

# **Regulation VI**

## **Rule 606 – Decisions**

*This Rule was first adopted November 3, 1982; revised May 19, 2005. The current version was adopted by the Governing Board via Resolution 2014-8 on October 16, 2014.*

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#### **A. DECISIONS**

# RULE 606 DECISIONS

## A. DECISIONS:

1. After a hearing, the Hearing Board may do any of the following:
  - a. Grant a permit denied by the Control Officer.
  - b. Continue the suspension of a permit suspended by the Control Officer.
  - c. Remove the suspension of an existing permit invoked by the Control Officer pending the furnishing by the permittee of the information, analyses, plans, and specifications required.
  - d. Find that no violation exists and reinstate an existing permit.
  - e. Revoke an existing permit, if it finds any of the following:
    - i. The permittee has failed to correct any conditions required by the Control Officer.
    - ii. A refusal of a permit would be justified.
    - iii. Fraud or deceit was employed in the obtaining of the permit.
    - iv. Any violation of this part, or of any order, rule, or regulation of the District.
  - f. Grant a variance in accordance with the conditions as further specified in this Rule.
2. The Hearing Board shall file its decision in writing with the Clerk of the Hearing Board, within three business days after the close of the public hearing on the petition. The decision shall contain a statement of findings and shall be distributed to all parties and their attorneys by the Clerk of the Hearing Board.
3. No Short Term or Regular variance shall be granted unless the Hearing Board makes all of the following findings:
  - a. That the petitioner for a variance is or will be in violation of a provision of the California Health & Safety Code or of any rule, regulation or order of the District, including, but not limited to, any permit condition
  - b. That due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either an arbitrary or unreasonable taking of property, or the practical closing and elimination of a lawful business.
    - i. That such closing or taking would be without a corresponding benefit in reducing air contaminants.
    - ii. That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.
    - iii. During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.
    - iv. During the period the variance is in effect, that the applicant will monitor or otherwise quantify emissions levels from the source, if requested to do so by the District, and report these emissions levels to the district pursuant to a schedule established by the District.
4. Upon making the specific findings set forth in Rule 606(1.3), the Hearing Board may prescribe requirements other than, but not more onerous than, those imposed by statute or by any rule, regulation, or order of the district board, applicable to plants and equipment operated by specified industry or business or for specified activity, or to the operations of individual persons. However, no variance shall be granted if the operation under the variance will result in a violation of Rule 104(1.0) of the District.
5. In prescribing other and different requirements, in accordance with Rule 606(1.4), the Hearing Board shall exercise a wide discretion consistent with Legislative declarations contained in Health and Safety Code Sections 3900 and 39001, in weighing the equities involved and the advantages to the residents of the district from the reduction of air contaminants and the disadvantages to any otherwise lawful business, occupation, or activity involved, resulting from requiring compliance with such requirements.

6. The Hearing Board may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the district having jurisdiction, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the District an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.
7. The Hearing Board, in making any order permitting a variance, shall specify the time during which such order shall be effective, in no event, except as otherwise provided in Rule 606(1.8), to exceed one year, and shall set a final compliance date.
8. A variance may be issued for a period exceeding one year if the variance includes a schedule of increments of progress specifying a final compliance date by which the emissions of air contaminants of a source for which the variance is granted will be brought into compliance with applicable emission standards.
9. The Hearing Board may, in its discretion, rehear a decision if a party petitions for a rehearing within 10 days after a copy of the decision has been mailed to him.
10. The decision shall become effective 30 days after it is filed, unless either of the following occurs:
  - a. A rehearing is granted by the Hearing Board.
  - b. The Hearing Board orders that it be made effective sooner.
11. A copy of the decision shall be mailed or delivered by the Clerk of the Hearing Board to the Air Pollution Control Officer, California Air Resources Board, the Environmental Protection Agency, the petitioner, and to every person who has filed a response or who has appeared as a party in person or by counsel at the hearing.