
NATURAL RESOURCES COMMISSION
Information Bulletin #55 (First Amendment)
January 1, 2009

SUBJECT: Citizen Comments to Hearing Officers

1. Purposes

The primary purpose of this personnel directive is to encourage consistency, transparency, and efficiency in the development of hearing officer reports by employees of the Division of Hearings to the Natural Resources Commission. An employee of the Department of Natural Resources or another person making a report to the Commission may also consider this directive as guidance.

2. Anonymous Comments

(A) A hearing officer shall not include comments in a report, or consider the comments in an analysis, unless made by an individual who provides:

- (1) The individual's name. An individual who uses a pseudonym does not satisfy this requirement unless the pseudonym is that of a recognized journalist or author.
- (2) At least one of the following:
 - (i) For an Indiana resident, the city, town, or county of residence.
 - (ii) For a nonresident of Indiana who is resident of the United States, the state of residence.
 - (iii) For a nonresident of the United States, the country of residence.

(B) If an individual described in subdivision (A) offers a comment in person, by telephone, or by e-mail, the hearing officer should make a reasonable effort to encourage the individual to provide information sufficient to resolve any anonymity.

(C) The Commission's webpage for public comments shall include language notifying individuals who wish to make comments that personal, contact, and any other information submitted on a comment form or in an attachment would be provided to the Commission and the Department of Natural Resources and would be publicly disclosed and searchable on the Internet and in a paper docket.

3. Comments Not in English and Nonstandard Language

(A) Except as provided in this subdivision, a hearing officer shall not include comments in a report, or consider the comments in an analysis, unless made in English. Foreign phrases commonly used by the public or within a profession may be included.

(B) A hearing officer may exclude from a report, and consideration in an analysis, comments containing excessive foul, offensive, or other nonstandard language.

(C) If a comment is excluded under subdivision (A) or (B), the hearing officer shall make a reasonable effort to encourage the individual to resubmit the comment with language that would be included.

4. Comments Subsequent to Posting of "Notice of Intent" or Posting of Language Given Preliminary Adoption

To help assure that comments included in a report are directed to an active rule proposal, a hearing officer shall not include comments except after the earlier of the following:

- (1) publication by the Legislative Services Agency of a "Notice of Intent to Adopt" a proposed rule; or
- (2) posting on the Commission's website of language given preliminary adoption for a proposed rule.

5. Receipt of Electronic Comments (E-Mail) and Improved Mechanisms

The current practice is to establish an e-mail linkage through the Commission's website for a person to comment to a hearing officer with respect to rule proposals or other matters having the likelihood of significant public interest. The practice requires the Division of Hearings to open, copy, and insert the e-mail in a hearing officer's report. Particularly for matters of great public interest, the practice is inefficient. The Division of Hearings shall continue exploration of access to and implementation of improved mechanisms for the Commission's website by which to receive and assemble citizen comments.

6. Continuing Updates

The Division of Hearings shall periodically update the Commission concerning challenges and opportunities with respect to receipt and incorporation of citizen comments in hearing officer reports, particularly as the challenges and opportunities result from advancing electronic technology. The next update shall be provided not later than March 2010.

7. History

The original version of this Information Bulletin was published on August 15, 2007. Modifications for the

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current version include provisions for the use of English, the avoidance of nonstandard language, and inclusion of citizen comments in a report only if made after publication of a "Notice of Intent to Adopt" or posting of language given preliminary adoption. With technological advances since August 2007 regarding the processing of e-mail comments, some references were deleted regarding initiatives to seek improved mechanisms.

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