

theretofore been granted, and where practicable, by general release to the public press.

(a) At the prehearing conference the following matters, among others, shall be considered: (1) Petitions for leave to intervene; (2) motions for consolidation or severance of dockets for joint or separate hearing to the extent that the Administration has not theretofore taken specific action; (3) simplification and delineation of the issues to be heard; (4) designation of matters in respect of which official notice may be taken; (5) requests for discovery and production of evidence considered to be generally relevant and material to the issues in the proceeding; (6) stipulations; (7) limitation of number of witnesses, particularly the avoidance of duplicate expert witnesses; (8) procedure applicable to the proceeding; (9) offers of settlement, as hereinafter to be more particularly discussed in § 201.103; and (10) scheduling of the dates for exchange of exhibits, written testimony both affirmative and rebuttal and establishing the date, time and place for hearing.

(b) If deemed necessary or appropriate, the presiding officer may also, on his own motion, or on motion of Public Counsel direct any party to a proceeding to prepare and submit exhibits setting forth studies, forecasts, or estimates on matters relevant and material to the issues in the proceeding to be sponsored by witnesses available for cross-examination thereon.

§ 201.102 Prehearing rulings.

The presiding officer will, where practicable, issue prehearing rulings, acting on petitions for leave to intervene, delineating the issues, summarizing the rulings made at the conference, specifying a schedule for the exchange of exhibits and written testimony, the date, time and place of hearing and specifying a time for the filing of exceptions to the rulings. The prehearing rulings shall be served upon all parties to the proceeding and any persons who participated in the conference. Exceptions to the prehearing rulings may be filed by any such party or person within the time specified therein. The presiding officer may

serve amended rulings in the light of the exceptions presented. Such rulings and amendments, if any, shall constitute the official account of the conference and shall control the subsequent course of the proceeding, but they may be reconsidered and modified at any time to protect the public interest or to prevent injustice.

§ 201.103 Opportunity for agreement of parties and settlement of case.

Where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity for submission to and consideration by the presiding officer of offers of settlement, or proposals of adjustment together with facts and/or arguments relevant to such offers or proposals without prejudice to the rights of the parties. The presiding officer need not be present at any negotiations of such nature. The presiding officer shall issue an initial or recommended decision thereon recommending approval or disapproval of such offer of settlement or proposal of adjustment to the Administration for final action thereon. No agreement, offer, or proposal shall be admissible in evidence over the objection of any party in any hearing on the matter. When any settlement does not dispose of the whole proceeding, the remaining issues shall be determined in accordance with sections 7 and 8 of the Administrative Procedure Act.

Subpart K—Discovery and Depositions (Rule 11)

§ 201.109 Discovery and production of documents.

Upon request of any party showing good cause therefor, at the prehearing conference or otherwise upon notice to all other parties, the Administration or presiding officer may direct any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged which constitute or contain evidence relating to any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding, and which

§ 201.110

are in his possession, custody or control. The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just. In lieu of such inspections the material may be produced in exhibit form and served upon all parties to a formal proceeding. Such exhibits may also, upon request of any party, be offered in evidence at a hearing.

§ 201.110 Depositions: request for orders to take; time of filing.

The Administration or presiding officer may, upon proper request of a party to a proceeding or under circumstances deemed proper, issue an order to take a deposition regarding any matter, not privileged, which is relevant to the subject matter involved in the proceedings. A motion to take a deposition shall be filed not less than fifteen (15) days before the proposed date for taking the deposition, unless a shorter period is fixed under §201.54, and shall set forth the reason for the deposition, the place and time of taking, the officer before whom it is to be taken, the name and address of each witness to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and whether the deposition is to be based upon written interrogatories or upon oral examination. If the deposition is to be based upon oral examination, the motion shall contain a statement of the matters concerning which each witness will testify. If the deposition is to be based on written interrogatories, the motion shall be accompanied by the interrogatories to be propounded, serially numbered. Copies of all motions to take depositions, and accompanying interrogatories, if any, shall conform to the requirements of subpart D of this part. Objection to the taking of such depositions may be made in an answer to such motion. Without prejudice to objection, the answer may also state objection to any individual interrogatory, and if the deposition is permitted, the presiding officer will rule upon such objections to interrogatories. A party served with an order to take a deposition on written interro-

46 CFR Ch. II (10–1–10 Edition)

gatories shall have ten (10) days after date of service of such order unless a shorter period is fixed under §201.54, within which to file and serve written cross interrogatories, which shall be served pursuant to subpart D of this part. Answers to applications for cross interrogatories may be filed in accordance with §201.80. Upon the issuance of an order by the Administration or the presiding officer for the taking of a deposition, the Docket Clerk shall mail a copy thereof to all parties, including the party who requested the deposition. An application to take a deposition in a foreign country will be entertained when necessary or convenient, and authority to take such deposition will be granted upon such notice and other terms and directions as are lawful and appropriate.

§ 201.111 Contents of order.

The order issued authorizing the taking of a deposition will state the name and address of each witness or a general description sufficient to identify him or the particular class or group to which he belongs, the matters concerning which the witness may be questioned, the place where, the time when, and the officer before whom the deposition is to be taken, any or all of which may or may not be the same as set forth in the motion filed. If the deposition is to be taken upon written interrogatories, a list of the interrogatories will accompany the order.

§ 201.112 Record of examination; oath; objections.

The officer before whom the deposition is to be taken shall put the witness under oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically, shall be translated to English, if necessary, and shall be transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objections to the proceedings, shall be noted by the officer upon the