

§ 1.423

States and of any other matter of technical, scientific, or commercial fact of established character: *Provided*, That the parties shall be given adequate notice of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(7) *Offer of proof*. Whenever evidence is excluded by the Judge, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence excluded. If the evidence consists of a brief oral statement, it shall be included in the transcript in toto. If the evidence consists of an exhibit, it shall be marked for identification and inserted in the hearing record.

(f) *Transcript*. Hearings shall be recorded and transcribed verbatim. Transcripts thereof shall be made available to any person, at actual cost of duplication (5 U.S.C. App. 2, section 11).

§ 1.423 Post-hearing procedure.

(a) *Corrections to transcript*. (1) Within the period of time fixed by the Judge, any party may file a motion proposing corrections to the transcript.

(2) Unless a party files such motion in the manner prescribed, the transcript shall be presumed, except for obvious typographical errors, to be complete.

(3) As soon as practicable after the close of the hearing and after consideration of any timely objections filed as to the transcript, the Judge shall issue an order making any corrections to the transcript which the Judge finds are warranted, which corrections shall be entered onto the original transcript by the Hearing Clerk (without obscuring the original text).

(b) *Proposed findings of fact, conclusions, order, and brief*. Prior to the close of the hearing, each party may submit for consideration proposed findings of fact, conclusions, order, and brief in support thereof. A copy of each such document filed by a party shall be served upon each of the other parties.

(c) *Judge's decision*. (1) The Judge may, upon motion of any party or in his or her own discretion, issue a decision orally at the close of the hearing,

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or within 10 calendar days after the close of the hearing, or within 10 calendar days after submission of the record, if no hearing is requested.

(2) If the decision is announced orally, a copy thereof, excerpted from the transcript of the record, shall be furnished to the parties by the Hearing Clerk. Irrespective of the date such copy is mailed, the issuance date of the decision shall be the date the oral decision was announced.

(3) If the decision is in writing, it shall be filed with the Hearing Clerk and served upon the parties as provided in § 1.427.

(4) The Judge's decision shall become effective without further proceedings 21 calendar days after the issuance of the decision, if announced orally at the hearing, or if the decision is in writing, 21 calendar days after the date of service thereof upon the respondent, unless there is an appeal to the Judicial Officer by a party to the proceeding pursuant to § 1.426; *Provided, however*, that no decision shall be final for purposes of judicial review except a final decision of the Judicial Officer upon appeal.

(5) The Judicial Officer shall issue a decision within 10 calendar days of the receipt of the response to the appeal.

§ 1.424 Motions and requests.

(a) *General*. All motions and requests shall be filed with the Hearing Clerk, and served upon all the parties except motions and requests made on the record during the oral hearing.

(b) *Motions entertained*. No dispositive motions, including motions to dismiss on the pleadings and motions for summary judgment, shall be entertained unless specifically mentioned herein or allowed in the discretion of the Judge.

(c) *Contents*. All written motions and requests shall state the particular order, ruling, or action desired and the grounds therefore.

(d) *Response to motions and requests*. Within 5 days after service of any written motion or request, or within such shorter or longer period as may be fixed by the Judge, an opposing party may file a response to the motion or request. The other party shall have no right to reply to the response.