

such other matters as the hearing officer determines will assist in a prompt, full and fair hearing of the issues.

(c) *Prehearing conference report.* At the close of the prehearing conference, the hearing officer rules on any requests for evidence and the production of documents in the possession of other parties, responses to interrogatories, and admissions; on any requests for depositions; on any proposed stipulations; and on any pending applications for subpoenas as permitted by § 16.219. In addition, the hearing officer establishes the schedule, which shall provide for the issuance of an initial decision not later than 110 days after issuance of the Director's Determination order unless otherwise provided in the hearing order.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16-1, 78 FR 56147, Sept. 12, 2013]

§ 16.213 Discovery.

(a) Discovery is limited to requests for admissions, requests for production of documents, interrogatories, and depositions as authorized by § 16.215.

(b) The hearing officer shall limit the frequency and extent of discovery permitted by this section if a party shows that—

(1) The information requested is cumulative or repetitious;

(2) The information requested may be obtained from another less burdensome and more convenient source;

(3) The party requesting the information has had ample opportunity to obtain the information through other discovery methods permitted under this section; or

(4) The method or scope of discovery requested by the party is unduly burdensome or expensive.

§ 16.215 Depositions.

(a) *General.* For good cause shown, the hearing officer may order that the testimony of a witness may be taken by deposition and that the witness produce documentary evidence in connection with such testimony. Generally, an order to take the deposition of a witness is entered only if:

(1) The person whose deposition is to be taken would be unavailable at the hearing;

(2) The deposition is deemed necessary to perpetuate the testimony of the witness; or

(3) The taking of the deposition is necessary to prevent undue and excessive expense to a party and will not result in undue burden to other parties or in undue delay.

(b) *Application for deposition.* Any party desiring to take the deposition of a witness shall make application therefor to the hearing officer in writing, with a copy of the application served on each party. The application shall include:

(1) The name and residence of the witness;

(2) The time and place for the taking of the proposed deposition;

(3) The reasons why such deposition should be taken; and

(4) A general description of the matters concerning which the witness will be asked to testify.

(c) *Order authorizing deposition.* If good cause is shown, the hearing officer, in his or her discretion, issues an order authorizing the deposition and specifying the name of the witness to be deposed, the location and time of the deposition and the general scope and subject matter of the testimony to be taken.

(d) *Procedures for deposition.* (1) Witnesses whose testimony is taken by deposition shall be sworn or shall affirm before any questions are put to them. Each question propounded shall be recorded and the answers of the witness transcribed verbatim.

(2) Objections to questions or evidence shall be recorded in the transcript of the deposition. The interposing of an objection shall not relieve the witness of the obligation to answer questions, except where the answer would violate a privilege.

(3) The written transcript shall be subscribed by the witness, unless the parties by stipulation waive the signing, or the witness is ill, cannot be found, or refuses to sign. The reporter shall note the reason for failure to sign.

(e) *Depositions of agency employees.* (1) Depositions of Agency Employees will not be allowed except under the provisions of 49 CFR part 9.