

RECEIVED

2019 FEB 26 PM 4:48

February 26, 2019

Hand Delivered

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT



Tesoro Refining & Marketing Company LLC
Martinez Refinery
150 Solano Way
Martinez, CA 94553-1487

Art Valla
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105-2097

**Re: Tesoro Refining & Marketing Company LLC, Facility #B2758 & Facility #B2759,
Proposed Renewal, Major Facility Review Permit**

Dear Mr. Valla:

Tesoro Refining & Marketing Company, LLC (Tesoro) provides the following written comments related to the Bay Area Air Quality Management District's (BAAQMD or District) renewal of the major facility permit issued to Facility #B2758 and #B2759, a draft of which was issued for public comment on January 14, 2019. These comments address the following: (1) concerns with the draft revisions of the permit, as presented in the January 14, 2019 draft permit; (2) requested changes to terms and conditions of the prior version of the permit; and (3) correction of typographical or other ministerial errors.

Before going into our detailed comments, Tesoro wants to emphasize its purpose in raising the issues below. As the District is aware, Title V was intended to provide a repository for the applicable requirements established under the authority of the substantive titles of the Clean Air Act (CAA). This would serve as a basis for state/local permitting authorities and the facilities to have an agreement as to the requirements that EPA had issued in regulations (either directly or by approval of state implementation plan (SIP) provisions) or that the permitting authority had included as federally-enforceable provisions implementing the SIP in minor or major new source review (NSR) permits that were applicable to the facility. Tesoro supports that purpose. Title V was not intended, however, to create new substantive requirements. See 40 C.F.R. §70.1(b); 56 Fed. Reg. 21,712, 21,724 (May 10, 1991).) It follows that a key purpose of Title V was also to provide certainty to sources, the regulatory agency, and the public regarding the requirements that apply to the facility.

Consistent with this shared goal, the comments below are largely directed at ensuring the Title V permit renewal, when it is issued, accurately reflects the currently applicable requirements of the CAA. We recognize that for a sophisticated operation like a refinery, the list of requirements can be substantial, and that discussion will facilitate achieving an accurate final renewal permit. Therefore, we request to meet with District staff to review the issues raised below as soon as possible so that we may answer any questions and provide any additional information necessary to clarify applicability questions. We appreciate the hard work that has gone into the renewal and look forward to these discussions.

This document is organized as follows: Section I provides a chronology of the correspondence between Tesoro and the District. Section II provides comments on specific issues with the draft permit. In addition, we are also including a redline of requested changes, with corresponding comment boxes explaining the comment, in Attachment 3. Tesoro's detailed comments and the redline of requested changes can be found in the enclosed flash drive.

I. Chronology of Correspondence

Since submitting the application for renewal, Tesoro has provided comments and correspondence to BAAQMD related to the draft permit content. The following chronology summarizes these efforts, which we hope will be useful to the District in ensuring that each of us has the full set of correspondence in mind. If you are not able to find any of these documents, please let us know.

- December 22, 2015: Tesoro submits original renewal application. This application includes a draft redline of the permit content relating to Tesoro's proposed edits to the permit.
- January 26, 2016: BAAQMD issues incompleteness letter requesting additional information.
- June 8, 2016: Tesoro submits responses to items 1 through 3 of BAAQMD's January 26, 2016 letter and requests and extension for items 4 through 13.
- June 29, 2016: Tesoro provides additional comments and a request for an extension for submitting the data request responses.
- August 5, 2016: Tesoro submits responses to items 4 through 13 of BAAQMD's January 26, 2016 letter.
- February 3, 2017: BAAQMD requests additional data via email from Art Valla to Wilma Dreessen and Matthew Buell.
- March 3, 2017: Tesoro submits responses to BAAQMD's February 3, 2017 data request.
- March 3, 2017: Tesoro submits a response to BAAQMD's emailed data requests.
- April 4, 2017: BAAQMD requests additional information related to its February 3, 2017 request.
- June 8, 2018: Tesoro provides additional comments related to the draft permit.
- June 12, 2018: BAAQMD provides Tesoro an initial draft permit for review.

- June 12, 2018: Tesoro provides additional comments via email related to ongoing issues with the draft permit.
- June 15, 2018: BAAQMD provides emailed responses to Tesoro's June 8 and June 12 comments.
- June 18, 2018: Tesoro emails additional comments relating to ongoing issues with the draft permit.
- August 9, 2018: Tesoro emails additional comments related to ongoing issues with the draft permit.
- January 14, 2019: BAAQMD publishes proposed draft permit for 45-day comment period.

All prior comments submitted by Tesoro, to the extent not yet addressed in the permit, are incorporated by reference.

II. Detailed Comments

As the District is aware, the Title V permit is intended to record applicable requirements; it does not change them. Tesoro notes that the draft permit includes a series of tables with applicable requirements. For example, Table IV and its various sub-tables includes a column entitled "Applicable Requirement" with the regulatory citation for each applicable requirement and a column entitled "Regulation Title or Description of Requirement." Table VII and its various sub-tables includes columns entitled "Type of Limit," "Citation of Limit," "Monitoring Requirement Citation," "Monitoring Frequency," and "Monitoring Type." Some of these columns, such as the "Limit" column and the "Regulation Title or Description of Requirement" contained in the draft permit provides paraphrasing of applicable requirements, which is for shorthand reference and convenience. BAAQMD appropriately cites to the regulatory provision in the "Applicable Requirement," "Citation of Limit," and "Monitoring Requirement Citation" columns, which provides the full range of requirements (and options for compliance) in the regulation. Since Title V does not alter requirements, we emphasize that any paraphrasing should not be viewed as enforceable but rather that the regulatory language in the cited provisions will govern operations.

Detailed comments are included in Attachment 1, which includes identifying information (location in the permit) of the concern and a description of the comment. These comments are also included as comment boxes in the redline found in Attachment 3. Where specific permit provisions are addressed in the Statement of Basis, Tesoro's comments, as described in Attachment 1, apply to the Statement of Basis as well. In addition, we are providing specific comments to the Statement of Basis in Attachment 2.

We highlight the following points for your consideration as themes that we see running throughout the draft permit:

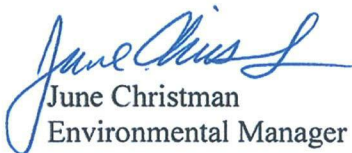
1. One concern is that repeatedly, the draft renewal permit references outdated versions of regulations. It is critical that the final permit reference the currently applicable version of an EPA regulation or District regulation as that is what is enforceable and applicable. Any other result will lead to potential EPA objection to the permit.
2. A second concern that implicates the reliability of the permit is that there are numerous pending permit applications to update or correct emission limitations, descriptions, and applicable regulations. The District appears to be planning to insert some, but not all, of what would be the applicable requirements from these as-yet-unprocessed ATC amendments into the Title V renewal permit. This process is not the proper process for issuing an ATC amendment and effectively uses Title V to create new substantive requirements. To the extent that the District is not reflecting the new requirements or processing the ATC amendments, this would undermine Title V's purpose in having the permit reflect on renewal the currently applicable requirements. It also creates a resource drain for the District and Tesoro in that it will lead to almost immediate post-renewal permit revisions. Before issuing the renewal permit, the District should process the pending applications so that the permit can reflect currently applicable requirements.
3. A third area for discussion and joint review is the draft permit's inclusion as ostensible "limits" an estimation of particular units' capability to emit, even though such limits do not exist in existing federally enforceable permits. As you know, Title V does not establish new substantive limits so it is important to clearly be able to trace the authority for each limit in the draft permit. While we appreciate that the Statement of Basis states that these limits are not enforceable but merely record the District's estimation of capacity, which it states may not be correct, Title V permits are not to establish new substantive limits on emissions. Further, the permit itself does not reflect the caveats that are in the Statement of Basis. Tesoro believes that these new limits need to be deleted from the permit document before it is finalized.
4. Finally, in several instances, the permit lists emission units and exemptions. Title V permits are required to list all "applicable requirements." Exemptions are not applicable requirements; they are exemptions. While a permit application appropriately is required to contain a list of exempt sources and applicable regulatory exemptions so that the District may evaluate whether invoking the exemption is appropriate, treating exemptions as applicable requirements effectively eliminates the benefit of the exemption (e.g., not needing to obtain a permit). (See Regulation 2, Rule 6, Section 405.)

We are concerned also that listing units and their exemptions may be misinterpreted by future inspectors and other regulators as suggesting that Tesoro must revise its Title V

permit to include "exemptions" if an exempt source is added during the permit term. As noted above, this would effectively eliminate the purpose of having an exemption, which is to relieve the source and the regulator of the need to spend resources permitting them. We recommend deleting any permit content describing exempt sources and regulatory exemptions. At a minimum, the District should make clear that these lists do not create (1) an obligation to certify compliance with exemptions or (2) a need to revise the permit if the exemption being used changes for a particular unit or the facility seeks to bring under an exemption a new emissions unit.

Tesoro appreciates your consideration of these comments and requests a meeting to discuss these issues. If you have any questions concerning the information provided herein, please contact me at 925-370-3275 or by email at JMChristman@Marathonpetroleum.com.

Sincerely,



June Christman
Environmental Manager

JMC/kds