

OPF Hearing Process

The Hearing Process

The hearing process is guided by the rules and regulations found in the New Mexico Administrative Code (NMAC). Hearings are held to admit relevant evidence for use in the decision-making process by the Secretary of the Environment and various boards and commissions.

Hearing Officers are the lawfully designated agents assigned the task of conducting all hearings. They are given authority to hear cases and issue a recommended decision and hearing officer report depending on the nature of the matter before them.

Hearings are held to hear evidence and public comment concerning an application for a permit to conduct an activity with potential environmental impacts; to permit a respondent to contest an enforcement order issued by the Commissioner; and to provide an opportunity for a licensee to challenge a decision to suspend or revoke a license.

Some hearings are required by law; and some are held because a petition for a hearing shows significant public interest. All hearings are open to the public, but not all allow for public comment.

The Parties

Applicants/Permittees: The persons, companies or organizations applying for a permit.

Respondent/Complainant: The recipients of an administrative compliance order.

The Prehearing Process

Prehearing Status Conference – The parties meet with the hearing officer to discuss the issues for hearing, the rest of the prehearing process and to set the dates for the hearing. Any party not in attendance will be held to the schedule and any other matters agreed upon at the status conference. Notice of this conference is sent to all parties, and nonparties requesting the information. The hearing officer also sets dates for a prehearing exchange of information and issues a scheduling order. The parties may stipulate to the issues for adjudication, to witness' qualifications, and to exhibits in the interest of an efficient hearing.

Hearing Notice – Notice of the date, location, and subject matter of a hearing is provided to the parties involved. Notice of a hearing is frequently published in the

newspaper, and for rulemakings the Notice is published in the NM Register. published in the newspaper.

Proposed and Final Decisions

After the hearing has concluded, the hearing officer reviews the entire record and issues a proposed report after which the parties have a period of time to produce proposed findings of fact and conclusions of law for the hearing officer to consider. The hearing officer reviews the entire record and issues a report and recommended decision, and the parties have a period of time to comment.

If no exceptions are filed the decision makers then issue a final decision..