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Torrance Refining Company
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8 **BEFORE THE HEARING BOARD OF THE**
9 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**
10

11 **In the Matter of**

12 TORRANCE REFINING COMPANY LLC
13 [Facility ID No. 181667],

14 Petitioner,

15 v.

16 SOUTH COAST AIR QUALITY
17 MANAGEMENT DISTRICT.

18 Respondent.
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Case No. 6060-20

**[PROPOSED] FINDINGS AND
DECISION AND ORDER GRANTING
SHORT VARIANCE AND
ALTERNATIVE OPERATING
CONDITION**

Hearing Date: January 11, 2024
Time: 9:00 a.m.
Place: SCAQMD
21865 Copley Drive
Diamond Bar, CA 91765

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21 The petitions for Ex Parte Emergency, Emergency and Short Variance and Alternative
22 Operating Condition (“Petitions”) were heard on the Hearing Board’s Consent Calendar on January
23 11, 2024, pursuant to notice and in accordance with the provision of California Health and Safety
24 Code Section 40823 and District Rule 510. The following members of the Hearing Board were
25 present: Cynthia Verdugo-Peralta, Chair; Robert Pearman, Esq., Vice Chair; Mohan Balagopalan;
26 Micah Ali; and Dr. Jerry P. Abraham, MD, MPH, CMQ. Petitioner Torrance Refining Company
27 (“TORC”), represented by Michael S. McDonough of Pillsbury Winthrop Shaw Pittman, did not
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1 of District Rules 203(b), 2004(f)(1) and 3002(c)(1), which require compliance with all permit
2 conditions. Petitioner intends to achieve compliance by devoting substantial resources to
3 expediting the repair of the CO Boiler as quickly as possible, as well as to correct any other issues
4 that might be discovered and to have the FCCU fully ready for the February source test.

5 6 **FINDINGS OF FACT**

7 Following are the facts and conclusions supporting the findings set forth in Health and
8 Safety Code Section 42352 necessary to grant the Short Variance as well as the findings set forth in
9 District Rule 518.2 for Alternative Operating Conditions. The Executive Officer did not oppose the
10 granting of the Short Variance and AOC.

11 **a. The petitioner for a variance and alternative operating condition is, or will be,**
12 **in violation of Section 41701 or of any rule, regulation or order of the District or any federally**
13 **enforceable permit terms and conditions that are based on Section 41701 or of any applicable**
14 **rule or regulation of the District.**

15 1. District Rule 1105.1(e)(2)(A) requires the operator of any FCCU to conduct annual
16 compliance source testing for PM10 and ammonia emissions. Under District Rule 1105.1(e)(2)(A)
17 and (e)(2)(E), such testing must occur between nine and 12 calendar months from the completion of
18 the prior FCCU source test. Petitioner's last FCCU source test under Rule 1105.1 occurred on
19 September 14, 2022, and a notification to the District was made of the need to extend the source
20 testing deadline and reschedule the 2023 annual source testing to December 15, 2023.

21 2. Because of an unexpected shutdown or "trip" of the Refinery's CO Boiler 2F-3 on
22 December 7, 2023, and because the CO Boiler must be operating at full capacity to enable a valid
23 Rule 1105.1 source test on the FCCU, Petitioner was not able to conduct the Rule 1105.1 FCCU
24 source test by December 15, 2023. Thus, Petitioner is and continues to be in violation of District
25 Rule 1105.1.

26 3. For this reason, Petitioner also is and will continue to be in violation of Permit
27 Conditions D29.3 and D29.4, which contain a similar annual source test requirement for the FCCU,
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1 and of the first sentence of Administrative Condition E.8, which provides in relevant part that “[a]ll
2 equipment operating under the RECLAIM program [including the FCCU here] shall comply
3 concurrently with all provisions of AQMD Rules and Regulations.”

4 4. Finally, Petitioner also is and will continue to be in violation of District Rules
5 203(b), 2004(f)(1) and 3002(c)(1), which prohibit Petitioner from violating the conditions of its
6 Permit to Operate.

7 **b(1). Non-compliance with District Rule(s) is due to conditions beyond the reasonable**
8 **control of the petitioner.**

9 1. As reflected in the Petitions, while Petitioner was initially required by District Rules
10 and its Permit conditions to conduct the annual Rule 1105.1 source test of the FCCU by September
11 2023, an unexpected trip of Compressor 4K-1 (Device ID No. D355) in the No. 1 Hydrogen Plant
12 (separately owned and operated by Air Products) required Petitioner to notify the District of the
13 need to reschedule the test for December 15, 2023 to immediately follow planned turnaround work
14 at the Refinery. However, on Thursday, December 7, 2023, while TORC was completing the
15 turnaround work, the CO Boiler suddenly shut down due to unexpected mechanical issues with the
16 Boiler’s outlet guillotines that restricted gas flow from the Boiler. Because the CO Boiler and
17 related equipment recently went through extensive Turnaround maintenance in October 2023,
18 Petitioner would not have reasonably expected any operational issues with the equipment.

19 2. The unexpected December 7 CO Boiler shutdown meant that it became beyond
20 Petitioner’s reasonable control to conduct the FCCU source test by December 15, 2023, because (a)
21 the CO Boiler needs to be running at full capacity to supply the wet gas compressors necessary for
22 the FCCU to reach the 84 kbd feed rate required by the Refinery Permit for a valid source test, and
23 (b) Petitioner was not reasonably able to complete its troubleshooting for the CO Boiler issues and
24 prepare the equipment for source testing by the December 15 deadline.

25 3. Because only one company in the Los Angeles area is capable of conducting a Rule
26 1105.1 compliant FCCU source test, Petitioner has been forced to accept the vendor’s first available
27 dates to reschedule the FCCU source test, which are February 13-14, 2024. Petitioner has no
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1 control over the vendor's available dates, nor is there another vendor available who could perform
2 the source test at an earlier date. Thus, Petitioner could not reasonably avoid violating the District
3 Rules and Permit Conditions reflected above.

4 **b(2). Requiring compliance would result in either (1) an arbitrary or unreasonable**
5 **taking of property, or (2) the practical closing and elimination of a lawful business.**

6 1. Denial of the Petitions would cause significant harm to Petitioner with no
7 corresponding benefit to the environment. Denial of the requested extension of time would leave
8 Petitioner with only one alternative to try and maintain strict compliance; *i.e.*, shut down the FCCU
9 due to its lack of a valid and timely Rule 1105.1 source test.

10 2. Given that the FCCU is the key unit responsible for production of refined petroleum
11 products from the Refinery, its indefinite shutdown would require Petitioner to cease operating the
12 rest of the Refinery, which relies on the FCCU. An eventual restart of the Refinery would likely
13 result in excess emissions, and a prohibition on ever restarting would result in the loss of business
14 and goodwill, likely cause breach of the Refinery's contracts, and upset the local and regional
15 petroleum supply market.

16 **c. The closing or taking would be without a corresponding benefit in reducing air**
17 **contaminants.**

18 1. Because the Short requested Variance and AOC will result in no excess emissions,
19 denying the Petitions would not produce any benefit in reducing air contaminants, and could
20 produce an increase in emissions if the Refinery is forced to shut down and allowed to restart again
21 in the future.

22 **d. The applicant for the variance and alternative operating condition has given**
23 **consideration to curtailing operations of the source in lieu of obtaining a variance.**

24 1. Petitioner considered curtailment in lieu of the shutdowns proposed in the Short
25 Variance and AOC Petitions, but because District Rules and the Facility Permit require FCCU
26 source testing for PM and other emissions "at least annually," regardless of the level of Refinery
27 operations, curtailment would not eliminate the need for a variance. Moreover, because Petitioner
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1 already will be taking measures to avoid any excess emissions, further curtailment will not result in
2 additional benefit in reducing any excess emissions.

3 **e. During the period the variance and alternative operating condition are in effect,**
4 **the applicant will reduce excess emissions to the maximum extent feasible.**

5 1. No excess emissions are expected as a result of the requested modification.
6 Moreover, Petitioner is taking and will continue to take steps to achieve compliance by devoting
7 substantial resources to expediting the repair of the CO Boiler as quickly as possible, as well as to
8 correct any other issues that might be discovered and to have the FCCU fully ready for the February
9 source test. Petitioner also will assigning sufficient personnel to ensure that the FCCU testing can
10 be completed as quickly as possible.

11 **f. During the period the variance and alternative operating condition are in effect,**
12 **the applicant will monitor or otherwise quantify emission levels from the source, if requested**
13 **to do so by the district, and report these emission levels to the district pursuant to a schedule**
14 **established by the district.**

15 1. Petitioner will continue to monitor emissions as required by its Permit and the
16 existing Short Variance and AOC conditions of the during the Short Variance and AOC period.
17 Records of these inspections shall be made available to the District upon request.

18 **g. The alternative operating condition will not result in noncompliance with the**
19 **requirement of any NSPS or NESHAP or other standard promulgated by the U.S. EPA under**
20 **sections 111 or 112 of the Clean Air Act, or any District Rule that substitutes for such**
21 **requirement promulgated by the U.S. EPA under Title IV or VI of the Clean Air Act, or any**
22 **requirement contained in a permit issued by the U.S. EPA or the requirement to apply for or**
23 **obtain an operating permit under Rule 3002 -Requirements for an authority to construct.**

24 1. The requested Short Variance and AOC will not cause Petitioner to be in violation of
25 any NSPS or NESHAP or other standard promulgated under Section 111 or 112 or Title IV or VI of
26 the Clean Air Act for the equipment.

27 **h. Any emissions [calculated pursuant to subparagraph (h)(3)(B) of Rule 518.2]**
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1 **resulting from the alternative operating condition will not, in conjunction with emissions**
2 **[calculated pursuant to subparagraph (h)(3)(B) of Rule 518.2] resulting from all other**
3 **alternative operating conditions established by the Hearing Board and in effect at the time,**
4 **exceed the amount of alternative operating condition credits held in the Alternative Operating**
5 **Condition Credit Bank.**

6 1. The AOC bank has not been established and there are no credits in the bank.
7 Petitioner does not anticipate any excess emissions as a result of the requested modification.

8 **i. Operation under the alternative operating conditions will not result in the**
9 **source discharging such quantities of air contaminants or other material which cause injury,**
10 **detriment, nuisance, or annoyance to any considerable number of persons or to the public, or**
11 **which endanger the comfort, repose, health, or safety of any such persons or to the public, or**
12 **which cause, or have a natural tendency to cause, injury or damage to business or property.**

13 1. Because no excess emissions are expected as a result of granting the modification,
14 Petitioner does not anticipate that granting the Short Variance and AOC will cause any injury,
15 detriment, nuisance, or annoyance to any persons or the public. Petitioner's work is intended to
16 allow the Refinery to conduct annual source testing required by District Rules and the Permit. No
17 opacity or odorous substances are anticipated to be released in any quantity sufficient to be
18 detectable to the public.

19 **j. The excess emissions resulting from operations pursuant to the alternative**
20 **operating condition would not, by themselves, cause an exceedance of a National Ambient Air**
21 **Quality Standard.**

22 1. Petitioner expects no excess emissions as a result of the requested Short Variance
23 and AOC, and therefore does not expect to cause an exceedance of any NAAQS as a result.

24 **CONCLUSION AND ORDER**

25
26 THEREFORE, good cause appearing, the Hearing Board orders as follows:

27 A. Petitioner is granted a short variance and alternative operating condition (AOC) from
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1 District Rules 203(b), 1105(e)(2)(A), 1105(e)(2)(E), 2004(f)(1) and 3002(c)(1), and Conditions
2 D29.3, D29.4 and the first sentence of Administrative Condition E.8 of its Title V Permit No.
3 181667 (“Permit”), for the period commencing January 11, 2024 and continuing through March 1,
4 2024.

5 B. The variance is subject to the following conditions:

- 6 1. Petitioner shall conduct the required Rule 1105.1 annual source test no later than
7 February 14, 2023.
- 8 2. Petitioner shall notify the South Coast Air Quality Management District via
9 email to Air Quality Inspector Paul Caballero at pcaballero@aqmd.gov of the
10 date and time of the source test at least 10 days prior to the test date.
- 11 3. Petitioner shall notify the South Coast Air Quality Management District
12 compliance personnel by calling 1-800-CUT-SMOG (Attn: Inspector Paul
13 Caballero) at least forty-eight hours (48) prior to day of scheduled source test and
14 at least two (2) hours prior to the scheduled start of the source test.
- 15 4. The Source Test shall be performed according to an approved Source Test
16 Protocol.
- 17 5. Petitioner shall notify the Air Quality Inspector Paul Caballero
18 (pcaballero@aqmd.gov) via electronic mail, and by calling 1-800-CUT-SMOG
19 (Attn: Paul Caballero) to report Variance Notification within two (2) hours of
20 achieving final compliance and completion of the AOC period.
- 21 6. Petitioner shall notify the Clerk of the Board in writing within five (5) days of
22 achieving final compliance as referenced in Condition 5.
- 23 7. Petitioner shall pay all applicable fees to the Clerk of the Hearing Board or the
24 variance shall be invalidated pursuant to Rule 303(k), except for excess
25 emissions fees if applicable, which shall be paid within fifteen (15) days of
26 notification in writing that the fees are due, unless otherwise ordered by the
27 Hearing Board.

1 C. The AOC is subject to the following conditions:

- 2 1. Petitioner shall conduct the required Rule 1105.1 annual source test no later than
3 February 14, 2023.
- 4 2. Petitioner shall notify the South Coast Air Quality Management District via
5 email to Air Quality Inspector Paul Caballero at pcaballero@aqmd.gov of the
6 date and time of the source test at least 10 days prior to the test date.
- 7 3. Petitioner shall notify the South Coast Air Quality Management District
8 compliance personnel by calling 1-800-CUT-SMOG (Attn: Inspector Paul
9 Caballero) at least forty-eight hours (48) prior to day of scheduled source test and
10 at least two (2) hours prior to the scheduled start of the source test.
- 11 4. The Source Test shall be performed according to an approved Source Test
12 Protocol.
- 13 5. Petitioner shall notify the Air Quality Inspector Paul Caballero
14 (pcaballero@aqmd.gov) via electronic mail, and by calling 1-800-CUT-SMOG
15 (Attn: Paul Caballero) to report Variance Notification within two (2) hours of
16 achieving final compliance and completion of the AOC period.
- 17 6. Petitioner shall notify the Clerk of the Board in writing within five (5) days of
18 achieving final compliance as referenced in Condition 5.
- 19 7. Petitioner shall pay all applicable fees to the Clerk of the Hearing Board or the
20 variance shall be invalidated pursuant to Rule 303(k), except for excess
21 emissions fees if applicable, which shall be paid within fifteen (15) days of
22 notification in writing that the fees are due, unless otherwise ordered by the
23 Hearing Board.
- 24 8. In the event U.S. EPA objects to this AOC within the 45-day review period or in
25 response to a timely citizen petition, this AOC shall be ineffective to protect
26 Petitioner from U.S. EPA or citizen enforcement under the federal Clean Air Act
27 for any federally enforceable requirement.
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FOR THE BOARD: _____

DATE SIGNED: _____