

6302.18

otherwise order, no proof is received in evidence after completion of the hearing of the appeal or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) *Weight of the evidence.* The weight to be attached to any evidence of record rests within the sound discretion of the Board. The Board may require any party to submit additional evidence on any matter relevant to the appeal.

6302.18 Discovery-depositions (Rule 18).

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, undue burden or expense. Such orders may include limitations on the scope, method, time and place for discovery, or provisions for protecting the secrecy of confidential information or documents.

(b) *Obtaining a deposition.* After an appeal has been docketed, the parties may voluntarily agree to take, or the Board may, upon application of either party and for good cause shown, order the taking of, testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for such order shall specify whether the purpose of the deposition is for discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions are as mutually agreed upon by the parties, or failing such agreement, as ordered by the Board.

(d) *Use of evidence.* No testimony taken by deposition is considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at the hearing. Testimony by deposition is not ordinarily received in evidence if the deponent is present and can testify at the hearing. However,

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any deposition may be used to contradict or impeach the testimony of a witness at the hearing. In cases submitted on the record, the Board, in its discretion, may receive depositions as evidence to supplement the record.

(e) *Expenses.* Each party bears its own expenses associated with discovery, unless, in the discretion of the Board, the expenses are apportioned otherwise.

(f) *Subpoenas.* Where appropriate, any party may request that a subpoena be issued under the provisions of Rule 24.

[52 FR 48631, Dec. 23, 1987, as amended at 53 FR 34106, Sept. 2, 1988]

6302.19 Interrogatories to parties, admission of facts, and inspection of documents (Rule 19).

(a) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath, and returned within 30 days of receipt by the answering party. Within 30 days after service the answering party may object to any interrogatory and the Board determines the extent to which the interrogatory is permitted.

(b) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a written request for the admission of specified facts. If the request is to admit the genuineness of any document or the truth of any facts stated in a document, a copy of such document shall be served with the request. Within 30 days after receipt of the request, the party served shall answer each requested admission of facts or file objections thereto in writing. The factual propositions set out in the request are deemed admitted, if the answering party, willfully and without good cause, fails to respond to the request for admissions.

(c) *Production and inspection of documents.* After an appeal has been filed with the Board, a party may serve upon the other party a written request to produce and permit the inspection and copying or photographing of any designated documents, not privileged, regarding any matter which is relevant to the appeal.

(d) Any discovery under this rule shall be subject to the provisions of