

Rules of Practice
ARTICLE ONE
GENERAL PROVISIONS

Part 1

Scope and Construction of Rules and Conduct

Sec. 13b-17-100a. Procedures governed

Sections 13b-17-100a through 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedures before the Department of Transportation, in all contested cases and proceedings on petitions, regulations or declaratory rulings under the applicable laws of the State of Connecticut.

(Adopted, effective October 6, 1997)

Sec. 13b-17-101a. Definitions

As used in sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies for the purpose of these sections:

- (1) "Agency" means the Department of Transportation.
- (2) "Annexed materials" means any and all documents, petitions, exhibits, data, models, illustrations and other materials that the petitioner deems necessary and desirable to support the granting of an application.
- (3) "Appellant" means a person who takes an appeal to the commissioner from any transit district within the State of Connecticut.
- (4) "Applicant" means a party applying for any license, permit, certificate, or authority from the commissioner.
- (5) "Case-in-chief" means the main part of a person's case when all of the evidence that will be used in support of his case is submitted to the commissioner.
- (6) "Citation" means a notice served upon a holder of a license, permit, or certificate alleging a violation of a statute, regulation, license or order administered or issued by the commissioner or any other violation relevant to the licensed activity, based upon a complaint initiated by any person or the agency.
- (7) "Commissioner" means the commissioner of transportation or his designee.
- (8) "Complainant" means any person who complains to the commissioner of any act or omission in violation of statutes or regulations within the jurisdiction of the commissioner or an order of the commissioner.

(9) "Document" means and includes, but is not limited to, applications, briefs, complaints, correspondence, exhibits, forms, lists, memoranda, motions, notices petitions and all other written material filed for the purpose of any proceeding before the commissioner.

(10) "Hearing" means that portion of the agency's procedures required by law in the disposition of matters delegated to the commissioner's jurisdiction wherein an opportunity for a presentation of evidence and argument occurs, which is preceded by due notice and which includes both an opportunity present such written and oral testimony and argument as the presiding officer deems appropriate and an opportunity for parties to examine and cross-examine any witness giving testimony therein. Any such hearing shall be a public hearing.

(11) "Motion" means any procedural request to the commissioner as part of a proceeding.

(12) "Operator" means a holder of a license granted by the order of the commissioner which authorizes activities under the jurisdiction of the agency.

(13) "Operating Authority" means any license granted to an operator by the order of the commissioner which authorizes activities under his jurisdiction.

(14) "Petition" means a request to the commissioner to take formal action pursuant to chapter 54 of the Connecticut General Statutes.

(15) "Petitioner" means a person who has filed a petition with the commissioner.

(16) "Proceeding" means the regular and orderly progress of agency action pursuant to chapter 54 of the Connecticut General Statutes.

(17) "Representative" means an attorney at law, duly admitted to practice before the Superior Court of the State of Connecticut or any other person who appears before the agency in any hearing or proceeding, on behalf of a party or intervenor.

(18) "Respondent" means a person against whom an order or a citation is directed.

(19) "Statute" means appropriate and applicable sections of the Connecticut General Statutes, as revised.

(Adopted, effective October 6, 1997)

Sec. 13b-17-102a. Applicability, purpose and construction

(a) Sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, shall govern in all agency proceedings except that other substantive regulations of the agency, which are specific to certain proceedings, shall take precedence. Other procedural regulations of the agency which impose requirements in addition to those imposed by said sections shall also apply.

(b) As used in this section, words in the singular include the plural, words in the feminine include the masculine or neuter and vice versa, as the case may be.

(c) Sections 13b-17-100a through 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies shall apply on and after their effective date to every agency hearing or proceeding, whether such hearing or proceeding commenced before or after such effective date, except where application to a hearing or proceeding that commenced before such effective date would unavoidably result in unfairness to any party or intervenor or would prejudice the public health, safety or welfare.

(Adopted, effective October 6, 1997)

Sec. 13b-17-103a. Construction and amendment

Sections 13b-17-100a through 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies shall be so construed by the commissioner so as to secure the just and speedy determination of the issues presented in hearings and proceedings.

(Adopted, effective October 6, 1997)

Sec. 13b-17-104a. Computation of time

In computing any period of time prescribed or allowed by sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, or by an order, ruling, proposed final decision, final decision, regulation, license or other action of the commissioner, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday or a state designated holiday, in which case the last day shall be the day immediately following said Saturday, Sunday or state designated holiday which is not a Saturday, Sunday or state designated holiday.

(Adopted, effective October 6, 1997)

Sec. 13b-17-105a. Extension of time

At the discretion of the commissioner, for good cause shown, any time limit prescribed or allowed by sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, may be extended, except where specified or prohibited in the Connecticut General Statutes. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended. The commissioner shall cause all parties to be notified of the action upon any such motion.

(Adopted, effective October 6, 1997)

Sec. 13b-17-106a. Date of filing

The submission of all notices, correspondence, memoranda, motions, exhibits, briefs, petitions, complaints, applications or any other document shall be deemed to have been filed on the date they are stamped at the agency office as described in subsection (c) of section 13b-17-117a.

(Adopted, effective October 6, 1997)

Sec. 13b-17-107a. Effect of filing

(a) The filing with the agency of any document, or any other filing of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, regulation or order of the commissioner.

(b) Unless the commissioner provides otherwise in writing, accepting the filing of any non-conforming document of any kind whatsoever, shall not be construed as a waiver of compliance with sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies.

(c) Any document filed pursuant to said sections shall be public record, except when expressly excluded by state or federal law.

(d) All cited deficiencies in any filed document shall be corrected by the party filing the document, and if ordered, within the time period so designated by the commissioner. Failure to correct cited deficiencies in the manner directed by the commissioner or in the time period so stated, shall be grounds for denying or rejecting an application or filing for lack of proper submission.

(Adopted, effective October 6, 1997)

Sec. 13b-17-108a. Acceptance or rejection of filing non-waiver

(a) By accepting the filing of any document of any kind, whatsoever, the commissioner shall not have waived any failure to comply with sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies. Where appropriate, the commissioner may reject any filing or require the amendment of said filing.

(b) Where the regulations of the agency require that specific exhibits or data be prepared and submitted as part of any petition or application, and the petition or application is not in compliance with the regulations of the agency or the law as enumerated in the statutes, the commissioner may reject and return to the sender any petition or application that the commissioner finds to have failed to comply with such criteria for the submission of information pursuant to this section and section 13b-17-118a.

(Adopted, effective October 6, 1997)

Sec. 13b-17-109a. Consolidation

Proceedings involving related questions of law or fact may be consolidated in the discretion and as directed by the commissioner.

(Adopted, effective October 6, 1997)

Sec. 13b-17-110a. Rules of conduct of parties, intervenors and representatives

(a) A party or intervenor may appear in person or by representative. The representative shall be deemed to have appeared as the agent of said party or intervenor. Each party, intervenor or representative thereof shall promptly file, with the agency, a written notification of appearance. Any person appearing on behalf of the party or intervenor is deemed to be authorized to act on behalf of said party or intervenor.

(b) Each person making an appearance before the commissioner is subject to the agency's regulatory jurisdiction in connection with any hearing and shall promptly notify the agency, in writing, in order that same may be made a part of the record.

(c) The Rules of Professional Ethics and the Code of Judicial Conduct as adopted and approved by the Judges of the Superior Court shall govern the conduct of all attorneys in any proceeding before the agency on behalf of any public or private person, firm, corporation or association.

(d) Any attorney, agent, representative or any other person present at any proceeding before the agency who engages in disruptive behavior or misconduct that prevents or disrupts an orderly hearing or proceeding may be removed from or limited in further participation, at the discretion of the commissioner.

(e) Any person who testifies falsely to any material fact in any contested case wherein he has given oath or affirmation or who willfully falsifies any account, book, paper, record, report, financial statement or any other exhibit that is made a part of the record in any contested case with the intent to mislead or deceive the commissioner shall be referred to the state's attorney for prosecution, as provided by law.

(Adopted, effective October 6, 1997)

Sec. 13b-17-111a. Client absenteeism

Party or intervenor status shall not be granted to any person, whether represented or not, seeking such status unless the person seeking status is present at the hearing.

(Adopted, effective October 6, 1997)

Sec. 13b-17-112a. Time of commencement of proceeding

The commencement of each proceeding shall differ when considering the following:

(1) **Contested Case:** Upon the date of service of the initial notice of hearing wherein a party's rights, duties, and privileges are to be determined;

(2) **Declaratory Ruling:** Upon receipt of filing of petition requesting a declaratory ruling from the agency;

(3) **Reconsideration of Final Decision:** Upon receipt of filing of petition requesting reconsideration, or upon the commissioner's own motion;

(4) **Adoption, Repeal or Amendment of Regulation:** Upon receipt of filing of petition requesting adoption, repeal or amendment of a regulation, or upon the commissioner's own motion.

(Adopted, effective October 6, 1997)

Sec. 13b-17-113a. Record

The agency shall maintain the official record of all hearings or proceedings and the record shall be kept in accordance with chapter 54 of the Connecticut General Statutes.

(Adopted, effective October 6, 1997)

Sec. 13b-17-114a. Recording

Any interested person may, after giving notice to the commissioner at least five (5) days prior to the commencement of a hearing, record any portion of a proceeding subject to the direction of the commissioner. The commissioner may limit the number of recording devices in any hearing. These recordings shall not be deemed to be an official record of the agency.

(Adopted, effective October 6, 1997)

Sec. 13b-17-115a. Sanctions

If a party or intervenor has failed to comply with an order of the presiding officer that such party or intervenor comply with a request for production, the presiding officer may make such order as the ends of justice require. Such orders may include the following:

- (1) The denial of the petition or application of the party failing to comply;
- (2) The entry of an order that the matters regarding which the discovery was sought or other related facts shall be taken to be established for the purposes of the action in accordance with the claim of the party or intervenor obtaining the order;
- (3) The entry of an order prohibiting the party who has failed to comply from introducing designated matters into evidence;
- (4) The limitation of participation by the party or intervenor who has failed to comply in the hearing on issues or facts relating to the discovery sought;
- (5) The enforcement of the order in court.

(Adopted, effective October 6, 1997)

Part 2

Formal Requirements

Sec. 13b-17-116a. Office

The office of the agency where all correspondence of any nature shall be filed, including service upon the commissioner, and where all official business and all hearings shall be conducted, unless otherwise notified, shall be at the Department of Transportation, 2800 Berlin Turnpike, Newington, Connecticut. The mailing address is 2800 Berlin Turnpike, P.O. Box 317546, Newington, Connecticut, 06131-7546. The office hours are from 8:30 a.m. to 4:30 p.m. Monday through Friday, excepting Saturdays, Sundays, and state designated holidays.

(Adopted, effective October 6, 1997)

Sec. 13b-17-117a. Service of process

(a) **General rule.** Service of all documents and other papers filed in all hearings and proceedings, including but not limited to motions, petitions, applications, notices, briefs, and exhibits shall be by personal delivery or by first class mail, except as otherwise designated by the commissioner.

(b) **On whom served.** In addition to the filing requirements of subsection (a) of this section, one copy of each document served on the commissioner in any hearing or proceeding, by a party, intervenor or representative thereof, shall be served on every person who has requested party or intervenor status or after such a determination, has been designated a party or intervenor in the hearing or proceeding. Certification of such service shall be endorsed on any and all documents and other papers when filed with the commissioner.

(c) Service upon the commissioner, of any document, shall be effective upon receipt at the office of the agency as designated by the official date stamp.

(d) **Service of written notice.** Written notice of all orders, decisions or authorizations issued by the commissioner shall be given to all parties, by personal service upon such person, by bulk certified first class mail or by certified first class mail, or such other method as the commissioner determines, in accordance with the Connecticut General Statutes.

(Adopted, effective October 6, 1997)

Sec. 13b-17-118a. Formal requirements as to documents and other papers filed in hearings and proceedings

(a) **Copies.** Except for routine correspondence and inquiries by the public, and as may be otherwise required by sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, or by any other regulations of the commissioner or as ordered or expressly requested by the commissioner, the original of such documents shall be furnished to the commissioner. In addition to the original, there shall also be filed with the agency, four (4) copies, unless a greater or lesser number of such copies is expressly requested by the commissioner.

(b) **Form.** Except for such forms as may from time to time be provided or adopted by the commissioner and used where appropriate, all documents shall be on only one side of an eight and one half by eleven (8½" x 11") inch paper, and shall be double spaced. Copies shall be mimeographed, multigraphed, photoduplicated or similarly reproduced and will be accepted provided all copies filed are clear and permanently legible.

(Adopted, effective October 6, 1997)

Sec. 13b-17-119a. Electronic filing

No document submitted to the agency, pursuant to an order, may be electronically filed without the commissioner's prior consent.

(Adopted, effective October 6, 1997)

Sec. 13b-17-120a. Identification of communications

When the subject matter of any document or any other filing pertains to a hearing or proceeding pending before the commissioner, the title and the docket number of the hearing or proceeding shall be clearly designated on each and every page of said document or other filing pertaining thereto.

(Adopted, effective October 6, 1997)

Sec. 13b-17-121a. Calendar of hearings

The agency shall maintain a calendar of all hearings. Hearings shall be placed on the hearing calendar in the order in which they are docketed, unless otherwise directed by the commissioner. Hearings shall be placed on docket only when the application has been deemed complete by the commissioner.

(Adopted, effective October 6, 1997)

Sec. 13b-17-122a. Agency action

The agency on its own motion, may initiate an investigation or fact-finding proceeding as it deems necessary or upon the receipt of any notice of complaint by any person concerning any matter within the agency's jurisdiction.

(Adopted, effective October 6, 1997)

Sec. 13b-17-123a. Voluntary withdrawal of proceedings

An applicant may withdraw an application at any time, and a petitioner for a declaratory ruling under section 4-176 of the Connecticut General Statutes, as amended, may withdraw the petition at any time. Upon withdrawal of an application or petition, said proceeding shall be deemed terminated. Upon termination of any proceeding, all procedural orders issued by the commissioner are null and void. Any fee, submitted with an application or petition, as required by statute or regulation, shall be considered forfeited to the agency upon withdrawal of said application or petition.

(Adopted, effective October 6, 1997)

Sec. 13b-17-124a. Failure to pursue in a timely manner

When the agency is prepared to go to hearing and notifies the applicant or petitioner, and the applicant or petitioner refuses or is unprepared to go forward, said matter shall be placed at the end of the docket file. If a matter is subsequently called for hearing and the applicant or petitioner again refuses or is unprepared to go forward, said matter shall be deemed a voluntary withdrawal in accordance with section 13b-17-123a.

(Adopted, effective October 6, 1997)

Sec. 13b-17-125a. Time for submission of documents

Submission of any document in support of any party's case shall be made within seven (7) days, unless otherwise prescribed by specific provisions of sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, prior to the commencement of any hearing or as otherwise directed by the commissioner.

(Adopted, effective October 6, 1997)

Sec. 13b-17-126a. Motions

(a) All motions shall (1) be in writing unless made orally on the record, (2) state with particularity the grounds therefore and (3) set forth the relief or ruling sought.

(b) Any party, intervenor or representative thereof, may file a response supporting or opposing the motion within ten (10) days of service of a written motion or such other time as the commissioner may prescribe. The movant shall have no right to reply.

(c) The movant shall have the burden of demonstrating that the relief or ruling sought in the motion should be granted.

(Adopted, effective October 6, 1997)

Part 3**Application for Authorization****Sec. 13b-17-127a. General rule**

(a) Petitions and applications placed before the agency pursuant to law, including but not limited to petitions for declaratory ruling, petitions for the adoption, amendment or repeal of regulations and applications for any license, shall include any and all proposals and requests, with all required filings of whatever nature.

(b) The petition or application and annexed materials may be treated by the commissioner as a substantially complete statement of the case in chief of the applicant or petitioner and shall be submitted in accordance with section 13b-17-128a.

(Adopted, effective October 6, 1997)

Sec. 13b-17-128a. Required components, generally

(a) **Form** – The form to be followed in the filing of petitions and applications pursuant to sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies will vary to the extent necessary to provide for the nature of the legal rights, duties or privileges involved therein. In addition to the special provisions for particular types of petitions and applications as described in said sections and provided by statute, all petitions and applications shall include the following:

(1) a statement setting forth clearly and concisely the authorization and relief sought. The statement shall cite by appropriate reference the statutory provision or other authority under which such authorization or relief is to be granted by the commissioner.

(2) the exact legal name of each person seeking the authorization and relief and the address or principal place of business of each such person. If any applicant or petitioner is a corporation, trust, association or other organized group, it shall also give the state under the laws of which it was created or organized.

(3) the name, title, address and telephone number of the representative to whom correspondence or communications in regard to the applicant or application shall be addressed. Notice, orders and other papers may be served upon the person so named; and such service shall be deemed to be service upon the petitioner or applicant.

(4) a concise and explicit statement of the facts on which the commissioner is expected to rely in granting the authorization and relief sought.

(5) an explanation of any unusual circumstances involved in the petition or application to which the commissioner will be expected to direct particular attention, including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order in the proceeding.

(6) as to all applications for operating authority, there shall be submitted the results of a criminal history conviction information search provided by the state police in the state in which each of the following resides to the extent that such search is authorized by the Connecticut General Statutes for such authority: (A) where the proposed operator or transferee is an unincorporated sole association; each proprietor, partner and association member; (B) where the proposed operator or transferee is incorporated, or a limited liability company, each officer of the corporation, each person owning ten (10%) per cent or more of the outstanding

debt or equity of the operator or transferee, and each member or the manager of the limited liability company.

(b) **Additional evidence submitted.** The enumeration of required items set forth in subsection (a) of this section as the minimum application or petition submission shall not preclude the submission of additional evidence in accordance with sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, at the discretion of the commissioner.

(Adopted, effective October 6, 1997)

Sec. 13b-17-129a. Original records

When the commissioner so requires, any party, intervenor or representative thereof shall furnish or make available to the commissioner, witnesses, records, physical evidence, papers and documents relative to a proceeding in accordance with chapter 54 of the Connecticut General Statutes. Failure to comply with the commissioner's request shall result in action pursuant to section 13b-17-115a.

(Adopted, effective October 6, 1997)

Sec. 13b-17-130a. Fees

All application fees or other charges required or authorized by law shall be payable to the Treasurer, State of Connecticut, at the time that the application is filed. Any fees submitted with an application shall be non-refundable.

(Adopted, effective October 6, 1997)

Sec. 13b-17-131a. Subsequent filing of application

A final decision or judgment shall have been rendered and become effective before any applicant may file a subsequent application seeking additional operating authority of the same type of service, in the same or overlapping territory which is the subject of the pending proceeding.

(Adopted, effective October 6, 1997)

Sec. 13b-17-132a. Waiver of rules

At the discretion of the commissioner or any presiding officer where good cause appears, the commissioner or any presiding officer may permit deviation from sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, except where specified or prohibited in the Connecticut General Statutes.

(Adopted, effective October 6, 1997)

ARTICLE II

CONTESTED CASES

Part 1

GENERAL PROVISIONS

Sec. 13b-17-133a. Purpose of hearing

The purpose of a hearing in a contested case shall be to provide all parties whose legal rights, duties and privileges are to be determined, an opportunity to present evidence and arguments on all issues.

(Adopted, effective October 6, 1997)

Sec. 13b-17-134a. Place of hearing

Unless a different place is designated by direction of the commissioner, all hearings shall be held at the office of the Department of Transportation, pursuant to section

13b-17-116a. The commissioner shall give written notice, as required by law, by newspaper publication and by any other means as the commissioner deems appropriate and advisable.

(Adopted, effective October 6, 1997)

Sec. 13b-17-135a. Date and time of hearing

All hearings shall commence at the specific date and time designated by the commissioner. Failure of any party, intervenor, petitioner or representative thereof to appear at the designated date and time of such hearing as specified by the commissioner within thirty (30) minutes of noticed time for such hearing may result in the imposition of sanctions pursuant to section 13b-17-115a.

(Adopted, effective October 6, 1997)

Sec. 13b-17-136a. Order of procedure at hearings

(a) In hearings on complaints, applications and petitions, the party that shall open and close the presentation of any part of the matter shall be the complainant, applicant or petitioner. In a case where the opening portion has already been submitted in written form as provided by sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies, the applicant shall open with the introduction into evidence of said written information previously submitted and the hearing shall then continue with the cross examination of persons who have given written testimony.

(b) In the event that any person has given written testimony and has been subpoenaed but is not available for such cross examination at the time and place directed by the commissioner, all of such written testimony may be stricken from the record at the direction of the commissioner.

(Adopted, effective October 6, 1997)

Sec. 13b-17-137a. Burdens of proof

In a proceeding on an application, the applicant shall have the burden of going forward with evidence and the burden of persuasion with respect to each issue which the commissioner is required, by law, to consider in deciding whether to grant or deny the application.

(Adopted, effective October 6, 1997)

Part 2

NOTICE, BILL OF PARTICULARS

Sec. 13b-17-138a. Notice of hearing

(a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. Reasonable notice shall be deemed to be written notice of the date and time of hearing sent by the agency no later than fourteen (14) days prior to the date of the hearing.

(b) Notwithstanding subsection (a) of this section, in a hearing on a citation, notice of such hearing shall not be less than fourteen (14) days prior to the date of the hearing on the citation.

(c) Nothing in sections 13b-17-100a to 13b-17-152a, inclusive, of the Regulations of Connecticut State Agencies shall preclude a summary suspension of a license pursuant to chapter 54 of the Connecticut General Statutes.

(Adopted, effective October 6, 1997)

Sec. 13b-17-139a. Bill of particulars

Any party may request a bill of particulars containing a more definite and detailed statement of facts from the commissioner, no later than seven (7) days after notice is issued. Upon receipt of such request, if the commissioner finds that a more definite and detailed statement of such facts is necessary and appropriate, a bill of particulars shall be prepared as directed by the commissioner and a copy sent to each person requesting party or intervenor status.

(Adopted, effective October 6, 1997)

Sec. 13b-17-140a. Disposition of case

Any contested case may be resolved by stipulation, agreed settlement, consent order or default upon the approval of such resolution by the commissioner.

(Adopted, effective October 6, 1997)

Part 3

PARTIES, INTERVENORS AND REPRESENTATIVES

Sec. 13b-17-141a. Petition for designation as party or intervenor

(a) **Filing of Petition.** Any person who proposes to be named or admitted as a party to any proceeding shall comply with the requirements of chapter 54 of the Connecticut General Statutes.

(b) **Contents of Petition.**

(1) The petition shall state the exact legal name of each person seeking relief and the last known address of the residence or the principal place of business of each person. If petitioner has received operating authority from the commissioner, it shall attach to said petition a copy of its present operating authority along with a list of all motor vehicles presently registered to the petitioner under Title 14 of the Connecticut General Statutes relating to motor vehicles.

(2) The petition shall state the name, title, address and telephone number of the representative to whom correspondence or communication in regard to the petition is to be addressed.

(3) The petition shall further state the relief sought by petitioner; the statutory and regulatory authority for such petition; and the nature of the evidence, if any, to be presented at hearing.

(4) There shall be annexed to the petition, any exhibits, data, models, illustrations, and all other materials that the petitioner deems necessary and desirable to support the granting of the petition.

(5) Each petition shall certify that the applicant and all other known petitioners have received a copy of the petition and all materials annexed thereto.

(Adopted, effective October 6, 1997)

Sec. 13b-17-142a. Persons not named as a party or intervenor

At the discretion of the presiding officer, any person or entity not named as a party or intervenor may be given the opportunity to present an oral or written statement. The presiding officer may require any such statement to be given under oath or affirmation.

(Adopted, effective October 6, 1997)

Sec. 13b-17-143a. Requests for continuances

Continuances of any hearing may be granted upon motion of any party under the following circumstances:

- (1) When any party or representative of record for good cause is unable to attend and when a substitute representative cannot be provided; or
- (2) Other good cause as determined by the commissioner. Failure to adhere to this policy may result in the imposition of sanctions pursuant to section 13b-17-115a; and
- (3) No undue burden is placed upon the commissioner.
(Adopted, effective October 6, 1997)

Part 4

AUTHORITY OF PRESIDING OFFICER

Sec. 13b-17-144a. Powers and duties of the presiding officer

(a) The presiding officer shall conduct a fair and impartial proceeding, assure that the relevant facts are fully elicited, adjudicate issues of law and fact and prevent delay and harassment.

(b) In addition to any other powers provided by law and limited to the proceeding for which the person is presiding officer, said presiding officer shall have the power to:

- (1) Determine the scope of the hearing;
- (2) Dispose of motions and requests;
- (3) Make all necessary or appropriate rulings with regard to evidentiary matters;
- (4) Administer oaths and affirmations;
- (5) Subpoena witnesses and evidence;
- (6) Examine witnesses and control the examination of witnesses;
- (7) Consolidate proceedings or portions thereof; and
- (8) Issue proposed or final decisions.

(Adopted, effective October 6, 1997)

Sec. 13b-17-145a. Prehearing conferences

(a) The commissioner may on motion or on his own initiative and prior to a hearing, schedule and hold a prehearing conference among the parties and intervenors and the representatives thereof to:

- (1) Clarify and simplify factual and legal issues in dispute;
- (2) Rule on stipulations of facts and evidence;
- (3) Pre-mark exhibits to be offered or admitted into evidence;
- (4) Dispose of pending motions and disputes;
- (5) Take such other actions as may aid in the orderly and expeditious disposition of the proceeding.

(b) Each party and intervenor and representative thereof shall appear at the prehearing conference. Upon failure to appear without good cause, and at his discretion, the hearing officer may proceed with the conference and may make decisions concerning all matters for which the conference was scheduled. Such decisions shall bind all parties and intervenors.

(c) At least one representative of each party and intervenor participating in the prehearing conference shall have authority to enter into stipulations and to make admissions regarding all matters that the participants should reasonably anticipate may be discussed at said conference.

(d) After the prehearing conference, the presiding officer may issue a prehearing conference order. The prehearing conference order shall, unless modified by the hearing officer on the record, control the subsequent course of the proceeding.

(Adopted, effective October 6, 1997)

Part 5
EVIDENCE

Sec. 13b-17-146a. Generally

Rules of evidence as set forth in section 4-178 of the Connecticut General Statutes shall govern all contested cases conducted by the agency.

(Adopted, effective October 6, 1997)

Sec. 13b-17-147a. Advance submission of proposed evidence

(a) A party or intervenor shall, regardless of whether a prehearing conference is held, and unless an earlier filing is required by the presiding officer, or a later filing is allowed for good cause shown, file with the agency, no later than seven (7) days prior to the hearing an original and four (4) copies of all prepared testimony and/or exhibits and documents intended to be introduced as evidence in a hearing by any party or intervenor.

(b) A party or intervenor shall not call any witness as an expert witness unless such expert has been disclosed seven (7) days prior to the hearing. Said disclosure shall include his education, experience and the subject matter on which he will testify.

(c) At the time the party or intervenor files the proposed evidence with the agency, he shall serve a copy thereof on all of those who have petitioned the agency for party or intervenor status.

(d) The commissioner may admit into evidence any document or testimony which was not submitted or identified prior to the hearing in accordance with subsection (a) of this section, upon a showing of good cause as to why the evidence was not prefiled as required by said subsection (a). If the commissioner admits such document or testimony, he may grant a continuance to any party or intervenor prejudiced thereby.

(e) Nothing in this section shall require the agency to submit evidence to the respondent in advance of the date of a hearing on a citation.

(Adopted, effective October 6, 1997)

Sec. 13b-17-148a. Limitation of witnesses and hearing time

(a) To avoid irrelevant, immaterial or unduly repetitious evidence, the commissioner may limit the number of witnesses or the time for testimony in the course of a hearing.

(b) Cross-examination may be conducted by a party, by the commissioner and by any other member of the agency connected with the contested case as the commissioner shall find to be required for a full and true disclosure of the facts, subject to subsection (a) of this section.

(Adopted, effective October 6, 1997)

Sec. 13b-17-149a. Filing of added documents and exhibits

(a) The commissioner, prior to issuing a final decision, may request any additional documents or evidence during or after the hearing necessary for the disposition of the case. The commissioner may further investigate or order such investigation on any aspect of the evidence presented at the hearing in order that a just and equitable final decision is rendered.

(b) Within ten (10) days after the commissioner mails notification that such additional evidence has been received by the commissioner, a party may request an opportunity for cross examination. The commissioner may grant an opportunity for cross examination limited solely to such additional evidence.

(Adopted, effective October 6, 1997)

Sec. 13b-17-150a. Notice of agency expertise

The commissioner shall employ the agency's experience, technical competence and specialized knowledge and expertise in evaluating the evidence at the hearing.
(Adopted, effective October 6, 1997)

Part 6

ORAL ARGUMENT/RECONSIDERATION

Sec. 13b-17-151a. Requests for oral argument and/or written exceptions

If a proposed final decision is issued, any party may make written request for oral argument and/or may file with the commissioner written exceptions thereto within fourteen (14) days after mailing of the proposed final decision. Unless otherwise specified by the commissioner, exceptions shall state with particularity the party's objections to the proposed final decision, and may not raise legal issues or factual issues which could have been, but were not, raised at the hearing. A date and time shall then be set for oral argument and all parties shall have the opportunity to present their arguments for a time period of no more than fifteen (15) minutes, unless such other time period is allowed by the commissioner.

(Adopted, effective October 6, 1997)

Sec. 13b-17-152a. Petition for reconsideration

(a) All petitions for reconsideration shall be submitted in accordance with section 13b-17-128a. The contents of the petition for reconsideration shall state:

- (1) the error of law or fact that should be corrected;
- (2) the new evidence that has been discovered and how it materially affects the merits of the case and why the evidence was not presented at hearing; or
- (3) good cause.

(b) The petition shall:

- (1) specifically state the relief sought by petitioner and the statutory and regulatory authority for such relief;
- (2) state the exact legal name of each person seeking to petition for relief and the last known address of the principal place of business of each person; and
- (3) state the name, title, address and telephone number of the representative or petitioner to whom correspondence or communication in regard to the petition is to be mailed.

(Adopted, effective October 6, 1997)

Secs. 13b-17-153a—13b-17-199a. Reserved