

BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT

RULE 601 - HEARINGS

*(Adopted January 4, 1972; Amended and Recodified August 6, 1985;
Recodified August 22, 2002)*

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RULE 601

- 1 TIME AND PLACE OF HEARING:** All hearings shall be held within thirty (30) days after the petition has been filed at a time and place designated by the Butte County Air Quality Management District (DISTRICT) Hearing Board.
- 2 NOTICE AND HEARING:** Not less than ten (10) days before the date of the hearing, the Hearing Board shall serve a notice of the time and place of hearing upon the petitioner, upon the Air Pollution Control Officer (APCO), upon the holder of the permit or variance involved, if any, upon any person entitled to notice under California Health and Safety Code (HSC) Sections 40823, 40824, 40825 or 40826, and upon any person requesting special notice pursuant to Section 7 of this Rule. Service of the notice shall be made in the manner specified in Section 2 of Rule 600 of this Regulation; provided, however, that if the identity or address of any person entitled to notice is unknown, service shall be made as specified in HSC Section 40827.
- 3 INTERESTED MEMBERS OF PUBLIC; SPECIAL NOTICE:** The Hearing Board shall allow interested members of the public a reasonable opportunity to testify with regards to petition for variances and shall consider such testimony in making its determination. Interested members of the public may request special

notice of hearings on such petitions by filing a written request with the Hearing Board.

4 EVIDENCE

4.1 Oral evidence shall be taken at the hearing only on oath or affirmation

4.2 Each party shall have the following rights at the hearing:

4.2.1 To call and examine witnesses

4.2.2 To introduce exhibits

4.2.3 To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination

4.2.4 To impeach any witness regardless of which party first called him to testify

4.2.5 To rebut the evidence against him

If respondent does not testify in his own behalf, he may be called and examined as if under cross examination.

4.3 The hearing need not be conducted according to technical rules relating to evidence and witnesses. 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, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible 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.

5 RECORD OF PROCEEDINGS: A record of all proceedings had before the Hearing Board shall be made. The record shall be prepared in accordance with one of the following methods.

5.1 A written summary of all the evidence, testimony and proceedings had and presented at the hearing shall be made by a person designated by the Hearing Board for that purpose; or,

5.2 Any interested person, including the DISTRICT, may at his own cost provide a certified shorthand reporter satisfactory to the Hearing Board who shall prepare a verbatim transcript of all the evidence, testimony and proceedings presented at the hearing.

The Hearing Board may require that the original and one copy of such transcript, each certified upon by the reporter as to its accuracy, be filed with

the Hearing Board within thirty (30) days from the closing date of the hearing unless required by the Board prior to that time.

- 6 **PRELIMINARY MATTERS:** 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 (2) members of the Hearing Board without a hearing or meeting of the Hearing Board and without notice.
- 7 **OFFICIAL NOTICE:** The Hearing Board may take official notice of any matter which may be judicially noticed by the courts of the State.
- 8 **CONTINUANCES:** The Chairman or any two (2) members of the Hearing Board shall grant any continuance of fifteen (15) days or less, concurred in by petitioner, the APCO and by every person who has filed an answer in the action and may grant any other reasonable continuance; in either case such action may be exparte, without a meeting of the Hearing Board and without prior notice.