

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the administrative law judge finds: (i) That the witness is dead; or (ii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iii) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(4) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(f) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

[43 FR 49259, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-30.12 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

- (1) Simplification of the issues;
- (2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;
- (3) Stipulations, admissions of fact and of contents and authenticity of documents;
- (4) Limitation of number of witnesses;
- (5) Scheduling dates for the exchange of witness lists and of proposed exhibits;
- (6) Such other matters as may tend to expedite the disposition of the proceedings.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 60-30.13 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any

proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

- (1) That the order shall have the same force and effect as an order made after full hearing;
- (2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;
- (3) That any further procedural steps are waived; and
- (4) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

- (1) Submit the proposed agreement to the Administrative Law Judge for his consideration;
- (2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his decision based upon the agreed findings, and his decision shall constitute the final Administrative order.

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