

#### **§ 180.615**

the pleadings and relevant written evidence submitted by the parties. These documents may constitute the evidence in the proceeding, and the decision may be based upon this evidence.

#### **§ 180.615 Failure of party to appear.**

A default decision may be entered against a party failing to appear at a hearing unless such party shows good cause for such failure.

#### **§ 180.620 Evidence.**

The Federal Rules of Evidence apply to the presentation of evidence in hearings under this part.

#### **§ 180.625 Record of hearing.**

(a) All oral hearings shall be recorded and transcribed by a reporter designated and supervised by the ALJ. The original transcript shall be a part of the record and shall constitute the sole official transcript. All exhibits introduced as evidence shall be incorporated into the record. The parties and the public may obtain transcripts from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter.

(b) Corrections to the official transcript will be permitted upon motion of a party. Motions for correction must be submitted within five days after receipt of the transcript. Corrections of the official transcript will be permitted only where errors of substance are involved and upon the ALJ's approval.

#### **§ 180.630 Stipulations.**

The parties may stipulate to any pertinent facts by oral agreement at the hearing or by written agreement at any time. Stipulations may be submitted into evidence at any time before the end of the hearing. Once received into evidence, a stipulation is binding on the parties.

#### **§ 180.635 Written testimony.**

The ALJ may accept and enter into the record direct testimony of witnesses made by verified written statement rather than by oral presentation at the hearing. Unless the ALJ fixes other time periods, affidavits shall be filed and served on the parties not later than 14 days prior to the hearing. Witnesses whose testimony is presented by

#### **24 CFR Subtitle B, Ch. I (4-1-10 Edition)**

affidavit shall be available for cross-examination as may be required.

#### **§ 180.640 In camera and protective orders.**

The ALJ may limit discovery or the introduction of evidence, or may issue such protective or other orders necessary to protect privileged communications. If the ALJ determines that information in documents containing privileged matters should be made available to a party, the ALJ may order the preparation of a summary or extract of the nonprivileged matter contained in the original.

#### **§ 180.645 Exhibits.**

(a) *Identification.* All exhibits offered into evidence shall be numbered sequentially and marked with a designation identifying the sponsor. The original of each exhibit offered in evidence or marked for identification shall be filed and retained in the docket of the proceeding, unless the ALJ permits the substitution of a copy for the original.

(b) *Exchange of exhibits.* One copy of each exhibit offered into evidence must be furnished to each of the parties and to the ALJ. If the ALJ does not fix a time for the exchange of exhibits, the parties shall exchange copies of proposed exhibits at the earliest practicable time before the commencement of the hearing. Exhibits submitted as rebuttal evidence are not required to be exchanged before the commencement of the hearing if the submission of such evidence could not reasonably be anticipated at that time.

(c) *Authenticity.* The authenticity of all documents submitted or exchanged as proposed exhibits prior to the hearing shall be admitted unless written objection is filed before the commencement of the hearing, or unless good cause is shown for failing to file such a written objection.

(d) The parties are encouraged to stipulate as to the admissibility of exhibits.

#### **§ 180.650 Public document items.**

Whenever a public document, such as an official report, decision, opinion, or