



Department of Natural Resources and Conservation  
Office of Administrative Hearings

## Guidelines for Virtual Evidentiary Hearings

Due to the COVID-19 outbreak, the Office of Administrative Hearings (OAH) will be conducting all hearings virtually until further notice. OAH hearings will take place via Zoom Video or Audio Teleconferencing. There are no fees to attend by Zoom. It is free and easy to use. All OAH Zoom hearings will be digitally recorded and such recordings will be part of the record of the case.

### Preparing to Participate in a Zoom Video Conference

If you will be a **case participant** (i.e., an attorney, party, or witness) in an OAH Zoom hearing please follow the guidance below, as adequate preparation and testing of the system will help ensure a good experience for everyone involved. Case participants will receive login information directly from the OAH. Case participant login information is **not public** and must not be shared with anyone other than with other case participants.

All OAH Zoom hearings are open to the public, but case participants and witnesses are the only people entitled to speak at an OAH Zoom hearing. If you want to observe an OAH Zoom hearing and are not a case participant (e.g., a member of the public or press), please contact the OAH prior to the hearing at (406) 444-6615 or [jsprice@mt.gov](mailto:jsprice@mt.gov).

To ensure that Zoom Hearings run smoothly, the Hearing Examiner will disable interactive Zoom features (such as chat, screen share, whiteboard, Q&A, raise hand, react, etc.) for all attendees, and may disable certain features for case participants as well.

***The OAH cannot and will not provide technical support for Zoom participants or attendees. Please contact the [Zoom Help Center](#), your local IT support, or other online guidance if you need assistance.***

**To prepare for a Zoom hearing**, please review and adhere to the following instructions:

#### **OPTION ONE: APPEARING VIA ZOOM VIDEO:**

1. Download the free Zoom App. on your smartphone or computer PRIOR to the hearing date. <https://www.zoom.us>
2. On the date and time of the hearing, select "Join a Meeting" and then enter your Meeting ID and Password to access the meeting. These will be set forth on your Notice of Hearing. *\*If you want to observe an OAH Zoom hearing and are not a case participant (e.g., a member of the public or press), please contact the OAH at the contact listed above.*
3. Once you connect, please wait to be checked in. You may be placed in a "waiting room" and on mute until your hearing begins.

## **OPTION TWO: APPEARING VIA ZOOM AUDIO (PHONE)**

The OAH strongly prefers parties and their witnesses to participate in hearings by video. But we recognize that this may not be possible in all circumstances. The Zoom platform allows you to appear by telephone if you do not have a camera or a computer. On the date and time of your hearing, call the number provided to you by the OAH. Then enter your Meeting ID and Password to get into the hearing. Once you connect, please wait as you may be placed on mute until the hearing begins.

### **Zoom Account and Software**

Participants: If you do not already have a Zoom account, set one up at <https://zoom.us>. A paid Zoom account is not necessary for any interaction with the OAH. *Attendees do not need a Zoom account, but it does make using the system easier.*

Log into <https://zoom.us/profile> and set your name, phone and email. Including a photo will help identify you when connecting. *Attendees do not need a Zoom profile or to provide any identifying information, but a Zoom profile does make using the system easier.*

Install the latest Zoom Client for Meetings at <https://zoom.us/download>. Although Zoom can be used in a browser only, it is very limited. The full Zoom client is required for best functionality and best experience with the system.

Always keep your software up to date! The Zoom Client automatically updates itself upon launching the software, but you can also [update it manually](#).

### **Settings**

Zoom has a lot of settings, and as the system updates, certain aspects or features may change. Below are a few settings recommended by the OAH to improve your video conference:

General: Ask me to confirm when I leave a meeting: ON (Helps prevent unintended departures)

Video: Enable HD: OFF (Helps prevent poor video performance, and usually looks just as good as HD)

Video: Always display participant names on their video: ON

Video: Always show video preview dialog when joining a video meeting: ON (Final check before your video displays to others)

The OAH will likely use only the audio and video functionality of Zoom. Other functions such as text chat and screen sharing, will likely be disabled for your session, and you need only learn the basics of observing or participating in a Zoom Webinar by audio or video. Consult the following sources to learn how to select the correct audio and video sources, how to mute/unmute your audio, and how to Start/Stop your video:

Video: <https://support.zoom.us/hc/en-us/sections/200521865-Video>

Audio: <https://support.zoom.us/hc/en-us/sections/200319096-Audio>

Learn how to easy mute/unmute with Push to Talk:

<https://support.zoom.us/hc/en-us/articles/360000510003-Push-to-Talk>

Hot Keys and Keyboard Shortcuts to start/stop video, mute, etc.:

<https://support.zoom.us/hc/en-us/articles/205683899-Hot-Keys-and-Keyboard-Shortcuts-for-Zoom>

## Recommendations

- Mute your phone and mute all sounds from all other applications (email notifications, chat messaging, etc.) on the device through which you are accessing the Zoom Hearing.
- Avoid using a mobile device to connect to the Zoom Hearing if possible. Although tablets (such as iPads) and smartphones can be used, their functionality is limited and their performance is inferior to a desktop or laptop computer.
- Avoid using battery power only. Plug into a good power source while in a Zoom Hearing.
- Unless you've confirmed the quality is sufficient, avoid using an open microphone and speakers, such as those that are built-into laptops or webcams. Using a good quality headset (headphones with mic) will better help ensure you can be heard and can hear others with maximum quality.
- Avoid noisy and echoing locations. Use of a headset will improve audio quality when this is unavoidable.
- Avoid distracting real or virtual backgrounds.
- Avoid poor camera positioning (if possible). Try to frame yourself so you take up most the screen, at eye level.
- Avoid using WiFi if possible. Connection via a hard-wired Ethernet cable will always be faster and more reliable than WiFi. If you must use WiFi, make sure you're in close range.
- Avoid running any unnecessary applications besides Zoom during the hearing to conserve your computer's processing power and networking.
- For home networks, avoid sharing your internet service with others during the hearing if possible.

## Before Every OAH Zoom Hearing

Connect your device to power.

Make sure your internet connection is good:

<https://www.pcworld.com/article/2048594/how-to-test-your-home-internet-speed.html>

Test your video.

Test your audio.

Turn off all audio disruptions (phones, messaging alerts, email alerts, etc.)

Run a quick test to connect with another Zoom user, or use the Zoom test:

<https://support.zoom.us/hc/en-us/articles/115002262083-Joining-a-test-meeting>

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## **EXHIBITS:**

No later than the pre-hearing deadline established by the Hearing Examiner, each party must provide to the Hearing Examiner **and** all opposing parties, in PDF format, a Table of Exhibits and electronic copies of all such exhibits and any other documentary materials any case participant intends to use or reference during the hearing. The Table of Exhibits shall include each exhibit **as a separate file**, labeled as follows: Applicant exhibits must be clearly numbered using "A" and Exhibit No. (for example, A1, A2, etc.). Objector exhibits must be numbered using "O" and last name (or Objector group name) and Exhibit No. (for example, O-Smith1, O-Smith2, etc). Any and

all confidential information shall be redacted by the individual submitting the proposed exhibit (including but not limited to information such as account numbers, SSN, dates of birth).

No later than the pre-hearing deadline established by the Hearing Examiner, each party or attorney must **confer with opposing parties/counsel** to determine what exhibits are stipulated, what evidentiary objections each side is maintaining, and to avoid duplicate exhibits.

Provide your witnesses with exhibits prior to the hearing.

\*For more than 100 pages of material, please deliver hard copies of all material to the Hearing Examiner prior to the hearing and also provide all documents on CD or USB drive.

### **WITNESSES:**

It is the responsibility of each party (or their attorney(s)) to ensure that their witness(es) each have a device to attend the hearing and an appropriate location to sit during hearing, free of distractions. **Test your set-up ahead of time** to ensure there is no echoing or other technical issues. Advise witnesses of OAH Zoom Hearing procedure and etiquette such as:

**Witness shall not communicate with anyone during their testimony.** This means no texting or chatting on any device or talking to anyone physically in the room.

Reinforce that even though the hearing is being conducted virtually, it is still a formal legal proceeding subject to the penalties for **perjury**.

Each witness should maintain a distraction-free environment and not multi-task, turn off ringers and alerts that make noise, and make sure Zoom properly displays the witness's name.

Each witness should be sure to let the attorney or Hearing Examiner finish speaking before answering questions. When an objection is made, a witness should stop talking and let the Hearing Examiner rule on the objection. Witnesses should mute their microphones when not testifying.

**Procedure for inadvertent witness disconnection:** All parties (or their attorneys) should advise their witnesses to attempt to re-enter the meeting if they are inadvertently disconnected, and should also designate a specific person for their witnesses to contact by phone or email for further instructions if they are unable to rejoin the Zoom Hearing.

### **TESTIMONY BY TELEPHONE:**

In exceptional circumstances, witnesses may be permitted to testify by telephone. This will depend on the reason for the request and whether a telephonic examination will be fair and not prejudice the presentation of any party.