

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

STAFF REPORT

March 11, 2026

SHORT VARIANCE

DOCKET No. S-26-04S

FACILITY: Berry Petroleum Company
11117 River Run Boulevard
Bakersfield, CA 93311

LOCATIONS: Cogen 38 – S29 T12N R24W
BB&O Lease – Midway Sunset Oil Field

RULE VIOLATION: 1080 – *Stack Monitoring*
2070 – *Standards for Granting Applications*
2201 – *New and Modified Stationary Source Review Rule*
2520 – *Federally Mandated Operating Permits*
4001 – *New Source Performance Standards*
4703 – *Stationary Gas Turbines*

PERMIT NUMBER: S-2265-0-6 and -1-17

EPA AIRS NUMBER: 06-029-S2265

NOV NUMBER: N/A

TYPE OF BUSINESS: Electrical Power Generation

NATURE OF THE PROBLEM:

Berry Petroleum Company (BERRY) operates a 503.4 MMBtu/hr natural gas-fired combustion turbine engine as part of a cogeneration system (Cogen 38) that generates electricity and steam at their BB&O Lease in the Midway Sunset Oil Field. Exhaust gas from the combustion turbine is routed to a heat recovery steam generator system, which also utilizes a natural gas-fired duct burner to generate high pressure steam for thermally enhanced oil recovery. The combustion turbine uses water injection and a selective catalytic reduction system to control NOx emissions.

During an annual maintenance outage for Cogen 38, the turbine rotor was shipped to Texas for a full rebuild. Due to delays in the rebuild, the turbine rotor will not be back and installed in time to meet the annual compliance source testing deadline date of March 19, 2026. In addition, BERRY has determined that the CO analyzer on Cogen 38 needs to be replaced in order to ensure proper operation of the Continuous Emissions Monitoring System CEMS in the future.

District Rules and permit conditions requires BERRY to certify, maintain, operate, and quality-assure a CEMS designed to measure and record the NOx, CO, and O2 concentrations of the exhaust gas in order to demonstrate compliance with their emissions limits. Once the new CO analyzer is installed and calibrated, the CEMS will begin collecting data. However, the data will not

be valid until the system successfully completes a testing and certification process, including a 7-day drift test and a relative accuracy test audit (RATA). Once the new analyzer is installed, BERRY must continue to operate without a certified CEMS until the necessary testing is completed and the CEMS is re-certified. During the variance period the emissions control equipment will continue to function as designed and BERRY will log all operating data in order to demonstrate compliance with the emission limits of their permit.

PETITIONER'S REQUEST:

BERRY has requested a short variance from the applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001 and 4703, in addition to the applicable conditions of the subject permits. The requested variance period will be effective from March 1, 2026, to May 29, 2026, inclusive. If granted, the variance will allow BERRY to conduct a late source test and operate Cogen 38 without a certified CEMS until the new analyzer is installed and the CEMS can be certified per the applicable parts of the Code of Federal Regulations.

EXCESS EMISSIONS:

The existing emissions control equipment will be functional and operating during the variance period. No excess emissions are expected.

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.***

Conducting a late source test and operation of the Cogen 38 combustion turbine unit without a certified CEMS capable of accurately measuring and recording emissions will result in a violation of applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001, and 4703, in addition to the applicable conditions of the permits.

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 maintain a certified CEMS at all times when analyzers get old, become obsolete and must be upgraded to ensure compliant operation in the future. After installation of the new analyzer BERRY will be operating out of compliance until the necessary testing is done to complete the certification process. However, they must continue to operate Cogen 38 in order to complete the testing. Requiring BERRY to remain in compliance is unreasonable and would effectively shut down Cogen 38 since the unit could not complete the necessary testing to certify the CEMS.

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

There will be no excess emissions associated with this variance. Therefore, the closing or taking would not have a corresponding benefit 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 an operational curtailment. However, since no excess emissions are expected to occur it was not considered a reasonable alternative. Also, the certification process requires that the facility be operating under normal conditions.

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

No excess emissions are expected to occur as a result of the variance activities, nor is any relief being sought from the applicable emission limits.

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.*

It is not expected that excess emissions will occur. During the variance period BERRY will calibrate and operate the replacement analyzer and will use the data gathered by the CEMS as "credible evidence", until it can be fully certified. Those records will be available to the District for review.

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 from March 1, 2026, to May 29, 2026, inclusive, or until the source testing is completed, the new analyzer is installed, and the CEMS is certified, whichever occurs first.

2. Variance relief shall be granted from the applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001, and 4703, in addition to the conditions of the following permits:
 - A. Condition 8 of S-2265-0-6 and
 - B. Conditions 7, 9, and 22 of S-2265-1-17.
3. The variance shall allow late source testing and the continued operation of Cogen 38 without a certified CEMS until the new analyzer is installed and the CEMS can be certified per the applicable parts of the Code of Federal Regulations.
4. The variance shall end upon completion of the certification.
5. There shall be no excess emissions over the duration of the variance period.
6. Notwithstanding the protection granted by this variance pending full certification, a failed Relative Accuracy Test Audit will not be extended variance protection and the District may take enforcement action upon failure.
7. At the conclusion of this variance BERRY must be in compliance with all permit 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.
8. A Federal Title V deviation report shall be submitted to the District within 10 days of discovery each time a Federal Title V permit condition is violated. The deviation report must be sent to the facility inspector.
9. Should the facility experience operational conditions likely to cause a public nuisance, BERRY shall cease the operations causing the nuisance and take all necessary actions to abate the problem immediately.
10. By June 13, 2026, or no later than 15 calendar days after the source testing is completed and the CEMS is certified, whichever occurs first, BERRY shall submit to the District a summary report. 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 the source test was conducted,
 - C. The date(s), time(s), and duration the CEMS was offline, and
 - D. The required certification of truth, accuracy, and completeness, signed by the designated responsible official, as required by sections 9.13.1 and 10.0 of District Rule 2520 – *Federally Mandated Operating Permits*.

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

Chris Kalashian
SJVAPCD, Compliance Department
1990 East Gettysburg Avenue
Fresno, CA 93726
Telephone: (559) 230-5878
E-mail: chris.kalashian@valleyair.org

12. 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.