

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

(By authority conferred on the department of environmental quality by sections 5503 and 5512 of Act No. 451 of the Public Acts of 1994, as amended, and Executive Reorganization Order Nos. 1991-22 and 1995-16, being SS324.5503, 324.5512, 299.13, and 324.99903 of the Michigan Compiled Laws)

PART 17. HEARINGS

R 336.2701 Petitions for review and for contested case hearings; hearing procedure; "duly authorized agent" defined.

Rule 1701. (1) For a petition filed for review under section 5506, 5515, 5522, or 5529 of the act, the procedure described in subrule (2) of this rule is the procedure for the hearing of a contested case as "contested case" is defined in section 3(3) of Act No. 306 of the Public Acts of 1969, as amended, being §24.203(3) of the Michigan Compiled Laws.

(2) Under sections 5506(14), 5515(3), 5522(6), 5522(8), and 5529 of the act, certain final department actions provide the opportunity for certain parties to file a petition for a contested case hearing with the department. A party shall file a petition on a form provided by the department within 30 days after the final department action. The party shall complete the form in full.

History: 1980 AACS; 1998-2000 AACS.

R 336.2702 Appearances.

Rule 1702. An appearance at a hearing or proceeding held under section 5506, 5515, 5522, or 5529 of the act shall be in person, by a duly authorized agent, or by counsel. A "duly authorized agent," for the purpose of this rule, means an individual who has been empowered written authority to act on behalf of the aggrieved party.

History: 1980 AACS; 1998-2000 AACS.

R 336.2703 Rescinded.

History: 1980 AACS; 1998-2000 AACS.

R 336.2704 Hearing commissioner's hearings.

Rule 1704. That part of a hearing in a contested case in which testimony and evidence are to be taken may be referred to a hearing commissioner who shall be designated and authorized by the commission to preside at the hearing. The hearing commissioner shall hear the evidence and prepare a record of the proceedings and a proposal for a decision, including findings of fact and conclusions of law. The record of the proceedings and proposal for decision shall be filed at the commission offices as early as possible after completion of the hearing. A copy of the proposal for decision shall be transmitted to each member of the commission and shall be served by certified mail on all other parties to the proceedings.

History: 1980 AACS.

R 336.2705 Agency files and records; use in connection with hearings.

Rule 1705. The files and records of the commission and the department specified in notices of determination and hearing, except for those materials exempted by section 22 of Act No. 306 of the

Public Acts of 1969, as amended, being S24.222 of the Michigan Compiled Laws, shall be available for inspection before or at hearings held by the commission or the hearing commissioner, and the whole or part thereof may be offered at a hearing as evidence on behalf of the commission.

History: 1980 AACCS.

R 336.2706 Commission hearings after hearing commissioner hearings.

Rule 1706. (1) After receipt by the commission members of a hearing commissioner's report, the commission shall hold a hearing on the proposal for decision, arguments thereon, exception thereto, or appeals therefrom as may be timely filed in writing by either party. The hearing shall not be scheduled sooner than 4 weeks after receipt by the commission members of the hearing commissioner's report. To be considered at the hearing, written briefs or exceptions shall be received at the office of the air quality division in Lansing not later than 2 weeks before the date set for hearing. An opportunity to present oral argument to the commission may be provided at the hearing noticed for purpose.

(2) After the time the commission schedules a hearing pursuant to subrule (1), a copy of the hearing commissioner's proposal for decision shall be available at the commission's main office and district offices for inspection and copying in accordance with subrule (1) of R 336.2604.

(3) A copy of a final order adopted in a contested case shall be prepared and served by certified mail on the contesting parties or their attorneys, together with the commission's finding containing a resume of the facts and grounds for the decision.

(4) Any person shall have an opportunity to submit, not later than 2 weeks before the date set for hearing, an amicus curiae brief to the commission for its consideration.

History: 1980 AACCS.