

SOUTH COAST AQMD
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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

AMERICAN NUTS,

[Facility I.D. No. 203361]

Section 42350 of the California Health and Safety
Code

Case No. 6279-1

**(PROPOSED)
ORDER GRANTING A REGULAR
VARIANCE**

Hearing Date: November 13, 2025

FINDINGS AND DECISION OF THE HEARING BOARD

This petition for a regular variance was heard on the consent calendar on November 13, 2025 pursuant to notice and in accordance with the provisions of California Health and Safety Code Section 40826 and District Rule 510. The matter was placed on the Consent Calendar pursuant to the Joint Stipulation to Place Matter on Consent Calendar. The following members of the Hearing Board were present: Micah Ali, Chair; Robert Pearman, Vice Chair; Jerry P. Abraham, MD, MPH, CMQ; Cynthia Verdugo-Peralta, and Mohan Balagopalan. Petitioner American Nuts (hereinafter "Petitioner" or "American Nuts") was represented by Aron Potash, of the law firm of Latham & Watkins. Respondent, Executive Officer, was represented by Stacey Pruitt, Senior Deputy District Counsel. Counsel for Petitioner and Respondent did not appear during the Consent Calendar hearing. The public was given the opportunity to testify. The Declaration of Jim Buatte was received as evidence and the Proposed Findings and Decision of the Hearing Board was received as an exhibit, and the case submitted. The Hearing Board finds and decides as follows:

Nature of Business and Location of Facility

Petitioner, located at 12950 San Fernando Road in Sylmar, California, operates a nut roasting facility. Petitioner roasts nuts and seeds using oil roasters and dry roasters. Petitioner has operated in Sylmar, CA since the 1980s.

Equipment and Permit to Construct/Operate

The equipment that is the subject of this petition consists of two nut dry roasters, DR2 and DR5. The equipment is operated pursuant to Facility Permit Nos. G80477 (DR2) and G80480 (DR5), each dated July 17, 2025.

SUMMARY

Petitioner will be in violation of District Rules 203(b) because this District Rule requires Petitioner to comply with all Facility Permit conditions.

In April 2024, the District identified that the facility's dry roasters and oil roasters require District permits to operate. Petitioner filed permit applications with the District in May 2024 to obtain permits for the roasters. The District issued permits for the roasters, which Petitioner received from the District in August 2025.

The permits impose throughput limits that are, in certain cases, orders of magnitude lower than historic facility throughputs that the facility has operated at for decades. Petitioner believes that operating at the lower throughputs in the permits would force Petitioner out of business, as the throughputs are so low that the business could not be profitably run.

Petitioner developed a plan to revise these throughputs. The plan will require Petitioner to purchase a thermal oxidizer and retrofit certain burners with lower NOx burners.

Petitioner is also willing to shut down certain roasters that it will not be financially viable to retrofit, which will mitigate facility emissions.

Petitioner requires a regular variance for two dry roasters to allow it to operate the roasters at levels higher than permitted (but significantly lower than historic throughput levels) while Petitioner works with the District to modify its permit to increase throughput limits, obtains permits to construct for a thermal oxidizer and lower NOx burners, and installs the new equipment.

FINDINGS OF FACT

Following are the facts and conclusions supporting the findings set forth in Health and Safety Code Section 42352 necessary to grant the variance. The Executive Officer did not oppose the granting of the variance.

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

1. The recently-issued permits for nut dry roasters DR2 and DR5 impose (at Condition 5 of the respective permits) throughput limits that are, in certain cases, orders of magnitude lower than historic facility throughputs that the facility has operated at for decades. Petitioner stated that operating at the lower throughputs in the permits would force American Nuts out of business—it is not financially viable to operate at the very low throughputs in the current permits.

2. Petitioner requires variance coverage to allow it to operate at permit limits higher than the limits in its current permits. Petitioner requires corresponding adjustments to the daily fuel usage limits in its permits (at Conditions 7 and 8) to allow for operation at the nut throughput levels granted by this variance.

b(1). Non-compliance with District Rule(s) is due to conditions beyond the reasonable control of the petitioner.

1. As to nut dry roaster DR5, it is beyond Petitioner's reasonable control to comply with Condition 5 of its current permit, setting a daily nut throughput limit of 1,340 lbs/day, as Petitioner has historically operated DR5 at a maximum throughput of approximately 38,000 lbs/day and Petitioner has stated that it needs to continue to operate at closer to this throughput to

1 maintain a viable business. Petitioner has binding contractual obligations with both public and
2 private sector customers. These include procurement agreements with state agencies and Public
3 Institutional Accounts groups, as well as ongoing supply commitments to private label and
4 branded retail customers. To meet these commitments, Petitioner has stated that it requires
5 average daily production capacity of approximately 22,000 lbs at DR5.

6 2. Petitioner stated that it plans to (i) install a thermal oxidizer and remove the
7 throughput limit at DR5 (ii) retrofit DR5 with lower NOx burners so that the fuel usage limit is
8 removed. However, Petitioner has stated that its financial ability to install a thermal oxidizer and
9 lower NOx burners is dependent upon the issuance of this variance allowing Petitioner to continue
10 operation at higher-than-permitted nut throughput levels during the variance period while
11 Petitioner works with the District to modify its permit to increase throughput limits, obtain permits
12 to construct for a thermal oxidizer and lower NOx burners, and installs the new equipment.

13 3. As to nut dry roaster DR2, it is beyond Petitioner's reasonable control to comply
14 with Condition 5 (imposing a daily nut throughput of 0.67 tons) during the variance period, as
15 DR2 is the only roaster in which Petitioner is able to process certain products (which require a
16 lower heat and less browning to be saleable), and complying with Condition 5 would limit
17 production of these products to well below historical levels and well below Petitioner's contractual
18 commitments. Petitioner requires time to amend its permit or transition production of these
19 products from DR2 to DR5.

20 **b(2). Requiring compliance would result in either (1) an arbitrary or unreasonable**
21 **taking of property, or (2) the practical closing and elimination of a lawful business.**

22 1. If the variance were not granted and the current permit limits remain in place,
23 Petitioner would be forced to shut down its roasting operations, resulting in the layoff of nearly the
24 entire roasting team. Twenty-five employees, many of whom have been working for Petitioner for
25 many years, would lose their jobs.

26 2. In addition, the loss of roasting capacity would jeopardize Petitioner's ability to
27 fulfill key contracts, including those with U.S. government agencies and major private-sector
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1 customers. Petitioner estimates that it would lose contracts worth \$12 million to \$20 million per
2 year if forced to shut down its roasting operations.

3 3. To keep even a portion of its retail business running, Petitioner would be compelled
4 to source finished goods from competitors and growers at significantly higher cost, placing it at a
5 severe competitive disadvantage. The resulting financial strain could threaten the viability of
6 Petitioner's entire business, risking the loss of up to 300 jobs.

7 **c. The closing or taking would be without a corresponding benefit in reducing air**
8 **contaminants.**

9 1. The closing or taking would be without a corresponding benefit in reducing air
10 contaminants because Petitioner would effectively be put out of business if this variance were
11 denied, and such an outcome would be disproportionate to the benefit in reducing air emissions.

12 2. Petitioner is agreeing as a condition of this variance to shut down many of its dry
13 roasters and to operate the remaining dry roasters at levels well below historic levels during the
14 variance period, significantly minimizing excess emissions.

15 **d. The applicant for the variance has given consideration to curtailing**
16 **operations of the source in lieu of obtaining a variance.**

17 1. Petitioner is committing to significantly curtail operations during the variance
18 period.

19 2. Petitioner is agreeing to accept a variance condition prohibiting it from using DR1,
20 DR3, or DR4 during the variance period, eliminating emissions from a majority of the facility's
21 dry roasters.

22 3. Petitioner is also committing to operate within the current fuel limits on DR2 and
23 DR5 (albeit applied on a monthly as opposed to daily basis), which will limit DR2 and DR5
24 emissions to approximately two-thirds of historic levels.

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

1. Petitioner has committed to significantly curtailing operations during the variance period. Petitioner is willing to accept a variance condition requiring that it not use DR1, DR3, or DR4 during the variance period, eliminating emissions from a majority of the facility's dry roasters, and this variance includes such a condition. These emissions reductions will offset emissions from DR2 and DR5 during the variance period.

2. Petitioner is also agreeing to comply with the currently-permitted fuel limits on DR2 and DR5 (albeit applied on a monthly as opposed to daily basis), which will limit DR2 and DR5 emissions to well below historic levels.

3. Petitioner is also willing to agreeing to DR2 and DR5 nut throughput limits as a condition of this variance, and this variance imposes such throughput limits, limiting nut throughput to below historic levels.

f. During the period the variance is in effect, 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.

1. Petitioner will monitor emissions during the variance period.

2. Petitioner has committed to installing fuel meters on DR2 and DR5 and is required to do so as a condition of this variance. Petitioner will monitor fuel flow during the variance period, which will allow it to measure NO_x emissions from the roasters.

3. Petitioner has committed to monitoring nut throughput at DR2 and DR5 during the variance period and is required to do so as a condition of this variance. This will allow it to estimate VOC emissions from the roasters.

CONCLUSION AND ORDER

THEREFORE, good cause appearing, the Hearing Board orders as follows:

1 A. Petitioner is granted a short variance from District Rules 203(b) and from
2 Conditions 5, 7, 8, and 9 of Facility P/O Nos. G80477 (for DR2) and G80480 (for DR5) through
3 November 1, 2026.

4 B. The variance granted herein is subject to the following conditions:

5 1. The Petitioner shall not operate Nut Dry Roaster Nos. 1, 3, and 4 (DR1, DR3, and
6 DR4) during the variance period.

7 2. The Petitioner shall not process more than 442.9 tons of nuts/month between Nut
8 Dry Roaster No. 2 (DR2) and Nut Dry Roaster No. 5 (DR5).

9 3. The Petitioner shall operate all operable dry roasters at this facility in compliance
10 with the applicable requirements of Rule 1153.1.

11 4. The Petitioner shall limit total natural gas usage for DR2 and DR5 to no more than
12 230,760 standard cubic feet (scf) per month each. Monthly records shall be maintained indicating
13 the amount of fuel used by each unit.

14 5. The Petitioner shall by November 28, 2025, install and maintain a dedicated non-
15 resettable fuel totalizing meter in the natural gas supply line to measure and indicate the amount of
16 fuel (in scfm) used by both DR 2 and DR5 in order to demonstrate compliance with Condition
17 Nos. 3 and 4 above.

18 6. The Petitioner shall calculate excess emissions from the roasters' burners by
19 assuming operation at maximum heating capacity and maximum operating schedule until a
20 dedicated non-resettable fuel totalizing meter is installed in compliance with Condition No. 5.

21 7. For DR5, the Petitioner shall submit complete permit applications as expedited
22 (XPP) to the South Coast AQMD no later than January 12, 2026, to address the VOC and PM₁₀
23 Best Available Control Technology (BACT) requirements, including but not limited to the
24 following:

- 25 a. Alteration/Modification application(s) for any equipment requiring throughput
26 modifications.
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1 b. New Construction application(s) for any new control device or system that shall be
2 installed.

3 8. Records shall be maintained for the above variance conditions for a minimum of
4 two years and shall be made available to South Coast AQMD personnel upon request.

5 9. The Petitioner shall pay all applicable fees to the Clerk of the Board or the variance
6 shall be invalidated pursuant to Rule 303(k), except for excess emissions fees, which shall be paid
7 within fifteen (15) days of notification in writing that the fees are due, unless otherwise ordered by
8 the Hearing Board.

9 10. The Petitioner shall notify the District via email to Christopher Gill (Attn:
10 cgill@aqmd.gov) and the Clerk of the Hearing Board in writing when final compliance has been
11 achieved.

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13 FOR THE BOARD: _____

14 DATED SIGNED: _____
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