

offered in evidence by the Commission investigative attorney.

(d) *Official notice.* When any decision of the administrative law judge rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record, opportunity to disprove such noticed fact shall be granted any party making timely motion therefor.

(e) *Objections.* Objections to evidence shall be made in timely fashion and shall briefly state the grounds relied upon. Rulings on all objections shall appear on the record.

(f) *Exceptions.* Formal exception to an adverse ruling is not required.

(g) *Excluded evidence.* When an objection to a question propounded to a witness is sustained, the examining party may make a specific offer of what he expects to prove by the answer of the witness, or the administrative law judge may in his discretion receive and report the evidence in full. Rejected exhibits, adequately marked for identification, shall be retained with the record so as to be available for consideration by any reviewing authority.

#### § 210.38 Record.

(a) *Definition of the record.* The record shall consist of all pleadings, the notice of investigation, motions and responses, all briefs and written statements, and other documents and things properly filed with the Secretary, in addition to all orders, notices, and initial determinations of the administrative law judge, orders and notices of the Commission, hearing and conference transcripts, evidence admitted into the record, and any other items certified into the record by the administrative law judge or the Commission.

(b) *Reporting and transcription.* Hearings shall be reported and transcribed by the official reporter of the Commission under the supervision of the administrative law judge, and the transcript shall be a part of the record.

(c) *Corrections.* Changes in the official transcript may be made only when they involve errors affecting substance. A motion to correct a transcript shall be addressed to the administrative law judge, who may order that the transcript be changed to reflect such corrections as are warranted, after consid-

eration of any objections that may be made. Such corrections shall be made by the official reporter by furnishing substitute typed pages, under the usual certificate of the reporter, for insertion in the transcript. The original uncorrected pages shall be retained in the files of the Commission.

(d) *Certification of record.* The record shall be certified to the Commission by the administrative law judge upon his filing of an initial determination or at such earlier time as the Commission may order.

#### § 210.39 In camera treatment of confidential information.

(a) *Definition.* Except as hereinafter provided and consistent with §§ 210.5 and 210.34, confidential documents and testimony made subject to protective orders or orders granting in camera treatment are not made part of the public record and are kept confidential in an in camera record. Only the persons identified in a protective order, persons identified in § 210.5(b), and court personnel concerned with judicial review shall have access to confidential information in the in camera record. The right of the administrative law judge and the Commission to disclose confidential data under a protective order (pursuant to § 210.34) to the extent necessary for the proper disposition of each proceeding is specifically reserved.

(b) *Transmission of certain Commission records to district court.* In a civil action involving parties that are also parties to a proceeding before the Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court may stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission under certain conditions. If such a stay is in effect, after the determination of the Commission becomes final, the Commission shall certify to the district court such portions of the record of its proceeding as the district court may request. Notwithstanding paragraph (a) of this section, the in camera