

witnesses, the public interest and the necessity for notice in the Federal Register as provided by §164.8; and

- 11) Any other matter that may expedite the hearing or aid in the disposition of the proceeding. 40 CFR §164.50(a)(1-11).

²⁴40 CFR §164.50(c).

²⁵Id. at §164.50(b).

²⁶Id. at §164.51(a). Upon a showing of good cause, and when necessary to preserve evidence for presentation at the hearing, or when the information sought cannot be obtained otherwise, the ALJ shall order depositions to be taken. §164.51(b).

²⁷Id. at §164.50(e)(1).

²⁸Id. at §164.50(e)(2). The ALJ prepares these questions. If the questions submitted are not in substance based on the submission of the parties, the parties have 10 days to respond to the proposed submission. The ALJ makes the final determination on the questions to be referred to the committee. These questions cannot be referred until at least 30 days after the ALJ notifies the NAS that questions will be referred to them.

²⁹40 CFR §164.50(e)(3).

³⁰Id. at §164.60(a). Procedures for disposition of motions made before the ALJ's initial decision are found in §164.60(b)(c). See also §164.111 and §164.110 for procedures for certain motions made after the ALJ's initial decision. See section 4.8 on Administrator's Review of Initial Decision.

³¹Once an affirmative case for denying registration is made, unless the party seeking registration demonstrates by substantial evidence otherwise, registration will be denied.

³²If another person becomes a party by motion, on the agency's side, this person rather than the agency may present the affirmative case for cancellation. See 40 CFR §164.80(a).

³³The agency must demonstrate that these really are controverted issues.

³⁴Evidence which is unduly repetitious is not admissible. Strict common law rules of evidence do not apply, Calhoun v. Bailor, 626 F. 2d 145 (1980), nor do the Federal Rules of Evidence. The ALJ rules on the admissibility of evidence. If he deems evidence inadmissible, the party seeking admission may offer proof with respect to the relevance and materiality of the evidence. This offer becomes part of the record. 40 CFR §164.8(f). If a party objects to the admission of evidence, the party may state its grounds for objection. The ALJ's ruling and reasons given on the objection become part of the record. The party adversely affected by the ALJ's ruling cannot appeal this objection to the Administrator unless the ALJ certifies the ruling for appeal. §164.81(c) and §164.100. See, 164.100, this section for conditions for the ALJ to certify rulings for appeal.

³⁵7 U.S.C. §136d(d). The ALJ may limit the scope of any examination or cross-examination of witnesses. If a party objects to the limit, or objects to no limit