

RULE 519 Emergency Variance - Adopted 4/18/72, Amended 11/09/95

I. Administrative Requirements

Upon receipt of a request for an emergency variance, the Control Officer shall contact the Chairman of the Hearing Board, or other designated member of the Hearing Board, to establish a time and place for consideration of such request. The Control Officer shall inform the owner or operator of the source of such time and place. During consideration of the emergency variance, the Control Officer 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 non-compliant condition exists. Thereafter, the chairman or other designated member may, without notice or hearing, grant or deny an emergency variance. Reasonable conditions may be included in the variance. The Chairman or other designated member shall, within five working days, issue a written order confirming the decision, with appropriate findings.

II. Basis for Decisions

No emergency variance shall be granted unless the Chairman or other member determines that:

- A. Good cause exists, including, but not limited to, a breakdown condition;
- B. Continued operation is not likely to create an immediate threat or hazard to public health or safety; and
- C. Requirements for a variance set forth in California Health and Safety Code Sections 42352 and 42353 have been met.

III. Further Actions

At any time after an emergency variance has been granted, the Control Officer may request the Chairman or designated member to reconsider and revoke, modify or further condition the variance if the Control Officer has good cause to believe that:

- A. Continued operation is likely to create an immediate threat or hazard to public health or safety;
- B. The owner or operator is not complying with all applicable conditions of the variance;
- C. A non-compliant condition no longer exists; or
- D. Final compliance is not being accomplished as expeditiously as practicable.

Procedures set forth in Section I. shall govern any further proceedings conducted under this Section.

IV. Duration

An emergency variance shall remain in effect only for the time necessary to repair or remedy the non-compliant condition, 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.