

§ 283.10

7 CFR Ch. II (1–1–14 Edition)

§ 283.10 Consent decision.

At any time before the ALJ files an initial decision, FNS and the State agency may agree to entry of a consent decision. Such decision shall be filed in the form of a decision signed by the parties with appropriate space for signature by the ALJ and shall contain an admission of at least the jurisdictional facts, consent to the issuance of the agreed decision without further procedure and such other admissions or statements as may be agreed between the parties. The ALJ shall enter such decision without further procedures, unless an error is apparent on the face of the document. Such decision shall be final and shall take effect 30 days after the date of the delivery or service of such decision and is not subject to further administrative or judicial.

§ 283.11 Prehearing conference and procedure.

(a) *Time and place.* The ALJ shall direct the parties or their counsel to participate in a prehearing conference at any reasonable time prior to the hearing. The prehearing conference shall be held at the U.S. Department of Agriculture, Washington, DC. Reasonable notice of the time, place of the prehearing conference and if personal attendance will be necessary shall be given. Prehearing conferences may be conducted telephonically. The ALJ shall order each of the parties to furnish at the prehearing conference or at another time prior to the hearing the following:

(1) An outline of the appeal or defense;

(2) The legal theories upon which the party will rely;

(3) Copies of or a list of documents that the party anticipates relying upon at the hearing; and

(4) A list of witnesses who will testify on behalf of the party. At the discretion of the party furnishing such list of witnesses, the names of the witnesses need not be furnished if they are otherwise identified in some meaningful way, such as a short statement of the type of evidence they will offer.

(b) *Procedures.* The ALJ shall not order any of the foregoing procedures that a party can show are inappro-

priate or unwarranted under the circumstances of the particular appeal.

(c) *Matters to be considered.* At the prehearing conference, the following matters shall be considered:

(1) The simplification of issues;

(2) The necessity of amendments to pleadings;

(3) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;

(4) The limitation of the number of expert or other witnesses;

(5) Negotiation, compromise, or settlement of issues;

(6) The exchange of copies of proposed exhibits;

(7) The nature of and the date by which discovery, as provided in § 283.12, must be completed;

(8) The identification of documents or matters of which official notice may be requested;

(9) A schedule to be followed by the parties for the completion of the actions decided at the conference; and

(10) Such other matters as may expedite and aid in the disposition of the appeal.

(d) *Reporting.* (1) A prehearing conference will not be stenographically reported unless so directed by the ALJ.

(2) Any party to the appeal may, upon motion, request the ALJ to allow for a stenographic transcript of a prehearing conference. The party requesting the transcript shall bear the transcription cost of producing the transcript and the duplication cost for one transcript provided to the ALJ and to the other parties to the appeal.

(e) *Order.* Actions taken as a result of a conference shall be reduced to an appropriate written order, unless the ALJ concludes that a stenographic report, if available, shall suffice, or, in the event the conference takes place within 7 days of the beginning of the hearing, the ALJ elects to make a statement on the record at the hearing summarizing the actions taken.

§ 283.12 Discovery.

(a) *Dispositions*—(1) *Motion for taking deposition.* Only upon a finding by the ALJ that a deposition is necessary to preserve testimony as provided in this