



THE ADJUDICATION PROCESS 101

The Office of Adjudications

Kathleen Reiser, Esq.
Director of Adjudications

AGENDA

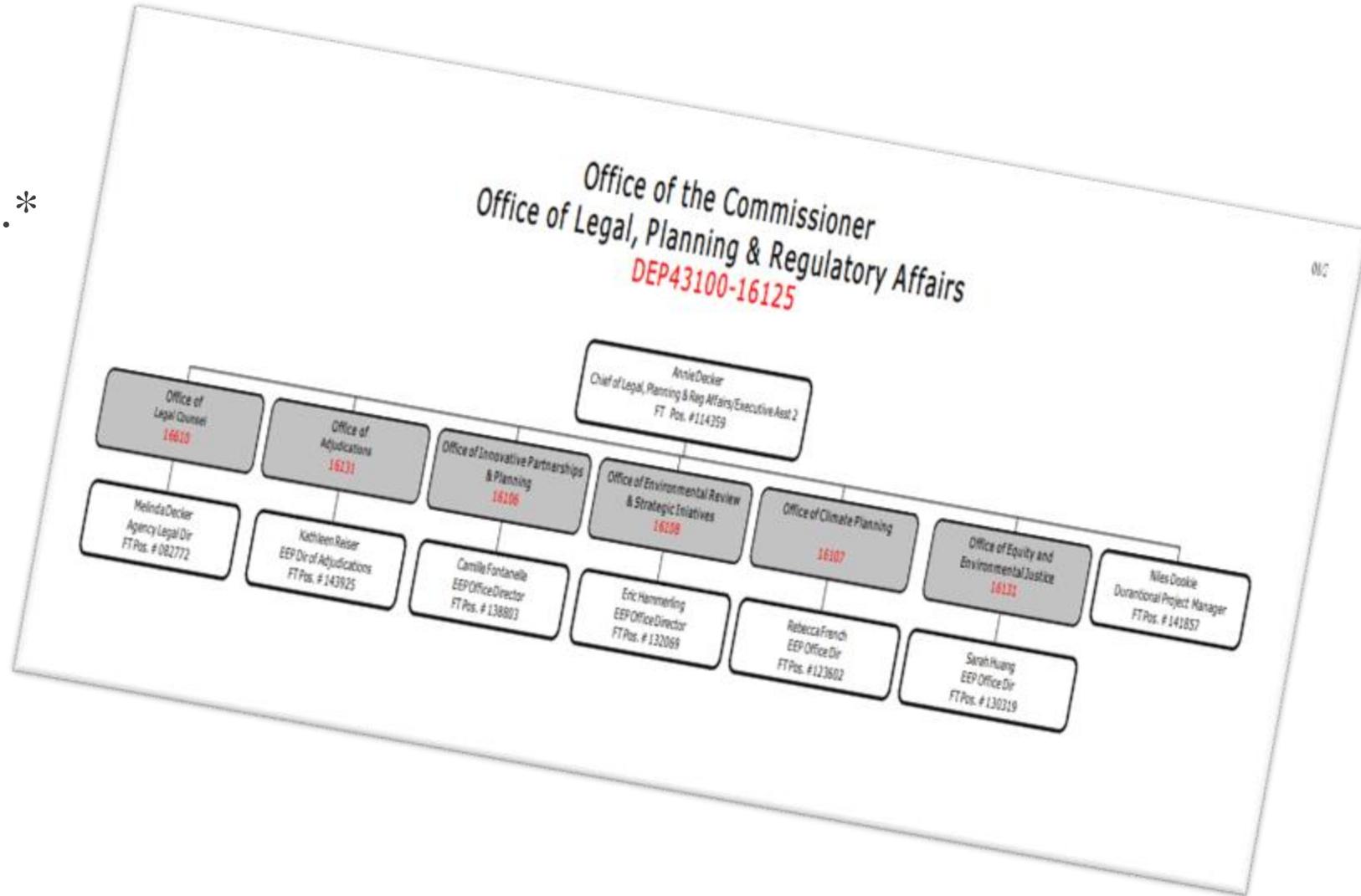
- **Welcome & Introductions**
- **The Office of Adjudications**
- **Types of Hearings**
- **Due Process – The Fundamentals**
- **The Adjudication Process**
- **Mediations**
- **Informational Public Hearings**
- **Questions!**

THE OFFICE OF ADJUDICATIONS – THE STRUCTURE OF THE OFFICE

The Office of Adjudications:

- Director: Kathleen Reiser, Esq.*
 - Hearing Officer: Vacant

* The Director of Adjudications also presides as a hearing officer in matters.



THE OFFICE OF ADJUDICATIONS – AN OVERVIEW

The **Office of Adjudications** conducts hearings and issues written decisions in contested cases regarding environmental permitting, licensing and enforcement matters where such hearings are requested by a party or the public or required by law. Hearing officers, also known as Adjudicators, make findings of fact and determine questions of law based on issues presented in a particular case

Hearing process governed by:

- Regs., Conn. State Agencies §§ 22a-3a-2 to 22a 3a-6 (Rules of Practice)
- CGS §§ 4-166 to 4-189 (Uniform Administrative Procedures Act or UAPA)

Hearing Officers are the lawfully designated agents of the DEEP Commissioner. They are delegated her authority to hear cases and issue a final decision in appeals of enforcement orders and licensing matters. Hearing Officers issue a proposed final decision in permit matters and may issue a Final Decision in such matters.



In 2024 the Office conducted:

- Five permit hearings
- One Licensing hearing
- Two order hearings
- Three Informational Hearings

TYPES OF HEARINGS

- Some hearings are required by law; some are held because a petition for a hearing (signed by at least 25 people) has been filed; and some are held because the Commissioner has exercised the discretion to hold a hearing where there is public interest in a particular application.
- The Office of Adjudication handles hearings for permit matters, as well as appeals in enforcement and license appeals. While the steps of the process vary between the type of matter, each hearing process ensures the parties receive due process and a fair, impartial hearing.
- All final decisions can be appealed to the Superior Court.

COMMON TYPES OF HEARINGS BEFORE THE OFFICE OF ADJUDICATIONS

Permit Hearings:

- Air
- Dam Safety
- Inland, Wetlands and Watercourses
- Water Diversion
- Water Discharge
- Solid Waste
- Structures, Dredging and Tidal Wetlands
- Docks
- General Permits

License Hearings

- BUIs (Boating Under the Influence)
- Hunting Licenses

Enforcement Hearings

- Any area of DEEP can come before the Office of Adjudications with an enforcement matter if permitted by the Statutes/Regulations at issue.

DUE PROCESS – THE FUNDAMENTALS

The fundamentals of due process include:

- **Fairness**
- **Proper notice**
- **The opportunity to present an evidentiary case in front of an impartial fact finder**

While the procedural process can vary depending on the subject matter of the hearing, the principles of due process are the foundation of every hearing in front of the Office of Adjudications.

THE ADJUDICATION PROCESS – AN OVERVIEW

PETITIONS FOR HEARING

- When the DEEP makes its initial decision concerning a permit application, it will publish a Notice of Tentative Determination in a local newspaper and on the DEEP website at www.ct.gov/deep/publicnotices. This Notice will indicate how and when a petition requesting a hearing may be filed with the DEEP.
- Generally, to compel a hearing, a petition must be signed by at least 25 persons and should identify the application that is the subject of the request (see *Notice of Tentative Determination*). A petition may also designate a person authorized to engage in discussions regarding an application and, if resolution is reached, withdraw the petition.
- The person or organization requesting a hearing is called the Petitioner. **A Petitioner is not a party in a proceeding**, but will receive copies of all filings, will be offered the opportunity to speak first at a public hearing and may attend public meetings and hearings.

PETITION FOR HEARING

We, the undersigned, request that the Commissioner of the Department of Energy and Environmental Protection (DEEP) hold a public hearing on _____ [number or description of application]

We also designate and authorize _____, whose signature and address appear below, to engage in discussions regarding this application and, if resolution is reached, to withdraw this petition on our behalf [designation optional, see General Statutes § 22a-6bb].

CONTACT PERSON*			
Name (print & sign name)	Street Address	City/Town	State
1.			
Email:			

* Individual to be contacted by the DEEP regarding this request for hearing. (If email address is provided, it will be used for future correspondence).

Name (print & sign name)	Street Address	City/Town	State
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

THE PARTIES AND NON - PARTIES

In every permit hearing, the following are **parties**:

- **Applicant**: The individual or organizations seeking the permit for a regulated activity
- **DEEP Staff**: Includes staff members who have recommended issuance or denial of the permit

Possible Parties:

- **Intervening parties**: Intervention is the entry into a contested case hearing by an individual or organization with an interest in the outcome of that hearing. **Intervening party** status is granted pursuant to statute if the requirements set out in that statute are satisfied or if a written request states facts that show that a person or organization's legal rights, duties or privileges will or may reasonably be expected to be affected by the decision in the proceeding, or that their participation is necessary for the proper disposition of the proceeding.

Non-parties:

- **Intervenors**: Persons or organizations filing a written request that states facts which demonstrate that participation is in the interests of justice and will not impair the orderly conduct of the proceedings. An intervenor may participate in the hearing process; however, the hearing officer may limit this to certain issues and/or aspects of the hearing process, such as the extent to which an intervenor may present evidence, question witnesses, and inspect and copy records or other evidence.
- **Petitioners**: The person or organization that filed a request for a hearing on a permit application is called a petitioner. Although not parties, petitioners receive notice of all public meetings and hearing dates and may participate in the hearing process as a member of the public.

Pre-Hearing Procedures for Permit Cases

Hearing Initiation:

1. Commissioner decides to hold hearing
2. Petition/Request for Hearing
3. Statutory requirement



Petition Evaluated

The Office of Adjudications will evaluate the petition. An original petition must be filed with at least 25 signatures and in a timely manner.



Notice of Status Conference

The Hearing Officer will issue a Notice of Status Conference. The notice will explain the purpose of the meeting, any task that are required prior to the meeting and the time/location. Representatives of the parties should file their appearances.

*Mediation can be requested by the parties at this Status Conference or anytime throughout the hearing.

Parties

DEEP Staff and the Applicant are always parties to a hearing. A petitioner is NOT a party. To obtain party status, an individual or group must file a written motion seeking intervention. There are statutory and legal requirements that must be met.

Status Conference

Initial meeting with the parties and Hearing Officer for the primary purpose of setting the hearing schedule. Parties may request a mediation at this meeting or may request an Informational Public Hearing instead of an Adjudication.



Pre-Hearing Exchange of Information

On a date set by the Hearing Officer, all the parties must file a list of issues for the hearing, a witness list, exhibits, and copies of all exhibits, identified as per the direction of the Hearing Officer.



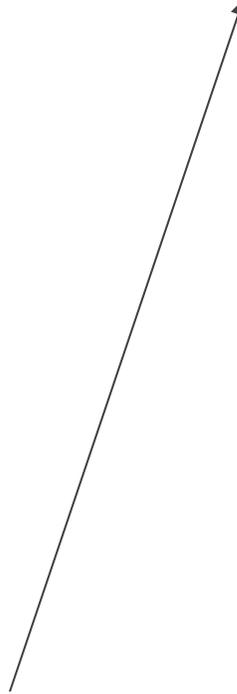
Pre-Hearing Conference

A meeting to address procedural issues prior to the start of the hearing, such as the admissibility of exhibits, credentials of witnesses, preliminary matters to be addressed.



Site Visit

Upon the request of a party or at the hearing officer's initiative, the parties and hearing officer will visit the site that is the location of the proposed regulated activity.



The Hearing Process for Permit Cases

The Public Hearing

The purpose of the public hearing is for the Hearing Officer to hear the public comments and provide an opportunity for the public to be involved in the hearing process. Written public comments will be accepted until the deadline set by the Hearing Officer. Public comments are not evidence in which a decision can be made but are considered by the Hearing Officer.



The Evidentiary Hearing

The parties put on their case pursuant to their burden of proof and the legal issues at hand.



Post Hearing Directive

At the end of a hearing, the Hearing Officer will issue a post-hearing directive to the parties, with instructions on post-hearing filings.



Post Hearing Submissions

The parties will file post-hearing briefs, including findings of facts and conclusions of law.

Proposed Final Decision (PFD)

The Hearing Officer issues a PFD, which serves as a recommendation based on the hearing record to the Commissioner or other delegated final decision maker.



Exceptions

After a Hearing Officer issues the PFD, the parties have 15 days to file exceptions to the PFD. See DEEP Rules of Practice 22a-3-6(y)(3).



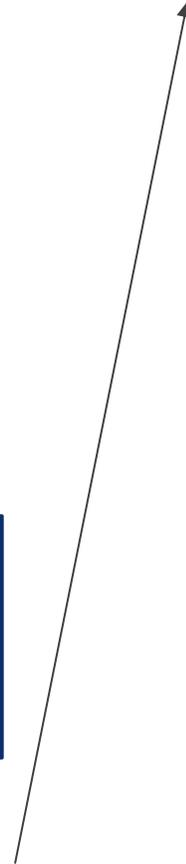
Oral Argument

If a party files exceptions, they can request oral argument in front of the Final Decision maker.



Final Decision

Final decisions may affirm, modify or reverse the PFD, in whole or in part. If no exceptions are filed, the Hearing Officer can issue a final decision. If exceptions are filed, a Final Decision maker, either the Commissioner or her delegate, will issue the Final Decision. All parties are notified when a decision is issued.



THE PUBLIC CALENDAR

- After the Hearing Officer sets dates for a hearing, the date, time and location of the hearing is posted on the DEEP Calendar of Events at www.ct.gov/deep/calendar
- Hearing information also posted on the Adjudications web page at www.ct.gov/deep/adjudications
- This is required public notice under FOIA
- Calendar of Events is official site for information on hearing schedule and nay changes to that schedule

The screenshot displays the DEEP website interface. At the top, it features the 'ct.gov State of Connecticut' logo, the 'Department of ENERGY & ENVIRONMENTAL PROTECTION' name, and a search bar. A navigation menu includes 'Home', 'About Us', 'Programs & Services', 'Publications', 'Forms', and 'Contact Us'. The main content area is titled 'Event Listing' and features a specific event: 'Wheelabrator Putnam, Inc. Evidentiary Hearing'. The event details are as follows:

- Description:** If required, a second day for the evidentiary hearing in the Matter of Wheelabrator Putnam, Inc.
- Date:** 10/19/2021
- Time:** 9:00 AM
- Location:** ZOOM
- Accessibility:** To request an accommodation contact us at 860-418-5910 or deep.accommodations@ct.gov.
- Directions:** Kathleen Reiser, (860) 424-3037
- Contact:** Please note there has been a change in the Zoom registration link for this date. Please register in advance for this event at the following link: <https://ctdeep.zoom.us/j/8604243037>
- Details:** https://ctdeep.zoom.us/webinar/register/WN_Y6RB5Zn7TayNgMYvTiq7Xiv. You may need to copy and paste this link into a new web browser to register.

Below the event details, there is a red text prompt: 'Use the BACK button on your browser to return to your search results' and a blue link for 'Calendar Menu'. At the bottom of the page, there is a disclaimer: 'The Connecticut Department of Energy and Environmental Protection is an Affirmative Action/Equal Opportunity Employer that is committed to complying with the requirements of the Americans with Disabilities Act. Please contact Barbara Viadella or Cenit Mirabal, DEEP Office of Diversity and Equity at (860) 418-5910 or by email deep.accommodations@ct.gov if you are requesting a communication aid or service, have limited proficiency in English, need some other type of accommodation, or if you wish to file an ADA or Title VI discrimination complaint. In order to facilitate efforts to provide an accommodation, please request all accommodations as soon as possible following notice of any agency hearing, meeting, program or event. (Effective November 2020.)' The footer includes the address '79 Elm Street, Hartford, CT 06106-5127 / Phone: 860-424-3000' and the 'ct.gov' logo.

MEDIATION

The Office of Adjudications conducts mediations to help resolve challenges to applications for permits, and appeals of licensing decisions, including the suspension and revocation of licenses issued by DEEP

Mediators in the Office of Adjudications are 40-hour trained mediators who are experienced in conducting mediations in all areas of enforcement, permits, and licensing matters

Mediators are not hearing officers, they are neutral, impartial facilitators of the mediation process, who help the parties reach resolution

Mediation is a no-risk dispute resolution alternative to a hearing

The parties must agree to mediation and if so, the petitioner would engage in the process. Mediation stays the hearing process and if the issues are resolved, the hearing request will be withdrawn.

INFORMATIONAL PUBLIC HEARINGS

- The Office of Adjudications conducts Informational Public Hearings.
- These hearings are not contested cases and are held instead of an adjudication when requested by a petitioner or at the request of an Applicant prior to any request for hearing.
- During an informational public hearing, the Applicant and DEEP present information on a permit application, and interested persons have an opportunity to make public comments.
- Written public comments are received.
- At the conclusion of the hearing, the Applicant produces a Comment Response Document that is available to the public, and the Hearing Officer issues a Hearing Officer Report. Both documents are posted to the DEEP Adjudications website, [Hearing Officer Reports](#).
- As these are not contested cases, no proposed or final decisions are issued.

QUESTIONS?