



TIME TO BE HEARD CIVIL PENALTY HEARINGS

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What is the purpose of a hearing? What happens at a hearing? Who will attend? We members of the Hearing Office Administrative Staff hear these questions often. The questions come both from Coast Guard units who have submitted cases to the Hearing Office, and from parties who have been charged with marine safety violations and have received a Preliminary Assessment Letter (PAL) from one of the Hearing Officers.

All parties charged with a marine safety violation and preliminarily assessed a civil penalty have a right to a hearing. A hearing is the party's opportunity to exercise of one of his/her due process rights: the right to be heard. A hearing is not the only way to exercise the right to be heard, however. A party can also be "heard" by submitting a response to the PAL in writing.

Hearings are held by Video Teleconference (VTC) at one of seven Coast Guard Districts, or in person; at the Hearing Office at Arlington, VA.

Current District Office Locations are as follows :

- Miami, FL
- Cleveland, OH
- New Orleans, LA
- Alameda, CA
- Boston, MA
- Seattle, WA
- Honolulu, HI

When a party requests a hearing, s/he must provide the issues in dispute with the request. Once the Hearing Office has the party's issues in dispute, the Administrative Staff will contact one of the seven Coast Guard District Offices to schedule the VTC hearing. The staff chooses the District office closest to the party's home or office, unless the party requests otherwise.

Once scheduled, the Hearing Office contacts the District Chief of Prevention or the Chief of Response to request an escort for the party. What does the escort do? The escort greets the party, and any representative or witnesses. The escort will take them to the VTC hearing location at the District office. The escort will sit with the party and witnesses during the hearing and fax documents (evidence, for example) to the Hearing Officer. After the hearing the escort will escort the party and others out of the building or base. VTC hearings take an average of about 1 ½ hours.

Note: No one from the Coast Guard unit that generated the case participates at the hearing unless the party requests assistance from the Hearing Officer in securing a Coast Guard member's attendance (and the Hearing Officer determines that the testimony of the witness may materially aid the Hearing Officer in deciding the case), or unless the Hearing Officer requests the attendance of a Coast Guard witness at the hearing to address a particular issue.

Hearings are quite informal. The first order of business is for the Hearing Officer to explain and obtain acknowledgement from the party of his/her rights. After that, the party is free to present his/her case to the Hearing Officer. Hearing Officers afford the party a fair amount of leeway in presenting his/her case, but ensure that dignity and respect are maintained throughout the process.

Hearing Officers give the same consideration to evidence presented in writing (sent through the mail) as to evidence presented at a VTC or in-person hearing. See the Newsletter article, volume 14 January 2012, "RESPONDING TO CHARGES

(HEARINGS vs. WRITTEN RESPONSES)

Writing a letter in response to the Hearing Officer's Preliminary Assessment Letter is the most popular choice. The party can send a letter stating everything s/he wants to point out to the Hearing Officer. The party can include photos of evidence (of flares or Personal Flotation Devices, for example), receipts of purchase, compliance letters, updated inspection reports, and witness statements.

To reiterate, whether a party presents evidence at a hearing, or presents written evidence in lieu of a hearing, the evidence is treated equally and weighed in the same manner by the Hearing Officer. What matters is the quality of the evidence—the thought and care that goes into presenting your side of the case, however it is presented.