

Whitehead, LaDawn

From: Barton, Kasey
Sent: Wednesday, June 29, 2016 10:57 AM
To: cmarshbird@prodigy.net
Cc: Whitehead, LaDawn
Subject: RE: Regional Hearing Clerk Information



Ms. Marsh:

Thank you for your email. I am the attorney representing the Complainants in these matters, which are the Directors of the Superfund Division and Water Division, EPA Region 5. Your question has been referred to me. I represent the Complainants' interests, and I am providing our view of the procedures governing the public notice and comment in proceedings under Sections 309(g) and 311(b)(6)(B)(ii) of the Clean Water Act, which are found at 40 C.F.R. § 22.45. Please be advised that you have the right to consult with your own attorney regarding these matters, including any questions you may have regarding the public notice and comment procedures.

In response to your question, the applicable regulations do not address requests for public meetings during the public comment period. The regulations do provide, however, that a commenter may present written comments for the record at any time prior to the close of the record. *See* 40 C.F.R. § 22.45(c)(1)(iii).

After the close of the comment period, 40 C.F.R. § 22.45(c)(4) provides that the complainant shall provide to each commenter, by certified mail, a copy of any consent agreement between the parties and the proposed final order. Within 30 days of receipt of the consent agreement and proposed final order, a commenter may petition the Regional Administrator to set aside the consent agreement and proposed final order on the basis that material evidence was not considered.

The specific requirements and procedures that apply when a commenter petitions the Regional Administrator to set aside a consent agreement and proposed final order are set forth at 40 C.F.R. § 22.45(c)(4), which include, among other things, an opportunity for the complainant to withdraw the consent agreement and proposed final order. If the complainant does not withdraw the consent agreement and proposed final order, the Petition Officer assigned to the matter shall issue written findings as to, among other things, the extent to which the petition states an issue relevant and material to the issuance of the proposed final order and whether resolution of the proceeding is appropriate without a hearing. *See* 40 C.F.R. § 22.45(c)(4)(v)(C). You may access these requirements here: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol1/pdf/CFR-2015-title40-vol1-sec22-45.pdf>.

Should you have any further questions regarding the public notice and comment procedures, I recommend that you consult with your own attorney.

Sincerely,

Kasey Barton
Associate Regional Counsel
US EPA Region 5
77 W Jackson Blvd
Chicago, Illinois 60604

From: Carolyn A. Marsh [<mailto:cmarshbird@prodigy.net>]
Sent: Tuesday, June 28, 2016 10:10 AM

To: Anderson, Andrew <anderson.andrew@epa.gov>; Whitehead, LaDawn <Whitehead.Ladawn@epa.gov>
Subject: RE: Regional Hearing Clerk Information

June 28, 2016

Ms. LaDawn Whitehead:

From reading the EPA link, it is my understanding that a request for a public meeting is only during the public comment period. Is that correct?

Carolyn Marsh

From: Anderson, Andrew [<mailto:anderson.andrew@epa.gov>]
Sent: Friday, June 24, 2016 1:20 PM
To: cmarshbird@prodigy.net
Cc: Whitehead, LaDawn
Subject: Regional Hearing Clerk Information

Ms. Marsh,

Thank you for your email. I am assisting La Dawn Whitehead, our Regional Hearing Clerk, while she is out of the office. The procedures governing the public notice and comment in proceedings under Sections 309(g) and 311(b)(6)(B)(ii) of the Clean Water Act are found at 40 C.F.R. § 22.45, which you can access here: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol1/pdf/CFR-2015-title40-vol1-sec22-45.pdf> or through <http://www.archives.gov/federal-register/cfr/>.

You may also review EPA's public notices for the BP Consent Agreement and Final Orders, which provide information on how to submit comments: <https://www.epa.gov/sites/production/files/2016-06/documents/cwa-05-2016-0014-public-notice-20160601.pdf> and <https://www.epa.gov/sites/production/files/2016-06/documents/cwa-05-2016-0015-publicnotice-20160601.pdf>.

I suggest that you make any requests for extensions of time in writing to the Regional Hearing Clerk, including an explanation as to why the extension is being sought.

Thank you.

Andrew Anderson
Deputy Director
Office of Enforcement and
Compliance Assurance
Region 5, EPA
(312) 353-9681

From: Carolyn A. Marsh [<mailto:cmarshbird@prodigy.net>]
Sent: Thursday, June 23, 2016 2:30 PM
To: Hans, Mick <hans.mick@epa.gov>; Barton, Kasey <Barton.Kasey@epa.gov>; Riley, Ellen <riley.ellen@epa.gov>; Ulfig, Joseph <ulfig.joseph@epa.gov>
Subject: need info under deadline

June 23, 2016

Mick Hans EPA Superfund Division
Kasey Barton
Ellen Riley
Joseph Ulfig

Dear USEPA:

I'm trying to get information under deadline of a July 12, 2016 Comment Period. The Regional Hearing Clerk is out of the office until June 24, 2016. Can anyone else provide information regarding a public comment hearing deadline extension and what the procedure is for a public hearing? See below my questions to the Hearing Clerk.

Carolyn Marsh
1804 Oliver St.
Whiting, IN 46394
219-659-7904
cmarshbird@prodigy.net

From: Whitehead, LaDawn [<mailto:Whitehead.Ladawn@epa.gov>]
Sent: Thursday, June 23, 2016 1:54 PM
To: Carolyn A. Marsh
Subject: Automatic reply: public hearing request information

I am out of the office and will not be checking messages from June 21-24, 2016.

June 23, 2016

Docket No. CWA-05-2016-0015
Docket No. CWA 05-2016-0014
Regional Hearing Clerk
Mail Code E-19J
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
LeDawn Whitehead, Regional Clerk
Whitehead.ladawn@epa.gov.

Dear Ms. Whitehead:

I would like to know the procedure for requesting a public hearing on the US. Environmental Protection Agency, Region 5, notice of intent to file a proposed Consent Agreement and Final Order (CAFO) against BP Products North America Inc. (Respondent). It is urgent to receive for this information as the public comment period ends July 12, 2016.

I understand the public can request a public hearing during the written Comment period, which ends July 12. Are there any other options for a public hearing that will allow public participation before the deadline?

Is there a procedure for requesting an extension for the comment period? How many individuals can request a public hearing?
Can requesting a public hearing to be held before the Comment period ends, which would require an extension of the Comment period deadline?

Sincerely,

Carolyn Marsh
1804 Oliver St.
Whiting, IN 46394
219-659-7904
cmarshbird@prodigy.net