

DIVISION III AIR POLLUTION CONTROL BOARD

**SECTION 16-71 CREATED; MEMBERSHIP; TERM OF OFFICE; JURISDICTION; HEARINGS;  
APPEALS**

- (a) There is hereby created the Memphis and Shelby County Air Pollution Control Board, hereinafter referred to as "the board" to be composed of seven (7) members to be appointed jointly by the mayor of the City of Memphis and the Shelby County Commissioner of Health and confirmed by both the Memphis City Council and the Shelby County Quarterly Court.

The Board shall consist of the following: One professional engineer knowledgeable in the field of air pollution control, one physician licensed to practice in Tennessee, one attorney licensed to practice law in Tennessee, a representative of industry at large, and such other citizen members as may be appointed, except that industry may have no more than two (2) representatives. No member of the board shall hold any elective office or receive any governmental salary. All members shall serve without compensation.

- (b) The terms of members shall be four (4) years. Whenever a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the original appointment. Initial appointments shall be for terms expiring June 1, 1973.
- (c) The board shall select annually a chairman from among its members. The board shall hold at meetings as the chairman deems necessary.

All hearings conducted by the board shall be open to the public. The health officer shall act as secretary to the board and shall keep records of its hearings and other official actions. All hearings shall be held before, and not less than, a majority of the Board.

- (d) The board is hereby vested with the following jurisdiction and authority:
- (1) Grant, deny or revoke variance applications.
  - (2) To decide appeals from any decisions, rulings, or determinations of the health officer or his designated representative under this chapter.
  - (3) To hear appeals arising from the failure of the health officer or his designated representative to act within a reasonable period on complaints under this chapter.
  - (4) To consider such other air pollution matters as the Board deems necessary.

- (e) Any person seeking a variance from the provisions of this chapter or any person taking exception to and who is uniquely affected by any decision, ruling, requirement, rule, regulation, or order of the health officer or by his failure to act within a reasonable amount of time may take the appeal to the board as established by this section. Such appeals shall be made within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation, or order or failure to action by filing a written notice of appeal directly to the board specifying the ground thereof and the relief requested. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation or order in question until the board has taken final action on the appeal, except when the health officer has acted under Section 16-52, "Emergency Order." The board, not less than thirty (30) days after the date of filing an appeal, shall set a date for the hearing and shall give notice thereof by mail to the interested parties.
- (f) Hearings before the board shall be conducted in the following manner:
- (1) Notice of any and all hearings shall be given at least fifteen (15) days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in Memphis, Tennessee, giving the date, time, place and purpose of the hearing.
  - (2) The chairman of the board shall act as the hearing examiner to conduct such hearing.

*Ord. No. 1265, § 1, 4-25-72; Code 1967, § 3-35, Ord. No. 3230, § 1(5), 8-3-82)*

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**THIS IS THE FEDERALLY APPROVED REGULATION AS OF JUNE 15, 1989  
LAST UPDATE: JULY 19, 1989**

	<b>Date Submitted to EPA</b>	<b>Date Approved by EPA</b>	<b>Federal Register</b>
Original Reg	APR 27, 1972	MAY 31, 1972	37 FR 10842
1st Revision	JUL 07, 1986	JUN 15, 1989	54 FR 25456

**SECTIONS 16-72 TO 16-75 RESERVED**

*Note: Section 16-76 is the "New Source Performance Standards."  
This standard, which is not part of the State Implementation Plan  
(SIP), is subdelegated to Memphis by the State.*