

## § 1.805

comply with this section shall result in the exclusion of any filed written testimony.

### § 1.805 Docket number.

Each proceeding, immediately following its institution, shall be assigned a docket number by the hearing clerk and thereafter the proceeding may be referred to by such number.

### § 1.806 Judge.

(a) *Assignment.* No Judge who has any pecuniary interest in the outcome of a proceeding shall serve as Judge in such proceeding.

(b) *Power of Judge.* Subject to review by the Secretary, as provided elsewhere in this subpart, the Judge in any proceeding shall have power to:

- (1) Rule upon motions and requests;
- (2) Change the time and place of hearings, and adjourn the hearing from time to time or from place to place;
- (3) Administer oaths and affirmations and take affidavits;
- (4) Examine and cross-examine witnesses and receive evidence;
- (5) Admit or exclude evidence;
- (6) Hear oral argument on facts or law; and
- (7) Do all acts and take all measures necessary for the maintenance of order at the hearings and the efficient conduct of the proceeding.

(c) *Who may act in absence of the Judge.* In case of the absence of the Judge or that Judge's inability to act, the powers and duties to be performed by the Judge under this subpart in connection with a proceeding may, without abatement of the proceeding unless otherwise ordered by the Secretary, be assigned to any other Judge.

(d) *Disqualification of Judge.* The Judge may at any time withdraw as Judge in a proceeding if such Judge deems himself or herself to be disqualified. Upon the filing by an interested person in good faith of a timely and sufficient affidavit of personal bias or disqualification of a Judge, the Secretary shall determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as the Secretary may deem appropriate in the circumstances.

## 7 CFR Subtitle A (1-1-23 Edition)

### § 1.807 Direct testimony submitted as written documents.

Any person desiring to participate as a witness at the hearing shall submit direct testimony as written documents as prescribed by the following:

(a) Direct testimony by a witness, including accompanying exhibits, must be submitted as specified in the notice of the hearing pursuant to § 1.803. Exhibits constituting part of such direct testimony, referred to in the direct testimony and made a part thereof must be attached to the direct testimony. Direct testimony submitted with exhibits must state the issue(s) to which the exhibit relates; if no such statement is made, the Judge, at the hearing, shall determine the relevance of the exhibit to the issues published in the FEDERAL REGISTER.

(b) The direct testimony submitted shall contain:

(1) A concise statement of the witness' interest in the proceeding and his or her position regarding the issues presented. If the direct testimony is presented by a witness who is not a party, the witness shall state the witness' relationship to the party on behalf of whom the testimony is proffered; and

(2) Facts that are relevant and material.

(c) Copies of all direct testimony, including accompanying exhibits, must be submitted as prescribed by the notice of hearing.

(d) Upon receipt, direct testimony shall be assigned a number and stamped with that number and the docket number.

### § 1.808 Motions and requests.

(a) *General.* (1) Parties shall file all motions and requests with the hearing clerk except that those made during the course of the hearing may be filed with the Judge or may be stated orally and made a part of the transcript.

(2) Except as provided in § 1.816(b), such motions and requests shall be addressed to, and ruled on by, the Judge if made prior to certification of the transcript pursuant to § 1.811 or by the Secretary if made thereafter.

(b) *Certification to Secretary.* The Judge may, in his or her discretion, submit or certify to the Secretary for