

Environmental Protection Agency

§ 750.8

and responsibility for each of the areas to be addressed. No organization not filing main comments in the rule-making will be allowed to participate at the hearing, unless a waiver of this requirement is granted in writing by the Record and Hearing Clerk or the organization is appearing at the request of EPA or under subpoena.

(b) No later than one week prior to the start of the hearing, the Record and Hearing Clerk shall 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 shall 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.

§ 750.7 Conduct of legislative 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 agency employees with special responsibility for the final rule or special expertise in the topics under discussion. One member of the panel shall be named to chair the proceedings and shall 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 shall become part of the record of the hearing. A verbatim transcript of the hearing shall be made.

§ 750.8 Cross-examination.

(a) After the close of the legislative hearing conducted under § 750.7, any participant in that hearing may submit a written request for cross-examination. The request shall be received by EPA within one week after a full transcript of the legislative hearing becomes available and shall specify:

(1) The disputed issue(s) of material fact as to which cross-examination is requested. This shall 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 reasonably be considered "material" to the decision on the final rule; and

(2) The person(s) the participant desires to cross-examine, and an estimate of the time necessary. This shall include a statement by the cross-examination requested can be expected to result in "full and true disclosure" resolving the issue of material fact involved.

(b) Within one week after receipt of all requests for cross-examination under paragraph (a) of this section the hearing panel shall rule on them. The ruling shall be served by the Record and Hearing Clerk on all participants who have requested cross-examination and shall be inserted in the record. Written notice of the ruling shall be given to all persons requesting cross-examination and all persons to be cross-examined. The ruling shall specify:

(1) The issues as to which cross-examination is granted,

(2) The persons to be cross-examined on each issue,

(3) The persons to be allowed to conduct cross-examination, and

(4) Time limits for the examination of each witness by each cross-examiner.