

**BEFORE THE HEARING BOARD OF THE  
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

PHILLIPS 66 COMPANY,

[Facility I.D. No. 171109]

Section 42350 of the California Health and Safety  
Code

**Case No. 4900-115**

**(REVISED PROPOSED) FINDINGS AND  
DECISION AND (PROPOSED)  
ORDER GRANTING A SHORT  
VARIANCE**

Hearing Date: December 6, 2022

**FINDINGS AND DECISION OF THE HEARING BOARD**

This petition for a short variance was heard on the consent calendar on December 6, 2022, pursuant to notice and in accordance with the provisions of California Health and Safety Code Section 40823 and District Rule 510. The matter was placed on the Consent Calendar pursuant to the Joint Stipulation to Place Matter on Consent Calendar. The following members of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Robert Pearman, Esq., Vice Chair; Allan Bernstein, DPM, MBA; Mohan Balagopalan; and Micah Ali. Petitioner Phillips 66 Company (hereinafter "Phillips 66"), represented by Christopher H. Norton, of the law firm of Latham & Watkins, did not appear. Respondent, Executive Officer, represented by Sheri Hanizavareh, Principal Deputy District Counsel, and Ryan Mansell, Senior Deputy District Counsel, did not appear. The public was given the opportunity to testify. The Declaration of Lisa Faichney and the Proposed Findings and Decision of the Hearing Board were received as evidence, and the case submitted. The Hearing Board finds and decides as follows:

**Nature of Business and Location of Facility**

Phillips 66 owns and operates a refinery located at 1520 East Sepulveda, Carson, California 90745 (Facility ID No. 171109) (hereinafter "Facility" or "Carson Plant"). The Carson Plant is a major refiner of crude oil for gasoline, diesel fuel, jet fuel, and other petroleum-derived products. The Facility is permitted under Title V as a SO<sub>x</sub> and NO<sub>x</sub> RECLAIM facility.

1 Equipment and Permit to Construct/Operate

2       The equipment that is the subject of this petition concerns a Coke Silo (D113) storage barn  
3 (hereinafter “Coke Barn”), operated pursuant to Facility Permit to Operate (P/O) No. 171109. The  
4 Coke Barn is a large enclosure with approximately 150,000 square feet of panels, with the sides  
5 and roof of the barn constructed of galvanized steel. The Coke Barn is used to receive and store  
6 Coke produced by the Coker unit. Without the ability to produce and store Coke, Carson Plant  
7 operations would be significantly impaired.

8 **SUMMARY**

9       1. This matter concerns roof and structural repairs to the Coke Barn at the Carson  
10 Plant. Petroleum Coke (“Coke”) is a necessary and useful byproduct of the oil refining process.  
11 Coke is continuously produced and needs to be stored on site in an enclosed structure before being  
12 transported offsite. On February 2, 2022, Petitioner discovered that Beam #9 needed to be  
13 replaced, and on July 1, 2022, Beam #14 was found sheared. After review and consultation,  
14 Petitioner determined that the Coke Barn's A-frame was not fully stabilized and two (2)  
15 reinforcement beams need to be installed. The installation requires a portion of siding from all  
16 four (4) sections to be removed to allow the Coke Barn to settle into position and shift the load  
17 onto the new reinforcement beams. During the work, the conveyer tube saddle support  
18 replacement will also be completed. District Rule 1158(d)(2) requires the Petitioner to maintain all  
19 Coke piles in enclosed storage. However, the repair work will require that certain panels on the  
20 Coke Barn be temporarily removed for access. A 28-day short variance is needed to allow for  
21 continued storage of Coke in the Coke Barn while the repairs are performed. The variance will  
22 allow for the safe completion of demolition activities, the installation of two (2) new beams, and  
23 conveyer tube saddle support replacement on the Coke Barn at Carson Plant. Petitioner will not  
24 allow movement of Coke going in or out of the Coke Barn. Petitioner will limit the opening in the  
25 Coke Barn to no more than 2% of the surface area per District Rule 1158(k)(10). Petitioner  
26  
27  
28

estimates excess emissions of 0.39 pounds per day of particulate matter (PM) during the variance period.

### **FINDINGS OF FACT**

Following are the facts and conclusions supporting the findings set forth in Health and Safety Code Section 42352 necessary to grant the variance. The Executive Officer did not oppose the granting of the variance or dispute any evidence offered by the Declaration of Lisa Faichney.

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

1. Petitioner will be in violation of the following rules and permit conditions because:

(a) During the replacement of the panels, the piles of Coke will not be in an enclosed storage facility as required by Rule 1158(d)(2) and Rule 203(b) [for Section D, Permit Condition Nos. S13.1 and E136.1 and for Section E, Administrative Condition No. 2 of Facility P/O No. 171109];

(b) Petitioner will not have maintained all of the equipment at the Carson Plant in such a manner that ensures proper operation of the equipment as required in Rule 203(b) [for Section E, Administrative Condition No. 2 of Facility P/O No. 171109]; and

(c) Petitioner will not have complied at all times with the rules and conditions of its Facility P/O No. 171109 as specified in Rule 2004(f)(1) and Rule 3002(c)(1) which requires compliance with Title V permit conditions.

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

1. The Coke Barn is an essential part of the Carson Plant. Coke is continuously produced by the Coker Unit throughout the refining process. The Coke needs to be stored on site in an enclosed structure, such as the Coke Barn, before being transported offsite for shipment. Without the ability to store Coke, operations at the Carson Plant would be significantly impacted.

2. On February 2, 2022, Petitioner discovered that Beam #9 in the Coke Barn needed to be replaced. On July 1, 2022, Beam #14 was found to be sheared. Upon review and consultation,

Petitioner determined that the Coke Barn's A-frame was not fully stabilized and two (2) reinforcement beams need to be installed. Furthermore, a portion of siding from all four (4) sections needs to be removed to allow the Coke Barn to settle into position and shift the load onto the new reinforcement beams. During the replacement of the beams, the conveyer tube saddle support will also be replaced. The Coke Barn must be opened for access to perform the work.

3. Petitioner considered performing the repair work under District Rule 1158(k)(10). This “safe harbor” exemption allows for storage of Coke without a complete enclosure for “facilities performing routine maintenance/repair of replacing component parts on/in enclosed storage structures, such as roofing and siding material.” However, the exemption requires that the repair work to be completed in 14 days. Here, the Coke Barn work is expected to take 28 days.

4. Petitioner also considered alternatives to seeking a variance. Petitioner considered removing all the Coke from the Coke Barn, but it would be nearly impossible to remove all the Coke without creating significant particulate emissions from Coke movement and cleanup. Removal of the Coke in lieu of obtaining a variance is not practicable. Failure to grant the variance could also result in the Coker eventually having to be shutdown. Without repair and replacement of the beams, the Coke Barn could become structurally unfit—or even collapse. At either point, the Coker would be required to shut down to cease the generation of Coke at the Carson Plant. A shutdown of the Coker would result in the shutdown and restart of other refinery units and restart of these units would result in emissions.

**b(2). 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.**

1. Denial of the variance would cause economic harm to the Petitioner if forced to empty the Coke Barn to conduct the work or forego the needed repairs to remain in compliance with AQMD rules and conditions of Petitioner’s permit. The Coke Barn is essential to the refinery operations; if the Coke Barn becomes structurally unfit or collapses, the Coker would be unable to operate. A shutdown of the Coker would impact the ability to produce gasoline, diesel, and jet fuel resulting in significant revenue loss.

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

1. Given the harm that Petitioner will incur if the variance were denied, the Board determined that the significant harm to the Petitioner outweighs the benefit to air quality. Petitioner estimates excess emissions of 0.39 pounds per day of PM during the variance period. To minimize emissions, Petitioner will not allow movement going in or out of the Coke Barn during the variance period. Petitioner will limit the opening in the Coke Barn to no more than 2% of the surface area per District Rule 1158(k)(10). Petitioner is committed to having no visible emissions from the Coke Barn during the short variance period by agreeing to comply with the conditions set forth in the variance order.

**d. The Petitioner for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.**

1. Achieving compliance through curtailment is not an option in this matter. Curtailment would not obviate the need for a variance. Any removal of the panels will be in violation of District Rules and permit conditions. Petitioner cannot curtail operations as a means to achieve final compliance due to the permit conditions and South Coast AQMD requirements. There is no option that would avoid the need for a variance short of a complete removal of the Coke or failure to make necessary repairs to the Coke Barn.

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

1. Petitioner has agreed to comply with the conditions set forth in the variance order.

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

1. Petitioner has agreed to comply with the conditions set forth in the variance order.

1 **CONCLUSION AND ORDER**

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

3 A. Petitioner is granted a short variance from District Rules 203(b), 2004(f)(1), and  
4 3002(c)(1) [for Section D, Permit Condition Nos. S13.1 and E136.1 and for Section E,  
5 Administrative Condition No. 2 of Facility P/O No. 171109] and 1158(d)(2) for a Coke Silo  
6 Storage for the period commencing on January 12, 2023 and continuing through until February 9,  
7 2023, the final compliance date.

8 B. The variance granted herein is subject to the following conditions:

9 1) Petitioner shall have water available to control any accidental fugitive dust emissions  
10 from the Coke Barn side and roof openings during the variance period.

11 2) During the maintenance and repair period, Petitioner shall ensure no materials are  
12 actively moved or disturbed in the structure.

13 3) Petitioner shall maintain the surface area of components being replaced to not exceed  
14 2% of the total structure surface area during the variance period.

15 4) Petitioner shall ensure that no visible emissions occur during the variance period.  
16 Petitioner shall conduct visible emission monitoring as needed using EPA Method 9. Records shall  
17 be made to District personnel upon request.

18 5) Petitioner shall not cause, or allow the discharge into the atmosphere of fugitive dust  
19 for a period or periods aggregating more than three minutes in any one hour which is equal to or  
20 greater than 10% opacity (equivalent to 10% opacity under EPA Method 9 or one half of No. 1 on  
21 the Ringelmann Chart, as published by the United States Bureau of Mines). Petitioner shall contact  
22 South Coast AQMD at 1-800- CUT- SMOG within one hour of the documented observation of any  
23 exceedances of the above visibility standard and refer to Variance Case No. 4900-115.

24 6) Petitioner shall monitor for trackout at least once per day. A street sweeper shall be  
25 used to clean any trackout. Records shall be made available to District personnel upon request.

7) Petitioner shall ensure that the water spray system will be in use as needed to prevent visible emissions during the variance period.

8) Petitioner shall notify District Compliance personnel by telephone at 1-800-CUT-SMOG (Attn: Deryck Roberts), and the Clerk of the Hearing Board by e-mail to clerkofboard@aqmd.gov, upon completion of the project and achieving compliance with all provisions of District Rule 1158.

9) Petitioner shall pay all remaining applicable fees to the Clerk of the Board by February 16, 2023 or the variance shall be invalidated pursuant to Rule 303(k).

BOARD MEMBER: \_\_\_\_\_

DATED: \_\_\_\_\_