

RULE 617. EMERGENCY VARIANCE

Adopted: 07/20/77 Revised: 01/18/79, 06/25/79

- A. If the breakdown conditions will either require more than twenty-four (24) hours to correct or persists longer than the end of the production run (except for continuous monitoring equipment, for which the period shall be ninety-six (96) hours), the owner or operator may, in lieu of shutdown, file a petition, pursuant to Rule 601, for an emergency variance.

- B. Upon receipt of the petition for an emergency variance, the Air Pollution Control Officer shall contact the Chairperson of the hearing board, or other designated members of the hearing board and make a recommendation to grant or deny emergency variance, and the owner or operator of the source shall be entitled to present testimony or evidence. The burden shall be on the owner or operator to establish that a breakdown condition exists. Thereafter, the Chairperson or other designated members of the hearing board may, without notice or hearing grant or deny an emergency variance. Reasonable conditions may be included in the variance. The Chairperson or other designated members of the hearing board shall, within five (5) working days, issue a written order confirming the decision, with appropriate findings.

- C. No emergency variance shall be granted unless the Chairperson or other designated members of the hearing board determines that:
 - 1. The occurrence constitutes a breakdown condition;
 - 2. Continued operation is not likely to create an immediate threat or hazard to public health or safety;
 - 3. The requirements for a variance set forth in Health and Safety Code Sections 42352 and 42353 have been met; and
 - 4. The continued operation in a breakdown condition will not interfere with the attainment or maintenance of the national ambient air quality standards.

- D. At any time after an emergency variance has been granted, the Air Pollution Control Officer may request that the Chairperson or designated members of the hearing board reconsider and revoke, modify or further condition the variance if the Air Pollution Control Officer has good cause to believe that:
 - 1. Continued operation is likely to create an immediate threat or hazard to public health or safety;
 - 2. The owner or operator is not complying with all applicable conditions of the variance;
 - 3. A breakdown condition no longer exists; or
 - 4. Final compliance is not being accomplished as expeditiously as practicable.

The procedures set forth in paragraph B shall govern any further proceedings conducted under this subparagraph.

- E. An emergency variance shall remain in effect only for as long as necessary to repair or remedy the breakdown condition, but in no event after a regularly noticed hearing to consider an interim or 90 day variance has been held, or fifteen (15) days from the date of the subject occurrence, whichever is sooner.
- F. An emergency variance shall be exempt from filing fees as required by Rule 601.

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