

give due consideration to the reliability and relevance of each item of evidence.

(f) A party may present the testimony of any witness either through a written statement or a personal appearance. If a party wishes to present testimony through a personal appearance, the party is responsible for obtaining that personal appearance, including any costs associated with such appearance. The Hearing Officer may, at his or her discretion, accept a stipulation in lieu of testimony.

(g) At the close of the party's presentation of evidence, the Hearing Officer may allow the introduction of rebuttal evidence that may be presented by the Chief Counsel. The Hearing Officer may allow the party to respond to any such evidence submitted.

(h) The Hearing Officer may take notice of matters which are subject to a high degree of indisputability and are commonly known in the community or are ascertainable from readily available sources of known accuracy. Prior to taking notice of a matter, the Hearing Officer shall give the party an opportunity to show why notice should not be taken. In any case in which notice is taken, the Hearing Officer places a written statement of the matters as to which notice was taken in the record, with the basis for such notice, including a statement that the party consented to notice being taken or a summary of the party's objections.

(i) After the evidence in the case has been presented, the Chief Counsel and the party may present argument on the issues in the case. The party may also request an opportunity to submit a written statement for consideration by the Hearing Officer and for further review. If granted, the Hearing Officer shall allow a reasonable time for submission of the statement and shall specify the date by which it must be received. If the statement is not received within the time prescribed, or within the limits of any extension of time granted by the Hearing Officer, the Hearing Officer prepares the decision in the case.

(j) A verbatim transcript of the hearing will not normally be prepared. A party may, solely at its own expense, cause a verbatim transcript to be

made. If a verbatim transcript is made, the party shall submit two copies to the Hearing Officer not later than 15 days of the hearing. The Hearing Officer shall include such transcript in the record.

§ 599.514 Assessment of civil penalties.

(a) Not later than 30 days following the close of the hearing, the Hearing Officer shall issue a written decision on the Notice of Violation, based on the hearing record. The decision shall set forth the basis for the Hearing Officer's assessment of a civil penalty, or decision not to assess a civil penalty. In determining the amount of the civil penalty, the severity of the violation and the intent and history of the party committing the violation shall be taken into account. The assessment of a civil penalty by the Hearing Officer shall be set forth in an accompanying final order.

(b) If the Hearing Officer assesses civil penalties in excess of \$100,000.00, the Hearing Officer's decision contains a statement advising the party of the right to an administrative appeal to the Administrator. The party is advised that failure to submit an appeal within the prescribed time will bar its consideration and that failure to appeal on the basis of a particular issue will constitute a waiver of that issue in its appeal before the Administrator.

(c) The filing of a timely and complete appeal to the Administrator of a Hearing Officer's order assessing a civil penalty shall suspend the operation of the Hearing Officer's penalty.

(d) There shall be no administrative appeals of civil penalties of \$100,000.00 or less.

§ 599.515 Appeals of civil penalties in excess of \$100,000.00.

(a) A party may appeal the Hearing Officer's order assessing civil penalties over \$100,000.00 to the Administrator within 21 days of the date of the issuance of the Hearing Officer's order.

(b) The Administrator will affirm the decision of the Hearing Officer unless the Administrator finds that the Hearing Officer's decision was unsupported by the record as a whole.

(c) If the Administrator finds that the decision of the Hearing Officer was