**Section 2530.420 Evidence**

a) The Hearing Officer will receive evidence that is admissible under the law of the rules of evidence of Illinois pertaining to civil actions. In addition, the Hearing Officer may receive material, relevant evidence that would be relied upon by reasonably prudent persons in the conduct of serious affairs that is reasonably reliable and reasonably necessary to resolution of the issue for which it is offered.

b) The Hearing Officer shall exclude from consideration immaterial, irrelevant, and repetitious evidence.

c) When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the Hearing Officer shall admit such evidence.

d) The Hearing Officer may order the record of any relevant prior proceeding before the Department or part thereof incorporated into the record of the present proceeding.

e) Relevant scientific or technical articles, treatises or materials may be introduced into evidence subject to refutation or disputation through any introduction of comparable documentary evidence or expert testimony.

f) Aggravation and Mitigation

1) A party may introduce evidence as grounds that would demonstrate factors in mitigation or factors in aggravation of the relief sought in the complaint/petition.

2) The Hearing Officer shall take the following matters into consideration, if applicable, in contested cases in which the relief the Department, as the Complainant, seeks is suspension or revocation of a license or permit issued by the Department:

A) the Respondent's history of past conservation offenses;

B) any findings of guilt against the Respondent for offenses under other Acts that were related to those conservation offenses for which suspension or revocation is sought;

C) whether the Respondent's course of conduct constituted a threat to the biological balance of any species protected by the Act under which suspension or revocation is sought;

D) whether the Respondent's course of conduct constituted a threat to the safety of the Respondent, Department Officials, or others;

E) any evidence of the Respondent's ignorance of a material fact that led to his/her unlawful conduct;

F) the degree of cooperation exhibited by the Respondent with Department Officials;

G) the degree to which the Respondent profited economically as a result of his/her unlawful conduct;

H) whether the Respondent has ever committed an illegal or unlawful taking or harvesting or has damaged State property in violation of the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Endangered Species Protection Act [520 ILCS 10], the Timber Buyers Licensing Act [225 ILCS 735] or the Ginseng Harvest Act [525 ILCS 20] and whether the Respondent compensated the State for the illegal or unlawful taking, harvesting or damage in accordance with the appropriate Act; and

I) any other evidence offered and noted by the Hearing Officer as demonstrating factors in mitigation or factors in aggravation of the relief sought in the complaint.

3) The Hearing Officer shall take only the following matters into consideration in hearings for cases of suspension/revocation imposed under Subpart B:

A) was the Petitioner found guilty of the offenses outlined in the Notice of Suspension;

B) were points for those offenses properly assessed; and

C) was suspension/revocation properly imposed.

(Source: Amended at 35 Ill. Reg. 13268, effective July 26, 2011)