denied may appeal the decision to the Secretary within 5 days of receipt of the notice of denial. The Secretary will make the final decision to grant or deny the petition no later than 20 days following receipt of the appeal.

(3) Where the petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may require all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners.

§ 1955.18 Provision for written comments.

Any person who is not a party may submit a written statement of position with 4 copies to either the Assistant Secretary or the State at any time during the proceeding which statement shall be made available to all parties and may be introduced into evidence by a party. Mere statements of approval or opposition to the plan without any documentary support shall not be considered as falling within this provision.

Subpart C—Consent Findings and Summary Decisions

§ 1955.20 Consent findings and orders.

(a)(1) At any time during the proceeding a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the administrative law judge, after consideration of the requirements of section 18 of the Act, the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues.

(2) Any agreement containing consent findings and a rule or order disposing of a proceeding shall also provide:

(i) That the rule or order shall have the same force and effect as if made after a full hearing;

(ii) A waiver of any further procedural steps before the administrative law judge and the Secretary; and

(iii) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(b)(1) On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(i) Submit the proposed agreement to the administrative law judge for his consideration; or

(ii) Inform the administrative law judge that agreement cannot be reached.

(2) In the event an agreement containing consent findings and a rule or order is submitted within the time allowed therefor, the administrative law judge may accept such agreement by issuing his decision based upon the agreed findings. Such decision shall be published in the FEDERAL REGISTER.

§ 1955.21 Motion for a summary decision.

(a)(1) Any party may move, with or without supporting affidavits, for a summary decision on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or file a cross motion for summary decision. The administrative law judge may, in his discretion, set the matter for argument and call for submission of briefs. The filing of any documents under this section shall be with the administrative law judge and copies of any such