

Bay Area Air Quality Management District

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**Proposed
Permit Evaluation
and
Statement of Basis
for
MAJOR FACILITY REVIEW PERMIT
Reopening – Revision 3**

for
**ConocoPhillips – San Francisco Refinery
Facility #A0016**

Facility Address:

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May 2006

Application 12601

Application Engineer: Brenda Cabral
Site Engineer: Brenda Cabral

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Title V Statement of Basis

A. Background

This facility is subject to the Operating Permit requirements of Title V of the federal Clean Air Act, Part 70 of Volume 40 of the Code of Federal Regulations (CFR), and BAAQMD Regulation 2, Rule 6, Major Facility Review because it is a major facility as defined by BAAQMD Regulation 2-6-212. It is a major facility because it has the “potential to emit,” as defined by BAAQMD Regulation 2-6-218, more than 100 tons per year of a regulated air pollutant.

Major Facility Operating permits (Title V permits) must meet specifications contained in 40 CFR Part 70 as contained in BAAQMD Regulation 2, Rule 6. The permits must contain all applicable requirements (as defined in BAAQMD Regulation 2-6-202), monitoring requirements, recordkeeping requirements, and reporting requirements. The permit holders must submit reports of all monitoring at least every six months and compliance certifications at least every year.

In the Bay Area, state and District requirements are also applicable requirements and are included in the permit. These requirements can be federally enforceable or non-federally enforceable. All applicable requirements are contained in Sections I through VI of the permit.

The District issued the initial Title V permit to this facility on December 1, 2003.

Revision 1: On December 15, 2003, the District reopened the permit to amend flare and Regulation 9-10 requirements, correct errors, and incorporate some new sources and permit conditions. The revised permit was issued December 16, 2004, without objection from EPA. EPA did submit comments on the permit in a letter dated October 8, 2004, which the District committed to address in future actions.

Revision 1.5: On December 16, 2004, the District reopened the permit to make certain ConocoPhillips permit conditions that were originally established in NSR permits federally enforceable. The revised permit was issued on April 12, 2005, without objection from EPA.

Revision 2: A number of issues raised by EPA in its October 8 comment letter were addressed in a second revision to the permit. (Note that EPA commented on five refineries in this letter. Not all comments concern this facility.) In addition, some issues raised in the refinery's appeal to the December 16, 2004 permit and some refinery comments on that permit were addressed. The District published the draft Revision 2 permit for public comment on April 14, 2005. Those revisions have not yet been finalized.

Revision 3: In response to petitions to reconsider its decision to not object to Revision 1, EPA issued an order on March 15, 2005. That order directed the District to reopen the permit to address possible deficiencies that EPA had identified based upon the petitions. The District sent a formal notice of reopening to the facility on May 12, 2004. In this action the District is publishing a new draft permit, Revision 3, to address the deficiencies identified in the March order that were not already addressed in Revision 2.

The draft permit for this action reflects the Revision 2 changes that were proposed on April 14, 2005. These draft changes to the permit are shown in "~~strikeout~~/underline" format. The changes that are proposed in this action are shown in "~~double strikeout~~/double underline." In this action, the District is soliciting public comment only on the revisions proposed in this action, i.e., those shown in double strikeout and underline. When the permit is finalized, the tracking marks will be removed.

This statement of basis discusses the changes made by this reopening. It also provides additional analysis supporting certain applicability determinations. Where the additional analysis did not result in a permit change, the analysis is provided for information only. The permit is not being reopened with respect to those issues.

This statement of basis does not address the factual and legal basis for any other permit terms. These are addressed in the comprehensive statements of basis that were prepared for the initial issuance of the permit and subsequent reopenings and revisions. These are available on request.

B. Facility Description

The facility description can be found in the statement of basis that was prepared for the reopening issued on December 16, 2004. It is available on request from the Engineering Division of the District.

C. Permit Content

Additional information concerning the legal and factual basis of the Title V permit conditions is presented below. The information is organized by the relevant section of the Title V permit.

I. Standard Conditions

No changes to Section I are proposed.

II. Equipment

No changes to this section are proposed in this action.

III. Generally Applicable Requirements

No changes to this section are proposed in this action.

IV. Source-Specific Applicable Requirements

This section of the permit lists the applicable requirements for permitted or significant sources. These applicable requirements are contained in tables that pertain to one or more sources that have the same requirements. The order of the requirements is:

- District Rules
- SIP Rules (if any) listed following the corresponding District Rules. SIP rules are District rules that have been approved by EPA into the California State Implementation Plan. SIP rules are “federally enforceable” and a “Y” (yes) indication will appear in the “Federally Enforceable” column. If the SIP rule is the current District rule, separate citation of the SIP rule is not necessary and the “Federally Enforceable” column will have a “Y” for “yes”. If the SIP rule is not the current District rule, the SIP rule or the necessary portions of the SIP rule are cited separately after the District rule. The SIP portions will be federally enforceable; the non-SIP versions will not be federally enforceable, unless EPA has approved them through another program.
- Other District requirements, such as the Manual of Procedures, as appropriate.
- Federal requirements (other than SIP provisions)
- BAAQMD permit conditions. The text of BAAQMD permit conditions is found in Section VI of the permit.
- Federal permit conditions (unless they have been assigned a District permit condition number, in which case they are included as BAAQMD permit conditions). The text of Federal permit conditions, if any, is found in Section VI of the permit.

Section IV of the permit contains citations to all of the applicable requirements. The text of the requirements is found in the regulations, which are readily available on the District’s or EPA’s websites, or in the permit conditions, which are found in Section VI of the permit. All monitoring requirements are cited in Section IV. Section VII is a cross-reference between the limits and monitoring requirements. A discussion of changes to monitoring is included in Section C.VII of this permit evaluation/statement of basis.

Complex Applicability Determinations

Applicability of 40 CFR 63, Subpart A to S398, Flare

S398, Flare, was built after 1973 and is therefore subject to 40 CFR 63, Subpart J. On page 18 of EPA's Order, EPA notes that the requirements of NSPS Subpart A have been excluded for S398, Flare. The requirements of Subpart A have been added to the table except for the following sections, which do not apply:

- 60.11(b) Compliance with opacity standards in this part...: (applies only to opacity standards)
- 60.11(c) The opacity standards set forth in this part...: (applies only to opacity standards)
- 60.11(e) For the purpose of demonstrating initial compliance, opacity observations...: (applies only to opacity standards)
- 60.13 Monitoring: (applies only to continuous monitoring systems, which are not required on this flare)
- 60.18 Control Devices: (applies only to control devices used to comply with applicable subparts of parts 60 and 61)

Applicability of 40 CFR 63, Subpart J to S296, Flare

On page 17 of EPA's Order, EPA states that the "BAAQMD must reopen the Permit to address the changes that have occurred at Flare S-296."

S296 was first permitted with a nominal capacity of 692 tons/hr on 1977. In 1996, Conoco replaced the flare tip with a new one of a different make. The new flare tip has a nominal capacity of 845 tons/hr.

The District has invited the facility to provide additional information to support its position that the flare has not been modified. The facility has not provided the demonstration to date. Based on the record currently before it, the District has determined that the increased capacity is a modification that increases the flare's hourly potential to emit. Such a modification makes the source subject to NSPS. Therefore, the requirements of Subpart J and Subpart A (as described above for S398, Flare) have been added to Section IV of the permit. Additional information obtained during the comment period may affect the District's determination.

40 CFR 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)

On page 25 of EPA's Order, EPA states that: "the Permit fails to comply with the requirements of 40 C.F.R. § 70.7(a)(5) by excluding a discussion of the applicability of 40 C.F.R. 63, Part 63, subpart R, and potentially fails to comply with 40 C.F.R. § 70.6(a)(1), which requires that a title V permit include operational requirements and limitations that assure compliance with all applicable requirements."

Sources affected by NESHAPS Subpart R, Section 63.420 are either bulk gasoline terminals or pipeline breakout stations. "Bulk gasoline terminal" means any gasoline facility that receives gasoline by pipeline, ship or barge. "Pipeline breakout station" means a facility along a pipeline containing storage vessels used to relieve surges or receive and store gasoline from the pipeline for reinjection and continued transportation by pipeline or to other facilities. Conoco has no bulk gasoline terminals and no pipeline breakout stations. Therefore, it is not subject to Subpart R.

Other Changes to permit

BAAQMD Regulation 6-311 was added to the tables for cooling towers because it was inadvertently omitted in drafting Revision 2. Compliance with this standard is discussed in the evaluation for Application 10349, which is included in the Statement of Basis for Application 12433.

"Future Effective Dates" that have passed have been removed.

Exemption of Flares from Regulation 8

On page 20 of the Order, EPA states that the District must either conduct a design review of the refinery flares to better demonstrate that the flares consistently meet a 90% control efficiency to qualify for the Regulation 8-1-110.3 exemption from Regulation 8, Rule 2 or include Regulation 8, Rule 2 as an applicable requirement for those sources. The District did not make either of these changes because the District has no authority to do so and because conducting a design

review to qualify for an exemption from Regulation 8, Rule 2 would not be a wise use of resources.

First, as previously stated in the District's June 13, 2005 response to EPA's order, which is incorporated herein by reference and set forth in Appendix A, Regulation 8, Rule 2 does not apply to refinery flares because the term miscellaneous operation was never intended to include refinery flares. This applicability determination does not rely on the exemption in Regulation 8-1-110.3. Rather it is based on the general scope of Regulation 8, Rule 2 as supported by a review of the regulatory history and other considerations discussed below.

In its original form the limit now included in Regulation 8, Rule 2 clearly did not apply to refinery flares. The (then) Bay Area Air Pollution Control District adopted Regulation 3 – the predecessor to Regulation 8, Rule 2 and others – on January 4, 1967. In its original form, Regulation 3 set a standard of 300 ppm total carbon for any organic emission from a *source operation* (former § 3101). A "source operation" was defined (former § 2035) as "the last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminant from the process materials or in the conversion of these process materials into air contaminants, as in the case of combustion of fuel; and (b) is not an air pollution abatement operation." A refinery flare is not an operation that separates or converts process materials into air contaminants rather its function is to reduce or abate the amount of contaminants in gases that would otherwise be emitted directly into the atmosphere. Accordingly, refinery flares were not subject to the limit in Regulation 3, and the limit was never enforced against flares.

Regulation 3 also included the predecessor to the exemption now contained in Regulation 8-1-110.3 (former § 1215). The exemption provided a mechanism for exempting certain *source operations* from the 300 ppm total carbon limit. Specifically, section 1215 included an exemption for any source operation or group of source operations that achieved an 85% reduction in reactive organic gas emissions. Because a refinery flare was not a source operation, however, this exemption had no relevance for these devices.

Subsequent rulemakings did not include any discussion or analysis of expanding the scope of Regulation 8, Rule 2 to include refinery flares. When Regulation 3 was recodified in 1980 into various Regulation 8 provisions including Regulation 8, Rule 2, the applicability language was revised. The term "source operation" and its definition were deleted. In their place, the regulation now refers to *miscellaneous operations*. The term "miscellaneous operations" was very broadly defined to include "[a]ny operation other than those limited by the other Rules of this Regulation 8 and the Rules of Regulation 10." While this amendment provides a basis for an argument that the scope of Regulation 8, Rule 2 was expanded to include flares, there is nothing in the rulemaking record to support this claim. If this had been an intended result of the recodification of Regulation 3 or any subsequent amendments to the provisions affecting the applicability of the limit in 8-2, some analysis of the cost and impact of that regulatory impact would have occurred. That there has been no discussion or analysis of the costs or impacts of expanding the scope of the emissions limit in Regulation 8, Rule 2 or the exemption in Regulation 8-1-110.3 to include refinery flares is a strong indication that this was not intended. Flares are safety devices and any regulation of these devices would have been controversial, as

the recent flare control rulemaking demonstrates. Safety and costs are weighty issues, and one would expect them to be addressed in any rulemaking that implicated them.

Further support for the District's determination that Regulation 8, Rule 2 was never intended to apply to refinery flares is that the means of demonstrating compliance with the limit in Regulation 8, Rule 2, as set out in Section 8-2-601, cannot be used for these devices. It can reasonably be assumed that the District would provide a specific means of determining compliance with Regulation 8, Rule 2 for flares if these sources were expected to comply with the rule.

Last year the District adopted the flare control rule, Regulation 12, Rule 12. As a part of the rulemaking, the District amended Regulation 8, Rule 2 to clarify that it does not apply to refinery flares. As explained in the Staff Report and other documents for this rulemaking, the amendment to Regulation 8, Rule 2 was intended to reflect existing law. While this clarification was not strictly necessary, the District determined that it would be best to spell out the regulatory structure for refinery flares to avoid the apparent confusion regarding the scope of Regulation 8, Rule 2 as evidenced by the issues raised in the context of the Title V permitting for Bay Area refineries.

Although none of these points is definitive in and of itself, taken together they comprise a compelling case for the District's determination that Regulation 8, Rule 2 was never intended to apply to refinery flares. The District is bound by its purpose in adopting the regulation; the District may not, and EPA cannot order the District to, enforce or apply a regulation – even one approved for inclusion in the State Implementation Plan – inconsistent with its intended purpose. Thus, the District has no authority to include this rule as an applicable requirement or to require a design review to establish qualification for the exemption from the rule under Regulation 8-1-110.3 as directed by EPA.

Second, the flares at this facility are not subject to Regulation 8, Rule 2 because they are subject to a rule in Regulation 10. Regulation 8, Rule 2 applies to miscellaneous operations, which do not include operations limited by any other rule in Regulation 8 or any rule in Regulation 10. Certain refinery flares, including the flares at this facility, are subject to 40 CFR Part 60, which includes Subpart J. This federal regulation has been incorporated by reference in Regulation 10; consequently a flare subject to Subpart J is also subject to a Regulation 10 rule. The flares at this facility will be certified for compliance with Subpart J, which includes an acceptance of Subpart J applicability, in accordance with the provisions of the Consent Decree filed January 27, 2005 in the U.S. District Court, Southern District of Texas in United States et al., v. ConocoPhillips Company, Civil Action No. H-05-0258. Because the flares are limited by a Regulation 10 rule, Regulation 8, Rule 2 does not apply to these devices.

Finally, even if Regulation 8, Rule 2 did apply to refinery flares, the District continues to maintain that these devices are designed and operated so that they would meet the conditions of the exemption under Regulation 8-1-110.3 and that monitoring to ensure these conditions are met is unnecessary. In fact, previously, in issuing the permit, the District determined that on the basis of available information, refinery flares when properly operated easily meet a 90% reduction efficiency. The District explained that the design of the flares has been dictated by requirements of another agency charged with ensuring the protection of refinery workers but that

a properly operating flare so designed will consistently meet the 90% reduction efficiency by a significant margin. The District does not believe that there is any benefit to be realized by performing a design review, particularly now that all Bay Area refineries are preparing Flare Minimization Plans to be submitted by August 1, 2006 as required by Regulation 12, Rule 12, Flares at Petroleum Refineries.

The Order further provides that the permit lacks periodic monitoring for compliance with permit conditions added to ensure that flares are properly operated. The District also has no authority to take this action. In response to concerns previously raised by EPA about the need to ensure the flares will meet the conditions for the exemption from Regulation 8, Rule 2 under Regulation 8-1-110.3, the District added permit conditions to ensure the flares are operated in a manner consistent with the operational parameters assumed in determining that they would qualify for the exemption. Although the permit conditions were not necessary to ensure compliance with an applicable requirement, they were identified as federally enforceable; this was in error. If the District had retained these conditions, the permit would have been modified to reflect this conclusion. Because Regulation 8, Rule 2 does not apply to refinery flares and the exemption in Regulation 8-1-110.3 is, therefore, irrelevant for these devices, these conditions are not necessary or authorized and must be deleted. And because the conditions have been deleted, the issue of adding periodic monitoring to ensure compliance with the permit conditions is moot.

Monitoring for NSPS Subpart J at Flares

The Orders for Chevron and Valero state that the District must either impose the requirements contained in 40 CFR § 60.105(a)(3) or (4), or add monitoring to assure compliance with Chevron permit Condition 18656, Part 7 and Valero Condition 20806, Part 7 (referred to below as “prohibitory conditions”). The Orders for Tesoro and ConocoPhillips indicate EPA’s intent to treat those permits similarly in the near future. The District interprets the Order, in this respect, to assert the need for monitoring to determine whether the refineries are properly claiming that certain flares continue to be exempt from the H₂S standard of § 60.104(a)(1), i.e., that the flares are not used to combust gases on a “routine” basis. The Order does not assert that the exemption has been improperly claimed, but rather that Title V monitoring is required to verify on an ongoing basis whether the exemption is properly claimed. As explained below, the District in Revision 3 is proposing to delete the prohibitory conditions, and is otherwise deferring response on this issue until there is new guidance from EPA.

Regarding this issue, the Order reflects views expressed in earlier comments from EPA. In an October 6, 2004, letter responding to these comments, the District affirmed the importance of determining applicability of Subpart J on a continuing basis but noted that, as a Title V matter, the imposition of monitoring is authorized only for requirements determined to be applicable. The District reasoned that therefore, to the extent a flare is, as a factual matter, exempt per § 60.104(a)(1), then the H₂S standard of Subpart J is not applicable and Title V monitoring is not authorized. The October 6 letter sought clarification from EPA on three points: 1) articulation of the broader Title V implementation principle being asserted by EPA, 2) the legal rationale for that principle, and 3) EPA’s plan for ensuring national consistency. To date, EPA has not addressed the first two points.

Concurrent with the March 15, 2005, Orders, EPA also issued guidance addressing the same issue. This guidance would have served to address the District's concern regarding national consistency. However, on May 16, 2005, EPA issued a brief statement withdrawing the March 15 guidance and stating that new guidance would be issued "in the upcoming weeks." The District interprets this to mean either that EPA is reconsidering its position or, at the least, that the new guidance will serve to clarify EPA's position and rationale. The District therefore believes the most efficient course is to defer its response to the Orders until new guidance is issued.

Regarding the prohibitory conditions referred to above, the District will propose deletion of these conditions (Condition 18255) because they are neither required nor helpful. The District initially believed these conditions might obviate the need to resolve the disagreement over monitoring for applicability of Subpart J described above. This belief has proven false. Judging from the March 15 Orders, the effect was merely to transpose the very same monitoring issue onto the new prohibitory conditions themselves. In general, there is no requirement in Title V or the implementing regulations to impose such prohibitions. Whether the exemption from the Subpart J H₂S standard has been properly claimed is determined based upon actual events at the refinery, not upon what the refinery is legally authorized to do. Consistent with this principle, if "routine" flaring does occur, then the flare is subject to the H₂S standard of Subpart J and the monitoring requirements of § 60.105(a) regardless of whether any such prohibition exists in the Title V permit. The prohibitory conditions are simply redundant. Deletion of the conditions should facilitate further discussions on this issue by returning the focus to the exemption language of Subpart J.

V. Schedule of Compliance

A schedule of compliance is required in all Title V permits pursuant to BAAQMD Regulation 2-6-409.10 that provides that a major facility review permit shall contain the following information and provisions:

"409.10 A schedule of compliance containing the following elements:

- 10.1 A statement that the facility shall continue to comply with all applicable requirements with which it is currently in compliance;
- 10.2 A statement that the facility shall meet all applicable requirements on a timely basis as requirements become effective during the permit term; and
- 10.3 If the facility is out of compliance with an applicable requirement at the time of issuance, revision, or reopening, the schedule of compliance shall contain a plan by which the facility will achieve compliance. The plan shall contain deadlines for each item in the plan. The schedule of compliance shall also contain a requirement for submission of progress reports by the facility at least every six months. The progress reports shall contain the dates by which each item in the plan was achieved and an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted."

No changes to this section are proposed in this action.

VI. Permit Conditions

Monitoring for Condition 18255, Flares

The District will propose deletion of the portions of Condition 18255 that were imposed to assure compliance with the exemption in Regulation 8-1. The District has determined that this regulation does not apply to flares. See the discussion above on Exemption of Flares from Regulation 8.

VII. Applicable Limits and Compliance Monitoring Requirements

This section of the permit is a summary of numerical limits and related monitoring requirements that apply to each source. The summary includes a citation for each monitoring requirement, frequency, and type. The applicable requirements for monitoring are completely contained in Sections IV, Source-Specific Applicable Requirements, and VI, Permit Conditions, of the permit.

PM Sources

S# & Description	Federally Enforceable Limit Citation	Federally Enforceable Limit	Monitoring
S1001, S1002, S1003, Sulfur Recovery Units	BAAQMD 6-301	Ringelmann 1 for no more than 3 min/hr	Monthly visible emissions monitoring
Refinery heaters fired on RFG	BAAQMD 6-310	0.15 gr/dscf	None
S1001, S1002, S1003, Sulfur Recovery Units	BAAQMD 6-310	0.15 gr/dscf	None

Monthly visible emissions monitoring has been imposed on the Sulfur Recovery Units to ensure compliance with Regulation 6-301. Source testing for 6-310 is not feasible at this time because new ports would be required in the stack and it is only possible to install them during a turnaround. The first annual testing for the limit of 0.08 gr SO₃ or H₂SO₄/dscf in 6-330, Sulfur Recovery Units, has been performed. Preliminary results show that the emissions are very low. Since any particulate is expected to be primarily acid mist, it is not expected that the sulfur recovery units will violate with the Regulation 6-310 limit.

Monitoring for Condition 18255, Flares

The District will propose deletion of the portions of Condition 18255 that were imposed to assure compliance with the exemption in Regulation 8-1. The District has determined that this regulation has no applicability to flares. See the discussion above on Exemption of Flares from Regulation 8.

Periodic monitoring for the grain loading standard in BAAQMD Regulation 6-310 for units fired on refinery fuel gas.

On page 14 of EPA's order, EPA grants the petition to object and states that the District must re-analyze the question of appropriate periodic monitoring for the grain loading standard for units fired on refinery fuel gas (RFG). Specifically, the District has been directed to either add monitoring to demonstrate compliance with the limit in BAAQMD Regulation 6-310, or explain in the Statement of Basis why it is not needed.

EPA noted that the District had relied on the CAPCOA/ARB/EPA Recommendations published in 1999, which did not apply to combustion sources, and that the District had not relied on the 2001 recommendations, which did apply to combustion sources, although they addressed other fuels.

The District has determined that no periodic monitoring is required at combustion units firing refinery fuel gas.

The grain-loading limit in BAAQMD Regulation 6-310, and the grain-loading standard described under the “Periodic Monitoring Recommendations for Generally Applicable Requirements” in the 2001 CAPCOA/CARB/EPA recommendations for boilers firing natural gas is one and the same. Specifically, the PM emission rate outlined in the BAAQMD rule and the standard in the 2001 CAPCOA/CARB/EPA recommendations is 0.15 gr/dscf. However, the 2001 CAPCOA/CARB/EPA recommendations do not address PM emissions resulting from the combustion of RFG. In addition, the USEPA AP-42 does not contain any emission factors for combustion units firing RFG.

Following is an estimate of particulate emissions based on the worst-case assumption that all of the sulfur in the RFG combusted at the combustion units is emitted as PM emissions, the following emission calculations show that the PM emission rate of 0.15 gr/dscf will never be exceeded:

Conoco Phillips estimated the total sulfur in the main refinery fuel gas system to be 355 ppmv (~ 0.21 gr S/dscf)¹, based on ongoing monitoring of total sulfur.

Assuming the heating value of RFG is 1,100 BTU/dscf, the dry flue gas factor or F-factor² for RFG is approximately the same as natural gas i.e. 8,710 dscf/MMBTU, and that all of the sulfur is converted to sulfate (ammonium sulfate), the PM emissions exiting the combustion units at Conoco Phillips in the form of sulfate emissions is determined as follows:

$$\begin{aligned} &= (0.21 \text{ gr S /dscf RFG}) \times (\text{lb S}/7000 \text{ gr S}) \times (\text{dscf RFG}/1100 \text{ BTU}) \times \\ &(\text{MMBTU}/8710 \text{ dscf}) \times (10\text{E}6 \text{ BTU/MMBTU}) \times (\text{lb-mol S}/32 \text{ lb S}) \times \\ &(\text{lb-mol sulfate}/\text{lb-mol S}) \times (132 \text{ lb sulfate}/\text{lb-mol sulfate}) \\ &= 1.29\text{E-}5 \text{ lb sulfate/dscf} \end{aligned}$$

Converting the above mass emission rate from “pounds” of sulfate to “grains” of sulfate:

$$\begin{aligned} &= (1.29\text{E-}5 \text{ lb sulfate/dscf}) \times (7000 \text{ gr sulfate}/\text{lb sulfate}) \\ &= 0.09 \text{ gr sulfate/dscf} \end{aligned}$$

¹ (355 moles S/10E6 moles RFG) x (7000 gr S/1 lb S) x (lb-mol S/387 dscf) x (32 lb S/lb-mol S)
= 0.21 gr/dscf

² Based upon the assumption of complete stoichiometric combustion of natural gas (~ RFG). In effect, it is assumed that all excess air present before combustion is emitted in the exhaust gas stream.

It can be seen from above that the PM emission rate in the form of sulfate emissions is well below the PM emission limit outlined in BAAQMD Regulation 6-310 and the PM standard in the 2001 CAPCOA/CARB/EPA recommendations. Therefore, compliance is assured and no periodic monitoring is required at combustion units firing RFG.

Other changes to permit

BAAQMD Regulation 6-311 was added to the tables for cooling towers because it was omitted in error. Compliance with this standard and a demonstration that monitoring is not required is discussed in the evaluation for Application 10349, which is included in the Statement of Basis for Application 12433.

VIII. Test Methods

This section of the permit lists test methods that are associated with standards in District or other rules. It is included only for reference. In most cases, the test methods in the rules are source test methods that can be used to determine compliance but are not required on an ongoing basis. They are not applicable requirements. If a rule or permit condition requires ongoing testing, the requirement will also appear in Section VI of the permit.

No changes to the test method section are proposed.

IX. Permit Shield:

No changes to permit shields are proposed in this revision.

X. Revision History

The revision history has been updated.

XI. Glossary

No changes to the glossary are proposed in this revision.

D. Alternate Operating Scenarios

No alternate operating scenario has been requested for this facility.

APPENDIX A
BAAQMD LETTER OF JUNE 13, 2005



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

June 13, 2005

Stephen L. Johnson, Administrator
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MARIN COUNTY
Harold C. Brown, Jr.

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Erin Garner
Liz Kniss
Patrick Kwok
Julia Miller

SOLANO COUNTY
John F. Silva

SONOMA COUNTY
Tim Smith
Pamela Torliatt

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Dear Administrator Johnson:

This letter provides the Bay Area Air Quality Management District's ("Air District") proposed determinations in response to EPA's March 15, 2005, Orders for the Chevron, Valero, ConocoPhillips, and Tesoro refinery Title V permits ("EPA Orders" or "the Orders"). The letter describes in general terms how the Air District plans to address each of these issues in conjunction with a revision to the refinery permits which the Air District anticipates issuing for public comment by mid-July as "Revision 3." The statements of basis for the Revision 3 proposals will address each issue discussed below in appropriate detail, including issues for which changes to the permit are not being proposed.

In its October 8, 2004, letter to the Air District commenting on the draft Revision 1 permits, EPA identified a number of issues for resolution that required additional notice and comment in order to be fully addressed. Rather than delay the implementation of important improvements contained in Revision 1, EPA requested that the Air District address these outstanding issues in its next revision (Revision 2) and the Air District did so. Petitioners raised these issues in their petitions on Revision 1, and EPA included them in its March 15 Order. The attached "Summary of Issues & Proposed Resolution" describes issues that were raised in the March 15 Orders and addressed in Revision 2.

The following describes the Air District's plans for addressing issues identified in the EPA Orders in Revision 3. Issues are identified using nomenclature similar to that used in the Orders.

FCCU Mass Emission Limits (Chevron B.2)

EPA's Order objected to labeling the basis for Permit Condition 11066, Part 3, as "BACT." In response, the Air District intends to change the basis for Permit Condition 11066, Part 3, from "BACT" to "Offsets."

Basis for Tank Exemptions (Tesoro H.3; Valero H.2)

EPA's Orders identified certain tanks exempt from permitting for which the basis for exemption is not identified. The Air District intends to describe the basis for exemption for the sources identified in the Orders.

Missing Information on Tanks (Tesoro H.4)

EPA's Order states that the Air District failed to include 20 tanks in Tesoro's permit without providing justification for failing to do so. In the Statement of Basis for Revision 3 the Air District will explain that 19 of the 20 tanks have been demolished. The Air District intends to propose adding the 20th tank, Tank A-506, to the permit in Revision 3 along with the basis for its exemption.

Monitoring for Regulation 6 at Boilers and Furnaces (Chevron C.1.a; ConocoPhillips C.1.a)

EPA's Orders state that the Air District has not adequately justified the absence of monitoring for boilers and furnaces subject to the grain loading standard of Air District Regulation 6-310. The Air District intends to provide additional justification in the Statement of Bases for Revision 3. The justification will demonstrate that, given the expected margin of compliance using worst case assumptions, additional monitoring is not appropriate.

Monitoring for Regulation 6 at Internal Combustion Engines (Chevron C.1.b; Tesoro G.5.d; Valero G.5.c)

Regarding certain backup generators at Chevron, Tesoro, and Valero, EPA's Orders state that the Air District must either add monitoring or justify the absence of monitoring for compliance with Regulations 6-301 and 6-310. The Air District intends to provide explanation for why the addition of monitoring would be inappropriate. The explanation will include descriptions of the low emissions potential from these engines, the margin of compliance expected with regard to the applicable opacity and grain loading standards, and consistency with treatment of this issue in guidance jointly issued by EPA, CARB, and CAPCOA.

Monitoring for Regulation 6 at Cogeneration and Claus Sulfur Units (Chevron C.1.d)

EPA's Order states that the permit must clarify what events trigger the need for visual inspections at the Cogeneration and Claus Sulfur Units. The Air District intends to propose the addition of a permit condition clarifying that visual inspection is required at specified intervals based on the quantity of fuel combusted and also during any upset.

Monitoring for Regulation 6 at Sulfur Plants (ConocoPhillips C.1.b)

EPA's Order states that the Air District must either provide monitoring for compliance with Air District Regulations 6-301 and 6-310 at the ConocoPhillips Sulfur Plants or must justify the absence of monitoring. The Air District intends to propose the addition of monthly visible emissions monitoring.

Monitoring for Regulation 6 at Asphalt Operations (Chevron C.1.e)

EPA's Order states that the Air District must clarify the basis for its determination that monitoring is not necessary to assure this source's compliance with Regulation 6-310. When responding to earlier comments, the Air District had referred to the combustion of natural gas as the basis for its determination. The correct basis is the same as for the determination that monitoring for visible emissions is not justified: the control technology being used (mist eliminators) is expected to keep emissions below the standard with a wide margin of compliance. The Air District will clarify this in the statement of basis.

Monitoring for Regulation 6 at Cooling Towers (Tesoro G.3.b.2; Valero G.3.b.2)

Based upon a conclusion that the Air District's justification for not providing monitoring is inadequate, EPA's Orders state that the permit must provide monitoring for compliance with Air District Regulation 6-311 at the Tesoro and Valero cooling towers. The Air District intends to provide a more thorough explanation of the conservative assumptions used in its prior explanation. Additionally, the Air District intends to propose monitoring where the potential to emit is greater than 50% of the 40 lb/hr limit in Regulation 6-311.

Monitoring for Regulation 6 at the FCCU and FCCU Catalyst Hoppers (Tesoro G.5.c)

EPA's Order faults the lack of monitoring for compliance with Air District Regulations 6-301 and 6-310 at the FCCU and FCCU catalyst hoppers. For the FCCU, the Air District intends to propose a requirement that Tesoro monitor certain operating parameters on the unit's Electrostatic Precipitator that generally correspond to particulate emissions. For the catalyst hoppers, the Air District intends to propose a requirement that Tesoro perform a monthly visual check.

Monitoring for Regulation 6 at Heat Exchanger Cleaning Pits (Tesoro G.5.f)

EPA's Order states that the Air District must either provide monitoring for compliance with Regulations 6-301 and 6-304 at Tesoro's heat exchanger cleaning pits or justify the absence of monitoring. The Air District intends to propose a requirement that Tesoro conduct hourly visible emissions checks at these sources when tube cleaning is taking place.

Monitoring for Regulation 6 at Lime Slurry Tanks (Valero G.5.b)

EPA's Order states that the Air District must either provide monitoring for compliance with Air District Regulations 6-301, 6-310, and 6-311 at the Valero lime slurry tanks, or must justify the absence of monitoring. The Air District intends to provide a more complete explanation regarding compliance at this unit, and also intends to propose a requirement to conduct an annual visible emissions observation of the eductor outlet during truck loading.

Monitoring for Regulation 6 at Coke Transport, Catalyst Unloading, Carbon Black Storage, and Lime Silo (Valero G.5.e)

EPA's Order states that the Air District must either provide monitoring for compliance with Air District Regulation 6-311 at these Valero units, or must justify the absence of monitoring. The Catalyst Unloading and Lime Silo units have been unused for years and the possibility of a return to service is remote. Accordingly, the Air District intends to remove these from the permit. The Air District intends to propose the addition of an annual source test requirement to demonstrate compliance with Regulation 6-311 at the Coke Transport Cyclone. Regarding Carbon Black Storage, the Air District intends to demonstrate that additional monitoring is inappropriate because the small quantity of emissions and other factors indicate that noncompliance is unlikely.

Compliance Schedule for Notices of Violations (Tesoro C.1.a; Valero C.1.a)

EPA's Order states that the Air District did not adequately demonstrate that it had reviewed the violation history for the Valero and Tesoro refineries in determining that schedules of compliance are not required in these permits. The Orders place particular emphasis on reviewing past violations demarcated as "pending" in the Air District's enforcement database, i.e., those for which the Air District has not settled or otherwise resolved civil penalty claims arising out of the violations. The Air District intends to provide a more thorough explanation of its determination that a return to compliance was achieved regarding each of the violations identified in the Orders. As penalty resolution status is irrelevant to the issue of whether the facility has ongoing compliance problems, the Air District's explanation will address both violations for which penalty resolution has been achieved and those for which resolution of penalties is still pending.

Monitoring for NSPS Subpart J at Flares (Chevron E.2; ConocoPhillips E.2; Valero G.1; Tesoro G.1)

The Orders for Chevron and Valero state that the Air District must either impose the requirements contained in 40 CFR § 60.105(a)(3) or (4), or add monitoring to assure compliance with Chevron permit Condition 18656, Part 7 and Valero Condition 20806, Part 7 (referred to below as "prohibitory conditions"). The Orders for Tesoro and ConocoPhillips indicate EPA's intent to treat those permits similarly in the near future. The Air District interprets the Orders, in this respect, to assert the need for monitoring to determine whether the refineries are properly claiming that certain flares continue to be exempt from the H₂S standard of § 60.104(a)(1), i.e., that the flares are not used to combust gases on a "routine" basis. The Orders do not assert that the exemption has been improperly claimed, but rather that Title V monitoring is required to verify on an ongoing basis whether the exemption is properly claimed. As explained below, the Air District in Revision 3 will be proposing to delete the prohibitory conditions, and is otherwise deferring response on this issue until there is new guidance from EPA.

Regarding this issue, the orders reflect views expressed in earlier comments from EPA. In an October 6, 2004, letter responding to these comments, the Air District affirmed the importance of determining applicability of Subpart J on a continuing basis but noted that, as a Title V matter, the imposition of monitoring is authorized only for requirements determined to be applicable. The Air District reasoned that therefore, to the extent a flare is, as a factual matter, exempt per § 60.104(a)(1), then the H₂S standard of Subpart J is not applicable and Title V monitoring is not authorized. The October 6 letter sought clarification from EPA on three points: 1) articulation of the broader Title V implementation principle being asserted by EPA, 2) the legal rationale for that principle, and 3) EPA's plan for ensuring national consistency. To date, EPA has not addressed the first two points.

Concurrent with the March 15, 2005, Orders, EPA also issued guidance addressing the same issue. This guidance would have served to address the Air District's concern regarding national consistency. However, on May 16, 2005, EPA issued a brief statement withdrawing the March 15 guidance and stating that new guidance would be issued "in the upcoming weeks." The Air District interprets this to mean either that EPA is reconsidering its position or, at the least, that the new guidance will serve to clarify EPA's position and rationale. The Air District therefore believes the most efficient course is to defer its response to the Orders until new guidance is issued.

Regarding the prohibitory conditions referred to above, the Air District will propose deletion of these conditions because they are neither required nor helpful. The Air District initially believed these conditions might obviate the need to resolve the disagreement over monitoring for applicability of Subpart J described above. This belief has proven false. Judging from the March 15 Orders, the effect was merely to transpose the very same monitoring issue onto the new prohibitory conditions themselves. In general, there is no requirement in Title V or the implementing regulations to impose such prohibitions. Whether the exemption from the Subpart J H₂S standard has been properly claimed is determined based upon actual events at the refinery, not upon what the refinery is legally authorized to do. Consistent with this principle, if "routine" flaring does occur, then the flare is subject to the H₂S standard of Subpart J and the monitoring requirements of § 60.105(a) regardless of whether any such prohibition exists in the Title V permit. The prohibitory conditions are simply redundant. Deletion of the conditions should facilitate further discussions on this issue by returning the focus to the exemption language of Subpart J.

Exemption of Flares from Regulation 8 (Chevron E.4; ConocoPhillips E.4)

The Orders for Chevron and ConocoPhillips state that the Air District must either conduct a design review of the refinery flares to better demonstrate that the flares consistently meet a 90% control efficiency to qualify for the Regulation 8-1-110.3 exemption from Regulation 8-2 or include Regulation 8-2 as an applicable requirement for those sources. The Orders further provide that the permit lacks periodic monitoring for compliance with permit conditions added to ensure that flares are properly operated. Neither of these changes is necessary.

In issuing the proposed permit, the Air District determined that on the basis of available information, refinery flares when properly operated easily meet a 90% reduction efficiency. In response to concerns previously raised by EPA, the Air District added permit conditions to ensure the flares are operated in a manner consistent with the operational parameters assumed in determining that they qualify for the exemption. Because the permit conditions were not intended to ensure compliance with an applicable requirement, they should not have been identified as federally enforceable; the Air District will modify the permits to reflect this conclusion. For the same reason, periodic monitoring to ensure compliance with the permit conditions is not necessary.

In the Orders EPA provides no discussion of its apparent rejection of the explanations and supporting information previously submitted by the Air District in support of the permits as written. The Air District has explained that the design of the flares has been dictated by requirements of another agency charged with ensuring the protection of refinery workers and that a properly operating flare so designed will consistently meet the 90% reduction efficiency by a significant margin when operated properly. EPA's failure to address these points directly leaves the Air District in a difficult position in terms of responding to the Order.

Beyond these matters lie critical legal and practical matters that must be considered in determining whether the permits must be reopened to address these issues. First, the Air District's presentation of this issue to date has been incomplete. The Air District has reviewed the regulatory history of this provision and concludes that Regulation 8-2 was never intended to apply to refinery flares. Unfortunately, focus on the question whether refinery flares qualify for the Regulation 8-1-110.3 exemption has masked the more fundamental applicability issue.

Moreover, even if it is assumed that that flares are generally subject to Regulation 8-2, which would trigger an analysis of whether the flares qualify for an exemption under Regulation 8-1-110.2, the benefits of a design review are not apparent. EPA did not rely upon the studies referenced by the petitioners. It would be inappropriate to do so because the studies do not provide a basis for making conclusions regarding the performance of refinery flares. In fact, the Air District is not aware of any credible data that suggests a properly operating flare will not achieve combustion efficiencies significantly better than 90%; nor is it clear how a design review would address such issues if they existed.

The second matter of significant concern to the Air District is the effect of EPA's order on the Air District's efforts to develop a flare control rule. This rulemaking has been underway for more than two years and is scheduled to be presented to the Air District Governing Board July 20, 2005. The course of this rulemaking has been arduous due to the complexities of regulating these sources, which are first and foremost safety devices used when there is a need to release refinery gases to avoid more serious consequences. While it is clear that minimizing the use of flares is possible, the mechanism for achieving this result has required careful crafting with a significant amount of industry and public input. If adopted by the Board in July, the

rule will be implemented by the development of Flare Minimization Plans over the following year. Requiring the Air District and the refineries to engage in competing exercises such as the design review called for by EPA is both unnecessary in this context and will detract from the effort of finalizing and implementing the flare control rule.

The adopted flare control rule will specify that flare operation is exempt from Air District Regulation 8 (and thus exempt from Regulation 8-2). This is consistent with the underlying logic of Regulation 8-2 as a requirement of general applicability intended to fill gaps until source-specific regulations are adopted. In the case of the flare control rule, it is not strictly necessary, given that flares have never been subject to Regulation 8-2. However, the Air District expects this will put to rest any uncertainty regarding applicability.

NSPS Subpart J Applicability at Flare 296 (ConocoPhillips E.1)

EPA's Order states that the Air District has not adequately supported its conclusion that ConocoPhillips flare S-296 has not undergone a modification that would make it subject to NSPS Subpart J. While not concluding that there is information proving a modification, the Order highlights information in the record suggesting that a modification may have occurred. The Air District is investigating the issue. The Air District will report on its progress in conjunction with the Revision 3 proposal. If it is determined that a modification occurred, then Subpart J will be proposed for inclusion in the permit as an applicable requirement and a compliance schedule established, as appropriate.

Permit Shield Subsuming NSPS Subpart VV (Chevron G.1)

EPA's Order states that the Chevron permit inappropriately provides that compliance with Air District Regulation 8-18-308 will be deemed compliance with 40 CFR § 60.484. The Air District intends to propose deletion of this permit shield provision.

Permit Shield Table (Chevron G.2)

EPA's Order states that certain tables in the Chevron permit apply the permit shield without adequate explanation. The Air District intends to revise the tables to include the basis for each shield. If the basis becomes invalid, the shield no longer applies.

Permit Shield For 40 sections CFR 60.7 (c) & (d) (Valero E.1)

EPA's Order states that the Valero permit improperly subsumes 40 CFR §§ 60.7(c) and (d) into Air District Regulation 1-522.8. This is an error in the permit, and will be deleted.

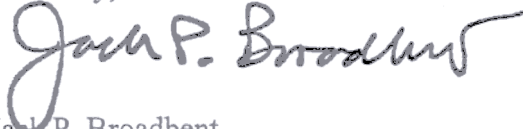
Administrator Stephen L. Johnson

June 13, 2005

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The Air District is committed to continued improvement of the Bay Area refinery Title V permits, and to working cooperatively with EPA to resolve issues of concern. If you have any questions regarding these matters, please contact Steve Hill, Manager, Permit Evaluation at (415) 749-4673.

Sincerely,

A handwritten signature in dark ink, reading "Jack P. Broadbent". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

Jack P. Broadbent
Executive Officer/APCO

Attachment

c: Deborah Jordan, EPA Region IX
Bill Harnett, EPA OAQPS

**Summary of Issues & Proposed Resolution
June 13, 2005**

<u>Issue</u>	<u>Description</u>	<u>Proposed Resolution</u>
Chevron B.2	FCCU mass emission limits: correct basis or remove limits	Clarify basis
Chevron C.1.a	Monitoring for Reg 6 at combustion sources	Provide justification for no monitoring
Chevron C.1.b	Monitoring for Reg 6 at diesel backup engines	Provide justification for no monitoring
Chevron C.1.c	Unclear rationale re: monitoring at asphalt operations	Clarify rationale
Chevron C.1.d	Clarify trigger for monitoring for Reg 6 at cogeneration and Claus units	Revise permit to clarify monitoring trigger
Chevron C.1.e	Designate ammonia limit as non-federally enforceable	Revise per EPA Order
Chevron C.1.f	Add cooling tower exemption from 8-2 to statement of basis	Addressed in Revision 2
Chevron C.2	Mark 8-28-304 as federally enforceable	Revise per EPA Order
Chevron E.2	Monitoring for NSPS J at exempt flares	Respond when new EPA guidance issued
Chevron E.4	Flare efficiency design review	Flare control rule resolves applicability
Chevron E.4	Add federally enforceable monitoring for Condition 18656	Flare control rule resolves applicability
Chevron G.1	Delete permit shield from 60.484	Delete shield
Chevron G.2	Explain streamlining SIP and NSPS requirements into MACT	Provide explanation
Conoco C.1.a	Monitoring for Reg 6 when firing refinery fuel gas	Provide justification for no monitoring
Conoco C.1.b	Monitoring for Reg 6 at sulfur plants	Add monitoring for visible emissions
Conoco E.1	Address whether flare 296 modified per NSPS J	Investigate and report
Conoco E.3	NSPS A requirements for S-398	Revise to include NSPS A
Conoco E.3	Monitoring for NSPS J at exempt flares	Respond when new EPA guidance issued
Conoco E.4	Add monitoring for Condition 18255	Flare control rule resolves applicability
Conoco E.5	Applicability of MACT CC to flares	Addressed in Revision 2

**Summary of Issues & Proposal Resolution
June 13, 2005**

<u>Issue</u>	<u>Description</u>	<u>Proposed Resolution</u>
Tesoro A.2.a	Reg 8-2 as applicable requirement for Hydrogen plant	Addressed in Revision 2
Tesoro A.2.d	Add NSPS QQQ and Reg 8-8 for slop oil and sludge dewatering	Addressed in Revision 2
Tesoro A.2.e	Identify non-aqueous benzene waste streams	Addressed in Revision 2
Tesoro A.2.f	Correct 6bQ language in Table IV-A	Address in Revision 3
Tesoro A.2.g	NESHAP FF applicability to specific units	Addressed in Revision 2
Tesoro A.2.h	ESP monitoring	Addressed in Revision 2
Tesoro C.1.a	Compliance schedule for violations identified in NOVs	Explain return to compliance
Tesoro G.3.a	Address cooling tower exemption from 8-2	Addressed in Revision 2
Tesoro G.3.b.2	Monitoring for 6-311 for cooling towers	Provide further rationale and/or monitoring
Tesoro G.5.b	Monitoring for 6-301 and 6-310 for Fluid Coker and ESP	Addressed in Revision 2
Tesoro G.5.c	Add monitoring for 6-301 and 6-310 for FCCU	Provide additional monitoring
Tesoro G.5.d	Monitoring for Reg 6 at diesel backup engines	Provide justification for no monitoring
Tesoro G.5.f	Monitoring for Reg 6 at heat exchanger pits	Provide additional monitoring
Tesoro H.1.b	Applicability of MACT CC for flares	Addressed in Revision 2
Tesoro H.2	Missing Appendix	Addressed in Revision 2
Tesoro H.4	Basis for exemptions for missing sources	Provide Basis
Tesoro H.4	Add missing sources to Table IID	Revise per EPA Order

**Summary of issues & Proposed Resolution
June 13, 2005**

<u>Issue</u>	<u>Description</u>	<u>Resolution</u>
Valero A.2.d	Subpart QQQ for new drain system	Addressed in Revision 2
Valero A.2.e	Correct description of 6BQ reqmt in Tables IV and VII	Addressed in Revision 2
Valero A.2.f	ESP monitoring language	Addressed in Revision 2
Valero C.1.a	Compliance schedule for violations identified in NOVs	Explain return to compliance
Valero E.1	Shield from 40 CFR 60.7(c) & (d)	Delete Shield
Valero G.1	Monitoring for NSPS J at exempt flares	Respond when new EPA guidance issued
Valero G.3.a	Address cooling tower exemption from 8-2	Addressed in Revision 2
Valero G.3.b.2	Add monitoring for Reg 6 at cooling tower	Provide further rationale and/or monitoring
Valero G.5.b	Monitoring for Reg 6 at lime slurry tanks	Provide further rationale and monitoring
Valero G.5.a	Monitoring for Reg 6 at sulfur pits	Justify no monitoring, pits vented to main stack
Valero G.5.c	Monitoring for Reg 6 at diesel backup engines	Provide justification for no monitoring
Valero G.5.e	Add monitoring for Reg 6 at coke transport, carbon black storage, lime silo	Add source testing at coke transport, justify no monitoring elsewhere
Valero H.1.b	Applicability of subpart CC at flares	Addressed in Revision 2
Valero H.2	Basis for exempt tanks	Addressed in Revision 2