

§ 750.38 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA must file a written request to participate with the Hearing Clerk. This request must be received no later than seven days prior to the scheduled start of the hearing. The hearing will begin seven days after the close of the thirty day comment period or as soon thereafter as practicable. The request must include:

(1) A brief statement of the interest of the person or organization in the proceeding;

(2) A brief outline of the points to be addressed;

(3) An estimate of the time required; and

(4) If the request comes from an organization, a nonbinding list of the persons to take part in the presentation. Organizations are requested to bring with them, to the extent possible, employees with individual expertise in and responsibility for each of the areas to be addressed. No organization not filing main comments in the rulemaking will be allowed to participate at the hearing, unless a waiver of this requirement is granted in writing by the Hearing Chairman or the organization is appearing at the request of EPA or under subpoena.

(b) No later than three days prior to the start of the hearing, the Hearing Clerk will make a hearing schedule publicly available and mail or deliver it to each of the persons who requested to appear at the hearing. This schedule will be subject to change during the course of the hearing at the discretion of those presiding over it.

(c) Opening statements should be brief, and restricted either to points that could not have been made in main comments or to emphasizing points which are made in main comments, but which the participant believes can be more forcefully urged in the hearing context.

§ 750.39 Conduct of informal hearing.

(a) A panel of EPA employees shall preside at each hearing conducted under section 6(c)(2)(C) of TSCA. In appropriate cases, other Executive

Branch employees may also sit with and assist the panel. The membership of the panel may change as different topics arise during the hearing. In general, the panel membership will consist of EPA employees with special responsibility for the final rule or special expertise in the topics under discussion. One member of the panel will be named to chair the proceedings and will attend throughout the hearing, unless unavoidably prevented by sickness or similar personal circumstances.

(b) The panel may question any individual or group participating in the hearing on any subject relating to the rulemaking. Cross-examination by others will normally not be permitted at this stage. It may be granted in compelling circumstances at the sole discretion of the hearing panel. However, persons in the hearing audience may submit questions in writing for the hearing panel to ask the participants, and the hearing panel may, at their discretion, ask these questions.

(c) Participants in the hearing may submit additional material for the hearing record and shall submit such additional material as the hearing panel may request. All such submissions will become part of the record of the hearing. A verbatim transcript of the hearing shall be made. Participants will be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCBs under TSCA. The hearing panel may reject repetitive testimony previously presented at such hearings.

§ 750.40 Cross-examination.

(a) After the close of the informal hearing conducted under § 750.39, any participant in that hearing may submit a written request for cross-examination. The request must be received by EPA within one week after a full transcript of the informal hearing becomes available and must specify:

(1) The disputed issue(s) of material fact as to which cross-examination is requested. This must include an explanation of why the questions at issue are "factual", rather than of an analytical or policy nature, the extent to which they are in "dispute" in the light of the record made thus far, and the extent to which and why they can