**Section 166.227 Discovery**

a) Regarding any matter not privileged under Sections 7 and 7.1 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111½, pars. 1007 and 1007.1), the Hearing Officer shall order discovery upon written request of any party. Subject to the requirements of this section, the Hearing Officer may order:

1) The production of the names and addresses of persons having knowledge of relevant facts;

2) The production of the names and addresses of all witnesses whom the party intends to call at the hearing and the subject matter of their expected testimony;

3) The taking of a deposition of any witness, including expert witnesses, expected to testify at the hearing;

4) The answering of the interrogatory or request to admit of any party; and

5) The production of evidence within the control or possession of any party for the purposes of inspection, copying or duplication.

b) The inadmissability of the testimony at the hearing is not a ground for objection if the information sought appears reasonably calculated to lead to the discovery of admissable evidence or is relevant to the subject matter involved in the pending action.

c) At any time the Hearing Officer may on his own initiative, or on motion of any party or witness, examine documents in camera in order to resolve disputed privilege questions or issue a protective order to deny, limit, condition or regulate discovery to prevent unreasonable delay, expense, harassment, or oppression, or to protect materials from disclosure by the party obtaining such materials consistent with the provisions of Sections 7 and 7.1 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111½, pars. 1007 and 1007.1).

d) All depositions and interrogatories taken pursuant to this rule shall be for purposes of discovery only, except as herein provided.

1) The depositions and interrogatories may be used for purposes of impeachment and as admissions of the deposed or interrogated party.

2) Any party who has reason to believe that any potential witness will not be available for testimony at the hearing shall promptly so notify all other parties, and may move that an evidence deposition be taken. A motion for an evidence deposition shall be granted when, under circumstances such as hospitalization and unavoidable absence from the State, the Hearing Officer determines that the witness will not be able to testify at the hearing. An evidence deposition shall be presided over by the Hearing Officer. The party shall in the Notice of Deposition designate the deposition as an evidence deposition. If a discovery deposition is desired, it shall be taken before the evidence deposition, unless the parties stipulate otherwise. The notice, order, or stipulation to take a deposition shall specify whether the deposition is to be a discovery deposition or an evidence deposition. In the absence of such a specification a deposition is a discovery deposition only.

e) Upon transcription of the deposition, it shall be made available to the deponent for examination and signature, unless examination and signature are waived by the deponent. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the court reporter with a statement of the reasons given by the deponent making them. The deposition shall then be signed by the deponent unless the deponent is ill or cannot be found or refuses to sign, in which event the court reporter's certification shall state the reason for the omission of the signature. Copies of the transcripts shall be available to all parties at their expense.

f) A party at a hearing may object to those portions of any deposition which contain evidence pursuant to Section 166.250 of this Subpart that would be excluded if the witness were testifying in person.

g) Failure to comply with any ruling shall subject the person to sanctions under Section 166.295 of this Subpart.