

**SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
SOUTHERN REGION
34946 Flyover Court
Bakersfield, California 93308
(661) 392-5540**

STAFF REPORT

October 14, 2026

SHORT VARIANCE

DOCKET No. S-26-18S

FACILITY: Berry Petroleum Company
PO Box 11164
Bakersfield, CA 93389

LOCATION: Fairfield Water Plant
Midway Sunset Oil Field
Kern County, California

RULE VIOLATION: 2010 – *Permits Required*
2070 – *Standards for Granting Applications*
2201 – *New and Modified Stationary Source Review Rule*
2520 – *Federally Mandated Operating Permits*
4623 – *Storage of Organic Liquids*

PERMIT NUMBERS: See Recommendations

EPA AIRS NUMBER: 06-029-S1246

NOV NUMBER: N/A

TYPE OF BUSINESS: Crude oil and natural gas production

NATURE OF THE PROBLEM:

Berry Petroleum Company (BERRY) is an oil and gas production company primarily operating in Kern County. BERRY owns and operates the Fairfield tank setting, which utilizes a series of tanks to receive, store, and process produced fluids (crude oil and water) within the Midway Sunset Oil Field. As required by District rules and the conditions of the permits, the tanks located there are required to be controlled by a functional and operating vapor recovery system (VRS) at all times the tanks are storing organic compounds and requires those tanks to be maintained in a leak free condition at all times.

The underground VRS line that serves the tank setting has been experiencing plugging and is looking to redesign the system to allow for repairs to the equipment easier. BERRY is requesting variance relief to allow them to install a new aboveground line. The new line cannot be connected without temporarily shutting down the VRS.

As part of this project, BERRY will also be performing additional preventative maintenance by replacing an electric gas compressor (S-1246-296) that has reached the end of its useful life that serves the casing vapor recovery system for the wells in the area. This requires shutting in the casing vapor recovery system while this maintenance is performed.

PETITIONER'S REQUEST:

BERRY has requested a short variance from the applicable requirements of District Rules 2010, 2070, 2201, 2520, and 4623, in addition to the applicable conditions of the subject District issued Authorities to Construct/Permits to Operate. The requested variance period will be effective from October 15, 2026, to December 14, 2026, inclusive. If granted, the variance will allow the continued operation of the tanks without a functional and operating VRS until the proposed work is completed.

EXCESS EMISSIONS:

BERRY has estimated that excess VOC emissions will not exceed **79 pounds** during the entirety of the variance period.

IMMEDIATE COMPLIANCE:

BERRY is currently operating in compliance.

COMMENTS ON THE REQUIRED FINDINGS:

1. ***That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the District.***

The continued storage of VOC containing liquids in the subject tanks without an operational VRS and operation of oil production wells while the CVR system is shut down will result in a violation of applicable requirements of District Rules 2010, 2070, 2201, 2520, and 4623, in addition to applicable conditions of the subject District issued Authorities to Construct (ATCs)/Permits to Operate (PTOs).

2. ***That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of property, or (2) the practical closing and elimination of a lawful business.***

It is beyond the reasonable control of BERRY to comply with applicable District rules and District issued Authorities to Construct/Permits to Operate conditions while the VRS and CVR system is down to conduct the proposed maintenance work. District rules and ATC/PTO conditions do not allow the VRS to be offline while VOC containing liquids are being stored in the tanks or continue oil and gas production while the electric compressor serving the CVR system is offline. It would be a taking of property if BERRY were not allowed to manage their equipment in a way that they believe will lead to maintenance efficiencies, improve safety, maximize operations, and increase probability of continued long-term compliance.

3. ***That the closing or taking would be without a corresponding benefit in reducing air contaminants.***

The closing or taking would require that the tanks be drained, degassed and cleaned which could result in more emissions than what is proposed due to the equipment and procedures involved. BERRY would need to shut in production of oil during the cleaning process and then continuing through the variance period until they bring the VRS and CVR systems back

online. This action would result in an economic loss of at least \$18,000.00 per day. The large economic loss and the emissions associated with the draining, degassing and cleaning of the tanks would negate any benefit a closing or taking would have in reducing air contaminants.

4. *That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.*

BERRY considered curtailing operations by shutting in all production to the subject tanks and following the tank cleaning procedures required to remove the tanks from service prior to performing the proposed work. However, it was not deemed practical based on the duration of the proposed activities, the amount of expected emissions, the potential for additional excess emissions during tank cleaning, and the economic loss associated with the curtailment of production activities.

5. *During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.*

The tanks are enclosed with a fixed roof and will still have pressure/vacuum vents which will seal in the vapors as long as the pressure inside the tanks does not build up. While the CVR system is down, the gases will be stored in the gas line or will be re-entrained in the produced fluids and will go to the storage tanks. Also, BERRY's workplans include procedures to perform as much of the work with the systems still operating and the variance relief will mainly be limited to the time to disconnect the old equipment and re-connect to the new equipment, which will be completed as expeditiously as practicable.

6. *During the period the variance is in effect, that the applicant will monitor or otherwise quantify emission levels from the source, if requested to do so by the District, and report these emissions levels to the District pursuant to a schedule established by the District.*

There are no reasonable means to directly monitor fugitive VOC emissions from the subject tanks. However, BERRY will record the amount of time the tanks operate without a VRS and CVR systems, calculate emissions based on approved emission factors, and provide this information to the District upon conclusion of the variance.

ADDITIONAL COMMENTS:

A nuisance as defined in District Rule 4102 is not expected to occur as a result of this variance and continued operations is not likely to create an immediate threat or hazard to public health or safety.

It should be noted that the US Environmental Protection Agency (EPA), which monitors major sources, might not recognize this variance, should it be granted. Accordingly, BERRY should be aware that the EPA could take enforcement action on this matter if it deems such action is appropriate.

RECOMMENDATIONS:

Should the Southern Region Hearing Board make the required findings and move to grant a short variance to BERRY, the District would recommend the following conditions:

1. The variance shall be effective for a non-consecutive 48-hour period to occur sometime between October 15, 2026, and December 14, 2026, inclusive, or until BERRY returns the VRS to compliant operation, whichever occurs first.
2. Variance relief shall be granted from the applicable requirements of District Rules 2010, 2070, 2201, 2520, and 4623, in addition to the conditions of the following permits:
 - A. Condition 5 of S-1246-0-6,
 - B. Conditions 7 and 10 of S-1246-152-15, -153-10, -154-10, -155-10, -158-9, -400-5, and
 - C. Conditions 5 and 53 of S-1246-296-49.
3. The variance shall allow the continued operation of the tanks without a functional and operating VRS and oil production wells without an operational CVR system until the proposed work is completed.
4. Excess VOC emissions shall not exceed **79 pounds** over the duration of the variance period.
5. Excess emissions fee will be assessed at the conclusion of the variance at \$3.25 per pound. Payment of the excess/mitigation emission fees shall occur within 30 days after the end of the variance. Payment shall be made to the District and shall be directed to the "Miscellaneous Incentive Grant – Hearing Board," account.
6. A Federal Title V deviation report shall be submitted to the District within 10 days each time a Federal Title V permit condition is violated; within 10 days of discovery. The deviation report must be sent to the facility inspector.
7. Should the facility experience operational conditions likely to cause a public nuisance, BERRY shall cease the operations causing the problems and take all necessary actions to abate the problem immediately.
8. At the conclusion of this variance BERRY must be in compliance with all their ATC/PTO conditions and applicable District Rules. If BERRY will not achieve compliance prior to conclusion of this variance they must contact the District as soon as practicable and before the variance period ends.
9. By December 29, 2026, BERRY shall submit a summary report to the District. If the report due date should fall on a day the District is closed, it shall be due the next business day. The report shall include the following:
 - A. A detailed summary of all activities performed during the variance period,
 - B. The date(s), time(s), and total duration that the subject tanks stored VOC containing liquids without an operational VRS, and oil production well operation without the CVR system.
 - C. A calculation of excess emissions, and

- D. The required certification of truth, accuracy, and completeness, signed by the designated official of the Corporation, as required by sections 9.13.1 and 10.0 of District Rule 2520 – *Federally Mandated Operating Permits*.

10. The end of variance summary report shall be submitted to the attention of:

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11. Failure to comply with any condition of this variance may render the variance null and void with the possibility of enforcement action taken that may include monetary penalties.