

REGULATION V - PROCEDURE BEFORE THE HEARING BOARD

Rule 5:1 Applicable Section of the Health and Safety Code
Adopt 09/10/85

- 1 California Health and Safety Code Sections 40800- 40865, inclusive, 42350-42364, inclusive, and 42450-42454, inclusive, as amended, regulating the powers of "Hearing Board," are incorporated herein by this reference.

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Rule 5:2 General
Adopt 09/10/85

1 This procedure shall apply to all proceedings before the Hearing Board.

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Rule 5:3 Filing Petitions
Adopt 09/10/85

- 1 Request for a hearing shall be initiated by the filing of the original and (5) copies of a petition with the Clerk of the Hearing Board who shall be the Control Officer, and the payment to say Clerk of the fee provided in Rule 5:4.

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Rule 5:4 Hearing Board Fees
Adopt 09/10/85

1 Every applicant or petitioner before the Hearing Board shall pay to the Clerk of the Hearing Board a non-refundable fee as set forth in the following schedule:

	<u>Dollars</u>
1.1 Appeals	\$150.00
1.2 Variance (longer than 90 days)	\$500.00
1.3 Variance (Interim or less than 90 days)	\$150.00
1.4 Variance Extensions	\$200.00

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Rule 5:5 Compensation for Hearing Board
Adopt 09/10/85

- 1 Each member of the Hearing Board shall be compensated in the amount of \$25.00 for each session. Such compensation shall be a charge against the Air Pollution Districts funds.

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Rule 5:6 Contents of Petitions
Adopt 09/10/85

- 1 Every Petition shall state:
 - 1.1 The name, address, and telephone number of the petitioner, or other person authorized to receive service of notices.
 - 1.2 Whether the petitioner is an individual, co-partnership, corporation or other entity and names and addresses of partners if a co-partnership; names and addresses of the persons in control if other entity.
 - 1.3 The type of business or activity involved in the application, and the street address at which it is conducted.
 - 1.4 A brief description of the article, machine, equipment, or other contrivance, if any, involved in the application.
 - 1.5 Whether the petitioner desires a hearing:
 - 1.5.1 For a variance under Section 42350, Health and Safety Code, or
 - 1.5.2 For an alleged violation, or
 - 1.5.3 Any other matters within the jurisdiction of the Hearing Board as specified in Division 26 of the Health and Safety Code.
 - 1.6 Each petition shall be signed by the petitioner, or some person on his behalf and where the person signing is not the petitioner, it shall set forth his authority to sign.
 - 1.7 All petitions shall be typewritten, double spaced, on letter size paper on one side only, leaving a margin at least one inch at the top and left side of each sheet.

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Rule 5:7 Petitions for Variance
Adopt 09/10/85

- 1 In addition to matters required by Rule 5:6, a Petition for Variance shall be made on forms provided by the Air Pollution Control Officer and shall state facts sufficient to enable the Air Pollution Hearing Board to make findings required by Division 26, California Health and Safety Code.

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Rule 5:8 Petitions for Abatement Order
Adopt 09/10/85

1 In addition to the matters required by Rule 5:6, a Petition for an Abatement Order shall state briefly:

1.1 Statement of the acts, uses, and/or conditions complained of;

1.1.1 A statement of the location, dates, and times of occurrence thereof;

1.1.2 A statement of the rule(s) violated thereby;

1.1.3 If the petition is filed by the Air Pollution Control Officer, a statement that more than 30 days prior to filing the petition the Air Pollution Control Officer served upon the alleged violator(s) a notice of alleged violation and demand for correction, and that correction has been made. If a shorter notice period is stated, the petition shall include the reasons therefore, which reasons shall relate to the welfare of the people of the county?

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Rule 5:9 Failures to Comply with Rules
Adopt 09/10/85

- 1 The Clerk of the Hearing Board shall not accept for filing any petition which does not comply with these rules.

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Rule 5:10 Service of Notices
Adopt 09/10/85

- 1 Services of notices for Board hearings shall conform to those requirements as delineated within Division 26, California Health and Safety Code.

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Rule 5:11 Answers
Adopt 09/10/85

1 Any interested person may file an answer within 10 days after service.

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Rule 5:12 Withdrawal of Petitions
Adopt 09/10/85

- 1 The petitioner may withdraw his petition at any time before submission of the case to the Hearing Board, without a hearing or meeting of the Hearing Board. The Clerk of the Hearing Board shall notify all interested persons of such withdrawal.

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Rule 5:13 Place of Hearing
Adopt 09/10/85

1 All hearings shall be held at the time and place designated by the clerk of the Hearing Board.

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Rule 5:14 Notices of Hearing
Adopt 09/10/85

1 Hearing notices shall be given as prescribed within Division 26, California Health and Safety Code.

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Rule 5:15 Rules of Evidence and Procedures
Adopt 09/10/85

- 1 Oral evidence may be taken on oath or affirmation.
- 2 Each party shall have the right: To call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any manner relevant to the issues; and to rebut the evidence against them.
- 3 The formal rules of evidence or procedure which must be followed in a court proceeding shall not be applicable. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

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Rule 5:16 Preliminary Matters
Adopt 09/10/85

- 1 Preliminary matters such as setting a date for hearing, granting continuances, approving petitions for filing, allowing amendments and other preliminary rulings not determinative of the merits of the case, may be made by the Chairman or any two members of the Hearing Board without a hearing or meeting of the Hearing Board and without notice.

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Rule 5:17 Official Notice
Adopt 09/10/85

- 1 The Hearing Board may take official notice of any matter which may be judicially noticed by the Courts of the State.

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Rule 5:18 Continuances
Adopt 09/10/85

- 1 The Chairman or any 2 members of the Board shall grant any continuance of 15 days or less, concurred in by all parties, and may grant any reasonable continuance for good cause shown, in either case such action may be exporter, without a meeting of the Hearing Board and without prior notice.

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Rule 5:19 Hearing and Decision
Adopt 09/10/85

- 1 Attendance at board hearings shall conform to those specifications as delineated within Division 26, California Health and Safety Code.

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Rule 5:20 Effective Date of Decision
Adopt 09/10/85

- 1 The decision granting or extending a variance shall become effective immediately after notice as provided in Rule 4:18; any other order shall become effective 30 days after said notice unless otherwise ordered by the Hearing Board.

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Rule 5:21 Issuance of Subpoenas: Subpoenas Dukes Talcum
Adopt 09/10/85

- 1 Whenever the members of the Hearing Board conducting any hearing deem it necessary to examine any person as a witness at such hearing, the Chairman of the Hearing Board shall cause issuance of a subpoena, in proper form, commanding such person to appear before it at a time and place specified to be examined as a witness. The subpoena may require such person to produce all books, papers, and documents in his or her possession or under his or her control, for the hearing.

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Rule 5:22 Confidential Information
Adopt 09/10/85

- 1 Upon written request of the person making disclosure, and to the extent permitted by Government Code Section, 6254.7, information disclosed to the District which constitutes a trade secret shall be confidential., Nothing contained in this rule shall limit the Control Officer's use of such information in any proceeding before the, Hearing Board, or any court of competent jurisdiction.

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Rule 5:23 Additional Rules
Adopt 09/10/85

- 1 The Hearing Board shall have the right to make such additional rules, regulating its hearings and procedures not inconsistent with these rules, as it may deem proper.

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Rule 5:24 State Requirements
Adopt 09/10/85

1 All requirements of Chapter 8, Part 3, Article 1, Division 26, of the California Health and Safety Code are hereby adopted by reference. The Air Pollution Control Officer shall enforce these Sections whenever applicable within the district.

Appendix I (Repealed 9/10/85)

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