

Office of the Secretary, Interior

§4.1134

the Hearings Division, Office of Hearings and Appeals, Arlington, Va.

DISCOVERY

§4.1130 Discovery methods.

Parties may obtain discovery by one or more of the following methods—

- (a) Depositions upon oral examination or upon written interrogatories;
- (b) Written interrogatories;
- (c) Production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and
- (d) Requests for admission.

§4.1131 Time for discovery.

Following the initiation of a proceeding, the parties may initiate discovery at any time as long as it does not interfere with the conduct of the hearing.

§4.1132 Scope of discovery.

(a) Unless otherwise limited by order of the administrative law judge in accordance with these rules, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

(b) It is not ground for objection that information sought will not be admissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) A party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (a) of this section and prepared in anticipation of or for the hearing by or for another party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing

has been made, the administrative law judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

(d) Upon motion by a party or the person from whom discovery is sought, and for good cause shown, the administrative law judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following—

- (1) The discovery not be had;
- (2) The discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) The discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
- (4) Certain matters not relevant may not be inquired into, or that the scope of discovery be limited to certain matters;
- (5) Discovery be conducted with no one present except persons designated by the administrative law judge; or
- (6) A trade secret or other confidential research, development or commercial information may not be disclosed or be disclosed only in a designated way.

§4.1133 Sequence and timing of discovery.

Unless the administrative law judge upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

§4.1134 Supplementation of responses.

A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows—

(a) A party is under a duty to supplement timely his response with respect to any question directly addressed to—