

§ 60-30.17

§ 60-30.17 Appearance of witnesses.

(a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpoena, setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 5 days after notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

[43 FR 49259, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-30.18 Rules of evidence.

In any hearing, decision, or administrative review conducted pursuant to this part, all evidentiary matters shall be governed by Office of Administrative Law Judges' Rules of evidence at 29 CFR part 18, subpart B, *Provided however*, That the provision at 29 CFR 18.1104 which delays the effective date of the rule with respect to certain investigations does not apply.

[55 FR 19069, May 8, 1990]

41 CFR Ch. 60 (7-1-06 Edition)

§ 60-30.19 Objections; exceptions; offer of proof.

(a) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(b) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary, but shall be considered by the Secretary upon filing exceptions to the Administrative Law Judge's recommendations and conclusions.

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

[43 FR 49259, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-30.20 Ex parte communications.

The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision in the case, except as witness or counsel in the proceeding.

§ 60-30.21 Oral argument.

Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.