

## § 15.115

(b) Proposed exhibits shall be exchanged either at a prehearing conference, or otherwise prior to the hearing. Proposed exhibits not so exchanged may be denied admission as evidence unless good cause is shown why they were not exchanged. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

### § 15.115 Affidavits.

An affidavit, intended to be used as evidence without cross-examination of the affiant, will be filed and served on the parties at least 15 days prior to the hearing; and not less than seven days prior to hearing a party may file and serve written objections to any affidavit on the ground that he believes it necessary to test the truth of assertions therein by cross-examination. In such event, the affidavit objected to will not be received in evidence unless the affiant is made available for cross-examination at the hearing or otherwise as prescribed by the hearing officer. In absence of an objection being filed within the time specified, such affidavit will be received in evidence.

### § 15.116 Depositions.

Upon such terms as may be just, the hearing officer, in his discretion, may authorize the testimony of any witness to be taken by deposition.

### § 15.117 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded, and technical rules of evidence shall not apply but rules or principles designed to assure the most credible evidence available and to subject testimony to test by cross-examination shall apply.

### § 15.118 Cross-examination.

Cross-examination will be limited to the scope of direct examination and matters at issue in the hearing.

### § 15.119 Objections.

Objections to evidence shall be timely and briefly state the ground relied

## 7 CFR Subtitle A (1-1-11 Edition)

upon. The ruling of the hearing officer will be part of the record. Argument in support of the objection will not be part of the record.

### § 15.120 Exceptions to rulings of hearing officer unnecessary.

Exceptions to rulings of the hearing officer are unnecessary. It is sufficient that a party, at the time the ruling of the hearing officer is sought, makes known the action which he desires the hearing officer to take, or his objection to an action taken, and his grounds therefor.

### § 15.121 Official notice.

A public document, or part thereof, such as an official report decision, opinion, or published scientific or economic statistical data issued by any branch of the Federal or a State Government which has been shown to be reasonably available to the public, may be offered for official notice and accepted in the record without further proof of authenticity. Where official notice is to be taken, any party, on timely request, shall have an opportunity to show the contrary.

### § 15.122 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the hearing officer rejecting or excluding proposed oral testimony shall consist of a statement for the record of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as an offer of proof.

### § 15.123 Appeals from ruling of hearing officer.

A ruling of the hearing officer may not be appealed to the Secretary prior to consideration of the entire proceeding by the hearing officer except with the consent of the hearing officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any part or substantial