

FILED
MAY 12 2021
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of
SFPP L.P. San Jose Terminal
For Emergency Variance from Regulation 8,
Rule 5, Section 305.5

) Docket No.: 3730
)
) **ORDER DENYING EMERGENCY**
) **VARIANCE**

The above-entitled matter, being an Application for Emergency Variance (EV) from the provisions of Regulation 8, Rule 5, Section 305.5 was filed on May 3, 2021, after initial contact by telephone at 1:52 p.m. on April 29, 2021, and having been considered by the Hearing Board,

THE HEARING BOARD STATES as the reasons for its decision and **FINDS** as to those matters in which findings are required:

A. Applicant filed an application under the EV procedures, Hearing Board Rules, Section 2.5. Pursuant to Health and Safety Code Sections 42359 and 42359.5, and the Hearing Board determined that this Application properly could be ruled upon without notice and hearing. Prior to making this determination, and in accordance with Hearing Board Rules Section 2.5.d.2, the Hearing Board requested and received a response to this Application from the Executive Officer/Air Pollution Control Officer for the Bay Area Air Quality Management District (Air District). The Air District staff response recommended the Application for EV be denied.

B. Applicant operates bulk petroleum terminal with petroleum product storage and loading, located at 2150 Kruse Drive, San Jose CA 95131.

C. Applicant investigated the cause of liquid (product) found on the multi-purpose

1 internal floating roof tank that was discovered during a quarterly visual seal inspection on April
2 27, 2021. The cause of failure was determined to be a defect on the roof near the ladder well.
3
4 The operator attempted to conduct a temporary repair within 48 hours, as required by Air
5 District Regulation 8-5-119.2. However, due to the fact that the tank was half full when the
6 defect was identified, and to safety concerns, the operator did not consider it possible to
7 complete the repair within 48 hours.

8 D. Applicant requested an emergency variance period of April 29, 2021 to May 28,
9 2021, (30 days). Applicant estimated excess emissions of 13.16 pounds of ethanol, per day.

10 E. Applicant has not demonstrated that remedying the violation of District Rule 8-
11 5-305.5 within the 48-hour period allowed by Reg 8-5-119.2.3 was beyond its reasonable
12 control.

13 F. Applicant has not provided sufficient information to explain why there was an
14 initial 22-hour delay after the discovery of the puddled liquid on the Tank SJ-12's internal
15 floating roof before any action was taken.

16 G. The Applicant does not meet the good cause standard for issuance of an EV.

17 THEREFORE, THE HEARING BOARD ORDERS:

18 An Emergency Variance from Regulation 8, Rule 5, Section 305.5 be and is hereby
19 denied.
20

21 

22 Dr. Peter Chiu, M.D., P.E
23 Hearing Board Member
24 Bay Area Air Quality Management District

25 May 11, 2021

26 Date

