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In the Matter of

MEDLINE INDUSTRIES, LP

[Facility I.D. No. 180785]

Order Granting Regular Variance

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

Case No. 6265-1

Section 42350 of the California Health and Safety

FINDINGS AND DECISION OF THE HEARING BOARD

This petition for a regular variance was heard on the consent calendar on November 7, 2024, pursuant to notice and in accordance with the provisions of California Health and Safety Code Section 40823 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; Jerry Abraham, MD MPH CMQ; Mohan Balagopalan; Adrienne Konigar-Macklin, Esq., Alternate; and Cynthia Verdugo-Peralta. Petitioner Medline Industries, LP (hereinafter "Petitioner"), represented by Rebecca Brown, Environmental Health and Safety Manager, did not appear. Respondent, Executive Officer, represented by Erika Chavez, Senior Deputy District Counsel, did not appear. The public was given the opportunity to testify. The evidence received at the related Interim variance hearing on September 5, 2024, in Case No. 6265-1 was incorporated herein. The Declaration of Rebecca Brown and the Proposed Findings and Decision of the Hearing Board were received as evidence, and the case submitted. The Hearing Board finds and decides as follows:

Nature of Business and Location of Facility

Petitioner is in the business of medical supply distribution, located at 1960 W. Miro Way, Rialto, CA 92376.

Equipment and Permit to Construct/Operate

The subject equipment consists of internal combustion engines (ICE) driving emergency generators. The equipment is operated pursuant to Permit to Operate (P/O) Nos. G37610, G37611, G37612, G37613, G37614, and G37615.

SUMMARY

On September 5, 2024, the Hearing Board issued an Interim variance in this matter from South Coast AQMD Rules 203(b) and 3002(c). The Interim variance continued through November 7, 2024.

Petitioner is requesting a regular variance through March 31, 2025. Petitioner's main electrical switch board continues to be in disrepair and its building without power. Through multiple efforts and costs to expediate the materials, Petitioner has significantly reduced the lead time to replace the electrical switchboard from 30 plus weeks to approximately 10 weeks. Petitioner anticipates potential completion by the end of 2024, but given the potential delays of delivery, installation, and testing, coverage is requested through March 31, 2025.

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.

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Petitioner is in violation of South Coast AQMD Rules 203 and 3002, which require compliance with permit conditions, as Petitioner's ICEs have exceeded their 200-hour permitted limit.

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

On August 25, 2024, a third-party contractor was installing solar panels for Petitioner's building and damaged one of the main electrical switchboards, making it inoperable. This caused loss of power to the building. Petitioner had to quickly respond and activate 3 of its 6 emergency generators to continue safe business operations. Petitioner's building needs to run on emergency generators to power the facility until the main electrical switchboard is repaired and power is restored.

Petitioner has taken action to significantly reduce the lead time to replace the electrical switchboard from 30 plus weeks (original quote) to approximately 10 weeks. Petitioner requests time for delivery, installation, replacement and testing to restore power and achieve compliance.

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

Denial of the variance would cause economic harm to Petitioner. The facility would not be able to safely operate and would need to close or partially close. This would not only impact Petitioner and its employees, but also its customers and the community who rely on access to medical supplies for thousands of procedures, visits and care that occur in the region. Medline is a medical supplies and equipment distributor that provides service to many hospitals, care centers, assisted living homes, etc. in the area, that rely on its products to arrive daily, and in many cases, several times a day, to provide care for their patients. Petitioner is essentially the 'storage room' for its customers, not being able to ship orders would have an immediate and devastating impact to the region.

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

Petitioner does anticipate excess emissions during the variance period in the amounts of 47.98 lbs./day of CO, 165.31 lbs./day of NOx, and 2.70 lbs/day of PM. The Board determines that the significant harm to Petitioner, hospitals, and patients outweighs the benefit to air quality, if the emissions associated with this variance were eliminated as a result of denying the variance.

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

Petitioner has explored alternative options for medical distribution, but due to the demands of product that is distributed out of the Rialto, CA location, it is not feasible to accommodate customer needs for critical medical supplies. Medline needs to deliver on time medical solutions.

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

Petitioner will reduce excess emissions to the maximum extent feasible by only operating three ICEs at a time, the minimum needed for power, with comprehensive performance maintenance on the units every 200 hrs.

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

Petitioner will monitor the emissions and report operating hours pursuant to the conditions provided by South Coast AQMD.

ORDER

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

- A. Petitioner is granted a regular variance from District Rules 203(b) and 3002(c)(1) for the period commencing November 7, 2024 and continuing through March 31, 2025.
- B. The variance granted herein is subject to the following conditions:
 - 1. Petitioner shall limit the operation of the Internal Combustion Engines ("ICE"), as described in Permits to Operate ("POs") #G37610, G37611, G37612, G37613, G37614, G37615, to three of the six ICEs at any time, unless an emergency warrants operating more than three. In any event, each ICE shall operate no more than 1.0 hour per month total for maintenance and testing time.
 - 2. Petitioner shall continue to maintain a monthly operating log for the emergency ICE and shall send the records to the South Coast AQMD by email to AQ Inspector Adebola John (ajohn@aqmd.gov) on the first Tuesday of each month beginning September 10, 2024. The operating log shall list all engine operations in the following areas:
 - a. Date and hours of emergency operation, and specify the cause of the emergency;
 - b. Date and hours of maintenance and testing operations; and
 - c. Date and hours of any other non-emergency operation.
 - 3. Petitioner shall pay all applicable fees to the Clerk of the Board or the variance shall be invalidated pursuant to Rule 303(k), except for excess emissions fees, which shall be paid within fifteen (15) days of notification in writing that the fees are due, unless otherwise ordered by the Hearing Board. 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.

1	4. Except as otherwise permitted in variance condition #1, Petitioner shall cease
2	operation of the ICEs (POs # G37610, G37611, G37612, G37613, G37614,
3	G37615).
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