

7620.0320 TIMING AND PROCEDURES.

Subpart 1. **Hearing date.** Within three working days after receipt of an appeal, the local conservation board or administrative law judge, whichever is appropriate, shall set a hearing date. The hearing shall be held as soon as practicable but not later than seven working days after receipt of the appeal, unless appellant requests a later hearing date. The chair of the local conservation board (or designate), or the administrative law judge, shall notify all known affected persons, either verbally or in writing, of the appeal and the time and place for the hearing, not less than two working days before the hearing. An appeal shall be considered received when it has arrived at the appropriate location designated in part 7620.0300. A local energy conservation board may convene at any location within its jurisdiction for expediting appeals and decreasing the distance to the hearing for appellants.

Subp. 2. **Administrative Procedure Act.** Appeals shall be governed by the Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings, parts 1400.5010 to 1400.8400, except that during an energy supply emergency the provisions of parts 7620.0300 to 7620.0340 shall supersede the above-cited rules wherever the two conflict with one another.

Subp. 3. **Parties.** The parties to an appeal from actions taken during a declared energy supply emergency shall be the appellant and the emergency operating center. Appeals from a decision not to certify an employer or school district conservation plan shall name the assistant commissioner as a party to the appeal.

Subp. 4. **Representation.** A party may be represented by counsel.

Subp. 5. **Compliance by appellant.** An appellant subject to provisions of these parts must comply with all applicable mandatory measures or requirements pending a final decision on the appeal. A final decision shall be made under part 7620.0340.

Subp. 6. **Informal disposition.** Informal disposition of an appeal or any issue in an appeal may be made at any point in the proceeding by stipulation, agreed settlement, or consent order between the appellant and the emergency operating center. In the case of employer and school district conservation plans, the assistant commissioner shall have the power to informally dispose of an appeal by agreement or consent order.

Subp. 7. **Appellant's failure to appear.** Failure of an appellant to appear after timely notice is sufficient cause for denial of an appeal.

Subp. 8. **Operating center's failure to appear.** The failure of the emergency operating center to appear at a hearing of a local energy conservation board on an appeal from an emergency measure shall not constitute a default or bar the commissioner from reversing the board's decision so long as the commissioner complies with the timing provisions in part 7620.0340, subpart 3.

Subp. 9. **Prehearing conference.** The administrative law judge or local energy conservation board may order a prehearing conference to be held at any time prior to a hearing, if a conference may simplify the issues or provide an opportunity for settlement. If a prehearing conference is ordered, notice of the time and place of the conference shall be served on all parties to the appeal not less than two working days before the date of the conference.

Subp. 10. **Appeals not to be heard.** Appeals shall not be heard if received more than ten working days after the termination or expiration of the energy supply emergency.

Statutory Authority: *MS s 216C.10*

History: *L 1984 c 640 s 32; L 1987 c 312 art 1 s 9, c 384 art 2 s 1; 26 SR 391*

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