**Section 3730.211 Hearing Procedure**

a) General Provisions

1) All hearings shall be open to the public.

2) All testimony taken at such hearings shall be under oath or affirmation.

3) All relevant evidence is admissible if, in the opinion of the Hearing Officer, it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record.

4) In determining the admissibility of evidence, the Hearing Officer shall give consideration to, but not be bound by rules of evidence governing civil proceedings.

5) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge and experience of the Hearing Officer. Whenever official notice is requested or the Hearing Officer intends to take such notice on his own motion, prior notice shall be given to all parties with an opportunity to comment on the relevance or accuracy of the material of which official notice may be taken.

6) Copies of direct testimony of any witness shall be served upon the Hearing Officer at least 7 days in advance of the session of the hearing at which such testimony is offered.

7) All motions and objections made during a public hearing shall be stated orally on the record, including the grounds of such objection.

8) When objection is made to the admissibility of evidence, such evidence may be received subject to such other objection and later ruling.

9) All motions other than those made during a hearing shall be in writing and shall state briefly the order or relief applied for and the grounds for such motion. Any such motion shall be filed with the Hearing Officer and a copy thereof shall be served at the same time on the parties. Answering statements, if any, shall be filed in writing with the Hearing Officer within 5 days after service of the motion upon the party filing the answering statement, and a copy thereof shall be served within the same period upon the other parties. The Hearing Officer may in his discretion, call for oral arguments on any such motion.

10) Parties may agree by stipulation upon facts involved in the proceeding. Any stipulation reached before a final determination by the Director shall be submitted in writing to the Hearing Officer and shall become effective only if approved by the Hearing Officer.

11) Statements from interested citizens may be presented if authorized by the Hearing Officer. These statements are subject to the same Rules and Regulations as herein set forth.

b) Cross-Examination

1) Upon the hearing of any action any party thereto or any person for whose immediate benefit the action is prosecuted or defended, or the officers, directors or managing agents or any party to the action, may be called and examined as if under cross-examination at the instance of any party. The party calling for the examination is not precluded from rebutting the testimony thus given by countertestimony and may impeach the witness by proof of prior inconsistent statements.

2) If the Hearing Officer determines that a witness is hostile or unwilling, he may be examined by the party calling him as if under cross-examination.

3) The scope of cross-examination shall be defined by those issues relevant to the Director's determination.

4) Repetitious cross-examination may be limited by the Hearing Officer.

c) Documentary Evidence

1) The Hearing Officer may receive material and relevant evidence which would be relied upon by reasonably prudent persons in the conduct of serious affairs which is reasonably necessary to resolution of the issue for which it is offered; provided that the rules relating to privileged topics shall be observed.

2) the Hearing Officer shall exclude immaterial, irrelevant, and repetitious evidence.

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

4) Upon stipulation of the parties, the Hearing Officer may order the record of any relevant prior proceeding before the Department incorporated into the record of the present proceeding. In such an event, the Hearing Officer shall incorporate the entire or appropriate portions of the record constituting such prior proceeding into the present proceeding.

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

6) When a party desires to offer in evidence any portion of the record in any other proceeding or previously filed applications, such portion or application shall be offered in the form of an exhibit unless objected to or otherwise stipulated by the parties. Upon objection such materials may be submitted for admission pursuant to sub-section c(9) of this section.

7) When any material or relevant matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered. If, in the judgment of the Hearing Officer, such immaterial or irrelevant matter would unnecessarily encumber the record, such book, paper or document will not be received in evidence as a whole, but the material or relevant portions thereof, if otherwise admissible, may be read into the record or a true copy thereof supplied in the form of an exhibit.

8) When an exhibit of a documentary character is marked for identification and offered in evidence, four copies thereof shall be furnished to the Hearing Officer and one copy to each party who requests a copy unless the Hearing Officer rules otherwise. Copies will be retained by the Hearing Officer and the Department.

9) When a party desires to offer in evidence any evidence heretofore considered in the issuance of a previous allocation order, such evidence shall be reintroduced by the proponent thereof provided said proponent has a witness or witnesses available who will state under oath that such evidence represents his testimony and is subject to cross-examination.

d) Depositions. During the pendency of any proceeding, the Hearing Officer either upon his own motion or upon application in writing by any party may cause the deposition for use as evidence in the proceeding of any witness within or without the State to be taken in the manner provided by law for depositions in civil actions in the course of this State, and to that end may compel the attendance of witnesses and the production of books, papers, accounts and documents. Except under special circumstances and for good cause shown, no deposition may be taken except upon 10 days prior notice to all parties.

e) Postponement or Continuance of Hearing.

1) A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon motion of a party to the Hearing.

2) Notice of motion for postponement or continuance shall be given in writing, by the party requesting the motion, to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date.

f) Default. Failure of a party to appear on the date set for hearing, or failure to proceed as ordered by the Hearing Officer shall constitute a default. Within 30 days after notice to the party of the default order and upon good cause being shown, the party may move to vacate the default and be allowed to proceed as if no default had been entered. Upon default the Director shall enter such order as is appropriate based upon the evidence introduced at the hearing.