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original available at the hearing for examination by the Board and any other party. When the original of a document has been received in evidence, an accurate copy thereof may be substituted in evidence for the original by leave of the Board at any time.

(o) *Absence of parties or counsel.* The unexcused absence of a party or his authorized representative at the time and place set for the hearing will not be occasion for delay. In such event, the hearing will proceed and the case will be regarded as submitted by the absent party unless he or she appears before the conclusion of the hearing and offers additional evidence.

(p) *Transcripts.* Unless the Board orders otherwise, all hearings will be stenographically or electronically recorded and transcribed. Other conferences and proceedings may be recorded or transcribed by order of the Board. Generally, the Board will arrange for the stenographer to record and transcribe the proceeding. Each party is responsible for purchasing its own copy of the transcript(s) or recording(s). Waiver of recordation and transcription may be especially suitable for appeals resolved under the small claims procedure prescribed in § 22.22(c) of this part [Rule 22(c)].

(q) *Post-hearing briefs.* The Board may require the submission of post-hearing briefs. In such case, briefs shall be filed within 30 days after receipt of the transcript of the hearing, and reply briefs shall be filed within 15 days after receipt of the initial post-hearing briefs, unless such other time period has been established by the Board. Post-hearing briefs shall be filed in accordance with the requirements of § 22.6(b) of this part [Rule 6(b)].

(r) *Post-hearing evidence.* No evidence shall be submitted by any party after the hearing has concluded, including but not limited to post-hearing declarations, unless authorized by the Board in its discretion.

[73 FR 36258, June 26, 2008, as amended at 73 FR 60610, Oct. 14, 2008]

§ 22.17 Submission on the Record Without a Hearing [Rule 17].

(a) *General requirements.* Pursuant to § 22.16(a) of this part [Rule 16(a)], either party may elect to submit its case on the record without a hearing. Submission of a case without a hearing does not relieve the parties from the necessity of proving the facts supporting their claims or defenses.

(b) *Conference in lieu of hearing.* If neither side desires a hearing, either party may request that a conference be held in lieu of a hearing with one or more members of the panel designated to decide the appeal, and such request may be granted at the discretion of the Board. The purpose of the conference is not to introduce new matters or evidence, but to permit explanations and argument of matters of record. If any new matter is introduced at the conference by either party, consideration of the appeal will be deferred until the opposing party has been apprised thereof and has had an opportunity to reply. Both parties will be afforded the right to be present at any such conference. At the request of a party, or on the Board's initiative, the conference may be stenographically or electronically recorded and transcribed pursuant to § 22.16(p) of this part [Rule 16(p)].

(c) *Statement of the case.* The Board, at its discretion, may order a party that submits its case on the record without a hearing to submit a written statement of the case, including a legal and factual analysis of the relevant issues, within such period of time as the Board allows. The Board may also order parties to submit reply briefs. Briefs will be filed in accordance with the requirements of § 22.6(b) of this part [Rule 6(b)].

§ 22.18 Closing the Record [Rule 18].

(a) *Closing the record.* The record will be closed on a date announced by the Board by written notice.

(b) *Supplementing the record after the record is closed.* Except as the Board may otherwise order in its discretion, no evidence shall be received after the record is closed. However, at any time after the closing of the record and prior to a decision of the appeal by the Board, at the request of a party or upon its own initiative, the Board may reopen the record for the purpose of receiving newly discovered evidence or for such other reason as may appear to the Board to be appropriate.