What Happens After You Request an NJDEP Administrative Hearing?



November 10, 2026
By Matthew Karmel

Requesting an NJDEP administrative hearing preserves your right to challenge an appealable enforcement action, but it does not mean that you will immediately appear before an administrative law judge (ALJ).

NJDEP first reviews the hearing request. If the request is accepted, the matter may continue through settlement discussions or be transmitted to the New Jersey Office of Administrative Law (OAL) for a contested-case hearing.

Importantly, requesting a hearing can also change the dynamics of the negotiation. A contested case requires both the company and NJDEP to spend time and resources developing and litigating the dispute. That can create an additional incentive for both sides to determine whether the matter can be resolved without a hearing.

NJDEP First Reviews the Hearing Request

Administrative hearing requests are handled by NJDEP's Office of Administrative Hearings and Dispute Resolution (OAHDR).

OAHDR reviews the request for completeness, timeliness, appealability, and whether the dispute qualifies as a contested case. If information is missing, OAHDR may provide an opportunity to correct the deficiency. An untimely or otherwise deficient request may be denied.

If the request is granted, NJDEP may assign a deputy attorney general to represent the department and transmit the matter to the OAL.

A Hearing Request Can Change the Settlement Dynamic

Requesting a hearing does not prevent settlement discussions. In many cases, it can make those discussions more meaningful.

Once a hearing has been requested, NJDEP must evaluate not only its enforcement position but also what will be required to prove that position in a contested case. The company likewise must consider the cost and risk of pursuing the challenge.

An OAL contested case is closer to litigation than to an informal meeting with NJDEP. The process can involve discovery, exchange of documents and information, motions, witness testimony, expert testimony where appropriate, legal briefing, and an evidentiary hearing before an ALJ.

That process requires time and effort from NJDEP staff, attorneys, witnesses, and management. A well-founded hearing request can therefore provide an additional reason for NJDEP to engage seriously in settlement discussions.

This does not mean that requesting a hearing guarantees a better settlement. It does mean that preserving the right to litigate the dispute can materially change the context in which negotiations occur.

If the Case Does Not Settle, It Can Proceed Through OAL

If the parties cannot resolve the dispute, the case proceeds as a contested case before an ALJ.

The parties develop their cases through the administrative litigation process and ultimately present evidence and legal arguments concerning the disputed enforcement action.

After the hearing, the ALJ issues an initial decision. The initial decision is generally not the final agency determination. The NJDEP commissioner reviews the matter and issues the department's final decision, which may adopt, modify, or reject the ALJ's initial decision.

A party seeking further review of the final agency decision may then appeal to the New Jersey Superior Court, Appellate Division.

The practical takeaway is that requesting an NJDEP administrative hearing does more than preserve appeal rights. It begins a litigation-like process that can require substantial resources from both sides and, as a result, can create additional leverage for resolving the matter through negotiation.

Visit our NJDEP Enforcement Insights page for additional guidance, updates, and resources.