



air pollution control district
SANTA BARBARA COUNTY

Hearing Board Agenda Item

TO: Air Pollution Control District Hearing Board
FROM: Aeron Arlin Genet, Air Pollution Control Officer 
CONTACT: Aimee Long, Air Quality Specialist, (805) 614-6793
SUBJECT: Hearing Board Policies and Procedures Revision

RECOMMENDATION:

Consider adoption of revised Hearing Board Policies and Procedures. Some of the significant revisions include:

1. Restructured and reorganized the document for improved clarity;
2. Added background information, Health and Safety Code references, and hyperlinks throughout the document;
3. Revised the petition submittal dates listed below to allow for enough review and preparation time prior to each Hearing. Consistent with the last Hearing Board Policies and Procedures, if relief is needed before the Variance hearing date, interim protection may be sought by filing an Interim Variance Petition in conjunction with the petition.
 - a. A Petition for a 90-Day Variance shall be submitted at least 30 calendar days prior to the hearing date. The previous submittal date was 21 days prior to the hearing date;
 - b. A Petition for a Regular Variance shall be submitted at least 30 calendar days prior to the hearing date. The previous submittal date was 21 days prior to the hearing date;
 - c. A Petition for a Modification or Revocation of Order permitting a Variance shall be submitted at least 30 calendar days prior to the hearing date. The previous submittal date was 21 days prior to the hearing date;
4. Added the following new sections to address Hearing Board items not previously included:

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- a. Single Hearing Board Member Meetings (Section I.B);
 - b. Regular Agenda (Public Hearings) (Section I.L);
 - c. Conflict of Interest (Section I.Q);
 - d. Interim Authorization for Modification of a Schedule of Increments of Progress (Section II.D);
 - e. Modification or Revocation of Order (Section II.G);
 - f. Modification of a Schedule of Increments of Progress (Section II.H);
 - g. Emission Reduction Credit (ERC) Disputes (Section III.C);
5. Moved Variances and other Petitions (e.g., Orders for Abatement, Permit Appeals, etc.) into separate sections (Sections II and III, respectively); and
 6. Expanded and updated the quick reference chart attachments.

BACKGROUND:

The Hearing Board periodically reviews and updates its policies and procedures for the conduct of hearings. The Air Pollution Control Officer, Clerk of the Board, District Counsel, Hearing Board Counsel, and District staff have reviewed the Policies and Procedures and are recommending revisions for consideration by the Hearing Board.

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SANTA BARBARA COUNTY

DRAFT
Hearing Board
Policies & Procedures

Adopted: Month XX, 2021.

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The Santa Barbara County Air Pollution Control District (District) Hearing Board is a quasi-judicial body made up of five members appointed by, but acting independently of, the District Board of Directors. The District Board of Directors may also appoint alternates. The Hearing Board is designated to hear Petitions for Variances from District rules and regulations, Orders for Abatement, requests for revocation of permits, and appeals of Air Pollution Control Officer (APCO) permit and Emission Reduction Credit (ERC) decisions. Participants in the Hearing Board meeting include the Petitioner, Air District Staff and the Public. The General Provisions for Hearing Boards are detailed in California Health and Safety Code (H&SC) §40800 – §40809.

I. General Policies and Procedures

A. Regular Hearing Board Meetings

The Hearing Board meets on the first Wednesday of each month at 9:30 a.m. in the Board of Supervisors' Hearing Room, 4th Floor, Administration Building, 105 East Anapamu Street, Santa Barbara, CA 93101 or Betteravia Government Center, 511 East Lakeside Parkway, Santa Maria, CA 93455. The dates and locations of meetings may be modified to accommodate noticing and quorum requirements. Meetings may be held at different locations with proper noticing. If no business exists, the Clerk of the Hearing Board (Clerk) shall properly notice the meeting is cancelled.

B. Single Hearing Board Member Meetings

Provisions in the H&SC allow Single Hearing Board Member meetings for certain Variances as listed in [Sections II.B through II.I](#) below, provided the population remains less than 750,000. In addition, Emergency Variances may be heard by a Single Hearing Board Member regardless of the population size. Single Hearing Board Member meetings are heard by the Hearing Board Chair, or any other member designated thereby, except alternate members. The dates and meeting locations are noticed and posted per the H&SC noticing requirements.

C. Special Meetings

Special meetings may be called by the Chair of the Hearing Board (Chair) or by a majority of the Hearing Board members. These will be noticed according to the provisions of the Brown Act (Government Code §54956, et seq.) which requires, in summary, that notice be delivered and posted at least 24 hours before the time set for such meeting. The notice shall specify the time and location(s) of the special meeting and the business to be transacted. No other business may be considered. The meeting agenda shall be posted on the District website: www.ourair.org/apcd/apcd-hearing-board-meeting/ and at each location.

D. Quorum

Three members of the Hearing Board shall constitute a quorum, (H&SC §40820) and no action shall be taken by the Hearing Board except in the presence of a quorum and upon affirmative vote of a majority of members. In the presence of three members, the vote to take action must be unanimous. Hearing Board members will notify the Clerk at the earliest possible opportunity if they will be unable to attend any scheduled meeting. If it appears a quorum will not be

present on a hearing date, the Clerk shall notify all noticed individuals and the public by order or notice of continuance that the hearing will be continued to a subsequent hearing.

E. Agenda Preparation

Each item of business to be considered at a Regular Hearing Board Meeting must appear on the Agenda for that meeting. The Agenda shall include a brief general description of each item of business to be transacted or discussed. The description should reasonably inform the public as to the nature of the item. All written material pertaining to an item on the Agenda of the Hearing Board must be submitted in compliance with procedures established by the Clerk and delivered to the Clerk's office no later than 12:00 noon on the 30th day preceding the Hearing Board meeting. The Hearing Board will not accept documents submitted late unless good cause is shown. All District briefing documents and evidentiary support materials must be provided to the Petitioner and all Petitioner briefing documents and evidentiary support materials must be provided to the District on the date of submittal to the Clerk.

If the Hearing Board determines that, for good cause, the above described submittal procedures are not or cannot be followed, or additional review and/or analysis is required, the matter may be continued.

If submitting anything other than a Petition, all additional materials submitted to the Clerk must include an original, 3 hardcopies, and an electronic version. Where there is a holiday observed by the District preceding the date of the Hearing Board meeting, the Clerk may, upon giving reasonable public notice, move up the deadline to provide adequate time for the preparation and distribution of the Agenda. Minutes of the previous meeting, the Agenda for the next meeting and copies of materials shall be transmitted to Hearing Board members a minimum of 7 calendar days before the meeting.

F. Agenda Posting

The Agenda for each Regular Hearing Board Meeting shall be posted at each meeting location at least 72 hours in advance (Brown Act, §54954.2, et. seq). In addition, agendas are posted at the District offices and on the District website: www.ourair.org/apcd/apcd-hearing-board-meeting/. The Clerk shall keep on file a signed declaration of the time and place of posting of the Agenda for each meeting. Such declaration shall remain on file for one year following the date of the meeting.

G. Agenda Publication

The Agenda for each Regular Hearing Board Meeting shall be available 7 calendar days preceding the meeting. Physical copies shall be available in the District Clerk's office, 260 North San Antonio Road, Suite A, Santa Barbara, CA 93110-1315. Any person wishing to receive an electronic copy of the agenda shall submit a request to the Clerk of the Board, 260 North San Antonio Road, Suite A, Santa Barbara, CA 93110-1315, or subscribe on the District website: www.ourair.org/subscribe. Persons may receive hardcopies of the Agenda if they make a request to the Clerk.

H. Public Hearing Notices

A public hearing on a specific matter shall be set for a specified time and location(s), and each written or published notice regarding that hearing shall announce its date, time, and location(s).

I. Order of Business

Hearing Board business at a Regular Hearing Board Meeting shall be conducted in the following order except as otherwise directed by the Hearing Board or the Chair:

1. Roll Call
2. Consideration of Minutes of prior meeting(s)
3. Announcements/Staff Reports
4. General Public Comment
5. Regular Agenda (Administration of Oath conducted and public testimony received for each case)
6. Administrative Agenda (Receive and File)
7. Adjournment

J. Public Comment

At each Regular Hearing Board Meeting, any member of the public may address the Hearing Board on a matter within its jurisdiction. The total amount of time at anyone meeting for public comments is generally no more than three minutes per person, per agenda item. All individual speakers and organized presentations to the Hearing Board are subject to time limits imposed at the discretion of the Chair. Any person wishing to address the Hearing Board is requested to submit and deliver to the Clerk a "Request to Speak" form prior to the time that the public comment period commences; the form shall include a description of the subject or agenda item the speaker wishes to address. A speaker shall not be heard during the general public comment portion of the meeting on a matter listed on the Agenda. Testimony on agenda items are appropriate when the item is being discussed by the Hearing Board, as outlined in [Requests to Speak on Agenda Items Section I.O](#) below.

The Hearing Board shall not take action on any item not appearing on the Agenda. However, the Hearing Board may refer matters raised during the "Public Comment" period to the appropriate staff.

K. Administrative Agenda

The Administrative Agenda is comprised of items which may not require discussion. An item shall be open for discussion only upon request by a member of the Hearing Board or a member of the public.

L. Regular Agenda (Public Hearings)

The Regular Agenda is comprised of items which require discussion and/or public hearing.

M. Items Not on Noticed Agenda

The Hearing Board may discuss and take action on a non-agenda item under the following three limited exceptions:

1. If by a majority vote, the Hearing Board determines that the matter in question constitutes an emergency pursuant to Government Code §54956.5. (§54954.2(b)(1));
2. When the Hearing Board determines by a two-thirds of the members present, or if two-thirds of the members are not present, by a unanimous vote of those remaining, that there is a need for immediate action which cannot reasonable wait for the next regularly scheduled meeting. (Government Code §54954.2(b)(2).); or
3. Where an item has been posted on an agenda for a prior meeting, the item may be continued to a subsequent meeting that is held within five days of the meeting for which the item was property posted. (Government Code §54954.2(b)(3).)

Except as provided in this paragraph, no action shall be taken at a Regular Hearing Board Meeting on any item which does not appear on the posted Agenda.

N. Time Limits

The Chair, may order reasonable limitations on testimony, including, but not limited to, limiting the amount of time allocated for testimony on a particular issue and for each individual speaker.

O. Requests to Speak on Agenda Items

A member of the public who wishes to address the Hearing Board regarding an item on the Agenda is requested to submit a "Request to Speak" form and deliver it to the Clerk prior to the scheduled time for commencement of the Agenda item. The Chair will administer oaths to swear in all members of the public wishing to provide public testimony regarding an item on the agenda. A member of the public may provide public comment without being sworn in, but such comment may not be considered evidence by the Hearing Board in making a decision on the agenda item. No person should substantially repeat the testimony given by a previous speaker but may indicate concurrence with the view expressed earlier.

P. Continuances

Public hearings on any matter shall be commenced and completed on the date for which they have been noticed unless the Hearing Board on its own motion continues the hearing or grants a requested continuance. Continuances may be requested as follows:

1. Requests to continue an item on the Agenda of a public hearing should be filed in writing in the office of the Clerk by 5:00 p.m. the day prior to the date set for the hearing. Such

requests should be signed by the person requesting the continuance or by an authorized representative and must clearly state reasons to justify the continuance. If a continuance is filed with the Clerk and granted by the Chair, Vice-Chair, or any two members of the Hearing Board in advance of the meeting, pursuant to District [Rule 516](#), this continuance will be noted on the Agenda, if possible. The Chair shall announce at the appropriate time to those in the meeting room that a request to continue the item has been received, by whom it was made, that it was granted, and that no further action is needed by the Hearing Board. In addition, the Clerk will notify, in advance of the meeting, the Hearing Board Members of the request for continuance, reason for the continuance, by whom the continuance was granted, and that no further action is needed by the Hearing Board.

2. Requests to continue an open public hearing may be made by any person verbally prior to the close of the public hearing. The request should include the reasons why a continuance is necessary. Those present and interested in the matter shall be given an opportunity to comment on the requested continuance.
3. If a continuance of 15 days or less is requested and concurred in by Petitioner, the Control Officer, and every person who has filed an answer in the action, the Hearing Board shall grant the continuance ([Rule 516](#)). The Hearing Board shall vote whether to grant or deny other continuance requests and may grant any reasonable continuance. If granted, the matter shall be continued to a specific date. In no instance shall the continuance exceed the existing approved variance effective time span.
4. In the absence of the Petitioner, his/her representative, or a request for continuance, the Hearing Board may:
 - a. Conduct the hearing and vote on the matter;
 - b. Continue the hearing to a later date;
 - c. Open the hearing and postpone the matter to a later place on the agenda; or
 - d. Open the hearing, receive evidence and continue the hearing to a new date.

Q. [Conflict of Interest](#)

Hearing Board members are public officials that may not partake in any governmental decision in which they have a disqualifying conflict of interest. Conflicts of interest arise when personal interests, whether financial or otherwise, interfere with the Hearing Board members ability to act objectively for public benefit. Hearing Board members must avoid the appearance of bias. A Hearing Board member must exclude themselves from all matters where there is or may be a conflict of interest.

II. Procedures for Filing and Processing Variances and Modifications

Eligible sources may submit a Petition for the types of Variances listed in [Sections II.B through II.I](#) below. The filing requirements vary in accordance with the type of Variance relief being sought. A single Variance form per facility is sufficient for any Petitioner seeking more than one Variance type for the same underlying incident (e.g., an Interim and Regular Variance) so long as all information is consistent for each Variance type requested. All Variance Petitions submitted for hearing shall be signed by the Petitioner under penalty of perjury under the Laws of the State of California and submitted to the Clerk with the applicable filing fee. Information regarding applicable filing fees is included in District [Rule 210](#), which is updated annually on July 1 to adjust for the consumer price index (CPI), and is available on the District website: www.ourair.org. Filing fees are non-refundable. Information regarding procedures for filing Variance Petitions, noticing requirements, and deadlines for the submission of documents is available below, as well as on the District website: www.ourair.org, or in the Clerk's office during regular business hours, or by calling (805) 961-8853.

Variances, as approved by the Hearing Board, may include conditions requiring emission offsets and/or other mitigation, increments of progress, and/or a performance bond pursuant to the H&SC. Increments of progress are act(s) the Petitioner is required to conduct on a specified timeline. If required, these actions, or increments of progress, are specified in the conditions of the Variance Order.

Filing of Variance Petitions:

Variance Petitions shall be completed using form [ENF-74](#), except as noted below. The [ENF-74](#) is available on the District website: www.ourair.org, or in the Clerk's office during regular business hours. Petitions shall be filed with the Clerk by submitting the [ENF-74](#) (e.g. by email to variance@sbcapcd.org, or delivering to the District offices). The required filing fee(s) shall be mailed to one of the addresses above, submitted in person, or paid by phone (805-961-8800) with a credit card. A case number will be assigned and will be used on all subsequent documents referring to the Variance. All exhibit materials submitted and accepted in appropriate form will be retained pursuant to the District's [Records Retention Policy and Procedure](#). The Clerk shall not accept for filing any Petition that does not comply with District rules relating to the form, content requirements, filing fee payment, and service of petitions unless the procedures in [Rule 508](#) are followed.

Executed Documents:

The Clerk will send a copy of executed documents to the California Air Resources Board (CARB) within 30 calendar days of decision, pursuant to H&SC §42360, and a copy will be sent to the Petitioner. Any Petition for judicial review shall be filed within 30 calendar days after the decision has been mailed pursuant to H&SC §40860 and 40864.

A. Findings Prerequisite to Grant of Variance (Six Findings)

In order for the Hearing Board to grant a Variance, unless otherwise noted below, the Hearing Board must make the Six Findings required by H&SC §42352. The following is intended as a guideline only, see H&SC §42352 for more information.

1. The Petitioner for a Variance is, or will be in violation of H&SC §41701, or any rule, regulation or order of the District.
2. Conditions causing the violation were beyond the reasonable control of the Petitioner and requiring compliance would result in either an arbitrary or unreasonable taking of property or the practical closing and elimination of a lawful business.
3. The closing or taking would be without a corresponding benefit in reducing air contaminants.
4. The Petitioner for the Variance has given consideration to curtailing operations of the source in lieu of obtaining a Variance.
5. During the period the Variance is in effect, the Petitioner will reduce excess emissions to the maximum extent feasible.
6. The Petitioner must quantify or monitor excess emissions while the Variance is in effect, if required by the Variance, and report these emissions to the District pursuant to the established schedule.

In order to make Finding 2 (Section II.A.2 above), the Hearing Board shall consider the following (H&SC §42352.5(a)):

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, including 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.

If the Hearing Board finds that the Petitioner is a “small business” [H&SC §42352.5(b)(1)], the Hearing Board shall consider the factors specified in H&SC §42352.5(a) in the following manner:

1. 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 for which the Variance is sought;
2. In determining the extent to which the Petitioner took reasonable actions to comply, the Hearing Board shall make specific inquiries into, and shall take account of, the Petitioner's financial and other abilities to comply; and
3. In determining whether or not the burden of requiring immediate compliance would be unreasonable, the Hearing Board shall make specific inquiries into the impact on the Petitioner's business and the benefit to the environment if the Petitioner is required to immediately comply.

If the Hearing Board finds that the Petitioner is a "public agency" [H&SC §42352(b)], it shall consider whether requiring immediate compliance would impose an unreasonable burden upon an "essential public service" [H&SC §42352(a)(2)].

Furthermore, a Variance may not be granted for the following:

1. From the requirement to obtain a permit to build, erect, alter, or replace [H&SC §42350(b)(1)];
2. From the requirement of Title V source to obtain a permit to operate or use [H&SC §42350(b)(2)];
3. From the emission cap requirement in districts with emission-capped trading programs, [H&SC §42350(b)(3)];
4. An Airborne Toxic Control Measure (ATCM) or other state law; or
5. If it will result in a violation of H&SC §41700 (nuisance) [H&SC §42353].

B. Emergency (E) Variance (H&SC §42359.5)

1. Purpose

An Emergency Variance is the typical remedy sought for any unforeseen situation requiring immediate action and expected to last no more than 30 calendar days. This may include a breakdown condition, as defined in District [Rule 505/506](#), which requires more than 24 hours to correct (except for continuous monitoring equipment for which the period is 96 hours).

2. Filing

A Petition for an Emergency Variance shall be submitted along with the appropriate filing fee for each Petition.

3. Noticing

There are no noticing requirements for an Emergency Variance.

4. Hearing

A single member of the Hearing Board may hear and make a decision on a Petition for an Emergency Variance. The District will contact the designated Hearing Board member to establish a time and place for consideration of the request and advise the Petitioner of such time and place. An Emergency Variance may be granted for good cause, including, but not limited to, a breakdown condition (The six findings, identified in the Findings Prerequisite to Grant of Variance (Six Findings) Section II.A above, do not need to be made for the granting of an Emergency Variance). If the Variance is sought due to a breakdown condition pursuant to District [Rules 505/506](#), then findings as outlined in [Rule 506\(B\)](#) must be made. .

5. Effective Time Span

An Emergency Variance is in effect for up to 30 calendar days and shall not be granted when sought to avoid the public noticing provisions of H&SC §40824 or §42351. Emergency Variances following a District [Rule 505](#) breakdown are limited to 15 calendar days. If additional time is needed, the Petitioner may instead file for a 90-Day or Regular Variance.

6. Processing

The District will prepare a Variance Order to be signed by the Hearing Board member within 15 days, pursuant to [Rule 517](#), and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing and inclusion on the next Hearing Board meeting Administrative Agenda for approval by the Hearing Board, provided the posting requirements specified in the Agenda Posting [Section I.F](#) are met.

C. Interim (I) Variance (H&SC §42351)

1. Purpose

Interim Variances allow the Petitioner to commence or continue operation, pending a decision of the Hearing Board on a Petition for a 90-Day or Regular Variance.

2. Filing

A Petition for Interim Variance must be filed in conjunction with a Petition for a 90-Day or Regular Variance. The Petitioner shall submit the appropriate filing fee with each Petition.

3. [Noticing](#)

The Hearing Board shall serve reasonable notice of the time and place of the hearing to the APCO and the Petitioner.

4. [Hearing](#)

A single member of the Hearing Board may hear and make a decision on a Petition for an Interim Variance. An Interim Variance may be granted for good cause. If a member of the public contests a decision made by a single member of the Hearing Board, the Petition shall be reheard by the Hearing Board within 10 calendar days of the decision [H&SC §40824(c)].

5. [Effective Time Span](#)

An Interim Variance is in effect for up to 90 calendar days or until the date of decision on the associated 90-Day or Regular Petition, whichever occurs first, and shall not be granted when sought to avoid the public noticing provisions of H&SC §40826.

6. [Processing](#)

The District will prepare a Variance Order to be signed by the single member of the Hearing Board within 10 calendar days after the hearing, or longer period if deemed necessary by the Hearing Board member and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing and inclusion on the next Hearing Board meeting Administrative Agenda for approval by the Hearing Board, provided the posting requirements specified in the Agenda Posting [Section I.F](#) are met.

D. [Interim Authorization for Modification of a Schedule of Increments of Progress \(IMS\) \(H&SC §42351.5\)](#)

1. [Purpose](#)

Interim Authorization for Modification of a Schedule of Increments of Progress allows the Petitioner to continue operation pending a hearing on a Petition for a Modification of a Schedule of Increments of Progress.

2. [Filing](#)

A Petition for Interim Authorization for Modification of a Schedule of Increments of Progress must be filed in conjunction with a Petition for Modification of a Schedule of Increments of Progress. The Petitioner shall submit the appropriate filing fee with each Petition.

3. [Noticing](#)

The Clerk shall schedule the Petition to be heard at the next Hearing Board meeting for which noticing requirements may be met and shall publish a public notice of the hearing

in at least one newspaper of general circulation not less than 10 calendar days prior to the hearing. Notice shall also be served to the APCO, the Respondent, and every person who requests such a notice (H&SC §40823).

4. Hearing

A single member of the Hearing Board may hear and make a decision on a Petition for an Interim Authorization for Modification of a Schedule of Increments of Progress. An Interim Authorization for Modification of a Schedule of Increments of Progress may be granted for good cause. If a member of the public contests a decision made by a single member of the Hearing Board, the Petition shall be reheard by the Hearing Board within 10 calendar days of the decision (H&SC §42351.5).

5. Effective Time Span

An Interim Authorization for Modification of a Schedule of Increments of Progress in a Variance Order is in effect for up to 30 calendar days, or the date of decision on the associated Petition for Modification of a Schedule of Increments of Progress, whichever occurs first, and shall not be granted when sought to avoid the public noticing provisions of H&SC §40824 or §42351.

6. Processing

The District will prepare a Variance Order to be signed by the single member of the Hearing Board within 10 calendar days after the hearing, or longer period if deemed necessary by the Hearing Board member and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing and inclusion on the next Hearing Board meeting Administrative Agenda for approval by the Hearing Board, provided the posting requirements specified in the Agenda Posting [Section I.F](#) are met.

E. 90-Day (N) Variance (H&SC §40825)

1. Purpose

A 90-Day Variance is the typical remedy sought for short term relief from District rule(s), regulatory requirements, and/or permit requirements when compliance will be achieved in 90 calendar days or less or when the situation does not qualify for an Emergency Variance. If a Petition for 90-Day Variance follows an Emergency and/or Interim Variance, the total time period for all Variances shall not exceed 90 calendar days.

2. Filing

A Petition for a 90-Day Variance shall be submitted at least 30 calendar days prior to the hearing date. If relief is needed before the 90-Day Variance hearing date, interim protection may be sought by filing an Interim Variance Petition in conjunction with the

90-Day Variance Petition. The Petitioner shall submit the appropriate filing fee with each Petition.

3. [Noticing](#)

The Clerk shall serve not less than 10 calendar days' notice prior to the hearing to the APCO, all other Districts within the South Central Coast Air Basin, California Air Resources Board (CARB), Environmental Protection Agency (EPA), and Petitioner (H&SC §40825).

4. [Hearing](#)

A single member of the Hearing Board may hear and make a decision on a Petition for a 90-Day Variance. In instances where the Petition is received in time to be able to provide notice for a Regularly Hearing Board Meeting, the Petition for 90-Day Variance may be heard by the Hearing Board. In order for the Variance to be granted, the six findings identified in the [Findings Prerequisite to Grant of Variance \(Six Findings\) Section II.A.1-6](#) above, must be made. If a member of the public contests a decision made by a single member of the Hearing Board, the Petition shall be reheard by the Hearing Board within 10 calendar days of the decision.

5. [Effective Time Span](#)

A 90-Day Variance, or series of Variances (including Emergency and/or Interim), is in effect for up to 90 calendar days (H&SC §40825).

6. [Processing](#)

The District will prepare a Variance Order to be signed by the single member of the Hearing Board within 10 calendar days after the hearing, or longer period if deemed necessary by the Hearing Board member and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing. If heard by a single member of the Hearing Board, the Variance Order will be included on the Administrative Agenda for the next Hearing Board meeting for approval by the Hearing Board, provided the posting requirements specified in the Agenda Posting [Section I.F](#) are met.

F. [Regular \(R\) Variance \(H&SC §42358\)](#)

1. [Purpose](#)

A Regular Variance is the typical remedy sought for relief from District rule(s), regulatory requirements, and/or permit requirements when more than 90 calendar days is required to achieve compliance.

2. [Filing](#)

A Petition for a Regular Variance shall be submitted at least 30 calendar days prior to the hearing date. If relief is needed before the Variance hearing date, interim

protection may be sought by filing an Interim Variance Petition in conjunction with the Regular Variance Petition. The Petitioner shall submit the appropriate filing fee for each Petition.

3. [Noticing](#)

The Clerk shall schedule the Petition to be heard at the next Hearing Board meeting for which noticing requirements may be met and shall publish a public notice of the hearing in at least one newspaper of general circulation not less than 15 calendar days prior to the hearing. Notice shall also be served to the APCO, all other Districts within the South Central Coast Air Basin, CARB, the EPA, the Petitioner, and every person who requests such a notice (H&SC §40826).

4. [Hearing](#)

Regular Variance Petitions are scheduled for hearing by the Hearing Board. Before the Hearing Board may grant a Variance, the Petitioner must submit sufficient evidence for the Hearing Board to make the six findings identified in [Findings Prerequisite to Grant of Variance \(Six Findings\) Section II.A.1-6](#) above.

5. [Effective Time Span](#)

A Regular Variance is in effect for up to one year unless a schedule of increments of progress is included [H&SC §42358(b)].

6. [Processing](#)

The District will prepare a Variance Order to be signed by the Chair within 10 calendar days after the hearing, or longer period if deemed necessary by the Chair and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing.

G. [Modification or Revocation of Order \(M\) \(H&SC §42356\)](#)

1. [Purpose](#)

The Hearing Board may modify or revoke, by written order, any order permitting a Variance (H&SC §42356).

2. [Filing](#)

A Petition for a Modification or Revocation of Order permitting a Variance shall be submitted at least 30 calendar days prior to the hearing date. For Modification of Order permitting a Variance, the Petitioner shall submit [ENF-74](#) and the appropriate filing fee for each Petition. Petitions for Revocation of Order permitting a Variance shall be submitted in writing with all documentary evidence and support materials proposed to be introduced at the hearing.

3. **Noticing**

The Clerk shall schedule the Petition to be heard at the next Hearing Board meeting for which noticing requirements may be met and shall publish a public notice of the hearing in at least one newspaper of general circulation not less than 15 calendar days prior to the hearing. Notice shall also be served to the APCO, all other Districts within the South Central Coast Air Basin, CARB, the EPA, the Petitioner, and every person who requests such a notice (H&SC §40826).

4. **Hearing**

Petitions for Modification or Revocation of Order permitting a Variance are scheduled for hearing before the Hearing Board.

5. **Effective Time Span**

A Modification of a Variance Order is in effect for up to one year unless a schedule of increments of progress is included, without extending the original variance period [H&SC §42358(b)].

6. **Processing**

The District will prepare a Variance Order to be signed by the Chair within 10 calendar days after the hearing, or longer period if deemed necessary by the Chair and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing.

H. **Modification of a Schedule of Increments of Progress (MS) (H&SC §42357)**

1. **Purpose**

The Hearing Board may review and, for good cause such as a change in the availability of materials, equipment, or adequate technology, modify a schedule of increments of progress or a final compliance date in such a schedule (H&SC §42357).

2. **Filing**

A Petition for a Modification of Schedule of Increments of Progress, including modification of a final compliance date, shall be submitted at least 30 calendar days prior to the hearing date. The Petitioner shall submit the appropriate filing fee for each Petition.

3. **Noticing**

The Clerk shall serve not less than 10 calendar days' notice prior to the hearing to the APCO, all other Districts within the South Central Coast Air Basin, CARB, the EPA, and the Petitioner (H&SC §40825).

4. Hearing

Modification of Increments of Progress Petitions may be heard by a single Hearing Board member. In instances where the Petition is received in time to be able to provide notice for a Regularly Hearing Board Meeting, the Petition for a Modification of a Schedule of Increments of Progress may be heard by the Hearing Board. Petitions may be granted for good cause, such as the change in the availability of materials, equipment, or adequate technology, modify a schedule of increments of progress or a final compliance date in such a schedule. If a member of the public contests a decision made by a single member of the Hearing Board, the Petition shall be reheard by the Hearing Board within 10 calendars days of the decision.

5. Effective Time Span

A Modification of Increments of Progress Variance is in effect for up to one year, unless a schedule of increments of progress is included, without extending the original variance period [H&SC §42358(b)].

6. Processing

The District will prepare a Variance Order to be signed by the Chair within 10 calendar days after the hearing, or longer period if deemed necessary by the Chair and shall become effective pursuant to [Rule 518](#). The District will transmit the final executed copy to the Clerk for filing.

I. Product Variance (P) (H&SC §42365 – §42372)

Any person who manufactures a product may petition the Hearing Board for a Product Variance from a District rule or regulation pursuant to Article 2.5 of the Health and Safety Code. A Product Variance is attached to a specific product (H&SC §42366) and granted to the manufacturer (H&SC §42365 and §42370) for up to one year (H&SC §42372). Extensions may be granted for up to two years if they include increments of progress and proof of compliance with the required findings of H&SC §42368. The five findings are required be made prior to the granting of a Product Variance. If the Product Variance is granted subject to conditions on the use of the product: 1) the manufacturer must provide the notices detailed in H&SC §42368(b); and 2) the District shall cause the same notice to be published pursuant to Section 6061 of the Government Code. (H&SC §42368(c)). See H&SC §42365 - §42372 for more information.

As of the adopted date of this document, the Hearing Board has not received a Product Variance petition. For any future Product Variance petitions, email variance@sbcapcd.org and the District will provide assistance with the process identified in the Health and Safety Code sections listed above.

III. Procedures for Filing and Processing Other Petitions

Petitions may be submitted for Orders for Abatement, Appeals and Revocation of Permits, and Emission Reduction Credit (ERC) Disputes, as listed in [Sections III.A through III.C](#) below. The filing requirements vary in accordance with the type of Petition submitted. All Petitions submitted for hearing shall be signed by the Petitioner under penalty of perjury under the Laws of the State of California and submitted to the Clerk with the applicable filing fee. Information regarding applicable filing fees is included in District [Rule 210](#), which is updated annually on July 1 to adjust for the CPI, and is available on the District website: www.ourair.org. Fees are non-refundable. Information regarding procedures for filing Petitions, noticing requirements and time deadlines for the submission of documents is available below, as well as on the District website: www.ourair.org, or in the Clerk's office during regular business hours, or by calling (805) 961-8853.

Filing:

Petitions shall be filed with the Clerk by submitting the petition (e.g. via email to petition@sbcapcd.org, or delivering to the District offices). The required filing fee(s) shall be mailed to one of the addresses above, submitted in person, or paid by phone (805-961-8800) with a credit card. A case number will be assigned and will be used on all subsequent documents referring to the Petition. All exhibit materials submitted and accepted in appropriate form will be retained pursuant to the District's [Records Retention Policy and Procedure](#). The Clerk shall not accept for filing any Petition that does not comply with District rules relating to the form, content requirements, filing fee payment, and service of petitions unless the procedures in [Rule 508](#) are followed.

Executed Documents:

Pursuant to H&SC §40860, once the Hearing Board announces its decision in writing, it shall immediately be filed with the Clerk and mailed or delivered to the Control Officer, and all parties or their attorneys involved in the proceedings.

Pursuant to H&SC §40864, any Petition for judicial review shall be filed within 30 calendar days after the decision has been mailed pursuant to H&SC §40860.

A. Order for Abatement (A) and Stipulated Orders for Abatement (SA) (H&SC §42451)

1. Purpose

The Hearing Board may issue an Order for Abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit, or is in violation of H&SC §41700 or §41701 or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air [H&SC §42451(a)].

As an alternative, the Hearing Board may issue a Stipulated Order for Abatement pursuant to the stipulation of the APCO and the person or persons accused of

constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or of violating H&SC §41700 or §41701, or any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air, upon the terms and conditions set forth in the stipulation, without making the finding required under H&SC §42451(a). The hearing board shall include a written explanation of its action in the Order for Abatement [H&SC §42451(b)].

2. Filing

A Petition for Abatement or Stipulated Order for Abatement may be filed by the Hearing Board on its own motion, or upon the motion of the District Board or the APCO. An original Petition for Abatement, along with 3 hardcopies, and an electronic version shall be filed with the Clerk. A case number will be assigned and shall be used on all subsequent documents referring to the same underlying incident.

All documentary evidence and support materials proposed to be introduced at the hearing by Petitioner shall be submitted to the Clerk, at least 30 calendar days prior to the hearing date. Pursuant to [Rule 509](#), any person may answer the Petition within 10 days of service. All Petitioner's briefing documents and evidentiary support materials must be provided to the Respondent and all Respondent's briefing documents and evidentiary support materials must be provided to the Petitioner on the date of submittal to the Clerk. The Chair may require a briefing schedule to be submitted by the parties where deemed appropriate and necessary. If the above described submittal procedures are not or cannot be followed, or additional review and/or analysis is required, the hearing on the case may be continued to a subsequent date, provided, however, that the Hearing Board may permit later submission of documentary evidence.

3. Noticing

The Clerk shall schedule the Petition to be heard at the next Hearing Board meeting for which noticing requirements may be met and shall publish a public notice of the hearing in at least one newspaper of general circulation not less than 10 calendar days prior to the hearing. Notice shall also be served to the APCO, the Respondent, and every person who requests such a notice (H&SC §40823).

4. Hearing

A Petition for Abatement or Stipulated Order for Abatement is scheduled for hearing before the Hearing Board. Alternately, a Petition for Abatement may be heard by the District Board. The Order for Abatement or Stipulated Order for Abatement is framed in the manner of a writ of injunction requiring the Respondent to refrain from a particular act. The Order for Abatement may be conditional and require a Respondent to refrain from a particular act unless certain conditions are met. The Order for Abatement or Stipulated Order for Abatement does not have the effect of permitting a Variance unless all the conditions for a Variance, including limitation of time, are met. (Refer to H&SC §42453 and §42454 for injunction proceedings.)

5. Effective Time Span

The Hearing Board determines the effective time span of an Order for Abatement or Stipulated Order for Abatement.

B. Appeals and Revocations of Permits

1. Purpose

The Hearing Board may hear Petitions for Appeals of the denial, issuance, or suspension of permits. Additionally, the Hearing Board may hear requests for revocation of permits.

2. Filing

An original Petition, along with 3 hardcopies, and an electronic version shall be filed with the Clerk. A case number will be assigned and shall be used on all subsequent documents referring to the same underlying incident. Petitions shall be filed based on the following:

a. Appeal of Permit Denial (APD) H&SC §42302

An applicant for a Permit that has been denied may request, within 30 calendar days after receipt of the notice of the denial, the Hearing Board hold a hearing on whether the permit was properly denied and submit the information detailed in [Rule 507](#).

b. Appeal of Permit Issuance (API) H&SC §42302.1

Within 30 calendar days of any decision or action pertaining to the issuance of a permit by the District, mailing of the notice of issuance of the permit, or publication and mailing of notice; any aggrieved person who appeared, submitted written testimony, or otherwise participated in the action before the District may request the Hearing Board hold a public hearing to determine whether the permit was properly issued. Except as provided in H&SC §42302.1, the Hearing Board shall hold a public hearing and shall render a decision on whether the permit was properly issued within 30 days of the request.

c. Appeal of Permit Suspension (APS) H&SC §42306

Within 10 calendar days after receipt of the notice of suspension pursuant to H&SC §42304, the permittee may request the Hearing Board hold a hearing to determine whether the permit was properly suspended. The Hearing Board may remove the suspension of an existing permit invoked by the APCO pending the furnishing by the permittee of the information, analyses, plans, and specifications required (H&SC §42309(c)).

d. [Revocation of Permit \(RP\) H&SC §42307](#)

An APCO may request the Hearing Board hold a hearing to determine whether a permit should be revoked, if the APCO finds that the permit holder is violating any applicable order, rule, or regulation of the District or any applicable provision of this division.

All documentary evidence and support materials proposed to be introduced at the hearing by the moving party shall be submitted to the Clerk at least 30 calendar days prior to the hearing date. Pursuant to [Rule 509](#), any person may answer the Petition within 10 days of service. All Petitioner's briefing documents and evidentiary support materials must be provided to the Respondent and all Respondent's briefing documents and evidentiary support materials must be provided to the Petitioner on the date of submittal to the Clerk. The Chair may require a briefing schedule to be submitted by the parties where deemed appropriate and necessary. If the above described submittal procedures are not or cannot be followed, or additional review and/or analysis is required, the hearing on the case may be continued to a subsequent date, provided, however, that the Hearing Board may permit later submission of documentary evidence.

3. [Noticing](#)

The Clerk shall schedule the Appeal/Request for Revocation to be heard at the next Hearing Board meeting for which noticing requirements may be met and shall publish a public notice of the hearing in at least one newspaper of general circulation not less than 10 calendar days prior to the hearing. Notice shall also be served to the APCO, the Respondent, and every person who requests such a notice (H&SC §40823).

4. [Hearing](#)

Petitions are scheduled for hearing before the Hearing Board. The Hearing Board may do any of the following (H&SC §42309):

a. [Appeal of Permit Denial](#)

- i. Make no change to a permit denied by the APCO and affirm denial of the permit; or
- ii. Grant a permit denied by the APCO by directing the APCO to draft a permit for the Hearing Board's review and approval.

b. [Appeal of Permit Issuance](#)

- i. Make no change to a permit issued by the APCO and affirm issuance;
- ii. Modify conditions of a permit issued by the APCO and affirm issuance; or
- iii. Reverse the decision for a permit issued by the APCO and deny the permit.

c. [Appeal of Permit Suspension](#)

- i. Make no change regarding a permit suspended by the APCO and affirm suspension; or
- ii. Reinstate a permit suspended by the APCO.

d. [Revocation of Permit](#)

The Hearing Board may revoke an existing permit, if it finds any of the following (H&SC §42309(e)):

- i. The permittee has failed to correct any conditions required by the APCO;
- ii. A refusal of a permit would be justified;
- iii. Fraud or deceit was employed in the obtaining of the permit; or
- iv. Any violation of the Health and Safety Code, or any applicable order, rule, or regulation of the District.

5. [Effective Time Span](#)

The Hearing Board determines the effective time span on a case-by-case basis.

C. [Emission Reduction Credit \(ERC\) Disputes \(ED\) \(H&SC §40713\)](#)

1. [Purpose](#)

The Hearing Board may hear an Appeal request on whether the application for Emission Reduction Credit(s) (ERC) was properly denied.

2. [Filing](#)

An original Petition, along with 3 hardcopies and an electronic version, shall be filed with the Clerk. A case number will be assigned and shall be used on all subsequent documents referring to the same underlying incident.

An applicant for ERCs that has been denied may request, within 30 calendar days after receipt of the notice of refusal, the Hearing Board hold a hearing on whether the ERC(s) was/were properly denied.

All documentary evidence and support materials proposed to be introduced at the hearing by the Appellant shall be submitted to the Clerk at least 30 calendar days prior to the hearing date. Pursuant to [Rule 509](#), any person may answer the Petition within 10 days of service. All of Appellant's briefing documents and evidentiary support materials must be provided to the District and all District's briefing documents and evidentiary support materials must be provided to the Appellant on the date of

submittal to the Clerk. The Chair may require a briefing schedule to be submitted by the parties where deemed appropriate and necessary. If the above described submittal procedures are not or cannot be followed, or additional review and/or analysis is required, the hearing on the case may be continued to a subsequent date, provided, however, that the Hearing Board may permit later submission of documentary evidence.

3. Noticing

The Clerk shall schedule the Petition to be heard at the next Hearing Board meeting for which noticing requirements may be met and shall publish a public notice of the hearing in at least one newspaper of general circulation not less than 10 calendar days prior to the hearing. Notice shall also be served to the APCO, the Respondent, and every person who requests such a notice (H&SC §40823).

4. Hearing

Petitions are scheduled for hearing before the Hearing Board.

IV. Hearing Procedures

A. Order of Proceedings

The order of proceedings for each item before the Hearing Board shall ordinarily be as follows. The Hearing Board may, at its discretion, alter the order of proceedings to expedite the business of the Hearing Board.

1. Announcement of pending matters;
2. Chair, or designee, administers oaths to all parties including public that will be providing evidentiary testimony;
3. Appearances of parties; Chair, or designee, confirms oath was affirmed;
4. Opening statement of moving party;
5. Evidence produced by moving party;
6. Opening statement of responding party, if applicable;
7. Evidence produced by responding party, if applicable;
8. Public testimony; Chair, or designee, confirms oath was affirmed and receives public testimony;
9. Rebuttal evidence produced by moving party;
10. Surrebuttal evidence produced by responding party, if applicable;

11. Closing argument of moving party;
12. Closing argument of responding party, if applicable;
13. Board discussion and questions on the matter;
14. Matter decided, taken under submission or continued.

B. Evidence

1. Oral evidence shall be taken only on oath or affirmation. Written or documentary evidence shall be taken only if submitted in affidavit form and in accordance with Hearing Board procedures.
2. Pursuant to [Rule 513](#), each party shall have the following rights: to testify; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut evidence against him. If respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.
3. The Hearing Board shall allow interested members of the public a reasonable opportunity to testify with regard to the matter under consideration and the Hearing Board shall consider such testimony in making its determination, provided however, that such testimony and evidence shall be relevant and material to the matter being heard by the Hearing Board (H&SC §40828(a)).
4. The Hearing Board shall prepare a record of the witnesses and the testimony of each witness at the hearing. The record may be an audio recording. The record shall be retained by the Hearing Board while the variance is in effect, or for the period of one year, whichever is longer (H&SC §40828(b)).
5. Affidavits:
 - a. Ten or more calendar days prior to the hearing, or prior to a continued hearing, any party that proposes to introduce an affidavit into evidence may mail or deliver a copy of such affidavit to the opposing party together with a notice as provided in Section IV.B.5.b below. Unless the opposing party, within seven calendar days after such mailing or delivery, delivers to the proponent a request to cross-examine an affiant, the right to cross examine such affiant by such party is waived. If an opportunity to cross examine an affiant is not afforded after request is made as herein provided, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

- b. The notice referred to in [Section IV.B.5.a](#) (above) shall be substantially in the following form:

The accompanying affidavit of [name of affiant] will be introduced as evidence at the hearing in [title of proceeding]. [Name of affiant] will not be called to testify in person and you will not be entitled to question the affiant unless you notify [name of proponent or attorney] at [address] that you wish to cross-examine. To be effective, your request must be delivered to [name of proponent or attorney] on or before [a date seven calendar days after the date of mailing or delivering the affidavit to the opposing party].

- c. Affidavits shall be in substantially the following form and shall contain the following affirmation and oath:

I, _____ (name), state:

_____ [set forth facts]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that, if sworn as a witness, I could competently testify to the foregoing.

_____ (Date and Place)

_____ (Signature and Title)

6. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.
7. Irrelevant and unduly repetitious evidence shall be excluded. The Hearing Board, in its discretion, may exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time or create substantial danger of undue prejudice, or confuse the issues or where matters sought to be proved are otherwise established.

8. Official Notice (Putting noticed matters upon record; Manner of Refutation): In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any generally accepted technical or scientific matter within the Hearing Board's special field, and of any fact which may be judicially noticed by the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Hearing Board.

C. Withdrawals

Pursuant to [Rule 510](#), the Petitioner may withdraw a Petition at any time before submission of the case to the Hearing Board without a hearing or meeting of the Hearing Board. A Petition shall be considered submitted to the Hearing Board after the Hearing Board has convened a formal hearing on the Petition. All requests for Petition withdrawal, must be submitted in writing to the Clerk (variance@sbcapcd.org or petition@sbcapcd.org) stating reason(s) for the withdrawal. After the Petition withdrawal request is received, the Clerk will notify the members of the Hearing Board and all parties to the matter of the withdrawal and reason(s). If a Petition is withdrawn, no action can be taken by the Hearing Board. However, if available, the Petitioner is encouraged to attend the Hearing Board Meeting for which an agenda has already been posted.

V. Interpretation and Application of these Policies and Procedures

Noncompliance by the Hearing Board with those procedures and policies not mandated by state or federal legislation shall not invalidate any action taken by the Hearing Board, nor shall such noncompliance constitute a cause of action against the Hearing Board and/or District concerning any matter.

All questions regarding the proper interpretation and application of these policies and procedures shall be resolved by the Hearing Board where interpretation of such questions is final and binding.

ADOPTED this X day of Month, 2021.

Lee-Volker Cox, Chair

Santa Barbara County Air Pollution Control District Hearing Board

ATTEST:

AERON ARLIN GENET
Clerk of the District Board

Lorena Saldana
Deputy Clerk of the Hearing Board

ATTACHMENT A: Variance Quick Reference Chart

Type of Variance	H&SC §	Time Span	Hearing Noticing Requirements	Further Considerations
<u>EMERGENCY (E)</u>	42359.5	Up to 30 days or 15 days after District <u>Rule 506</u> breakdown	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> May be granted for good cause May not be granted to avoid provisions of H&SC §40824 & §42351 May be heard by 1 Hearing Board Member
<u>INTERIM (I)</u>	42351 & 40824	Up to 90 days or date of decision on the 90-Day or Regular Petition	<ul style="list-style-type: none"> Reasonable notice to APCO and Petitioner 	<ul style="list-style-type: none"> May be granted for good cause May not be granted after 90-Day or Regular Variance hearing May not be granted to avoid noticing Must accompany a 90-Day or Regular Petition May be heard by 1 Hearing Board Member
<u>INTERIM MODIFICATION OF SCHEDULE OF INCREMENTS OF PROGRESS (IMS)</u>	42351.5 & 40824	Up to 30 days	<ul style="list-style-type: none"> Reasonable notice to APCO and Petitioner 	<ul style="list-style-type: none"> May be granted for good cause No more than one allowed May not extend final compliance date May be heard by 1 Hearing Board Member
<u>90-DAY (N)</u>	40825 & 42352	Up to 90 days	<ul style="list-style-type: none"> 10 day to APCO, Districts within Air Basin, CARB, EPA and Petitioner 	<ul style="list-style-type: none"> Six findings are required May be heard by 1 Hearing Board Member
<u>REGULAR (R)</u>	42358, 40826, 42352	Up to 1 year unless schedule of increments of progress	<ul style="list-style-type: none"> 15 day to APCO, Districts within Air Basin, CARB, EPA, Petitioner, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> Six findings are required Quorum required
<u>MODIFICATION OR REVOCATION OF ORDER (M)</u>	42356, 42358, 40826, 42352	Determined by Hearing Board	<ul style="list-style-type: none"> 15 day to APCO, Districts within Air Basin, CARB, EPA, Petitioner, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> Six findings are required Quorum required
<u>MODIFICATION OF SCHEDULE OF INCREMENTS OF PROGRESS (MS)</u>	42357, 42358, 40825	Determined by Hearing Board	<ul style="list-style-type: none"> 10 day to APCO, Districts within Air Basin, CARB, EPA and Petitioner 	<ul style="list-style-type: none"> May be granted for good cause May be heard by 1 Hearing Board Member
<u>PRODUCT (P)</u>	42365 - 42372	See H&SC §42365 - §42372 for more information		

This table is for quick reference only. Please refer to the Health and Safety Code for complete information.

ATTACHMENT B: Order for Abatement Quick Reference Chart

Type of Abatement Order	H&SC Section	Hearing Noticing Requirements	Further Considerations
<p><u>ORDER FOR ABATEMENT (A)</u></p>	<p>42450, 42451(a), 42452, 40823, 40826, 42301.7(c)(2)</p>	<ul style="list-style-type: none"> • 10 day to APCO, person(s) affected, and any interested member of the public • If effectively granting a Variance (H&SC §42452), 15 day to APCO, Districts within Air Basin, CARB, EPA, Petitioner, interested public (H&SC §40826) • Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> • May be filed by APCO, District Board, or Hearing Board • May be issued for constructing or operating any article, machine, equipment, or other contrivance without a permit, violating H&SC §41700 (Nuisance), H&SC §41701 (Opacity), any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air (H&SC §42451(a)), or H&SC §42301.7 (threat of release of air contaminants near school) • Hearing Board determines effective time span • May be conditional and requires a respondent to refrain from an act unless certain conditions are met (cease and desist if conditions not met) • Shall not have the effect of granting a Variance, unless all conditions for a Variance, including limitation of time, are met (H&SC §42452)
<p><u>STIPULATED ABATEMENT ORDER (SA)</u></p>	<p>45250, 42451(b), 42452, 40823, 42301.7(c)(2)</p>	<ul style="list-style-type: none"> • 10 day to APCO, person(s) affected, interested public • Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> • May be filed by APCO, District Board, or Hearing Board • May be issued pursuant to stipulation of APCO and person(s) accused of constructing or operating any article, machine, equipment, or other contrivance without a permit, or violating H&SC §41700 (Nuisance), H&SC §41701 (Opacity), any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air (H&SC §42451(a)), or H&SC §42301.7 (threat of release of air contaminants near school), upon the terms and conditions set forth in the stipulation, without making the finding required under H&SC §42451(a) • Specific terms and conditions agreed upon by the District and the Source • No finding/admission of violation • Hearing Board determines effective time span • May be conditional and requires a respondent to refrain from an act unless certain conditions are met • Shall not have the effect of granting a Variance

This table is for quick reference only. Please refer to the Health and Safety Code for complete information.

ATTACHMENT C: Appeals and Revocations of Permits Quick Reference Chart

Type of Appeal/Revocation	H&SC Section	Hearing Noticing Requirements	Further Considerations
<u>APPEAL OF PERMIT DENIAL (APD)</u>	42302	<ul style="list-style-type: none"> 10 day to APCO, applicant for denied permit, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> May be filed by applicant for denied permit Must be filed within 30 days after receipt of notice of denial Hearing to determine whether permit was properly denied
<u>APPEAL OF PERMIT ISSUANCE (API)</u>	42302.1	<ul style="list-style-type: none"> 10 day to APCO, person(s) affected, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> May be filed by any aggrieved person who participated in the permit issuance Must be filed within 30 days of decision of permit issuance, or 30 days after mailing of notice of issuance Hearing to determine whether permit was properly issued
<u>APPEAL OF PERMIT SUSPENSION (APS)</u>	42306	<ul style="list-style-type: none"> 10 day to APCO, permittee, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> May be filed by permittee Must be filed within 10 days after receipt of notice of suspension Hearing to determine whether permit was properly suspended
<u>REVOCAION OF PERMIT (RP)</u>	42307	<ul style="list-style-type: none"> 10 day to APCO, permittee, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> May be filed by APCO Hearing to determine whether a permit should be revoked, if permit holder is violating order, rule, regulation
<u>EMISSION REDUCTION CREDIT DISPUTES (ED)</u>	40713	<ul style="list-style-type: none"> 10 day to APCO, permittee, interested public Public notice in at least one newspaper of general circulation 	<ul style="list-style-type: none"> May be filed by applicant for refused ERC(s) Must be filed within 30 days after receipt of notice of refusal Hearing to determine whether ERC(s) was/were properly refused

This table is for quick reference only. Please refer to the Health and Safety Code for complete information.