

## § 12.31

discovery be limited to certain matters;

(iv) That a trade secret or other confidential commercial information not be disclosed or be disclosed only in a designated way; and

(v) That the parties simultaneously file specified documents or information in sealed envelopes to be opened only as directed by the decisionmaking official.

(3) *Motions for order compelling discovery.* It shall be the duty of a party to obtain an order compelling discovery from another party if the latter party fails to comply with a discovery notice, by filing a motion therefor within twenty days after the time allowed by these rules for compliance with the notice has expired.

(c) *Sanctions for abuse of discovery.* If an Administrative Law Judge or a Judgement Officer finds that any party, without substantial justification, has necessitated the filing of a motion for a protective order or for an order compelling discovery, or any other discovery-related motions, that party shall, if the motion is granted, be ordered to pay, at the termination of the proceeding, the reasonable expenses of the moving party incurred in filing the motion, unless the decisionmaking official finds that circumstances exist which would make an award of such expenses unjust. If a decisionmaking official finds that any party, without substantial justification, has filed a motion for a protective order or for an order compelling discovery, or any discovery-related motions, that party shall, if the motion is denied, be ordered to pay, at the termination of the proceeding, the reasonable expenses of an adverse party incurred in opposing the motion, unless the decisionmaker finds that circumstances exist which would make an award of such expenses unjust.

(d) *Time limit.* Absent an extension of time, all discovery notices or requests shall be served within (30) days (and all discovery shall be completed within (50) days) after the notification and the order required by §12.26 (a), (b), or (c) has been served on the parties. Upon motion by a party and for good cause shown, the time allowed for discovery

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may be enlarged for one additional period not to exceed thirty (30) days.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984; 49 FR 17750, Apr. 25, 1984; 59 FR 9637, Mar. 1, 1994]

### § 12.31 Production of documents and tangible items.

(a) *By a party.* Any party, within the time prescribed in §12.30(d) and subject to the limitations in §12.30(a), may serve on any other party, a notice to produce copies of specifically designated categories of documents, papers, books, accounts, letters, photographs, objects, or tangible things which are in the party's possession, custody or control. A copy of the notice shall be served on all other parties to the proceeding. All documents requested in the notice to produce shall be served on the party seeking the discovery within twenty (20) days after service of the notice to produce.

(b) *By a non-party.* Any party may, by filing an appropriate motion showing the need for the materials and an application for a subpoena in accordance with the procedure prescribed in §12.313 and within the time prescribed by §12.30(d) of these rules, seek leave to serve upon a non-party a notice to produce copies of any specifically designated categories of materials as are described in paragraph (a) of this section. After an appropriate order and subpoena has been issued, such party may serve upon a non-party a notice to produce such materials. All materials requested in the notice to produce, and, if applicable, a detailed explanation of why any of the specified materials cannot be produced, shall be served on the party seeking discovery within such time (not to exceed thirty (30) days) as the subpoena shall specify. Enforcement of the order and subpoena may be sought in accordance with §12.313.

### § 12.32 Depositions on written interrogatories.

(a) *Notice.* Any party, within the time prescribed by §12.30(d), may serve on any other party or any officer or agent of a party a notice of the taking of a deposition on written interrogatories.

(b) *Number.* The number of written interrogatories served upon any one party shall not exceed thirty. For the