

RULE 5200 EMERGENCY VARIANCE (Adopted May 21, 1992; Amended December 17, 1992; Amended December 16, 1993)

1.0 Requirements

- 1.1 Upon receipt of a request for an emergency variance, the APCO shall contact the Chairperson of the Hearing Board or other designated member(s) of the Hearing Board to establish a time and place for consideration of the request. The APCO shall inform the owner or operator of the source of such time and place. During consideration of the emergency variance, the APCO shall recommend whether 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, or good cause exists. Thereafter, the Chairperson or other designated member(s) may, without notice or hearing, grant or deny an emergency variance. Reasonable conditions may be included in the variance. The Chairperson or other designated member(s) shall, within five (5) working days, issue a written order confirming the decision with appropriate findings.
- 1.2 No emergency variance shall be granted unless the Chairperson or other designated member(s) determines that:
 - 1.2.1 The variance is issued for good cause, including but not limited to, a breakdown condition;
 - 1.2.2 Continued operation is not likely to create an immediate threat or hazard to public health or safety;
 - 1.2.3 The requirements for a variance set forth in Health and Safety Code sections 42352 and 42353 have been met; and
 - 1.2.4 The attainment or maintenance of National Ambient Air Quality Standards will not be endangered.
- 1.3. At any time after an emergency variance has been granted, the APCO may request that the Chairperson or designated member(s) reconsider and revoke, modify, or further condition the variance if the APCO has good cause to believe that:
 - 1.3.1 Continued operation is likely to create an immediate threat or hazard to public health or safety;
 - 1.3.2 The owner or operator is not complying with all applicable conditions of the variance;
 - 1.3.3 A breakdown condition no longer exists;

1.3.4 Final compliance is not being accomplished as expeditiously as is practicable; or

1.3.5 Continued operation is likely to endanger the maintenance or attainment of National Ambient Air Quality Standards.

The procedures set forth in section 1.1 shall govern any further proceedings conducted under this rule.

1.4 An emergency variance shall remain in effect only for as long as is necessary to repair or remedy the condition which necessitated the emergency variance, but in no event after a properly noticed hearing to consider an interim or 90 day variance has been held, or 30 days from the date of the subject occurrence, whichever is sooner.