**INSTRUCTIONS FOR PETITION FOR VARIANCE**

1. Assistance in filing out this form is available by contacting the Bay Area Air Quality Management District Compliance Office at 415-749-4999.
2. Please type or print legibly.
3. Refer to the BAAQMD Regulations to determine all applicable rules and regulations that apply to your variance petition.
4. Refer to the Hearing Board Rules for information on the different types of variances; what types of evidence may be presented to the Hearing Board; and how the hearing will be conducted.
5. The filing fee for variances can be found on [Schedule A: Hearing Board Fees](https://www.baaqmd.gov/~/media/dotgov/files/rules/reg-3-fees/2024-amendment/documents/20240605_finalrule_rg0300-pdf.pdf?rev=0eb9a4028daf474a8a8389e528747cac&sc_lang=en). Once the Clerk has assigned the Applicant a docket number, online credit card payments may be made at [https://allpaid.com/plc/a005wq](https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fallpaid.com%2Fplc%2Fa005wq&data=05%7C01%7Cmhiratzka%40baaqmd.gov%7C303ee578e04f41d079a208dbb8733101%7C855defaabdae4e6281e53bb7aa04fc3a%7C0%7C0%7C638306577837749777%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=qjbBuwCRIJtjcKgZbsoRpK1lzior3m%2FHtr8AGs7DYzg%3D&reserved=0); or checks made out to “Bay Area Air Quality Management District” may be mailed to:

Clerk of the Boards

Bay Area Air Quality Management District

375 Beale Street, Suite 600

San Francisco, CA, 94105

1. Petition must be signed by the petitioner (applicant) or authorized agent. When the person signing if not the petitioner, petitioner should include a letter or notation indicating authority to sign.
2. Incomplete or unsigned petitions will not be accepted.

**TYPES OF VARIANCES**

For all legal requirements for the granting of variances, please refer to California Health & Safety Code, Article 2, Sections 42350 *et seq.*

**SHORT:** If compliance with District rule(s) can be achieved in **90 days or less**, request a short variance. (Hearing will be held after required 10-day posting notice.)

**REGULAR:** If compliance with District rule(s) will take **more than 90 days**, request a regular variance. If the variance request will extend beyond one year, you **must** include a specific detailed schedule of increments of progress which will lead to final compliance. (Hearing will be held after required 30-day public notice.)

**EMERGENCY:** If non-compliance is the result of an unforeseen emergency, such as a sudden equipment breakdown, power failure, or accidental fire, you may request an emergency variance. You may request an *ex parte* emergency variance in addition to an emergency variance. An emergency variance cannot be granted for more than **30 days.** Petitioner must present facts in its Petition and/or at the hearing to support a determination by the Hearing Board that **good cause** exists to hear a variance without notifying the public about the variance and providing the public with an opportunity to present evidence concerning the variance.(Hearing will be held as soon as possible during normal business hours after filing.)

**INTERIM:** If you require immediate relief (other than for emergencies) to cover the time until a short or regular variance hearing can be held, request an interim variance. An interim variance cannot extend beyond **90 days**. If you request an interim variance, you must also request a short or regular variance on the same Petition. Petitioner must present facts, in its Petition and/or at the hearing, too support a determination by the Hearing Board that **good cause** exists to hear a variance without notifying the public about the variance and providing the public with an opportunity to present evidence concerning the variance. (Hearing will be held as soon as possible after filing based on the Hearing Board’s calendar.)

**GROUP:** If there are multiple petitioners who are seeking variances based on common issues of law and fact, they may file for a group variance. The Bay Area AQMD General Counsel’s Office should be consulted prior to filing for a group variance. The Petition must be accompanied by written declarations, signed under penalty of perjury, from each member of the group setting forth sufficient evidence to support the findings for a variance. No person will be included in the group without the submission of the declaration. Counsel for the APCO must stipulate to the admissibility of each declaration. Emergency relief is not available for a group variance. (Hearing will be held after notice requirements for either a short or regular variance are met, depending on the time requested.)

**PRODUCT:** If you are a manufacturer whose product does not comply with District regulations, you may request variance coverage for the sale, purchase and use of that particular product. Consult the H&S Code Sections 42365 *et seq.* for additional requirements that attach to a product variance. (Hearing will be held after notice requirements for either a short or regular variance are met, depending on the time requested.)

**PETITION FOR VARIANCE**

**BEFORE THE HEARING BOARD OF THE**

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

PETITIONER

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Check One: \_\_\_Sole Proprietor \_\_\_Partnership \_\_\_Corporation

\_\_\_Government \_\_\_Non-Profit (specify)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name, title, and phone number of person(s) authorized to receive notices (no more than two):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Briefly describe the type of business or organization/agency activity:

Are you a Small Business as defined in Health and Safety Code Section 42352.5(b)?

\_\_\_Yes \_\_\_No

Are you a public agency providing an “essential public service” as defined in Health and Safety Code Section 42352?

\_\_\_Yes \_\_\_No

VARIANCE REQUEST

Type of Variance Requested:

If you are selecting Interim Variance, you must also select a Short or Regular Variance to follow.

\_\_\_Interim \_\_\_Short \_\_\_Regular \_\_\_Emergency \_\_\_Product \_\_\_Group

Good Cause: (Required only for Emergency and Interim Variances Explain why this Petition was not filed in sufficient time to issue the required public notice.)

OPERATION

Briefly describe the type of equipment or process that is the subject of this variance petition, and why it is necessary to your operation. Attach copies of the Permit(s) to Construct and/or Permit(s) to Operate for the subject equipment. For Title V facilities, attach only the relevant sections of the Facility Permit showing the equipment or process and conditions that are subject to this Petition. You must bring the entire Facility Permit to the hearing:

REGULATORY REQUIREMENTS

List all District Regulations, rules, and permit conditions that are the subject of this variance request. Identify all applicable subsections:

INFORMATION FOR VARIANCE FINDINGS

Is there a regular maintenance and/or inspection schedule for this equipment?

\_\_\_Yes \_\_\_No

If yes, how often: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of last maintenance and/or inspection: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Was there any indication of problems with the subject equipment?

\_\_\_Yes \_\_\_No

Were you issued any Notice(s) of Violation or Notice(s) to Comply concerning the equipment or activity that are the subject of this variance request within the past year?

\_\_\_Yes \_\_\_No

If yes, attach a copy of each notice.

Have you received any complaints from the public regarding the operation of the subject equipment or activity within the last six months?

\_\_\_Yes \_\_\_No

If yes, be prepared to present detailed testimony about the nature of these complaints at the hearing.

Has this matter been the subject of previous variance requests?

If yes, provide date of hearing, type of variance, and Hearing Board decision:

Explain why it is beyond your reasonable control to comply with the regulations and permit conditions that will be the subject of this variance:

**If you are seeking a product variance**, briefly describe how you attempted to locate, research, or develop a product that is in compliance with District rules and regulations:

When and how did you first become aware that you are not (or will not be) in compliance with the regulations, rules and/or permit conditions?

List the date(s) and action(s) you have taken since that time to achieve compliance:

What would be the harm to your business, agency or organization if the variance is not granted?

Economic losses:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Number of employees laid off, if any:\_\_\_\_\_\_\_\_

Provide detailed information regarding economic losses, if any (anticipated business closure, breach of contracts, hardship on customers, employees or the public, and/or similar impacts):

Can you curtail or terminate any operations in lieu of seeking a variance?

\_\_\_Yes (provide brief explanation)

\_\_\_No

Will any emissions occurring during the variance period result in odor, dust or smoke?

If yes, identify the type and amount of these emissions; what you can do to monitor and mitigate those emissions; and, the likely impact on the surrounding community.

Will any emissions occurring during the variance period result in excess opacity (total opacity above \_\_%)? (Check on percentage opacity considered “excess”)

If yes, identify the type and amount of these emissions; the likely duration of the excess opacity during the variance period; and, what you can do to monitor and mitigate those emissions.

Estimate all other excess emissions that will occur on a daily basis during the variance period. Excess emissions are those that exceed rule and permit condition limits.

Insert chart with columns for:

Pollutant

Total Estimated Excess Emissions (lbs/day)

Reduction Due to Mitigation (lbs/day)

Net Emissions after Mitigation (lbs/day)

Show calculations used to estimate quantities of excess emissions or explain why there will be no excess emissions:

Briefly describe the measures that will be taken to mitigate excess emissions to the maximum extent feasible during the variance period, or explain why mitigation measures are not feasible:

How do you plan to monitor or quantify emissions levels from the equipment or operations during the variance period?

Will you provide information regarding emissions during the variance period in a manner and frequency as requested by the District?

\_\_\_Yes \_\_\_No

COMPLIANCE

How do you intend to achieve compliance with the regulations and permit conditions that are the subject of the variance? Briefly describe any necessary process changes; equipment to be installed; or modifications to equipment or your facility. Identify whether authority to construct or a permit amendment will be necessary. Include dates by which you estimate actions will be completed and an estimate of total costs.

List any operating conditions or increments of progress, if any, that you propose to include in the variance order. If the variance is to extend beyond one year, you must propose increments of progress:

State the date you are requesting the variance to begin:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State the date on which you will achieve final compliance:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

List the names of any District staff with whom you or any of your staff or representatives have had contact concerning this variance petition or any related Notice of Violation or Notice to Comply. Include name, title and phone number:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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If this Petition was completed by someone other than the petitioner, provide their name and title:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following verification must be signed by the owner, manager, director, or other responsible party of the plant, business, factory, agency or organization requesting the variance:

I, the undersigned, hereby declare under penalty of perjury, under the laws of the State of California, that I have read the foregoing Petition, including attachments, and that their contents are true and correct.

Dated:\_\_\_\_\_\_\_\_\_\_\_\_, at (location)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Print name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_