



ADMINISTRATIVE RULES OF MONTANA



18.2.102 CONTESTED CASES, HEARING

- (1) The contested case hearing shall be conducted before the decision-making authority of the agency or a hearing officer designated in accordance with ARM 1.3.218.
- (2) The presiding officer must ensure that all parties are afforded an opportunity to respond and present evidence and argument on all issues involved.
- (3) The hearing must be recorded on an electronic sound recorder (tape recorder, digital sound recorder, or other electronic sound recorder) unless either party demands a stenographic record. The cost of a stenographic record must be paid by the requesting party.
- (4) Absent a determination by the presiding officer that the interests of justice require otherwise, the order of hearing is as follows:
 - (a) any opening statements requested or allowed by the presiding officer;
 - (b) presentation of evidence by the party asserting a claim for relief (the challenging party);
 - (c) cross examination by the opposing party;
 - (d) presentation of evidence by the opposing party;
 - (e) cross examination by the challenging party; and
 - (f) rebuttal testimony.
- (5) Exhibits must be marked and must identify the person offering the exhibits. The exhibits shall be preserved by the agency as part of the record of the proceedings.
- (6) The presiding officer may hear closing arguments, request supporting briefs, and/or order a schedule for parties to submit proposed findings of fact and conclusions of law.
- (7) The presiding officer may grant recesses or continue the hearing.
- (8) The party challenging the agency action bears the burden of proof.

Authorizing statute(s): 2-4-201, MCA

Implementing statute(s): 2-4-201, MCA

History: NEW, 2010 MAR p. 1731, Eff. 7/30/10.