



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

May 8, 2009

Ms. Jessica W. Werber  
Attorney  
Environmental Integrity Project  
1920 L Street NW, Suite 800  
Washington, DC 20036

Reference: Title V Permit for Ultramar, Inc.  
Facility ID 800026

Dear Ms. Werber:

Thank you for your letter of September 5, 2008, regarding the proposed initial Title V permit for Ultramar, Inc.'s refinery located at 2402 E. Anaheim Street, Wilmington, CA 90744. Your interest and willingness to express your concern is the type of public involvement that is crucial to the effort to achieve healthful air quality in Southern California.

The South Coast Air Quality Management District (AQMD) is implementing the Title V requirements of the 1990 Clean Air Act (federal CAA) amendments designed to provide a consistent permitting process for major stationary sources and sources subject to Federal Regulations such as Title IV Acid Rain Program, New Source Performance Standards, or National Emission Standards for Hazardous Air Pollutants. While the AQMD has had an air permit program for many decades that focused on single source emissions within facilities, since 1994 AQMD has issued a facility permit to some of the largest sources of Nitrogen Oxides and Sulfur Oxides under its Regional Clean Air Incentives Market (RECLAIM), where all individual equipment permits and all applicable requirements were incorporated into the RECLAIM facility permit. The Title V program is also intended to consolidate these individual sources and their requirements into one document in order to provide a comprehensive compliance document. In addition, Title V permit program enhances public participation. A major benefit to improving our air quality provided by the Title V program is that facility operators have increased compliance accountability.

During the public notice period, we received a number of comments from the public. These comments have been fully considered by AQMD and responses to these comments are shown in the attached document entitled "Response to Public Comments". After consideration of all comments received on the proposed Ultramar, Inc.'s Title V permit, AQMD has determined that it is appropriate to proceed with the issuance of the initial Title V permit for Ultramar, Inc.

Ms. Jessica W. Werber

- 2 -

May 8, 2009

Thank you again for taking the time to provide comments and respond to the public notice.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Chen".

Jay Chen, P.E.  
Senior Engineering Manager  
Refinery & Waste Management Permitting  
Engineering and Compliance

Attachment

cc: w/o attachment:  
Jesse N. Marquez  
Executive Director  
Coalition for a Safe Environment  
PO Box 1918  
Wilmington, CA 90748

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>Commenter A cites reasons why the SCAQMD (District) should 1) deny approval of the Initial Title V Permit Application for Ultramar Refinery (Facility ID # 800026) and 2) order the refinery to cease business operations until a valid Title V Permit has been approved. They are as follows:</p>	<p>District Responses to their respective Comments are as follows:</p>
<p>A-1. Commenter A commented that “it is a violation of 40 CFR Part 70 for an oil refinery to operate without a Title V Permit.”</p>	<p>Because the requirements of District Rule 3002(b) [Application Shield] have been met, Ultramar Refinery (herein referenced as Ultramar) is not in violation of Regulation 30 or 40 CFR Part 70 when it operates before a finalized Initial Title V Permit is issued.</p>
<p>A-2. Commenter A commented that the “SCAQMD intentionally delayed the timely processing of Ultramar Refinery Title V Permit in violation of 40 CFR Part 70.4(6). [SCAQMD and Ultramar] failed to comply with Title V Permitting requirements which have allowed Ultramar Refinery to operate for over six years without an approved Title V Permit. In addition, SCAQMD and Ultramar Refinery have delayed the timely processing of the Title V Permit, failed to provide proper public notification, submission, public review and approval of Ultramar (Valero) Refinery Title V Permit. SCAQMD failed to issue a Title V permit within 3 years of its permitting approval.”</p>	<p>The District complied with 40 CFR Section 70.4(b)(6) when it provided to the EPA a submission with adequate information to seek authority to administer the Title V program. More specifically, Section 70.4(b)(6) required the submission to EPA to contain “a showing of adequate authority and procedures to take up to 3 years to take final action on the application.” Details of such procedures can be found in District Rule 3003. The District complied with Section 70.4(b)(6) accordingly with its submission and EPA ultimately granted final full approval of the District’s Title V program effective on November 30, 2001. While a few years have passed since the effective date, the District has been in close contact and coordination with EPA Region IX regarding the issuance of the remaining initial Title V permits. In addition, the District continues to spend great efforts and make progress to process the application; persistently review the requirements of District permits and the adequacy of those requirements during this interim; diligently inspect the proper operation of the process units and control equipment; and encourage the public to participate in the process. The District made real progress toward final action on such applications for several refineries by proposing these Title V permits to the EPA and the public in 2003-2004; however, that endeavor was a step short of an issuance as the District addressed comments from the EPA. In summary, as of March 16, 2009, the AQMD has received 770 initial Title V permit</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>applications, and has, in coordination with EPA Region IX, completed 733 leaving only 37 Title V applications pending. With respect to claims regarding public participation, see response to Comment A-3.</p>
<p>A-3. Commenter A commented that there has been a “lack of adequate public notice in violation of 40 CFR Part 70.7 (h)(1). The SCAQMD failed to provide adequate public notice and opportunity for public participation by utilizing the minimum public notification requirements. We request that both SCAQMD and Ultramar Refinery participate in the public notice and public participation process.” Commenter A requested that the SCAQMD update its public notice policies and procedures with his recommendations.</p>	<p>The District is committed to public participation and has complied with District Rule 3006 and 40 CFR Part 70.7 (h)(1) for the proposed Title V permit for Ultramar. It is important to note that District Rule 3006 has been approved by the EPA and the requirements of that rule are consistent with Section 70.7 (h)(1) to encourage public participation. In addition, the Governing Board of the District has approved adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit under District Rule 3006.</p> <p>For this permit application, the District distributed widely a public notice on July 7, 2008, that dutifully informed the reader of its intent to issue the initial Title V permit for Ultramar refinery. The notice provided a 60-day time period during which the public may comment before September 5, 2008, and a 15-day time period during which the public has an opportunity to request a public hearing. Secondly, the District gave public notice by publication in two newspapers of general circulation; namely, in the Daily News in the English language, and in La Opinion in the Spanish language. The District also gave public notice to persons on a mailing list that included those who requested in writing to be on the list. The District also provided the proposed initial Title V permit electronically on its own website and more than nine other website addresses directing the reader to the proposed permit’s supporting documentations. Finally, the District hosted a public consultation meeting (along with Spanish translators) on a weekday evening during which the near-by community in Wilmington could participate. At the meeting which Commenter A also attended, District staff members gave a 30-minute slide presentation that explained to the participants what is contained in the permit and provided an overview of the facility’s operations and</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>emissions. Finally, the proposed permit, public notices, and the statement of basis were available in hard-copies at the local Wilmington Public Library and the District library during the 60-day public comment period and electronically via the EPA website. This 60-day period was the result of the District’s agreement to extend the required 30-day public comment period by another 30 days to allow a longer time period for the public to review the often-complex refinery permits. For the above reasons, the District strongly believes that public notice has been adequate and has gone above and beyond the requirements of the rules to engage and encourage public participation. While Commenter requested that the District update its public notice policies and procedures with his recommendations, the evaluation of the adequacy of his recommendations is outside the scope of these responses; nonetheless, they are duly noted, and the District will continue to look at all opportunities to enhance our public notice procedures.</p>
<p>A-4. Commenter A commented that the District “fail[ed] to require the accurate reporting of air emissions [and] inadequate recordkeeping provisions (<i>sic</i>). The SCAQMD failed to require and enforce Ultramar Refinery to maintain and submit complete records, special reports and Criteria and Toxic Pollutants Air Emissions Reports (AER’s). The proposed permit requirements do not guarantee or provide a means to assure that complete and accurate record keeping and reporting by Ultramar Refinery. This is a requirement of 40 CFR Part 70.6(a)(3)(ii)(A) and 40 CFR Part 70.6(a)(3)(iii)(B).” Commenter also claimed that the permit lacks emissions and flaring recordkeeping and reporting requirements. Finally, Commenter claimed that a special program was necessary in order to download the proposed permit and statement of basis.</p>	<p>District Rule 301 requires the facility to report and keep records of air emissions through the Annual Emissions Reporting (AER) and AB2588 (Toxic Hot Spots) Program. Compliance with this rule is carried out through a thorough auditing program, and companies failing to file reports or that file inaccurate reports are brought into compliance. Current rules and permit requirements provide many means to assure that the refinery conducts complete and accurate reporting when they subject the refinery to both self-reporting requirements and District inspections. District Rule 1402 requires facilities to report their air toxics emissions, ascertain health risks, and reduce their risk through a risk management plan. The District rules include provisions that impose civil penalties for false statements and failures to submit or implement risk reduction plans. Also, Form X of the Emissions Report requires the facility representative to declare under penalty of perjury that the data submitted truly represents throughput and emissions for this reporting period, and that the emission factors represent the best available data for the company in</p>

**RESPONSE TO PUBLIC COMMENTS**  
**ULTRAMAR REFINERY**

the calculation of annual emissions. In addition, the updated information regarding the facility's compliance status is available to the public on the District website. Finally, further information may be obtained through a public-information request.

Similarly, the proposed initial Title V permit contains recordkeeping and reporting requirements with which the facility must comply, while the Statement of Basis for this facility contains also the information necessary to help the public assess the completeness of the permit, assess the adequacy of the recordkeeping and reporting requirements, understand the permit better, and know where to seek additional supporting documentation. For example, pages 16-24 of the Statement of Basis explains to the reader *inter alia* that the emissions, recordkeeping, and reporting requirements are contained in Sections D, G, and H of the proposed permit and that the most recent update regarding the facility's compliance status is available on the District website

([http://www.aqmd.gov/webappl/fim/prog/novnc.aspx?fac\\_id=800026](http://www.aqmd.gov/webappl/fim/prog/novnc.aspx?fac_id=800026)), A review of the permit will show that the District has complied with 40 CFR Part 70.6(a)(3)(ii)(A) and 40 CFR Part 70.6(a)(3)(iii)(B) when the permit has incorporated all applicable recordkeeping requirements and required, where applicable, their relevant data.

For flare notifications, Ultramar, like other operators of refinery flares subject to Rule 1118, is required to notify the District at least 24 hours before a planned or within one hour of any unplanned flare event with emissions exceeding either 100 pounds of VOC or 500 pounds of sulfur dioxide, or exceeding 500,000 standard cubic feet of flared vent gas. Records of these notifications are readily available on the District website.

Ultramar's Title V Permit Section K applicable rule table has been updated to indicate that the facility is subject to Rules 301, 1402, and

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>1118.</p> <p>While Commenter like any member of the public had been able to view the proposed permit, public notices, and the statement of basis without any problems on the District website, Commenter was unable to carry out peripheral functions (such as downloading and printing the documents) due to security settings on his personal computer. For this reason, District staff members assisted Commenter to download and install the optional plug-in program that is commonly available on the internet. Put simply, in order to view the documents that Commenter desired, no additional “special program” had been required beyond a conventional internet browser software program. While Commenter waited several weeks to have the optional plug-in installed, the desired materials were available in hard-copies at the local Wilmington Public Library and the District library during the 60-day public comment period and electronically via the Region 9 EPA website.</p>
<p>A-5. Commenter A commented that periodic monitoring and reporting provisions are inadequate. Commenter wrote that the “Title V Permit does not guarantee or provide a means to assure that complete and accurate monitoring and reporting of Criteria and Toxic Pollutants by Ultramar Refinery. This is required by 40 CFR Part 70.6(a)(3)(iii)(A) and 40 CFR Part 70.6(a)(3)(iii)(B).” Commenter also requests that the Title V permit include Compliance Assurance Monitoring (CAM) plans and Maximum Available Control Technology (MACT) standards to assure compliance, accurate AER recordkeeping, reporting, and compliance.</p>	<p>Similar to the District response to Comment A-4 above, the monitoring, recordkeeping, and reporting requirements are contained in Sections D, E, F, G, H, and K of the proposed permit. Those requirements sought by Commenter are contained in the sections of the permit and assure that monitoring, recordkeeping, and reporting would be complete and accurate. A review of the permit will show that the District has complied with 40 CFR Part 70.6(a)(3)(iii)(A) and 40 CFR Part 70.6(a)(3)(iii)(B) when the proposed permit has incorporated all applicable reporting requirements and require timely submittal of requisite reports and reporting of deviations. For example, requirements for reporting deviations are contained in Requirements 22 and 23 of Section K in the proposed permit.</p> <p>While Commenter requests the inclusion of CAM plans into the proposed permit, this application is not subject to Part 64 of 40 CFR that governs CAM plans because it does not require them for initial Title V applications completed before April 20, 1998, under section</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>64.5(a)(1)(ii). This was clearly explained in Section 4 of the Statement of Basis and EPA Region IX was in agreement.</p> <p>While Commenter does not specify which MACT standard he is referring to, as explained in the Statement of Basis, NESHAP/MACT standards are implemented through and contained in sections D, H, and J of the proposed Title V permit. Also, the revised Statement of Basis contains extensive discussion on NESHAP non-applicabilities.</p>
<p>A-6. Commenter A commented that the District failed “to include adequate AER information for public assessment of compliance. The Ultramar Refinery Permit Application includes only the most recent 2006 AER reported data which is insufficient to (<i>sic</i>) for the public to determine if Ultramar Refinery is complying with permit requirements and is in fact reducing or increasing its annual emissions.”</p>	<p>The most recent set of AER data that has passed the District’s data quality screening and is available to the public is for the year 2006. While the data may show that emissions of some criteria or toxic pollutants are different than those of previous years, review of the proposed Title V permit is not the designated forum at which emissions are targeted for reduction. Rather, Title V is a designated process for which permitting, noticing, monitoring, recordkeeping, and reporting requirements are put in place to provide reasonable assurance of compliance by the facility. Other District Rules impose emission limits on affected equipment, but generally do not impose mass emission limits. A facility that increases its emissions is still not in violation if it complies with all applicable rules.</p>
<p>A-7. Commenter A commented that the District failed “to require reduction of criteria and toxic pollutants. [M]any categories of criteria and toxic pollutants have in fact been increasing every year. This is in violation of existing permit requirements, Title V, the Clean Air Act and other laws. The proposed permit requirements do not guarantee or provide a means to assure that Ultramar Refinery reduces its annual emissions.” Commenter recommended the requirement for monthly reports of emission increases; the update of District policies, regulations, rules, compliance measures, and Title V permit requirements to prevent emission increases; and a plan for annual reduction of criteria and toxic pollutants.</p>	<p>While the District does not in general disagree with these goals, emission reductions are targeted through the implementation of various District, State, Federal or local rules and regulations rather than through the Title V program. While the Title V program is implemented to ensure that adequate monitoring, reporting, and recordkeeping requirements exist in the permit, other District rules require reductions in criteria and toxic emissions from various emission sources located in the South Coast air basin. Title V does not by itself require emission reductions. These plans and forecasts including the Air Quality Management Plan and the Air Toxics Control Plan can be found on our website at <a href="http://www.aqmd.gov/aqmp/AQMPintro.htm">http://www.aqmd.gov/aqmp/AQMPintro.htm</a>, <a href="http://www.aqmd.gov/aqmp/AirToxicsControlPlan.html">http://www.aqmd.gov/aqmp/AirToxicsControlPlan.html</a>, and</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p><a href="http://www.aqmd.gov/hb/2009/January/090110a.htm">http://www.aqmd.gov/hb/2009/January/090110a.htm</a>.</p> <p>Rules adopted from these plans would require facilities that may include Ultramar to reduce its criteria and toxic emissions. Such rules are typically implemented under District Regulations IV, XI, XIII, XIV, and XX. In turn, new and existing facility projects must comply with those requirements under the rules, where applicable, and permit conditions would be incorporated, where appropriate, into Sections D and/or H of the permit. However, AQMD rules generally limit emission rates, not total mass emissions, so a facility may increase its emissions and still be in compliance, and any installation of new equipment, facility modifications or expansion will undergo New Source Review and appropriate permitting. RECLAIM (NO<sub>x</sub> and SO<sub>x</sub>) limits mass emissions, but under RECLAIM, facilities can increase emissions and still be in compliance as long as they acquire RECLAIM Trading Credits (RTCs) to reconcile their emissions. Even though annual emissions may change yearly depending on facility operations, emissions from new equipment are limited by the units' potential to emit and Best Available Control Technology (BACT). The BACT Guidelines for major sources are updated periodically to impose more stringent requirements. While Commenter provided additional recommendations, the evaluation of the adequacy of those recommendations is outside the scope of these responses; nonetheless, they are duly noted.</p>
<p>A-8. Commenter A commented that the District failed “to include equipment and parts efficiency data for the public to determine if [Ultramar’s] equipment and parts are complying with permit requirements, manufacturer specifications and refinery best industry business practices. The public has no way of determining if [Ultramar] is adequately maintaining equipment and parts. The numerous annual equipment and parts breakdowns reflected by flaring and other toxic and hazardous emission releases disclose that there is a serious</p>	<p>As indicated in the District responses above, the underlying rules for the proposed initial Title V permit does not require additional installation of new equipment and parts that have control efficiencies of 99% or better or the identification of all equipment and parts that have efficiencies of less than 99%. These determinations are beyond the scope of Title V permitting. As far as BACT determinations are concerned, they are made individually for each piece of equipment at the time of permitting, and are included in the evaluation for each of the permit applications. However, the proposed initial Title V permit</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>problem and that [Ultramar] is not complying with SCAQMD Rules, Title V Permit, the Clean Air Act and required or obvious good refinery industry business practices for maintenance or replacement. The public has no way of determining if [Ultramar] is in fact using the Best Available Control Technology (BACT) or the Best Available Industry Technology. We request that equipment and parts that have efficiencies less than 99% be identified in the Title V Permit. We request that the Title V Permit require that all equipment and parts that have efficiencies of 99% or better and that a plan for replacement be included in the Title V Permit.”</p>	<p>intends to provide the public a reasonable assurance of compliance through the addition of any new applicable permitting, noticing, monitoring, recordkeeping, and reporting requirements in the existing rules to the proposed initial Title V permit. Emission reductions and mandatory replacement of equipment and parts are achieved through the implementation of other District, State, Federal or local rules and regulations. While Commenter provided additional recommendations, the evaluation of the adequacy of those recommendations is outside the scope of these responses; nonetheless, they are duly noted.</p>
<p>A-9. Commenter A commented that the District failed “to require storage tanks to have 100% closed-loop vapor recovery systems. [Ultramar’s] Title V Permit Application and SCAQMD rules fail to comply with the Clean Air Act and Title V requirements for the prevention and minimizing of the release of criteria and toxic pollutant emissions. CFASE research has disclosed that storage tanks are major sources of VOC fugitive emissions due to the design of the tanks which allow VOC venting into the atmosphere which is unacceptable. CFASE research has also disclosed that storage tanks are not built to be 100% hermetically sealed. CFASE research has also disclosed that storage tanks which have fiberglass domes still release fugitive emissions and that during an earthquake crude oil, processed fuels and other products can roll over the tanks sides which is not being reported to the public. [Ultramar’s] Refinery Permit Application and SCAQMD rules fail to require that crude oil storage tanks, fuel storage tanks, waste water and other types of storage tanks have a 100% closed-loop vapor recovery system to prevent unnecessary criteria and toxic pollutant emission releases. The current SCAQMD Rules and industry practices are not the Best Available Control Technologies.</p>	<p>Please see District Response to Comment A-8.</p> <p>SCAQMD rules do not require floating roof storage tanks for liquid products, such as crude oil, fuel oil, or gasoline, to have 100% closed-loop vapor recovery systems. Title V only requires permits to include conditions assuring that facilities meet all relevant requirements; it is not a vehicle for imposing new requirements.</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>Vapor recovery technology exist for 100% capture, recycling and reprocessing. The Ultramar Refinery Permit Application fails to require Ultramar Refinery to install 100% closed-loop recovery systems. We know that the refineries does not want invest in extra storage tanks etc. to capture these emissions, but this is not an option any more. We request that the Title V Permit require that all storage tanks that store crude oil, refined fuel, partially refined fuel and other hydrocarbon contaminated sources be built to be 100% hermetically sealed and have a 100% closed-loop vapor recovery system with zero emissions. We request that the Title V Permit require that Ultramar Refinery establish a plan for the replacement or upgrading of all storage tanks.”</p>	
<p>A-10. Commenter A commented that “the Health Risk Assessment is not accurate. [Ultramar’s] Health Risk Assessment included in the Title V Permit is not accurate because it is not based on a local impact zone or sensitive receptor Public Health Baseline. The SCAQMD and [Ultramar] have not sponsored a local impact zone or sensitive receptor Public Health Study in order to establish a proper Public Health Baseline and Facility Health Risk Assessment. We request that the Title V Permit require that the Facility Health Risk Assessment data be based on a Public Health Baseline established from a Public Health Survey of all residents within a 3 mile radius of [Ultramar].”</p>	<p>The Statement of Basis includes the health risk information based on the HRA that was conducted by the refinery and approved by AQMD in accordance with Rule 1402 and state-wide standard protocol for implementing AB2588. The HRA complied with all legal requirements and was approved. These protocols do not require a survey of all residents within 3 miles. The proposed initial Title V permit does not require an additional health risk assessment. However, the proposed initial Title V permit intends to provide the public a reasonable assurance of compliance through the addition of any new applicable permitting, noticing, monitoring, recordkeeping, and reporting requirements in the existing rules to the proposed initial Title V permit.</p>
<p>A-11. Commenter A commented that “RECLAIM Trading Credits Program has Failed to Reduce Criteria &amp; Toxic Pollutants. The SCAQMD RECLAIM Trading Credits Program has failed to significantly reduce Criteria &amp; Toxic Pollutants at the Ultramar Refinery thereby causing significantly environmental and public health impacts in the local communities and cities bordering the facility. We request that the SCAQMD immediately terminate the</p>	<p>Please see District response to Comment A-7. RECLAIM has reduced overall NOx emissions by over 67% since its inception. Individual facilities may increase their emissions as long as they have sufficient RTCs. Since year 2000, overall, Ultramar has reduced its NOx emission by 15% and its SOx emission by 30% (unaudited). Command-and-control rules do not require any limits on mass emissions, but only limit emission rates.</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>RECLAIM Trading Credits Program as part of the Title V Permit and require Ultramar Refinery to establish a plan to reduce its criteria and toxic pollutant emissions.”</p>	<p>The District does not plan to terminate the RECLAIM program, but does plan to further reduce SOx emissions through a rule to be adopted this year.</p>
<p>A-12. Commenter A commented that “emergency provision are unacceptable. Ultramar Refinery has numerous emergencies every year typically in the form of equipment breakdowns, malfunctions and power outages where they have released excessive amounts criteria and toxic pollutants. Waiting for Ultramar Refinery to report the event two days later is unacceptable. The public and especially children at Wilmington Park Elementary School and Banning Elementary School are both within one mile of the Ultramar Refinery and should be immediately notified of any emergency release of criteria or toxic pollutants. They are numerous times that parents take their children to the hospital for having an asthma attack or an adult having a heart attack that may have been triggered by a toxic release from Ultramar Refinery. For example: a child may have been exposed to hydrogen sulfide but is being treated for a normal asthma attack. He has had an incorrect or incomplete medical diagnosis and treatment. We request the Title V Permit require that SCAQMD and Ultramar Refinery prepare and include a Public Emergency Notification, Evacuation &amp; Public Care Plan. We request the Title V Permit require that SCAQMD and Ultramar Refinery immediately send and deliver a notice of an emergency toxic release to all public schools, child care centers and residents within 3 miles of the Ultramar Refinery.”</p>	<p>While some regulations require implementation of risk management plans (such as those in Facility Conditions F10.1 and F24.1), the underlying rules for the proposed initial Title V permit do not govern the requirements for emergency notifications to the community that Commenter supports. These requirements are outside the jurisdiction of the current rules that are enforceable by the District. While Commenter provided additional recommendations, the evaluation of the adequacy of those recommendations is outside the scope of these responses; nonetheless, they are duly noted.</p>
<p>A-13. Commenter A commented that the proposed permit failed “to contain a certificate of compliance. This is a requirement of 40 CFR Part 70.6(c)(5). It fails to include: a. A statement that states that Ultramar Refinery is currently complying with all air quality requirements.</p>	<p>The proposed permit complies with 40 CFR Part 70.6(c)(5). These federal requirements are implemented through District Rule 3004(a)(10)(E) and Condition 24 in Section K in Ultramar’s proposed permit.</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

- b. A copy of all consent decrees, variances, notices to comply and notices of violations.
- c. A listing identifying all non-compliance requirements.
- d. A statement of the methods for determining compliance, an enforcement plan, compliance schedule, including a description of monitoring, recordkeeping, reporting requirements, test methods.
- e. A schedule for submission of compliance certifications after the permit is issued
- f. A statement indicating whether a source is complying with any enhanced monitoring and compliance certifications of the clean Air Act.
- g. A document or place for responsible official to sign

The Title V Permit fails to require immediate and complete compliance to applicable court consent decrees, variances, notices of to comply and notices of violations. While they are mentioned, the Title V Permit does not provide information as to their current status, adoption, new emission standards development, implementation, enhancements, equipment purchase & installation and compliance. Based on what little information is provided, it appears that Ultramar Refinery is not in compliance with the Court Consent Decree and will not meet the September 8, 2008 Rule 1118 Flaring Variance deadline. In addition, the Title V Permit in fact forces the public to have to go an additional SCAQMD website to research the information on Notices to Comply and Notices of Violation. We request that the Title V Permit include a Certificate of Compliance and compliance with 40 CFR Part 70.6(c)(5), 40 CFR Part 70.5(c)(8)(iii)(A), 40 CFR Part 70.5(c)(8)(iii)(B) and 40 CFR Part 70.5(c)(8)(iii)(C) and 40 CFR Part 70.5(c)(8)(iv). We

40 CFR Part 70.6(c)(5) requires Title V permits to contain requirements for compliance certification. The permits must include each of the following: (i) the frequency of submissions of compliance certifications; (ii) a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices; (iii) a requirement that the compliance certification include all of the following: (A) The identification of each term or condition of the permit that is the basis of the certification; (B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period; (C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also 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; and (D) Such other facts as the permitting authority may require to determine the compliance status of the source. (iv) A requirement that all compliance certifications be submitted to the Administrator as well as to the permitting authority.

Ultramar's permit application complies with 40 CFR Part 70.5(c)(8)(iii) and Part 70.5(c)(8)(iv). 40 CFR Part 70.5(c)(8)(iii) requires the application of the proposed permit to include a compliance plan that contains in a compliance schedule: A) a statement that the facility will continue to comply with the applicable requirements if the facility is in compliance; B) a statement that the facility will meet on a timely basis if there are applicable requirements that will become effective during the permit term; and C) a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. In addition, 40 CFR Part

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

request that a copy of all consent decrees, variances, notices to comply and notices of violations be included in the Title V Permit. We request that any submitted Compliance Schedule not allow Ultramar Refinery to operate in violation of an applicable requirement. We request that no Title V Permit be issued until all consent decrees, variances, notices to comply and notices of violations have been fulfilled. We further request that all compliance history and status information be included in the Title V Permit.”

70.5(c)(8)(iv) requires the application of the proposed permit to include a compliance plan that contains a schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation. These requirements are implemented through District Rule 3004(a)(10)(D).

The District agrees to tag the permit conditions with “Consent Decree” to help the reader identify the equipment that are subject to the Consent Decree with their associated requirements. The District will also include a facility-wide condition in the permit that requires the facility to comply with all applicable emission limits and standards in the Consent Decree. Furthermore, the Statement of Basis will include a table provided by Ultramar of the requirements that have not been fulfilled under the Consent Decree. Ultramar’s Consent Decree is readily available on the internet (<http://www.epa.gov/compliance/resources/cases/civil/caa/valero.html>) and the permit conditions will incorporate the Consent Decree by reference.

The requirements of District Rule 1118 apply and have been indicated by conditions I1.1, H23.30, and K171.2 of Ultramar’s proposed permit. As required by Rule 3004(a)(10)(C), condition I1.1 has been added to the affected equipment in section D and H of the permit requiring the operator to comply with all the conditions of the variance including the submittal of progress reports. Finally, compliance plans listed in Section I are not included verbatim within the body of the permit; rather, they are available via requests for public information. Ultramar’s permit application has met the federal requirements to include statements whether the refinery would stay in compliance and to include compliance plans in cases of non-compliance by way of its submission of Form 500-A2 (Title V Application Certification) and 500-C2 (Non-Compliant Operations Report and Part 70 Compliance

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>Schedule/Plan and Quality Improvement Plan - QIP). These requirements are also implemented through District Rule 3004(a)(7)(A) and 3004(a)(10)(C). There is no provision in Title V which would allow withholding the Title V permit until the facility has complied with the conditions of all consent decrees, variances, etc. The Title V permit is not required to include compliance history. However, such information is available on the AQMD website.</p>
<p>A-14. Commenter A commented that the permit application failed “to contain a certificate of truthfulness. The Ultramar Refinery Title V Permit fails to contain a Certificate of Truthfulness. A responsible official must certify under penalty of law that the application is true, accurate and complete. This is a requirement of 40 CFR Part 70.5(d). We request that the Title V Permit include a Certificate of Truthfulness and compliance with 40 CFR Part 70.5(d).”</p>	<p>40 CFR Part 70.5(d) requires the application form to contain certification by a responsible official of truth, accuracy, and completeness. The certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. Ultramar’s application has met the aforementioned federal requirements through submission of Form 500-A2 (Title V Application Certification) containing such statements with other application materials.</p>
<p>A-15. Commenter A commented that the District failed “to include greenhouse gas emissions limits and reduction plan. The Ultramar Refinery Title V Permit fails to include provisions for addressing Green House Gas (GHG) emissions limits and the preparation of a GHG Emission Reduction Plan per 40 CFR Part 52.21(b)(50)(iv) and the AB 32 California Global Warming Solutions Act. We request that the Title V Permit include compliance with 40 CFR Part 52.21(b)(50)(iv) and the AB 32 California Global Warming Solutions Act.”</p>	<p>Under the state law, California Air Resources Board (CARB) is the agency responsible for implementation of the AB32 and Global Warming/Greenhouse Gases provisions of the state law. Therefore, when CARB finalizes its regulations, Ultramar and any other company subject to the requirements of such regulations must comply with such requirements. We do not read 40CFR section 52.21(b)(50)(iv) to require these facilities to implement a greenhouse gas emission reduction plan. In addition, EPA’s most recent policy statement is that greenhouse gases are not a “pollutant subject to regulation” as specified in section 52.21(b)(50)(iv). Although the new administration may be reconsidering this issue, in the absence of any further guidance it would be premature to conclude that greenhouse gases are included in this definition. Finally, as indicated earlier, the issuance of the Title V permit for this facility by itself does not trigger CEQA requirements or any Greenhouse Gas requirements. If, in the future, the District is delegated to implement the greenhouse gas requirements, a program may be developed with certain requirements incorporated into the Title</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>A-16. Commenter A commented that the District “failed to adequately protect environmental justice communities and federally protected class groups. The SCAQMD and Title V Permit fail to protect Environmental Justice Communities and Federally Protected Class Groups from being exposed to excessive criteria and toxic pollutants emissions. The SCAQMD rules, past permits and current Title V Permit fail to significantly reduce excessive criteria and toxic pollutants emissions in Environmental Justice Communities and Federally Protected Class Groups communities. The Wilmington and West Long Beach Environmental Justice communities have a significant and disproportionate negative impact on the local environmental, have increased public health risk and public health problems. The asthma rate of children in Wilmington is 23.9% and West Long Beach 19.7% of which Ultramar Refinery is a major contributor. The Ultramar Refinery Title V Permit also failed to consider the Cumulative Impact of other major criteria and toxic pollutant sources in, bordering and near Wilmington and West Long Beach. The current SCAQMD RECLAIM Trading Credits Program has failed to significantly reduce criteria &amp; toxic pollutants at the Ultramar Refinery thereby causing significantly environmental and public health impacts in the local Environmental Justice and protected class group communities bordering the facility. The facility is located in the City of Los Angeles community of Wilmington and borders the City of Long Beach Westside community. The Title V Permit fails to guarantee that the SCAQMD will act promptly and properly upon any existing or future discovered non-compliance. Ultramar Refinery is currently in non-compliance of the Clean Air Act and Title V. SCAQMD has failed to initiate enforcement actions such</p>	<p>V permit, as appropriate.</p> <p>Emission reductions are targeted through the implementation of various District, State, Federal or local rules and regulations rather than through the Title V program. While the Title V program is implemented to ensure that adequate monitoring, reporting, and recordkeeping requirements exist in the permit, the District rules would require reductions in criteria and toxic emissions from various emission sources located in our air basin. These plans and forecasts including the Air Quality Management Plan and the Air Toxics Control Plan can be found on our website at <a href="http://www.aqmd.gov/aqmp/AQMPintro.htm">http://www.aqmd.gov/aqmp/AQMPintro.htm</a>, <a href="http://www.aqmd.gov/aqmp/AirToxicsControlPlan.html">http://www.aqmd.gov/aqmp/AirToxicsControlPlan.html</a>, and <a href="http://www.aqmd.gov/hb/2009/January/090110a.htm">http://www.aqmd.gov/hb/2009/January/090110a.htm</a>. Even though annual emissions may change yearly depending on facility operations, emissions from new equipment are limited by the units’ potential to emit and Best Available Control Technology (BACT). The BACT Guidelines for major sources are updated periodically to impose more stringent requirements. Overall, Ultramar has reduced its NOx and SOx emissions by 15% and 30% (unaudited), respectively, since year 2000. Also, the District has convened an Environmental Justice Advisory Group to advise the District on issues related to environmental justice and assure that AQMD makes meaningful and continuous progress toward the achievement of environmental justice through its decisions and activities. The District is continuing to address cumulative impacts through programs and rules such 1401.1; most recently, the District is developing its Clean Communities Plan to further reduce those impacts. As indicated in the District response for Comment A-6 and A-7, review of the proposed Title V permit is not the designated forum at which emissions are targeted for reduction. Rather, the proposed initial Title V permit intends to provide the public a reasonable assurance of compliance through the addition of any new applicable permitting, noticing, monitoring, recordkeeping, and reporting requirements in the existing</p>
---	---

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>as: permit termination, permit revocation, reissuance, modification or revision, or denial of a permit renewal application and civil or criminal penalties per 40 CFR Part 70.6(a)(6)(i). We request that the Title V Permit include all requests made in these public comments and comply with all Environmental Justice, Title VI, California Health &amp; Safety Code policies, rules, regulations and guidelines. We request that the Title V Permit include Compliance Assurance Monitoring (CAM) Plan and Maximum Available Control Technology Standards to assure protection of Environmental Justice Communities and Federally Protected Class Groups and to assure accurate AER recordkeeping, reporting and compliance per 40 CFR Part 70, 40 CFR Part 63 and CFR Part 64. We request that the Title V Permit include compliance with 40 CFR Part 70.6(a)(6)(i). We request that the Title V Permit include an SCAQMD statement it will provide public notice and it will immediately advise the USEPA and California EPA of its intent not to seek enforcement action within 30 days of its decision and discovery of a violation.”</p>	<p>rules to the proposed initial Title V permit. The SCAQMD has taken appropriate enforcement actions whenever it finds a violation at Ultramar. The commenter has not identified any violations which have not been appropriately handled.</p> <p>40 CFR Part 70.6(a)(6)(i) requires the Title V permit to include a provision stating that the “permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.” The proposed permit has met these federal requirements as implemented through District Rule 3004(a)(7)(A) and through Condition 8 in Section K in the proposed permit.</p> <p>With regards to 40 CFR Part 64 – Compliance Assurance Monitoring, please see District Response to Comment A-5 above.</p>
<p>A-17. Commenter A made a “request to be notified and to be sent a final Title V permit copy.” CFASE requests that we be notified and sent a copy of the Ultramar Refinery Final Title V Permit. We further request that we be informed when the USEPA has completed its review of the Title V Permit and be sent a copy of USEPA’s comments.”</p>	<p>The District agrees to notify and send a copy of Ultramar’s Final Initial Title V permit to the Commenter, upon issuance. EPA’s comments on Ultramar’s proposed Title V permit are available on EPA’s Region 9 website at: <a href="http://www.epa.gov/region09/air/permit/eps-system.html">http://www.epa.gov/region09/air/permit/eps-system.html</a>.</p>

<p>Commenter B requests that the AQMD respond to her stated reasons why the District ought to 1) refrain from issuing the Initial Title V Permit Application for Ultramar Refinery</p>	<p>District Responses to their respective Comments are as follows:</p>
--	--

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>(Facility ID # 800026) without documenting the facility's compliance status; 2) create a depository of supporting documentation related to the facility's operations; and 3) provide an extension of time for public comment on additional changes or revisions. The comments are as follows:</p>	
<p>B-1. Commenter B states that the permit lacks organization, signposts, and a detailed index. Commenter B requests the AQMD to revise and reorganize the permit; and to include all relevant information within the body of the permit. Should additional changes or revisions be made to the draft Title V permit, Commenter B requests extensions to the time period during which public hearing requests and public comments could be made. Finally, Commenter B requests the permit be made available in languages other than in English.</p>	<p>The District believes that the organization of the draft permit is appropriate and is logical to follow and interpret. It allows a reader to attain a comprehension of the applicable requirements to which the facility is subject. It is important to note that the permit carries signposts for the following sections: facility information, RECLAIM annual emission allocation, facility description and equipment-specific conditions (process, system, equipment, device identification number, connections, RECLAIM source type/monitoring unit, emissions and requirements, conditions), administrative conditions, RECLAIM monitoring and source testing requirements, RECLAIM recording and recordkeeping requirements, permit to construct and temporary permit to operate, compliance plans and schedules, air toxics, Title V administration, NOx and SOx emitting equipment exempt from written permit pursuant to Rule 219, and rule emission limits. Section 6 of the Statement of Basis explains further the contents of each permit section. The District believes that these signposts more than suffice to allow the reader to follow and interpret the permit, and the addition of a detailed index would be redundant. As intended for each Title V permit, the District will incorporate into the permit any necessary changes by the time the permit issues. Should those additions or changes be substantial, the District will consider whether a re-notice would be necessary based on the applicable Title V rules (District Regulation XXX). The District does not consider the most recent changes requested by EPA to trigger re-notice.</p> <p>The District has been unable to reproduce the 444-page facility permit in the Spanish language due to a lack of sufficient resources and the enormous expense associated with doing so. However, the District has made a great amount of outreach efforts to the extent possible to accommodate Spanish language through public meetings and newspaper publications. It is important to note that the District has conducted</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>extensive outreach efforts to engage the immediate community in public participation. These activities include public notice by publication in two newspapers of general circulation; namely, in the Daily News in the English language, and in La Opinion in the Spanish language. Also, the District hosted a public consultation meeting with Spanish translators on a weekday evening during which the working-class community in Wilmington could participate. Even though the permit was printed in the English language, Spanish translators were present to answer any questions the public had regarding the permit.</p>
<p>B-2. Commenter B commented that adequate public notice was lacking because 1) the District website did “not have an easily accessible link on its website [through which one’s name could] be added to a mailing list” and 2) a request by Commenter for a time extension for public review had been denied. Also, Commenter stated that the draft permit should have referred to the refinery as Valero rather than by recognition of its former name, Ultramar.</p>	<p>The District believes that public notice has been more than adequate. Contrary to Commenter’s claim, the District website enables one to request to add his or her name to the mailing list by submitting the pertinent information to the Subscription Services Department (<a href="http://www.aqmd.gov/pubinfo/public_notices.htm">http://www.aqmd.gov/pubinfo/public_notices.htm</a>). Moreover, the District dutifully complied with District rules regarding public notice for proposed Title V permits, and provided an additional thirty (30) days beyond the 30 days that was required by District Rule 3006 - Public Participation for public review. Please see District responses to Comment A-3 for detailed account regarding the District’s extensive engagement in public participation efforts. Finally, Ultramar is the official name registered under the District’s permit system and is the name of the refinery. The facility has not indicated any intent to file applications for change of ownership. Thus, going by any other name would add confusion to the process and potentially obviate meaningful public participation.</p>
<p>B-3. Commenter B claimed that the District failed to satisfy public participation goals because the permit lacked organization; carried fine print; contained monitoring, recordkeeping, and reporting requirements in a “different section;” required “a web browser supplied by AQMD;” and was missing permit application files. In addition, Commenter claimed that “[w]ithout easy public access to certificate of compliance or any certification truthfulness, the public cannot actually verify the [permit’s] accuracy and truthfulness.”</p>	<p>The District has dutifully satisfied rules and policy regarding public participation. Please see District’s response to Comment B-1 above regarding the permit organization. The web-based software programs for public review of the permit information is a service that has gone beyond the call of rule requirements. However, the District will continue to evaluate ways to enhance these programs. Fine print was used in Sections D and H of the permit and had been necessitated to indicate footnotes referenced in the body of the permit. Nevertheless, these footnotes are legible. Monitoring, recordkeeping, and reporting requirements were designated signposts in the permit to allow for better organization and for a thorough permit. Finally, a certificate of compliance or of truthfulness is contained in a standardized two-page Form 500-A2, and a signed copy is included in the Title V application folder, which is publicly accessible through a public records request.</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>B-4. Commenter B claimed that the “Statement of Basis is incomplete and difficult to understand because [it] fail[ed] to explain and describe every piece of equipment within the refinery, [or] indicate when a piece of equipment was originally constructed or modified;” it did “not appear to explain, in any organized fashion, which preconstruction permitting regulations apply and which pre-construction permits were issued;” and it “should explain [complex limits contained in Appendix B of the facility permit] in a clear fashion.”</p>	<p>The District believes that the Statement of Basis is complete and contains clear explanations to the maximum extent feasible to help the reader better understand the facility permit. Section 2 (Facility Description) of the Statement of Basis explains to the reader the different processes and operations that take place at the refinery. This section explains the different processes at the facility, including distillation, catalytic cracking, isomerization, reforming, alkylation, hydrotreating, among many others. The pieces of equipment operating in any of these processes are clearly identified and described in Sections D and H of the facility permit. Repeating the descriptions of each and every pieces of the equipment in the Statement of Basis would be unnecessarily duplicative and may create confusion for the reader. While the Statement of Basis does not include the dates when each piece of equipment was originally constructed or modified, Section H (Permits to Construct and Temporary Permits to Operate) of the proposed permit includes the dates when each piece of equipment had been issued a permit to construct. Repeating these dates into the Statement of Basis would be unnecessarily duplicative. Based on public and EPA comments, the district has agreed to revise the Statement of Basis to clarify the NESHAP section by including specific the non-applicability determinations. Finally, the limits contained in Appendix B of the permit are those for District Rules 1113 (Architectural Coatings), 1140 (Abrasive Blasting), 1171 (Solvent Cleaning Operations), 404 (Particulate Matter – Concentration), 405 (Solid Particulate Matter – Weight), and 461 (Gasoline Transfer and Dispensing). Appendix B summarily tabulates the general emission limits to which the facility may be subject. The permitting, noticing, monitoring, recordkeeping, and reporting requirements that form the core of the Title V Permit review are not placed in Appendix B.</p>
<p>B-5. Commenter B commented that the “proposed permit is incomplete” because the body of the proposed permit does not include the consent decree and its requirements; the permit must include requirements of District Rule 1118 and the requirements under a Rule 1118 variance; and the permit must include the full compliance plans listed in Section I of the permit and information related to compliance.</p>	<p>The District agrees to tag the permit conditions with “Consent Decree” to help the reader identify the equipment that are subject to the Consent Decree with their associated requirements. The District will also include a facility-wide condition in the permit that requires the facility to comply with all applicable emission limits and standards in the Consent Decree. Furthermore, the Statement of Basis will include a table provided by Ultramar of the requirements that have not been fulfilled under the Consent Decree, for which applications are to be submitted in the future. Ultramar’s Consent Decree is readily available on the internet at (<a href="http://www.epa.gov/compliance/resources/cases/civil/caa/valero.html">http://www.epa.gov/compliance/resources/cases/civil/caa/valero.html</a>) and the</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>permit conditions will incorporate the Consent Decree by reference, as discussed and agreed upon with EPA.</p> <p>The requirements of District Rule 1118 apply and have been indicated by conditions I1.1, H23.30, and K171.2 of Ultramar’s proposed permit. As required by Rule 3004(a)(10)(C), and discussed with EPA, condition I1.1 has been added to the affected equipment in section D and H of the permit requiring the operator to comply with all the conditions of the variance including the submittal of progress reports. Finally, plans listed in Section I are not included verbatim within the body of the permit, rather, they are available via requests for public information.</p>
<p>B-6. Commenter B commented that the “compliance assurance [monitoring (CAM)] requirements should be clarified and applied” and that the “public should have access to all communication between the refinery and SCAQMD modifying the ‘initial’ permit application.” Commenter B further stated that the District “must not award permits on the basis of outdated information from 1998.”</p>	<p>While Commenter requests the inclusion of CAM plans into the proposed permit, Ultramar’s initial application is not subject to Part 64 [CAM] of Title 40 of the Code of Federal Regulations because they are not required for initial Title V applications completed before April 20, 1998, per section 64.5(a)(1)(ii). Ultramar’s initial Title V application was deemed complete on March 24, 1998, and therefore would be subject to CAM plans upon renewal of an issued permit. This was clearly explained in Section 4 of the Statement of Basis and EPA Region IX was in agreement.</p> <p>Although this allows a facility to continue to operate, the District will continue to make great efforts to process the application; to persistently review the requirements of District permits and the adequacy of those requirements during this interim; to diligently inspect the proper operation of the process units and control equipment; and to encourage the public to participate in the process. Moreover, in November 2007, Ultramar supplied a certification signed by its responsible official to attest to the truth, accuracy, and completeness of the proposed permit. The certification stated that, based on information and belief formed after reasonable inquiry, the statements and information in the document were true, accurate, and complete. Ultramar’s application has met the aforementioned federal requirements through its submission of Form 500-A2 containing such statements with other application materials. Finally, public information regarding the communications between the refinery and the District is available and can be obtained through a public-information request.</p>
<p>B-7. Commenter B commented that all</p>	<p>The proposed permit already identifies and describes the equipment operating at the</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>insignificant activities and their monitoring and reporting requirements ought to be included in the proposed permit.</p>	<p>facility to the maximum extent feasible. In accordance with the District’s <i>Draft Technical Guidance Document For The Title V Permit Program</i> (Version 4.0, March 2005), the EPA’s <i>White Paper for Streamlined Development of (40 CFR) Part 70 Permit Applications, July 10, 1995</i>, and the EPA’s <i>White Paper Number 2 for Improved Implementation of the (40 CFR) Part 70 Operating Permits Program, March 5, 1996</i>; the District already required necessary information pertaining to insignificant emission units in Title V applications as part of the District’s streamlining efforts. Streamlining allows the District to utilize its resources more efficiently to process and review the Title V applications.</p>
<p>B-8. Commenter B commented that the proposed “permit does not meet all applicable MACT standards” because “[a]ll the (<i>sic</i>) relevant MACT requirements that may apply to this refinery do not appear to have been included in the permit.”</p>	<p>The District disagrees because the proposed permit currently contains all applicable MACT standards to the maximum extent possible. MACT standards have been implemented through and contained in sections D, H, and J of the proposed permit.</p>
<p>B-9. Commenter B commented that the proposed “permit does not appear to require ‘prompt’ deviation reporting” because “it is unclear as to whether the proposed Valero permit includes ‘prompt’ deviation reporting which would require more frequent reporting than within a 6-month period.”</p>	<p>The District disagrees. A review of the permit will show that the District has complied with all applicable regulations when the proposed permit has incorporated all applicable reporting requirements and require timely submittal of requisite reports and reporting of deviations.</p> <p>Requirements for reporting deviations are contained in Requirements 22 and 23 of Section K in the proposed permit. They read:  “22. The operator shall comply with the following requirements for prompt reporting of deviations: (A) Breakdowns shall be reported as required by Rule 430 – Breakdown Provisions or subdivision (i) of Rule 2004 - Requirements, whichever is applicable. (B) Other deviations from permit or applicable rule emission limitations, equipment operating conditions, or work practice standards, determined by observation or by any monitoring or testing required by the permit or applicable rules that result in emissions greater than those allowed by the permit or applicable rules shall be reported within 72 hours (unless a shorter reporting period is specified in an applicable State or Federal Regulation) of discovery of the deviation by contacting AQMD enforcement personnel assigned to this facility or otherwise calling (800) CUT-SMOG. (C) A written report of such deviations reported</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>pursuant to (B), and any corrective actions or preventative measures taken, shall be submitted to AQMD, in an AQMD approved format, within 14 days of discovery of the deviation. (D) All other deviations shall be reported with the monitoring report required by condition no. 23. [3004(a)(5)]</p> <p>23. Unless more frequent reporting of monitoring results are specified in other permit conditions or in regulatory requirements, the operator shall submit reports of any required monitoring to the AQMD at least twice per year. The report shall include a) a statement whether all monitoring required by the permit was conducted; and b) identification of all instances of deviations from permit or regulatory requirements. A report for the first six calendar months of the year is due by August 31 and a report for the last six calendar months of the year is due by February 28. [3004(a)(4)(F)].”</p> <p>Thus, Commenter’s allegation that the permit does not appear to require prompt deviation reporting lacks merit.</p>
<p>B-10. Citing subsection 504(c) of the 1990 Amendments to the Clean Air Act, subparagraphs 70.6(a)(1) and (3) of Title 40 of the Code of Federal Regulations, along with several examples of emission units and their permit conditions, Commenter B commented that the proposed permit “generally lacks monitoring sufficient to assure compliance.”</p>	<p>The District disagrees. The Compliance Provisions contained in Section K – Title V Administration of the proposed permit clearly sets forth inspection and entry requirements to assure that the facility complies with the permit terms and conditions. Other requirements for monitoring and reporting to assure compliance are contained in Sections D – Permits of Operate, E – Administrative Conditions, F – RECLAIM Monitoring and Source Testing Requirements, G – Recordkeeping and Reporting Requirements for RECLAIM Sources, H – Permits to Construct and Temporary Permits to Operate, J – Air Toxics, and K – Title V Administration. While some requirements have been incorporated into the permit by reference as part of the District’s streamlining efforts, the District’s streamlining procedures are properly based on the concepts described in the EPA’s <i>White Paper for Streamlined Development of (40 CFR) Part 70 Permit Applications, July 10, 1995</i>, and <i>White Paper Number 2 for Improved Implementation of the (40 CFR) Part 70 Operating Permits Program, March 5, 1996</i>. The District believes that the proposed permit contains enough actual requirements that an inspector or someone from the public can see from the document what actual requirements apply on a daily basis. The references are clear and they indicate the requirements or rules that apply to the pieces of equipment. The District has complied with 40 CFR Part 70.6(a)(1) and (3)</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>as the permit has incorporated, where appropriate, emission limits and standards, monitoring, reporting, and recordkeeping requirements and their relevant data.</p> <p>While Commenter commented on the permit conditions for cooling towers, tanks, flares, opacity monitoring, tank contents, and vapor pressure monitoring and recordkeeping, the District has used its best engineering evaluation and judgment to determine or require emission or parametric monitoring where feasible or applicable.</p>
<p>B-11. Commenter B commented that a publicly accessible depository of all documents, applications, regulations, rules, guidelines, orders, permits, records, etc. relevant to the refinery’s operations be made. Also, Commenter B commented that the technical language was not rendered accessible to the members of the public.</p>	<p>With the exception of the applications and other documents containing confidential business information, all public information have been made publicly accessible on the website, by a request for public information, or by visiting the District headquarters. These documents include regulations, rules, guidelines, orders, permits, and other records. To the extent possible, the District has made a great amount of outreach efforts to engage the immediate community in public participation and to explain all the relevant requirements in clear and concise language.</p>

<p>Commenter C requests that the AQMD review the Title V monitoring requirements in the proposed initial Title V permit for Ultramar Refinery to ensure that they comply with the 1990 Amendments to the Federal Clean Air Act and a recent court opinion, <i>Sierra Club v. EPA</i> [<i>Sierra Club et al. v. EPA</i>, No. 04-1243, slip op., (D.C. Cir., August 19, 2008)]. Secondly, Commenter requests that the District require compliance assurance monitoring (CAM) under Part 64 of Title 40 of the Code of Federal Regulations. Thirdly, Commenter requests the District to require Ultramar [per the “MACT Hammer” of subsection 112(j)(2) of the 1990 Clean Air Act] to submit an application that proposes a limit on Hazardous Air Pollutants (HAPs) from two boilers. Also, Commenter requests the District to incorporate the requirements of a</p>	<p>District Responses to their respective Comments are as follows:</p>
--	--

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>consent decree into the proposed permit. Finally, Commenter requests that the AQMD include emission limits from Section H of the proposed permit into Section D so that the public can more easily connect the emission limits with the equipment releasing the emissions..</p>	
<p>C-1. Commenter commented that the District should review the Title V monitoring requirements in Ultramar's proposed permit to ensure that they comply with the Clean Air Act and a recent court opinion (<i>Sierra Club v. EPA</i>). More particularly, Commenter requests the District to require continuous emission monitoring that measures compliance based on the averaging period of the underlying standard or alternative methods that closely match the averaging time.</p>	<p>The District has reviewed the Title V monitoring requirements to ensure that they comply with the federal Clean Air Act, relevant federal regulations, District Rules, and the District's Periodic Monitoring Guidelines for Title V Facilities prior to proposing Ultramar's permit for a public review on July 7, 2008. The District has used its best engineering evaluation and judgment to determine whether continuous emission monitoring would be feasible or practical, and required it where appropriate. When continuous monitoring is not available, feasible, or appropriate, the District uses its best engineering evaluation and judgment to look into alternative methods and require them if appropriate. Because the District firmly believes that Title V monitoring requirements in Ultramar's proposed permit comply with these authorities and are adequate, deference to the District's engineering judgment should be honored (Doctrine of <i>Chevron</i> Deference). While the recent court opinion of <i>Sierra Club v. EPA</i> that reviewed the issue of whether the United States EPA may prohibit state permitting agencies from supplementing operating permits with additional monitoring requirements, that case is not directly controlling and applicable in this matter where the local permitting agency exercised its best judgment and determined that certain monitoring requirements were adequate to reasonably assure compliance with applicable standards and conditions.</p>
<p>C-2. Commenter requested that the District require Ultramar to install a Particulate Matter (PM) Continuous Emissions Monitoring System (CEMS) to measure the facility's compliance with the PM limit imposed on the Fluid Catalytic Cracking Unit (FCCU) because Commenter believes that a) an opacity limit of 30% does not indicate that PM emissions from the FCCU</p>	<p>Please refer to District response to comment C-1.</p> <p>The PM emission from the FCCU regenerator is controlled by an electrostatic precipitator (ESP), device no. C1615. It is the PM control efficiency of the ESP that determines the PM emission levels and assures compliance with the PM limits in Rule 1105.1 and in condition A63.4. Condition C12.1 requires that the ESP daily average voltage and</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>regenerator comply with the limits in the proposed permit and b) annual stack tests do not reliably assure compliance with an emission limit that must be met on a daily basis. To support its contention that “EPA clearly rejects any direct correlation [between opacity and PM],” Commenter relies on EPA’s proposal to approve the Visible Emissions portion of State Implementation Plan (SIP) revision submitted to EPA by the state of Alabama.</p>	<p>secondary current (or total power input) being monitored are greater or equal to the average value in the most recent source test which demonstrated compliance with the emission limits (condition D29.7). In addition, conditions D90.7 and D90.8 require the voltage and current to be monitored every 15 minutes. By assuring that the ESP voltage and current do not fall below the minimum valued determined during the previous compliance source testing along with other operating restrictions (e.g. D61.4 – limiting sulfur in the feedstock to the FCCU), the annual testing requirements specified can be used to assure compliance with the daily PM limit. This monitoring method is established in the <i>SCAQMD Periodic Monitoring Guideline For Title V Facilities, November 1997, Appendix A, page 70</i>.</p> <p>The 30% opacity limit (condition A63.8) and its continuous monitoring (condition D90.4) are the requirements in 40CFR Subpart J (Standards of Performance for Petroleum Refineries). This limit is not used as surrogate for the PM emission limit.</p>
<p>C-3. Commenter states that “Ultramar should be required to deploy analyzers on a continuous (or at least a daily) basis because Commenter contends that the frequency [“once every five years, or even once a year” (<i>sic</i>)] of CO measurements for the purpose of compliance determination is not adequate. Commenter cites in footnotes 13 and 14 Section D, page 189 (which the District presumes Commenter meant to cite device condition D328.1) and Section H, page 109 [(which the District presumes Commenter meant to cite device condition A63.4 for device D36 (FCC regenerator)].</p>	<p>Device condition D29.7 (page 126 of Section H) already requires Ultramar to monitor and record measurements of CO emissions on a continuous basis from its FCC catalyst regenerator (device D36). Paragraph eight of condition D29.7 states, “The operator shall monitor and record NOx, SOx, and CO emission taken from CEMS (<i>short for Continuous Emissions Monitoring System</i>).” Also, 40 CFR Subpart J, to which device D36 is subject (by way of its Consent Decree under Civil Action # SA-05-CA-0569), requires such monitoring. Subsection 60.105(a)(2) of Title 40 of the CFR requires continuous monitoring systems to be installed, calibrated, maintained, and operated to continuously monitor and record CO concentrations.</p>
<p>C-4. Commenter states several reasons for their belief that Compliance Assurance Monitoring (CAM) should apply and, hence, the District must require CAM for the facility. Commenter contends that years have passed since the time the District has received Ultramar’s</p>	<p>While Commenter requests the inclusion of CAM plans into the proposed permit, this application is not subject to Part 64 of 40 CFR that governs CAM plans because they are not required for initial Title V applications completed before April 20, 1998, per section 64.5(a)(1)(ii). Records show that the District has deemed Ultramar’s application complete</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>application submitted in February of 1998; and that “numerous revisions to the application, the most recent occurring in November 2007 (submittal of Forms 500-C1 and 500-C2),” have taken place.</p>	<p>effective March 24, 1998. This was clearly explained in Section 4 of the Statement of Basis and EPA Region IX was in agreement.</p> <p>While time has passed, and Forms 500-C1 and 500-C2 were requested from the facility, there were no significant or substantial revisions to the application. To put this in perspective, Form 500-C1, in combination with Form 500-A2, satisfies the compliance certification required by Title V. Form 500-C2 is required if the facility is not in compliance with all applicable requirements listed on Form 500-C1, or if it will not be able to comply with all applicable requirements by the expected date of issuance of the Title V permit. The District revised the forms in 2005 and 2006, and requested Ultramar to complete and resubmit the updated forms.</p> <p>Even though correspondence have taken place on a regular basis over a myriad of issues such as applications for permits to construct or operate as they fall under District governance or other matters not related to its Title V application, the nature of the correspondence and even the culmination of it do not rise to the level of a revision to the application. Over this period, the District continued to process the application; review the requirements of District permits and the adequacy of those requirements; diligently inspect the proper operation of the process units and control equipment; and encourage the public to participate in the process. For these reasons, the completeness of the application has not been put into question.</p>
<p>C-5. Commenter stated that, under Subsection 112(j)(2) (“MACT Hammer”) of the 1990 Amendments to the Clean Air Act, the District should require Ultramar to submit an application proposing a limit on hazardous air pollutants (HAPs) from two boilers – namely, D377 and D378. Commenter also stated that the District should incorporate HAP limits into the permit and determine whether any other units would be subject to the MACT Hammer.</p>	<p>The District agrees that the two boilers would have been subject to MACT subpart DDDDD of Title 40 of the CFR - NESHAPs for Industrial/Commercial/Institutional Boilers and Process Heaters. However, this MACT standard was vacated by the DC Circuit Court of Appeals on July 30, 2007. The District also plans to perform a case-by-case MACT determinations, using NACAA’s June 2008 “Model Permit Guidance” for boiler MACT /MACT Hammer as a reference, for these and other units in the near future, pursuant to Subsection 112(j) of the 1990 Amendments. The District expects the facility to submit additional</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

	<p>information and comply with terms and conditions established under new permits or modifications related to case-by-case MACT. However, before the District proceeds, the District is awaiting EPA’s counsel to provide guidance on case-by-case MACT for boilers and process heaters.</p>
<p>C-6. Commenter stated that the frequency for the measurements of VOC leaks from VOC-service fugitive components may not be adequate to assure compliance with the emission limits contained in the permit “starting on page 150 of the permit.” Commenter cites for support a letter from the Mayor of Houston, Texas, to the Information Quality Guidelines Staff of the U.S. EPA (available on the internet) and states that “compliance with emission limits is based on emission factors that have been shown to be inaccurate for large units.” Commenter “recommends that the District take advantage of [Differential Absorption LIDAR] technology to measure actual emissions from [certain] units, and make appropriate adjustments to the methods that are used to estimate emissions.” Commenter further stated that the District “should require periodic use of infrared cameras to pinpoint major sources of leaks from process units.”</p>	<p>These comments appear to be directed at System Conditions S31.1 (that start on page 150 of the permit), S31.2, S31.5, and end with S31.6. The District believes that the frequency of measurements is adequate and complies with the requirements of Rule 1173, on which the system conditions are based. Subsection (f)(1)(B) of District Rule 1173 requires the facility to “inspect all accessible components in light liquid/gas/vapor service and pumps in heavy liquid service quarterly.” When applicable, these system conditions may require intervals that are even more frequent, such as monthly inspections for valves and flanges rather than quarterly inspections. Furthermore, the District Compliance staff conducts facility-wide team inspections as well as unannounced inspections several times per year to perform VOC measurements from VOC fugitive sources in the refinery to ensure compliance with Rule 1173.</p> <p>The District does not believe that the context of Houston’s emission limits and the circumstances as they applied to Houston applies here to Ultramar’s proposed initial Title V permit under Part 70 Operating Permits under Title 40 of the CFR. While the District is not in the position to comment on Houston’s emission limits or on its large units, the District has complied with all of the District’s own regulations and incorporated all requirements that are applicable to Ultramar’s refinery. While Commenter made recommendations for new technology that the District could take advantage of to measure emissions at Ultramar, the recommendations to make future evaluations as to their usefulness are duly noted. Because the District firmly believes that Title V monitoring requirements in Ultramar’s proposed permit comply with these authorities and are adequate, deference to the District’s engineering judgment should be honored.</p>
<p>C-7. Commenter stated that the District “must</p>	<p>The District agrees to tag the permit conditions with “Consent Decree” to</p>

**RESPONSE TO PUBLIC COMMENTS  
ULTRAMAR REFINERY**

<p>incorporate the requirements of the consent decree into the Ultramar permit.” Commenter also stated that “Ultramar is subject to the AQMD Hearing Board Order for Case No. 3845-69, regarding compliance with District Rule 1118.” Furthermore, Commenter stated that “any alleged acts of noncompliance in the Valero complaint that are not already corrected through compliance with the consent decree must be incorporated into the permit and enforced under the AQMD SIP.” Commenter reiterates subsection (a)(10)(C) of District Rule 3004 that requires the permit to include a compliance schedule of remedial measures.</p>	<p>help the reader identify the equipment that are subject to the Consent Decree. with their associated requirements. The District will also include a facility wide condition in the permit that requires the facility to comply with all applicable emission limits and standards in the Consent Decree. Furthermore, the Statement of Basis will include a table provided by Ultramar of the requirements that have not been fulfilled under the Consent Decree. Ultramar’s Consent Decree is readily available on the internet (<a href="http://www.epa.gov/compliance/resources/cases/civil/caa/valero.html">http://www.epa.gov/compliance/resources/cases/civil/caa/valero.html</a>) and the permit conditions will incorporate the Consent Decree by reference.</p> <p>The requirements of District Rule 1118 apply and have been indicated by conditions I1.1, H23.30, and K171.2 of Ultramar’s proposed permit. The requirement for a compliance schedule and submittal of progress reports, pursuant to 40 CFR 70.6(c)(3) and District Rule 3004(a)(10)(C), are being incorporated by reference using condition I1.1. This condition has been added to the affected flares (devices C401, C402, C403) in section D of the permit. A copy of the documents related to this variance is available on the internet under AQMD’s “Facility Information Detail” database (FIND, at <a href="http://www.aqmd.gov/webappl/fim/prog/hbdisplay.aspx?fac_id=800026">http://www.aqmd.gov/webappl/fim/prog/hbdisplay.aspx?fac_id=800026</a>).</p>
<p>C-8. Commenter states that the District should include emission limits from Section H into Section D, such that the limits should go under the column “Emissions and Requirements” to facilitate a reader’s ability to more easily connect the limits with the emitting equipment also in Section D.</p>	<p>Section D of the proposed permit contains equipment that have permits to operate. Section H of the proposed permit contains permits to construct (also acting as temporary permits to operate). The equipment in Section H are either newly constructed or modified and may be substantially different from the equipment in Section D, and therefore, may have emission limits and/or conditions that are different from those in Section D. However, the facility is subject to the requirements for the equipment nonetheless. Bifurcating two sections allows the permitting authority and the reader to identify the sets of requirements that apply in the permit to operate or in the permit to construct.</p>