

**Bay Area Air Quality Management District
Title V Operating Permit Program Evaluation**

FINAL REPORT

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Conducted by the

U.S. Environmental Protection Agency
Region 9
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EPA Region 9 would like to acknowledge the cooperation of the staff and management of the Bay Area Air Quality Management District during this title V program evaluation. We appreciate their willingness to respond to information requests and share their experiences regarding the development and implementation of BAAQMD's title V program.

EXECUTIVE SUMMARY

In response to the 2002 Office of Inspector General audit recommendations, the Environmental Protection Agency (EPA) has re-examined the ways it can improve state and local title V operating permit programs and expedite permit issuance. Specifically, EPA developed an action plan for performing program reviews of title V operating permit programs. EPA Headquarters (HQ) directed each Regional office to perform title V program evaluations for each air pollution control agency beginning in fiscal year 2003.

EPA Region 9 oversees 43 separate air permitting authorities with approved title V programs (35 in California, three in Nevada, four in Arizona, and one in Hawaii). Due to the significant number of permitting authorities, Region 9 has committed to performing one comprehensive title V program evaluation every year of a permitting authority with 20 or more title V sources. This would represent about 85% of the title V sources in Region 9 once EPA completes evaluation of those programs. The purpose of the program evaluations is to identify good practices, document areas needing improvement, and learn how EPA can help the permitting agencies improve their performance.

Region 9 recently conducted a title V program evaluation of the Bay Area Air Quality Management District (BAAQMD). The District's jurisdiction includes the counties of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara and Napa, and portions of Solano and Sonoma counties, in California. (See Appendix A, Air Pollution Control Agencies in California.) This is the sixth title V program evaluation Region 9 has conducted. The first five were conducted at permitting authorities in Arizona, Nevada, and California. The EPA Region 9 program evaluation team consisted of the following EPA personnel: Amy Zimpfer, Associate Director, Air Division; Gerardo Rios, Chief of the Air Permits Office; Ken Israels, Program Evaluation Advisor; Roger Kohn, BAAQMD Program Evaluation Coordinator; Anita Lee, Air Permits Office co-lead for BAAQMD, Shaheerah Kelly, Air Permits Office co-lead for BAAQMD, and Leslie Ramirez, Air Permits Office Program Evaluation Team Member.

The evaluation was conducted in four stages. In the first stage, EPA sent BAAQMD a questionnaire focusing on title V program implementation in preparation for the site visit at BAAQMD's office. (See Appendix B, title V Questionnaire and BAAQMD Responses.) During the second stage of the program evaluation, Region 9 conducted a review of BAAQMD's title V permit files maintained by EPA, including copies of permits, statements of basis, permit applications, and correspondence. The third stage of the program evaluation was the site visit, which consisted of Region 9 representatives visiting the BAAQMD office to interview District staff and managers. The site visit took place August 18-22, 2008. The fourth stage of the program evaluation was follow-up and clarification of issues for completion of the draft report.

The nine counties within BAAQMD's jurisdiction have a combined population of 7,046,719. (See Appendix D, 2008 U.S. Census Bureau estimate.) BAAQMD has issued 115 initial title V operating permits, including all existing major sources, and 35 renewals. The majority of title V operating permit holders are power plants, refineries, landfills, and manufacturing facilities.

The District benefits from experienced staff and management who successfully implement the title V program. BAAQMD issues title V permits in a timely manner that are well-written and practically enforceable. All emission limits and other applicable requirements are included in the permits, and monitoring is sufficient to determine compliance with the emission limits.

The District excels in many aspects of its title V program, including the preparation of statements of basis, the use of its website to publish comprehensive and timely documentation of every title V permitting action, its effective field enforcement program, and on-going evaluations of the effectiveness of its public involvement efforts. However, we do see opportunities for improvement in certain areas. The District has not been implementing the Compliance Assurance Monitoring (CAM) rule (40 C.F.R. Part 64) correctly and should take steps to improve permit writers' understanding and implementation of that regulation. Also, while the District has invested significant effort to evaluate support facilities adjacent to refineries, the District has not consistently applied the support facility test to these facilities. Finally, the District should take action to ensure it does not incorrectly designate as not federally enforceable certain title V permit conditions which contain District rule requirements.

Based on Region 9's program evaluation of BAAQMD, some major findings are provided below:

1. BAAQMD has improved its statements of basis over time, and now produces detailed statements of basis in accordance with EPA guidance. (See Finding 2.1.)
2. Some title V permit conditions which contain District rule requirements are inappropriately marked as not federally enforceable. Other conditions reference versions of SIP rules that pre-date more recent versions approved by EPA. (See Finding 2.6.)
3. Title V permit writers possess considerable expertise in title V regulatory and policy matters and specific industry sectors. (See Finding 2.7.)
4. The District has not consistently applied the support facility test to determine whether two facilities constitute a single stationary source for CAA permitting purposes. (See Finding 2.8.)
5. The District publishes comprehensive information on every permitting action on its website. (See Finding 4.3.)
6. The District does not provide EPA and the public an opportunity to review and comment on proposed synthetic minor operating permits. (See Finding 5.2.)
7. The District has received permit applications from facilities subject to CAM that did not contain CAM plans; yet BAAQMD did not deem the applications incomplete. (See Finding 5.3.)

8. BAAQMD has an effective field enforcement program. (See Finding 6.3.)

Our report provides a series of findings (in addition to those listed above) and recommendations that should be considered in addressing our findings. We have given BAAQMD an opportunity to review these findings and to consider our recommendations in the context of their organization, their priorities, and resources. In response to our report, as noted in the project workplan that outlines the process we followed in performing this evaluation, BAAQMD should prepare and submit to EPA a plan that outlines how it intends to address our findings. (See Appendix C.) The District could do this either by using the recommendations found in this report or alternatives that we have agreed to that work best for BAAQMD.

1. INTRODUCTION

Background

In 2000, the Office of Inspector General (OIG) initiated an evaluation on the progress of issuing title V permits by EPA and states at the request of EPA Region 5 management. Region 5 was concerned about the progress that its state and local air pollution control agencies were making in issuing title V permits under the Clean Air Act (CAA or the Act). In planning the evaluation, OIG expanded the scope to include other EPA Regions because problems in issuing title V permits were not limited to Region 5. The purpose of OIG's evaluation was to identify factors delaying the issuance of title V permits by selected state and local agencies and to identify practices contributing to timely issuance of permits by those same agencies.

After reviewing several selected state and local air pollution control agencies, OIG issued a report on the progress of title V permit issuance by EPA and states.¹ In the report, OIG concluded that the key factors affecting the issuance of title V permits included (1) a lack of resources, complex EPA regulations, and conflicting priorities contributed to permit delays; (2) EPA oversight and technical assistance had little impact on issuing title V permits; and (3) state agency management support for the title V program, state agency and industry partnering, and permit writer site visits to facilities contributed to the progress that agencies made in issuing title V operating permits.

OIG's report provided several recommendations for EPA to improve title V programs and increase the issuance of title V permits. In response to OIG's recommendations, EPA made a commitment in July 2002 to carry out comprehensive title V program evaluations nationwide. The goals of these evaluations are to identify areas where EPA's oversight role can be improved, areas where air pollution control agencies are taking unique approaches that may benefit other agencies, and areas of local programs that need improvement. EPA HQ directed each Regional office to perform title V program evaluations for each air pollution control agency beginning in fiscal year 2003. EPA HQ developed, with the assistance of the regional offices, an evaluation protocol.

EPA Region 9 oversees 43 separate air permitting authorities with approved title V programs (35 in California, three in Nevada, four in Arizona, and one in Hawaii). Due to the significant number of permitting authorities, Region 9 has committed to performing one comprehensive title V program evaluation every year of a permitting authority with 20 or more title V sources. This would represent about 85% of the title V sources in Region 9 once EPA completes evaluation of those programs.

History of Stationary Source Permitting in California

The State of California has been engaged in efforts to improve air quality for more than 60 years. The California Air Pollution Control Act of 1947 authorized the creation of an Air

¹ See Report No. 2002-P-00008, Office of Inspector General Evaluation Report, AIR, EPA and State Progress In Issuing title V Permits, dated March 29, 2002.

Pollution Control District in every county of the state. That same year, the Los Angeles County Air Pollution Control District, the first air agency in the nation and the predecessor of today's South Coast Air Quality Management District, was created. Los Angeles County APCD established the first permitting requirements for industrial sources of air pollution. The BAAQMD was created by the California Legislature in 1955. The District's first permitting program became effective in July 1972.

With the passage of the 1970 CAA amendments and subsequent amendments in 1977, the federal government provided the foundation for the current national strategy for reducing air pollution. The 1970 Act set national ambient air quality standards (NAAQS) for non-hazardous pollutants and made states responsible for attaining and implementing the standards via State Implementation Plans (SIP). In addition, the Act required ambient air quality modeling, transportation control measures, and new source review (NSR) programs that required new stationary sources of air pollution, and existing sources making significant modifications, to install control technology to reduce emissions.

The 1990 CAA amendments expanded the federal permitting requirements to add ozone nonattainment classifications (marginal, moderate, serious, severe, extreme), corresponding offset ratios for the NSR program, and the title V permit program for major stationary sources. The over-arching goal of the title V program is to improve major stationary source compliance with all applicable federal CAA requirements. This is achieved by requiring states to develop and implement federal operating permit programs pursuant to title V of the CAA, and sources to obtain title V permits containing all their applicable CAA requirements.

By this time BAAQMD, like many other air pollution control districts in California, already had a mature permitting program in place that included the issuance of two types of permits. The Authority to Construct (ATC) permit, issued prior to construction of the source or emission unit, typically contained conditions required for the construction and initial operation of the source or emission unit. The ATC permit is then converted to an operating permit, or Permit to Operate (PTO), after construction was completed and operation of the source or emission unit had commenced. During the conversion from ATC to PTO, certain ATC permit conditions were not retained in the PTO if the ATC conditions were determined to be obsolete or irrelevant. Furthermore, since these operating permits were linked to fee payment and renewed annually, new permit conditions were added or revised each year as new rules became applicable. Unlike the new title V program, these local operating permits were not required to contain all CAA applicable requirements.

Soon after the federal title V permit program was created, the California Air Resources Board (CARB) and many air districts in the State told EPA that the title V program was duplicative of the existing local programs, and did not always mesh well with these programs. In light of this, California (and other States) and EPA began a lengthy process to develop guidance on how best to implement the required federal title V program in states with existing, mature permitting programs. These discussions resulted in several implementation guidance documents, including two White Papers.

The first White Paper developed nationally with input from CARB and California districts, addressed the development of Part 70 applications, and included a discussion of federal enforceability, obsolete ATC permit conditions, and the simultaneous revision of NSR permits and issuance of title V permits.

California air districts, including BAAQMD, and CARB, via the California title V Implementation Working Group, provided key leadership in the development of the second White Paper. The districts were instrumental in raising and resolving many of the permitting issues that were arising in the state, such as the streamlining multiple overlapping applicable requirements.

Other important topics that EPA and the California air districts discussed during this period included periodic monitoring and permit processing. These discussions resulted in the issuance of two additional implementation guidance documents specific to California Agencies. First, a guidance document was developed by EPA, CARB, and California Air Pollution Control Officers' Association (CAPCOA), with BAAQMD participation, in 1999 to provide periodic monitoring recommendations for generally applicable SIP emission limits. Also in 1999, EPA and CAPCOA reached agreement on several title V permit processing issues, including required statement of basis elements.

Chapters 2 through 8 of this report contain EPA's findings regarding implementation of the title V permit program by BAAQMD. EPA believes that the history of collaborative efforts among EPA, CAPCOA, and CARB described above has resulted in clearer and more enforceable federal title V permits in California, including the Bay Area. EPA and air agencies in California and elsewhere may need to continue their dialog on the title V implementation issues discussed in this report.

Title V Program Evaluation at BAAQMD

Region 9 recently conducted a title V program evaluation of BAAQMD. This is the sixth title V program evaluation Region 9 has conducted. The first five were conducted at permitting authorities in Arizona, Nevada, and California. The EPA Region 9 program evaluation team for this evaluation consisted of the following EPA personnel: Amy Zimpfer, Associate Director, Air Division; Gerardo Rios, Chief of the Air Permits Office; Ken Israels, Program Evaluation Advisor; Roger Kohn, BAAQMD Program Evaluation Coordinator; Anita Lee, Air Permits Office co-lead for BAAQMD, Shaheerah Kelly, Air Permits Office co-lead for BAAQMD, and Leslie Ramirez, Air Permits Office Program Evaluation Team Member.

The objectives of the evaluation were to assess how BAAQMD implements its title V permitting program, evaluate the overall effectiveness of BAAQMD's title V program, identify areas of BAAQMD's title V program that need improvement, identify areas where EPA's oversight role can be improved, and highlight the unique and innovative aspects of BAAQMD's program that may be beneficial to transfer to other permitting authorities. The evaluation was conducted in four stages. In the first stage, EPA sent BAAQMD a questionnaire focusing on title V program implementation in preparation for the site visit to the BAAQMD office. (See Appendix B, title V Questionnaire and BAAQMD Responses) The title V questionnaire was

developed by EPA nationally and covers the following program areas: (1) title V Permit Preparation and Content; (2) General Permits; (3) Monitoring; (4) Public Participation and Affected State Review; (5) Permit Issuance/Revision/Renewal Processes; (6) Compliance; (7) Resources & Internal Management Support; and (8) title V Benefits.

During the second stage of the program evaluation, Region 9 conducted an internal review of EPA's own set of BAAQMD title V permit files. BAAQMD submits title V permits to Region 9 in accordance with its EPA-approved title V program and the Part 70 regulations. Region 9 maintains title V permit files containing these permits along with copies of associated documents, permit applications, and correspondence.

The third stage of the program evaluation was the site visit, which consisted of Region 9 representatives visiting the BAAQMD office to conduct further file reviews, interview BAAQMD staff and managers, and review the District's permit-related databases. The purpose of the interviews was to confirm the responses in the completed questionnaire and to ask clarifying questions. The site visit took place August 18-22, 2008.

The fourth stage of the program evaluation was follow-up and clarification of issues for completion of the draft report. Region 9 compiled and summarized interview notes and made follow-up phone calls to clarify Region 9's understanding of various aspects of the title V program at BAAQMD. The program evaluation team met on a regular basis to work towards completion of the draft report.

BAAQMD Description

The BAAQMD was created by the California Legislature in 1955. The District "is committed to achieving clean air to protect the public's health and the environment."² BAAQMD is organized into 11 divisions: Administration, Communication & Outreach, Compliance & Enforcement, Engineering, Executive, Human Resources, Information Services, Legal, Planning, Strategy Incentives Division, and Technical Services.

Stationary source operating permits, including title V permits, are issued by the Engineering Division. Compliance and enforcement activities, such as facility inspections and source testing, and preparing enforcement cases are handled by the Compliance & Enforcement Division.

The BAAQMD Title V Program

EPA granted BAAQMD title V program interim approval, which became effective on July 24, 1995, and full approval, which became effective on November 30, 2001. EPA also approved a program revision on December 29, 2003. See 40 C.F.R. Part 70, Appendix A.

Part 70, the federal regulation that contains the title V program requirements that states must incorporate into their own title V rules, requires that a permitting authority take final action on each permit application within 18 months after receipt of a complete permit application. The

² From Mission Statement posted on BAAQMD website

only exception is that action on an application for a minor modification must be taken within 90 days after receipt of a complete permit application.³ BAAQMD's local rules contain the same timeframes for title V permit issuance.

When BAAQMD's title V program was first approved, the District estimated that it had a total of approximately 150 title V sources, and that 30 of those sources would become synthetic minors. The District generally has sufficient permitting resources and has processed initial title V permit applications in a timely manner, but currently has a backlog of permit renewal applications. The actual number of initial permits is lower than the District's original estimate during the program development phase, as some sources have shut down, become synthetic minor sources, or were true minor sources. As of March 2009, BAAQMD has issued all initial title V permits (115), and 35 renewal permits.⁴

Public Involvement and Petitions of EPA to Object to BAAQMD Title V Permits

Citizens have been active participants in the title V permitting process in the Bay Area for many years. The public has frequently provided comments on proposed permits, highlighting issues of community concern and suggesting improvements to District permits and statements of basis. The District has generally responded in good faith, providing detailed responses to comments on proposed permits.

On some occasions, citizens have petitioned the EPA Administrator to object to the issuance of proposed permits. Part 70 and BAAQMD's EPA-approved title V program contain provisions that allow the public to petition the Administrator to object to a proposed permit. Any person may submit such a petition within 60 days following the end of EPA's 45-day review period for a proposed permit. There have been 20 petitions since BAAQMD began issuing title V permits. Environmental organizations have been particularly active and have accounted for 14 of these petitions.⁵

These organizations have been particularly active on refinery permits, sending hundreds of comments on the proposed permits to the District and subsequently petitioning EPA to object to proposed permits for each of the five Bay Area refineries (Tesoro, Valero, ConocoPhillips, Chevron, and Shell). In response, the Administrator granted the petitions for Tesoro, Valero, ConocoPhillips, and Chevron, and objected to the permits based on some, but not all, of the issues raised by the environmental organizations. These issues include periodic monitoring, the need to discuss compliance issues in statements of basis, and NSPS Subpart J compliance. Subsequently the District has revised some of its practices. For example, the District now addresses NOVs and compliance status in statements of basis, and explains its monitoring decisions, particularly if it believes that no additional monitoring is needed.

³ See 40 C.F.R. 70.7(a)(2) and 70.7(e)(2)(iv).

⁴ The District will issue initial permits to new power plants that have not yet commenced construction or operation. New title V sources must submit permit applications within 12 months of commencing operation.

⁵ Environmental organizations that have petitioned the Administrator to object to BAAQMD title V permits include Our Children's Earth Foundation, Communities for a Better Environment, and Californians for Renewable Energy.

EPA's Findings and Recommendations

The following sections include a brief introduction, and a series of findings, discussions, and recommendations. The findings are grouped in accordance with the order of the program areas as they appear in the title V questionnaire. However, this report does not include a section on General Permits, which was a topic covered in the questionnaire, since BAAQMD does not issue General Permits under the title V program.

The findings and recommendations in this report are based on EPA's internal file reviews performed prior to the site visit to BAAQMD, the District's responses to the title V Questionnaire, interviews and file reviews conducted during the August 18-22, 2008 site visit, and follow-up phone calls during the months after the site visit.

2. PERMIT PREPARATION AND CONTENT

The purpose of this section is to evaluate the permitting authority's procedure for preparing title V permits. The requirements of title V of the CAA are codified in 40 C.F.R. Part 70. The terms "title V" and "Part 70" are used interchangeably in this report. Part 70 outlines the necessary elements of a title V permit application under 40 C.F.R. 70.5, and it specifies the requirements that must be included in each title V permit under 40 C.F.R. 70.6. Title V V permits must include all applicable requirements, as well as necessary testing, monitoring, recordkeeping, and reporting requirements sufficient to ensure compliance with the permit.

2.1 Finding: BAAQMD has improved its statements of basis over time, and now produces detailed statements of basis in accordance with EPA guidance.

Discussion: Part 70 requires title V permitting authorities to provide "a statement that sets forth the legal and factual basis for the draft permit conditions" (40 C.F.R. § 70.7(a)(5)). The purpose of this requirement is to support the proposed title V permit with a discussion of the decision-making that went into its development and provide the permitting authority, the public, and EPA a record of the applicability determinations and technical issues surrounding permit issuance. The statement of basis should document the regulatory and policy issues applicable to the source, and is an essential tool for conducting meaningful permit review.

When the District proposed its first title V permits for ten facilities in 1997, the District did not produce statements of basis for its title V permits. The District began producing statements of basis in 1998, although EPA found some of these insufficient. Over time the District has found the statements of basis to be a valuable tool in documenting decisions on a variety of issues, including monitoring, revisions to permit language, and complex applicability determinations.

In response to title V petitions, EPA issued guidance in 2004 and 2005 regarding statement of basis content, and with the assistance of the District's Legal Division, BAAQMD began to increase the scope and quality of its statements of basis. As a result of the petitions and the District's interest in the use of the statement of basis, the District now produces statements of basis that are among the best of any permitting authority in Region 9. Currently the District produces detailed statements of basis with information on the facility, its compliance status, and many aspects of permit content, including applicable requirements, monitoring, applicability determinations, and proposed changes to permit condition language.

Recommendation: BAAQMD should continue its practice of producing informative statements of basis to document its title V permitting actions.

2.2 Finding: BAAQMD has an internal quality assurance process for reviewing draft permits prior to formally proposing permits for public and EPA review.

Discussion: All draft permits undergo an extensive internal review process before they are proposed for public and EPA review. The District also shares draft permits with permittees, which often provide useful information and feedback. This process helps the District ensure consistency and overall quality in its title V permits.

Draft permits are routed sequentially from the permit writer to the Senior Air Quality Engineer for title V, the Supervising Air Quality Engineer, the Air Quality Engineering Manager, and the Director of Engineering, and also distributed to the Legal and Compliance & Enforcement Divisions.

While the District benefits from comments received during internal review, some interviewees expressed concern about the number of layers of review and wondered whether a more streamlined review of minor permit revisions, or renewal permits that are not controversial or complex, might increase the District's permit processing efficiency.

Recommendation: The District should continue its internal draft permit review practices. The District may want to consider reducing the number of reviewers for certain types of permitting actions if it believes that doing so will increase permit processing efficiency without compromising permit quality.

2.3 Finding: District staff and management are generally satisfied with the District's title V permit format, but are considering improvements.

Discussion: BAAQMD permits typically contain 10-12 numbered sections, which include Equipment List, Source-Specific Applicable Requirements, Schedule of Compliance, Applicable Limits & Compliance Monitoring Requirements, Test Methods, and Permit Shield. Applicable requirements and monitoring requirements are listed in tabular format, with one table per emission unit or group of emission units. This format was developed by the District with input from the regulated community. This approach produces detailed permits that make it easier for the District, permittees, and the public to identify the applicable requirements that apply to each emission unit at a title V facility. Staff and management are generally satisfied with this format and believe that it promotes consistency, accuracy, and comprehensiveness.

Staff and management have acknowledged that a disadvantage of this practice is that with complex sources such as refineries, it results in voluminous permits with redundant text. Each applicable requirement, e.g., an applicable NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAP) provision, is listed in a row in Table IV (Source-Specific Applicable Requirements). The applicable requirements are typically listed multiple times in Table IV because they apply to more than one emission unit or group of emission units. The same applicable requirements are then repeated several more times in Table VII (Applicable Limits & Compliance Monitoring Requirements).

The District is considering ways to improve the readability of the permits, which could include merging permit sections IV and VII (Source-Specific Applicable Requirements

and Applicable Limits & Compliance Monitoring Requirements). Some of the refineries have requested this change in their permit renewal applications, or are considering making such a request. Permit format could also be addressed as part of the District's automation efforts. (See Finding 7.3.)

Recommendation: BAAQMD should continue its dialog, both internally and externally, and consider any improvements that might enhance the District's permit format.

2.4 Finding: BAAQMD title V permits contain permit shield language that may unnecessarily limit the District's and EPA's authority to initiate compliance investigations at a source that violates an applicable requirement.

Discussion: Sources may request, and permitting authorities may grant at their discretion, permit shields under two circumstances. A permitting authority may grant a shield from an applicable requirement if it has been incorporated into the permit, or if the permitting authority determines that a requirement is not applicable to the source.

When the District grants permit shields, it uses the following language in permits:

Pursuant to District Regulations 2-6-233 and 2-6-409.12, the federally enforceable regulations and/or standards cited in the following table[s] are not applicable to the source or group of sources identified at the top of the table[s]. Enforcement actions and litigation may not be initiated against the source or group of sources covered by this shield based on the regulatory and/or statutory provisions cited. (emphasis added)

Sources may rely on permit shields as a defense in enforcement proceedings, but permit shield conditions should not preclude investigation of a source's compliance status. EPA believes that the underlined language above is vague because it is not clear what the District means by "enforcement actions" in this context. For example, the District and EPA may conduct facility inspections, which may include verifying the veracity of criteria the District relied on to grant a shield. Or, pursuant to Section 114 of the CAA, EPA may send letters to facilities requesting information needed to determine compliance with an applicable requirement (114 letters). The ambiguity of the phrase "enforcement actions" could have the unintended consequence of impairing the ability to use these and other investigative tools, or give the impression that the District's initiation of a compliance investigation exceeds BAAQMD's regulatory authority. EPA's authority to inspect facilities or send 114 letters has not been constrained by this language. But we believe that BAAQMD should ensure that its title V permits do not contain any suggestion that EPA or the District cannot take steps to determine a source's compliance status, which may lead to an enforcement action.

Recommendation: The District should revise its boilerplate permit shield condition language to remove any possible inference that the District's ability to investigate a source's compliance status is limited by the permit shield. The revised language should be used in all future permits. The District may want to consider revising the shield

language in existing permits, either by reopening permits or addressing the shield issue when a permit is already being revised for other reasons. For good examples of permit shield language to use when a permitting authority determines that a requirement does not apply to a facility, the District may want to review examples of the language used by the San Joaquin Valley Unified Air Pollution Control District when it grants this type of permit shield, which are included in Appendix E.

2.5 Finding: The analysis of CAM applicability in statements of basis is inconsistent.

Discussion: EPA expects permitting authorities to address CAM applicability in statements of basis for title V permit renewals and significant modifications. The District has been inconsistent in doing this. When CAM is addressed, the completeness and accuracy of the analyses have varied considerably.

EPA found many statements of basis for permit renewals silent on CAM despite the existence of control devices, which should indicate a need to address CAM applicability. For example, the statement of basis for the Rexam Beverage Can Co. permit renewal proposed on April 6, 2005 does not address CAM applicability, despite the presence of baghouses, afterburners, and cyclones at the facility. Similarly, the statement of basis for the Contra Costa power plant (Mirant Delta) permit renewal proposed on May 3, 2005 does not discuss CAM even though the facility uses selective catalytic reduction (SCR) to control NO_x emissions from its boilers. Other examples include several landfill permit renewals.

Other statements of basis address CAM, but contain flawed applicability discussions. The statement of basis for the Owens Brockway facility in Oakland proposed on January 12, 2006 states that the A9 Electrostatic Precipitator (ESP) is exempt from CAM because it is equipped with a continuous opacity monitoring system (COMS) that monitors compliance with the visible emission limitations of in District regulations 6-301 and 6-302. The District cites, but does not explain, 40 C.F.R. 64.2(b)(vi) (continuous compliance determination methods) as the basis for the CAM exemption. However, the glass melting furnace (emission unit S-12) controlled by the ESP is also subject to a particulate weight limit in regulation 6-1-310. A COMS cannot be a continuous compliance determination method, as defined in Part 64, for a particulate matter limit, and CAM applicability for this limit should have been analyzed. In addition, the applicability of CAM to the baghouses at the facility was not addressed.

Another example is the Pacific Atlantic Terminals facility in Martinez. The statement of basis for the permit renewal proposed on December 13, 2006 states that the facility is subject to CAM and complies by having a “continuous temperature monitoring system in which the monitoring occurs at least four times per hour for the post-abatement emissions that are greater than 100 tons per year.” However, the mere presence of a continuous temperature monitoring system does not satisfy CAM, which requires an indicator value or range. There is no discussion of the indicator range selected by the District for CAM purposes. The final permit issued by the BAAQMD lists Part 64 as an applicable

requirement in the tables in section IV, and has a minimum temperature requirement of 1400° F, although CAM is not cited as the basis.

The Cardinal Cogen renewal application states that the boilers are equipped with flue gas recirculation, which is a control device for CAM purposes. While the boilers may not be subject to CAM because the permit requires the use of a CEMS, this fact is not addressed in the statement of basis.

Other statements of basis have complete and accurate explanations of the applicability of CAM to specific emission units with control devices at the facility. In the statement of basis for the City of Santa Clara Electric Department permit renewal proposed on May 31, 2005, the emission units (turbines S-1 and S-20), control device (water injection), pollutant (NO_x) are clearly presented, along with an engineering calculation demonstrating that CAM does not apply because each turbine's pre-control NO_x potential to emit (PTE) is less than the major source threshold. The District took a similar approach in the statement of basis for the East Bay Municipal Utility District permit renewal proposed on May 27, 2005, which also includes an appendix with calculations demonstrating that the potential pre-control NMOC emissions from the burning of digester gas are less than the major source threshold and do not trigger CAM.

Recommendation: The District should devote more attention to CAM applicability during its internal review process for permit renewals and significant permit revisions. (See Findings 2.2 and 5.3.) In addition, the District should seek additional CAM training opportunities for staff, including the class offered by EPA's Air Pollution Training Institute (APTI). (See Finding 7.4.) EPA notes that CARB conducted CAM training at BAAQMD during the week after our site visit. The District may also want to develop CAM guidance for permit writers, which EPA could review upon request.

2.6 Finding: Some title V permit conditions with District rule requirements are inappropriately marked as not federally enforceable. Other conditions reference versions of SIP rules that pre-date more recent versions approved by EPA.

Discussion: SIPs are collections of state and local regulations designed to bring nonattainment areas, where the air quality does not meet the NAAQS, into attainment and ensure that attainment areas maintain good air quality. Once approved by EPA into SIPs, these rules are federally enforceable. SIP-approved rules are among the applicable requirements that permitting authorities must incorporate into every title V permit.

As permitting authorities update their rules, they submit some of them to EPA for approval into SIPs. In this process, gaps develop between the most current version of a rule adopted by an air district, and the version of the rule in the SIP. In addition, when EPA incorporates a new version of a District rule into the applicable SIP, the new rule supersedes and replaces the prior version of the rule in the SIP. Permitting authorities must ensure that all applicable SIP rule requirements are correctly incorporated into a facility's title V permit.

During our file review, we found several examples of incorrect references to SIP rules. Some rules were incorrectly identified as not federally enforceable because the permit writers did not realize there was a SIP-approved version of the rule in addition to a more recently adopted local version. In some cases the District missed the fact that the cited version of a rule is in the SIP and is federally enforceable. Examples include:

- The Duke Energy Oakland renewal issued on September 22, 2005 incorrectly lists BAAQMD Regulation 6 (Particulate Matter and Visible Emissions) as not federally enforceable; yet the cited version (adopted December 19, 1990) is in the SIP. In addition, while the version of Regulation 8, Rule 51 (Organic Compounds, Adhesive and Sealant Products) adopted on July 17, 2002 is correctly listed as not federally enforceable, the version of the rule adopted on May 2, 2001 is in the SIP but has not been incorporated into the permit.
- Table III in the initial permit issued to Rhodia on June 3, 2002 lists the version of Regulation 8, Rule 51 (Adhesive and Sealant Products) adopted on December 20, 1995 as not federally enforceable, yet the version adopted on May 2, 2001 was approved into the SIP on February 26, 2002, three months before the permit was issued.

Recommendation: During the permit preparation process, District permit writers should ensure that they do not overlook SIP-approved versions of rules, especially in instances where the District has adopted a more recent version of the SIP-approved rule. In cases where there are two different versions of a rule, the District should craft permits that are clear about which rule requirements are not federally enforceable. Region 9 maintains a database of federally enforceable SIP rules on its website, which District permit writers may find useful when verifying SIP requirements.⁶

2.7 Finding: Title V permit writers possess considerable expertise in title V regulatory and policy matters and specific industry sectors.

Discussion: The District has very experienced title V permit writers. The average tenure of title V permit writers is 16 years. The District's ability to retain employees has allowed its staff to develop expertise in title V policy and programmatic issues. Staff knowledge of Part 70 and other regulatory requirements, as well as EPA guidance, is a significant factor in the District's successful implementation of the title V program.

The District's ability to attract highly qualified staff that spends much of their careers at the District has resulted in permit writers that are not only well-versed in title V regulatory and policy matters, but also experts in certain industry sectors, such as refineries and landfills. Since refineries are complex stationary sources and landfills subject to title V permitting within BAAQMD's jurisdiction are numerous (18), this expertise is invaluable to the District in title V program implementation.

⁶ <http://www.epa.gov/region09/air/sips/index.html>

Recommendation: The District should continue the practices that have allowed it to attract and retain knowledgeable title V permit writers.

2.8 Finding: The District has not consistently applied the support facility test to determine whether two facilities constitute a single stationary source for CAA permitting purposes.

Discussion: Large industrial complexes often have emission units that are not directly associated with the primary activity at the site (based on having a different two-digit SIC code). When issuing title V and NSR permits to such facilities, permitting authorities must determine whether such emission units constitute part of the major stationary source for CAA permitting purposes. In cases where an activity has a different two digit SIC code, permitting authorities must determine whether the emission units comprise a “support facility,” defined in EPA guidance as “facilities that convey, store, or otherwise assist in the production of the principal product.”⁷

There are five oil refineries within BAAQMD’s jurisdiction. These facilities have activities that do not fall within SIC code 2911 (petroleum refining), including hydrogen plants, loading racks, wastewater treatment plants, and bulk terminals. As it has implemented its title V program, the District has occasionally made determinations on whether associated activities at a refinery are part of the stationary source. In 1997 the District determined that three bulk terminals associated with the Chevron, Exxon (now Valero), and Shell refineries constituted separate stationary sources under the District title V program. At that time, the District expected EPA to revise Part 70 to clarify the definition of “major source” to include support facilities; yet the District did not evaluate whether the bulk terminals were support facilities. More recently, in 2007, the District determined that both the hydrogen plant operated by Air Liquide and a carbon plant located at (and owned by) the ConocoPhillips refinery in Rodeo are part of the refinery for CAA permitting purposes. In its determination, the District did not explicitly conduct a support facility analysis, but observed that the hydrogen plant, which is not owned by the refinery, “will take its feed from the refinery.”

In other cases, the District has proposed refinery title V permits without evaluating whether plants located adjacent to the refineries are support facilities that must be covered by a title V permit. EPA commented on the support facility issue for refinery permits in a July 28, 2004 letter to the District. The District responded in a letter dated October 6, 2004 by committing to evaluate all permitted facilities adjacent to the refineries and determine whether any of them are support facilities that should be covered by title V permits. However other than an initial list of permitted facilities adjacent to each refinery, BAAQMD has not followed through on this commitment. The outcome of these determinations has ramifications for title V permit content, e.g., NESHAP applicability, as well as future NSR permit applicability.

Recommendation: BAAQMD should fulfill its commitment to evaluate all facilities adjacent to the refineries and determine whether any of them are support facilities that should be treated as part of the refinery. If the District concludes that there are support

⁷ See draft New Source Review Workshop Manual, October 1990, page A.4.

facilities with applicable requirements that have not been included in any refinery permit, the requirements should be added to the permit via a permit reopening.

2.9 Finding: The District's practice regarding the streamlining of multiple applicable requirements is not clear. In cases where requirements have been streamlined, statements of basis do not contain an explanation or documentation.

Discussion: Title V sources are frequently subject to multiple overlapping applicable requirements such as emission limits, monitoring, record keeping, and reporting requirements, based on NSPS, SIP rules and NSR. EPA addressed this issue in guidance early in the development of the title V program.⁸ The guidance presented a step-by-step process for permit applicants to compare overlapping applicable requirements and streamline them into a single set of permit terms and conditions.

During interviews with District staff and management, EPA received conflicting information regarding the District's streamlining practices. Some interviewees said that the District rarely performs streamlining, and in cases where it has, only monitoring requirements have been streamlined, not emission limits. Other interviewees said that the District takes a proactive approach to working with facilities on streamlining, and implements streamlining via its permit templates.

When the District does perform streamlining, it has not documented the process in its statements of basis. This makes it difficult for EPA to determine how frequently streamlining has been used in the District's title V program. During our file review, we could not find any instances where BAAQMD compared overlapping requirements and streamlined them into a single set of permit conditions, nor were there any references to an applicant's documentation. For example, when the District replaces the monitoring required by the NSPS for gas turbines (40 C.F.R. 60, Subpart GG) with the more stringent monitoring required by District regulations for power plant permits, e.g., the Los Medanos Energy Center and the Gilroy Energy Center, the statements of basis do not address how these multiple applicable requirements were streamlined.

Recommendation: The District should take steps to ensure that its policy on streamlining is consistently applied and documented by permit writers. When the District does streamline multiple overlapping requirements, it should explain its actions in the statement of basis.

⁸ White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program, March 5, 1996

3. MONITORING

The purpose of this section is to evaluate the permitting authority's procedure for meeting title V monitoring requirements. Part 70 requires title V permits to include monitoring and related recordkeeping and reporting requirements (see 40 C.F.R. 70.6(a)(3)). Each permit must contain monitoring and analytical procedures or test methods as required by applicable monitoring and testing requirements. Where the applicable requirement itself does not require periodic testing or monitoring, the permit has to contain periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit. As necessary, permitting authorities must also include in title V permits requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

Title V permits must also contain recordkeeping for required monitoring and require that each title V source retain records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application was made. With respect to reporting, permits must include all applicable reporting requirements and require (1) submittal of reports of any required monitoring at least every six months and (2) prompt reporting of any deviations from permit requirements. All required reports must be certified by a responsible official consistent with the requirements of 40 C.F.R. 70.5(d).

Title V permits must also include CAM provisions where CAM is required.⁹ In addition to periodic monitoring, permitting authorities are required to evaluate the applicability of CAM and include a CAM plan as appropriate. CAM applicability determinations are required either at permit renewal, or upon the submittal of an application for a significant title V permit revision. CAM requires a source to develop parametric monitoring for certain emission units with control devices, which may be in addition to any periodic monitoring, to assure compliance with applicable requirements.

3.1 Finding: BAAQMD title V permits contain appropriate monitoring for VOC-emitting equipment.

Discussion: Permitting authorities whose jurisdictions include nonattainment areas must develop Reasonably Available Control Technology (RACT) regulations as part of their strategies to attain the NAAQS. The San Francisco Bay Area is currently designated as a nonattainment area under the 8-hour ozone standard, and has historically been designated as a nonattainment area under the 1-hour ozone standard. Therefore BAAQMD has had to submit VOC RACT rules to EPA for approval into the SIP for a number of years. In developing RACT rules, permitting authorities rely on EPA's Control Technique Guideline documents, which establish levels of emission control that are reasonably available. EPA evaluates such submittals against our Bluebook and Little Bluebook to

⁹ See 40 C.F.R. Part 64.

determine compliance with the CAA §110(a)(2)(A) requirement for enforceability.¹⁰ Permitting authorities use these documents to develop RACT rules with adequate monitoring, record-keeping, and reporting to ensure SIP approval.

The District followed this process to develop many of the rules in its Regulation 8, Organic Compounds. EPA approved many of these rules in recent years (2001 and later), and they cover a variety of types of operations, including architectural coatings, solvent and surface coating operations, and process vessel depressurization. While EPA did not conduct an extensive review of the SIP-approved rules in Regulation 8 as a part of this title V program evaluation, we believe that these rules generally contain the monitoring, record-keeping, and reporting required by the Bluebook and are sufficient to meet title V requirements.¹¹

The District incorporates these SIP rules into its title V permits, which provides a high degree of assurance that the monitoring for VOC emission limits is appropriate.

Recommendation: EPA has no recommendation for this finding.

3.2 Finding: The District incorporates appropriate performance and quality assurance requirements into permits for sources with CEMS.

Discussion: The District's universe of title V sources includes many combustion sources that have installed continuous emission monitoring systems (CEMS) to monitor emissions. Sources that operate CEMS must meet certain performance specifications and quality assurance procedures, which are set forth in Appendices B and F of 40 C.F.R. Part 60. The Part 60 requirements ensure that CEMS are designed and installed properly, and produce quality data for use in compliance determinations.

During our file review, we verified that permits for sources required to operate CEMS pursuant to acid rain, Best Available Control Technology (BACT), or SIP RACT requirements incorporate the applicable Appendix B performance specifications and Appendix F procedures. Examples are power plants, including Calpine Pittsburg, Los Medanos Energy Center, Delta Energy Center, Creed Energy Center, Goose Haven Energy Center, and refineries, including Tesoro Refining and Marketing, and Shell Oil.

Recommendation: The District should continue to ensure that all permits for sources that operate CEMS to demonstrate compliance with federally enforceable emission limits contain the required Part 60 performance and quality assurance requirements.

3.3 Finding: Title V permits for sources subject to CAM do not contain all the required elements of 40 C.F.R. Part 64.

¹⁰ Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, EPA, May 25, 1988; and Guidance Document for Correcting Common VOC & Other Rule Deficiencies, EPA Region 9, August 21, 2001, respectively.

¹¹ One exception is record retention. Title V permits require that sources maintain records for five years. The five year requirement is generally longer than what SIP rules require.

Discussion: The CAM regulations, codified in 40 C.F.R. Part 64, apply to title V sources with large emission units that rely on add-on control devices to comply with applicable requirements. The underlying principle is to assure that the control devices are properly operated and maintained so that they do not deteriorate to the point where the emission unit is out of compliance with an emission limit.

Part 64 defines the terms “excursion” and “exceedance” and requires permitting authorities to define at least one of them in title V permits. EPA reviewed BAAQMD title V permit renewals and could not find any example in which the District identified CAM as being applicable and the permit defined excursion or exceedance.¹² For example, according to District statements of basis, CAM applies to emission units at Ball Metal Container, Duke Energy Oakland, and U.S. Pipe and Foundry, but the permits do not define either term.

We also note that Part 70 was revised when Part 64 was promulgated. One of the changes was to §70.6(c)(5)(iii), which now requires that annual compliance certifications “identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred.” The compliance certification conditions in the District permits with CAM conditions do not include this requirement.

Recommendation: BAAQMD should ensure that title V permits for sources with emission units subject to CAM contain all required elements of Part 64, including definitions of excursions or exceedances. To be consistent with current Part 70 requirements, we also recommend that the District use the updated compliance certification language in all future permits in which there are any emission units subject to CAM.

3.4 Finding: The District adds monitoring to permits when necessary to assure compliance with applicable requirements.

Part 70 and BAAQMD’s EPA-approved title V regulations have provisions that require that permits contain monitoring that is sufficient to demonstrate compliance with all applicable requirements. When an applicable requirement lacks monitoring requirements, or has only one time monitoring to demonstrate initial compliance or monitoring that is too infrequent to demonstrate compliance on an on-going basis, permitting authorities add “periodic monitoring” or “sufficiency monitoring” to fill the gaps in the applicable requirement.

The need for source-specific gap-filling monitoring in BAAQMD permits is limited due to the District’s strong NSR program, generally sufficient monitoring already contained in SIP-approved VOC prohibitory rules, and the use of CEMS in some cases for combustion sources. (See Finding 3.1.) However, the District does add monitoring conditions to permits when it encounters applicable requirements with no monitoring or insufficient monitoring. Examples include:

¹² If CAM applies to emission units at existing facilities, it is typically triggered at renewal

- visible emission surveys for turbines at the Mirant Potrero facility, and all material loading or unloading operations and tub grinder operations at active landfills, subject to a SIP opacity limit
- screening VOC-laden soil at landfills (e.g., Redwood and Keller Canyon) for VOC surface emissions to demonstrate compliance with SIP limits on carbon emissions from miscellaneous operations and aeration of contaminated soil
- verification of fuel sulfur content at the East Bay Municipal Utility District via vendor certification, written certification, or testing to demonstrate compliance with SIP fuel sulfur content requirement

Recommendation: The District should continue its practice of adding periodic and/or sufficiency monitoring to permits when applicable requirements lacks monitoring to satisfy title V requirements.

4. PUBLIC PARTICIPATION AND AFFECTED STATE REVIEW

This section examines BAAQMD procedures used to meet public participation requirements for title V permit issuance. The federal title V public participation requirements are found in 40 C.F.R. 70.7(h). Title V V public participation procedures apply to initial permit issuance, significant permit modifications, and permit renewals. Adequate public participation procedures must provide for public notice including an opportunity for public comment and public hearing on the proposed permit, permit modification, or renewal. Proposed permit actions must be noticed in a newspaper of general circulation or a State publication designed to give general public notice; to persons on a mailing list developed by the permitting authority, to those persons that have requested in writing to be on the mailing list; and by other means necessary to assure adequate notice to the affected public.

The public notice should, at a minimum, identify the affected facility; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials, and all other materials available to the permitting authority that are relevant to the permit decision; a brief description of the required comment procedures; and the time and place of any hearing that may be held, including procedures to request a hearing. See 40 C.F.R. 70.7(h)(2).

The permitting authority must keep a record of the public comments and of the issues raised during the public participation process so that EPA may fulfill the Agency's obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted. The public petition process, 40 C.F.R. 70.8(d), allows any person who has objected to permit issuance during the public comment period to petition the EPA to object to a title V permit if EPA does not object to the permit in writing as provided under 40 C.F.R. 70.8(c). Public petitions to object to a title V permit must be submitted to EPA within 60 days after the expiration of the EPA 45-day review period. Any petition submitted to EPA must be based only on comments regarding the permit that were raised during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.

4.1 Finding: BAAQMD provides translators at title V permit public hearings and meetings and translations of title V permit notifications, especially when permitting actions are controversial.

Discussion: BAAQMD provides translations of public notifications and translation services (Spanish-speaking interpreters) at public hearings and meetings involving controversial title V permits.¹³ The District's outreach is tailored to the population living near the facility by translating notices into other languages, if necessary, and having translators present if there is a hearing or other public meeting. In addition, as a result of

¹³ Generally, BAAQMD provides Spanish translations, but they also have provided Vietnamese translations at certain public meetings.

a California school-related public notification requirement (see California Health and Safety Code Sections 42301.6 through 42301.9), the District identifies languages spoken by children attending schools within 1000 feet of some facilities. Using this information, the District decides if outreach is necessary, and if so, what language(s) is needed. The permit for Pacific Gas and Electric's Hunters Point Power Plant in San Francisco is an example of the District using this process.

Recommendation: The District should maintain its existing effective practices with respect to translations and continue exploring new approaches that others may be using.¹⁴

4.2 Finding: BAAQMD uses a variety of newspapers of general circulation to meet the public noticing requirements of title V.

Discussion: Early in the implementation of BAAQMD's title V program, District management expressed concern that some of the newspapers being used to notify the public of permitting actions were not newspapers of general circulation because they had specialized audiences, were not published daily, or did not focus on readers in geographic proximity to the permitted facilities. As a result, BAAQMD began providing public notice in daily newspapers of general circulation. The District's use of newspapers of general circulation to notify the public of permitting actions may result in a larger proportion of the public being made aware of permitting activities in their communities. In fact, based on a facility's location, the BAAQMD now selects from a list of 21 newspapers that cover the region to notify the public of its permitting actions. This approach may significantly increase public awareness of permitting actions in the San Francisco Bay Area.¹⁵

Recommendation: BAAQMD should continue its practice of using a variety of newspapers of general circulation to notify the public of permitting actions.

4.3 Finding: The District publishes comprehensive information on every permitting action on its website.

Discussion: A permitting authority's website is a powerful tool to make title V information available to the general public. Information which would be useful for the public review process can result in a more informed public and, consequently, more meaningful comments during title V permit public comment periods. The District does an excellent job of making detailed information on every title V permitting action available to the public on its website.¹⁶ The District regularly publishes public notices of proposed title V permitting actions, proposed and final permits, engineering evaluations, correspondence (including responses to public comments), and other relevant documents such as workshop and hearing announcements on its website.

¹⁴ For instance, during our interviews, some staff indicated that the City of San Francisco was working on a language access plan, elements of which may be useful to incorporate into BAAQMD's current practices.

¹⁵ EPA notes, however, that none of the newspapers presently in use publish in languages other than English.

¹⁶ www.baaqmd.gov

The District also offers an email subscription service that allows citizens to receive notification whenever a permit is proposed. In addition, the website provides comprehensive general permitting information, including program highlights, the District's title V regulations, and links to the EPA and CARB websites. Finally, as noted in Finding 4.1, the District makes translations of some of the public notices of proposed title V permitting actions available on its website.

Recommendation: EPA encourages BAAQMD to sustain increased public access to the permitting process by continuing to post title V information on its website.

4.4 Finding: BAAQMD uses informal metrics to gauge the results of its public involvement efforts.

Discussion: BAAQMD's public involvement efforts related to permitting include newspaper notices, website postings, and public meetings. During our interviews, it became clear that the District has developed metrics and is using them to measure the effectiveness of its public involvement efforts. These metrics include the amount of public comment on a particular title V permit, concerns or complaints from the public about not being aware of a public meeting related to a particular title V permit, and limited survey work to determine how effective access to its language services has been. BAAQMD meets with citizens on environmental justice (EJ) issues to better understand their concerns, and responds according to the nature of the concern. For example, in Bayview Hunter's Point, the public wanted increased enforcement, so the District increased its enforcement presence in this community.

EPA notes that in the six title V program evaluations we have conducted so far, BAAQMD is the first agency that is evaluating the effectiveness of its public involvement efforts. We commend the District for its extraordinary effort in this area.

Recommendation: BAAQMD should maintain its efforts to identify appropriate indicators of the effectiveness of District public involvement efforts. The District should consider routinely determining its effectiveness in this area.

4.5 Finding: BAAQMD uses a variety of means to announce public hearings related to title V permits.

Discussion: When the BAAQMD schedules a public hearing related to a title V permit, the District publishes a notification on its website, uses its newspaper notification process, and notifies anyone who has subscribed to the District's email alert service for a specific project.¹⁷ (See Finding 4.3.) Although interviewees indicated that there was not a standard hearing notification procedure, the District's process described above is sometimes augmented by sending out flyers to community members living within a certain distance of the facility being permitted. The District also provides copies of permit-related documents to libraries closest to the facility. The District implemented

¹⁷ It is important to note that these hearings are rare, so these notifications are infrequent.

these processes in the permitting of Mirant Potrero LLC's power plant in the Potrero Hill neighborhood of San Francisco.

Recommendation: BAAQMD should continue its efforts to notify the public about public hearings related to title V permits and identify novel approaches to enhance its efforts.

4.6 Finding: BAAQMD has a robust EJ program. However internal communication and coordination of the District's EJ efforts could be improved. .

Discussion: While BAAQMD has effectively managed EJ issues as they arose, some interviewees suggested that a more coordinated effort between the Engineering Division and the Outreach and Incentives Division could further improve the District's effectiveness in handling EJ issues.

Our interviews indicate that the Engineering Division relies on EJ staff in the Outreach and Incentives Division to set up meetings and to provide translation services. EPA believes that permitting staff are not taking full advantage of the expertise that the District's staff working on EJ has to offer. Based on the District's past experiences with EJ issues, EPA believes District EJ staff has been able to provide more logistical support in the past than it currently provides, and could in the future contribute more in terms of policy advice and problem solving approaches. Several Engineering Division interviewees cited, as an example of the EJ staff's past efforts, the fact that they have communicated and coordinated closely with the District's EJ staff on various projects, including Red Star Yeast in West Oakland and San Francisco's power plants. EPA believes that this level of coordination between permitting and EJ staff should occur more frequently. (See Findings 4.1 and 4.5.)

Recommendation: The District should improve coordination between the EJ staff and the Engineering Division and should increase the EJ staff's advisory role in policy decisions.

4.7 Finding: BAAQMD's outreach efforts are effective because of District staff's knowledge of outreach techniques and awareness of the tools available at the local level to address EJ issues, but BAAQMD EJ staff should be more selective in the application of these techniques.

Discussion: The District's EJ staff in the Communications and Outreach Division is aware of techniques that are useful in conducting effective public involvement and addressing EJ issues, but could improve the communication of these concepts to others, both within the BAAQMD and to the general public.¹⁸ Knowing and communicating

¹⁸The techniques referred to here include those that District EJ staff may use in assessing the environmental and human health concerns of communities. For additional discussion of these techniques as EPA describes them, please see EPA's "Toolkit for Assessing Potential Allegations of Environmental Injustice" which may be found on EPA's website at <http://www.epa.gov/compliance/resources/policies/ej/index.html>. These techniques provide a systematic approach for gathering and analyzing data related to environmental, social, economic, and health-related information to determine whether or not an EJ situation appears to exist or may be avoided altogether.

how techniques to address EJ issues are selected is essential to managing resources and public expectations in a community involvement context. Duplicating efforts in the scoping and resolution of EJ issues may result in agencies and stakeholders focusing less on expeditious problem-solving and more on the analysis of a particular issue in cases where the analysis already exists or is obvious. For instance, although the District may be able to provide technical services, such as the preparation of maps indicating the demographic composition of a community near a given permitted facility, it may not be necessary to provide this service if another party (the community, industry, or another agency) has already mapped the area. The challenge of selecting appropriate tools and explaining the rationale for selecting a given set of tools is a common problem in addressing EJ issues. In order to select the best techniques to address a given EJ issue, EJ staff and permitting staff should communicate and coordinate to share their expertise and discuss all of the options available for addressing issues in the context of specific title V permits. These options may go beyond permitting and entail public involvement, enforcement and other District functions.

For specific community outreach, the District has prepared and distributed reports called “Air Quality Report to the Community” which provide information about BAAQMD activities affecting specific geographic areas. (See Appendix E for an example.) Providing this type of general information to the public better equips communities to effectively participate in the public process of permitting title V facilities.

Recommendation: The District should continue to rely on its EJ staff in the application of EJ tools and methodologies, but should be strategic about identifying and implementing appropriate approaches when working on specific permits.

4.8 Finding: BAAQMD engineering and EJ staff may benefit from additional EJ training to address some of the minor issues found in this chapter.

Discussion: EPA last provided a general EJ training to the District in the late 1990s. This multi-day course was an overview with very little air pollution focus. EPA Region 9 has since developed and offered a half day course specifically focusing on air pollution-related EJ issues that also provides a survey of case studies and lessons learned. While EPA’s general EJ training provides an introduction to national EJ policy and the history and development of that policy, EPA believes that a more focused air program-related training provides those with experience in both air issues and EJ issues an opportunity to learn a more practical approach to the routine issues that may arise in a permitting program. Through the use of specific case studies, EPA’s air-focused EJ training provides learners with the opportunity to see how others in the field have managed EJ concerns.

Recommendation: EPA believes that the District should consider receiving additional air pollution-focused EJ training. If BAAQMD chooses to receive additional EJ training, EPA will work with the District to tailor this training to its specific needs.

5. PERMIT ISSUANCE / REVISION / RENEWAL

This section focuses on the permitting authority's progress in issuing initial title V permits and the District's ability to issue timely permit renewals and revisions consistent with the regulatory requirements for permit processing and issuance. Part 70 sets deadlines for permitting authorities to issue all initial title V permits. EPA, as an oversight agency, is charged with ensuring that these deadlines are met as well as ensuring that permits are issued consistent with title V requirements. Part 70 describes the required title V program procedures for permit issuance, revision, and renewal of title V permits. Specifically, 40 C.F.R. 70.7 requires that a permitting authority take final action on each permit application within 18 months after receipt of a complete permit application, except that action must be taken on an application for a minor modification within 90 days after receipt of a complete permit application.¹⁹

5.1 Finding: The District has issued some title V renewals; however, the District is behind on the issuance of many renewals.

Discussion: The District has issued 115 initial title V permits since it began implementing its title V program. In 2004, the District began issuing renewal permits and has issued 35 as of March 2009. Title V requires permitting authorities to take final action on permit applications within 18 months of receipt of a complete application. During our site visit, some interviewees stated that in general, they do not anticipate major roadblocks to the timely issuance of renewal permits, but other interviewees stated that the timely issuance of renewal permits is hindered by the District practice of prioritizing NSR construction permits over title V. As of February 2009, 16 complete renewal applications passed the 18 month deadline without final action taken by the District.

Recommendation: The District should develop a plan for taking action and preventing growth of the title V renewal application backlog (See Finding 7.2 for additional discussion on this issue).

5.2 Finding: The District does not provide EPA and the public an opportunity to review and comment on proposed synthetic minor operating permits.

Discussion: The District has several synthetic minor sources, i.e., sources whose PTE would exceed the major source threshold and make them subject to title V permitting if they had not voluntarily limited their PTE.²⁰ Sources that elect to become synthetic minor sources must apply for a synthetic minor operating permit in accordance with the synthetic minor operating permit portions of BAAQMD Regulation 2 (i.e., Rules 2-6-310, 2-6-420 to 2-6-423, and 2-6-602).

¹⁹ See 40 C.F.R. 70.7(a)(2) and 70.7(e)(2)(iv).

²⁰ We note that sources with a major NSR or PSD permit and sources subject to NSPS and NESHAP regulations that require facilities to obtain title V permits regardless of emission levels cannot avoid title V applicability by limiting its PTE to below the major source threshold.

During our site visit, several interviewees confirmed that the District no longer sends proposed synthetic minor operating permits to EPA for review and comment because the District revised its rules pertaining to notice and review of synthetic minor permits. Nevertheless, we believe it would be beneficial for EPA and the public to review the proposed permit conditions to determine if the emission limitations are technically accurate and practically enforceable.

Recommendation: BAAQMD should provide EPA and the public the opportunity to review proposed synthetic minor permits in accordance with its SIP-approved synthetic minor operating permit rules.

5.3 Finding: The District has received permit applications from facilities subject to CAM that did not contain CAM plans; yet the BAAQMD did not require the facilities to submit CAM plans.

Discussion: The CAM regulations, codified in 40 C.F.R. Part 64, apply to title V sources with large emission units that rely on add-on control devices to comply with applicable requirements. The underlying principle, as stated in the preamble, is “to assure that the control measures, once installed or otherwise employed, are properly operated and maintained so that they do not deteriorate to the point where the owner or operator fails to remain in compliance with applicable requirements” (62 FR 54902, 10/22/97). Under the CAM approach, sources are responsible for proposing a CAM plan to the permitting authority in their title V permit applications. The plan must provide a reasonable assurance of compliance to provide a basis for certifying compliance with applicable requirements for pollutant-specific emission units (PSEU) with add-on control devices.

When the District receives a title V permit application, the permit engineer reviews the application for administrative completeness, verifying that the facility has submitted all the required forms and that the Responsible Official has signed the application. The District then sends a completeness letter to the facility. As the application review progresses, the District may request additional information from the facility, as needed.

During our file review, we discovered that the District received applications from facilities with emissions units that were subject to Part 64 that did not identify Part 64 as an applicable requirement or contain CAM plans. In these cases, after making an initial determination of administrative completeness, the District still did not request CAM plans from the facilities. Examples include the renewal applications for Ball Metal Container and U.S. Pipe and Foundry. While the District did include CAM conditions in the renewal permits for these facilities, it did so without the benefit of proposals from the facilities on parameters and indicator ranges that satisfy the monitoring design criteria requirements of 40 C.F.R §64.3.

Recommendation: The District should consider CAM applicability as early as possible when reviewing applications for permit renewals and significant revisions. If applications from facilities with one or more emission units subject to Part 64 do not

contain CAM plans, the District should establish deadlines on a case-by-case basis by which the facilities must submit CAM plans.

5.4 Finding: BAAQMD is developing guidance on title V revision track determinations.

Discussion: The District's title V rules define three permit revision tracks: administrative permit amendments (Rule 2-6-201), minor permit revisions (Rule 2-6-215), and significant permit revisions (Rule 2-6-226). Administrative permit amendments are changes that do not relax applicable requirements, which can range from corrections of typographical errors to imposition of more frequent emission monitoring requirements. The District defines significant permit revisions as revisions to a federally enforceable condition and outlines seven qualifying scenarios, including NSR, PSD, NSPS, or NESHAP modifications or any significant change or relaxation to applicable monitoring, reporting, or recordkeeping conditions. Minor permit revisions are revisions to a federally enforceable condition that are not significant revisions or administrative amendments. The type of title V revision track dictates the permit revision procedures and whether public notice is required. The District's EPA-approved title V program does not require public notice for administrative amendments and minor permit revisions, which is consistent with Part 70 requirements.

During our site visit, some interviewees described difficulties the District encounters when determining whether a title V permit change is a minor or significant permit revision. A few interviewees stated that the definitions in Rule 2-6 (Major Facility Review) provide sufficient guidance. However, due to the complexity in differentiating between minor and significant permit revisions, BAAQMD is currently drafting a policy on title V revision tracks. One interviewee stated that many case-by-case determinations are routine and should not be processed as significant revisions, for example, the reduction in source test frequency for power plants equipped with CEMs following the completion of several annual source tests. In the absence of additional guidance from EPA, one interviewee stated that the District generally approaches revision track determinations cautiously and processes revisions as significant when there is disagreement or uncertainty.

Recommendation: EPA commends BAAQMD for its careful consideration of this issue. EPA recognizes that determinations between minor and significant permit revisions can be complex, and we believe this policy may provide useful guidance for other permitting agencies. EPA can provide assistance to the District upon request as it develops its title V revision track policy.

6. COMPLIANCE

This section addresses BAAQMD practices and procedures for issuing title V permits which ensure permittee compliance with all applicable requirements. Title V V permits must contain sufficient requirements to allow the permitting authority, EPA, and the general public to adequately determine whether the permittee complies with all applicable requirements.

Compliance is a central part of the title V permit program. Compliance assures a level playing field and does not allow a permittee an unfair economic advantage over its competitors who comply with the law. Adequate conditions in a title V permit which both determine and assure compliance with all applicable requirements also result in greater confidence in the permitting authority's title V program within both the general public and the regulated community.

6.1 **Finding:** BAAQMD effectively uses deviation reports to identify compliance issues.

Discussion: All title V permits contain a standard condition that require all instances of noncompliance with any title V permit condition be reported in writing to the BAAQMD's Compliance and Enforcement Division within 10 calendar days of the discovery of the incident, and requires facilities to submit a written report within 30 calendar days of the discovery of the probable cause of any incident of noncompliance and any corrective or preventative actions taken to prevent such occurrences from happening in the future. Incidents of noncompliance include any monitored excesses, equipment breakdowns that lead to excess emissions, and any other deviations from the requirements of the permit.²¹ Although the term "prompt" is not specifically defined in BAAQMD title V regulations for reporting deviations, BAAQMD considers the 10-day period as the period for promptly reporting deviations, which includes incidents of noncompliance.

The District's Compliance and Enforcement Division has defined processes for reviewing deviation reports, annual compliance certifications, and semiannual monitoring reports.²² With respect to deviation reports, Compliance and Enforcement Division's processes focus on how to enter these reports in to the District's deviation reporting database and how to track the processing of deviation reports from submittal to resolution. The District uses these title V compliance reports to prioritize and target inspections.

²¹ EPA notes that not all deviations under title V are necessarily associated with non-compliance. It is also important to note that EPA is using the term "deviation" and "deviation report" as described in BAAQMD Rule 2-6 at provision 502.

²² Interviewees were generally knowledgeable about the procedures for reviewing title V compliance reports. The District provided us with materials that show both how they review these reports and how they use these submissions in compliance determinations. In addition, the Compliance and Enforcement Division provides training on how to review these submissions. See Appendix G, Administrative Operating Procedure - title V Deviation Processing, Appendix F, Administrative Operating Procedure - title V/Synthetic Minor Document Processing, and Appendix H, November 8, 2007 Memorandum: 2008 Training Program Overview. EPA notes that these materials are used to document the District's review of title V facilities' submissions. Some interviewees suggested that the District might want to prepare standardized forms for title V facilities to submit for District review.

Interviewees stated that they review these reports for compliance issues. They also review the facility's compliance history, including recent inspections, breakdowns, exceedances or violations, if any. In addition, when the District receives deviation reports, inspectors conduct an inspection of the facility to determine compliance with permit conditions. If the District determines that a violation has occurred, the District will issue an NOV. Inspectors have found the deviation reports useful for this purpose. During our interviews, compliance staff estimated that 30 to 50% of the deviation reports result in NOVs.

Recommendation: EPA encourages the District to continue using title V deviation reports to prioritize and initiate inspections, and to continue implementing its practice of reviewing these reports. EPA also recommends that the District provide regular training to compliance staff on its process.

6.2 Finding: Compliance staff is involved in title V permit review prior to public notice.

Discussion: Upon completing a draft title V permit, the responsible permit engineer sends the draft permit to various managers, legal staff, and compliance staff for review. Compliance staff has commented mainly on the enforceability of permit conditions and provided corrections to the compliance history section of draft permits. Compliance managers and staff stated that there is a recently revised process for quality assuring draft title V permits in the Compliance and Enforcement Division review process, although some interviewees were unfamiliar with this process. (See Appendix G.)

Permit engineers work with field inspectors to gather information related to permit evaluations. Inspectors inform engineers if there is a compliance issue with a particular facility. BAAQMD also has created workgroups on permitting issues, including a permit condition workgroup. Compliance staff identified these activities as examples of valuable collaboration and interaction with permit engineers. Permit staff indicated that it would be beneficial for field inspectors and permit engineers to jointly visit title V facilities.

Recommendation: EPA recommends that BAAQMD continue incorporating Compliance and Enforcement Division's feedback in title V permit preparation. Compliance and Enforcement Division and the Engineering Division should continue to ensure that staff is aware of each Division's respective role and processes for reviewing draft title V permits. EPA also recommends that BAAQMD consider additional opportunities for permitting staff and compliance staff to routinely work together more closely.

6.3 Finding: BAAQMD has an effective field enforcement program.

Discussion: Although EPA's title V program evaluation does not include a comprehensive evaluation of reviewed agencies' enforcement programs, EPA believes that it is important to acknowledge significant aspects of enforcement programs at agencies we review to provide a fuller picture of their implementation of the title V

program. Therefore we offer the following brief discussion of BAAQMD's enforcement program as it relates to the title V program.

BAAQMD has a robust training program which relies on CARB and APTI for substance. In addition, they have regular in-house training as well as standard health and safety training for their field staff. EPA has attached an example of their standard compliance training curriculum as Appendix F to this report.

BAAQMD uses its information gathering authority to request compliance information from facilities in addition to information that is gained during field inspections. When compliance issues arise, BAAQMD uses several means to return non-complaint facilities to compliance, including NOV's and notices to comply (NTCs).²³ BAAQMD's field inspectors work closely with permit engineers when compliance issues at title V facilities arise. For example, if a public complaint is made against a title V facility, the field inspector for that facility will contact the permit engineer for the facility to better understand the cause of the complaint. In addition, the District inspects title V facilities annually or every two years.

Finally, BAAQMD ensures that their field enforcement staff has the latest telecommunications technology including Blackberry devices and laptops to maintain contact with District offices and to access District databases while in the field. The District provides field enforcement staff the latest health, safety, and analytical equipment (for example, equipment to accurately measure volatile organic vapor leakage at refineries) necessary to perform effective compliance inspections.

Recommendation: BAAQMD should maintain its level of field presence at title V facilities.

²³ BAAQMD differentiates NTCs from NOV's by using them instead of NOV's for violations that in most cases involve procedural, administrative, or recordkeeping omissions that do not conceal a violation or involve de minimis emissions. See BAAQMD's website at http://www.baaqmd.gov/enf/policies_and_procedures/index.htm for additional information.

7. RESOURCES AND INTERNAL MANAGEMENT

The purpose of this section is to evaluate how the permitting authority is administering its title V program. With respect to title V administration, EPA's program evaluation (1) focused on the permitting authority's progress toward issuing all initial title V permits and the permitting authority's goals for issuing timely title V permit revisions and renewals; (2) identified organizational issues and problems; (3) examined the permitting authority's fee structure, how fees are tracked, and how fee revenue is used; and (4) looked at the permitting authority's capability of having sufficient staff and resources to implement its title V program.

An important part of each permitting authority's title V program is to ensure that the permit program has the resources necessary to develop and administer the program effectively. In particular, a key requirement of the permit program is that the permitting authority establish an adequate fee program. Part 70 requires that permit programs ensure that title V fees are adequate to cover title V permit program costs and are used solely to cover the permit program costs.²⁴ Regulations concerning the fee program and the appropriate criteria for determining the adequacy of such programs are set forth in 40 C.F.R. 70.9.

7.1 Finding: BAAQMD's management is responsive in addressing permitting policy issues.

Discussion: Throughout our interviews, staff we spoke with stated that BAAQMD's management is very involved in the resolution of policy issues affecting permitting. The District's management is knowledgeable about emerging and complex policy issues such as how to effectively conduct public involvement, how to process permit revisions, and how to ensure that good statements of basis are prepared. Interviewees also described the District management's support in making sure that staff had adequate resources to address complex permitting issues. BAAQMD management coordinates its efforts across Divisions within the District in order to ensure enforceability of permits and good public outreach.

An example of its expertise and involvement is the 2004 process for renewing the title V permit for Mirant Potrero LLC's power plant in the Potrero Hill neighborhood of San Francisco. In this example, the District faced complex issues, including public sentiment to close the facility and the need to meet energy demands in the Bay Area.²⁵ The District coordinated among Divisions to resolve the array of issues in a way that led to a better permit and a more inclusive process with effective public outreach (including workshops to educate the public and a public hearing to listen to community concerns, along with responses to public comments).²⁶

Recommendation: District management should maintain this effort.

²⁴ See 40 C.F.R. 70.9(a).

²⁵ The range of issues faced in this renewal included: air quality, health impacts, environmental justice, nuisances, need for the facility and the term of the permit, air monitoring, and complaint procedures.

²⁶ For additional detail, see: http://www.baaqmd.gov/pmt/title_v/A0026/A0026_2005-02_renewal_06.pdf.

7.2 Finding: Permitting staff are facing a heavy workload because of NSR permitting and other competing priorities.

Discussion: Many interviewees told us that the majority of permit engineers' time is spent on issuing NSR permits, and that this workload is demanding. NSR permits are given priority over title V permits because they authorize construction or modification. Additionally, staff suggested that additional resources may be needed to address competing priorities that may be affecting the District's ability to issue title V permit renewals in a timely manner. (See Finding 5.1 for additional discussion on this issue.) With respect to the Compliance Division's title V workload, interviewees suggested that additional resources for analyzing monitoring and compliance reports submitted by title V sources would allow District inspectors to focus more on inspections and less on tasks that compete with being in the field.

Recommendation: The Engineering Division should carefully review its current title V permit renewal workload, identify competing priorities, and develop a plan that addresses the title V renewal backlog. The Compliance Division should consider a similar analysis to determine if there is merit to reducing the amount of time field inspectors spend reviewing title V monitoring and compliance reports when compared to performing more field inspections.

7.3 Finding: BAAQMD is developing an automated system, which includes a database and other tools and forms designed in part to address inefficiencies in the permitting process.

Discussion: During our site visit, interviewees expressed concern about the District's ability to gather data needed to process permits in its current databases. The primary concern has been the lack of relational database structures, which is a common issue with older database software. To address the problem, most interviewees pointed to the District's efforts to automate some of its procedures and forms by developing a new "electronic business production system" for the Engineering Division. The effort to develop the new electronic business production system began with the District's accounting group and currently the effort is focusing on permitting.

BAAQMD hired a contractor to map the interrelationships among existing permitting and enforcement databases and develop a modern system to streamline the permitting process. Ideally, the electronic business production system will allow for more electronic review of permits and applications and the accompanying forms that are used by the Engineering Division. The District anticipates that the system will be complete in late 2010, and will include forms available on the BAAQMD website which are clearer and easier to fill out, the ability of a facility to print its own permit, automated document storage and retention, and geospatial capabilities.

Some of the advantages of the business production system approach are:

- automation of administrative processes like fee calculations and invoicing, which will free up additional resources to use in permit processing,

- use of newer, more flexible technology than that currently employed by the District²⁷, and
- increased use of standardized permit conditions.

By undertaking this effort, District management believes that it may be able to reallocate Engineering Division resources.

Recommendation: EPA commends the District for its efforts to increase the efficiency of its Engineering Division. We hope that this effort will assist in addressing the title V permit renewal backlog.

7.4 Finding: BAAQMD uses EPA, CARB, and in-house courses to train permit staff.

Discussion: The District provided EPA with copies of the curriculum that is used to train compliance staff. (See Appendix H.) We gathered information on the training of permitting staff through the interview process. District staff also indicated in interviews that in-house training is provided on how the District administers its programs.

EPA's APTI primarily provides technical air pollution training to state, tribal, and local air pollution professionals, although others may benefit from this training. The curriculum is available in classroom, telecourse, self-instruction, and web-based formats. APTI provides training in a variety of areas including Entry-Level Training, Engineering, Ambient Monitoring, Inspections, and Permitting, among others.²⁸

The CARB training program provides comprehensive education to further the professional development of environmental specialists. These courses cover pollution history, the procedures required to properly evaluate emissions, the analysis of industrial processes, theory and application of emission controls, and waste stream reduction.²⁹

For the Engineering Division, training has included APTI's "Effective Permit Writing" and CARB-developed permitting training. However, our staff interviews suggest that there are additional areas where training would improve the effectiveness of the District's title V program. The areas we identified were:

- training on permit revision tracks (i.e. significant vs. minor)
- title V permit streamlining, and
- how to incorporate NSPS and NESHAP requirements into permits with sufficient detail.

For the Compliance Division, training has included training on source category-specific rules in addition to in-house training on how to review title V reports and certifications.

²⁷ Flexibility in terms of the ability to better relate data within and among District databases and in document editing abilities.

²⁸ See http://www.epa.gov/air/oagps/eog/course_topic.html for additional details.

²⁹ See <http://www.arb.ca.gov/training/training.htm> for additional details.

Recommendation: The District should review its training program of permitting staff, identify needs, and coordinate with EPA and others to ensure that a comprehensive title V training program is implemented. See Finding 7.5 for a more expansive discussion of the need for CAM training. See Finding 4.8 for a discussion of the need for EJ training.

7.5 Finding: BAAQMD title V permit writers need CAM training.

Discussion: During our interviews, it was clear that many District staff were not familiar with CAM rule requirements, or regarded CAM as a future requirement that the District had yet to start implementing. This view is also reflected in the District's response to EPA's questionnaire on title V implementation, which states that the District had not approved any CAM plans (as of June 2008).³⁰ We also note that we reviewed six statements of basis for renewal permits that did not address CAM, so the number of facilities subject to CAM could be higher. As described in Finding 2.5, we also found several inaccurate statements in BAAQMD statements of basis regarding CAM applicability and implementation.

The interview and questionnaire responses, and the inconsistent approach to explaining CAM in statements of basis, indicate a need for additional CAM training for BAAQMD permit writers. The District recognizes this, and in fact a CAM class from CARB was held at the District office during the week after EPA's site visit.

Recommendation: The District should consider sending title V permit writers to CAM training, such as the classes offered by CARB and EPA's APTI, whenever possible. In addition, the District should consider developing CAM guidance for permit writers, which EPA could review upon request.

7.6 Finding: BAAQMD accurately accounts for title V expenses and fees, which are adequate to cover the implementation of the program.

Discussion: The Part 70 regulations require that permit programs ensure that title V fees are adequate to cover title V permit program costs and are used solely to cover the permit program costs.³¹ BAAQMD has a clear accounting of its title V program costs. During our evaluation, BAAQMD provided EPA with spreadsheets that demonstrate that, for the period from July 1, 2007 through June 30, 2008, the District's fee structure ensured that the District collected more than the presumptive minimum amount required by Part 70, and document the total amount of fees collected for each facility. In addition, title V revenues are tracked separately from all other revenues collected by BAAQMD. The District uses its form Schedule P to set title V application fees. Additional fees may apply depending on the number and types of emission sources at a facility.

³⁰ These observations are inconsistent with what we found during our file review, in which we found that the District determined that CAM applied to at least four facilities (Ball Metal Container, Dynegey Oakland, Pacific Gas & Electric Hunter's Point, and U.S. Pipe and Foundry).

³¹ See 40 C.F.R. 70.9(a).

As described above, the District provided EPA with a detailed spreadsheet showing emissions data used to calculate the “presumptive minimum fees” for the BAAQMD. In this spreadsheet, the fee for several facilities (refineries) is based on a 4000 ton per year emissions cap. BAAQMD’s total presumptive minimum fees using this spreadsheet are about \$1.5 million.³² The District also provided EPA with spreadsheets that indicate that for the last fiscal year (from July 1, 2007 through June 30, 2008), the title V fee structure in place (as opposed to that shown by the presumptive minimum analysis above) collected about \$2.1 million from permit renewals and \$0.5 million for application fees, for a total of about \$2.6 million. Using these spreadsheets, the District has shown that it has developed a process that can demonstrate whether its fees are adequate to cover the costs of the title V program as required under the CAA.

The District uses timesheets with accounting codes that specify title V-related work to track the amount of time that permit engineers spend on title V permits, which is the District’s biggest expense in implementing the BAAQMD title V program. More generally, BAAQMD uses cost recovery measures to ensure that expenses are covered by fees collected for title V permits. As a result of these practices, the District has routinely increased its fees to ensure that funding remains adequate.

Recommendation: EPA encourages BAAQMD to maintain its existing effective accounting practices.

7.7 Finding: Communication among BAAQMD Divisions is generally good.

Discussion: As noted elsewhere in this report, the District’s Engineering Division and Compliance Division communicate and coordinate effectively on title V issues. (See Finding 6.2.) Management from both Divisions meets regularly to discuss permitting issues and compliance concerns. Staff from both the Engineering and Compliance Divisions coordinates to ensure that information regarding facility compliance histories is shared. However, as noted in Finding 4.6, while BAAQMD’s EJ efforts are effective, internal communication and coordination between the Engineering Division and the District staff working on EJ could be improved, especially with respect to advice on public outreach techniques and managing EJ issues generally.

Recommendation: BAAQMD should continue to focus on this issue by considering the recommendations that have been made in Findings 4.6 and 6.2 of this report.

7.8 Finding: BAAQMD receives excellent support from its Legal Division.

Discussion: Throughout the course of our interviews, the theme of BAAQMD’s excellent support from its legal counsel was recurrent. District counsel provides prompt, thorough and considered advice regarding permitting issues (among other duties) and provides an example of how in-house counsel can make a difference in title V permitting program implementation. The District’s eight attorneys are experienced with the policy, legal, and

³² This analysis assumes that fees are set at the presumptive minimum \$41.96 per ton of emissions value for each of the title V facilities.

technical issues that arise in a title V program. Counsel is especially effective in resolving implementation issues that arise in the District's title V program. For example, the Legal Division has provided extensive advice on improving the District's statements of basis, which has increased transparency and resulted in more complete administrative records of title V permitting actions. (See also Findings 2.1 and 8.2.) In addition, the District's attorneys work closely with the Compliance Division on developing enforcement actions.

Recommendation: EPA commends BAAQMD and its counsel for assisting in the effective implementation of its title V program.

8. TITLE V BENEFITS

The purpose of this section is to evaluate how the permitting authority's existing air permitting and compliance programs have benefited from the administration of the permitting authority's title V program. The title V permit program is intended to generally clarify which requirements apply to a source and enhance compliance with any CAA requirements, such as NSPS or SIP requirements. The program evaluation for this section is focused on reviewing how the permitting authority's air permitting program changed as a result of title V, resulted in transparency of the permitting process, improved records management and compliance, and encouraged sources to pursue pollution prevention efforts.

8.1 Finding: Title V has increased BAAQMD's knowledge of federal regulations.

Discussion: Since title V permits must include all applicable requirements, District permitting staff reviews federal regulations (e.g., NSPS, NESHAP) more frequently than before the title V program to determine which requirements apply to facilities. The permit application review process requires that permitting staff evaluate whether applicable requirements, including federal regulations, apply to emission units. Staff have greater exposure to federal regulations and apply them on a more frequent basis. In addition, during the interviews, several staff stated that their knowledge of federal air pollution regulations has increased as a result of implementing title V.

Recommendation: EPA has no recommendation for this finding.

8.2 Finding: BAAQMD's statements of basis help promote transparency in the title V permitting process by documenting compliance history and permitting decisions.

Discussion: BAAQMD Regulation 2, Rule 6 (Major Facility Review) requires that a statement of basis support title V permits by providing the legal and technical basis for permit conditions and permitting decisions. The statement of basis documents the rationale for decisions on applicability, periodic and/or sufficiency monitoring, and other significant decisions made by the permitting authority during the title V permitting process. Any decision documented in the statement of basis helps the regulated community, EPA, the public, and future permit writers understand the decisions the District made.

BAAQMD's statements of basis for initial and renewal permits typically contain the following sections: (A) Background, (B) Facility Description, (C) Permit Content, (D) Alternate Operating Scenario, (E) Compliance Status, and (F) Differences between the Application and the Proposed Permit. The District also includes a discussion of "Complex Applicability Determinations" in the Permit Content section in cases that may warrant other non-routine permitting decisions, or when facilities are subject to NSPS or MACT standards. An example is the statement of basis for the City of Santa Clara, Electric Department renewal permit (#10664), which documents a variety of issues such as CAM applicability and the correction of an NSPS NO_x limit, and explains permit changes, including the addition of parametric monitoring. In general, the District's

statements of basis are informative and provide insight into the facility's operations and permit obligations. (See also Finding 2.1.)

BAAQMD addresses a facility's compliance status and history in the Compliance Status section of the statement of basis. It is valuable for the public to know a facility's compliance record during the development of the renewal permit and statement of basis, particularly if a facility has outstanding compliance issues and requires a schedule of compliance. This point was underscored in the EPA Administrator's March 15, 2005 Orders responding to petitions to EPA to object to the proposed title V permits for the Tesoro and Valero refineries, which established that statements of basis should have an adequate discussion of pending NOVs, and a discussion of why a compliance schedule is or is not required in the permit. BAAQMD has followed this guidance. For example, the statement of basis for the Tesoro (#12599) permit re-opening documents the facility's compliance status by explaining that there were recurring violations at the facility, which resulted in a court order (Order for Abatement) that was incorporated into the permit as a compliance schedule. The Order for Abatement stipulates a schedule of remedial measures and milestones that Tesoro must achieve in order to return to compliance. For other facilities that are in compliance or may have minor compliance issues, the District attaches a copy of its annual compliance report, in the form of an inter-office memorandum, as an appendix to the statement of basis. This allows the facility, EPA, and the public to see the different types of compliance-related activities and milestones that have occurred, if any.

The statement of basis should also explain how the proposed monitoring strategy will assure compliance with emission limits. The District does this in the Permit Content section of the statement of basis, which summarizes monitoring requirements on a pollutant-by-pollutant basis. The statement of basis for the Redwood Landfill initial permit (#17363) is a good example of this. The proposed monitoring approach is first presented briefly in a tabular format. Immediately following the table, the District provides more detail on the monitoring approach, such as how the emission limits are derived, instrument calibration, averaging periods, reporting and recordkeeping requirements. In cases when no additional monitoring is required by a District rule or federal regulation, the District discusses periodic or sufficiency monitoring requirements it has added to the permit. (See Finding 3.4.) In other cases when no additional monitoring is necessary, the District also provides adequate justification.

Recommendation: EPA recommends that the District continue producing informative statements of basis to ensure that the title V permitting process is transparent to the public, EPA, and the regulated community.

8.3 Finding: The District's title V permit is a tool for the public to understand stationary sources' CAA obligations.

Discussion: An important feature of the title V program is that it provides an opportunity for public participation. Through the title V program, the public learns about the

permitting process and has access to information related to a stationary source's CAA obligations. This information helps the public understand how the source is complying with applicable requirements, including how it is limiting the amount of emissions from its equipment, operating pollution control technologies to reduce emissions, applying protocols for monitoring, recordkeeping, and reporting to assure compliance with emission limits. title V permits translate this information into enforceable conditions which compile all CAA requirements for a particular facility into one document. (See Finding 2.3.) The permits, in addition to the statements of basis as discussed in Finding 8.2, are beneficial to the public, the regulated community, BAAQMD, and EPA because they provide a single comprehensive listing of a facility's operations and compliance obligations. This observation is supported by the District's response to the EPA's questionnaire, which noted that the title V permit is a "valuable document because it is a definitive summary of all applicable requirements and compliance monitoring procedures." (See Appendix B, title V Questionnaire and BAAQMD Responses.)

Recommendation: EPA recommends that the District continue producing comprehensive title V permits that enhance the public's understanding of facilities' CAA obligations.

- 8.4 Finding:** BAAQMD has found that facilities have become more proactive and focused on compliance as a result of being subject to title V.

Discussion: During the interviews, several BAAQMD staff noted that facilities seem more aware of federal air pollution regulations and compliance has improved as a result of title V. Over time, the District has seen many title V sources take a more proactive approach to ensure compliance. For example, the District has found that some sources have created a new position within their organization solely focused on environmental compliance. Facilities understand they are accountable for failure to meet permit requirements, and have a better awareness of their compliance obligations. Facilities develop and implement their own self-auditing procedures to ensure they are in compliance at all times. This practice allows facilities to quickly resolve compliance problems (e.g., exceedances or breakdowns), and to prevent recurring compliance problems. Self-auditing also has the effect of potentially minimizing or eliminating excess emissions that would have otherwise occurred.

Recommendation: EPA has no recommendation for this finding.

GLOSSARY OF ACRONYMS & ABBREVIATIONS

Act	Clean Air Act [42 U.S.C. Section 7401 et seq.]
Agency	U.S. Environmental Protection Agency
APTI	Air Pollution Training Institute
ATC	Authority to Construct
BAAQMD	Bay Area Air Quality Management District
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CEMS	Continuous Emissions Monitoring System
C.F.R.	Code of Federal Regulations
District	Bay Area Air Quality Management District
ESP	Electrostatic Precipitator
EJ	Environmental Justice
EPA	U.S. Environmental Protection Agency
HAP	Hazardous Air Pollutant
HQ	Headquarters
MACT	Maximum Achievable Control Technology
NESHAP	National Emission Standards for Hazardous Air Pollutants, 40 C.F.R. Parts 61 & 63
NAAQS	National Ambient Air Quality Standard
NOV	Notice of Violation
NO _x	Nitrogen Oxides
NSPS	New Source Performance Standards, 40 C.F.R. Part 60
NSR	New Source Review
OIG	EPA Office of Inspector General
PM	Particulate Matter
PM ₁₀	Particulate Matter less than 10 microns in diameter
PTO	Permit to Operate (local, not title V)
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
RACT	Reasonably Available Control Technology
SCR	Selective Catalytic Reduction
SIP	State Implementation Plan

APPENDICES

Appendix A

AIR POLLUTION CONTROL AGENCIES IN CALIFORNIA

CALIFORNIA MAP FOR LOCAL AIR DISTRICT WEBSITES

The State is divided into Air Pollution Control Districts (APCD) and Air Quality Management Districts (AQMD), which are also called air districts. These agencies are county or regional governing authorities that have primary responsibility for controlling air pollution from stationary sources. The following map is for informational purposes and shows the Air District Boundaries. This map can be used to access local air district websites or an email address for that district if there is no website.

California Air Districts



[Local Air District Resource Directory](#)
[California Air Pollution Control Officers Association \(CAPCOA\)](#)
[Other Maps on this Website](#)

The Board is one of six boards, departments, and offices under the umbrella of the California Environmental Protection Agency.
[Cal/EPA](#) | [ARB](#) | [CIWMB](#) | [DPR](#) | [DTSC](#) | [OEHHA](#) | [SWRCB](#)

Appendix B

TITLE V QUESTIONNAIRE AND BAAQMD RESPONSES

EPA

Title V Program Evaluation

Questionnaire

Completed by the staff of the Bay Area Air Quality Management District

June 30, 2008

Table of Contents

- A. Title V Permit Preparation and Content
- B. General Permits (GP)
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- D. Public Participation and Affected State Review
- E. Permit Issuance / Revision / Renewal
- F. Compliance
- G. Resources & Internal Management Support
- H. Title V Benefits

A. Title V Permit Preparation and Content

Y 1. For those title V sources with an application on file, do you require the sources to update their applications in a timely fashion if a significant amount of time has passed between application submittal and the time you draft the permit?

N a. Do you require a new compliance certification?

Y 2. Do you verify that the source is in compliance before a permit is issued and, if so, how?

In the case of initial and renewal permits, BAAQMD Compliance and Enforcement Division personnel conduct a compliance review (including NOV status and history) for the previous 5-year period. This review is conducted while the draft permit is circulating for internal review.

a. In cases where a facility is either known to be out of compliance, or may be out of compliance (based on pending NOVs, a history of multiple NOVs, or other evidence suggesting a possible compliance issue), how do you evaluate and document whether the permit should contain a compliance schedule? Please explain, and refer to appropriate examples of statements of basis written in 2005 or later in which the District has addressed the compliance schedule question.

In addition to instances of continuing non-compliance (which clearly merit a schedule of compliance), the District reviews the compliance history looking for patterns of recurring similar violations, which might indicate the need for a compliance schedule and/or other permit conditions.

The evaluation and documentation of the basis and circumstances of a compliance schedule are discussed in the Statement of Basis document. Typically, permit conditions are imposed that specify the steps and timeline that the source must follow to come into compliance. An example of a Title V permit with compliance schedules that have been issued since 2005 is the renewal permit for the City of Sunnyvale Water Pollution Control, plant number A0733, application number 3931. Two other examples are the current permits for Tesoro Refining and Marketing Company (plant number B2758) and ConocoPhillips – San Francisco Refinery (plant number A0016). The relevant documents can be viewed on the District website at http://www.baaqmd.gov/pmt/title_v/public_notices.htm.

3. What have you done over the years to improve your permit writing and processing time?

We have developed permit and statement of basis templates that are continually updated by the Senior Engineer dedicated to the Title V program. This insures that permits contain current federal, state, and District requirements. The templates decrease processing time by providing a standard, consistent format for use by the permit engineers. We have also sought ways to coordinate enforcement efforts with Title V permit activity, so that the Title V permit may better serve as a tool responsive to significant compliance problems.

Y

4. Do you have a process for quality assuring your permits before issuance? Please explain.

All draft permits are routed through the Senior Engineer dedicated to Title V program to ensure consistency. Draft initial and renewal Title V permits are circulated internally to the District Compliance and Enforcement and Technical Services Divisions and the permitted facility for comment and review. Proposed permits and permit revisions are circulated through the Engineering and Legal Divisions and Executive Management prior to issuance.

Y

5. Do you utilize any streamlining strategies in preparing the permit? Please explain.

We do not include equipment that is exempt from District permit requirements in the Title V permit, unless it is significant (i.e. PTE greater than 2 tpy for any regulated air pollutant, or 400 lb/yr for any HAP). We also have identified generally applicable requirements in a single table, rather than listing them for each piece of subject equipment. In addition, sources with common applicable requirements are grouped together whenever possible. Finally, as part of the application process, the permittee can request a permit shield from non-applicable requirements or from monitoring, recordkeeping, or reporting requirements for less stringent requirements.

- a. What types of applicable requirements does the District streamline, and how common is streamlining in BAAQMD permits?

We have issued some permits with subsumed monitoring, recordkeeping, or reporting requirements. This is not commonly done and is only included at the request of the facility as described above. Streamlining in general has been uncommon.

- b. Do you have any comments on the pros and cons of streamlining multiple overlapping applicable requirements?

Streamlining of multiple overlapping applicable requirements can simplify the permit and reduce the burden of demonstrating and verifying compliance. Streamlining analyses are often difficult or impractical to complete, however, due to differences in the form of the standards and/or differences in monitoring, test methods, recordkeeping and reporting requirements.

6. What do you believe are the strengths and weaknesses of the format of District permits (i.e. length, readability, facilitates compliance certifications, etc.)? Why?

Strengths: Provides comprehensive listing of applicable requirements, monitoring, and source test methods. The applicable requirements can be found directly for a given piece of equipment. The statement of basis is comprehensive and the format allows for a thorough explanation of the basis of applicability determinations and any monitoring decisions. Weakness: Some permits for complex facilities are long and difficult to navigate. Occasionally, this has resulted in errors as permits are revised. District staff is considering instituting format changes that would merge separate tables, thereby reducing permit length.

7. How have the District's statements of basis evolved over the years since the beginning of the Title V program? Please explain what prompted changes, and comment on whether you believe the changes have resulted in stronger statements of basis.

In the case of the initial Title V permits issued by the District, the District followed the letter of February 19, 1999 from Matt Haber of EPA Region IX to David Dixon of the California Air Pollution Control Officers Association (CAPCOA) regarding the information required in the statement of basis. As a result of an EPA order issued on May 24, 2004, regarding an appeal of the initial Los Medanos Energy Center permit filed with EPA Region IX by Our Children's Earth (OCE) and Californians for Renewable Energy (CARE), the District developed a statement of basis that addressed Title V issues more directly.

For example, the current statement of basis documents and explains changes to the permit so that the public can understand those changes and their potential impacts. The current statement of basis also discusses applicable requirements and their corresponding monitoring as well as complex applicability

determinations such as CAM. As a result of these changes, the current statement of basis is more robust than earlier versions.

8. Does the statement of basis explain:

- Y a. the rationale for monitoring (whether based on the underlying standard or monitoring added in the permit)?
Section C.VII of the statement of basis explains the rationale for monitoring.
- Y b. applicability and exemptions, if any?
The Statement of Basis does not provide detailed explanations of simple applicability determinations and exemptions where the determination can be made by inspection. However, the statement of basis has detailed explanations of all complex applicability determinations.
- Y c. streamlining (if applicable)?
The statement of basis does provide explanations of any streamlining. Any streamlining is normally associated with use of the permit shield.

Y 9. Do you provide training and/or guidance to your permit writers on the content of the statement of basis?
The District maintains detailed templates that contain standard language and content for the statement of basis for initial, renewal and revised permits.

10. Do any of the following affect your ability to issue timely initial title V permits: (If yes to any of the items below, please explain.)

- N a. SIP backlog (i.e., EPA approval still awaited for proposed SIP revisions)
- Y b. Pending revisions to underlying NSR permits
In some cases, pending NSR applications can be delayed significantly by CEQA issues under the control of the local governmental entity that assumes lead agency responsibilities.
- Y c. Compliance/enforcement issues
The negotiation of terms for compliance schedules has in some cases increased the processing time for initial and renewal Title V permits.

- N d. EPA rule promulgation awaited (MACT, NSPS, etc.)
- Y e. Permit renewals and permit modification (i.e., competing priorities)
The competing priorities of renewing and revising existing Title V permits has created challenges in terms of the timely issuance of initial permits for new Title V facilities.
- Y f. Awaiting EPA guidance
The reopening of the permits for the refineries was significantly delayed because EPA headquarters and EPA Region IX did not agree on monitoring for applicability of H2S monitoring at the refinery flares.
- N 11. Any additional comments on permit preparation or content?

B. General Permits (GP)

- N 1. Do you issue general permits?
- a. If no, go to next section
 - b. If yes, list the source categories and/or emission units covered by general permits.

- Y N 2. In your agency, can a title V source be subject to multiple general permits and/or a general permit and a standard “site-specific” Title V permit?
- a. What percentage of your title V sources have more than one general permit? _____%

- Y N 3. Do the general permits receive public notice in accordance with 70.7(h)?
- a. How does the public or regulated community know what general permits have been written? (e.g., are the general permits posted on a website, available upon request, published somewhere?)

4. Is the 5 year permit expiration date based on the date:

- Y N a. the general permit is issued?

- Y N b. you issue the authorization for the source to operate under the general permit?

5. Any additional comments on general permits?

C. **Monitoring**

1. How do you ensure that your operating permits contain adequate monitoring (i.e., the monitoring required in §§ 70.6(a)(3) and 70.6(c)(1)) if monitoring in the underlying standard is not specified or is not sufficient to demonstrate compliance ?

The Part VII tables of District Title V permits include a listing of each applicable limit and the corresponding monitoring requirement and method. When there is no monitoring required for a given limit, the statement of basis must include a justification for no monitoring. If monitoring is necessary to demonstrate compliance, it is instituted under the Title V permitting process. The routing of all draft Title V permits through the Senior Engineer dedicated to the Title V program ensures that this requirement is met. The District reviews all monitoring for sufficiency, even though our understanding of EPA policy is that review of existing monitoring is not required under Title V. In all cases, the District balances the emission reduction benefits of additional monitoring against the cost of that monitoring.

N

- a. Have you developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the guidance.

Guidance has not been developed for all types of monitoring, but the District does use the guidance on periodic monitoring developed by the CAPCOA/ARB/EPA Region IX Title V Subcommittee for various types of common sources.

Y

2. Do you provide training to your permit writers on monitoring? (e.g., periodic and/or sufficiency monitoring; CAM; monitoring QA/QC procedures including for CEMS; test methods; establishing parameter ranges)

Y

3. How often do you “add” monitoring not required by underlying requirements? Have you seen any effects of the monitoring in your permits such as better source compliance?

We have imposed monitoring when the underlying rule contains no monitoring of a periodic nature. This does not occur often. An example would be the requirement for periodic visual inspection of particulate sources for compliance with BAAQMD Regulation 6, Rule 1. We have also required periodic monitoring of pressure drop for baghouses to insure compliance with Regulation 6, Rule 1. We believe that in some cases this monitoring may have resulted in better source compliance.

4. What is the approximate number of sources that now have CAM monitoring in their permits? Please list some specific sources.
To date, we have not approved any CAM plans.

N 5. Has the District ever disapproved a source's proposed CAM plan?

D. Public Participation and Affected State Review

Public Notification Process

1. Which newspapers does the District use to publish notices of proposed title V permits?
Major newspapers of general circulation within the District boundaries.

N 2. Do you use a state publication designed to give general public notice?

N 3. Do you sometimes publish a notice for one permit in more than one paper?

a. If so, how common is it for the District to publish multiple notices for one permit?

b. How do you determine which publications to use?

We utilize the largest newspaper in the nearest city to the Title V facility.

c. What cost-effective approaches have you utilized for public publication?

We post all proposed and final Title V permits, statement of basis documents and public notices on the District website. This is a very cost-effective approach to public notification. Notification of all Title V actions are also sent to all persons subscribed on the District list server via email.

Y 4. Have you developed mailing lists of people you think might be interested in title V permits you propose? [e.g., public officials, environmentalists, concerned citizens]

Y a. Does the District maintain more than one mailing list for Title purposes, e.g., a general Title V list and source-specific lists?

- b. How does a person get on the list? (e.g., by calling, sending a written request, or filling out a form on the District’s website)
A person typically gets on the list by telephoning or e-mailing District staff. Some requests are submitted by postal letter.
- c. How does the list get updated?
The list is maintained by District Title V personnel.
- d. How long is the list maintained for a particular source?
The list is maintained indefinitely unless the facility closes or the entities on the list request to be removed from the list.
- e. What do you send to those on the mailing list?
Copies of any public notice for proposed Title V actions. For minor revisions or administrative amendments, we send a copy of the transmittal letter that is sent to EPA. We only provide hard copies of proposed permits and statement of basis documents upon request since we post all Title V documents on the District website.

- Y** 5. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?
- Y** 6. Do your public notices clearly state when the public comment period begins and ends?
- 7. What is your opinion on the most effective methods for public notice?
In general, public notices in newspapers are not that effective since few people read the classified section of the newspaper unless they are looking for a particular public notice. Posting the public notice on the District website (per current practice) probably reaches more concerned members of the public and public advocates.
- Y** 8. Do you provide notices in languages besides English? Please list the languages and briefly describe under what circumstances the Districts translates public notice documents?
We have occasionally translated public notices into Spanish based upon our assessment of the composition of the affected community surrounding the Title V facility.

Public Comments

9. How common has it been for the public to request that the District extend a public comment period?
The public has requested an extension of the public comment period only a few times in the history of the program. For example, during the proposal of the initial refinery Title V permits.
- N a. Has the District ever denied such a request?
- b. If a request has been denied, the reason(s)?
- Y 10. Has the public ever suggested improvements to the contents of your public notice, improvements to your public participation process, or other ways to notify them of draft permits? If so, please describe.
In the case of the initial refinery Title V permits, an environmental group suggested that the District provide much more background information with the proposed permits.
11. Approximately what percentage of your proposed permits has the public commented on?
Approximately 15% of the initial permits. Less than 5% of subsequent permit revisions and renewals receive public comments.
- N 12. Over the years, has there been an increase in the number of public comments you receive on proposed title V permits?
- N 13. Have you noticed any trends in the type of comments you have received? Please explain.
- a. What percentage of your permits change due to public comments?
Approximately 10% are changed.
- Y 14. Have specific communities (e.g., environmental justice communities) been active in commenting on permits?
- N 15. Do your rules require that any change to the draft permit be re-proposed for public comment?
- a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment?
The changes must be substantive in nature.

EPA 45-day Review

- Y 16. Do you have an arrangement with the EPA region for its 45-day review to start at the same time the 30-day public review starts? What could cause the EPA 45-day review period to restart (i.e., if public comments received, etc)?
If substantive changes are made to the permit as a result of public comments, then the 45-day EPA review period would be restarted to give EPA sufficient review time.
- a. How does the public know if EPA's review is concurrent?
The public notice describes the EPA review process and refers the reader to an EPA website that indicates when EPA's review period for a given permit action will end.
17. If the District does concurrent public and EPA review, is this process a requirement in your Title V regulations, or a result of a MOA or some other arrangement?
The District does utilize concurrent public and EPA review. It is not a requirement in District Regulation 2, Rule 6 that governs Major Facility Review permitting. This policy is a result of an arrangement with EPA. It should be noted that the District utilizes sequential review (i.e., public comment followed by EPA review) for permits that are likely to receive numerous comments such as refinery Title V permits.

Permittee Comments

- Y 18. Do you work with the permittees prior to public notice?
In the case of initial and renewal Title V permits, we send a copy of the draft permit and statement of basis to the permittee for their review and comment prior to formal proposal of the permit for public comment.
- Y 19. Do permittees provide comments/corrections on the permit during the public comment period?
Permittees do not typically provide comments/corrections during the public comment period unless there are issues that have not been resolved during the draft permit review period described above.

Any trends in the type of comments?

Comments are typically administrative in nature. Otherwise they relate to regulation applicability or monitoring requirements.

How do these types of comments or other permittee requests, such as changes to underlying NSR permits, affect your ability to issue a timely permit?

If the comments relate to contentious issues, such as applicability or monitoring, then they often delay permit issuance.

Public Hearings

20. What criteria does the District use to decide whether to grant a request for a public hearing on a proposed title V permit?

There must be a sufficient number of people requesting a public hearing to justify the expenditure of the necessary District time and resources. Some consideration is also given to the substance of the comments made on the proposed permit.

Are the criteria described in writing (e.g., in the public notice)? **No**

Y

a. Do you ever plan the public hearing yourself, in anticipation of public interest?

We have done this in the case of the initial, and some significant revisions, to refinery Title V permits. We intend to hold public hearings prior to the issuance of the renewal Title V permits for the refineries in the District.

Availability of Public Information

Y

21. Do you charge the public for copies of permit-related documents?

In accordance with District Public Records Request policies, we charge for copies of permit-related documents other than the proposed and final permits and statement of basis documents which are posted on the District website.

If yes, what is the cost per page? **10 cents per page**

Y

a. Are there exceptions to this cost (e.g., the draft permit requested during the public comment period, or for non-profit organizations)?

We provide copies of proposed permits and statement of basis documents to interested members of the public via the

District website or via e-mail at no cost. The District waives the copying fee for non-profit organizations on a case-by-case basis.

N

- b. Do your title V permit fees cover this cost? If not, why not?
Since all relevant documents are provided for download at no cost on the District website, there does not seem to be a need for such a fee.

22. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, 6-month monitoring reports, compliance certifications, statement of basis) especially during the public comment period?
The District has a public records request process in place that allows third parties to request access to public documents for a permitted facility. The procedures are described on the District website. Proposed permits and statement of basis documents for Title V actions are posted on the District website. The public can also subscribe to a District e-mail notification list that summarizes all District Title V actions.

Y

- a. Are any of the documents available locally (e.g., public libraries, field offices) during the public comment period? Please explain.
For large or controversial facilities, copies of proposed permits and related documents are often provided to public libraries in the city where the facility is located.

23. How long does it take to respond to requests for information for permits in the public comment period?
Public records requests are typically fulfilled within days of the request date, provided that the facility has provided a redacted copy of the requested documents in advance to protect trade secrets (this is required by District regulations for new permit submittals). Requests for historical documents may take longer, though the District makes every effort to respond quickly when the request is relevant to issues raised in the comment period.

Y

24. Have you ever extended your public comment period as a result of requests for permit-related documents?

N

- b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits?

25. What Title V permit-related documents does the District post on its website (e.g., proposed and final permits, statements of basis, public notice, public comments, responses to comments)?

The following documents are posted on the District website: Proposed and final permits, statements of basis, transmittal letters, and public notices.

a. How often is the website updated? Is there information on how the public can be involved?

The website is updated as needed, often on a daily basis. Documents are posted to the website within a few days of issuance or proposal.

N

26. Have other ideas for improved public notification, process, and/or access to information been considered? If yes, please describe.

Y

27. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe.

The public notice describes the 60-day citizen appeal process and directs the reader to an EPA website where this process is described in further detail.

Y

28. Do you have any resources available to the public on public participation (booklets, pamphlets, webpages)?

The District has numerous publications and webpages dedicated to public participation that are prepared and maintained by the District Communications and Outreach Division.

Y

29. Do you provide training to citizens on public participation or on title V?

Whenever the District holds a public hearing, we inform the public of District functions and how to contact the District with their input. We have held separate informational meetings on the Title V program to help educate the public. The District Communications and Outreach Division is dedicated to educating the public about District programs, including Title V.

Y

30. Do you have staff dedicated to public participation, relations, or liaison?

a. Where are they in the organization?

The District has 5 personnel in the “Community Outreach” Section of the Communications and Outreach Division. These staff are dedicated to public outreach.

- b. What is their primary function?
To educate the public on the goals, functions, and programs of the District and how the public can obtain information and comment on the District's operations.

Affected State Review and Review by Indian Tribes

31. How do you notify tribes of draft permits?
There are no affected states or Federally recognized Indian tribes in the District that require notification per Part 70.
32. Has the District ever received comments on proposed permits from Tribes?
No
33. Do you have any suggestions to improve your notification process?
No

Any additional comments on public notification? **No**

E. Permit Issuance / Revision / Renewal

Permit Revisions

1. Did you follow your regulations on how to process permit modifications based on a list or description of what changes can qualify for:

Y a. Administrative amendment?

N b. §502(b)(10) changes?
We haven't processed any Title V permit revisions under this provision.

Y c. Significant and/or minor permit modification?

Y d. Group processing of minor modifications?
The District's rule does not contain formal provisions to implement group processing of minor revisions in accordance with 40 CFR 70.7(e)(3).

2. Approximately how many title V permit revisions have you processed? **171 Title V permit revisions have been processed to date.**

a. What percentage of the permit revisions were processed as:

i. Significant
26%

ii. Minor
58%

iii. Administrative
16%

iv. Off-permit
0%

v. 502(b)(10)
0%

3. How many days, on average, does it take to process (from application receipt to final permit revision):

- a. a significant permit revision?
Median = 364 days

 - b. a minor revision?
Median = 249 days
4. How common has it been for the District to take longer than 18 months to issue a significant revision, 90 days for minor permit revisions, and 60 days for administrative amendments? Please explain.
It has been uncommon for the District to take longer than 18 months to issue a significant revision or 60 days to issue an administrative amendment. It has been more common for the District to take longer than 90 days to issue minor permit revisions. However, this is often attributable to the petroleum refineries that submit numerous Title V revision applications. Rather than issue a revised permit for each revision application, it is often a more efficient use of District resources to group several of the revision applications together and issue them together as one revised permit.

Because Title V facilities represent major complex facilities, these facilities often submit many revision applications. To assist the District in prioritizing work, these facilities typically will identify higher priority Title V applications. Facilities will normally give significant revisions higher priority since these applications represent potential permit violations if these conditions/requirements are not changed in the Title V permit prior to exceedances and only take effect after the EPA review period is over. Minor revisions take effect at the beginning of the EPA review period, and the urgency to process the minor revisions is therefore less.

5. What have you done to streamline the issuance of revisions?
We utilize concurrent EPA and public review for the majority of significant revisions. We have a standard template statement of basis for permit revisions that contains standard language that has been previously reviewed and approved by District Legal Division staff.
6. What process do you use to track permit revision applications moving through your system?
Each proposed Title V permit action is accompanied by a cover memo for tracking within the Engineering Division, an approval memo for transmittal to the Executive Officer through the chain of

command, and an entry in an Excel spreadsheet to track Title V applications as they are routed through our system. The cover memo indicates the routing order and the spreadsheet shows the location of the package. As a Title V permit approval package moves through the Engineering Division, staff initial the cover memo and enter their initials and date of review in the tracking spreadsheet before forwarding the documents to next reviewer. The spreadsheet is accessible to all Division staff and is backed up on regular basis.

- Y 7. Have you developed guidance to assist permit writers and sources in evaluating whether a proposed revision qualifies as an administrative amendment, off-permit change, significant or minor revision, or requires that the permit be reopened? If so, provide a copy.
The District Manual of Procedures (MOP) has a section on Title V permit processing that includes a discussion of permit revision types. The MOP is available on the District website. The District is also in the process of developing a policy that will provide more specific guidance on whether a proposed permit revision should be considered minor or significant in nature.
- Y 8. Do you require that source applications for minor and significant permit modifications include the source's proposed changes to the permit?
- Y a. For minor modifications, do you require sources to explain their change and how it affects their applicable requirements?
- Y 9. Do you require applications for minor permit modifications to contain a certification by a responsible official that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used?
10. When public noticing proposed permit revisions, how do you identify which portions of the permit are being revised? (e.g., narrative description of change, highlighting, different fonts).
The public notice includes a short narrative description of the proposed revisions. The proposed changes to the permit are shown in strikeout/underline format, and the statement of basis document describes the proposed changes in detail.
11. When public noticing proposed permit revisions, how do you clarify that only the proposed permit revisions are open to comment?
The public notice states that only the proposed permit revisions are open to comment.

Permit Renewal Or Reopening

- N 12. Do you have a different application form for a permit renewal compared to that for an initial permit application?
- a. If yes, what are the differences?
- Y 13. Has issuance of renewal permits been “easier” than the original permits? Please explain.
In general, the issuance of renewal permits is easier because the process primarily involves updating the existing permit to reflect the facility’s current status. For most of the initial Title V permits issued by the District, however, the statement of basis was much different than the current one. In these cases, the issuance of the renewal permit can be more difficult since the statement of basis must be revised significantly.
- Y 14. How are you implementing the permit renewal process (ie. guidance, checklist to provide to permit applicants)?
We send a reminder letter to the permit holder six months prior to the renewal application due date. The assigned permit engineer contacts the facility one month prior to the due date. For the refineries, a series of meetings were held with the facility representatives during the year prior to renewal application submittals to address permitting issues.
15. What % of renewal applications have you found to be timely and complete? **99%**
16. How many complete applications for renewals do you presently have in-house ready to process? **36**
- Y 17. Have you been able to or plan to process these renewals within the part 70 timeframe of 18 months? If not, what can EPA do to help?
- Y 18. Have you ever determined that an issued permit must be revised or revoked to assure compliance with the applicable requirements?

F. Compliance

1. Deviation reporting:

- a. Which deviations do you require be reported prior to the semi-annual monitoring report? Describe.

All instances of non-compliance with the permit must be reported in writing to the District's Compliance and Enforcement Division within 10 calendar days of the discovery of the incident. Within 30 calendar days of the discovery of any incident of non-compliance, the facility must submit a written report including the probable cause of non-compliance and any corrective or preventative actions.

N

- b. Do you require that some deviations be reported by telephone?

- c. If yes, do you require a followup written report? If yes, within what timeframe?

N

- d. Do you require that all deviation reports be certified by a responsible official? (If no, describe which deviation reports are not certified).

Deviation reports have not required certification by the responsible official due to the 10-day “prompt” reporting requirement. Certification inhibits a timely report by companies.

N

- i. Do you require all certifications at the time of submittal?

- ii. If not, do you allow the responsible official to “back certify” deviation reports? If you allow the responsible official to “back certify” deviation reports, what timeframe do you allow for the followup certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)?

2. How does your program define deviation?

“All instances of non-compliance with the permit shall be reported in writing to the District's Compliance and Enforcement Division within 10 calendar days of the discovery of the incident. Within 30 calendar days of the discovery of any incident of non-compliance, the facility shall submit a written report including the probable cause of non-compliance and any corrective or preventative actions.”

- N a. Do you require only violations of permit terms to be reported as deviations?
- b. Which of the following do you require to be reported as a deviation (Check all that apply):
- Y i. excess emissions excused due to emergencies (pursuant to 70.6(g))
- Y ii. excess emissions excused due to SIP provisions (cite the specific state rule)
- Y iii. excess emissions allowed under NSPS or MACT SSM provisions?
- Y iv. excursions from specified parameter ranges where such excursions are not a monitoring violation (as defined in CAM)
- Y v. excursions from specified parameter ranges where such excursions are credible evidence of an emission violation
- Y vi. failure to collect data/conduct monitoring where such failure is “excused”:
- Y A. during scheduled routine maintenance or calibration checks
- Y B. where less than 100% data collection is allowed by the permit
- Y C. due to an emergency
- N vii. Other? Describe.
3. Do your deviation reports include:
- Y a. the probable cause of the deviation?
- Y b. any corrective actions taken?
- Y c. the magnitude and duration of the deviation?
- Y 4. Do you define “prompt” reporting of deviations as more frequent than semi-annual?
Non-compliance must be reported within 10 days of discovery.

- Y 5. Do you require a written report for deviations?
- N 6. Do you require that a responsible official certify all deviation reports?
7. What is your procedure for reviewing and following up on:
- a. deviation reports?
All deviation reports are entered into a database, processed by assigned personnel for distribution and evaluation, and tracked for timely investigations. Investigations are conducted by field inspectors with the assistance of engineers when appropriate. Results of the compliance determinations are routed through the Compliance and Enforcement Division and then the Legal Division pursues appropriate action.
 - c. semi-annual monitoring reports?
See response to 7a.
 - d. annual compliance certifications?
See response to 7a.
8. What percentage of the following reports do you review?
- a. deviation reports
100%
 - b. semi-annual monitoring reports
100%
 - c. annual compliance certification
100%
9. Compliance certifications
- Y a. Have you developed a compliance certification form? If no, go to question 10.
 - Y i. Is the certification form consistent with your rules?

ii. Is compliance based on whether compliance is continuous or intermittent or whether the compliance monitoring method is continuous or intermittent?

Compliance is based on whether compliance is continuous or intermittent.

N

iii. Do you require sources to use the form? If not, what percentage does? **100%**

N

iv. Does the form account for the use of credible evidence?

It is not clear what “account for” means. The form does not contain narrative language that specifically addresses credible evidence.

N

v. Does the form require the source to specify the monitoring method used to determine compliance where there are options for monitoring, including which method was used where more than one method exists?

10. Excess emissions provisions:

N

a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it:

i. Provide relief from penalties?

ii. Provide injunctive relief?

iii. Excuse noncompliance?

Y

b. Does your program include a SIP excess emissions provision? If no, go to 10.c. If yes does it:

i. Provide relief from penalties?

The District’s practice has been to not pursue enforcement of a violation if breakdown relief is granted.

ii. Provide injunctive relief?

The District’s practice has been to not pursue enforcement of a violation if breakdown relief is granted.

iii. Excuse noncompliance?

The District’s practice has been to not pursue enforcement of a violation if breakdown relief is granted.

c. Do you require the source to obtain a written concurrence from the District before the source can qualify for:

n/a

i. the emergency defense provision?

Y

ii. the SIP excess emissions provision?

iii. NSPS/NESHAP SSM excess emissions provisions?

Facilities must follow NSPS/NESHAP procedures.

11. Is your compliance certification rule based on:

N

a. the '97 revisions to part 70 - i.e., is the compliance certification rule based on whether the compliance monitoring method is continuous or intermittent; or:

Y

b. the '92 part 70 rule - i.e., is the compliance certification rule based on whether compliance was continuous or intermittent?

12. Any additional comments on compliance?

No.

G. Resources & Internal Management Support

- Y** 1. Are there any competing resource priorities for your “title V” staff in issuing Title V permits?
- d. If so, what are they?
The processing of District New Source Review applications is the primary competing resource priority. Secondary tasks include District Databank maintenance, review of annual update requests, enforcement action and legal action support, support for other regulatory agencies, Public Records Act requests, responding to public inquiries regarding air quality concerns, and support for other District programs and initiatives such as Climate Protection.
2. Are there any initiatives instituted by your management that recognize/reward your permit staff for getting past barriers in implementing the title V program that you would care to share?
Permit staff are recognized for major Title V achievements at periodic District All-Hands meetings.
3. How is management kept up to date on permit issuance?
The Senior Engineer dedicated to the Title V program in the Engineering Division prepares a regular report of Title V actions for distribution to Division management. A list of overdue permits, and other permit applications nearing overdue status, is prepared on a daily basis and posted on an electronic bulletin board. The Engineering Division Director provides summaries to Executive Management on notable Title V permit issuance issues in biweekly and quarterly reports. In addition, all Title V actions are posted to the District website. The posting triggers the distribution of an internal e-mail that summarizes those actions.
- Y** 4. Do you meet on a regular basis to address issues and problems related to permit writing?
- Y** 5. Do you charge Title V fees based on emission rates?
- a. If not, what is the basis for your fees?
The annual fees charged to Title V facilities are based on facility emission rates, the number of permitted sources, and the number of CEMs. Application fees are fixed depending on the type of application and the number of sources involved.

- e. What is your Title V fee?
The District has a variety of different Title V fees. Please see District Regulation 3, Schedule P “Major Facility Review Fees” for a complete summary of Title V fees. The regulations can be viewed on the District website.

- 6. How do you track title V expenses?
Title V expenses are tracked through biweekly staff timesheet accounting. Reports comparing program revenue and costs are prepared on an annual basis.

- 7. How do you track title V fee revenue?
Title V fee revenue is tracked by the District’s Administrative Services and Incentives Division. Detailed records regarding fee invoices are maintained in the District permit database.

- 8. How many Title V permit writers does the agency have on staff (number of FTE’s)?
30

N

- 9. Do the permit writers work full time on Title V?
 - a. If not, describe their main activities and percentage of time on title V permits.
The permit engineers’ main activity is the processing of District NSR permit applications. On average, a permit engineer devotes 25% of his/her time to Title V permitting. The District has one Senior Engineer that is dedicated 100% to Title V permit review and administration.
 - i. How do you track the time allocated to Title V activities versus other non-title V activities?
Through the employees’ timesheets that account for each hour worked by air quality program.

N

- 10. Are you currently fully staffed?
The District currently has two vacant permit engineer positions. Recruitment has begun to fill these vacancies.

- 11. What is the ratio of permits to permit writers?
The current ratio of Title V facilities to permit writers is approximately 3 to 1.

12. Describe staff turnover.

Staff turnover is very low. The average tenure of permit writing staff is 16 years.

a. How does this impact permit issuance?

Staff turnover has little impact on permit issuance.

b. How does the permitting authority minimize turnover?

Turnover is minimized by providing competitive salaries and benefits, and by providing a quality work environment with promotional opportunities.

Y

13. Do you have a career ladder for permit writers?

a. If so, please describe.

Title V permit writers work in the District's Engineering Division. The career ladder for permit writers is as follows: Permit writers start out in the job classification Air Quality Engineer I or II. Engineers may compete for position upgrades to Senior Air Quality Engineer and/or Supervising Air Quality Engineer. Currently, there is a Senior Air Quality Engineer and a Supervising Air Quality Engineer, who coordinate the Title V program. The Permit Evaluation Section Manager manages the program for the Division.

Y

14. Do you have the flexibility to offer competitive salaries?

Y

15. Can you hire experienced people with commensurate salaries?

16. Describe the type of training given to your new and existing permit writers.

Division-wide training on effective permit writing occurs on a periodic basis. Individual training on Title V permitting is conducted through one-on-one discussions between the Senior Engineer for Title V and the permit engineer during the drafting and review of a Title V application. Staff meetings are also used to discuss Title V permit preparation.

17. Does your training cover:

Y

a. how to develop periodic and/or sufficiency monitoring in permits?

Y b. how to ensure that permit terms and conditions are enforceable as a practical matter?

Y c. how to write a Statement of Basis?

N 18. Is there anything that EPA can do to assist/improve your training? Please describe.

19. How has the District organized itself to address Title V permit issuance?

The District permit engineer that regularly handles NSR applications and other issues for a facility also has the responsibility for writing the Title V permits for that facility. Due to the large number of permitted facilities that the District handles, these permit engineers are members of three different Sections within the Engineering Division. Facility assignments are generally organized so that similar facilities (e.g., refineries, landfills) are handled within a single Section.

To promote consistency, the District has a Senior Engineer that is dedicated 100% to the review, maintenance, and processing of all Title V permits. A Supervising Engineer and an Engineering Manager are also responsible for the program. Other Divisions within the District, including Compliance and Enforcement, Technical Services, and Legal, also provide input on Title V permits.

20. Overall, what is the biggest internal roadblock to permit issuance from the perspective of Resources and Internal Management Support?

With the issuance of all initial Title V permits, substantial staff resources are required on an ongoing basis to revise and renew Title V permits particularly for the more complex and active facilities. For example, the District has five large petroleum refineries each with a massive Title V permit and statement of basis that needs to be maintained. The proliferation of new and amended District, State, and federal air quality requirements in recent years has added to this challenge. District management has been supportive of Title V program demands, but resources must also be provided to new programs and initiatives that offer more substantial air quality benefits than Title V (i.e., since Title V does not establish new emission limitations or standards).

Environmental Justice Resources

- Y 21. Do you have Environmental Justice (EJ) legislation, policy or general guidance which helps to direct permitting efforts?
- If so, may EPA obtain copies of appropriate documentation?
**The BAAQMD EJ policy is on the District website at:
http://www.baaqmd.gov/pio/environmental_justice/index.htm**
- Y 22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities?
- Y 23. Have you provided EJ training / guidance to your permit writers?
The District provided EJ training to a group that included management and supervisory staff.
- Y 24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., soci-economic status, minority populations, etc.)
This information is available, but EJ assessments for Title V permit actions have not been needed.
- Y 25. When reviewing an initial or renewal application, is any screening for potential EJ issues performed? If so, please describe the process and/or attach guidance.
Screening for EJ issues is done on an ongoing basis through the District's implementation of the State Air Toxics "Hot Spots" (ATHS) program. Under the ATHS program, an air toxics emissions inventory is maintained for each facility. Each facility is prioritized for more detailed health risk assessment (HRA) based on the quantity and toxicity of emissions, and the facility's proximity to nearby residents and workers. Many Title V facilities have had site specific HRAs prepared under the ATHS program. The public must be notified of health risks that exceed specified thresholds, and significant health risks must be reduced to insignificant levels within a specified period of time.
- The District's Community Air Risk Evaluation (CARE) program is focused on identifying communities in the Bay Area with sensitive populations that have higher risks from exposure to toxic air contaminants. The CARE program features mitigation efforts that make grant funding available to various projects in these communities with a focus on reducing emissions of diesel particulate matter.**

H. Title V Benefits

1. Compared to the period before you began implementing the Title V program, does the Title V staff generally have a better understanding of:

- Y a. NSPS requirements?
- Y b. The stationary source requirements in the SIP?
- Y c. The minor NSR program?
- Y d. The major NSR/PSD program?
- Y e. How to design monitoring terms to assure compliance?
- Y f. How to write enforceable permit terms?

2. Compared to the period before you began implementing the Title V program, do you have better/more complete information about:

- Y a. Your source universe including additional sources previously unknown to you?
- Y b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?
- Y c. Your stationary source emissions inventory?
- Y d. Applicability and more enforceable (clearer) permits?

3. In issuing the Title V permits:

- Y a. Have you noted inconsistencies in how sources had previously been regulated (e.g., different emission limits or frequency of testing for similar units)? If yes, describe.
Older grandfathered sources often have no monitoring requirements in place.
- Y b. Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe.
The District has a permit processing handbook and a BACT Guideline that are regularly updated to ensure

consistency within source categories. These documents are maintained on the District website.

4. Based on your experience, estimate the frequency with which potential compliance problems were identified through the permit issuance process:

	Never	Occasionally	Frequently	Often
a. prior to submitting an application	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. prior to issuing a draft permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. after issuing a final permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. Based on your experience with sources addressing compliance problems identified through the Title V permitting process, estimate the general rate of compliance with the following requirements prior to implementing Title V:

	Never	Occasionally	Frequently	Often
a. NSPS requirements (including failure to identify an NSPS as applicable)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. SIP requirements	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Minor NSR requirements (including the requirement to obtain a permit)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Major NSR/PSD requirements (including the requirement to obtain a permit)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. What changes in compliance behavior on the part of sources have you seen in response to Title V? (Check all that apply.)

- Y a. increased use of self-audits?
- Y b. increased use of environmental management systems?
- Y c. increased staff devoted to environmental management?
- Y d. increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)?
- Y e. increased resources devoted to compliance monitoring?

- Y f. better awareness of compliance obligations?
- N g. other? Describe.
- Y 7. Have you noted a reduction in emissions due to the Title V program?
- Y a. Did that lead to a change in the total fees collected either due to sources getting out of title V or improving their compliance?
- N b. Did that lead to a change in the fee rate (dollars/ton rate)?
8. Has title V resulted in improved implementation of your air program in any of the following areas due to Title V:
- N a. netting actions
- Y b. emission inventories
- N c. past records management (e.g., lost permits)
- Y d. enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance)
- Y e. identifying source categories or types of emission units with pervasive or persistent compliance problems; etc.
- Y f. clarity and enforceability of NSR permit terms
- Y g. better documentation of the basis for applicable requirements (e.g., emission limit in NSR permit taken to avoid PSD; throughput limit taken to stay under MACT threshold)
- N h. emissions trading programs
- Y i. emission caps
- N j. other (describe)
- Y 9. If yes to any of the above, would you care to share how this improvement came about? (e.g., increased training; outreach; targeted enforcement)?
- Item b.: the initial assessment of facility PTE to determine Title V applicability improved the District's emission inventory for many facilities. Item f.: determining the regulatory basis for each permit**

condition resulted in a closer examination of the necessity and/or enforceability of many permit conditions.

- Y 10. Has Title V changed the way you conduct business?
- Y a. Are there aspects of the Title V program that you have extended to other program areas (e.g., require certification of accuracy and completeness for pre-construction permit applications and reports; increased records retention; inspection entry requirement language in NSR permits). If yes, describe.
All NSR permit conditions now include a citation of its regulatory basis. There has been an increased emphasis on monitoring requirements for all facilities.
- Y b. Have you made changes in how NSR permits are written and documented as a result of lessons learned in Title V (e.g., permit terms more clearly written; use of a statement of basis to document decision making)? If yes, describe.
For Title V facilities, the NSR permit evaluations have a more extensive discussion of monitoring and applicable federal requirements in anticipation of the drafting of the statement of basis for the associated Title V permit revision.
- Y c. Do you work more closely with the sources? If yes, describe.
Facilities are more aware of their NSR permitting obligations due to the increased attention to resulting Title V permitting revisions and the possible public scrutiny. Consequently, there is more contact between the facilities and their assigned District permit engineer.
- Y d. Do you devote more resources to public involvement? If yes, describe.
The public noticing process for Title V actions has led to increased use of District resources to administer the program.
- Y e. Do you use information from Title V to target inspections and/or enforcement?
- N f. Other ways? If yes, please describe.

- Y 11. Has the Title V fee money been helpful in running the program? Have you been able to provide:
- Y a. better training?
- Y b. more resources for your staff such as CFRs and computers?
- Y c. better funding for travel to sources?
- Y d. stable funding despite fluctuations in funding for other state programs?
- Y e. incentives to hire and retain good staff?
- Y f. are there other benefits of the fee program? Describe.
- Y 12. Have you received positive feedback from citizens?
- Y 13. Has industry expressed a benefit of Title V? If so, describe.
The Title V permit is a valuable document because it is a definitive summary of all applicable requirements and compliance monitoring procedures.
- Y 14. Do you perceive other benefits as a result of the Title V program? If so, describe.
The most obvious and tangible benefit has been the institution of enhanced monitoring for grandfathered sources that had little or no monitoring in place prior to the implementation of the Title V permitting program.
- N 15. Other comments on benefits of Title V?

Good Practices not addressed elsewhere in this questionnaire

Are any practices employed that improve the quality of the permits or other aspects of the title V program that are not addressed elsewhere in this questionnaire?

Use of templates to improve consistency: When a new rule is promulgated or an existing rule is amended, the initial integration of the rule into a Title V permit is used as a template for subsequent permits that are revised to reflect the rule promulgation or revision.

EPA assistance not addressed elsewhere in this questionnaire

Is there anything else EPA can do to help your title V program?

The District is hopeful that EPA will follow through with meaningful reforms to streamline Title V program requirements, as recommended by the Title V Task Force, so that existing resources may be used more effectively.

Appendix C

WORKPLAN FOR BAAQMD TITLE V PROGRAM EVALUATION

**Workplan
for
Title V Program Evaluation
Bay Area AQMD**

US EPA, Region 9

OBJECTIVES

- To perform a title V program evaluation of the Bay Area Air Quality Management District (BAAQMD)
- To identify any areas for improvement in BAAQMD's title V program and in EPA's own oversight role.
- To identify areas where BAAQMD's program could be used as an example for other permitting authorities to improve their implementation of title V.

BAAQMD is one of several air permitting agencies in Region 9 where EPA plans to perform title V program evaluations. These evaluations are being performed nationwide by EPA.

EPA PROGRAM EVALUATION TEAM FOR BAAQMD

The following staff and managers are part of EPA's program evaluation team. Should you have any questions, please contact Roger Kohn (415/972-3973) or Gerardo Rios (415/972-3974).

Site Visit Participants:

1. Amy Zimpfer - Air Division Associate Director, Division lead for Bay Area
2. Gerardo Rios - Air Division Permits Office Chief
3. Roger Kohn – Bay Area title V program evaluation coordinator, Permits Office
4. Emmanuelle Rapicavoli – Bay Area title V program evaluation team member, geographic lead contact for Bay Area, Permits Office
5. Anita Lee, Bay Area title V program evaluation team member, Permits Office
6. Ken Israels – Bay Area title V program evaluation team member, Grants and Program Integration Office

Other EPA Staff Providing Assistance:

7. Kara Christenson - Office of Regional Counsel

APPROACH

The program evaluation will be conducted in two stages.

- Stage I: BAAQMD's responses to the title V program evaluation questionnaire will help us prepare for the second stage of the program evaluation.
- Stage IIa: In-House File Review. EPA will conduct a review of in-house permit files prior to the site visit.
- Stage IIb: Site Visit (interviews and on-site file reviews). During the site visit, EPA will visit BAAQMD's office to interview staff and managers involved in the title V program. In addition, EPA will conduct a review of BAAQMD files/systems, such as any title V-related documents which were not available during the in-house file review, BAAQMD's tracking system for title V permits and related documents, and standard operating procedures.
- Stage IIc: Follow-up and Report. EPA may need to contact certain BAAQMD staff/managers for follow-up questions and/or to complete some interviews. EPA will prepare a draft report, which we will share with BAAQMD for review and comment. EPA will then issue the final report.

DETAILED DESCRIPTION OF EPA EFFORTS

EPA will examine how BAAQMD implements its title V permitting program. Particular emphasis will be placed on BAAQMD's overall program goals and how decisions are made. We will also review some aspects of the program implementation budget and evaluate how title V resources are allocated. We will work closely with BAAQMD throughout the program evaluation.

Needed Information

Listed below is information EPA will need to help us prepare for the site visit to BAAQMD:

- A listing of staff related to the title V program with their respective responsibilities.
- BAAQMD's current organizational chart with names and phone numbers.
- A flowchart (or other information) of BAAQMD's title V fee structure clearly showing how fees are set, collected, tracked, and used in support of the program. In addition, BAAQMD should provide specific references to title V fee-related legislation used by the District.

Interviews

During the site visit, EPA will interview BAAQMD managers and staff who are involved with the title V program. EPA will schedule interview appointments in

advance. We would like to ask for your assistance in identifying appropriate interviewees.

During the interviews, we plan to ask questions based on the areas addressed in the title V Program Evaluation Questionnaire sent to BAAQMD. These areas include (1) title V permit preparation and content, (2) monitoring, (3) public participation, (4) permit issuance, revision, and renewal, (5) compliance, (6) resources & internal management support, and (7) title V benefits. EPA's interview questions may also be based upon our in-house file reviews.

Other Site Visit Activities

EPA plans to review the systems used by BAAQMD for tracking title V permits, applications, emission inventories, title V fees, compliance certifications, and related reports. We would also like to examine how title V permit and compliance files are organized at the BAAQMD office. We may also review title V-related documents that were not available during our in-house file review. During our site visit, we will need access to all the systems and files described above.

Site Visit Schedule

The site visit will occur in late August of this year. We will work with BAAQMD before the site visit to schedule individual, on-site interviews. In general, we plan to conduct interviews for the first four days and review the tracking systems and files on the last day.

Follow-up After Site Visit and Completion of Report

EPA may follow up by phone with BAAQMD after the site visit to ask for clarification on any questions or issues resulting from our visit. Also, in previous program evaluations, we occasionally found that we were not able to ask all the interview questions in the time allotted for the interview. If this occurs during the BAAQMD evaluation, we will coordinate with BAAQMD to schedule follow-up interviews.

EPA plans to issue a draft report in early 2009. The report will be based on the interviews, the site visit, and our internal file reviews of title V permits and related documents issued by BAAQMD. The report will allow EPA to document the successes and areas needing improvement that arise from the program review. Prior to public release, EPA will issue the draft report to BAAQMD for a 30-day review and comment period. After considering BAAQMD's comments and input, EPA will issue the final report with our recommendations.

A copy of EPA's final report will be made publicly available and will be published on our website. If a corrective action plan is necessary, there may be a follow-up step after the corrective action plan is finalized to determine how well the recommendations/commitments are being implemented.

Appendix D

**US CENSUS BUREAU 2008 POPULATION ESTIMATE FOR NINE BAY AREA
COUNTIES**

July 2008 US Census Bureau Population Estimates for Nine Bay Area Counties

<http://www.census.gov>

County	Population
Alameda	1,474,368
Contra Costa	1,029,703
Marin	248,794
San Francisco	808,976
San Mateo	712,690
Santa Clara	1,764,499
Napa	133,433
Solano	407,515
Sonoma	466,741
TOTAL	7,046,719

Appendix E

**SAN JOAQUIN UNIFIED AIR POLLUTION CONTROL DISTRICT PERMIT SHIELD
LANGUAGE**

28. Annual control efficiency compliance tests shall be performed on all vapor collection and control systems used to control emissions from steam-enhanced crude oil production wells. Testing shall be performed by ARB certified contractors during June, July, August or September of each year if the system's control efficiency is dependent upon ambient air temperature. The APCO may waive the requirements of this condition if the vapor control system does not exhaust to atmosphere or if all uncondensed VOC emissions collected by a vapor collection and control system are burned in fuel burning equipment or in a smokeless open flare and the source's Operating Permit contains adequate periodic monitoring to ensure the source meets 99% control efficiency. [District Rule 4401, 5.1, 5.2 and 6.2.1] Federally Enforceable Through Title V Permit
29. The control efficiency of systems designed to control VOC emissions from steam enhanced crude oil production well shall be determined by mass balance based on recognized emission factors for components and number of components; and the efficiency of destruction devices determined by EPA Method 25, 25a, or 25b as applicable. [District Rule 4401, 6.3.1] Federally Enforceable Through Title V Permit
30. VOC content shall be determined using ASTM Method E168-67, E169-63, or E260-73 as applicable. Halogenated exempt compounds shall be determined by ARB Method 422. [District Rule 4401, 6.3.2] Federally Enforceable Through Title V Permit
31. The source shall perform leak inspections at least annually, using a portable hydrocarbon detection instrument in accordance with EPA Method 21. [District Rules 2520, 9.4.2 and 4401, 6.3.3] Federally Enforceable Through Title V Permit
32. Compliance with permit conditions in the Title V permit shall be deemed compliance with the following requirements: County Rules 108 (Kings), 108.1 (Fresno, Merced, San Joaquin, Tulare, Kern, and Stanislaus), and 110 (Madera). A permit shield is granted from these requirements. [District Rule 2520, 13.2] Federally Enforceable Through Title V Permit
33. Compliance with permit conditions in the Title V permit shall be deemed compliance with SJVUAPCD Rule 4401 (Amended December 17, 1992), formerly District Rule 465.1, excluding sections 5.1 and 5.2 for control systems which have been waived from complying with the requirement of section 6.2.1. A permit shield is granted from these requirements. [District Rule 2520, 13.2] Federally Enforceable Through Title V Permit
34. The requirements of SJVUAPCD Rule 4407 (Adopted May 19, 1994) do not apply to this permit unit. A permit shield is granted from this requirement. [District Rule 2520, 13.2] Federally Enforceable Through Title V Permit

These terms and conditions are part of the Facility-wide Permit to Operate.

Appendix F

EXAMPLE OF AIR QUALITY REPORT TO THE COMMUNITY

Air Quality Report to the Community

SEPTEMBER 2003 [version revised 12-29]

The Contra Costa Environmental Justice Air Quality Resource Team created this community report. The purpose of the report is to make local community members more aware of all the emissions information available to the public from the Bay Area Air Quality Management District (BAAQMD). Richmond resident Johnny White compiles this report on behalf of the resource team monthly.

Each month the BAAQMD compiles a report to the Board of Directors. The information you see below is taken directly from that monthly report. The information below is for Contra Costa County only. To view the full report go to www.baaqmd.gov and follow the links to Board of Directors, then to Agendas, or call 415-749-4900 to have a copy mailed to you.

BAAQMD AIR QUALITY INFORMATION RELEASED TO THE PUBLIC FOR THE REPORT PERIOD: SEPTEMBER 1 -30, 2003	What is the Bay Area Air Quality Management District?
<i>CLOSED NOTICE OF VIOLATION</i>	<p>The BAAQMD is the regional agency in the Bay Area that regulates stationary sources of air pollution such as factories, industrial sites and gasoline stations. The District has jurisdiction in 9 counties – Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Marin, Napa, southwest Solano and southern Sonoma. District regulations control such things as open burning, incineration, smoke, odors, gasoline, pain and other evaporative compounds.</p>
<p>Andy's Auto Body, Richmond, Penalty: \$1000 Number of violations closed: 2 Violation Notice Number: A44801A</p> <p>Bell Gas, Pittsburg, Penalty: \$500 Number of violations closed: 1 Violation Notice Number: A10190A</p> <p>Benz Auto, Concord, Penalty: \$500 Number of violations closed: 2 Violation Notice Number: A44473A</p> <p>Durga Shell, Pleasant Hill, Penalty: \$500 Number of violations closed: 1 Violation Notice Number: A10191A</p> <p>Hammond Construction, San Pablo, Penalty: \$500 Number of violations closed: 1 Violation Notice Number: A44982A</p> <p>Hilltop Cleaners, Richmond, Penalty: \$1000 Number of violations closed: 1 Violation Notice Number: A10105A</p> <p>Karber's Auto Body, Richmond, Penalty: \$750 Number of violations closed: 2 Violation Notice Number: A4435A</p> <p>Magnussen's Walnut Creek Auto Body, Walnut Creek, Penalty: \$3000 Number of violations closed: 2 Violation Notice Number: A13994A</p> <p>Steelscape, Richmond, Penalty: \$2000 Violation Notice Number: A03637A</p>	<p style="text-align: center;">What is a Notice of Violation (NOV)?</p> <p>A violation notice is a formal record of the District's belief that a violation of state law or a District regulation affecting air quality has occurred.</p> <p>A violation may subject a business to monetary penalties or, in serious cases, to civil or criminal prosecution. In most cases, a violation can be settled by taking corrective action and paying a penalty.</p> <p style="text-align: center;">How are Fines Assessed?</p> <p>In legal terms, fines are "assessed" when a court orders them to be paid. More commonly, a violator agrees to pay penalties to the District so that no court proceeding is needed. Violation notices are settled only after the violation has been corrected.</p> <p>State law requires that the amount of penalties assessed or collected reflect certain considerations, such as harm to the environment and whether the violator acted responsibly to correct the violation.</p> <p style="text-align: center;">What Happens to Repeat Offenders?</p> <p>When resolving a violation, the District considers, among other things, any history of violations. A pattern of noncompliance can be the basis for seeking a higher penalty or a court injunction to cease further violations.</p>

**MONITORING STATIONS IN
WEST CONTRA COSTA COUNTY**

Ground Monitoring Stations

There are three local ground-monitoring stations. They are tracking SO₂ and H₂S.

Air Monitoring Stations

There are three local air-monitoring stations. They are tracking: O₃, CO, NO_x, SO₂, H₂S, Dioxin and Toxics.

Weather Stations

There are three local weather stations.

What Happens to Fine Dollars Collected?

Money collected as penalties goes into the District's general fund, and thus helps fund the District's air pollution control efforts. Some portion of penalties can be set aside for Supplemental Environmental Projects, or "SEPs." The Board of Directors for the District has adopted a SEP policy, which guides how the District can collect and spend SEP money.

Legend

- SO₂ – Sulfur Dioxide
- H₂S -- Hydrogen Sulfide
- O₃ – Ozone
- CO – Carbon Monoxide
- NO_x -- Nitrogen oxides

**COMPANIES IN THE PROCESS OF TITLE V
PERMITTING ACTIVITY (BAY AREA WIDE)**

What is Title V?

Title V is a part of the federal Clean Air Act amendments of 1990 and requires that the bigger sources of air pollution be issued a permit, commonly known as a "Title V permit."

- Draft Title V permits circulated for final review before final public comment begins: 1

Plant A0031- DOW CHEMICAL – Application 16468

- Proposed Title V permits placed on public comment: 4

Plant A0017, Hanson Permanent Cement
Application 16349

Plant A2180, Gaylord Container Corporation
Application 25736

Plant A0041, Owens Corning S. C. Plant
Application 25819

Plant A1179, Redwood Landfill Inc.
Application 17363

- New Title V permit(s) issued

Issued, still active: 75

- Post comment process: 9
- Public comment: 4
- Under review: 13
- Not yet submitted: 1
- Total: 101

For more information on Title V permits, visit www.baaqmd.gov and follow the links to Title V.

The Title V permit is a complete list of all air pollution requirements for the company, so that regulators and citizens can look in one place to know what these are.

Companies have to truthfully report every year whether they are complying with the Title V permit.

**Geographic Focus
of Project**

This project is in collaboration with the Community Health Initiative of North Richmond, Iron Triangle, Parchester Village, and West San Pablo.

For more information, or to get involved with the Contra Costa Environmental Justice Air Quality Resource Team please contact Sarah Goldberg, Community Focus, 415-975-2955 or sgoldberg@communityfocus.org

Appendix G

ADMINISTRATIVE OPERATING PROCEDURE – TITLE V/SYNTHETIC MINOR
DOCUMENT PROCESSING

Title V/Synthetic Minor Document Processing

Table of Contents

1.	Introduction.....	1
2.	Tracking of “Pending” Title V Permits (Green Folder Process)	1
3.	Title V Permit Renewal (Green Fold Process).....	2
4.	Semi-Annual and Annual Reporting Review (Red Folder Process)....	3
5.	Synthetic Minor Reporting Review (Yellow Folder Process).....	5
6.	Uploading Information to EPA Air Facility System (AFS)	5
7.	Distribution of Inspection Frequency Lists.....	5
8.	Distribution of Information needed by other Divisions	5

- Exhibit 1. Title V Draft Permit Report**
- Exhibit 2. Title V Draft Permit Form**
- Exhibit 3. Annual/ Semi-Annual Tracking Report**
- Exhibit 4. Title V Refinery Tracking Report**
- Exhibit 5. Title V Annual Compliance Certification Form**
- Exhibit 6. Title V Semi-Annual Certification Form**
- Exhibit 7. Confidential Application Cover**
- Exhibit 8. Synthetic Minor Annual Compliance Tracking Report**
- Exhibit 9. Synthetic Minor Compliance Certification Form**
- Exhibit 10. Title V 5-Year Renewal Template**

1. Introduction

Under Title V of the 1990 amendments to the Clean Air Act, the United States Environmental Protection Agency (EPA) proposed the major facility review program, or Title V program. This program was adopted under the code of federal regulations (40 CFR Part 70) and constitutes an extensive self-monitoring and reporting system for major facilities above the Title V thresholds.

As required the Bay Area Air Quality Management District (District) adopted this program on November 3, 1993, and received interim approval from the EPA on July 24, 1995 (the latter is the effective date of the current District program). As part of this adoption, the Compliance and Enforcement Division (C&E) instituted an extensive program of review and inspection to comply with the requirements of Title V. Each Title V permit lists C&E as the main point of correspondence received under the program. C&E sets forth procedures for the processing of documents under the Title V program.

All documents referenced in Exhibits are electronically stored in the following folder: H:\Enforcement\Title V tracking\ *specific locations are identified at each exhibit.*

2. Tracking of "Pending" Title V Permits (Green Folder Process)

Existing facilities may require new Title V permits based on increased emissions or new/modified sources. These facilities are referred to as "Pending" Title V permit plants by the Engineering Division (ED). The ED sends the facility a notification letter along with a Compliance Certification form. Once the facility completes the required information, they return the Compliance Certification form and an Annual Compliance Report to the C&E.

The appropriate Air Quality Program Manager's (AQPM) Secretary (Secretary) enters the relevant information on the Title V Compliance Tracking Report (Tracking Report) under the *draft permit* tab (Exhibit 1):

- Facility
- City
- Site#
- Date received from Engineer
- Due date
- Date green folder sent out to Supervising Inspector

The Secretary will put the Annual Compliance Report and Compliance Certification form in a green folder along with a Draft Permit Form (Exhibit 2) and routes it to the applicable Supervising Inspector for distribution to the field.

Upon receipt of a green folder the Supervising Inspector shall ensure that the folder contains all three documents and routes the folder to the responsible Inspector. The Supervising Inspector should note the due date requested for the folder's return to the District Office.

The Inspector must ensure that all of the information required by the Pending permit is included in the Annual Compliance Report. The Inspector then completes the Compliance Certification and Draft Permit forms and returns the Green folder to their Supervisor prior to the due date. Any questions or comments regarding the permit should be included for forwarding to the Permit Engineer. When the Supervising Inspector receives this folder back from the field, the Draft Permit Form must be signed and the folder returned to the Secretary.

The Secretary enters the following fields on the Tracking Report before routing to the AQPM:

- date green folder with Draft Permit Form returned and
- date green folder sent to AQPM.

Following the AQPM's review the Secretary will fill out the following field on the Tracking Report before forwarding to the Director of Enforcement (DOE):

- date the green folder was forwarded.

After review of the folder the DOE will send the draft permit back to the ED. The Administrative Secretary will enter the date the green folder was returned to the ED.

3. Title V Permit Renewal (Green Fold Process)

All Title V permits require renewal every five years. Six months to a year before the permit expiration date, the facility must submit an application for renewal to the ED. The ED completes a Title V draft permit and submits it to the C&E Secretary.

The Secretary enters the relevant information on the Tracking Report under the *draft permit* tab:

- Facility
- City
- Site#
- Date received from Engineer
- Due date
- Date green folder sent out to Supervising Inspector

The Secretary will put the draft permit in a green folder along with a Draft Permit Form (Exhibit 2) and routes it to the applicable Supervising Inspector for distribution to the field.

Upon receipt of a green folder, the Supervising Inspector shall ensure that the folder contains both documents and routes the folder to the responsible Inspector. The Supervising Inspector should note and track the due date requested for the folder's return to the District Office.

The Inspector must review the draft permit and complete the Title V Compliance Memo (Exhibit 10) from the DOE to the Director of ED. This memorandum should include compliance summary and Notice of Violation (NOV) history of the facility for the last 12 months. The Inspector then returns the Green folder containing the completed Compliance Memo, Draft Permit Form, and draft permit to the Supervising Inspector. Any questions or comments regarding the permit should be included separately for resolution prior to return to the ED. When the Supervising Inspector receives this folder back from the field, the Supervising Inspector must sign the Draft Permit Form and return the folder to the Secretary.

The Secretary enters the following fields on the Tracking Report before routing to the AQMP:

- date green folder with Draft Permit Form returned, and
- date green folder sent to AQPM.

Following the AQPM's review the Secretary enters the following field on the Tracking Report before forwarding to the DOE:

- date the green folder was forwarded.

Having reviewed the folder the DOE will send the draft permit back to the ED. The Administrative Secretary will enter the date the green folder was returned to the ED into the Tracking Report.

4. Semi-Annual and Annual Reporting Review (Red Folder Process)

When a Title V Semi-Annual or Annual Report is received by U.S. Mail, it is first routed to the DOE. All reports received are logged by the Secretary into one of two tracking report spreadsheets located on the Enforcement H drive:

- Annual and Semi-Annual reports (Exhibit 3)
- Title V Refinery Annual and Semi-Annual reports (Exhibit 4)

The Secretary will enclose either an Annual or Semi-Annual Compliance Certification Form (Exhibits 5 and 6) into a red folder and fill in the following fields prior to sending the document to the field:

- Facility
- City
- Site #
- Due date
- Date district received
- Date red folder sent to Supervising Inspector

One copy of the original report must be made and placed in a red folder along with the applicable Compliance Certification Form. The red folder is routed to the Supervising Inspector for distribution to the Inspector. The original copy is stamped "Received" and filed in the Secretary's files.

Upon receipt of a red folder the Supervising Inspector shall ensure that the folder contains both a Title V Report and the applicable Compliance Certification form. The Supervising Inspector should note and track the due date requested for the folder's return to the District Office.

The Inspector must review the report and return it to the Supervisor prior to the due date with a signed copy of the Compliance Certification form. The Inspector will take any appropriate enforcement action based on the content of the report. When the Supervising Inspector receives this folder back from the field, the Compliance Certification form must be signed. The folder will be returned to the Secretary from whom the folder was received.

Upon return of the red folder material from the Inspection Section, the Secretary will enter the following fields on the Tracking Report

- Date red folder w/ cert. returned
- Compliance status

The copy of the original report must be reviewed by the Secretary, and all items marked "Trade Secret" or "Confidential" separated from the report prior to forwarding to the 'Source File' mailbox for document imaging. An RTO will attach a Confidential Application Cover Sheet (Exhibit 7) to any document marked "Trade Secret" or "Confidential" and scan it separately into the Confidential file. The remainder of the report will be scanned into the Source File for unrestricted public access.

The Finance Administration/Information Systems (FAIS) Data Coordinator is responsible for informing the EPA of compliance status of all Title V facilities

once the Annual Semi-Annual Review is completed. See Section 6 for more detail.

5. Synthetic Minor Reporting Review (Yellow Folder Process)

A Synthetic Minor facility's reporting requirements are generally unique to that facility; however, these facilities may be required to submit various reports similar to a Title V facility. These may include Annual reports, Annual compliance certifications and initial compliance reports. A Synthetic Minor report is received by DOE, and the report will be routed via the Secretary to the field.

All reports received are logged by the Secretary into the Tracking Report (Exhibit 8) in the *Zone Synthetic Minor* tab. The Secretary enters all applicable fields on the appropriate sheet are filled prior to sending the document to the field. The report is placed in a yellow folder along with a Synthetic Minor Compliance Certification form (Exhibit 9) and routed to the Supervising Inspector for distribution to the field. Staff follows the same procedures as Section 3 above.

6. Uploading Information to EPA Air Facility System (AFS)

Under the District's Title V agreements with the EPA, the C&E is required to upload compliance information to the AFS database. However, both the Legal and Technical Divisions are also required to upload certain information to this database. Therefore, this function is coordinated by the Administrative Services Data Coordinator who extracts the required data from the IRIS database before uploading it into the EPA AFS system.

7. Distribution of Inspection Frequency Lists

An Inspection Frequency List is a list of all of the sources, descriptions and inspection due dates for the Title V or Synthetic Minors for each inspection area. This list is generated from the IRIS database by the Information Services Division and is routed via inter-office mail to the AQPM. Upon receipt of these lists, the AQPM will route these lists to the field staff.

8. Distribution of Information needed by other Divisions

The DOE is currently listed on all Title V and Synthetic Minor permits as the point of contact for submittal for all documents associated with the program, including technical and permit information. Upon receipt by the DOE of any materials outside of the compliance reports listed above, the Secretary will route the documents via inter-office mail to the appropriate Division.

Exhibit 1

Title V Compliance Tracking Report

H:\Enforcement\Title V tracking\Annual-Semi_Annual Reports\All Title V sites\Title V Compliance tracking report [North Zone or South Zone].xls

Facility	City	Site #	Date Received from Engineer	Due	Date GREEN folder sent to Site	Date GREEN folder select returned	Date GREEN Send to Inspection Manager	Date Sent to DOE	Rel. Eq.
Region 2 - J. Kendall									
Cardinal Cogen	Palo Alto	A1629							
POSE Hunter Point	San Francisco	A0024							
POSE Fabros HE	San Francisco	A0026							
United Airlines	San Francisco	A0051							
S F Dry Dock	San Francisco	A3298							
Browning-Ferris	Half Moon Bay	A2368	10/4/2006	11/3/2006	10/16/2006	11/21/2006	11/21/2006	11/21/2006	11/
Cypress Arlec Land	Colma	A1384							
Shoreline Amphitheatre	Mountain View	A2561							
City of Palo Alto	Palo Alto	A2721							
S.F. International Airport	San Francisco	A1784							
Region 4 - Chin									
City Sunnyvale	Sunnyvale	A0733							
Calpine Cogen LP	Gilroy	B1180							
Jefferson Smelt	Santa Clara	A0732	2/2/2006	2/7/2006	2/6/2006	2/15/2006	2/21/2006	2/22/2006	3/1
City of Santa Clara Dept	Santa Clara	A0621							
Read-Rite Corp.	Milpitas	A2124							
SFPD LP	San Jose	A4020							
Gas Recovery Systems	San Jose	B1670							
Strongwell	San Jose	A2918							
SHC American Inc	Sunnyvale	A9248							
Quadrant Rubbish	San Jose	A3294	4/17/2007	?	4/17/2007	5/7/2007	5/7/2007	5/7/2007	5/1
City of San Jose	San Jose	A0728	10/4/2006	11/3/2006	10/16/2006	12/1/2006	12/1/2006	12/7/2006	12/
Gas Recovery Systems	San Jose	B1669							
City of Santa Clara	Santa Clara	A3464							
Kirby Canyon Landfill	San Jose	A1812							
International Deposit	Milpitas	A9013							
City of Mountain View	Mountain View	A2740							
Hanson Cement	Cupertino	A0917							
United Technologies	San Jose	A0710							
Owens Corning	Santa Clara	R0041							
Los Esteros	San Jose	B2299							
Keller Canyon Landfill	Pittsburg	A4516	10/6/2006	11/3/2006	11/17/2006	11/30/2006	11/30/2006	11/30/2006	11/
Capuso Metall	San Jose	G2180							

Exhibit 2 Title V Draft Permit Form

H: \Enforcement\Title V tracking\ Forms\Title V Draft permit Form.xls

C&E Division ROUTING	Initial	Date
Inspector		
Supervisor		
Inspector		
Manager		
DOE		
Permit Services		

TITLE V DRAFT PERMIT REVIEW

Assigned to Inspector: _____

SITE NAME: _____ SITE #: _____

ADDRESS: _____

Review Due to Permits By: _____

Compliance Certification Requested: No Yes Date: _____

No Comments

Comments: _____

Exhibit 4

Title V Refinery Compliance tracking report

H: /Enforcement/Title V tracking/Annual-Semi_Annual Reports/
Refinery/Refinery-03/Title V Refinery Compliance tracking report.xls

Microsoft Excel - Title V Refinery Compliance Tracking report - [Read-Only]												
			1st Semi-Annual Monitoring Report				2nd Semi-Annual Monitoring Report				Annual Co	
Facility	City	Site#	Due	Date District received	Date RED folder sent to Supv	Date RED folder w/cert. returned	Due	Date District received	Date RED folder sent to Supv	Date RED folder w/cert. returned	Due	Di- rec
			01/31/05	01/21/05	31/24/05	05/08/05	07/31/05	07/18/05	07/18/05	08/28/05	01/31/06	31
			01/31/06	02/02/06	02/23/06	08/28/06	07/31/06	07/18/06	07/18/06	08/08/06	01/31/06	31
			01/31/07	01/11/07	01/11/07	05/21/07	07/31/07	07/20/07	07/23/07		01/31/07	31
			01/31/08									
Shell Oil Products US	Martinez	A0011					01/31/03	01/31/03			07/31/03	31
			06/30/04	06/30/04	06/30/04	08/04/04	07/31/04	07/30/04	07/30/04	08/06/04	12/31/04	12
			01/31/05	01/21/05	01/21/05	03/02/05	07/31/05	07/28/05	08/01/05	08/11/05	01/31/06	31
			01/31/06	01/27/06	01/27/06	03/03/06	07/31/06	07/24/06	07/25/06	02/27/07	01/31/06	31
			01/31/07	01/01/07	02/13/07	02/16/07	07/31/07	07/26/07	07/27/07	09/07/07	01/31/07	31
Valero Refinery Company	Benicia	82626		02/03/03				08/04/03				06
			08/30/04	08/28/04	07/01/04	08/04/04	07/31/04	07/14/04	07/14/04	08/09/04	12/31/04	12
			01/31/05	01/21/05	01/24/05	05/10/05	07/31/05	07/18/05	08/09/05	08/09/05	01/31/06	31
			01/31/06	02/02/06	02/03/06	05/05/06	07/31/06	07/18/06	07/19/06	08/08/06	01/31/06	31
			01/31/07	01/18/07	01/17/07	05/21/07	07/31/07	07/20/07	07/23/07		01/31/07	31
Valero Logistics LP	Benicia	B5574					01/31/07	01/11/07	01/11/07	02/23/07	01/31/07	31
			07/31/07	07/11/07	07/13/07							
Green Products Co.	Richmond	A0010	06/30/04	07/02/04	07/06/04	08/03/04	07/31/04	08/02/04	08/24/04	11/01/04	12/31/05	31
			01/31/05	01/28/05	02/22/05	02/18/05	07/31/05	07/25/05	08/01/05	11/28/05	01/31/06	31
			01/31/06	02/02/06	02/06/06	05/08/06	07/31/06	07/31/06	07/20/06	01/11/07	01/31/07	02
			01/31/07	02/01/07	02/28/07	03/25/07	07/31/07	8/12/07	8/21/07	13/10/2007		

Exhibit 5

Title V Annual Compliance Certification form

H: \Enforcement\Title V tracking\Compliance Certification Forms\Title V
Compliance Certification Form.xls

TITLE V
Annual Compliance Certification Form

SITE NAME: _____ SITE #: _____

address: _____

I HAVE REVIEWED THE CERTIFICATION OF COMPLIANCE FORM SUBMITTED BY THE COMPANY LISTED BELOW AND AGREE TO THE BEST OF MY KNOWLEDGE THAT THE COMPANY STATEMENTS:

DATE: FROM: _____ To: _____

ARE ACCURATE

ARE NOT ACCURATE.

THIS FACILITY IS:

IN-COMPLIANCE

NOT IN-COMPLIANCE

NOTE: IF THE STATEMENTS ARE NOT ACCURATE A SEPARATE REPORT SHOULD BE ATTACHED TO THIS FORM INDICATING THE NATURE OF THE INACCURACIES AND A DESCRIPTION OF THE ENFORCEMENT ACTION TAKEN.

*IN COMPLIANCE OR NOT IN-COMPLIANCE FOR (EPA REPORTING PURPOSES) IS BASED ON WHETHER THE COMPANY WAS IN COMPLIANCE, OR NOT IN COMPLIANCE ANY TIME DURING THE REPORTING PERIOD.

*NOT IN COMPLIANCE IS DETERMINED WHEN THE COMPANY, DURING THE REPORTING PERIOD:

- REPORTED A VIOLATION (INTERMITTENT OR CONTINUOUS)
- THE INSPECTOR HAS EVIDENCE OF THE COMPANY BEING IN-VIOLATION.
- THE INSPECTOR ISSUED THE COMPANY A NOTICE OF VIOLATION.

Comments: _____

NAME OF INSPECTOR DATE SIGNATURE

SUPERVISORS INITIALS DATE

Exhibit 6

Title V Semi-Annual Certification form

H: \Enforcement\Title V tracking\Compliance Certification Forms\Title V
Semi_Annual Certification Form.xls

Title V
Semi-Annual Monitoring Form

SITE NAME: _____ SITE #: _____

Address: _____

I HAVE RECEIVED THE SEMI-ANNUAL MONITORING REPORT FOR THE FOLLOWING PERIODS:

DATE: From: _____ To: _____

Comments: _____

NAME OF INSPECTOR DATE SIGNATURE

SUPERVISORS' INITIALS DATE

Exhibit 7 Confidential Application Cover

DOCUMENT IMAGING ARCHIVAL SYSTEM Confidential Application cover Sheet

(Include this as the first page of any document to be archived in the
Confidential Application)

The following documents include confidential information, to be retrieved
with proper authorization using the following indices:

Type of Document:

(i.e., Trade Secrets, Complaint or describe)

Reference#:

(PreC&Ee with NOV#, EPS#, JOB#, or INSPECTION to describe type of ref.)

Doc Date: _____

Site#: _____

Site name: _____

Check here if these documents are reference in a larger file included in the
Scan Image "Source" application.

Submitted by: _____

Date: _____

- * Complaint reports will be filed as confidential without the need for this cover sheet.
All other confidential documents require this cover sheet.

Exhibit 8 Synthetic Minor Annual Compliance tracking report

H: \Enforcement\Title V tracking\Compliance Certification
 Forms\Synminor\Synminor Compliance Certification Form.xls

Microsoft Excel - Title V Compliance tracking report - SOUTH Zone 2007 [Read-Only]												
Annual Certification of Compliance												
Annual Report												
Initial Compliance Report												
Facility	City	Site	Due Date	Date Rec'd	Due Date	Date Rec'd	Yellow Folder to Supv	Yellow Folder returned	Due Date	Date Rec'd	Yellow Folder to Supv	Yellow Folder returned
Region 2 - S. Kendall												
Typo Electronics Corp	Menlo Park	B2665	NO		NO					NO		
UCSF/Parnassus	San Francisco	A2478	NO		NO					NO		
Manoia File Labz	San Francisco	A3970	NO		NO							
CR-EMAC	San Carlos	B0671	6/7/2006	4/26/2006	6/1/2006	4/28/2006	4/27/2006	5/6/2006		NO		
Stanford Univ	Menlo Park	A0556	7/31/2005	6/1/2007	7/31/2005	6/1/2007	6/1/2007	6/1/2007	9/20/2007			
Mc Guire Furniture	San Francisco	A5029	NO	10/25/2007	NO	10/25/2007	10/30/2007					
Region 4 - S. Chln												
Lockheed Martin	Sunnyvale	A0055	NO		NO					NO		
Orszula AFB	Sunnyvale	A0232	NO		NO					NO		
OLS Energy-Agreew	San Jose	A8044	NO		NO					NO		
Northrop Grumman	Sunnyvale	B0681	NO	3/30/2006	4/4/2006	3/3/2006	3/30/2006			NO		
				3/30/2007	4/4/2007	3/29/2007	4/6/2007	5/31/2007				
Jefferson Smurfit	San Jose	A0159	NO		8/1/2006					NO		
Josyth Jennings	San Jose	A8985	NO		NO					NO		
Orcon Corporation	Union City	A1675	NO	5/18/2006	NO	5/18/2006	6/6/2006			NO		

Exhibit 9
Synthetic Minor Compliance Certification form
H: \Enforcement\Title V tracking\Compliance Certification
Forms\Synminor\Synminor Compliance Certification Form.xls

SYNTHETIC MINOR
Annual Report Form

SITE NAME: _____ **SITE #:** _____

Address: _____

I HAVE RECEIVED THE ANNUAL MONITORING REPORT FOR THE FOLLOWING PERIODS:

DATE: From: _____ To: _____

Comments: _____

NAME OF INSPECTOR DATE SIGNATURE

SUPERVISORS' INITIALS DATE

Exhibit 10
Title V 5-year Renewal Template
H: \Enforcement\Title V tracking\Title V
miselanous\titlev_5year_renewal_template.xls

COMPLIANCE & ENFORCEMENT DIVISION

Inter-Office Memorandum

Date

TO: BRIAN BATEMAN – DIRECTOR OF ENGINEERING
FROM: KELLY WEE – DIRECTOR OF ENFORCEMENT
SUBJECT: REVIEW OF COMPLIANCE RECORD OF:

SITE NAME AND NUMBER

Background

This review was initiated as part of the District evaluation of an application by SITE NAME for a Title V Permit Renewal. It is standard practice of the Compliance and Enforcement Division to undertake a compliance record review in advance of a renewal of a Title V Permit to Operate. The purpose of this review is to assure that any non-compliance problems identified during the prior five-year permit term have been adequately addressed, or, if non-compliance persists, that a schedule of compliance is properly incorporated into the Title V permit compliance schedule. In addition, the review checks for patterns of recurring violation that may be addressed by additional permit terms. Finally, the review is intended to recommend, if necessary, any additional permit conditions and limitations to improve compliance.

Compliance Review

Staff reviewed SITE NAME Annual Compliance Certifications for DATE to DATE (Use 5 Year Period) and found no ongoing non-compliance and no recurring pattern of violations.

Appendix H

ADMINISTRATIVE OPERATING PROCEDURE – TITLE V DEVIATION PROCESSING

Title V Deviation Processing

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2. 10-DAY DEVIATION REPORT	1
A. <i>Search for Duplicate Entries or Revising Existing Entries</i>	2
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3. 30-DAY DEVIATION REPORT	4
4. RETURN OF TITLE V DEVIATION EVALUATION FORM.....	4
EXHIBIT 1: Title V Deviation Evaluation Form.....	6

1. Introduction

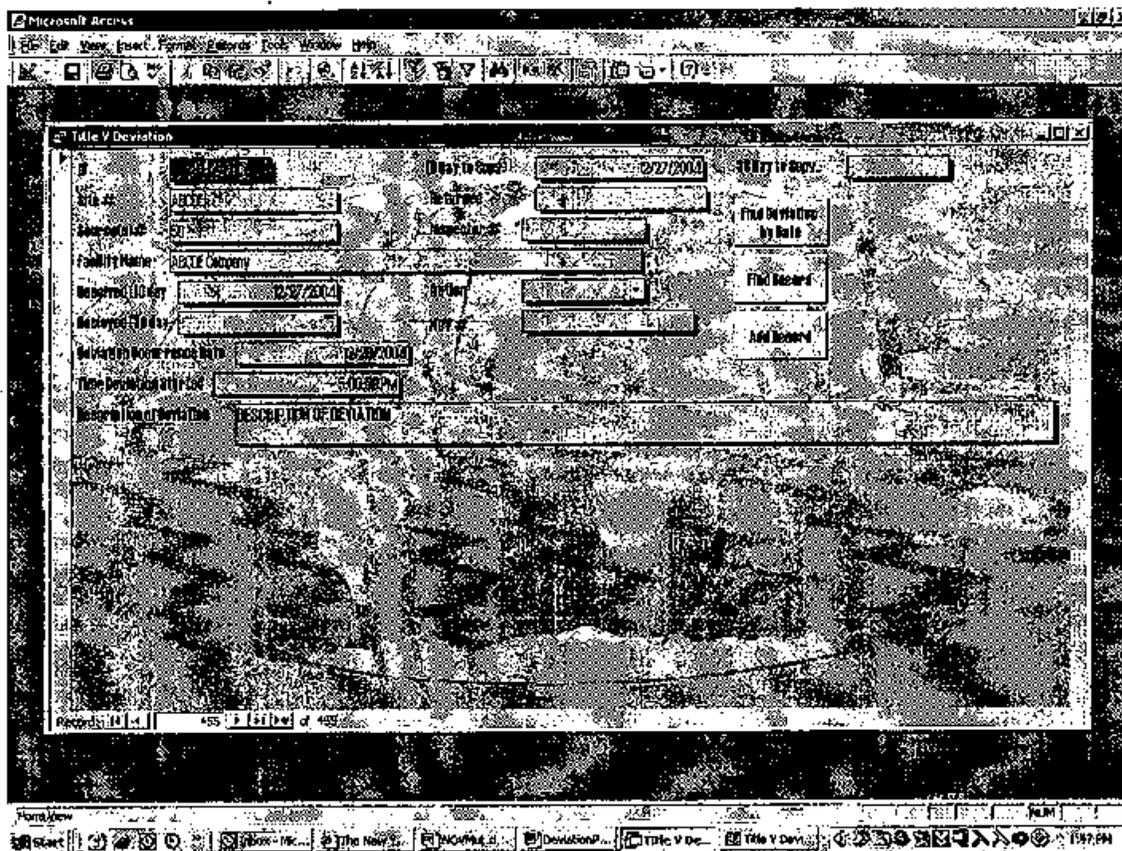
This procedure describes the processing of all deviation reports (10 and 30 day) sent by Title V facilities in accordance with the standard conditions of their Title V District permit. Deviation reports arrive either by fax or letter. They are recorded into an Access database and then given to the appropriate field supervisor to give to the inspector.

2. 10-Day Deviation Report

When a 10-day deviation report arrives, the first thing is to determine whether a copy has previously been entered. Even if it is marked as a "Revision," follow the same steps. Open the database located at:

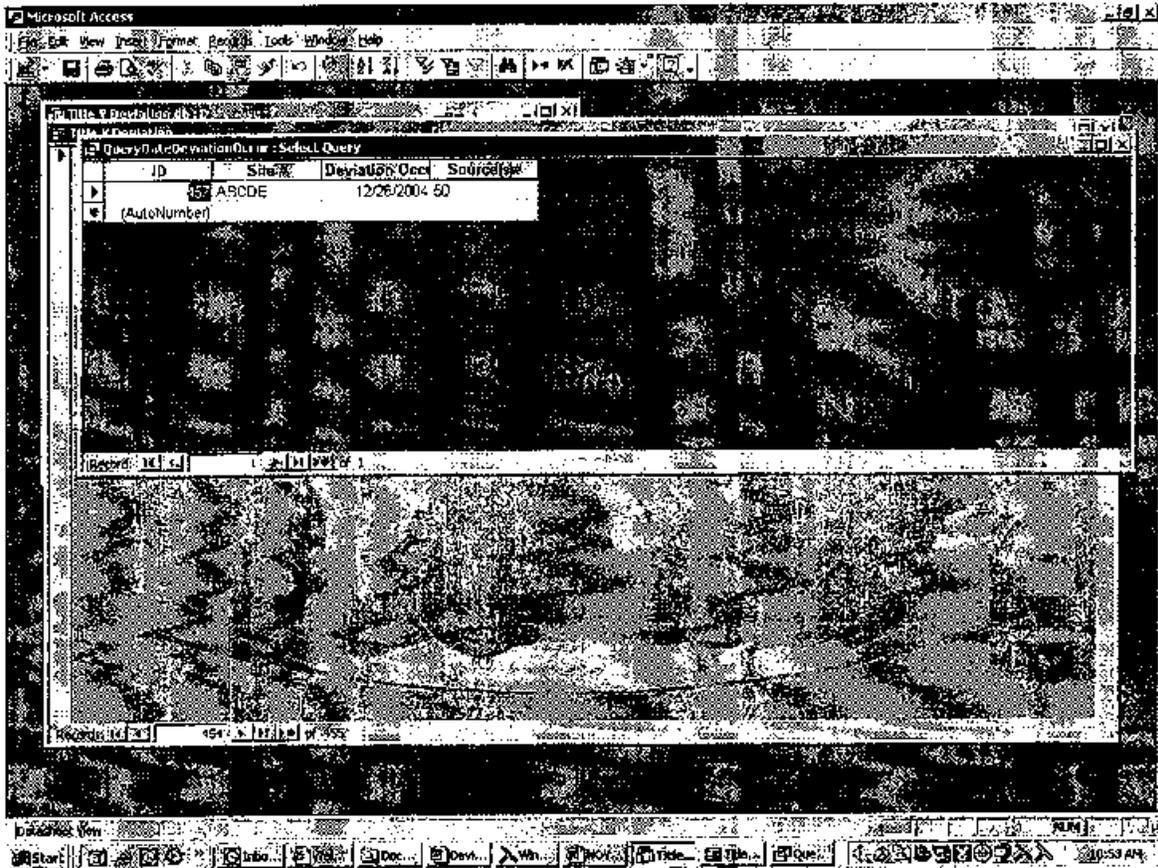
H:\Enforcement\Title V Tracking\Title V Deviation.db.mdb

Enter the password "hambon3" and a box will appear. On the left side of the box, under the heading "Objects," select 'Forms'; on the right side double click 'Title V Deviation' and the form will open (See example below). The first record ever created will be displayed.



A. Search for Duplicate Entries or Revising Existing Entries

To search for duplicates, click on the 'Find Deviation by Date' button (See example below). Prompts will instruct you to first enter the site number and then the occurrence date of the deviation. If the deviation report has not been previously reported the query will return blank. If there were reports for the same day, information will appear in a box showing the ID #, site, date, and sources. If multiple deviations for the same day return, compare other elements to find the desired record.



To search for existing records to revise, place the cursor in the ID box, then click on 'Find Record' button. Enter the record # (ID) to retrieve the information, and check the 'Source(s)#', 'Deviation Occurrence Date' and 'Description of Deviation' fields to assure the correct deviation record.

If the deviation has already been entered or is a revision, make a note of it in the 'Description of Deviation' field. Make 2 copies, file the original in Deviation folder, and send one to the supervisor in an orange folder, and one to Source File.

B. Enter a new 10-Day Deviation Report

If the search conducted in 2(A) above returns no information, click on the 'Add Record' button and fill in only the following information:

- **10 Day to Supv:** Date the report was actually sent to the supervisor.
- **Site #:** Site number of the facility.
- **Source(s) #:** Source numbers, if provided on the fax/letter. Multiple sources can be entered, separated by commas.
- **Inspector #:** Inspector who will be receiving the report.
- **Facility Name:** Name of facility.
- **Received 10 day:** Date the fax or letter was received (date stamped) by the District.
- **Deviation Occurrence Date:** Date the deviation occurred.
- **Time Deviation Started:** If provided, enter the time the deviation began. If none provided, leave blank and default is 12:00:00 AM.
- **Description of Deviation:** Enter a brief description of the deviation. It can usually be found on faxes under "Event Description", but may be found elsewhere on the form or letter. If unsure what to use for a description, ask the supervising inspector.

This above information is automatically saved as the data is entered. When the entry is completed, stamp the fax or letter in the upper right-hand corner (or other clear space) with the Deviation Stamp, and write in the ID# generated by the program under 'BAAQMD DEV #' and the date received by BAAQMD ("Received 10 day" above).

If multiple deviations are included in the report, mark in the margins where each one is discussed, identified by that unique deviation number.

Make two copies of the fax/letter. The one copy is to be filed in the deviation report folder kept at the Secretary's desk. The original is sent to NEKO and one copy will be put in an orange folder, along with a blank 'Title V Deviation Evaluation Form' (Exhibit 1).

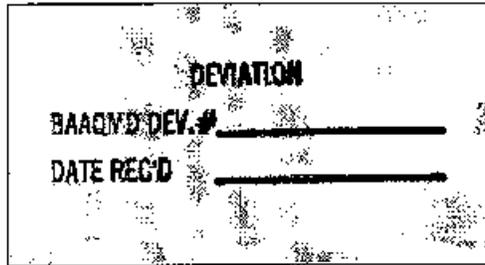
Initial and date the first line of the routing box on the form and route to the supervising inspector. (The form will be returned for filing once the 30-day report is received and the inspector has completed the contents of the form.)

3. 30-Day Deviation Report

Upon receipt of any 30-day report, a search in the Access database should be made for each deviation, as indicated in 2(A) above, and the following additional information entered into the existing record:

- **Received 30 day:** Enter the date the report was date stamped by the District.
- **30 Day to Supv:** Enter the date the 30-day report was actually sent to the supervisor.

Stamp the fax or letter in the upper right-hand corner (or other clear space) with the Deviation Stamp, and write in the ID# under 'BAAQMD DEV #' and the date received by BAAQMD ("Received 30 day" above). See example below.



Make two copies of the report. The original is sent to NEKO, one copy kept at the Secretary's desk and the second copy sent to the supervisor, in a tan folder.

Pull the original 10-day deviations that correspond to the 30-day report from the deviation file, attach the 10-Day to the 30-Day, and re-file.

4. Return of Title V Deviation Evaluation Form

When the completed Title V Deviation Evaluation Form is returned to the Secretary by the inspector, the following information should be entered into the existing database record:

- **Returned.** Date completed form is received in office.
- **Action.** Indicate what action was taken. Select from the drop-down field on the database form:
 - BD relief granted
 - Insp not an excess
 - MIS
 - None Required
 - NOV Issued
 - NTC Issued

- Pending Other
 - Under Variance
 - Under E.A
 - TSD not an excess
- **NOV#. If an NOV was issued, indicate the number. Multiple NOV's can be entered in the field, separated by commas.**

Make a copy of the completed Title V Deviation Evaluation Form, attach it to the 30-day report and file it in the Deviation file. Route the original to NEKO.

EXHIBIT 1: Title V Deviation Evaluation Form

 <p>BAY AREA AIR QUALITY MANAGEMENT DISTRICT</p>	<p>COMPLIANCE AND ENFORCEMENT DIVISION</p>	To:	Initials	Date
		Operations		
		Supervisor		
		Inspector		
		Operations		
		NEKO		

TITLE V DEVIATION EVALUATION FORM

INCIDENT INFORMATION	
Site Name:	DEVIATION #:
Address:	Site #:
Dev Occur Date/Time:	Source(s) #:
RELATED RCA (s) #:	
10-DAY DEVIATION REPORT:	
Did the facility report? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Received within 10 days of discovery of the incident of non-compliance? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, explain:	
Is this incident related to a Reportable Compliance Activity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p><small>Note: Reporting a Title V deviation does not satisfy the requirement for any RCA required in Regulation 1, Sections 500, for timely reporting. These are separate with unique time frames independent of Title V deviation reporting requirements.</small></p>	
Hold this 10-day deviation report until the 30 day deviation report is received.	
30-DAY DEVIATION REPORT:	
Did the facility report? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Received within 30 days of discovery of the incident of non-compliance? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Did the company include probable cause of non-compliance? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Were corrective or preventative actions included? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Were these actions verified by the inspector? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, confer with Supervisor for further action.	
ACTION TAKEN:	
What action was taken?	
<input type="checkbox"/> NOV #	<input type="checkbox"/> TSD not an excess
<input type="checkbox"/> NTC #	<input type="checkbox"/> Insp not an excess
<input type="checkbox"/> Enforcement agreement	<input type="checkbox"/> BD relief granted
<input type="checkbox"/> Under Variance Docket #	<input type="checkbox"/> None required
<input type="checkbox"/> Pending, other	

Inspector: _____	#: _____	Date of Evaluation: _____
-------------------------	-----------------	----------------------------------

Appendix I

NOVEMBER 8, 2007 MEMORANDUM: 2008 TRAINING PROGRAM OVERVIEW

COMPLIANCE AND ENFORCEMENT DIVISION

OFFICE MEMORANDUM

November 8, 2007

TO: JANET GLASGOW, OPERATIONS MANAGER
FROM: MICHAEL KRONE, AIR QUALITY SPECIALIST
SUBJECT: **2008 TRAINING PROGRAM OVERVIEW**

Introduction

The purpose of this memorandum is to propose the 2008 training schedule for planning purposes. Each year the training coordinator prepares a strategic training plan which outlines a schedule of events for the upcoming year. The training schedule does not include all CARB events as their schedule is not usually published until January.

2008 Training Schedule - CARB classes are highlighted.

Qtr.	Month	Days	Program*	Session or Topic	Trainer
1 st	January	Thurs 10 th , 17 th , 24 th	IST	Classes A, B, & C	Staff
	February	28 th	C/MT	VEE West Sacramento	CARB
	March	5 th and 6 th	C/MT	VEE Pleasanton Fairground	CARB
2 nd	April	Thurs 10 th , 17 th , 24 th	IST	Classes A, B, & C	Staff
	April	30 th	C/MT	VEE West Sacramento	CARB
	May	27 th - May 30 th (Long Beach)	IT	Environmental Cross Media Symposium	Various
	June	19 th	C/MT	VEE West Sacramento	CARB
	June	24 th	CARB	Incinerators	CARB
	3 rd	July	23 rd and 24 th	CARB	Advanced CEM
	August	14 th	CARB	Surface Coating Operations	CARB
	August	19 th and 20 th	CARB	PERP	CARB
	August	28 th	C/MT	VEE West Sacramento	CARB
	August	27 th and 28 th	CARB	Compliance Assurance Monitoring	CARB
	September	4 th	C/MT	VEE West Sacramento	CARB
	September	10 th and 11 th	C/MT	VEE Pleasanton Fairground	CARB
4 th	October	7 th	CARB	Idling Enforcement	CARB
	October	29 th	C/MT	VEE West Sacramento	CARB
	November	Thurs 6 th	C/MT	HAZWOPER Class 1	Contract
		Thurs 13 th	C/MT	HAZWOPER Class 2	Contract

* Programs:

- IST = In Service Training (Sessions are generally held 3 classes at a time)
- C/MT = Certified/Mandatory Training
- IT = Interagency Training
- CARB = Classes are scheduled through CARB and held at the District

Certified Mandatory

CARB visible emissions evaluation (VEE) recertification dates are tentatively provided in the proposed schedule. The District's PETU will be tested and available as soon as possible.

CARB Training Courses for 2008

Staff has identified several CARB training classes based on CARB's request for input. The requested classes include:

- Course 230 Metal Container, Closure & coil coating
- Course 233 Solvent Cleaning
- Course 270 Incinerators

New Inspector Training (NIT) Program

A standing NIT program for inspector trainees is projected for 2008, based on expected staff turnover. This course will follow the latest NIT curriculum with any necessary modifications based on feedback from Supervising Inspectors on the performance of the last set of trainees.

Proposed Training Topics

Attachment 1 provides a list of future IST topics and/or tailored training to smaller inspector groups. The list includes training modules for safety, rules and regulations, instrumentation, policy and procedures/administrative operating procedures, general enforcement knowledge, and topics of the day. These are the standard categories within which all IST is planned and conducted.

Appendix J

BAAQMD COMMENTS ON DRAFT REPORT AND EPA RESPONSES

RECEIVED

JUL 21 2009

Permits Office Air-3
U.S. EPA, Region 9



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT
SINCE 1955

July 16, 2009

Gerardo C. Rios
Chief, Permits Office, Air Division
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Re: Comments on Draft Title V Evaluation Report for the Bay Area Air Quality Management District

Dear Mr. Rios:

I am writing in response to your letter dated June 4, 2009, in which you request comments on EPA's Draft Title V Evaluation for the Bay Area Air Quality Management District.

We are pleased to see that EPA believes that our Title V program excels in a number of areas including the preparation of statements of basis, the use of our website to publish comprehensive and timely documentation of title V permitting actions, our effective field enforcement program, and our on-going evaluations of the effectiveness of our public involvement efforts. The District puts a great deal of effort into issuing and enforcing Title V permits -- these activities consume over 10 percent of our total resources devoted to stationary source regulatory programs.

We also appreciate EPA's input and suggestions on how our Title V program can be improved. Our detailed comments are enclosed. We look forward to receiving the final report when it is completed, and in working with EPA to prepare a workplan that addresses the findings.

We are also interested in learning more about what EPA is doing to improve the Title V program. As you know, the Clean Air Act Advisory Committee (CAAAC) formed the Title V Task Force to take input on what is working/not working in the Title V program. The task force compiled testimony/written comments from environmental advocates, industry, and state/local permitting agencies (including our Air District). The Task Force released a final report in April 2006 with almost 100 recommendations intended to improve Title V implementation. EPA responded to the task force report at the September 14, 2006 meeting of the CAAAC. It would be helpful if EPA could provide the District with an update on EPA's priority recommendations described to CAAAC, which were intended to result in additional EPA guidance and rule revisions to improve the Title V program.

Sincerely,

Jack P. Broadbent
Jack P. Broadbent
Executive Officer/APCO

Enclosure

Spare the Air

The Air District is a Certified Green Business

Printed using soy-based inks on 100% post-consumer recycled content paper



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(Secretary)
Scott Haggerty
Jennifer Hosterman
Nate Miley

CONTRA COSTA COUNTY
John Gioia
Mark Ross
Michael Shimansky
Gayle B. Uilkema

MARIN COUNTY
Harold C. Brown, Jr.

NAPA COUNTY
Brad Wagenknecht
(Vice-Chairperson)

SAN FRANCISCO COUNTY
Chris Daly
Eric Mar
Gavin Newsom

SAN MATEO COUNTY
Carol Klatt
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Jack P. Broadbent
EXECUTIVE OFFICER/APCO

BAAQMD Comments on Draft Title V Program Evaluation Findings

The permit shield, as set out in 40 CFR 70.6(f), is intended to provide certainty to a source, that if a decision of non-applicability has been documented in the Title V permit, enforcement action will not be taken against the source on the basis of that requirement until the decision is reviewed formally by the permitting authority, including public notice and EPA review.

Page 32255 of the preamble to the final Part 70 regulations, promulgated on July 21, 1992, states:

“Section 504(f) of the Act defines the permit shield provision of title V, which enables States to provide sources with greater certainty as to their legal obligations under the Act. This section authorizes the permitting authority to provide that compliance with the permit shall be deemed compliance with all other applicable provisions of the Act, if the applicable requirements of such provisions are included in the permit, or if the permitting authority, in acting on the permit, determines that such other provisions (which shall be referred to in such determinations) are not applicable. This determination or a concise summary thereof must be included in the permit. The EPA encourages States to employ the "permit shield" routinely to help stabilize the permit process and give greater certainty to the regulated community.” (emphasis added)

In regards to subsumed monitoring, recordkeeping, and reporting, the District is following EPA guidance in White Paper II dated March 5, 1996. Section II(A)(4) states that the subsumed requirements would not be independently enforceable if the source “attempts in good faith to implement the monitoring, recordkeeping, and reporting requirements specified in the permit.” White Paper II goes on to say, “If subsequently the permitting authority or EPA determines that the permit does not assure compliance with applicable requirements, the permit will be reopened and revised.”

The District understands that the permit shield would only be valid as long as the shield was in place. If the District or EPA discovered that the basis for the shield was invalid, the District or EPA could re-open the permit after due notice and delete the shield. The applicable requirement from which the facility had been shielded would then apply. Enforcement actions and litigation could be initiated as of the date that the revised permit was re-issued, but would not be retroactive to include periods that the permit shield was in place.

The finding states that “...permit shield language ... may unnecessarily limit the District’s and EPA’s authority to initiate compliance investigations at a source that violates an applicable requirement. The District wishes to reassure EPA that the above language has never limited the District from initiating compliance investigations at sources that have violated applicable requirements. The District has been issuing Title V permits since 1997 and thus far, shielded requirements have not led to enforcement issues.

If the District determines that a permit shield was granted in error, the District will reopen the permit, delete the permit shield, and take appropriate enforcement action.

BAAQMD Comments on Draft Title V Program Evaluation Findings

The District recognizes that the permit shield regulations may not be clear to permit holders and the public. The District's Manual of Procedures requires the use of the current permit shield language. However, the District commits to explaining the permit shield regulations fully in Statements of Basis for initial permits and permit renewals where the permit contains permit shields, or any revision where a permit shield is granted or revised.

“2.5 Finding: The analysis of CAM applicability in statements of basis is inconsistent.

Discussion: EPA expects permitting authorities to address CAM applicability in statements of basis for title V permit renewals and significant modifications. The District has been inconsistent in doing this. When CAM is addressed, the completeness and accuracy of the analyses have varied considerably.

The statement of basis for the Cardinal Cogen renewal states that the gas turbine is equipped with dry low-NO_x combustors and does not utilize steam or water injection to control NO_x emissions. Yet the source's renewal application states that the turbine is equipped with steam injection, which is listed as a control device in §64.1. In addition, the application states that the boilers are equipped with flue gas recirculation, which is also a control device for CAM purposes. While the turbine and boilers may not be subject to CAM because the permit requires the use of a CEMS, this fact is not addressed in the statement of basis.”

Comment:

The gas turbine at the Cardinal Cogen facility is no longer equipped with steam injection and therefore, CAM does not apply pursuant to §64.1. In 1997, the gas turbine at Cardinal Cogen was retrofitted with dry low-NO_x (DLN) combustors that utilize staged combustion to minimize the formation of NO_x emissions. Steam and/or water injection is not compatible with dry low-NO_x combustors. Prior to 1997, the gas turbine was equipped with conventional combustors and it utilized steam injection to lower the flame temperature and reduce NO_x emissions. In order for the DLN combustors to operate properly, the steam injection system was removed. The applicant incorrectly stated in their Title V renewal application that their gas turbine was equipped with DLN combustors and steam injection. The source description in the renewed Title V permit is correct in stating that the gas turbine is not equipped with steam injection. CAM does not apply to the gas turbine since it is not equipped with a control device. We agree that the boilers should have been analyzed for CAM applicability, since the boilers are equipped with flue gas recirculation, which is listed as a control device pursuant to §64.1.

“2.6 Finding: Some title V permit conditions with District rule requirements are inappropriately marked as not federally enforceable. Other conditions reference versions of SIP rules that pre-date more recent versions approved by EPA.

BAAQMD Comments on Draft Title V Program Evaluation Findings

Discussion: During our file review, we found several examples of incorrect references to SIP rules. Some rules were incorrectly identified as not federally enforceable because the permit writers did not realize there was a SIP-approved version of the rule in addition to a more recently adopted local version. In some cases the District missed the fact that the cited version of a rule is in the SIP and is federally enforceable. Examples include:

- The Title V permit renewal issued to Ball Metal Beverage Container Corp. on December 13, 2006 lists BAAQMD Regulation 8, Rule 49 (Aerosol Paint Products) and Regulation 8, Rule 16-303 (Cold Cleaner Requirements), as not federally enforceable. In both cases, while the most recently adopted versions of the rule had not been approved into the SIP, there are previous versions of these rules in the SIP.”

Comment:

The example cited regarding the Title V renewal permit for Ball Metal Beverage Container Corp. is incorrect. On page 11 of this permit, Table III lists both the current version of BAAQMD Regulation 8, Rule 49 (adopted December 20, 1995, not SIP-approved) and the SIP-approved version of Regulation 8, Rule 49, with a Federal Register date of March 22, 1995. On pages 29 and 30 of the permit, Table IV-N lists both the current version of Regulation 8, Rule 16 (adopted September 16, 1998, not SIP-approved) and the SIP-approved version of Regulation 8, Rule 16 with a Federal Register date of December 9, 1994. There are no other citations of these regulations in the permit. Please see Attachment A for copies of the relevant pages of the permit for reference.

The District has issued over 100 initial Title V permits, approximately 35 renewal permits, and dozens of permit revisions. It is inevitable that some errors will occur, especially given the enormity of applicable regulations and Title V sources under the jurisdiction of the District. In addition, the District has a rule development program that results in the adoption of numerous new and amended regulations that are not yet SIP-approved. The District maintains a Title V permit template that is updated on a regular basis to show the correct dates of adoption for SIP-approved and newly amended District regulations. In addition, District permit staff utilizes the EPA web page that lists the current BAAQMD SIP-approved regulations as a reference while processing Title V permits to insure that the correct regulations are listed. Last year, the District acted to approve a full time Title V Permit Technician position in the Engineering Division to support Title V activities. The technician is now hired, and she will assist with quality control and provide support to Title V permit engineers to insure that SIP-approved regulations are included and are correctly dated and marked as federally enforceable.

“2.8 Finding: The District has not consistently applied the support facility test to determine whether two facilities constitute a single stationary source for CAA permitting purposes.

BAAQMD Comments on Draft Title V Program Evaluation Findings

Recommendation: BAAQMD should fulfill its commitment to evaluate all facilities adjacent to the refineries and determine whether any of them are support facilities that should be treated as part of the refinery. If the District concludes that there are support facilities with applicable requirements that have not been included in any refinery permit, the requirements should be added to the permit via a permit reopening.”

Comment:

In the District’s letter of October 6, 2004, the District made the following commitments:

1. Provide a list of all permitted facilities adjacent to each refinery.
2. Provide EPA with an analysis of each pairing to determine whether a) a support facility relationship exists, and b) whether the pairing comprises a single facility for Title V purposes.
3. Transmit to each facility determined to be subject to Title V a letter requiring submittal of a Title V permit application within six months of the request.
4. Propose permits for the facilities within 12 months of receipt of the applications.

The District determined which permitted facilities were adjacent to each refinery by June 2004. The list of fifty plants is included in Attachment B. The following 11 plants on the list already have separate Title V permits or are included in the refinery Title V permits. Part 70 allows agencies to give a facility more than one permit since “Part 70 permit” is defined in 40 CFR 70.2 as: “...any permit or group of permits covering a part 70 source...”

Facility Number	Refinery	Facility Number	Potential Support Facility
B2758-B2759	Tesoro	B2759 (included in refinery Title V permit)	Tesoro Refining and Marketing Company
		A1820	Martinez Cogen
		A4022	SFPP
		A7034	Shore Terminals
A0011	Shell	Part of A0011	Air Products (hydrogen plant)
		B1661	Rhodia
A0010	Chevron	A0023	General Chemical (sulfuric acid plant)
B2626	Valero	B5574	Nustar Logistics
		A0901	Valero Asphalt
A0016	ConocoPhillips	A0022	ConocoPhillips Carbon Plant
		A0581	Shore Terminals

Five of the plants adjacent to the refineries have closed: B1 Cleaning and Petrochemical Services in Richmond, Onyx in Martinez, Sealtech in Rodeo and Brock Maintenance in Benicia.

BAAQMD Comments on Draft Title V Program Evaluation Findings

Support facility determinations are obvious for two types of plants: bulk terminals that are owned by the refineries, and hydrogen plants.

The District has concluded that the bulk terminals that are owned by the refineries are support facilities because they only handle refinery products (Equilon Martinez Terminal at Shell and Chevron, Inc. at Chevron, and Valero Refining at Valero). Therefore, the terminal is wholly engaged in providing a service to the refinery.

The District has also concluded that the hydrogen plant at Tesoro that is owned by a different owner (Air Products) is a support facility because Tesoro consumes all of the hydrogen that it produces.

The District commits to sending letters to these four plants within 30 days of this response to the draft Title V program evaluation. The letters will require applications from for an initial Title V permit within 6 months of the date of the letters.

An analysis of the remaining plants must be prepared to determine whether a support facility relationship exists, and whether the pairing comprises a single facility for Title V purposes.

These analyses must necessarily be case-by-case determinations. Ronald J. Borsellino puts forth this view in a letter dated May 2, 2009 from EPA Region II to Manchester Renewable Power Corporation/LES and Ocean County Landfill Corporation. Mr. Borsellino states that Region II reviewed “numerous” documents in making the determination. The District would likely have to solicit and review numerous documents in making a case-by-case determination for each pairing.

The required documentation is needed to determine whether the facilities are under “common control.” If the facilities resist the District’s initial determination based on the superficial appearance of the relationship between the two facilities, the District would need to explore the relationship between the parties involved by asking for any contracts between the two parties, information about the parent companies of both facilities, what materials or resources passed between the facilities, and whether the facilities had greater ties to facilities or entities that were not under consideration.

A simpler definition of support facility is needed. At present, EPA has included the “support facility” concept in guidance only, not regulation. On August 29, 1994, EPA proposed to add a definition of “support facility” to the Part 70 regulations. Section IV.A.5.c of the preamble states “The proposed clarification would establish the term “support facility...”. The definition would have said:

“In addition, for purposes of paragraphs (2) and (3) of this definition, any stationary source (or group of stationary sources) that supports another source, where both are under common control of the same person (or persons under common control) and on contiguous or adjacent properties, shall be

BAAQMD Comments on Draft Title V Program Evaluation Findings

considered a support facility and part of the same source regardless of the 2-digit SIC code for that support facility.”

Adoption of this provision would provide very helpful clarification that a support facility is not a separate facility based on different SIC codes, as the definition now provides. It would also provide the authority and criterion to make such determinations.

Please note that the District has spent extensive resources on the permits for the refineries themselves. In cooperation with EPA, the District has reopened almost all of the refinery permits four times to resolve issues that have been raised in comments to the District, petitions to EPA, and EPA comments. The District is now engaged in the five-year renewal of the refinery permits, which will result in further correction and refinement of the permits. These renewals are on schedule to be issued within the allotted 18 month timeframe.

The District believes that it has been a better use of resources to resolve important issues at some of the largest facilities in the Bay Area and California, rather than to focus on requirements for some very small facilities that may be related to the refineries. The District is attaching a spreadsheet with the calculated emissions for each of the remaining facilities to show how small the emissions are from most of the facilities. Please see Attachment C for facility emissions spreadsheet.

The District will soon start to solicit the necessary background information to make the support facility demonstrations. After the refinery renewals are issued, the District will evaluate the remaining facilities and ask for Title V applications where appropriate.

“2.9 Finding: The District’s practice regarding the streamlining of multiple applicable requirements is not clear. In cases where requirements have been streamlined, statements of basis do not contain an explanation or documentation.”

Comment:

The District’s practice is to use the streamlining allowed by EPA’s “White Paper 2” only to streamline monitoring, recordkeeping, and reporting (MRR) requirements. This approach is clearly articulated in the BAAQMD Manual of Procedures, Volume II, Part 3, Major Facility Review, Section 4.16, where the streamlining of MRR requirements is discussed together with the discussion of how the permit shield is used for streamlining.

BAAQMD Regulation 2-6-101 clearly states that the applicable requirements shall not be altered except for MRR requirements that are subsumed using the permit shield. BAAQMD Regulation 2-6-233.2 describes using the permit shield to subsume only MMR requirements. BAAQMD Regulation 2-6-427, Statement of Basis, which was adopted on April 6, 2003, states that the District will explain the basis for the creation of any permit shield provisions. It is the District’s intent and practice to streamline only

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MRR requirements and to document these decisions in the permit shield and Statement of Basis.

EPA uses the Los Medanos and Gilroy Energy Center permits as examples. These permits clearly show the streamlined monitoring requirement in Section X, Permit Shield, part B, and the rationale that was used to justify the subsuming of monitoring.

In the case of Los Medanos, the permit shield was not explained in a separate document. At that time, a Statement of Basis document was not written for Title V permits.

In the case of the Gilroy Energy Center, the streamlining of monitoring was also clearly explained in the evaluation that was submitted to EPA at the time that the permit was proposed in 1998.

The District agrees that the explanations of MRR requirement streamlining have not always been included in evaluations and Statements of Basis, although it has always been the District's intention to fully explain these determinations. The District commits to providing an explanation for all prior determinations when the permits are renewed. All new determinations will be explained in the Statement of Basis at the time that the permits are proposed.

“3.3 Finding: Title V permits for sources subject to CAM do not contain all the required elements of 40 C.F.R. Part 64.

Recommendation: BAAQMD should ensure that title V permits for sources with emission units subject to CAM contain all required elements of Part 64, including definitions of excursions or exceedances. To be consistent with current Part 70 requirements, we also recommend that the District use the updated compliance certification language in all future permits in which there are any emission units subject to CAM.”

Comment:

Following the Title V program evaluation in August of 2008, the District has begun the process of drafting guidance on the evaluation and implementation of CAM plans. The goal of this guidance is to insure that all of the required elements of CAM are present in the Title V permit as specified in 40 CFR Part 64.

“4.6 Finding: BAAQMD has a robust EJ program. However internal communication and coordination of the District's EJ efforts could be improved.

Recommendation: The District should improve coordination between the EJ staff and the Engineering Division and should increase the EJ staff's advisory role in policy decisions.”

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Comment:

The Engineering Division will explore areas to enhance the EJ program, such as, having meetings with the EJ staff in the Outreach and Incentives Division on a regular basis. At those meetings, the permitting staff can help build an even stronger EJ program by assisting with the development of policy and the establishment of strategic plans.

To better equip the permitting staff in this area, the District will soon provide another wave of EJ training.

It would be helpful if EPA could provide more detail as to the level of performance that the District would be expected to achieve in terms of its communication and coordination with respect to EJ (e.g., is there an example of an approach used by another agency that could be used as a model?).

“4.8 Finding: BAAQMD engineering and EJ staff may benefit from additional EJ training to address some of the minor issues found in this chapter.

Recommendation: EPA believes that the District should consider receiving additional air pollution-focused EJ training. If BAAQMD chooses to receive additional EJ training, EPA will work with the District to tailor this training to its specific needs.”

Comment:

A significant portion of the District Engineering staff attended an EPA-sponsored one-day workshop on EJ entitled “The Fundamentals of Environmental Justice”. The District welcomes the offer to receive additional air pollution-focused EJ training. We look forward to working with EPA to tailor this additional EJ training to fit our specific needs.

“5.1 Finding: The District has issued some title V renewals; however, the District is behind on the issuance of many renewals.

Recommendation: The District should develop a plan for taking action and preventing growth of the title V renewal application backlog (See Finding 7.2 for additional discussion on this issue).”

Comment:

The District will continue to closely monitor the status and progress of Title V permit applications to see that renewal permits are issued in a timely fashion. The newly-hired Title V Permit Technician will assist with quality control, and provide support to Title V permit engineers. This should help expedite the issuance of Title V renewal permits.

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Substantial efforts have been made on the permit renewals for the refineries, and these renewal applications are progressing on schedule.

“5.2 Finding: The District does not provide EPA and the public an opportunity to review and comment on proposed synthetic minor operating permits.

Recommendation: BAAQMD should provide EPA and the public the opportunity to review proposed synthetic minor permits in accordance with its SIP-approved synthetic minor operating permit rules.”

Comment:

BAAQMD Regulation 2, Rule 6, Major Facility Review implements the Title V program in the Bay Area. The statutory requirements are in Title V of the Clean Air Act and the implementing federal regulations are in 40 CFR 70, State Operating Permit Program.

The requirement for State Implementation Plans is in Section 110 of the Clean Air Act and is therefore a Title I requirement. The purpose of the State Implementation Plans is to achieve attainment with the national primary and secondary ambient air quality standards. Therefore, State Implementation Plans only apply to certain “criteria” pollutants. At this time, those pollutants are: NO_x, SO₂, VOC, CO, PM, and lead.

Title V of the Clean Air Act and 40 CFR 70, State Operating Permit Programs, did not establish a SIP program. Instead, the intent was to require permits for major facilities that would ensure compliance with all applicable requirements.

The BAAQMD provisions above were adopted on November 3, 1993.

When the Title V program was being developed in the Bay Area, the District also developed a “synthetic minor” program at the same time. This program allowed small facilities that were or could be subject to the Title V requirements to take enforceable limits to allow them to stay out of the Title V program. At the time, EPA Region IX staff informed District staff that this goal could not be accomplished unless the limits were “federally-enforceable.” Moreover, EPA staff directed District staff to seek SIP approval for the provisions in the SIP, since SIP limits are “federally-enforceable.” Paragraph 2 on page II-16 of the Title V Operating Permit Program Submittal, dated November 15, 1993, describes why the above provisions were submitted for approval into the SIP.

The provisions were submitted to EPA by the governor’s designee on February 28, 1994 according to 40 CFR 52.220 section (b)(217)(i)(A). The notice of final approval was published in the Federal Register on June 23, 1995 (60 FR 32606). On page 32606, first paragraph, the notice states:

“In addition, EPA is promulgating final approval of a revision to Bay Area’s portion of the California State Implementation Plan (SIP) regarding synthetic

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minor regulations for the issuance of federally enforceable state operating permits (FESOP). In order to extend the federal enforceability of state operating permits to hazardous air pollutants (HAP), EPA is also finalizing approval of Bay Area's synthetic minor regulations pursuant to section 112(l) of the Clean Air Act (CAA or Act).”

On July 21, 1995, the DC Circuit Court of Appeals issued a decision regarding the requirement for federally-enforceable limitations on potential to emit in response to a suit brought by National Mining Association vs. EPA (95-1006). The court determined that limitations on potential to emit need only be enforceable as a practical matter by the permitting authority and did not have to be federally-enforceable.

In response to the National Mining Association decision, the District decided to rely on practically-enforceable limits on potential to emit for synthetic minor permits in lieu of federally-enforceable limits.

Therefore, the District amended the synthetic minor provisions in BAAQMD Regulation 2, Rule 6, Major Facility Review, on October 20, 1999. The following requirements were deleted:

- Federally-enforceable limits in favor of practically-enforceable limits
- Public notice
- EPA review

Since October 20, 1999, the District has not issued public notices for synthetic minor permits, nor has the District submitted the permits for EPA review. This is also the case for the many BAAQMD minor NSR permits that limit a facility's potential to emit. The District is preparing a submittal to ARB and EPA to request deletion of these provisions from the SIP because they are not part of a Title I program.

The transmittal of synthetic minor permits to EPA for information purposes was retained in Regulation 2, Rule 6. If EPA has specific concerns regarding the synthetic minor permits the District has provided to EPA over the last 10 years, the District would appreciate this feedback. The District would also be willing to provide EPA with copies of draft synthetic minor permits prior to issuance so that EPA review could be completed within the existing required timeframes.

“5.3 Finding: The District has received permit applications from facilities subject to CAM that did not contain CAM plans; yet BAAQMD did not deem the applications incomplete.

Recommendation: The District should consider CAM applicability when determining completeness of applications for permit renewals and significant revisions. If an application from a facility with one or more emission units subject to Part 64 does not contain a CAM plan, the District should deem the

BAAQMD Comments on Draft Title V Program Evaluation Findings

application incomplete and establish a deadline by which the facility must submit a CAM plan.”

Comment:

For most Title V facilities in the Bay Area, CAM does not apply until the initial permit is renewed. The District agrees that each renewal application should contain a determination of CAM applicability, and if CAM is applicable, the application should contain a CAM plan.

However, if the application is deemed incomplete upon the application submittal deadline, the facility loses the application shield when the permit expires, which is usually six months after the application deadline. If the permit expires and the facility has no application shield, the facility may not operate according to BAAQMD Regulation 2-1-307 and 40 CFR 70.7(b).

40 CFR 70 provides no mechanism to recover from the submittal of an application that is not complete in every respect before the application deadline. Therefore, EPA provided a remedy in EPA White Paper for Streamlined Development of Part 70 Permit Applications dated July 10, 1995. The White Paper allows agencies to declare applications “administratively” complete if the application is complete enough to begin processing.

Section 7.1 of Volume 2, Chapter 3, of the Manual of Procedures, which was adopted by the District Board of Directors and is part of the District’s federally-approved Title V program, states that the District will declare applications administratively complete if they include certain required elements. The section goes on to say that the application will be declared incomplete at a later date if the applicant does not supply required information.

As a remedy to EPA’s recommendation, the District will commit to a determination of CAM applicability and if applicable, whether or not a valid CAM plan has been submitted. If one or both elements have not been submitted, the District will send the facility a letter requiring a determination of CAM applicability and/or CAM plan within 60 days of receipt of the application. The deadline for submittal will be 60 days after the date of the letter.

“5.4 Finding: BAAQMD is developing guidance on title V revision track determinations.

Recommendation: EPA recognizes that determinations between minor and significant permit revisions can be complex, and recommends that BAAQMD coordinate with EPA as it develops its title V revision track policy. We believe this policy may provide useful guidance for other permitting agencies and EPA commends BAAQMD for its careful consideration of this issue.”

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Comment:

The Task Force on Title V Implementation Experience final report released in April 2006 included numerous recommendations intended to improve Title V implementation. One of the Title V Task Force recommendations was for EPA to clarify the scope and applicability of the various permit revision processes through training and outreach efforts, and to provide examples of the types of changes that fit into each revision type (Topic 5.7, Recommendation #2). We strongly agree with this recommendation because, as the Task Force noted, the criteria for the types of changes eligible for minor permit modifications are subjective, and have been subject to a range of interpretations by different States and EPA Regions.

Therefore, the District is pleased to collaborate with EPA on a Title V revision track policy. However, Part 70 does not create an obligation for the District to develop such a policy. Therefore, we prefer removal of this finding from the Title V Program Evaluation.

“7.4 Finding: BAAQMD uses EPA, CARB, and in-house courses to train permit staff.

Recommendation: The District should review its training program of permitting staff, identify needs, and coordinate with EPA and others to ensure that a comprehensive title V training program is implemented. See Finding 7.5 for a more expansive discussion of the need for CAM training. See Finding 4.8 for a discussion of the need for EJ training.”

Comment:

The District makes extensive use of one-on-one training during the processing of Title V applications. We find that this type of training is very effective because it involves actual facilities and permitting scenarios. In addition, this training facilitates consistency and improves quality control of permits across a wide range of Title V facility types. However, we also see the value in a formal training program and we will develop and implement a more comprehensive Title V training program to insure that new and existing permit engineers are well versed in current District Title V policies and procedures.

“7.5 Finding: BAAQMD title V permit writers need CAM training.

Recommendation: The District should consider sending title V permit writers to CAM training, such as the classes offered by CARB and EPA’s APTI, whenever possible. In addition, the District should consider developing CAM guidance for permit writers, which EPA could review upon request.”

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Comment:

The District currently provides CAM training on a one-on-one basis to permit engineers during the processing of Title V renewal permit applications. We find this to be a very effective way to insure consistent application and review of CAM. Also, approximately 30 District Engineering Division personnel attended a one-day ARB training course on CAM in August of 2008. However, any additional group training is always valuable and the District will take advantage of other CAM training classes offered by CARB and EPA's APTI. The District will consider making such training mandatory for all Title V permit engineers.

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Attachment A

Excerpts from renewal Title V permit for Ball Metal Beverage Container Corp.

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1580_001.pdf

Click on **PDF file:** A0148 Ball Metal Beverage Container Corp. December 13, 2006.

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Attachment B

List of Potential Support Facilities

BAAQMD Comments on Draft Title V Program Evaluation Findings

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

PERMITTED FACILITIES ADJACENT TO/ CONTIGUOUS WITH PETROLEUM REFINERIES

The following is a list of those permitted facilities (including refinery contractors) that are located within the refineries or adjacent to the refineries. Note that many of these facilities have no direct relationship to the refinery operations. The contractors that hold permits for operations within the refineries, are not always operating, but maintain their site permits as needed.

CHEVRON PRODUCTS COMPANY – {Site A-0010}

**General Chemical Corporation – {Site A-0023}
525 Castro Street, Richmond**

**Chevron Inc. – {Site A-0072}
185 Castro Street, Richmond**

**Chevron Research and Technology Co. – {Site A-0423}
100 Chevron Way, Richmond**

**B1 Cleaning Services – {Site A-3420}
Chevron Refinery, Richmond**

**City of Richmond, Pump Station – {Site A-7031}
Castro Street, Richmond**

**Dutra Materials – {Site A-7053}
861 Western Drive, Richmond**

**Onyx Industrial Services, Inc. – {Site A-9880}
Chevron Refinery**

**SFPP - Kinder Morgan – {Site B-2078}
520 Castro Street, Richmond**

**Petrochemical Services Inc. – {Site B-2488 and B-5230}
841 Chevron Way (Chevron Refinery), Richmond**

**State of California, DOT – {Site B-4181}
Richmond-San Rafael Bridge, Richmond**

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SHELL MARTINEZ REFINERY – {Site A-0011}

Bay Area Diablo Petroleum – {Site A-0749}
3675 Pacheco Boulevard, Martinez

Mt. View Sanitary District – {Site A-4408}
end of Arthur Road, Martinez

Onyx Industrial Services, Inc. – {Site A-9881}
3485 Pacheco Boulevard (Shell Refinery), Martinez

Sierra Processing Systems, Inc. – {Site B-0883}
Shell Refinery, Martinez

Rhodia Inc. – {Site B-1661}
100 Mococo Road, Martinez

Equilon Enterprises LLC – {Site B-1956}
1801 Marina Vista, Martinez

Shell Chemical LP – {Site B-2870}
10 Mococo Road, Martinez

Central Contra Costa Sanitary District – {Site B-4060}
2001 Marina Vista, Martinez

LANSCO, A Division of Hydrochem – {Site B-4353}
3485 Pacheco Boulevard (Shell Refinery), Martinez

Tesoro Refining and Marketing Company – {Site B-2759}
1750 Marina Vista, Martinez

Redwood Painting Company, Inc. – {Site B-6067}
3485 Pacheco Boulevard (Shell Refinery), Martinez

CONOCO-PHILLIPS REFINERY – {Site A-0016}

Shore Terminals - Selby – {Site A-0581}
90 San Pablo Avenue, Crockett

Rodeo Sanitary District – {Site A-5731}
800 San Pablo Avenue, Rodeo

Global Sulfur Systems, Inc. – {Site A-5954}

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Conoco-Phillips Refinery, Rodeo

**Sierra Process Systems, Inc. – {Site B-1973}
Conoco-Phillips Refinery, Rodeo**

**Scaltech Inc. – {Site B-2959}
Conoco-Phillips Refinery, Rodeo**

**Hydrochem Industrial Services, Inc. – {Site B-4454}
Conoco-Phillips Refinery, Rodeo**

VALERO REFINING COMPANY – {Site B-2626}

**Valero - Benicia Asphalt Plant – {Site A-0901}
3001 Park Road, Benicia**

**Onyx Industrial Services, Inc. – {Site A-9879}
Valero Refinery, Benicia**

**Philip West Industrial Services, Inc. – {Site B-0737}
395 West Channel Road, Benicia**

**K2M Mobile Treatment Services, Inc. – {Site B-1207}
3400 East Second Street, Benicia**

**Praxair, Inc. – {Site B-1349}
331 East Channel Road, Benicia**

**Sierra Process Systems, Inc. – {Site B-2479}
Valero Refinery, Benicia**

**Valero Refining Company – {Site B-2611}
3410 East Second Street, Benicia**

**City of Benicia, Corporation Yard – {Site A-5424 and B-4586}
2400 East Second Street, Benicia**

**CCR Technologies Inc. – {Site B-4935}
3400 East Second Street (Valero Refinery), Benicia**

**Valero Logistics Operations, L P – {Site B-5574}
3400 East Second Street, Benicia**

**Brock Maintenance – {Site B-5987}
3400 East Second Street (Valero Refinery), Benicia**

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TESORO REFINING AND MARKETING COMPANY – {Site B-2758}

Monsanto Company – {Site A-0014}
1778 Monsanto Way, Martinez

Chevron Products Company – {Site A-0091}
611 Solano Way, Martinez

IT Corporation, Vine Hill Facility – {Site A-0209}
896 Waterbird Way, Martinez

Acme Fill Corporation – {Site A-1464}
950 Waterbird Way, Martinez

Martinez Cogen, L P – {Site A-1820}
550 Solano Way, Martinez

SFPP - Kinder Morgan – {Site A-4022}
1550 Solano Way, Martinez

Shore Terminals – {Site A-7034}
2801 Waterfront Road, Martinez

Air Products & Chemicals, Inc. – {Site B-0295}
Tesoro, Avon Refinery, Martinez

Envent Corporation – {Site B-2342}
150 Solano Way, (Avon Refinery), Martinez

Conoco-Phillips Corporation – {Site B-3291}
150 Solano Way, (Avon Refinery), Martinez

Petroleum Solids Control, Inc. – {Site B-6326}
150 Solano Way, (Avon Refinery), Martinez

Sierra Processing Systems, Inc. – {Site B-6381}
150 Solano Way, (Avon Refinery), Martinez

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Attachment C

List of Potential Support Facilities with Annual Emissions

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List of Potential Support Facilities with Annual Emissions

Facility Number	Facility Name	PM tpy	ORG tpy	NOX tpy	SO2 tpy	CO tpy
Support Facilities						
A0072	Chevron Inc. (bulk terminal)	0.0	67.1	0.0	0.0	0.0
B0295	Air Products (hydrogen plant)	8.7	7.0	2.9	1.9	63.1
B1956	Equilon Martinez Terminal	0.0	12.2	0.0	0.0	0.0
B2611	Valero Refining Company	0.0	11.0	0.0	0.0	0.0
Other facilities						
A0014	MECS (catalyst plant)	1.9	0.2	0.6	0.0	0.1
A0091	Chevron Products	0.0	10.1	0.0	0.0	0.0
A0209	IT Corporation	0.0	2.6	0.0	0.0	0.0
A0423	Chevron Research	0.4	7.2	6.0	0.0	6.9
B1348	Praixair (CO2 dryer)	0.0	0.4	0.0	0.0	0.0
B5138	ConocoPhillips (oil-water separators)	0.0	0.0	0.0	0.0	0.0
A5954	Global Sulfur Systems, Inc.	0.0	0.0	0.0	0.0	0.0
A9879	Onyx Industrial Services (water treatment)	0.0	0.0	0.0	0.0	0.0
B0883	Sierra Processing Systems (water treatment)	0.0	0.2	0.0	0.0	0.0
B1973	Sierra Processing Systems (water treatment)	0.0	0.0	0.0	0.0	0.0
B2078	SFPP	0.0	0.0	0.0	0.0	0.0
B2342	Envent (ground-water stripping)	0.0	0.0	0.0	0.0	0.0
B2479	Sierra Systems	0.0	0.0	0.1	0.0	0.0
B2870	Shell Chemical	1.7	1.8	10.0	0.0	2.5
B4353	LANSCO (water treatment)	0.0	0.0	0.0	0.0	0.0
B4454	Hydrochem (tank degassing)	0.0	0.0	0.0	0.0	0.0
B4935	CCR Technologies	0.0	0.0	0.8	0.0	0.1
B6326	Petroleum Solids Control (dewatering of waste)	0.0	0.0	0.0	0.0	0.0
B6381	Sierra Processing Systems (water treatment)	0.0	1.5	0.0	0.0	0.0
A3420 (dismantled)	B1 Cleaning Services - Chevron Refinery, Richmond	0.0	0.0	0.0	0.0	0.0
A7031	City of Richmond, Pump Station - Castro Street, Richmond	0.0	0.0	0.2	0.0	0.0
A7053	Dutra Materials	0.8	0.1	2.4	1.7	0.6
A9880	Onyx Industrial Services, Inc. - Chevron Refinery	0.0	0.0	0.0	0.0	0.0
B2078	SFPP - Kinder Morgan - 520 Castro Street, Richmond	0.0	0.0	0.0	0.0	0.0
B2488 and B5230	Petrochemical Services Inc. *41 Chevron Way (Chevron Refinery),	0.0	0.0	0.0	0.0	0.0

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Facility Number	Facility Name	PM tpy	ORG tpy	NOX tpy	SO2 tpy	CO tpy
(B2488 dismantled)	Richmond					
B5230	Petrochemical Services Inc. *41 Chevron Way (Chevron Refinery), Richmond	0.0	0.0	0.0	0.0	0.0
B4181	State of California, DOT - Richmond-San Rafael Bridge, Richmond	0.0	0.0	0.1	0.0	0.0
A0749	Bay Area Diablo Petroleum - 3675 Pacheco Blvd, Martinez	0.0	0.5	0.0	0.0	0.0
A4408	Mt. View Sanitary District - end of Arthur Road, Martinez	0.0	0.5	1.0	0.0	0.1
A9881 (Old Plant# 9031) dismantled	Onyx Industrial Service, Inc. - 3485 Pacheco Blvd (Shell Refinery), Martinez	0.0	0.0	0.0	0.0	0.0
B4060	Central Contra Costa Sanitary District - 2001 Marina Vista, Martinez	0.0	0.0	0.3	0.0	0.1
B6067	Redwood Painting Company, Inc. - 3485 Pacheco Blvd (Shell Refinery), Martinez	0.3	0.5	0.0	0.0	0.0
A5731	Rodeo Sanitary District - 800 San Pablo Ave., Rodeo	0.0	0.2	0.1	0.0	0.0
B0737 (11349)	Philip West Industrial Services, Inc. - 395 West Channel Road, Benicia	0.0	1.4	0.0	0.0	0.0
B1207	K2M Mobile Treatment Services, Inc. - 3400 East Channel Road, Benicia	0.0	0.1	0.0	0.0	0.0
B1348	Praxair, Inc. - 331 East Channel Road, Benicia	0.0	0.4	0.0	0.0	0.0
B2479	Sierra Process Systems, Inc. - Valero Refinery, Benicia	0.0	0.0	0.1	0.0	0.0
A5424	City of Benicia, Corporation Yard - 2400 East Second Street, Benicia	0.0	0.0	0.0	0.0	0.0
B4586	City of Benicia, Corporation Yard - 2400 East Second Street, Benicia	0.0	0.0	0.0	0.0	0.0
B4935	CCR Technologies Inc. - 3400 East Second Street (Valero Refinery), Benicia	0.0	0.0	0.8	0.0	0.1
A1464	Acme Fill Corporation - 950 Waterbird Way, Martinez	0.4	0.1	1.1	0.0	1.1
B3291 (New Plant# 15138)	Tesoro Refining and Marketing Company	0.0	0.0	0.0	0.0	0.0

EPA Region 9 Responses to BAAQMD Comments on the Draft Title V Program Evaluation Report

EPA has reviewed BAAQMD's comments and provides the following responses.

Finding 2.4

The discussion in Finding 2.4 offers a suggestion for improving the boilerplate shield language used in District title V permits. The fact that the language has not been problematic in the past does not guarantee that this issue will never arise in the future. EPA continues to believe that the clarity and intent of the shield provision in BAAQMD title V permits could be improved if the boilerplate language were revised.

Finding 2.5

EPA has deleted the references to steam injection at the Cardinal Cogen facility from Finding 2.5 in the final report.

Finding 2.6

EPA has deleted the erroneous statements about the Ball Metal Beverage Container permit from the final report.

The District's Title V Permit Technician should be an important asset, given the District's large source universe and high numbers of permitting actions.

Finding 2.8

The District's commitment to send letters requesting title V applications from the three refinery-owned bulk terminals and the hydrogen plant at the Tesoro refinery should improve this situation.

Our intent in raising this issue is to ensure that the title V permits for refineries, and permits for the refineries' support facilities if the District issues separate title V permits to those portions of the facilities, contain all applicable requirements. When the District processes the support facilities' applications and identifies the applicable requirements to be included in the title V permits, it should also consider whether the increases in the refineries' potential to emit due to the addition of the support facilities' emissions triggers any applicable requirements that must be added to the refinery permits when they are renewed.

Finding 2.9

The District's commitment to documenting its streamlining of monitoring, recordkeeping, and reporting requirements will further enhance its already informative statements of basis.

The District's streamlining documentation for the initial title V permits for the Los Medanos and Gilroy Energy facilities does not provide an adequate rationale for subsuming the federal requirements within District requirements. The District provided a table reflecting shielded requirements, but no analysis for why District requirements are more stringent than federal requirements such that the permit need not include federal requirements. We recommend that the District's statements of basis provide a justification for streamlined and shielded requirements in the future.

Finding 3.3

The District's commitment to develop CAM guidance should improve this situation.

Finding 4.6

EPA believes that the measures that BAAQMD has identified in its comments on this finding appropriately address our recommendations. In addition, in further communications with the District, EPA understands the District is interested in learning different approaches that may be in use (especially where a better method may be suitable for BAAQMD's program). Therefore, in lieu of EPA providing examples the District has decided to proactively contact other agencies to review their programs as they relate to title V.

Finding 4.8

EPA will work with the District to set up a half-day air-related training on EJ within the next year.

Finding 5.1

EPA appreciates the District's on-going effort to ensure the timely issuance of title V permit renewals.

Finding 5.2

EPA appreciates the District's perspective on this issue.

Finding 5.3

We have revised our recommendation in Finding 5.3 based on the District's commitment to establish deadlines for the submittal of CAM plans when applications do not contain them.

Finding 5.4

We have revised the recommendation slightly to clarify that we can provide assistance upon request while the District develops its policy.

Finding 7.4

The District's commitment to implement a comprehensive title V training program for permit engineers is a promising approach to this issue.

Finding 7.5

EPA agrees that one-to-one training among permit engineers on CAM is useful, especially when combined with the formal training that the District is considering requiring permit engineers to take.