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8 **BEFORE THE HEARING BOARD OF THE**

9 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

10 **In the Matter of**

11 IPS Corporation (Facility ID No. 800367),  
12 Petitioner,

Case No. 6269-1

**[PROPOSED] FINDINGS AND  
DECISION AND ORDER GRANTING  
A SHORT VARIANCE**

Section 42350 of the California Health &  
Safety Code

Hearing: March 25, 2025  
Time: Consent Calendar  
Place: South Coast Air Quality  
Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

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19 The Petition for Short Variance, filed on March 12, 2025 by petitioner IPS Corporation,  
20 was heard on the South Coast Air Quality Management District Hearing Board's March 25, 2025  
21 consent calendar, pursuant to notice and in accordance with the provisions of California Health  
22 and Safety Code Section 40825. Five regular members of the Hearing Board were present: Micah  
23 Ali, Chair; Robert Pearman, Esq., Vice Chair; Mohan Balagopalan; Cynthia Verdugo-Peralta; and  
24 Dr. Jerry P. Abraham, M.D. MPH, CMQ. Petitioner, represented by Viviana L. Heger, Esquire,  
25 did not appear. Respondent Executive Officer of the South Coast Air Quality Management  
26 District ("District"), represented by Sheri Hanizavareh, Principal Deputy District Counsel, did not  
27 appear. The matter was submitted for consideration on the Consent Calendar. The public was  
28 given an opportunity to testify. The Declaration of Pratap N. Padalkar and exhibits were received

1 as evidence, the [Proposed] Findings and Decision and Order of the Hearing Board were received  
2 in the record, and the case was submitted on consent.

3 The Hearing Board finds and declares as follows:

4 **I. NATURE OF BUSINESS AND LOCATION OF FACILITY**

5 Petitioner is in the business of manufacturing solvent cement and other products at its  
6 facility located at 17109 S. Main Street, Gardena, California (“Facility”). The Facility is subject  
7 to Petitioner’s August 16, 2019 Permit to Operate (“Permit”) and operated under Facility  
8 Identification No. 800367. For customers nation-wide and abroad, the Facility packages and  
9 distributes Weld-On® products that contain low or ultra-low levels of volatile organic  
10 compounds (“VOCs”).  
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12 **II. EQUIPMENT THAT IS THE SUBJECT OF THE SHORT VARIANCE**

13 The short variance pertains to Petitioner’s Regenerative Thermal Oxidizer (Permit No.  
14 G10605) (“RTO”) as well as the equipment connected to the RTO, specifically Fill Lines Nos. 3,  
15 21, 22, and 23 (Permit Nos. M42127, G6402, G6404, G10603, respectively), Mixers MM-1  
16 through MM-12 (Permit Nos. G6381, G12140, G12139, G12138, G6384, G6385, G12137,  
17 G6387, G6388, G6390, G6391, G6392, respectively), and Holding Tanks Nos. H-1 through H-5  
18 (Permit Nos. G12141, F97834, F98735, F98736, F98737, respectively) (jointly “Equipment”).  
19 The RTO and Equipment are essential to the production of products. During normal operations,  
20 the RTO captures and controls VOC emissions that arise from the Equipment.  
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23 **III. SUMMARY**

24 Petitioner filed its petition for short variance to allow time to replace ceramic media in the  
25 RTO while it remains in operation to control VOCs from the Equipment at the Facility.  
26 Petitioner’s petition also seeks time to conduct a source test on the RTO. The District supports  
27 Petitioner’s plans to replace the ceramic media in the RTO and perform a source test (“Proposed  
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1 Work”). The Proposed Work will enhance the performance of the RTO to achieve the 99 percent  
2 VOC destruction efficiency set forth in the Permit.

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4 **IV. FINDINGS OF FACT AND CONCLUSIONS**

- 5 **a. The petitioner for a variance is, or will be, in violation of Section 41701 or of**  
6 **any rule, regulation, or order of the District or any federally enforceable permit**  
7 **terms and conditions that are based on Section 41701 or of any applicable rule**  
8 **or regulation of the District.**

9 Petitioner discovered on February 13 and February 20, 2025 that Petitioner is in violation  
10 of conditions in its Permit. The violation of Permit conditions in turn causes a violation of  
11 District Rules 203(b) and 3002(c)(1) because these rules require compliance with Permit  
12 conditions.

13 Permit Condition No. 6 for the RTO requires that the RTO operate with a VOC control  
14 efficiency of 99 percent; however, a source test Petitioner received on October 10, 2024 shows  
15 VOC control efficiency of 98.6%, and the District does not round 98.6% to 99% when evaluating  
16 source test results.

17 The Permit in Condition No. 3 for the Fill Lines, Condition No. 3 for the Mixers,  
18 Condition No. 4 for the Holding Tanks, and Administrative Condition No. 4 prohibits the  
19 operation of the Equipment unless it is vented to air pollution control which is in full use. The  
20 operation of the RTO at 98.6 % VOC control efficiency does not demonstrate full use.

21 Lastly, the first sentence of Administrative Condition No. 3 provides that Petitioner’s  
22 Permit “does not authorize the emissions of contaminants in excess of those allowed by Division  
23 26 of the Health and Safety Code of California or the Rules and Regulations of the AQMD.”  
24 Similarly, Administrative Condition No. 7 provides that the Facility “shall maintain and operate  
25 all equipment to ensure compliance with all emission limits as specified in this facility permit.”  
26 The operation of the Equipment with the RTO at 98.6% VOC control causes of emissions of  
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1 contaminants in excess of those allowed under the Permit and under District Rules 203(b) and  
2 3002(c)(1), in violation of Administrative Condition Nos. 3 and 7 in Section E of the Permit.

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4 **b. Beyond Reasonable Control and Requiring Compliance**

5 **1. Non-compliance with District Rules is due to conditions beyond the**  
6 **reasonable control of the petitioner.**

7 Petitioner’s non-compliance is due to conditions beyond its reasonable control. The RTO  
8 was installed in 2009 with a performance guarantee from the manufacturer that as long as the  
9 device operated at or above 1,500 degrees Fahrenheit, the device would reduce concentrations of  
10 hydrocarbons (including VOCs) by 99%. Petitioner has operated the RTO at 1,500° F  
11 consistently.

12 On August 20, 2024, a source test contractor measured VOCs. Except following its  
13 installation, Petitioner had never conducted a source test of the RTO for VOCs because it was not  
14 required in the Permit or by District rule; therefore, the 2024 source test was the first source test  
15 that Petitioner received.

16 Following the source test, the source test contractor provided Petitioner a report on  
17 October 10, 2024 showing that the RTO had a VOC control efficiency of 98.6%. The source test  
18 contractor told Petitioner that the RTO was in compliance with its VOC requirement. Petitioner’s  
19 investigations found that this was consistent with U.S. EPA Performance Test Calculation  
20 Guidelines (available at [www.epa.gov/emc/technical-information-document-024-memo-  
21 rounding-and-significant-figures](http://www.epa.gov/emc/technical-information-document-024-memo-rounding-and-significant-figures)), which typically evaluate compliance with rule and permit  
22 limits by rounding results such that, for example “90.639 would be rounded to 91 . . . .” The  
23 District, however, is not required to follow the U.S. EPA guidance.  
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1           Petitioner provided the source test results to the District on October 10, 2024.

2           Meanwhile, in addition to the source test, the RTO was also evaluated as part of a  
3 scheduled annual compliance inspection. A January 29, 2025 annual inspection report  
4 recommended, as routine maintenance, the replacement of the ceramic media in the RTO, which  
5 Petitioner planned to undertake before January 2026. The report did not alert Petitioner to any  
6 malfunction with the device, which continued to operate normally. Petitioner began to obtain  
7 quotes from vendors to replace the ceramic media before the next inspection in 2026.  
8

9           Following the source test and annual inspection, Petitioner continued to operate the RTO  
10 at 1,500° F to control Equipment VOC emissions and observed that the device was operating  
11 well. Petitioner reasonably believed that as long as temperature was maintained at 1,500° F, the  
12 device would control 99% of VOCs based on the manufacturer’s performance guarantee.  
13 Petitioner also reasonably believed, based on the source tester’s representation of compliance and  
14 U.S. EPA guidelines, that the source test result showing the RTO’s VOC control efficiency at  
15 98.6% satisfied the 99% VOC control efficiency set forth in Condition No. 6 for the RTO.  
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17           On February 13, 2025, however, Petitioner received a Notice of Violation related to the  
18 RTO’s 98.6% VOC control efficiency and related to other items that have been cured. The  
19 District advised at that time and during a February 20, 2025 conference call that the District does  
20 not round 98.6% to 99% when evaluating source test results. In response to the District’s  
21 conclusion, Petitioner expedited the maintenance plans for the RTO to work toward achieving  
22 99.0% or greater VOC control efficiency.  
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24           Based on the foregoing, Petitioner did not discover until February 13 and February 20 that  
25 the District would treat the RTO’s source test results of 98.6% VOC control efficiency as a  
26 deviation from the 99% VOC control efficiency set forth in Condition No. 6 for the RTO. Prior to  
27 this determination, it was beyond Petitioner’s reasonable control to correct a deviation that  
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1 Petitioner did not know existed. Currently, it continues to be beyond Petitioner's reasonable  
2 control to correct the 98.6% VOC control efficiency until the Proposed Work under this variance  
3 is completed.

4 To address the VOC control efficiency, Petitioner requires approximately three weeks to  
5 plan and implement the routine maintenance. Petitioner will replace the ceramic media in the  
6 RTO after a contractor uses equipment to remove the existing media in the RTO. The ceramic  
7 media replacement cannot be conducted until the RTO is properly shut down and its normal  
8 operating temperature of 1,500° F is lowered in a safe manner. After the ceramic media  
9 replacement work, the RTO will undergo source testing to evaluate VOC control efficiency.  
10 Approximately two weeks' time is required for the source test results; therefore, Petitioner seeks  
11 this variance through April 30, 2025.

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14 Petitioner has explored, but not found, an alternative to obtaining a short variance to allow  
15 the operation of the Equipment and the RTO with its current control efficiency of 98.6% while  
16 plans to implement the Proposed Work are underway.

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18 **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.**

19 Denial of the variance would cause a closing of Petitioner's business at the Facility.  
20 Petitioner will be engaged in expedited regular maintenance activities and replacements, all of  
21 which are necessary to ensure the good-operating condition of the RTO. If the Facility were not  
22 allowed to conduct the maintenance activities as planned in the Petition, the only remaining  
23 compliance option would be an unplanned shut down of the Facility resulting in economic losses  
24 in excess of \$1 million. The RTO is critical to Petitioner's business, and, without operation of the  
25 RTO, Petitioner would be unable to operate the Facility to produce its low-VOC and ultra-low  
26 VOC products for customers.  
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1 Unplanned shutdowns of the Equipment would potentially cause excess emissions in  
2 violation of District rules and permit conditions and would pose a risk of adversely impacting  
3 Petitioner's ability to produce multiple products to meet contractual obligations. Thus, denying  
4 the variance would result in the practical closing and elimination of Petitioner's lawful business.  
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6 **c. The closing or taking would be without corresponding benefit in reducing air  
7 contaminants.**

8 Denial of the variance relief would cause irreparable harm to Petitioner with no  
9 corresponding benefit in emissions reduction, in that (a) the RTO is reducing emissions to  
10 maximum extent feasible, (b) denial of the Petition would treat IPS punitively for Proposed Work  
11 designed to reduce emissions further, and (c) Petitioner instead would be required to shut down  
12 the entire Facility causing a risk of potential emissions during shut-downs and start-ups and  
13 causing a closing and taking of Petitioner's lawful business operations.

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

16 Petitioner has considered curtailing or terminating operations in lieu of obtaining the  
17 requested variance. Curtailing operations would not avoid the need for the requested variance  
18 because any level of operation prior to completion of the Proposed Work is in violation of the  
19 99% VOC control efficiency in the Permit.

20 **e. During the period that the variance is in effect, the petitioner will reduce  
21 excess emissions to the maximum extent feasible.**

22 Petitioner will reduce excess emissions to the maximum extent feasible in accordance  
23 with variance conditions proposed by the District.

24 **f. During the period that the variance is in effect, the petitioner will monitor or  
25 otherwise quantify emission levels from the source, if requested to do so by the  
26 District, and report the emission levels to the District pursuant to a schedule  
27 established by the District.**

28 During the variance period, Petitioner shall quantify emissions from the Equipment and  
report emission levels as required by the District.

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2 **ORDER**

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

4 A. Petitioner is granted a short variance from District Rules 203(b) and 3002(c)(1),  
5 effective between March 25 and April 30, 2025, as they pertain to conditions in Petitioner’s Title  
6 V Permit (Facility ID No. 800367) (“Permit”): (i) Condition No. 6, Administrative Condition  
7 E.3 (first sentence only), and Administrative Condition E.7 (first sentence only) for its  
8 Regenerative Thermal Oxidizer (Permit No. G10605); (ii) Condition No. 3 for Fill Lines Nos. 3,  
9 21, 22, and 23 (Permit Nos. M42127, G6402, G6404, G10603) and for Mixers MM-1 through  
10 MM-12 (Permit Nos. G6381, G12140, G12139, G12138, G6384, G6385, G12137, G6387,  
11 G6388, G6390, G6391, G6392); (iii) Condition No. 4 for Holding Tanks Nos. H-1 through H-5  
12 (Permit Nos. G12141, F97834, F98735, F98736, F98737); and (iv) Administrative Condition E.3  
13 (first sentence only), Administrative Condition E.4, and Administrative Condition E.7 (first  
14 sentence only) for all the Equipment.  
15

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

- 17 1. Petitioner shall expedite the repairs and replacements (ceramic media for the  
18 Regenerative Thermal Oxidizer (“RTO”), Permit to Operate #G10605) by April  
19 10, 2025 and notify the District (Arely Gil Rojas, AQ Inspector II,  
20 [arojas@aqmd.gov](mailto:arojas@aqmd.gov)), Frederic Chung, Supervising AQ Inspector  
21 [fchung@aqmd.gov](mailto:fchung@aqmd.gov)), and Senior AQ Engineer Christopher Gill ([cgill@aqmd.gov](mailto:cgill@aqmd.gov))  
22 when repair/replacement is complete.  
23  
24 2. Petitioner shall notify the District (Arely Gil Rojas, AQ Inspector II,  
25 [arojas@aqmd.gov](mailto:arojas@aqmd.gov)), Frederic Chung, Supervising AQ Inspector  
26 [fchung@aqmd.gov](mailto:fchung@aqmd.gov)), and Senior AQ Engineer Christopher Gill ([cgill@aqmd.gov](mailto:cgill@aqmd.gov))  
27 within 24 hours if Petitioner encounters an unforeseeable delay in meeting the  
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1 April 10, 2025 milestone set forth in Variance Condition No. 1. The District shall  
2 not unreasonably withhold approval of an extension of time to meet an alternative  
3 milestone.

4 3. Petitioner shall complete the re-test (source test) of the RTO (Permit to Operate #  
5 G10605) by April 30, 2025 and notify the District (Arely Gil Rojas, AQ Inspector  
6 II, ([arojas@aqmd.gov](mailto:arojas@aqmd.gov)) and Frederic Chung, Supervising AQ Inspector  
7 ([fchung@aqmd.gov](mailto:fchung@aqmd.gov)) of test completion.

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9 4. Petitioner shall notify AQ Inspector Arely Gil Rojas ([arojas@aqmd.gov](mailto:arojas@aqmd.gov)) and  
10 Supervising AQ Inspector Frederic Chung ([fchung@aqmd.gov](mailto:fchung@aqmd.gov)) via email within  
11 24 hours of commencing work to replace the ceramic media on the RTO.

12 5. Petitioner shall notify AQ Inspector Arely Gil Rojas ([arojas@aqmd.gov](mailto:arojas@aqmd.gov)),  
13 Supervising AQ Inspector Frederic Chung ([fchung@aqmd.gov](mailto:fchung@aqmd.gov)), and Senior AQ  
14 Engineer Christopher Gill ([cgill@aqmd.gov](mailto:cgill@aqmd.gov)) via email 72 hours prior conducting  
15 the source test on the RTO.

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17 6. Petitioner shall submit a complete source test report showing compliance to South  
18 Coast AQMD Source Testing ([sourcetesting@aqmd.gov](mailto:sourcetesting@aqmd.gov)) and to AQ Inspector II  
19 Arely Gil Rojas ([arojas@aqmd.gov](mailto:arojas@aqmd.gov)), Supervising AQ Inspector Frederic Chung  
20 ([fchung@aqmd.gov](mailto:fchung@aqmd.gov)), and Senior AQ Engineer Christopher Gill ([cgill@aqmd.gov](mailto:cgill@aqmd.gov))  
21 within 45 calendar days after the test date. Petitioner shall provide any  
22 preliminary source test results within 72 hours of Petitioner's receipt of any such  
23 results.

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25 7. Petitioner shall request expedited review and processing of the Source Test Report  
26 to the South Coast AQMD by submitting the Expedited Evaluation Request Form  
27 222-XST.  
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8. Petitioner shall pay all applicable fees to the Clerk of the Board or the variance shall be invalidated pursuant to Rule 303(k), except for excess emissions fees, which shall be paid within fifteen (15) days of notification in writing that the fees are due, unless otherwise ordered by the Hearing Board.
9. Petitioner shall notify the District via email to Arely Gil Rojas (Attn: [arojas@aqmd.gov](mailto:arojas@aqmd.gov)), Sheri Hanizavareh (Attn: [shanizavareh@aqmd.gov](mailto:shanizavareh@aqmd.gov)) and the Clerk of the Hearing Board in writing when final compliance has been achieved.