**Section 2402.100 Motion and Answer**

a) Any party receiving a Notice of Hearing may file an answer not later than five days prior to the date of hearing. All answers or motions preliminary to a hearing shall be presented to the Department and to the Hearing Officer at least five days prior to the date of hearing, or on such other date as the Hearing Officer shall designate and shall be served personally or by registered or certified United States mail.

b) Unless made orally on the record during a hearing, or unless the Hearing Officer directs otherwise, an answer or motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon and, as appropriate, by a proposed order. At least two copies of all such motions shall be filed with the Department (one for the Department attorney and one for the Hearing Officer) and at least one copy served on each additional party, if any, to the Hearing.

c) Within five days after service of a written motion, or such other period as the Hearing Officer may prescribe, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion. The moving party shall have no right to reply, except as permitted by the Hearing Officer.

d) No oral argument will be heard on a motion unless the Hearing Officer directs otherwise. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.

e) A written motion will be disposed of by written order and on notice to all parties.

f) The Hearing Officer shall rule upon all motions, except that he shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.

g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.

h) A party may participate in the proceedings without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files his answer or motion, or, if no answer or motion is made, before the commencement of the hearing.