

## VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 22 - APPEALS**

*(Adopted 10/22/68, Revised 5/23/72, 6/13/95, 11/14/00)*

- A. Within thirty (30) days after notice by the Air Pollution Control Officer (APCO) of denial, suspension or conditional approval of an Authority to Construct or Permit to Operate, the applicant may petition the Hearing Board in writing for a public hearing. The Hearing Board, after notice and a public hearing held in accordance with these Rules, and within thirty (30) days after filing of the petition, may sustain or reverse the action of the APCO. Such order may be made subject to specified conditions.
- B. Within thirty (30) days after any decision or action pertaining to the issuance of an Authority to Construct or Permit to Operate by the APCO, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the Air Pollution Control District may petition the Hearing Board in writing for a public hearing to determine if the Authority to Construct or Permit to Operate was properly issued. The Hearing Board, after notice and a public hearing held in accordance with these Rules, and within thirty (30) days after the filing of the petition, shall render a decision on whether the Authority to Construct or Permit to Operate was properly issued. In the Hearing Board's decision, the Hearing Board may approve, conditionally approve, or reverse the action or decision of the APCO pertaining to the issuance of an Authority to Construct or Permit to Operate.
- C. If the APCO fails to notify a permit applicant of the approval or disapproval of a permit application within the applicable time schedule established in Rule 13 or Rule 14 for small, medium and large sources, the permit applicant may, after notifying the district, request the district board, at its next regularly scheduled meeting, to set a date certain on which the permit will be acted upon. (H&SC Sec 42322(a)(7))
- D. A permit applicant for a project defined in California Health and Safety Code Section 42301.3(b) may petition the Hearing Board for a variance from the requirement to install air pollution control equipment or to meet a more stringent emission standard or limitation if there is a delay in the approval of the Authority to Construct or Permit to Operate and the delay was not due to a lack of due diligence on the part of the applicant.

The finding required by California Health and Safety Code Section 42352(a)(2) shall be met if the Hearing Board finds that the delay is not due to a lack of due diligence on the part of the applicant in the permit process, and the delay results in the inability of the applicant to legally comply with the requirement or schedule that requires the installation and operation of the pollution control equipment or achievement of a more stringent emission standard or limitation. The findings required by California Health and Safety Code Sections 42352(a)(3), (4) and (5) shall not apply to a variance granted pursuant to this subsection. California Health and Safety Code Section 42352(a)(6) shall apply to a variance granted pursuant to this subsection. However, if the District requests that the applicant monitor or otherwise quantify emission levels from the source during the term

of the variance pursuant to California Health and Safety Code Section 42352(a)(6), that monitoring or quantification required in connection with the variance shall be limited to any monitoring or quantification already being performed for the source for which the pollution control project is required. No variance shall be granted unless the Hearing Board makes the findings as specified in this subsection. The Hearing Board shall not impose any excess emission fees in connection with the granting of the variance. In determining the term of the variance, the Hearing Board shall consider the period of time that the delay was not due to a lack of due diligence on the part of the applicant. (H&SC Sec 42301.3(g))