



Sam Longmire <nsaqmd.sam@gmail.com>

Addendum to the Variance Application

1 message

Jim Turner <jim.turner@amerpower.com>

Fri, Mar 22, 2019 at 1:26 PM

To: "sam@myairdistrict.com" <sam@myairdistrict.com>, Sam Longmire <nsaqmd.sam@gmail.com>

Cc: Gretchen Bennitt <nsaqmd.gretchen@gmail.com>, Joe Fish <joe@myairdistrict.com>, Julie Ruiz <julie@myairdistrict.com>, Bonnie Richards <bonnie.richards@amerpower.com>

Sam,

I have some additional information for my Variance request that applies to California Health and Safety Code 42352.

a. No variance shall be granted unless the hearing board makes all of the following findings:

1. That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the district.

Performing the Annual Source test at the present time would not be representative of the average fuel types utilized at the facility because they are not currently available. This would be in violation of the source testing requirements set forth by the Air District in Permit #88-19-01

2. That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (A) an arbitrary or unreasonable taking of property, or (B) the practical closing and elimination of a lawful business. In making those findings where the petitioner is a public agency, the hearing board shall consider whether or not requiring immediate compliance would impose an unreasonable burden upon an essential public service. For purposes of this paragraph, "essential public service" means a prison, detention facility, police or firefighting facility, school, health care facility, landfill gas control or processing facility, sewage treatment works, or water delivery operation, if owned and operated by a public agency.

If the facility is not allowed to continue operations pending a revised source test date, it would result in a closing and elimination of a lawful business that currently provides electricity to the rural residents of Sierra County.

3. That the closing or taking would be without a corresponding benefit in reducing air contaminants.

There will be no corresponding benefit in reducing air contaminants by closing or taking the facility. There would actually be a potential for greater air contaminants if the materials utilized by the facility are disposed of or remediated in a different manner.

4. That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.

The facility owners have thoroughly considered the feasibility of curtailing operations in lieu of obtaining a variance and determined the business could not survive a 3-6 month shutdown without income.

5. During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.

All emissions permit limits will continue to be met and monitored continuously for compliance.

6. During the period the variance is in effect, that the applicant will monitor or otherwise quantify emission levels from the source, if requested to do so by the district, and report these emission levels to the district pursuant to a schedule established by the district.

All emissions permit limits will continue to be met and monitored continuously for compliance.

(b) As used in this section, "public agency" means any state agency, board, or commission, any county, city and county, city, regional agency, public district, or other political subdivision.

(Amended by Stats. 1992, Ch. 1025, Sec. 1. Effective January 1, 1993.)

In addition, American Renewable Power agrees with the following stipulations of California Health and Safety Code 42352.5.

(a) The hearing board, in determining whether or not the petitioner has presented evidence sufficient to make the finding specified in paragraph (2) of subdivision (a) of Section 42352 or paragraph (2) of subdivision (a) of Section 42368, shall consider, in addition to any other relevant factors, both of the following:

(1) In determining whether or not conditions exist which are beyond the reasonable control of the petitioner, the hearing board shall consider the extent to which the petitioner took actions to comply or seek a variance, which were timely and reasonable under the circumstances. In so doing, the hearing board shall consider actions taken by the petitioner since the adoption of the rule, regulation, or order from which the variance is sought.

(2) In determining whether or not requiring compliance would result in either an arbitrary or unreasonable taking of property or the practical closing and elimination of a lawful business, the hearing board shall consider whether or not an unreasonable burden would be imposed upon the petitioner if immediate compliance is required.

(b) (1) As used in this subdivision, "small business" has the same meaning as defined by the Small Business Administration, except that no stationary source which is a major source, as defined by applicable provisions of the federal Clean Air Act (42 U.S.C. Sec. 7661(2)), is a small business.

(2) If the petitioner is a small business and emits 10 tons or less per year of air contaminants, the hearing board shall consider the factors specified in subdivision (a) in the following manner:

(A) In determining the extent to which the petitioner took timely actions to comply or seek a variance, the hearing board shall make specific inquiries into, and shall take into account, the reasons for any claimed ignorance of the requirement from which a variance is sought.

(B) In determining the extent to which the petitioner took reasonable actions to comply, the hearing board shall make specific inquiries into, and shall take into account, the petitioner's financial and other capabilities to comply.

(C) In determining whether or not the burden of requiring immediate compliance would be unreasonable, the hearing board shall make specific inquiries into, and shall consider, the impact on the petitioner's business and the benefit to the environment which would result if the petitioner is required to immediately comply.

(Amended by Stats. 1994, Ch. 443, Sec. 1. Effective September 7, 1994.)

If there are any additional questions or comments, please notify me with an email or phone call.

Sincerely,

Jim Turner-Operations

CELL 530-941-2796

OFFICE 530-993-4867