

§ 20.502

33 CFR Ch. I (7–1–10 Edition)

(j) Actions taken at a conference may be memorialized in—

- (1) A stenographic report if authorized by the ALJ;
- (2) A written transcript from a magnetic tape or the equivalent if authorized by the ALJ; or
- (3) A statement by the ALJ on the record at the hearing summarizing them.

§ 20.502 Settlements.

- (a) The parties may submit a proposed settlement to the ALJ.
- (b) The proposed settlement must be in the form of a proposed decision, accompanied by a motion for its entry. The decision must recite the reasons that make it acceptable, and it must be signed by the parties or their representatives.
- (c) The proposed decision must contain—
 - (1) An admission of all jurisdictional facts;
 - (2) An express waiver of—
 - (i) Any further procedural steps before the ALJ; and
 - (ii) All rights to seek judicial review, or otherwise challenge or contest the validity, of the decision;
 - (3) A statement that the decision will have the same force and effect as would a decision made after a hearing; and
 - (4) A statement that the decision resolves all matters needing to be adjudicated.

Subpart F—Discovery

§ 20.601 General.

- (a) Unless the ALJ orders otherwise, each party—and each interested person who has filed written notice of intent to present evidence at any hearing in the proceeding under § 20.404—shall make available to the ALJ and to every other party and interested person—
 - (1) The name of each expert and other witness the party intends to call, together with a brief narrative summary of the expected testimony; and
 - (2) A copy, marked as an exhibit, of each document the party intends to introduce into evidence or use in the presentation of its case.
- (b) During a pre-hearing conference ordered under § 20.501, the ALJ may di-

rect that the parties exchange witness lists and exhibits either at once or by correspondence.

(c) The ALJ may establish a schedule for discovery and shall serve a copy of any such schedule on each party.

(1) The schedule may include dates by which the parties shall both exchange witness lists and exhibits and file any requests for discovery and objections to such requests.

(2) Unless the ALJ orders otherwise, the parties shall exchange witness lists and exhibits 15 days or more before hearing.

(d) Further discovery may occur only by order, and then only when the ALJ determines that—

- (1) It will not unreasonably delay the proceeding;
- (2) The information sought is not otherwise obtainable;
- (3) The information sought has significant probative value;
- (4) The information sought is neither cumulative nor repetitious; and
- (5) The method or scope of the discovery is not unduly burdensome and is the least burdensome method available.

(e) A motion for discovery must set forth—

- (1) The circumstances warranting the discovery;
- (2) The nature of the information sought; and
- (3) The proposed method and scope of discovery and the time and place where the discovery would occur.

(f) If the ALJ determines that he or she should grant the motion, he or she shall issue an order for the discovery, together with the terms on which it will occur.

§ 20.602 Amendatory or supplementary responses.

(a) Any party or interested person shall amend or supplement information previously provided upon learning that the information—

- (1) Was incorrect or incomplete when provided; or,
- (2) Though correct or complete when provided, no longer is.

(b) The party or interested person shall amend or supplement that information by following the procedures in § 20.305.