

**RULE 506. EMERGENCY VARIANCES FOR BREAKDOWNS. (Adopted 8/14/1978, readopted 10/23/1978)**

If a breakdown condition will either require more than twenty-four (24) hours to correct or persist 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, request the District to commence the following emergency variance procedure.

- A. Upon receipt of a request for an emergency variance, the District shall contact the chairperson of the Hearing Board, or other designated member of the Hearing Board, to establish a time and place for consideration of the request. The District shall inform the owner or operator of the source of such time and place. During consideration of the emergency variance, the District shall recommend whether or not an emergency variance should be granted, and the owner or operator of the source shall be entitled to present testimony and evidence. The burden shall be on the owner or operator to establish that a breakdown condition exists. Thereafter, the Board member may, without notice or hearing, grant or deny an emergency variance. Reasonable conditions may be included in the variance. The Board member shall within five working days, issue a written order confirming the decision, with appropriate findings.
- B. No emergency variance shall be granted unless the Board member 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; and
  - 3. The requirements for a variance set forth in Health and Safety Code Sections 42353 have been met;
  - 4. The continued operation in a breakdown condition will not interfere with the attainment or maintenance of the national primary ambient air quality standard.
- C. At any time after an emergency variance has been granted, the Control Officer may request that the chairperson or designated Board member reconsider and revoke, modify or further condition the variance if the 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; or
  - 2. The owner or operator is not complying with all applicable conditions of the variance; or
  - 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 A shall govern any further proceedings conducted under this paragraph.
- D. An emergency variance shall remain in effect only until the breakdown condition has been repaired or remedied or for a period of fifteen (15) days, whichever occurs sooner, except that as provided by State law, the filing of a request for a variance during the time the emergency variance is valid, shall automatically extend the term of the emergency variance until the date when the Hearing Board determines whether or not to grant such variance. In no event, however, shall an emergency variance continue for more than thirty (30) days.

**E. Reporting Requirements**

Within one week after a breakdown occurrence has been corrected, the owner or operator shall submit a written report to the Control Officer which includes:

1. A statement that the breakdown condition has been corrected, together with the date of correction and proof or demonstration of compliance;
2. A specific statement of the reasons or causes for the occurrence;
3. A description of the corrective measures undertaken and/or to be undertaken to avoid such an occurrence in the future (the Control Officer may, at the request of the owner or operator, for good cause, extend up to thirty (30) days the deadline for submitting the description required by this subparagraph);
4. An estimate of the emissions caused by the occurrence; and
5. Pictures of the equipment or controls which failed, if available.

**F. Burden of Proof**

The burden shall be on the owner or operator of the source to provide sufficient information to demonstrate that a breakdown did occur. If the owner or operator fails to provide sufficient information, the District shall undertake appropriate enforcement action.

**G. Failure to Comply with Reporting and Requirements**

Any failure to comply with the reporting requirements established in subparagraphs B.1 and E.1 through E.5 of this Rule shall constitute a separate violation of this Rule.

**H. False Claiming of Breakdown Occurrence**

It shall constitute a separate violation of this Rule for any person to file with the District a report which is willfully false, or claims without probable cause, that an occurrence is a breakdown occurrence.