

Environmental Protection Agency

§ 164.40

must conform to the standards of ethical conduct required of practitioners before the courts of the United States.

§ 164.31 Intervention.

(a) *Motion.* Any person may file a motion for leave to intervene in a hearing conducted under this subpart. A motion must set forth the grounds for the proposed intervention, the position and interest of the movant in the proceeding and the documents proposed to be filed pursuant to either §164.22 or §164.24.

(b) *When filed.* A motion for leave to intervene in a hearing must ordinarily be filed prior to the commencement of the first prehearing conference. Any motion filed after that time must contain, in addition to the information set forth in paragraph (a) of this section, a statement of good cause for the failure to file the motion prior to the commencement of the first prehearing conference, and shall be granted only upon a finding (1) that extraordinary circumstances justify the granting of the motion, or (2) that the intervenor shall be bound by agreements, arrangements, and other matters previously made in the proceeding.

(c) *Disposition.* Leave to intervene will be freely granted but only insofar as such leave raises matters which are pertinent to and do not unreasonably broaden the issues already presented. If leave is granted, the movant shall thereby become a party with the full status of the original parties to the proceedings. If leave is denied, the movant may request that the ruling be certified to the Environmental Appeals Board, pursuant to §164.100 for a speedy appeal.

(d) *Amicus curiae.* Persons not parties to the proceedings wishing to file briefs may do so by leave of the Administrative Law Judge granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable. Unless all parties otherwise consent, an amicus curiae shall file its brief within the time allowed the party whose position the brief will support. Upon a showing of good cause, the Administrator or Ad-

ministrative Law Judge may grant permission for later filing.

[38 FR 19371, July 20, 1973, as amended at 57 FR 5342, Feb. 13, 1992]

§ 164.32 Consolidation.

The Chief Administrative Law Judge, by motion or sua sponte, may consolidate two or more proceedings whenever it appears that this will expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred. At the conclusion of proceedings consolidated under this section, the Administrative Law Judge shall issue one decision under §164.90 unless one or more of the consolidated proceedings have been dismissed pursuant to §164.91.

ADMINISTRATIVE LAW JUDGE

§ 164.40 Qualifications and duties of Administrative Law Judge.

(a) *Qualifications.* The Administrative Law Judge shall have the qualifications required by statute. He shall not decide any matter in connection with a proceeding where he has a financial interest in any of the parties or a relationship with a party that would make it otherwise inappropriate for him to act.

(b) *Disqualification of the Administrative Law Judge.* (1) Any party may, by motion made to the Administrative Law Judge, as soon as practicable, request that he disqualify himself and withdraw from the proceeding. The Administrative Law Judge shall then rule upon the motion and, upon request of the movant, shall certify an adverse ruling for appeal.

(2) Withdrawal sua sponte. The Administrative Law Judge may at any time withdraw from any proceedings in which he deems himself disqualified for any reason.

(c) *Conduct.* The Administrative Law Judge shall conduct the proceeding in a fair and impartial manner subject to the precepts of the Canons of Judicial Ethics of the American Bar Association.

(d) *Power.* Subject to review, as provided elsewhere in this part, the Administrative Law Judge shall have