



VARIANCES

The Ventura County Air Pollution Control District realizes there may be a valid reason why you cannot immediately comply with air pollution control requirements if your business has had an unexpected equipment breakdown, or malfunction. But if you want to keep operating while you solve your air emission problem, there is only one legal way to do that; a permittee must obtain a variance from the Hearing Board.

WHAT IS A VARIANCE?

Both the State of California and the District have laws, rules, and regulations regarding air emissions to protect public health and the environment. Violation of these may subject you to penalties. The most extreme penalty? Shutting down your business operation completely. To avoid penalties, the Hearing Board issues variances that temporarily grant relief, under certain circumstances, from the requirements of a District regulation or state law. It is official permission to temporarily exceed limits set by state laws or APCD rules and regulations. A variance allows your business to continue operating while you take steps to meet air pollution control requirements.

HOW DOES THE PROCESS WORK?

Only the Ventura County Air Pollution Control District Hearing Board can grant variances, not District inspectors, engineers, or the air pollution control officer.

If your business needs a variance, you must first file a variance petition. The petition you prepare will present information on the equipment involved and justify the need for the variance. You will need to address certain findings the Hearing Board must make and present a compliance schedule. A filing fee must be submitted with each petition.

After your business submits a variance petition, a public hearing is scheduled, and a public notice is published in the newspaper (if applicable). At the public hearing, your business presents its case to the Hearing Board. You may choose to retain legal services to present the case, or you may represent yourself. You need to know the rules violated, excess emissions, and how and when you plan to have your business come into compliance. You can bring any technical experts who can assist in explaining and resolving the problem. If you present written documentation at the Hearing, provide eight copies of each document.

WHAT IS THE HEARING BOARD?



The Hearing Board is an independent quasi-judicial body mandated

by the California Health and Safety Code. The Ventura County Air Pollution Control Board appoints the five-member Board for three-year terms. Independent from the District, the Hearing Board consists of a practicing attorney, a registered engineer, a medical professional, and two public members. California Health and Safety Code Sections 40800 to 40865 and 42350 to 42372 are the California laws regarding Hearing Boards and variances.

The Hearing Board conducts public hearings and is authorized to:

- Grant or deny petitions for variances and abatement orders.
- Hear appeals regarding permit denials and operating conditions on permits.
- Resolve disputes between the District and permitted sources.

The public will have an opportunity to present information relevant to the case. The Hearing Board will question the business representative and APCD staff. It will then close the hearing and discuss the case openly before reaching a decision.

ARE THERE DIFFERENT TYPES OF VARIANCES?

Yes, there are five types of variances.

- **Emergency** If your violation occurred without warning, request an emergency variance. It allows up to 30 days to correct violations and can usually be heard on the same the day the petition is filed. Unforeseen malfunctions of air pollution control equipment or in-stack monitoring equipment, power failure, etc., may be grounds for an emergency variance.
- **Short** If you can comply with APCD rules within 90 days, request a short variance. A short variance requires a public notice and public hearing before the full Hearing Board. It requires a 10-day posted notice, plus about 10 days processing time before the request can be heard.
- **Interim** You should request this variance for immediate coverage to continue operating until a regular variance hearing can be held. A hearing by the full Hearing Board is required and can be granted for up to 90 days. You must also file a petition for a regular variance. This variance requires a reasonable notice of the time and hearing location.
- **Regular** If you need more than 90 days to correct the violation, request a regular variance. It may extend beyond a year only if it sets a specific schedule to achieve compliance. It requires a 30-day public notice of hearing, and about 10 days processing time before the request can be heard. A regular variance also requires a public hearing before the full Hearing Board.
- **Product** Manufacturers of non-compliant products, such as coatings, and adhesives, can request a product variance. This allows the sale, supply, distribution or use of a particular non-compliant product. Product variances cannot exceed two years.

ARE FEES REQUIRED? DO YOU NEED TO REQUEST A VARIANCE?

You will be charged fees for each variance petition; they help offset the costs of operating the Hearing Board. Fees vary and are subject to change. You can also be charged an excess emission fee for air pollution emissions that go beyond legal limits, based on excess pounds per hour and excess tons during the variance period. Call the District at 805/303-3703 to request variance petition forms. The Compliance Division staff will mail, email, or fax them to you. The forms are also available at the APCD office and at http://www.vcapcd.org/hearing_board.htm. After you submit the petition and filing fee, the Clerk of the Board will notify you by mail of your hearing date.

WHAT DOES THE HEARING BOARD REVIEW?

Pursuant to Health and Safety Code Section 42352, the Hearing Board must make the following findings before granting a variance:

- A violation of APCD rules or regulations occurred or will occur.
- The conditions causing the violation were beyond your control.
- A shutdown of your equipment or business would not be reasonable under the circumstances.
- A reduction in air pollution from a shutdown would not justify closing the facility.
- Excess emissions will be reduced to the maximum extent possible.
- Emissions will be monitored, quantified and reported to the APCD.
- A variance may not be granted if the operation or equipment would cause a public nuisance or create a public health hazard. You may appeal the Hearing Board's decision. Appeals require a 30-day public notice and filing fees.

WHEN DOES THE HEARING BOARD MEET?

It meets, as needed, on Monday at 5:30 PM in the Board of Supervisor's Hearing Room, Hall of Administration, County Government Center, 800 South Victoria Ave., Ventura.

MORE INFORMATION?

To file a petition for a variance or for assistance, contact Michelle Wood at 805/303-3703. If you need help understanding how a rule applies to your situation call: Engineering Division at 805/303-3683.