

7000.1800 PETITION FOR CONTESTED CASE HEARING.

Subpart 1. **Petition for contested case hearing.** Any person may petition the agency to hold a contested case hearing. To be considered by the agency, a petition must be submitted in writing, must contain the information specified in subpart 2, and must be timely. Timeliness shall be determined as follows:

A. for permit matters, a petition for a contested case hearing must be submitted during the public comment period established under parts 7001.0100 and 7007.0850, except for matters where there is no public comment period, the petition must be submitted according to the procedures in item B. A petition for a contested case hearing shall be untimely if it is submitted after a permit is granted;

B. for matters other than those covered by item A, the commissioner may establish deadlines for persons to petition for a contested case hearing. If the commissioner establishes deadlines to petition for a contested case hearing, petitions for a contested case hearing will be considered timely if they are served on all board members, including the commissioner within the established deadlines; and

C. if item A does not apply and no deadlines are established as provided in item B, a petition for a contested case shall be considered timely as follows:

(1) for regular meetings of the board and special meetings noticed ten or more days before the meeting, service is timely if all board members, including the commissioner, are served five days before the meeting; and

(2) for special meetings of the board noticed less than ten days before the meeting, service is timely if all board members, including the commissioner, are served personally or by facsimile before the agenda item is scheduled to be heard.

Subp. 2. Contested case petition contents.

A. A petition for a contested case hearing shall include the following information:

(1) a statement of reasons or proposed findings supporting a board or commissioner decision to hold a contested case hearing pursuant to the criteria in part 7000.1900, subpart 1; and

(2) a statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

B. To the extent known by the petitioner, a petition for a contested case hearing may also include the following information:

(1) a proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing;

(2) a proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and

(3) an estimate of time required for petitioner to present the matter at a contested case hearing.

C. A petitioner is not bound or limited to the witnesses, materials, or the estimated time identified in the petition if the requested contested case is granted by the board or commissioner.

Subp. 3. **Written responses to petitions for contested case hearings.** Any person may serve timely responses to a petition for a contested case hearing. Timeliness shall be determined as described in items A and B.

A. If the commissioner has established a schedule as provided in subpart 1, item A or B, responses to a petition for a contested case hearing must be submitted within the deadlines established.

B. If no schedule has been established, responses to a petition for a contested case hearing must be personally served on or sent by facsimile to all board members, including the commissioner, at any time prior to the time at which the matter will be considered by the board or commissioner.

Subp. 4. **Untimely petition for a contested case hearing.** The commissioner shall deny a petition for a contested case hearing if the petition is not timely served as provided in subpart 1. However, the board or commissioner may consider a petition that is not timely if the petition contains the information listed in subpart 2, and the petitioner demonstrates that the petition could not have been submitted to the agency any earlier because it relies on newly discovered material facts that could not have been discovered until after the petition period ended.

Statutory Authority: *MS s 14.06; 116.07*

History: *19 SR 1310; 20 SR 2629; 28 SR 1249*

Published Electronically: *April 20, 2004*