

RECORD OF TESTIMONY

§ 71.86 Stenographic record.

A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact (but not arguments of counsel unless otherwise ordered by the administrative law judge) in all proceedings. A transcript of the evidence and proceedings at the hearing shall be made in all cases.

§ 71.87 Oath of reporter.

The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that he will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of his ability.

Subpart G—Administrative Law Judges**§ 71.95 Responsibilities of administrative law judges.**

Administrative law judges shall be under the administrative control of the Administrator. They shall be responsible for the conduct of hearings and shall render their decisions as soon as is reasonably possible after the hearing is closed. Administrative law judges shall also be responsible for the preparation, certification and forwarding of reports of hearings, and the administrative work relating thereto, and, by arrangement with the appropriate TTB officer and representatives of the Chief Counsel, shall have access to facilities and temporary use of personnel at such times and places as are needed in the prompt dispatch of official business.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 43 FR 13531, Mar. 31, 1978; 44 FR 55846, Sept. 28, 1979; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 71.96 Disqualification.

An administrative law judge shall, at any time, withdraw from any proceeding if he deems himself disqualified; and upon the filing in good faith by the applicant or respondent, or by the attorney for the Government, of a timely and sufficient affidavit of facts

showing personal bias or otherwise warranting the disqualification of any administrative law judge, the Administrator shall upon appeal as provided in § 71.115, if the administrative law judge fails to disqualify himself, determine the matter as a part of the record and decision in the proceeding. If he decides the administrative law judge should have declared himself disqualified, he will remand the record for hearing de novo before another administrative law judge. If the Administrator should decide against the disqualification of the administrative law judge, the proceeding will be reviewed on its merits.

§ 71.97 Powers.

Administrative law judges shall have authority to (a) administer oaths and affirmations; (b) issue subpoenas authorized by law; (c) rule upon offers of proof and receive relevant evidence; (d) take or cause depositions to be taken whenever the ends of justice would be served thereby; (e) regulate the course of the hearing; (f) hold conferences for the settlement or simplification of the issues by consent of the parties; (g) dispose of procedural requests or similar matters; (h) render recommended decisions in proceedings on applications for permits, and in suspension, revocation, or annulment proceedings against permits; (i) call, examine and cross-examine witnesses, including hostile or adverse witnesses when he deems such action to be necessary to a just disposition of the cause, and introduce into the record documentary or other evidence; and (j) take any other action authorized by rule of the Alcohol and Tobacco Tax and Trade Bureau consistent with the Administrative Procedure Act.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55846, Sept. 28, 1979; T.D. ATF-119, 50 FR 9197, Mar. 6, 1985]

§ 71.98 Separation of functions.

Administrative law judges shall perform no duties inconsistent with their duties and responsibilities as such. Administrative law judges may be assigned duties not inconsistent with the performance of their functions as administrative law judges. Save to the