

RULE 97. EMERGENCY VARIANCE (Effect. 4/21/78: Rev. Effect. 5/28/91)

(a) A request for an emergency variance shall be filed with the Clerk of the Hearing Board at the San Diego County Administration Center, Room 402, San Diego, California 92101. (Rev. Effect. 5/28/91)

(b) Upon receipt of a request for an emergency variance from the District Rules and Regulations, the Chairperson of the Air Pollution Control District Hearing Board, or any other member of the Hearing Board the Chairpersons may designate, may issue without notice and public hearing, an emergency variance up to 30 days. An emergency variance shall be issued only if, in addition to all the findings required by Section 42352 and 42353 of the State Health and Safety Code, the Chairperson or member(s) finds that:

- (1) The operation resulting from the variance shall not create a private or a public nuisance.
- (2) The purpose of the emergency request is not to avoid notice requirements for a hearing on the request.
- (3) It is impractical to hear the request at the next scheduled meeting of the Hearing Board.
- (4) In the event of a breakdown, as defined by Rule 98, the requirements of said Rule 98 for requesting a variance have been fulfilled.

(c) The Clerk of the Hearing Board shall notify the Air Pollution Control Officer and the person requesting a variance of the time and place of a hearing on the request for an emergency variance. Such notification may be made by telephone.

(d) Before granting an emergency variance pursuant to Subdivision (a), the Chairperson or designated member(s) of the Hearing Board (1) shall give the Air Pollution Control Officer an opportunity to respond to the request, and (2) may consult the Air Pollution Control Officer in order to obtain information.

(e) An emergency variance shall not be granted from the requirement that an Authority to Construct be secured from the Air Pollution Control District before building, erecting, altering, or replacing any article, machine, equipment or other contrivance, which may cause the issuance of air contaminants.

(f) In granting an emergency variance pursuant to Subdivision (a) of this rule, the Chairperson or designated member(s) of the Hearing Board may impose conditions, as appropriate, which shall remain in effect during the term of the emergency variance.

(g) The Clerk of the Hearing Board shall notify the Air Pollution Control Officer when an emergency variance is granted pursuant to this rule, and within 30 days shall submit to the California Air Resources Board a copy of the order granting an emergency variance.

(h) The Hearing Board shall adopt standards and guidelines consistent with this rule to assist the Chairperson or other designated member(s) of the Hearing Board in determining whether to grant or deny a emergency variance.