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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)

PART 3. AIR POLLUTION CONTROL DISTRICTS [40000 - 41357] (*Part 3 added by Stats. 1975, Ch. 957.*)

CHAPTER 8. Hearing Boards [40800 - 40865] (*Chapter 8 added by Stats. 1975, Ch. 957.*)

ARTICLE 2. Procedure [40820 - 40830] (*Article 2 added by Stats. 1975, Ch. 957.*)

40820. Except as provided in Section 40501.1, subdivision (c) of Section 40824, subdivision (c) of Section 40825, Section 42351.5, and Section 42359.5, three members of the hearing board shall constitute a quorum, and no action shall be taken by the hearing board except in the presence of a quorum and upon the affirmative vote of a majority of the members of the hearing board.

(*Repealed and added by Stats. 1988, Ch. 1412, Sec. 7.*)

40821. A hearing board, with not fewer than four members present, may, in its discretion, within 30 days of the effective date of the decision, rehear any matter.

(*Amended by Stats. 1988, Ch. 1412, Sec. 8.*)

40822. Any hearing conducted by a hearing board shall be held in a location readily accessible to the public.

(*Added by Stats. 1975, Ch. 957.*)

40823. (a) Except as otherwise provided in Sections 40824, 40825, and 40826, a hearing board shall serve a notice of the time and place of a hearing upon the district air pollution control officer, and upon the applicant or permittee affected, not less than 10 days prior to such hearing.

(b) Except as otherwise provided in Sections 40824, 40825, and 40826, the hearing board shall also send notice of the hearing to every person who requests such notice and obtain publication of such notice in at least one daily newspaper of general circulation within the district. The notice shall state the time and place of the hearing and such other information as may be necessary to reasonably apprise the people within the district of the nature and purpose of the meeting.

(*Added by Stats. 1975, Ch. 957.*)

40824. In case of a hearing to consider an application for an interim variance, as authorized under Section 42351:

(a) The hearing board shall serve reasonable notice of the time and place of the hearing upon the district air pollution control officer and upon the applicant.

(b) Subdivision (b) of Section 40823 shall not apply.

(c) In districts with a population of less than 750,000, the chairperson of the hearing board, or any other member of the hearing board designated by the board, may hear an application for an interim variance. If any member of the public contests a decision made by a single member of the hearing board, the application shall be reheard by the full hearing board within 10 days of the decision.

(*Amended by Stats. 1987, Ch. 362, Sec. 1.*)

40825. In case of a hearing to consider an application for a variance, or a series of variances, to be in effect for a period of not more than 90 days, or an application for modification of a schedule of increments of progress:

(a) The hearing board shall serve a notice of the time and place of a hearing to grant such a variance or modification upon the air pollution control officer, all other districts within the air basin, the state board, the Environmental Protection Agency, and upon the applicant or permittee, not less than 10 days prior to such hearing.

(b) Subdivision (b) of Section 40823 shall not apply.

(c) In districts with a population of less than 750,000, the chairman of the hearing board, or any other member of the hearing board designated by the board, may hear such an application. If any member of the public contests a decision made by a single member of the hearing board, the application shall be reheard by the full hearing board within 10 days of the decision.

(Amended by Stats. 1987, Ch. 362, Sec. 2.)

40826. In case of a hearing to consider an application for a variance, other than an interim variance or a 90-day variance, or an application for a modification of a final compliance date in a variance previously granted, the notice requirements for the hearing shall be as follows:

(a) The hearing board shall serve a notice of the time and place of a hearing to grant a variance upon the air pollution control officer, all other districts within the air basin, the state board, the Environmental Protection Agency, and upon the applicant or permittee, not less than 30 days prior to the hearing, except as provided in subdivision (d).

(b) The hearing board shall also publish a notice of the hearing in at least one daily newspaper of general circulation in the district, and shall send the notice to every person who requests the notice, not less than 30 days prior to the hearing, except as provided in subdivision (d).

(c) The notice shall state the time and place of the hearing; the time when, commencing not less than 30 days, or, under subdivision (d), not less than 15 days, prior to the hearing, and place where the application, including any proposed conditions or schedule of increments of progress, is available for public inspection; and any other information that may be necessary to reasonably apprise the people within the district of the nature and purpose of the meeting.

(d) In districts with a population of 750,000 or less, the hearing board shall serve, publish, and send the notice pursuant to subdivisions (a) and (b) not less than 15 days prior to the hearing.

(Amended by Stats. 1992, Ch. 1096, Sec. 2. Effective September 29, 1992.)

40827. A hearing board shall serve a notice of the time and place of a hearing either by personal service or by first-class mail, postage prepaid. If either the identity or address of any person entitled to notice is unknown, the hearing board shall serve such person by publication of notice in the district pursuant to Section 6061 of the Government Code.

(Added by Stats. 1975, Ch. 957.)

40828. (a) A hearing board shall allow interested members of the public a reasonable opportunity to testify with regard to the matter under consideration, and shall consider that testimony in making its decision.

(b) The hearing board shall prepare a record of the witnesses and the testimony of each witness at the hearing. The record may be an audio recording. The record shall be retained by the hearing board while the variance is in effect, or for the period of one year, whichever is longer.

(Amended by Stats. 2009, Ch. 88, Sec. 66. (AB 176) Effective January 1, 2010.)

40829. Any member of a hearing board may administer oaths in any hearing in which he participates as a member of the hearing board.

(Added by Stats. 1975, Ch. 957.)

40830. At any hearing, a hearing board shall require any witness to be sworn before testifying.

(Added by Stats. 1975, Ch. 957.)