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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 AIR RESOURCES [39000 - 44475.3]** ( *Division 26 repealed and added by Stats. 1975, Ch. 957.*  )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 4. NONVEHICULAR AIR POLLUTION CONTROL [41500 - 42710]** ( *Part 4 added by Stats. 1975, Ch. 957.*  )

**CHAPTER 4. Enforcement [42300 - 42454]** ( *Chapter 4 added by Stats. 1975, Ch. 957.*  )

**ARTICLE 4. Orders for Abatements [42450 - 42454]** ( *Article 4 added by Stats. 1975, Ch. 957.*  )

**42450.** The district board may, after notice and a hearing, issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or is in violation of Section 41700 or 41701 or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

In holding such a hearing, the district board shall be vested with all the powers and duties of the hearing board. Notice shall be given, and the hearing shall be held, pursuant to Chapter 8 (commencing with Section 40800) of Part 3.

(Amended by Stats. 1988, Ch. 183, Sec. 1.)

**42450.1.** This article applies to any order for abatement issued pursuant to a determination made under Section 42301.7.

(Added by Stats. 1988, Ch. 1589, Sec. 12.)

**42451.** (a) On its own motion, or upon the motion of the district board or the air pollution control officer, the hearing board may, after notice and a hearing, issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or is in violation of Section 41700 or 41701 or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

(b) As an alternative to subdivision (a), the hearing board may issue an order for abatement pursuant to the stipulation of the air pollution control officer and the person or persons accused of constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or of violating Section 41700 or 41701, or any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air, upon the terms and conditions set forth in the stipulation, without making the finding required under subdivision (a). The hearing board shall, however, include a written explanation of its action in the order for abatement.

(Amended by Stats. 1988, Ch. 183, Sec. 2.)

**42451.5.** (a) The air pollution control officer may issue an interim order for abatement, pending a hearing pursuant to Section 42451, if the air pollution control officer finds that any person is causing an imminent and substantial endangerment to the public health or welfare, or the environment, by constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or by violating Section 41700 or 41701 or any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air. An interim order under this subdivision or subdivision (b) shall be effective upon the notification of the person of the issuance of the order. In notifying the person, the air pollution control officer shall also provide the person with an accusation specifying the grounds on which the order is issued and procedures by which the person may challenge the order.

(b) Before issuing an interim order, the air pollution control officer shall make reasonable efforts to meet and confer with the person regarding the imminent and substantial endangerment findings and make a good faith effort to agree on a stipulated interim order. The person may offer, for the air pollution control officer's consideration, any proposed alternative air pollution control measures that will prevent further imminent and substantial endangerment.

(c) Upon receipt by the district of a notice of defense to the accusation from the person, the district shall, within 3 business days, set the matter for a hearing pursuant to this article, which shall be held and completed as soon as possible, but not later than 30 days after the receipt of the notice. If the hearing is not completed within this 30-day period, the interim order shall be rescinded unless

the hearing has already commenced and the hearing board has made a preliminary determination that there is substantial evidence that an imminent and substantial endangerment to the public health or welfare, or the environment, still exists.

(d) Except as provided in subdivisions (c), (e), and (f), an interim order shall remain in effect until the hearing board has made a final determination on the merits, which shall be as soon as possible, but not later than 14 days after the completion of the hearing. If the determination is not transmitted within this period, the order shall be of no further effect.

(e) The air pollution control officer shall rescind an interim order if he or she finds that the order is no longer necessary.

(f) The hearing board shall vacate an interim order at any time after the hearing has commenced if it finds that an imminent and substantial endangerment to the public health or welfare, or the environment, does not exist or no longer exists. Nothing in this subdivision shall preclude the air pollution control officer from continuing to seek an order for abatement from the hearing board.

(g) The air pollution control officer shall not delegate the authority provided by this section. If the air pollution control officer is unavailable or absent, the person designated to serve as the air pollution control officer under those circumstances may exercise the authority provided by this section, which shall not be delegated by that person.

(h) Matters under this section shall be considered and concluded with all due expedience.

*(Added by Stats. 2017, Ch. 171, Sec. 1. (AB 1132) Effective January 1, 2018.)*

**42452.** The order for abatement shall be framed in the manner of a writ of injunction requiring the respondent to refrain from a particular act. The order may be conditional and require a respondent to refrain from a particular act unless certain conditions are met. The order shall not have the effect of permitting a variance unless all the conditions for a variance, including limitation of time, are met.

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

**42453.** A proceeding for mandatory or prohibitory injunction shall be brought by the district in the name of the people of the State of California in the superior court of the county in which the violation occurs to enjoin any person to whom an order for abatement pursuant to Section 42452 has been directed and who violates such order.

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

**42454.** Proceedings under Section 42453 shall conform to the requirements of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure, except that it shall not be necessary to show lack of adequate remedy at law or to show irreparable damage or loss.

If, in any such proceeding, it shall be shown that an order for abatement has been made, that it has become final, and that its operation has not been stayed, it shall be sufficient proof to warrant the granting of a preliminary injunction.

If, in addition, it shall be shown that the respondent continues, or threatens to continue, to violate such order for abatement, it shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

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