

## ATTACHMENT 1

### ***BASIC PROCEDURAL FRAMEWORK GOVERNING SEPA ADMINISTRATIVE APPEAL RULES AND PROCEDURES.***

1. Prehearing Conference. Once an appeal has been timely filed, the Examiner shall schedule a Prehearing Conference within 14 days. Each party shall bring to the Prehearing Conference a written list preliminarily designating witnesses (both expert and lay witnesses) and exhibits they intend to use in the appeal. For each witness identified, a short written summary of the witness' testimony and, in the case of expert witnesses, opinions, shall be provided. At the Prehearing Conference, the Examiner shall include discussion of the following, in addition to other items he or she deems appropriate:

- a. Review of the Petitioner's legal issues to, if possible, simplify them for the hearing; and
- b. Procedures for the appeal, hearing date, and schedules for prehearing submissions.

2. Administrative Record. Within one week after the Prehearing Conference, the Port shall issue the index to the administrative record of the SEPA determination under appeal. The Petitioner may file proposed supplementation of the record within seven days after the Port's index has been filed. The Examiner shall expeditiously rule on any objections relevant to the record.

3. Final Witness and Exhibit Lists.

3.1 Within two weeks after the Prehearing Conference, the Petitioner shall file its final witness and exhibit list. The witness list must include a summary of each witness's testimony.

3.2 Within three weeks after the Prehearing Conference, the Respondent shall file its final witness and exhibit list. The witness list must include a summary of each witness's testimony.

4. Hearing Memorandum/Expert Testimony.

4.1 Within five weeks after the Prehearing Conference, the Petitioner shall file its hearing memorandum. The Petitioner shall file in writing, at the same time as the hearing memorandum, all direct expert testimony from Petitioner's expert witnesses, along with copies of any exhibits introduced through or relied upon by the expert witnesses. To the extent any of the exhibits relied upon by Petitioner's expert witnesses are already contained in the Administrative Record, these exhibits may be referred to and not attached.

4.2 Within seven weeks after the Prehearing Conference, the Respondent shall file its hearing memorandum. The Respondent shall also file in writing, at the same time as its hearing memorandum, all direct expert testimony from Respondent's Expert witnesses, along with copies of any exhibits introduced through or relied upon by the expert witnesses. To the extent any of the exhibits relied upon by Petitioner's expert witnesses are already contained in the Administrative Record, these exhibits may be referred to and not attached.

5. Production of Exhibits. Seven weeks after the Prehearing Conference, the parties shall file with the Examiner and exchange a complete set of the exhibits they intend to use at the hearing. Absent a showing of good cause, no further exhibits shall be permitted at the hearing.

6. Prehearing Evidentiary Motions. Prehearing Evidentiary motions must be filed at least ten days before the hearing date. Responding memoranda to any motion may be submitted at least five calendar days before the hearing date. The Examiner will issue a decision on any prehearing evidentiary motions two days before the hearing date.

7. Appeal Hearing. The appeal hearing shall be conducted nine weeks after the Prehearing Conference. The hearing shall consist of the following:

7.1 Opening Statements.

7.2 Petitioner's Case. The Petitioner's case at the hearing shall be limited to the presentation of lay testimony, to cross-examination by Respondent of any witness whose testimony has been offered by Appellant, including expert witnesses whose testimony has been offered in writing pursuant to this rule, and to Appellant's redirect of any witness from which cross-examination testimony is taken.

7.3 Respondent's Case. The Respondent's case at the hearing shall be limited to the presentation of lay testimony, to cross-examination by Petitioner of any witness whose testimony has been offered by Respondent, including expert witnesses whose testimony has been offered in writing pursuant to this rule, and to Respondent's redirect of any witness from which cross-examination testimony is taken.

8. Closing Argument. The Examiner shall determine whether closing argument will be delivered orally or in writing. The parties will have the option of submitting proposed findings and conclusions along with their closing argument.

9. Decision. The Examiner shall enter a decision within 14 days after the close of record of the Appeal Hearing consistent with Section 1.8(6) of Resolution 3211, as amended.