

FILED
OCT 06 2011

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of)
)
PRECISION CABINETS & TRIM) No. 3585
)
For a Variance from Regulation 8, Rule 32,) **ORDER REGARDING COMPLIANCE**
8 Section 303) **WITH CONDITIONS OF VARIANCE**
)
_____)

This Hearing Board issued an Order Granting Variance (“Variance”) from the provisions of Regulation 8, Rule 32, Section 303 of the Rules and Regulations of the Bay Area Air Quality Management District (“District”) to Paul Taylor, Precision Cabinets & Trim on September 2, 2010. The Variance granted relief from Regulation 8-32-303 for the period from July 1, 2010 through October 1, 2010 for top coats and sealers, and from July 1, 2010 through April 1, 2011 for stains and paints, subject to several conditions. The Hearing Board properly noticed and held a hearing on September 22, 2011 to review compliance with the conditions of the Variance.

Paul Taylor, President, Precision Cabinets & Trim, appeared on behalf of Precision Cabinets & Trim (“Precision Cabinets”).

Randi Wallach, Assistant Counsel, appeared for the Air Pollution Control Officer (“APCO”).

The Hearing Board provided the public an opportunity to testify at the hearing as required by the California Health and Safety Code, but no one did so. The Hearing Board heard evidence, testimony and argument from Precision Cabinets and the APCO regarding Precision Cabinets’ compliance with the conditions of the Variance.

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BACKGROUND

Precision Cabinets operates a custom cabinetry and molding shop located at 145 Middlefield Court, Brentwood, California ("Facility"). Precision Cabinets requested and was granted a variance from District Regulation 8-32-303. Regulation 8-32-303 provides that custom cabinetry shops such as the Facility must not use coatings with volatile organic compound ("VOC") content in excess of certain designated limits. Regulation 8-32-303 was amended on August 5, 2009; the amended regulation requires that custom cabinetry facilities comply with newly designated, lower VOC emissions limits, on or before July 1, 2010. Precision Cabinets applied for a variance to allow it time to come into compliance with the new VOC emissions limits in Regulation 8-32-303. The Hearing Board granted Precision Cabinets a Variance from Regulation 8-32-303 from July 1, 2010 to January 1, 2011 (for sealers and top coats) and April 1, 2011 (for paints and stains), subject to several conditions.

DISCUSSION

The Variance granted by the Hearing Board to Precision Cabinets on September 2, 2010 was subject to the following conditions:

1. With respect to all top coats and sealers, a variance from the requirements of Regulation 8, Rule 32, Section 303 is granted from July 1, 2010 through October 1, 2010.
2. With respect to all stains and paints, an initial variance from the requirements of Regulation 8, Rule 32, Section 303 is granted from July 1, 2010 through October 1, 2010.
3. By September 20, 2010, Precision Cabinets must file a petition with the District, and submit a copy of said petition to the Hearing Board, pursuant to Regulation 8, Rule 32, Sections 307 and 404 for an Alternate Compliance plan for as many coatings as is possible to accommodate under an Alternate Compliance plan.
4. With respect to any stains and paints that are not covered by any Alternate Compliance plan submitted by Precision Cabinets pursuant to condition 3 and thereafter approved

1 by the District, a further variance from the requirements of Regulation 8, Rule 32, Section 303 is
2 granted from October 1, 2010 through April 1, 2011.

3 5. Precision Cabinets shall pay excess emissions fees for any excess emissions
4 that result from the use of stains and paints that do not comply with Regulation 8, Rule 32, Section
5 303 and are not covered by any Alternate Compliance plan submitted by Precision Cabinets
6 pursuant to condition 3 and approved by the District, during the time period beginning October 2,
7 2010 and continuing through April 1, 2011, pursuant to District Regulation 3, Schedule A.

8 6. Precision Cabinets shall submit to the Clerk of the Hearing Board two
9 quarterly reports of excess emissions between October 2, 2010 and April 1, 2011, the first on or
10 about December 1, 2010 and the second on or about April 1, 2011.

11 Conditions 1, 2 and 4 of the Variance outline the scope and timeline of the Variance, while
12 conditions 3, 5 and 6 of the Variance set forth affirmative duties for Precision Cabinets to comply
13 with during the term of the Variance. Precision Cabinets is in compliance with the requirements
14 of condition 3; it filed an application for an Alternate Compliance Plan pursuant to District
15 Regulation 8-32-307 by September 20, 2010. However, Precision Cabinets is not in compliance
16 with the requirements of conditions 5 and 6.

17 Precision Cabinets has not yet paid excess emissions fees for any excess emissions that
18 resulted from the use of stains and paints that do not comply with Regulation 8-32-303 between
19 October 2, 2010 and April 1, 2011. Precision Cabinets and the District agree that 39 gallons of
20 non-compliant coatings were used during this time period and thus Precision Cabinets shall pay
21 \$204.50 in excess emissions fees pursuant to District Regulation 3, Schedule A.

22 Precision Cabinets has also not yet submitted quarterly reports to the Hearing Board
23 regarding excess emissions, as is required by condition 6. Precision Cabinets has submitted
24 various coatings usage reports to the District over the past year, including a summary attached as
25 Exhibit 1 to the letter from Randi Wallach to Chairperson Daily and the Members of the Hearing
26 Board, dated September 20, 2011, which is in the file for this matter. This summary letter may or

1 may not include all of the information required in the quarterly reports provided for in condition 6.

2 THEREFORE, THE HEARING BOARD ORDERS:

3 1. Precision Cabinets shall submit the past-due excess emissions fees of \$204.50 to the
4 Hearing Board forthwith, to satisfy the requirements of condition 5 of the Variance.

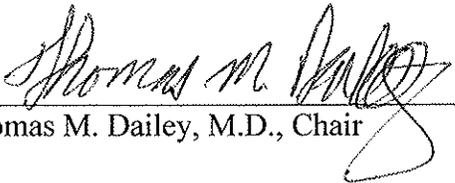
5 2. Precision Cabinets and /or the District shall submit to the Hearing Board the past-due
6 quarterly reports, to satisfy the requirements of condition 6 of the Variance.

7 Moved by: Valerie Armento, Esq.

8 Seconded by: Terry A. Trumbull, Esq.

9 AYES: Valerie Armento, Esq., Julio Magalhães, Ph.D., Terry A. Trumbull, Esq. and
10 Thomas M. Dailey, M.D.

11 NOES: Christian Colline, P.E.

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15 Thomas M. Dailey, M.D., Chair

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Date