

## SAN LUIS OBISPO COUNTY AIR POLLUTION CONTROL DISTRICT

**RULE 107 - BREAKDOWN OR UPSET CONDITIONS AND EMERGENCY VARIANCES**

*(Adopted 8/2/76; Revised 11/13/84, 3/29/95)*

A. Failure to comply with any of the emission limitations or restrictions prescribed by these Rules and Regulations occurring as a result of a process upset condition or breakdown of any air pollution control equipment or related operating equipment, any in-stack continuous monitoring equipment, or other emergencies as defined pursuant to the provisions of this rule, shall constitute a violation of any such limitations or restrictions. However, when a breakdown or upset condition exists, the Air Pollution Control Officer (APCO) may elect to take no enforcement action if the owner or operator demonstrates to the APCO's satisfaction that the following requirements are met:

1. The occurrence is reported to the San Luis Obispo County Air Pollution Control District as soon as reasonably possible, but in any case within four (4) hours after its detection by the owner or operator, or their agents or employees;
2. The Air Pollution Control Officer verifies the failure or conditions;
3. Appropriate corrective measures are immediately undertaken to correct the occurrence or limit its duration;
4. As soon as the occurrence has been corrected, but no later than 10 calendar days after the upset or breakdown, a written report is given to the Air Pollution Control Officer which includes: (1) a statement that the occurrence has been corrected and the date of correction; (2) a description of the reasons for the occurrence, if known; (3) a description of the corrective measures, if any, undertaken to avoid such an occurrence in the future; and (4) pictures of the equipment or controls which failed when applicable.
5. Upset conditions, breakdowns and other emergencies shall be determined in accordance with standards and guidelines established by the Air Pollution Control Hearing Board and submitted for approval to the Air Resources Board of the State of California.

In no event shall any occurrence be deemed to be an upset condition, breakdown or other emergency covered by this Rule 107 when such occurrence: is the foreseeable result of gross neglect or of the willful disregard of any applicable air pollution laws, rules or regulations; or is the result of an intentional or negligent act or omission on the part of the owner or operator; or which results from the gross neglect or willful failure to properly maintain equipment; or constitutes a nuisance as defined in these Regulations.

B. If the operation is not to be shut down and if the breakdown, upset condition, or other emergency will require more than forty-eight (48) hours to correct, the emergency variance procedure shall be commenced. This procedure shall be as follows:

1. If the Air Pollution Control Officer or his designee shall first determine that continued operation is not likely to create an immediate hazard to health or safety, then he shall attempt to contact the Chairman of the Hearing Board, or the Vice-Chairman of the said Hearing Board if the Chairman is unavailable; and if both are unavailable he shall attempt to contact the remaining three members, so that a special meeting of the Hearing Board may be called at the earliest possible time, with such notice to be given as is required by law.
2. If the Air Pollution Control Officer or his designee shall have good cause to believe that continued operations are likely to create an immediate hazard to health and safety, he shall forthwith take such steps as he deems reasonable and as are permitted by law to prevent such hazard and the emergency variance procedures of this Rule 107 shall be suspended and not commenced or recommenced until such hazard no longer exists.
3. If the said Hearing Board determines that an upset condition, breakdown or other emergency exists as the same are defined in paragraph A.5 of this Rule, it may grant an emergency variance, which shall be valid only until the upset condition, breakdown or other emergency no longer exists or for a period of fifteen

(15) working 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 said 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.