



**Puget Sound Clean Air Agency  
Title V Program Review  
(3<sup>rd</sup> Round)**

**EPA Region 10**  
*Final September 29, 2021*

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- 5 EPA Region 10 Report: Puget Sound Clean Air Agency Title V Program Review, (2<sup>nd</sup> Round), September 30, 2008

## **I. Introduction**

This report documents the (2021) third review of the Puget Sound Clean Air Agency's (Puget Sound's) title V permitting program. A title V program is an air permitting program for stationary sources with the potential to emit greater than 100 tons of pollutant per year. Air construction permits and other permit conditions are rolled up into one title V permit for ease of implementation. The first title V program review for Puget Sound was completed in September 2006. The second round was completed in September 2008.

### **Puget Sound's Title V Program**

The Puget Sound Clean Air Agency is a local air pollution control agency with jurisdiction in four counties in western Washington: King, Kitsap, Pierce, and Snohomish. EPA Region 10 is the title V permitting authority in Indian country within those four counties with one exception: Puget Sound is the title V permitting authority on non-trust land within the 1873 Survey Area of the Puyallup Reservation. Within Puget Sound's four-county area, Washington Department of Ecology is the permitting authority for all chemical pulp mills and aluminum smelters and Washington Energy Facility Site Evaluation Council (EFSEC) is the permitting authority for all thermal electric energy projects that are at least 350 megawatts in size.

Puget Sound has its own title V fee regulation but requires sources to comply with the Washington Department of Ecology title V regulation found in Washington Administrative Code (WAC) 173-401. EPA granted Puget Sound, along with Washington state, six other local agencies and EFSEC, interim approval of its title V program effective December 9, 1994, and full approval effective September 12, 2001, 66 FR 42439 (August 13, 2001).

State and local permitting authorities base their Title V operating permits program on the part 70 rule. There are approximately 33 part 70 sources operating within Puget Sound's jurisdiction, and Puget Sound has issued title V permits to approximately 24 of them. There are currently three permit writers that are responsible for writing title V permits as well as processing construction permits, attending source inspections, reviewing source test reports, reviewing compliance reports, reviewing emission inventories and other miscellaneous duties. There are other staff that provide management, administrative, enforcement and accounting support to the title V program.

Each permit is accompanied by a statement of basis that explains the technical and legal basis for the permit.

### **Program Review Objective and Overview**

The EPA initiated title V program reviews in response to recommendations in a 2002 Office of Inspector General audit. The general objective of broader program reviews (as opposed to individual permit reviews) is to identify good practices that other agencies can learn from, document areas needing improvement and learn how the EPA can help improve state and local title V programs and expedite permitting.

The EPA set an aggressive initial national goal of reviewing all state and local title V programs with ten or more title V sources. Puget Sound was one of ten title V programs in Region 10 reviewed between 2004 and 2007. Here is the list of agencies in Region 10 reviewed in the first round along with the final report date and an approximate number of title V sources they regulated when reviewed:

<b><u>Permitting Authority (first round)</u></b>	<b><u>Report Date</u></b>	<b><u>Permits</u></b>
Idaho Department of Environmental Quality	January 2004	59
Oregon Department of Environmental Quality	June 2006	111
Lane Regional Air Protection Agency (OR)	June 2006	19
Spokane Regional Clean Air Agency (WA)	August 2006	10
Puget Sound Clean Air Agency (WA)	September 2006	35
Washington Department of Ecology	September 2006	27
Northwest Clean Air Agency (WA)	September 2006	21
Alaska Department of Environmental Conservation	September 2006	158
Olympic Region Clean Air Agency (WA)	September 2007	15
Southwest Clean Air Agency (WA)	September 2007	12

In response to a 2005 follow-up review by the Office of Inspector General, the EPA also committed to repeat the reviews of all title V programs with 20 or more title V sources every four years beginning in 2007. The original, second-round commitment covered each of the four state programs in Region 10 (Alaska, Idaho, Oregon and Washington) as well as two local agencies in Washington (Puget Sound Clean Air Agency and Northwest Clean Air Agency). In September 2016, we fulfilled that commitment and decided to continue second-round reviews for the remaining agencies that were reviewed in the first round but not yet reviewed for a second time.

Below is the list of agencies reviewed to date in the second round along with the final report date. All of the program review reports can be found on Region 10's air permitting website.<sup>1</sup>

<b><u>Permitting Authority (second round)</u></b>	<b><u>Report Date</u></b>
Idaho Department of Environmental Quality	September 2007
Puget Sound Clean Air Agency (WA)	September 2008
Northwest Clean Air Agency (WA)	September 2013
Washington Department of Ecology	September 2014
Alaska Department of Environmental Conservation	September 2015
Oregon Department of Environmental Quality	September 2016
Lane Regional Air Protection Agency (OR)	September 2017
Spokane Regional Clean Air Agency (WA)	November 2018
Southwest Clean Air Agency (WA)	November 2019
Olympic Region Clean Air Agency (WA)	September 2020

In the first round of title V program reviews, EPA covered all major elements of a title V program. After the first-round review report was final, EPA Region 10 asked the permitting agencies to provide a response stating how the agency planned on resolving Region 10's concerns. In the second round of program reviews, EPA focused on the issues identified in the previous round specific to each permitting agency to evaluate how that agency was implementing its permitting program. We also considered permit issuance progress, resources, compliance assurance monitoring (CAM)<sup>2</sup> and how permitting authorities have integrated new requirements and rules into their permits and program. After the second-round reviews, we again asked the permitting agency to explain how our concerns would be addressed. Because the focused approach used in the second round was both efficient and effective, the same approach has been used during this third round of review of Puget Sound's title V program.

<sup>1</sup> <https://www.epa.gov/caa-permitting/permit-program-reviews-epa-region-10>

<sup>2</sup> CAM is required to be added to the renewed title V permit for most sources.

To prepare for the review, EPA Region 10 sent an April 16, 2021, kickoff letter, requesting specific information from Puget Sound (Attachment 1). Region 10 reviewed Puget Sound’s emailed responses (Attachment 2) which included a staff list, financial records, and an update on the concerns raised in 2008. EPA Region 10 also reviewed the permit issuance data that Puget Sound reported semi-annually to the Title V Operating Permits System (Attachment 3) and a selection of recently issued title V permits written by a mix of permit writers. Permits that were issued more recently were intentionally selected for review to provide an accurate depiction of how Puget Sound’s permits are currently being issued. By selecting permits written by different permit writers, we were able to evaluate consistency across Puget Sound’s staff. The five permits reviewed are listed in the table below. We also reviewed six other permits for CAM purposes only; our review and comments regarding CAM are discussed in Section III of this report.

<u>Permit No.</u>	<u>Company Name &amp; Location</u>	<u>Date Issued</u>
10645	Frederickson Power LP	09/23/2010
10873	Franz Seattle Division – Weller St.	06/13/2012
10281	Nucor Steel Seattle, Inc.	10/29/2015
17771	Boeing Commercial Airplane Group - Frederickson	04/22/2020
29463	Carlisle Construction Materials, LLC	05/28/2021

A virtual conference was conducted with Puget Sound on June 14-15, 2021, during which EPA Region 10 staff interviewed Puget Sound permit writing staff, finance staff, and management. The purpose of the interviews was to clarify and discuss what was learned from the permit reviews and other information provided. The conference also included a discussion of permit issuance progress, program resources (and the fee program), general program implementation, and specific issues identified during the previous review of Puget Sound’s program.

### **Program Review Report Structure**

This program review report is presented in five main sections:

- I. Introduction
- II. Follow-up to 2008 2<sup>nd</sup> Round Program Review
- III. Compliance Assurance Monitoring
- IV. Additional Review
- V. Summary of Concerns

Section I presents background information regarding Puget Sound’s title V program as well as an overview of Region 10’s program review plan. Section II presents Region 10’s evaluation of Puget Sound’s progress in resolving concerns identified in the 2008 program review except for CAM. Section III presents Region 10’s review of Puget Sound’s implementation of the CAM program. Section IV presents additional observations from Region 10’s 2021 review of Puget Sound’s individual permits and other information provided. Finally, Section IV summarizes Region 10’s third-round concerns.

## **II. Evaluation of 2nd Round Program Review Progress**

EPA Region 10 evaluated the progress Puget Sound made in addressing the concerns identified in the second program review. In the initial title V program review, finalized in September 2006, Region 10 provided observations delineated into nine separate topic areas labeled A through I (Attachment 4). The second and third program reviews use the same labeling of identified concerns to maintain a consistency between the reports. Puget Sound responded to Region 10’s first and second program reviews in November 2006 and February of 2009, respectively,

explaining how they were going to address the concerns identified. To initiate the third-round review Puget Sound provided Region 10 with an update on implementation of the program and previously identified issues. Each of Region 10's concerns identified in the second-round report is described below (Attachment 5), followed by Puget Sound's 2009 response (Appendix A of Attachment 2), Puget Sound's 2021 update (Attachment 2), and Region 10's current (Round 3) evaluation.

### **Section A. Title V Permit Preparation and Content**

A-3 Background: In 2006, Region 10 identified language in permits that implied streamlining – that unit-specific monitoring supersedes facility-wide monitoring – without providing the appropriate streamlining justification or clarifying when the general monitoring is in fact superseded. Region 10 suggested that Puget Sound explain any streamlining in the statement of basis. Puget Sound initially agreed with the comments and to address this issue in their permits. Region 10 reiterated the concern in 2008, to which Puget Sound replied that their most recent permits reflect how they addressed this issue.

2009 Puget Sound Response: We agree with the comment. We received a similar comment in the previous review and have tried to improve the clarity of our permit language since then. The three permits that were identified in the review for improvement were drafted and in the last steps of their processing for public comment when the previous comment was received so they did not include our new language.

The permit cited as a better example (11656) was drafted after the last program review. We will continue to update our permits upon renewal and the feedback that one of our recent renewals has clear language is helpful.

2021 Puget Sound Update: We believe this is no longer a problem, given our work surrounding the previous program review and our recent permits. We believe the permit we cited in our response to the 2008 program review (11656) is a better indication of how this issue has been handled since 2008.

Our understanding is that if there are both facility-wide and unit-specific requirements in a permit, both apply unless one explicitly supersedes the other. For example, for Carlisle Construction (Permit No. 29463) our Reg 9.09 (PM limit on manufacturing equipment) is listed both in the facility-wide and the Hunter Panel specific sections. In the facility-wide section it is condition 1.3 which cites 1.14 and 5.11 as compliance methods. In the EU-specific section for the Hunter Panels, it is condition 2.4 and cites conditions 2.19, 2.20-2.22, and 5.11 as compliance methods. The Insulfoam Process does not have it as an EU specific requirement, since this unit is mainly a VOC source, not a PM source. But if it did have PM emissions, it would be covered by the facility-wide requirement.

Round 3 Evaluation: EPA reviewed five of Puget Sound's permits. Three of the permits have introductory language in Sections I.A and I.B that seem to suggest that certain general monitoring requirements (to assure compliance with facility-wide applicable requirements) are subsumed in some cases on a unit-specific basis. As explained in EPA's March 1996 guidance<sup>3</sup>, streamlining is appropriate if the permit authority determines, on a unit-by-unit basis, that the subsumed monitoring requirements are not critical to assuring compliance with the applicable requirement, (i.e., more stringent

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<sup>3</sup> See EPA March 5, 1996 EPA memorandum entitled, "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program" for explanation of permit streamlining.

“streamlined” monitoring requirements are in place to assure compliance). EPA’s April 2014 guidance<sup>4</sup> recommends that streamlining be explained in the statement of basis. The statements of basis for the three permits did not reference the implementation of streamlining. For the remaining two permits that EPA reviewed, introductory language in Sections I.A and I.B seemed to suggest that all Section 1.A general monitoring requirements apply without unit-specific exceptions. No streamlining was implemented; no general monitoring requirements were subsumed. When Puget Sound does undertake streamlining, EPA recommends that Puget Sound clearly identify in the permit streamlined conditions and subsumed requirements, and provide an explanation in the statement of basis.

## **Section C. Monitoring**

C-1 Background: In 2006, Region 10 noted that Puget Sound rarely enhances insufficient monitoring that exists in some underlying applicable requirements. Puget Sound responded noting that EPA’s monitoring rules and policies were being challenged in court, so they will track that. EPA pointed out in 2008 that the U.S. Court of Appeals vacated EPA’s 2006 interpretive rule that prohibited states from enhancing monitoring in title V permits, meaning that permitting authorities would be required to ensure that monitoring in permits is sufficient to assure compliance with the terms and conditions of the permit. In 2009, Puget Sound assured Region 10 that they were using their “gap-filling” authority to enhance permits pointing to some examples provided in their response to Previous Concern C.2.

2009 Puget Sound Response: We are pleased with the recent court decision that struck down the EPA rule that prohibited us from using gap filling authority for monitoring on state and federal rules which may not have adequate monitoring, recordkeeping, or reporting measure to adequately demonstrate compliance. We are committed to evaluating the monitoring, recordkeeping, and reporting requirements for all such standards.

We believe we have examples of permits reviewed by staff during this last review – 10028 (provisions which go beyond 40 CFR 60, Subpart GG) and 11656 (provisions which go beyond 40 CFR 60, Subpart CC) that show we are using this authority. We would always welcome feedback from EPA where the staff believes we have not included sufficient monitoring in a permit.

2021 Puget Sound Update: The August 2008 U.S. Court of Appeals decision, requires that all permits contain sufficient monitoring, recordkeeping and reporting requirements that assure compliance with the applicable requirements. Our response to the 2008 program review points to several examples of improvement in this area from the 2008-2009 timeframe, and we believe we made considerable progress on this issue at the time. We have only continued to advance this since then.

When appropriate, we do include monitoring provisions as needed to “gap-fill” underlying NOC orders of approval or Agency regulations. As more and more of our title V permits issued are renewals, rather than initial permits, we believe the need to introduce new gap filling requirements continues to decrease. However, there are still

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<sup>4</sup> See page 2 of Attachment 2 to April 30, 2104 EPA memorandum entitled, “Implementation Guidance on Annual Compliance Certification Reporting and Statement of Basis Requirements for Title V Operating Permits.”

some occasions where additional gap-filling conditions are appropriate. Recent examples of this are discussed in the list below (in response to concern C.2).

**Round 3 Evaluation:** Subsequent to the U.S. Court of Appeals August 2008 decision, EPA issued a response to title V petition (Number VI-2007-01) that summarizes the title V periodic monitoring requirements. The May 2009 EPA order states:

*In August 2008, the United States Court of Appeals for the District of Columbia Circuit emphasized that section 504(c) of the Act requires all title V permits to contain monitoring requirements to assure compliance with permit terms and conditions. Sierra Club v. EPA, 536 F.3d 673 (D.C. Cir. 2008); see also 40 C.F.R. §§ 70.6(a)(3)(i)(B) and 70.6(c)(1). This decision overturned EPA's interpretative rule, signed December 15, 2006, which had taken the position that permitting authorities were prohibited from adding monitoring requirements to title V permits where the applicable requirements contained some periodic monitoring, even if that periodic monitoring was not sufficient to assure compliance with permit terms and conditions. 71 Fed. Reg. 75422 (Dec. 15, 2006). The Court held that EPA's interpretative rule violated the statutory directive in Section 504(c) of the Act that each permit must include monitoring requirements to assure compliance with the permit terms and conditions. Sierra Club, 536 F.3d at 678. If an applicable requirement contains a periodic monitoring requirement that is inadequate to assure compliance with a term or condition of the title V permit, the Court concluded, title V of the Act requires that "somebody must fix these inadequate monitoring requirements." Id. at 678. The Court overturned EPA's interpretative rule, but found that EPA's current regulation at 40 C.F.R. § 70.6(c)(1) - requiring that each permit contain monitoring requirements sufficient to assure compliance with permit terms and conditions - may, and must, be interpreted consistent with the Act. Id. at 680.*

*To summarize, EPA's part 70 monitoring rules (40 C.F.R. §§ 70.6(a)(3)(i)(A) and (B) and 70.6(c)(1)) are designed to satisfy the statutory requirement that "[e]ach permit issued under [title V] shall set forth . . . monitoring . . . requirements to assure compliance with the permit terms and conditions." CAA § 504(c). As a general matter, permitting authorities must take three steps to satisfy the monitoring requirements in EPA's part 70 regulations. First, under 40 C.F.R. § 70.6(a)(3)(i)(A), permitting authorities must ensure that monitoring requirements contained in applicable requirements are properly incorporated into the title V permit. Second, if the applicable requirement contains no periodic monitoring, permitting authorities must add "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit." 40 C.F.R. § 70.6(a)(3)(i)(B). Third, if there is some periodic monitoring in the applicable requirement, but that monitoring is not sufficient to assure compliance with permit terms and conditions, permitting authorities must supplement monitoring to assure such compliance. 40 C.F.R. § 70.6(c)(1). EPA notes that periodic monitoring that meets the requirements of 40 C.F.R. § 70.6(a)(3)(i)(B) will be sufficient to satisfy the requirements of 40 C.F.R. § 70.6(c)(1) (i.e., will be sufficient to assure compliance with permit terms and conditions)...*

*In all cases, the rationale for the selected monitoring requirements must be clear and documented in the permit record. 40 C.F.R. § 70.7(a)(5).*

In the permits reviewed, Puget Sound on several occasions developed monitoring requirements when the underlying applicable emission limitation or work practice standard was not accompanied with monitoring. In each instance, Puget Sound correctly cited its gap filling authority in WAC 173-401-615(1)(b) as the legal basis for the

monitoring requirement. Conversely, Puget Sound rarely identified existing monitoring insufficient to assure compliance with an emission limitation or work practice standard. Puget Sound is obligated to identify and enhance such monitoring pursuant to WAC 173-401-630(1). On one occasion, Puget Sound attempted to augment existing, but insufficient, monitoring by developing language specifying how to calculate hourly mass emission rates. In citing the authority for the enhanced monitoring requirement, Puget Sound only referenced the underlying inadequate construction permit. Puget Sound should also cite WAC 173-401-630(1). Consistently citing the appropriate authority in future permits might avoid future questions and challenges.

C-2 Background: In 2006, Region 10 said that Puget Sound should ensure the monitoring parameters and ranges relied upon in permits accurately represent source performance and compliance. Puget Sound initially responded that they think their permits are adequate and offered to poll other agencies before creating a plan to address this concern. In 2008, Region 10 reiterated the concern that for each applicable requirement in the permit, permitting agencies must include monitoring, recordkeeping and reporting that assures compliance; such monitoring must be clear, enforceable and explained in the statement of basis; including the monitoring range (or maximum or minimum value). This is important towards providing clarity and enforceability in the permit. In 2009, Puget Sound shared the results of their poll and countered that there have been no enforcement issues related to this concern about their permits and that reopening permits to make the required changes would create an unnecessary administrative burden.

2009 Puget Sound Response: The summary comment on this issue suggests that EPA's concern on this topic is based on a perception of impaired enforceability when an actual parameter value is not included in the permit. The evaluation notes from this review state "when the range is mandated by applicable requirements, it must be included in the permit". However, it also continues on to state, "There are always exceptions to EPA's position; permitting authorities should use their judgement to establish monitoring, recordkeeping, and reporting that assures compliance for their sources." We take the summary comment as the key to this concern.

We find that we have experienced no problems with enforceability using our current approach to permit terms. In our previous response to this concern we noted that there is no enforceability problem when the parameters are merely indicators of operation & maintenance performance. We also responded that we would consider this issue for parameters which equate to actual emission limits for enforcement after further review. Based on our review of the issue and our enforcement experience since the last program review, our conclusion is to not make any changes to our permits with respect to this issue.

As an example of how this issue is practically implemented, we ask you to consider the Portland Cement NESHAP regulation. As this rule is implemented a recurring performance test for dioxin emissions is required and may be initiated at any other time by the source. The average inlet temperature to the air pollution equipment established during the last performance test demonstrating compliance becomes the required parameter which must be monitored. Our permits identify this requirement from the rule, to include the citation for establishing this temperature value. Once the temperature is set, any period which the average temperature exceeds that test based value is established to be a dioxin emission limit.

We have never put the actual temperature into the operating permit, however we have taken effective enforcement action for dioxin emission violations based on temperature exceedances at Lafarge.

In addition, the opening of the permit to include the temperature creates an unnecessary administrative burden. For one of our sources, eight different performance tests have been completed during the permit term. The enforceable temperature for NESHAP compliance changed twice in the last six months. Additional time spent on permit modifications to address this will only exacerbate our problem with timely permit renewals.

2021 Puget Sound Update: Our response to the 2008 program review points to several examples of improvement in this area from the 2008-2009 timeframe, and we believe we made considerable progress on this issue at the time. We have only continued to advance since then.

When appropriate, we do include monitoring provisions as needed to “gap-fill” underlying NOC orders of approval or Agency regulations. As more and more of our title V permits issued are renewals, rather than initial permits, we believe the need to introduce new gap filling requirements continues to decrease. However, there are still some occasions where additional gap-filling conditions are appropriate. Recent examples of this are discussed in the list below.

Additionally, it is now common practice to include the method for creating a range of operating parameters in permits. Several examples of this are given in the list below.

- Kenworth AOP (17796) has procedures for setting pressure drop across the spray booth starting on pg. 27.
- Vigor AOP (12539) has a procedure for setting pressure drop reading, but consistent with NOCs and not gap-filling – based on manufacturer recommendations or good air pollution practices to minimize emissions (pressure drop for abrasive blast and spray coating filters)
- The Boeing Frederickson AOP (17771) contains procedures for setting pressure drop range for spray booths, on page 85. Page 92 has similar procedures for setting pressure drop range for a dust collector. Starting on page 93 are the details on scrubber inspections, which is all gap-filling. Similarly, page 27 of the statement of basis discusses setting a range from scrubber. Also page 25, Section 6.5.2.4 talks about adding testing and monitoring but ties back to NOC order of approval and recognizes that it is similar but beyond NESHAP.
- The Carlisle permit (29463) contains permit conditions related to gap-filling and for establishing operating ranges for the regenerative thermal oxidizer and dust collector in Conditions 2.15, 2.16, and 2.19.

Our permits since the last program review show that we are consistently addressing the issues of establishing operating ranges and including gap-filling conditions.

Round 3 Evaluation: Two of the permits EPA reviewed did not contain language that required compliance with parameter ranges, and therefore this concern was not applicable. One of the permits did appear to include procedures for establishing appropriate monitoring ranges and thresholds. Specifically, for frequently replaced filters, Puget Sound specifies the method for establishing the acceptable range and requires the

range to be either labeled on the pressure drop log sheets, posted on or nearby the pressure drop gauge, or shown on an electronic display screen. This provides a practical alternative to frequently reopening permits to add ranges. The other two permits reviewed lacked parameter ranges. Puget Sound must include parameter ranges within the permits and also include a discussion in the statement of basis regarding test results, associated parameter values, and how operating in alignment with parameter values assures compliance with the underlying limit. For further discussion on the need to include parameters ranges in title V permits, see May 20, 1999 EPA guidance<sup>5</sup>.

C-3 Background: In 2006, Region 10 suggested that Puget Sound consider adding specific reference method testing where appropriate and consider the use of “automated” test requirements when periodic monitoring indicates it is warranted. Puget Sound responded by assuring EPA that adequate testing is required in the permits. In 2008, Region 10 again pointed out where automated testing using RM9 would be useful. In their 2009 update, Puget Sound explained that their permits include the testing option only if the source is not brought back into compliance, a goal of the agency, adding that they can also require additional testing whenever needed.

2009 Puget Sound Response: We concur with the principle that periodic monitoring is used to demonstrate compliance with applicable requirements, but the example cited in this review (11820) discussed a visible emission monitoring provision which requires a source to either repair the problem or complete a reference method visible emission observation to determine compliance.

For emission units that normally do not have visible emissions, our goal is for the source to fix the problem in 24-hours to reach the no visible emissions criteria or shut the emission unit down. They can also choose to perform a reference method visible emission observation to demonstrate compliance. Our objective is not to require reference method test, rather it is to have the source recognize that an emission unit which normally does not have visible emissions needs to be repaired when visible emissions are observed.

2021 Puget Sound Update: Our permits generally state what action is triggered by potential non-compliance. This could take the form of a mandatory notice to the Agency, inclusion in a deviation report, triggering of a corrective action, or testing using a specific test method. As was noted in our reply to the 2008 program review, the permit cited in that review required correction of the problem within 24 hours, or a visible emissions test. Puget Sound believes that these are appropriate choices to quickly bring the unit back into compliance.

Furthermore, if the Agency suspects further non-compliance, Puget Sound Regulation I, 3.05(b), allows for the Agency to conduct or order the source to conduct a source test. This is generally included in the permits we issue, such as in Condition 5.11 of the Carlisle Construction permit (29463).

Round 3 Evaluation: For four of the permits reviewed, monitoring to verify compliance with PM emission limits was required through the performance of a Reference Method 9 visible emissions observation. In one of the four permits, Puget Sound includes a condition stating that the agency has the authority to require the permittee to conduct a source test. This is a step in the right direction, but the condition is still not a testing

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<sup>5</sup> See May 20, 1999 EPA letter to STAPPA/ALAPCO. Specifically, see Item C-3 in Enclosure B to the letter entitled, “EPA Response to STAPPA/ALAPCO Recommendations on MACT/Title V Interface Issues.”

requirement. An alternative is to develop a permit condition that specifies under what circumstances a compliance test (Reference Method 5 for PM) is required. A good alternative to testing can be found in one of the reviewed permits which requires the emissions unit to shut down if the pressure drop value goes out of range or if the scheduled maintenance is not preformed. As stated previously by Region 10 in 2008, the addition of compliance verification tests when potential compliance issues cannot be resolved quickly is a good use of the permit; however, Puget Sound should be more clear that the verification testing must be done and utilize testing that fits the underlying requirement.

## **Section E. Permit Issuance / Revision / Renewal**

E-1 Background: At the time of the initial part 70 program review in 2006, Puget Sound had numerous unprocessed permit applications including initials, renewals, and modifications that were past their regulatory deadlines. Puget Sound responded by developing and implementing a permitting tracking tool that would help bring the backlog back on track by the end of that year in 2006. In the 2008 program review, EPA continued to remain concerned regarding Puget Sound's permit issuance rate as the backlog continued to persist at that time. See also previous EPA concerns G-1 and G-2, which will be addressed here.

2009 Puget Sound Response: We agree with this comment and have continued to struggle with this permit renewal issue. One of the most significant problems we have had in recent years is the timing on issuance of NSPS and NESHAPS standards. It has been our experience that many of the renewals have been held up pending final EPA rulemaking on such standards.

The EPA rulemaking is not the only issue however. We are working on managing the competing work assignments for our staff in different ways, to include scheduling dedicated time for the staff solely for operating permit document development. We are also pursuing the option for contracted engineering support to help with some of the bottlenecked activities which have contributed to our backlog of renewals.

Our current efforts to improve this work will lead to the publication of 6 draft permits published for comment by the end of June 2009, an additional 8 draft permits published for comment by December 2009, and the rest of the outstanding permits to be published for draft by June 2010. This will return us to a regular renewal schedule and keep the future renewal work on an even basis through the third round for most of these permits.

2021 Puget Sound Update: The Agency has not made great progress in improving its operating permit issuance rates. The numbers of permits issued from 2009 through 2021 are given in the table below.

Year	Initial, Renewal, or Significantly Modified AOPs issued
2009	0
2010	3
2011	1
2012	2
2013	0
2014	0
2015	1
2016	2
2017	2
2018	0
2019	1
2020	1
2021	1

The barriers that the Agency has noted as hindering permit issuance in previous program reviews continue to exist. These include workload related to the Notice of Construction permitting program, as well as the review of reports from both Title V and non-Title V facilities. A more recent concern has been the departure of three engineers from the group between September 2020 and May 2021; however, the backlog certainly predates this.

The Agency has several steps to which it is committing in order to reduce this backlog.

- The majority of the Senior Engineer’s (Carole Cenci) time will be spent on title V permitting. Carole stepped into the Senior Engineer role in July 2020, with the intention of working primarily on title V permitting. Since then, much of Carole’s time has been consumed with litigation related to previously issued Notice of Construction permits. However, with most of this litigation behind us, we expect Carole to be able to spend more time on operating permits.
- The Agency has recently made an offer of employment to an experienced title V permit writer from another state’s environmental agency. We commit to allocating the majority of his time to title V permit writing.
- The Agency is looking into the feasibility of explicitly including requirements for title V permit issuance into engineers’ performance review criteria.

Round 3 Evaluation: According to TOPS, at the end of 2020, Puget Sound had eight outstanding initial permit applications and 18 permits that had been administratively extended and had not yet been renewed. Puget Sound provided EPA with a staffing summary, a financial report, and an explanation for the backlog (see Attachment 2). During our interview, Puget Sound management stated that they do not think that current funding levels are a contributing factor to the backlog and that raising their fees would

not mean that more time would be spent on the title V program. They believe that the Notice of Construction and Registration programs are the source of contention as those programs are very time sensitive and are usually made a priority over other work. Puget Sound is hiring two additional engineers as well as reallocating the time of two current staff members to focus solely on the title V permit issuance issue. EPA still maintains that Puget Sound must get their backlog of permits issued, whether that takes hiring more staff or reallocation of additional permit writer workload to be exclusively writing title V permits.

Puget Sound is an outlier compared to other title V permit authorities in Region 10 with respect to its inability to issue timely title V permits. Based upon information provided by Puget Sound (Attachment 2) for period July 1, 2019 through June 30, 2020, Puget Sound outspent its title v fee revenue by \$114,000 while issuing one title v permit. This would suggest that Puget Sound is inadequately resourced and/or inefficiently processing title V applications. At the conclusion of that same time period, Puget Sound held approximately one year's worth of title V fee revenue (\$1.6M) in reserve. This suggests Puget Sound is not utilizing its resources appropriately. EPA is unable at this time to either support or refute Puget Sound's suggestion that current funding levels are not a contributing factor to the permit backlog. Region 10 generally thinks that raising fees could result in more time spent on title V permit issuance.

## **Section G. Resources and Internal Management Support**

G-2 Background: In the 2006 program review, EPA identified that half of the 6-person team of permitting engineering staff would be retiring and requested to know how Puget Sound would resolve this issue. Puget Sound hired two additional engineers in anticipation of the two retiring engineers and believed that this would be adequate for the Agency's staffing levels. In the 2008 program review, EPA continued to have concerns regarding Puget Sound's permitting staff levels as the Puget Sound had a large backlog of unissued permits and the staffing levels could have been a contributing factor to the Agency's permitting backlog.

2009 Puget Sound Response: Puget Sound addressed this indirectly in their response to EPA's concerns about permit issuance rates (see E.1 for full text):

The EPA rulemaking is not the only issue however. We are working on managing the competing work assignments for our staff in different ways, to include scheduling dedicated time for the staff solely for operating permit document development. We are also pursuing the option for contracted engineering support to help with some of the bottlenecked activities which have contributed to our backlog of renewals.

2021 Puget Sound Update: Puget Sound included this response as a part of their Section E.1 update.

Round 3 Evaluation: See EPA response in Section E.1.

G-3 Background: In the 2006 program review, EPA identified that Puget Sound had a backlog of permit renewal, modifications, and reopening. Puget Sound responded by shortening the internal review process for operating permit documents to streamline their processing. Progress on this was observed through Puget Sound's TOPS submissions to EPA over the subsequent years.

2009 Puget Sound Response: Puget Sound addressed this indirectly in their response to EPA's concerns about permit issuance rates (see E.1 for full text):

Our current efforts to improve this work will lead to the publication of 6 draft permits published for comment by the end of June 2009, an additional 8 draft permits published for comment by December 2009, and the rest of the outstanding permits to be published for draft by June 2010. This will return us to a regular renewal schedule and keep the future renewal work on an even basis through the third round for most of these permits.

2021 Puget Sound Update: Puget Sound included this response as a part of their Section E.1 update.

Round 3 Evaluation: See EPA response in Section E.1.

## **Section I. Document Review (Rules/Forms/Guidance)**

I-1 Background: In the 2006 program review, EPA informed Puget Sound that they needed to submit rule revisions to EPA for review and approval. Puget Sound responded by stating that they would do so with all changes going forward. In the 2008 program review, EPA identified a Part 70 rule update that had not yet been adopted into Puget Sound's rules and that Puget Sound hadn't submitted the rule updates to EPA for review and approval.

2009 Puget Sound Response: Enclosed are our current Operating Permit rules. Our rule changes since 2002 have been program fee updates (2003, 2004, and 2008) and inclusion of a new provision adopted in September 2008 to clarify compliance report "submittal" dates.

This review report suggests that there have been changes to 40 CFR Part 70 which should be reviewed and considered for updating of our regulations. That suggestion should be directed to the Washington Department of Ecology as everyone in the state is implementing the operating permit program approved by EPA through the adoption of WAC 173-401. Changes to Part 70, if applicable, should appear in WAC 173-401.

2021 Puget Sound Update: The Agency's regulations related to operating permits are in Puget Sound Regulation I, Article 7. There are a handful of regulations that are unique to the Agency, but most of the applicable rules are simply adoptions by reference of the Washington Department of Ecology's state-wide regulations in Chapter 173-401 of the Washington Administrative Code (WAC). Our response covers only changes to the Agency's Regulation I, Article 7, not changes in the WAC.

- Regulation I, Section 7.07, concerns operating permit fees. Since January 2003, this section has been changed in 2003, 2004, 2008, 2012, and 2013.
- Regulation I, Section 7.09, concerns annual emission reporting requirements for title V sources. These emissions data are collected both for emissions inventory purposes and for title V fee purposes. Since 2003, this section has been changed in 2008 and 2013.

The current text of Sections 7.07 and 7.09, including a list of dates on which they have been modified, is located on the Agency's website at <https://www.pscleanair.gov/DocumentCenter/View/340/1-7-PDF?bidId=>.

These rule changes have not been submitted to Region 10 for approval. Our understanding is that emissions fees and emissions reporting rules do not need to be approved by EPA.

Puget Sound is not aware of any title V-related rules that it has changed in recent years that would require EPA approval.

Round 3 Evaluation: EPA agrees that changes to emission fees and emissions reporting rules do not require EPA approval. EPA considers this concern resolved until the following part 70 program review.

- I-2 Background: In the 2006 program review, EPA found that Puget Sound was using a “short form” for compliance certifications that was believed to be insufficient regarding listing each term or condition that the certification was being based on. Upon further review, EPA accepted that Puget Sound’s “short form” can be acceptable, however, there were still concerns about Puget Sound’s annual compliance certification forms.

2009 Puget Sound Response: The comment identified the concern that the Responsible Official has no place to certify intermittent compliance for deviations which were not addressed by a deviation report listed in Section II of the form. We do not view the annual compliance certification process as a substitute for the deviation reporting requirements under the permit. Any deviation discovered by the source at the point of preparing the annual compliance certification may report on it on a deviation report submitted at the same time as the annual compliance certification, with the new deviation report listed in Section II of the form.

2021 Puget Sound Update: Puget Sound believes the combination of deviation reporting, semiannual reporting, annual compliance certifications, and regular inspections are more than adequate to assure compliance with facility’s title V permit requirements. As we stated in our response to the 2008 program review, the requirement to report all deviations from compliance with any permit condition already applies to all title V sources.

We have added forms for semi-annual certification, annual compliance certification, and deviation reporting to our forms library on our website at <https://www.pscleanair.gov/301/Forms>.

Puget Sound’s compliance certification form is consistent with those use by many other jurisdictions, and we are not aware of any difference in compliance rates in jurisdictions that use longer compliance certification forms versus shorter forms.

Round 3 Evaluation: Puget Sound has added the semi-annual certification, annual compliance certification, and deviation reporting forms to their online forms documents page. EPA still encourages Puget Sound to use the annual compliance certification long form but will consider this concern resolved.

### **III. Compliance Assurance Monitoring**

This section of the third-round program review report presents Region 10’s evaluation of Puget Sound’s implementation of the CAM program. CAM, found in 40 CFR Part 64 and referenced in WAC 173-401-615(4), remains an important focus for Region 10’s oversight work for several reasons. CAM is required to be applied in the initial permit for sources with “large” pollutant-specific emission units and in the first renewal for all other emission units. Most pollutant-

specific emission units are not large, so CAM has been primarily implemented during the renewal phase of the title V program. Region 10 had a rigorous permit oversight program in the early years of title V. By the time state and local agencies were issuing renewal permits, Region 10 had scaled back its oversight program substantially and, in fact, reviewed very few permits that addressed CAM. Beginning in fiscal year 2013, Region 10 began to review a small percentage of state/local renewal permits to see how CAM was being addressed. A consistent lack of documentation regarding CAM applicability and monitoring decisions in statements of basis was discovered. Logically, Region 10 has been specifically reviewing how CAM is addressed in permits as part of the Part 70 program reviews.

Background: In the 2008 program review, Region 10 reviewed four renewal permits for CAM (see Attachment 5 for details). None of the permits reviewed contained a thorough applicability analysis and none of the permits with CAM contained a good justification for the monitoring in the permit. (See Attachment 5 for details.)

2009 Puget Sound Response: We appreciate the feedback in this area and believe that we can make improvements in our future permit renewals to address these concerns. It would help us to make the improvements you suggest if you could provide examples of Title V permits (either a Part 70 issued by a state or local agency or a Part 71 permit issued by EPA) which you feel best illustrate the principles presented in your review.

The detailed review comments suggest that we should modify the three permit documents that your staff reviewed with respect to the CAM issues. While we agree that we could document our decisions differently and more clearly, we do not believe that we made any errors in those permits with respect to CAM applicability and monitoring. We do not believe reopening the permits would be a good use of resources in light of our permit backlog work discussed above.

2021 Puget Sound Update: We believe we have made considerable progress on this issue. Our statements of basis now include a thorough discussion of CAM applicability.

One example of this is the Carlisle permit, number 29463. Page 5 of the Statement of Basis discusses why CAM does apply to multiple units at the facility. The permit itself then contains the contents of the facility's CAM plan.

In the Statement of Basis for Boeing Frederickson (permit number 17771), CAM applicability was discussed in detail for the various emissions units. In this case, CAM was not required.

The Statement of Basis for Kenworth (permit number 17796) also has an in-depth discussion of CAM applicability.

Additionally, our new application form requires the applicant to identify whether the unit is subject to CAM. (See <https://www.pscleanair.gov/DocumentCenter/View/4426/AOP-Renewal-Application>.)

We believe we have made good progress on this issue, both in terms of evaluating CAM applicability in the Statement of Basis and of including CAM plans in permits where applicable.

Round 3 Evaluation: Because none of the four permits reviewed in 2008 has been renewed since then, Region 10 reviewed eleven other permits to assess Puget Sound's implementation of CAM. In addition to the all-around review of the five permits listed in Section I, EPA reviewed the following six permits exclusively for CAM:

<u>Permit No.</u>	<u>Company Name &amp; Location</u>	<u>Date Issued</u>
10762	Toray Composites Materials America, Inc.	01/17/2017
12048	Arclin Surfaces, LLC	04/20/2016
12539	Vigor Shipyards, Inc.	08/25/2016
13125	Boeing Commercial Airplanes Renton	02/11/2017
17796	Kenworth Truck Company Renton	01/16/2019
21468	Rexam Beverage Can Co.	08/25/2010

*CAM-1 Applicability – Minimum Analysis for all Permitting Actions*

Of these eleven permits that were reviewed, two of them did not contain any discussion of CAM applicability in the statement of basis. For the remaining nine permits that were reviewed, there was a varying level of analysis within the statements of basis with some containing more information about the facilities’ applicability than others. In those cases where Puget Sound simply referred to the analysis performed by the permittee, Puget Sound failed to include the analysis to the statement of basis. In general, it would be good to see all permits address applicability whether or not the rule applies. A short general CAM introductory paragraph followed by the facility-specific applicability analysis would be ideal.

*CAM-2 Applicability – Summary Table*

Of the eleven permits that were reviewed, ten regulated at least one emission unit that used a control device to comply with an emission limitation or standard. Of the ten permits, only one of the statements of basis provided a succinct summary of applicability in tabular format similar to the following:

EU ID	Pollutant	Pre-Control PTE (tpy)	Post-Control PTE (tpy)	Control Device	Emission Limit	Compliance Demonstration	Regulatory Citation

Consider crafting such a table in the statement of basis when at least one emission unit is using a control device to achieve compliance. Each row is dedicated to an emission limitation or standard for a pollutant (or surrogate thereof) whereby compliance is achieved through use of the control device.

*CAM-3 Applicability – Making Emission Inventories Readily Accessible*

For all eleven permits reviewed, no statements of basis provided the pre- and post-control PTE emission inventories to support the CAM applicability analysis. Attaching to the statement of basis the pre- and post-control PTE inventories (drafted either by the permittee or Puget Sound) is a best practice that enables the public to more meaningfully review the basis for applicability (based upon pre-control PTE) and the basis for permit monitoring conditions specifying minimum data collection frequency (based upon post-control PTE). In one of the permits reviewed, the actual calculation of what Puget Sound referred to as pre-control emissions was presented in the statement of basis to illustrate its CAM applicability determination for an emission unit. Upon review of the calculation, EPA determined that post-control (not pre-control) emissions were calculated using an applicable emission limit as the emission factor for the control device. All calculations used to assess CAM applicability should be readily available to the public.

*CAM-4 Applicability – The Forms of Emission Limitations and Standards*

In one of the eleven permits reviewed, Puget Sound was presented with the challenge of correctly determining that minimum emissions capture efficiency and minimum destruction

removal efficiency requirements are “emission limitations or standards” as that term is defined in 40 CFR 64.1. CAM applies to emission limitations or standards. Puget Sound erroneously did not apply CAM to the capture and control requirements.

*CAM-5 Applicability – Visible Emission Limits are Surrogates for PM Limits*

In three of the eleven permits reviewed, Puget Sound was presented with the challenge of correctly determining that an emission unit is subject to CAM for at least one visible emissions limit. Pursuant to 40 CFR 64.2(a)(1), CAM applies to emission limits for the applicable regulated pollutant *or a surrogate thereof*. A limitation on visible emissions through an opacity standard is a limitation on PM/PM10/PM2.5 emissions. In each of the two permits, Puget Sound erroneously did not apply CAM to the visible emissions limits. For the permit identified in concern CA-2 as having a statement of basis with a succinct summary of CAM applicability, Puget Sound erroneously did not recognize visible emission limits as CAM-eligible.

*CAM-6 Applicability – Emission Limitations or Standards for PM are CAM-Eligible*

In one of the permits reviewed, Puget Sound did not perform a CAM analysis for a grain loading standard because the agency incorrectly interpreted the regulations to mean that PM was not a CAM-eligible pollutant. Emission limitations or standards for PM are CAM-eligible.

*CAM-7 Applicability – Multi-Unit Emission Limits*

In one of the eleven permits reviewed, a tpy emission limit applies to multiple emission units. The limit caps emissions across more than one unit. In this one instance, Puget Sound applied CAM across multiple units to assure compliance with the emissions cap. No emission unit under the cap was assigned a unit-specific tpy emissions allowance. Each unit’s emissions are dependent upon its operating rate and control device effectiveness to reduce emissions. The degree of control device effectiveness necessary to assure compliance with the multi-unit cap depends not only upon an individual unit’s operating rate but also upon operating rates and control device effectiveness for all the other units under the cap. It is not appropriate to apply CAM (establish control device parameter operating ranges) when it is not clear the degree of emissions reduction necessary to assure compliance with a multi-unit emissions limit.

*CAM-8 Applicability – Exemption from CAM for Limits/Standards with Continuous Compliance Determination Method*

In two of the eleven permits reviewed, Puget Sound exercised the exemption in 40 CFR 64.2(b)(1)(vi) applicable to emission limitations/standards for which a continuous compliance determination method already applies. In the two permitting actions, Puget Sound misapplied the exemption in different ways for several emission limits/standards for different pollutants. Puget Sound erroneously did not apply CAM to the emission limitations/standards in question.

*CAM-9 Applicability – Exemption from CAM for NESHAP Limits/Standards*

In one of the eleven permits reviewed, Puget Sound was presented with the challenge of correctly determining that while emission limitations or standards from a post-1990 NESHAP are exempt from CAM pursuant to 40 CFR 64.2(b)(1)(i), other emission limitations applicable to the emission unit are not exempt from CAM. In the permitting action, Puget Sound misapplied the exemption and erroneously did not apply CAM to the emission limitations/standards in question.

*CAM-10 Monitoring Approval – Making CAM Plan Part of Statement of Basis*

In two of the eleven permits reviewed, Puget Sound determined that CAM applied to at least one emission unit. In each case, Puget Sound relied heavily upon material in the permittee’s CAM plan to support its approval of the proposed monitoring. Puget Sound’s CAM analysis presented

in the statement of basis lacked the detail provided in the permittee's CAM plan. Puget Sound did not attach a copy of the permittee's CAM plan to either of the two statements of basis. It would be helpful to see the permittee's CAM plan if Puget Sound refers to it in explaining its CAM determination.

#### *CAM-11 Monitoring Approval – Inserting Indicator Values into Permit*

In two of the eleven permits reviewed, Puget Sound determined that CAM applied to at least one emission unit. The facility is required to take corrective action upon detection of an excursion. A CAM indicator is outside of its acceptable range. Neither of the two permits identified the actual acceptable range. If the range has been established, the permit needs to identify the actual range as discussed above with respect to concern C-2. In addition, the statement of basis should include a discussion explaining how the value was derived and how operating in alignment with this parameter value assures compliance with the underlying emission limit.

#### *CAM-12 Monitoring Approval – Permit Content*

In two of the eleven permits reviewed, Puget Sound determined that CAM applied to at least one emission unit. In both of the permits, some conditions paraphrase language from 40 CFR 64.7. In those instances, it is unclear if the permit language or the underlying referenced regulation are enforceable. If only the permit language is enforceable (which seems to be the case given the WAC 173-401-640(1) "permit shield" language in the permit), Puget Sound should explain in the statement of basis why it chose to refrain from inserting the applicable CAM language into the permit.

#### *CAM-13 Monitoring Approval – Revisiting a Monitoring Approval*

In one (a renewal) of the eleven permits, PM<sub>10</sub> emissions from a couple of units are limited to very low concentrations. The PM<sub>10</sub> limits are subject to CAM as baghouses are used to achieve compliance with the limits. CAM requires daily visible emissions observations and corrective action should any visible emissions be observed. It is uncertain whether the human eye can detect PM concentrations at the low levels of the emission limits. Pursuant to 40 CFR 64.3(a)(2), operating within the range for the selected indicators must provide a reasonable assurance of compliance with the emission limitation/standard. The statement of basis provides no evidence that Puget Sound considered triboelectric detectors as a compliance monitoring option. These systems can detect PM concentrations around the very low levels of the emission limits. If, while processing a title V renewal application, a permit authority determines that a prior CAM approval is not supported, it is appropriate at that time to request the permittee to submit a new CAM plan.

## **IV. Additional Review**

This section of the third-round program review report presents Region 10's evaluation of Puget Sound's financials and other concerns identified during the individual permit reviews. This section also offers a few suggestions for improving the agency's statements of basis and highlights several concerns not previously identified in 2006 or 2008.

### **Financials**

In addition to reviewing concerns identified in the second review, Region 10 requested an update about program resources and permit issuance progress. In reviewing the agency's permit issuance progress and resources, including their fee program and staffing, we learn how the title V program is being managed. Permit issuance problems, namely large backlogs of unissued permits, are often linked to a lack of resources. Puget Sound reports their permit issuance

progress semiannually. That data indicates Puget Sound's backlog had eight outstanding initial permit applications and eighteen permits that had expired and had not yet been renewed.

Puget Sound provided Region 10 with recent budget data. Puget Sound uses generally accepted accounting principles (GAAP) account to accruing expenses and revenues to the period in which it was incurred or earned. All of the transactions are processed in a fund accounting system which tracks each source of funds and their respective approved expenses separately. Puget Sound's financial statements are audited by the Washington State's auditor's office and the latest report that was issued in March of 2021 found no significant findings.<sup>6</sup> Puget Sound charges fees on a calendar year basis and the Agency's fiscal year runs from July until June. Puget Sound plans every year to hold approximately 50% of the calendar year fees in the reserve at the end of the fiscal year and they also plan a stabilization target which is set at 25% of the annual operating costs. This system seems to work in allowing the agency a lot of flexibility of determining their fees and expenses.

Puget Sound is staffed with a range of experienced and new staff. Engineers are assigned to specific programs which can include construction permits, asbestos program, air operating permits and others. Staff retention seems adequate at the agency.

Puget Sound appears to manage their fees and expenses adequately. They did have a deficit year for FY2020, however, the manner in which the Agency collects fees and monitors it's bank account's monetary reserves allows them to balance out the peaks and valleys of being in a deficit or a surplus year. Irrespective of the permit backlog, Region 10 has no concerns about Puget Sound's management of their resources.

### **New Suggestions**

After reviewing the five permits noted in Section I of this report, Region 10 has the following three new suggestions for Puget Sound on how to improve title V permit writing:

1. Regarding Puget Sound's incorporation of new requirements, Region 10 thinks it is a good practice to add a section to the statement of basis that describes the new applicable requirements that are being added to a renewal permit. Including a broader-scoped section that describes all changes to the permit (in this renewal) would also be good and could encompass the new applicable requirements. Puget Sound's statement of basis did not have a section that described the changes or even the new applicable requirements. Puget Sound should consider adding one.
2. Statements of basis reviewed consistently presented facility-wide actual emissions and rarely presented potential emissions. The emissions inventory (breakdown of emissions on a unit-by-unit basis), however, was never provided. Documentation of emissions estimations in the statement of basis is important, because they support applicability decisions and reflect important details about the operations (at the emission estimation level).
3. Region 10 reorganized, changing our office and unit structure into a division, branch and section structure. This changed our mailing addresses. Where Puget Sound includes the address in permits for mailing copies of certain documents to Region 10, the permits should be revised accordingly. Region 10 can supply the new addresses if needed.

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<sup>6</sup> <https://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?arn=1027908&isFinding=false&sp=false>

## New Concerns

After reviewing the five permits noted in Section I of this report, Region 10 has the following ten new concerns about Puget Sound's title V permit writing practices:

1. In the five reviewed permits, Section I includes a statement about "state-only" provisions for the case where a regulation has not yet been approved into the SIP. The approach that allows the newly SIP-approved requirements to automatically become effective making the previous requirement obsolete is an efficient approach to permit writing. If there is a way to notify the source and public when that happens, possibly on Puget Sound's website, would be good. There is also a brief note in Section I about local provisions applying if they are not in the SIP, but there was no obvious discussion of state-only provisions like odors, nuisance or state/local air toxics requirements. That might be useful.
2. In the five reviewed permits, Section II of the permit is titled, "Monitoring, Maintenance and Recordkeeping Methods." Generally, it is best to separate maintenance requirements from monitoring, recordkeeping and reporting (MRR) requirements because it is considered a work practice standard. It is appropriate to require MRR requirements to document and confirm maintenance; it is also appropriate to require maintenance when monitoring identifies the need for it.
3. In four of the five reviewed permits, the permit contains fuel sulfur content, stack sulfur dioxide concentration and stack hydrogen chloride limitations that have no monitoring. That is not uncommon, but the basis for the assumption that the source will always be in compliance (such that no monitoring is necessary) should be in the statement of basis with calculations where needed.
4. In the five reviewed permits, neither the permit nor the statement of basis presents a concise listing of all emission units that includes basic information such as emission unit ID, description and associated control device. Presenting such information in a table as a quick reference would improve the readability of the documents.
5. In the five reviewed permits, it would appear that the facility's O&M Plan is not explicitly required to include the six elements specified at Puget Sound Regulation I, Section 7.09(b) because that portion of the underlying regulation was neither stated nor referred to in the permit condition. If only the permit language is enforceable (which seems to be the case given the WAC 173-401-640(1) "permit shield" language in the permit), Puget Sound should explain in the statement of basis why it chose to refrain from inserting the applicable regulatory O&M language into the permit.
6. Three of the five reviewed permits contain lb/hr or 12-month rolling mass emission limits. Compliance with the limits is arguably not assured by the monitoring in the construction permit carried forward into the title V permit. Permit language does not clearly illustrate how emissions are to be calculated. When underlying limits are not practicably enforceable, the limits should ideally be revised in the forum within which they were developed. But if such revision is not accomplished prior to the next title V permit renewal, then Puget Sound should consider using its sufficiency monitoring authority in WAC 173-401-630(1) to make the limits enforceable.
7. In three of the five reviewed permits, the underlying minor NSR permits required a fair amount of testing but the statements of basis discuss no test results. Test results can shape frequency of future testing and type/frequency of monitoring to assure compliance with

the underlying emission limit. At the next permit renewal, the statement of basis should discuss the results of source testing.

8. In two of the five reviewed permits, the integration of requirements from the relevant NSPS needs to be improved. Important details from the Federal regulations were not written into the permit.
9. In two of the five reviewed permits, the permits fail to include the applicable requirements for all non-insignificant emission units. At next permit renewal, Puget Sound needs to address these omissions.
10. In the one permit for a source subject to EPA's Acid Rain program, the permittee's Acid Rain application was referenced by the permit as containing the applicable monitoring, maintenance, and recordkeeping methods. The Acid Rain application was appended to the permit. Employing high level citations and relying upon appended documents to convey permit requirements is not good practice. Puget Sound should develop permit conditions that reflect in greater detail 40 CFR Parts 72 and 75 requirements at the next permit renewal. The Acid Rain regulations allow the facility several options for monitoring for and calculating NO<sub>x</sub>, SO<sub>2</sub> and CO<sub>2</sub> emissions. The permit should reflect the requirements the permittee has selected to comply with.

## **V. Summary**

This is Puget Sound's third round review. Two of the ten concerns identified in the 2008 second-round program review have been resolved to Region 10's satisfaction. Region 10 thinks Puget Sound has a lot of room for improvement on the other eight second-round concerns including CAM. Region 10 has also identified ten new concerns and three new suggestions.