

40 C.F.R. § 305.31

Evidence.

(a) *General.* The Presiding Officer shall admit all evidence which is not irrelevant, immaterial, unduly repetitious, or otherwise unreliable or of little probative value, except that evidence which would be excluded in the Federal courts under Rule 408 of the Federal Rules of Evidence (28 U.S.C. appendix) is not admissible. In the presentation, admission, disposition, and use of evidence, the Presiding Officer shall follow the provisions regarding confidential business information of 40 CFR part 2, subpart B for CERCLA. The commercial or trade secret status of any information shall not, however, preclude its being introduced into evidence. The Presiding Officer may make such orders as may be necessary to consider such evidence *in camera*, including the preparation of a supplemental final order to address questions of law or fact which arise out of that portion of the evidence which is confidential or which includes trade secrets. For the purpose of recording the hearing, the court reporter shall be considered “a person under contract or subcontract to EPA to perform work for EPA in connection with the Act or regulations which implement the Act” pursuant to 40 CFR 2.301(h)(2); unless the affected business, as defined in 40 CFR 2.201(d), agrees to some other procedures approved by the Presiding Officer.

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