

**Hearings of the Committee on Natural Resources:
A Guide for Preparation and Procedure
Tuesday, March 6, 2018
1:00 p.m.
1324 Longworth House Office Building**

Agenda

1:00 p.m. – 1:10 p.m.: Welcome and Introductions-Chairman Bishop and Cody Stewart, Staff Director of the Committee on Natural Resources

1:10 – 1:30 p.m.: Hearing Preparation and Procedures-Committee on Natural Resources Staff

1:30 – 1:35 p.m.: Best/Worst Testimony Video

1:35 p.m. – 2:00 p.m.: Q&A Committee on Natural Resources Staff

Organization, Planning and Preparation by the Committee for Hearings

The “drivers” of a congressional hearing are the committee conducting it and the committee’s agenda for the hearing. The majority staff (Republicans) is in charge of planning committee hearings. Committee staff engage in extensive planning and preparation for a hearing. Each committee operates with rules and guidelines that govern their hearings and the role and expectations of witnesses.

All hearings share common elements of preparation and conduct. Some of these are governed by House rules. Each committee also adopts its own rules of procedures for each Congress. These must be consistent with House rules, but may also expand or elaborate on them. Committee rules contain provisions regulating hearings. Customs not necessarily reflected in committee rules also vary among committees. For example, some committees do not routinely enforce the five-minute rule when examining witnesses. The Committee on Natural Resources (CNR) does enforce the rule, allowing a Member to question each witness for five minutes until every Member of the committee has had this opportunity. Lastly, hearings are held for different purposes. Sometimes hearings can have dual purposes, such as both legislative and investigative.

Oversight Hearing: the goal of this type of hearing is to review or study a law, an issue or an activity. They are often used to seek to improve the efficiency, economy and effectiveness of government operations.

Legislative Hearing: the goal of this type of hearing is the consideration of bill where facts and opinions can be presented by witnesses affected by the proposals.

Investigative Hearing: these types of hearings share many of the characteristics of legislative and oversight hearings, yet they differ in that their intent is exercised by Congress when there is suspicion of wrongdoing. They may lead to legislation to address any problems uncovered.

Field Hearing: may be held for a variety of reasons and are held outside of Washington, D.C., often held in a geographic area where the subject matter of the hearing is particularly relevant.

Choosing and Inviting Witnesses

Choosing witnesses is often one of the most important issues in planning a hearing. Committees pay careful attention to which viewpoints will be represented, who should testify, and the order and format for presenting witnesses.

House rules allow the minority party (Democrats) members of a committee to call witnesses of their choice as well. In CNR, the majority works informally with the minority. Typically, for every 3 witnesses the majority has, the minority will get one.

To testify, a witness must be formally invited by the committee. Before officially inviting a witness, committee staff identify and often interview prospective candidates. Once suitable witnesses are found, the committee chair (or subcommittee chair) will send a formal letter of invitation, requesting written testimony be provided **48 hours prior** (House rule) to the hearing. In addition, the witness must complete a disclosure form (a portion of the disclosure form is intended for witnesses appearing in a nongovernmental capacity, information is requested detailing federal contract and grants received over the previous three years).

Often a staff contact is indicated and staff will sometimes request to meet with witnesses before a hearing to answer questions and to review procedure. Any witness called to testify before the CNR should communicate and work cooperatively with the appropriate committee staff to understand the context and purpose of the hearing and the witness's role.

Hearing Format

Opening Statements and Witness Testimony

The CNR chair (currently Rob Bishop-UT) will preside over all full committee hearings. Subcommittee chairs will preside over any subcommittee hearings. We currently have five subcommittees: Federal Lands; Energy and Mineral Resources; Water, Power and Oceans; Oversight and Investigations; and Indian, Insular and Alaska Native Affairs.

At the hearing, the chair usually makes an opening statement introducing the subject and purpose of the hearing. The chair may also outline the committee's approach to the matter and how hearing procedures will be handled. The chair will then recognize the ranking minority party member to make an opening statement, and may then recognize other members.

CNR rules preclude opening statements unless the chair permits them. We follow the five-minute rule which allows members to speak for five minutes when recognized by the chair.

Following opening statements, the chair will introduce each witness in accordance with the arranged order and format. A committee member other than the chair might introduce a witness who is a constituent.

In practice, most committees rarely require testimony under oath. Swearing in of witnesses is more common at investigative hearings and/or hearings dealing with sensitive subject matter. However, the False Statements Act (18 U.S.C. 1001) applies to all witnesses even if not under oath, and the penalties are identical to those for perjury.

The chair determines the format of a hearing including the order of testimony. The usual practice for CNR is for all witnesses on a panel to make their statements, then for committee members to pose questions to the panel. Protocol dictates that a Member of Congress or a high-ranking executive branch

official will generally testify before other witnesses. Sometimes committees will hear testimony from multiple panels of witnesses, but that is not current CNR practice.

Under House rules, witnesses must limit their oral testimony to five minutes and thus provide a brief summary of their written testimony. It is usually not necessary or desirable for a witness to read his or her entire written testimony.

Most individuals respond favorably to an invitation to testify. If, however, a person will not come by invitation, a committee may compel a witness to appear through a subpoena (House Rule XI). Committees also may subpoena any relevant books, records, correspondence, and other documents outside of hearings. Subpoenas are used infrequently, and most often at investigative hearings.

The CNR routinely also informs the media of upcoming events. Committee staff put together press packets prior to the hearing. The packets can include a list of witnesses, copies of written testimony and other background material. CNR staff also prepare written materials for the committee members that include background information, memoranda, issue outlines, statements, witness questions and other related documents.

All committees are required to publicly notice all hearings at least 7 days in advance and all relevant information pertaining to a hearing can be found on committee websites. The committee majority staff also attend to all administrative, logistical, and substantive aspects of hearing preparation.

Five-Minutes Rule for Questioning Witnesses

The question and answer period which follows witness testimony presents an opportunity for a committee to build a public record and to obtain information to support future committee actions. CNR staff members will prepare questions or talking points for members in advance of the hearing. In some cases, the expected line of questioning is discussed in advance with witnesses.

House rules generally accord committee members five minutes to question each witness until every member has had this opportunity. A common procedure used by committees, including CNR, is to recognize members for questions, alternating between the parties, in order of seniority. CNR also works with the minority party staff for preferred order.

Written Questions for the Record

Owing to time constraints or scheduling conflicts, the members of the committee may have some additional questions for the witnesses that were not asked orally. In addition, members may have requested additional information or supporting documentation from witnesses during the hearing. Under Committee Rule 3, Members of the Committee must submit questions for witnesses by 5pm three business days following the hearing. The hearing record will be held open for ten business days for these responses. Therefore, this leaves witnesses seven days to submit replies to questions for the record.

Hearing Record

Committees are required to keep transcripts of their hearings. A witness' formal testimony (written and oral) will be included in the hearing record. Information gathered at the hearing may also be posted on the committee website, as well as a video of the hearing. In addition, a hearing may be formally printed by a committee and would include any materials submitted for the hearing record. These records are archived at the end of each Congress and are available for public review.