

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

In the Matter of

COUNTY OF SAN BERNARDINO-
FLEET MANAGEMENT
[Facility I.D. No. 161265]

Order Granting Regular Variance
Waiver of Excess Emissions Fees

Section 42350 of the California Health and Safety
Code

Case No. 6070-15

FINDINGS AND DECISION OF THE HEARING BOARD

This petition for a regular variance was heard on February 3, 2026, pursuant to notice in accordance with the provisions of California Health and Safety Code Section 40826. Five members of the Hearing Board were present: Micah Ali, Chair; Robert Pearman, Esq, Vice Chair; Jerry P. Abraham, MD MPH CMQ; Mohan Balagopalan; and Cynthia Verdugo Peralta. Petitioner, represented by Lauren Doucette, Regulatory Environmental Specialist, did not appear and Respondent, Executive Officer, represented by Erika Chavez, Principal Deputy District Counsel, did not appear. The public was given the opportunity to testify. Evidence was received, and the case submitted. The Hearing Board finds and decides as follows:

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4 **Nature of Business and Location of Facility**

5 Petitioner's facility runs an 800 MHz radio tower that provides crucial communications
6 for first responders and is located remotely at 13910 San Sevaine Road, Lytle Creek, CA 92358.
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8 **Equipment and Permit to Operate**

9 The equipment that is the subject of this petition is an Internal Combustion (IC) Engine
10 driving an Emergency Generator operated pursuant to Permit to Operate (P/O) No. G4555.
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12 The IC Engine is used to provide power when there is an interruption of electrical power
13 by Southern California Edison (SCE) to the emergency communication site. The IC Engine
14 provides emergency backup power in the event of a power outage which allows the radio site to
15 continue to maintain County emergency communications.

16 **SUMMARY**

17 Petitioner is in violation of Rules 203(b) as it pertains to Condition No. 4 of
18 P/O No. G4555 and will achieve compliance on January 1, 2027, when the annual
19 200-hour operating limitation in Condition No. 4 resets.
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21 **FINDINGS OF FACT**

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

25 a. **The petitioner for a variance is, or will be, in violation of Section 41701 or of**
26 **any rule regulation or order of the District.**
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1 The equipment cannot be operated in compliance with South Coast AQMD Rule 203(b),
2 which requires compliance with permit conditions, because Petitioner has exceeded its annual
3 permitted operating limit of 200 hours for the IC Engine, as specified in Condition No.4. of
4 Petitioner's P/O No. G4555.

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

7 1. Petitioner is a public entity that provides vehicles, equipment, and services to the
8 officials and employees of the County of San Bernardino. Petitioner owns and operates the IC
9 Engine that drives an emergency generator that provides emergency power to a radio tower that is
10 required for communication between first responders serving the public.

11 2. On or about December 23, 2025, an unforeseen power loss from SCE required
12 operation of the IC Engine. On January 9, 2026, the IC Engine exceeded 200 operating hours.
13 Petitioner eventually learned that the power outage was caused by inclement weather downing a
14 power line. As of February 25, 2026, hours are 755.5.

15 3. On the afternoon of January 8, 2026, Petitioner filed a petition for Emergency Ex
16 Parte, Interim, and Regular Variance relief from South Coast AQMD Rule 203(b) with respect to
17 the IC Engine.

18 4. On January 9, 2026, Petitioner was granted an Emergency Ex Parte Variance from
19 South Coast AQMD Rule 203(b), and on February 3, 2026, Petitioner was granted an Interim
20 Variance from South Coast AQMD Rule 203(b), with respect to the IC Engine.

21 5. Petitioner requested a Regular Variance to continue to operate its generator for the
22 remainder of the year for emergency purposes, as well as for maintenance and testing purposes to
23 ensure the generator is in good working order, in the event of a power outage.

24 6. Petitioner will achieve compliance on January 1, 2027, when the annual 200-hour
25 operating limitation in Condition No. 4 resets.

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

1 Denial of the variance would cause significant harm to Petitioner, in that Petitioner would
2 be unable to operate the generator, if a power outage occurred, resulting in failure to provide the
3 critical communications to first responders, potentially causing a threat to life and property in the
4 mountain communities. Further, the direct cause of the noncompliance was due to a third party
5 when SCE's equipment failed, causing an outage to their customers, including the location of the
6 IC Engine. Ultimately, Petitioner needs to be able to operate the generator in times of emergency.

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

9 1. The estimated excess emissions for the generator, when in use during the variance
10 period are as follows: 0.19 pounds per hour (lb./hour) of carbon monoxide (CO), 0.51 lb./hour of
11 oxides of nitrogen (NOx), 0.03 lb./hour of reactive hydrocarbons (RHC), 0.03 lb./hour of
12 particulate matter (PM/PMIO), and 0.001 lb./hour of oxides of sulfur (SOx).

13 2. The Board determined that the significant harm to Petitioner and the public
14 outweighs the benefit to air quality, if the emissions associated with this request were eliminated,
15 because of denying the variance.

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

18 Curtailment or shutdown of the generator would not bring Petitioner into compliance, as
19 Petitioner has already exceeded the 200-hour operating limit for the calendar year of 2026.

20 **e. During the period the variance is in effect, the petitioner will reduce excess**
21 **emissions to the maximum extent feasible.**

22 The limited usage of the generator for the remainder of 2026 will reduce emissions to the
23 maximum extent feasible. Petitioner will only use the generator in times of emergency and for no
24 more than one (1) hour each month, for required maintenance and testing.

25 **f. During the period the variance is in effect, the petitioner will monitor or**
26 **otherwise quantify emission levels from the source, if requested to do so by the district, and**
27 **report these emission levels to the district pursuant to a schedule established by the district.**

1 Petitioner shall maintain a monthly operating log of the hours of operation of the generator
2 and shall send the monthly records to South Coast AQMD, by email to South Coast AQMD staff, on
3 the first Tuesday of each month.

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5 **ORDER**

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

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8 A. Petitioner is granted a regular variance from South Coast AQMD Rule
9 203(b) {from Condition No.4 of P/O No. G4555} for an Internal Combustion
10 Engine driving an Emergency Generator, commencing March 3,
11 2026 and continuing through December 31, 2026, the final compliance date.

12 B. Petitioner is granted, pursuant to Rule 303(p), a waiver from all
13 fees. A copy of the Proclamation of a State of Emergency is attached as Exhibit 1 to
14 the Declaration of Lauren Doucette.

15 C. The variance granted herein is subject to the following conditions:

- 16 1. Petitioner shall limit the operation of the Internal Combustion Engine
17 (“ICE”), as described in Permit to Operate (“PO”) No. G4555, to
18 emergency usage, and the ICE shall operate no more than 1.0 hour per
19 month total for maintenance and testing time.
- 20 2. Petitioner shall maintain a monthly operating log for the emergency ICE
21 and shall send the records to the South Coast AQMD by email to AQ
22 Inspector Adebola John (ajohn@aqmd.gov) on the first Tuesday of each
23 month beginning March 03, 2026. The operating log shall list all engine
24 operations in the following areas:
- 25 a. Date and hours of emergency operation, and specify the
26 cause of the emergency;
 - 27 b. Date and hours of maintenance and testing operations; and
- 28

c. Date and hours of any other non-emergency operation.

3. Petitioner shall calculate, record, and report all excess emissions during the variance period, and pay appropriate excess emission fees to the Clerk of the Board.
4. Except as otherwise permitted in variance condition #1, Petitioner shall cease operation of the ICE (PO No. G4555).

BOARD MEMBER: _____

DATED: _____

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