

September 22, 2003

Mr. Steve A. Hill  
Permit Evaluation Manager  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Re: **Revised Draft Title V Permit Comments for Tesoro Golden Eagle Refinery Facilities #B2758 and #2759**

Dear Mr. Hill:

Tesoro Refining and Marketing Company (“Tesoro”) appreciates the opportunity to present its comments on the Bay Area Air Quality Management District’s (“BAAQMD” or “District”) Proposed Major Facility Permit for Tesoro Refining and Marketing Company’s facility Nos. B2758 (Golden Eagle Refinery) and B2759 (Amorco Terminal) (referred to as the “Revised Draft Permit”). Despite the hard work and effort of both the District and Tesoro the Revised Draft Permit is not ready for issuance. Significant revisions need to be made to address numerous substantial errors and omissions in the Revised Draft Permit.

Tesoro’s comments on the Revised Draft Permit are divided into two main sections: General Overview Comments (applicable to the Revised Draft Permit process) and Specific Comments (applicable to particular provisions of the Revised Draft Permit). As a preliminary matter, Tesoro notes that it has had a very limited opportunity to review the extensive Revised Draft Permit. Thus, upon further review, Tesoro may identify additional issues and items beyond those set forth below.

## **I. GENERAL OVERVIEW COMMENTS**

Tesoro’s General Overview Comments consist of the following and are discussed more fully below:

- The District failed to respond to substantive comments raised during the public comment period;
- Inaccuracies in the Revised Draft Permit will trigger time consuming and costly legal proceedings; and
- The District’s review process for the Revised Draft Permit fails to comply with mandated federal Clean Air Act review procedures.

### **A. The District Has Failed To Adequately Address Substantive Comments Raised During The Public Comment Period**

As the District acknowledged in its *Consolidated Responses to Comments on Refinery Title V Permits* (“*Responses to Comments*”), “[t]he District’s responsibility is to draft an accurate permit

using any information available to it.” *Responses to Comments*, p. 10. The District has not fulfilled its responsibility. Although Tesoro notified the District of various permit problems on multiple occasions, and has provided the District with information to correct the errors and omissions, the Revised Draft Permit does not reflect the changes. In September 2002, Tesoro provided over 80 pages of detailed comments on the previous draft of the permit, citing over 700 individual revisions needed to correct unjustified or impermissible conditions, ambiguous or duplicative provisions and requirements based on inaccurate, incomplete or outdated information. *See* Tesoro Title V Draft Permit Comments, September 16, 2002 (“Tesoro September 2002 Comments”). The Revised Draft Permit does not address many of these necessary revisions.

To date, the District has failed to provide any written response to Tesoro’s September 2002 Comments. The District’s *Responses to Comments* specifically exclude a response to Tesoro’s comments. *See Responses to Comments*, p. 2 (“This document addresses comments received during the public comment period from entities *other than* the refineries.”) (Emphasis added.) This failure contradicts established District procedures, which mandate a *written* response to all comments received during the public comment period. *See* MOP, Vol. II, Pt. 3, § 6.1.1.

While details on the Revised Draft Permit errors are provided in Tesoro’s accompanying Specific Comments, examples of continuing glaring inaccuracies (including references to inapplicable requirements) are highlighted below.

- The Revised Draft Permit imposes an incorrect throughput rate of 31,060 bbl/year on the Amorco Terminal New Wharf (#S55) and related crude oil tanks (#S19, S21, S30, S49 and S50). *See* Revised Draft Permit, p. 36, Table IIC. As Tesoro explained in its September 2002 Comments, the proper throughput for the Amorco New Wharf and the combined throughput of the crude oil tanks should be 192,000 bbl/day, based on design capacity rates. *See* Tesoro September 2002 Comments, “Comments on Draft Permit,” p. 6, comment #66.
- The Revised Draft Permit imposes incorrect NOx limit for heater #S912 in Condition #18372. *See* Revised Draft Permit, p. 691-692, #4. Tesoro personnel informed the District that the proposed limit of 0.028 lb/mmBtu for heater #S912 was too low and was based on design information from the vendor on emissions factors not repeatable in source testing after the furnaces were retrofitted. Tesoro also informed the District that source testing on the furnace demonstrated a 0.031 lb/mmBtu limit and this value is reflected in Tesoro’s BAAQMD 9-10 compliance plan. *See* Tesoro September 2002 Comments, “Comments on Draft Permit,” p. 42, comment #570; July 24, 2002 telephone discussion and e-mail with District staff. Again, the District failed to make any change to the proposed NOx limit based on Tesoro’s comments, its further discussions with the District, or its actual source testing of the furnaces.
- Table IV-A purportedly contains requirements applicable to the Amorco Terminal. However, it improperly identifies 40 C.F.R. Part 63 Subpart CC which applies exclusively to refineries, and should not be referenced with respect to a terminal. Although Tesoro noted this error in its September 2002 Comments, the correction is not reflected in the Revised Draft Permit. *See* Tesoro September 2002 Comments, “Comments on Draft Permit,” p. 8, comment #82.

- Table IV – X purportedly contains the applicable requirements for flare S943 - Tank 691 Safety Flare, S944 – North Steam Flare, S945 – South Steam Flare and S1012 – West Air Flare. However, these flares were built before 1973, have not been modified or reconstructed since then, and are not subject to the provisions of 40 C.F.R. Part 60 Subpart J as referenced in the Table. The only applicable requirements are 40 C.F.R. § 60.18 and 40 C.F.R. § 60.11. The 40 C.F.R. Part 60 Subpart J requirement is a newly added requirement appearing for the first time (and without explanation) in the Revised Draft Permit.
- Table IV-O improperly notes 40 C.F.R. Part 63 Subpart VV as applicable to the API separator. These provisions are not directly applicable to any oil-water separator; they only become applicable when a different standard in 40 C.F.R. Part 63 references these standards. None of the standards of 40 C.F.R. Part 63 applicable to the Golden Eagle refinery reference Subpart VV and, therefore, these standards should be deleted.

Contrary to its position in its *Responses to Comments*, the “District has [not] corrected all errors brought to its attention.” *Responses to Comments*, p. 20. Failure to fully consider Tesoro’s comments is particularly troubling given that Tesoro provided extensive written comments to the District a full year ago, and has continually worked with the District since that submission to correct inaccurate permit conditions.

### **B. Inaccuracies In The Revised Draft Permit Will Trigger Time Consuming And Expensive Legal Actions**

Without significant revisions to address the numerous significant errors and omissions, issuance of the Revised Draft Permit as the final permit will inevitably result in multiple legal challenges at the local, state and federal level. As the District acknowledges, “[i]ssuance of the Title V permit will enhance enforcement in various ways, including through higher penalty authority for violations of applicable requirement[s], [and] the availability of citizen suit enforcement in federal court.” *Responses to Comments*, p. 5. A Title V permit filled with errors will compound enforcement issues as Tesoro will be forced to defend claims of alleged non-compliance with incorrect and inappropriate permit conditions. As the District’s *Responses to Comments* makes clear, citizens’ groups are actively following and participating in the Title V permit process.<sup>1</sup> Inaccurate permit conditions raise the appearance of immediate non-compliance upon permit issuance, when in actuality there is no non-compliance but simply a faulty permit requirement.

In light of this, if the Revised Draft Permit is not substantially revised to address the significant issues Tesoro has raised, Tesoro will be forced to take one or more of the following actions:

- **Before Permit Issuance:** Petition the United States Environmental Protection Agency (“EPA”) to object to the permit following the conclusion of the EPA 45-day review period;

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<sup>1</sup> As noted numerous times by the District, the citizens’ groups interest are expansive, and well exceed the proper scope of public review in the Title V process. *See e.g., Responses to Comments*, p. 13 (“It is the opinion of staff that in many cases the public reviewers sought information that was not directly relevant to a Title V issuance (e.g., information about how applicable requirements were derived) and that the District staff did not review when drafting the permit;” p. 7 (“two environmental groups and a law firm representing certain labor unions . . . collectively requested, ‘all permit files as far back as your records go . . .’”))

- ***Immediately Upon Permit Issuance:*** Seek court relief to stay imposition of the final permit conditions; and
- ***Following Permit Issuance:*** Appeal the Permit to the District Hearing Board to seek correction of the numerous final permit inaccuracies.

These legal avenues will be time consuming and expensive for all parties involved – EPA, the District and Tesoro. However, at this point, Tesoro sees no other option, unless and until its concerns are adequately addressed.

Tesoro recognizes the time pressures imposed on the District to issue Major Facility Permits by December 1, 2003, in light of the Settlement Agreement in *Our Children's Earth Foundation v. BAAQMD*, San Francisco Superior Court, Case No. CPF-02 500595. However, issuing permits with inaccurate information and unjustified conditions is not the solution. Rather, if the District needs more time to “get it right,” the District should petition the Court with jurisdiction to seek relief from this unrealistic deadline. Tesoro is willing to submit an affidavit to the Court, if necessary, to assist the District in obtaining such relief.

### **C. The Revised Draft Permit Review Process Violates Mandated EPA Review Requirements**

In addition to failing to address the errors and omissions throughout the Revised Draft Permit, the District has failed to comply with Part 70 requirements associated with EPA’s review of proposed Title V permits. Pursuant to 40 C.F.R. § 70.8, the District is required to forward to EPA the “proposed permit.” “Proposed permit” is defined as “the version of a permit that the permitting authority proposes to issue.” 40 C.F.R. § 70.2. EPA’s review of the proposed permit is intended to be the final review in the process, and is designed to ensure that the permit is “in compliance with applicable requirements [and] requirements under this part.” 40 C.F.R. § 70.8(c)(1).

Based on discussions Tesoro has had with District staff, Tesoro understands that the District is still attempting to resolve many of the issues raised in Tesoro’s accompanying Specific Comments. Thus, rather than a “proposed permit,” the District prematurely and improperly forwarded EPA a “draft permit” to review. “Draft permit” is defined as “the version of a permit for which the permitting authority offers public participation under § 70.7(h) or affected State review under § 70.8 of this part.” A draft permit contemplates further revision. The District’s August 5, 2003 public notice makes it clear that the District is seeking substantive comments on the Revised Draft Permit. It is therefore reasonable to assume that Tesoro’s final Title V permit will contain numerous changes from the Revised Draft Permit. Given the inaccuracies with the applicable requirements in the Revised Draft Permit which must be corrected, EPA cannot fulfill its mandate to review a “proposed permit” for compliance with applicable requirements. And, even if EPA somehow had jurisdiction to review this “draft permit,” EPA would be required to object to it because the Revised Draft Permit does not comply with applicable requirements. *See* 42 U.S.C. § 7661d(b)(1); 40 C.F.R. § 70.8. Further, with a host of changes still to come before issuance of the final Title V permit, contrary to the mandate of 40 C.F.R. § 70.8, no final EPA review of the “proposed permit” will occur here.

Similarly, the Revised Draft Permit review process established by the District fails to comply with 40 C.F.R. § 70.8(c)(3), which requires that EPA have all “information necessary to review

adequately the proposed permit.” According to the EPA’s website, EPA received Tesoro’s Revised Draft Permit on August 1, 2003, and EPA’s comment period has been extended to September 26, 2003.<sup>2</sup> According to the BAAQMD *Notice of Hearing and Notice Inviting Written Public Comments*, dated August 5, 2003, the public (including Tesoro) received notice of the opportunity to comment on the Revised Draft Permit four days later, with their comment period ending September 15, 2003. By its recent website posting, the District extended the public comment period to September 22, 2003. Accordingly, at most, EPA will have four days to review the extensive public comment (including Tesoro’s detailed comments) before the expiration of its comment period. Moreover, it is Tesoro’s understanding that EPA first received Tesoro’s September 2002 Comments *last week*, when Tesoro sent them to EPA after learning that EPA had never received them.<sup>3</sup> Thus, EPA will have extremely limited opportunity to review or consider Tesoro’s extensive comments provided to date. Absent the benefit of meaningful opportunity to review public and affected State comments, EPA does not have the necessary information to adequately review the Revised Draft Permit, and consistent with 40 C.F.R. § 70.8(c)(3), EPA must object to its issuance.<sup>4</sup>

Additional non-compliance with mandated EPA review requirements has occurred as a result of the review process the District implemented for the Revised Draft Permit. Under 42 U.S.C. § 7661d and 40 C.F.R. § 70.8(c), EPA has a 45-day review period. Under 40 C.F.R. §§ 70.7(h) and 70.8(b)(1), the public and the affected State have a 30-day review period. As EPA has explained, these staggered review periods were established to ensure EPA has *adequate* time to consider all public and affected State comments before determining whether to object to the proposed permit. Specifically, EPA provides the following explanation of the staggered review periods:

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<sup>2</sup>See Tesoro Title V Permit Review webpage on EPA Region IX Electronic Permit Submittal System website, located at <http://yosemite.epa.gov/R9/AIR/EPSS.NSF/9811648063d5495a88256530006ca041/e039c297967ea1f886256d7b007ff12e?OpenDocument>. While this page *currently* indicates a start date of the EPA review period as August 13, 2003, previously, the start date reflected on the website was August 1, 2003. The link attaching the District letter transmitting the Revised Draft Permit to EPA does not provide guidance on the start date for the EPA review period as the link is to a letter for Valero’s Benicia refinery.

<sup>3</sup> See *Responses to Comments*, p. 2, where the District acknowledges that its *Responses to Comments* does not address Tesoro’s September 2002 Comments, (“This document addresses comments received during the public comment period from entities other than the refineries.”). Thus, prior to receiving Tesoro’s September 2002 Comments last week, EPA had limited (if any) information regarding Tesoro’s concerns with the Revised Draft Permit.

<sup>4</sup> In addition, EPA does not have the benefit of the District’s final response to comments received during the initial review period. The cover page to the *Responses to Comments* notes the following:

This “responses to comments” document is being provided in draft form to assist reviewers in understanding updates and corrections that are the basis of the re-proposed refinery Title V permits. The responses set forth represent the efforts of District staff to date to respond to comments received during the first public comment period. This document will be finalized when the Title V permits are finalized. The content of District response may change prior to that time.

**During the issuance process, can a permitting authority give notice to EPA, affected States, and the public simultaneously?**

Yes, provided EPA has a reasonable opportunity to review any comments received from the public and affected States. The minimum public comment period is 30 days and the EPA review period is 45 days. This would allow EPA 15 days additional review after the public and affected State review, assuming the permitting authority does not provide for a longer public comment period. Fifteen days may not be sufficient depending on the complexity of the permit. To provide for a longer EPA period for reviewing the results of public comment, the permitting authority could vary the beginning of EPA's review resulting in less overlap of the EPA and public comment review where more EPA review after the public comment would likely be needed.

*Questions and Answers On The Requirements Of Operating Permits Program Regulations (July 7, 1993), § 7.6, #1.*

The checks and balance system ensured by the staggered review process is absent here as EPA's comment period ends just four days after the public/affected State comment period.<sup>5</sup> Further, as the District noted multiple times in its *Responses to Comments*, Tesoro's Title V permit is extremely complex. As EPA explained, a complex permit review requires that EPA have more time for review following the conclusion of the public comment period to ensure it adequately considers all public comment.<sup>6</sup>

Accordingly, for the general policy reasons outlined above, as well as the numerous errors, inaccuracies and omissions detailed in the remainder of these comments, Tesoro respectfully requests that the District post-pone further EPA and public review until the District has the opportunity to fully address and correct the items noted in these comments. Failure to do so would result in EPA receiving a "draft" permit it would be required to reject, and could force Tesoro to take several costly and time-consuming measures to protect itself from liability for alleged non-compliance. Tesoro continues to believe these results can and should be avoided through timely and thorough District revisions to the Revised Draft Permit.

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<sup>5</sup> In reality, EPA will, at best, have two days to review Tesoro's comments as they will not receive them until sometime September 23, 2003 at the earliest, and will have to have their review completed by September 26, 2003.

<sup>6</sup> The magnitude and complexity of EPA's review process is compounded by the fact that EPA simultaneously has to review four other Bay Area refinery draft Title V permits at the same time it is reviewing Tesoro's draft permit. See <http://yosemite.epa.gov/R9/AIR/EPSS.NSF/9811648063d5495a88256530006ca041?OpenView&Start=1&Count=30&Expand=2.1-2.1>.

## II. SPECIFIC COMMENTS

Tesoro's Specific Comments are contained in the three separate attachments which accompany this submittal. These three attachments include the following:

- **Significant Errors with Revised V Draft Permit** (at Tab A): This document highlights crucial errors and omissions that must be addressed before issuance of the final Title V permit to avoid numerous legal challenges;
- **Additional Items with Revised Draft Permit** (at Tab B): This document explains the host of inconsistencies and ambiguities found in the Revised Draft Permit. The items noted here need to be addressed to avoid confusion on the part of Tesoro, the District, EPA and public as applicable requirements; and
- **Tesoro's September 2002 Comments Not Incorporated In Revised Permit** (at Tab C): This document identifies the multiple errors noted in Tesoro's September 2002 Comments that have not been adequately addressed or corrected in the Revised Draft Permit.<sup>7</sup> These comments are of particular concern as the District has been aware of these errors for a full year now, yet has choose to ignore them in the Revised Draft Permit.

Tesoro organized its Specific Comments as outlined above in an effort to ease the District's review. The District must consider and adequately address all of Tesoro's Specific Comments before issuance of a final Title V permit. Please note that at the District's request, Tesoro has prioritized its comments in these attachments. Tesoro remains hopeful that Tesoro and the District can continue to work together to ensure that the District issues a clear, accurate and complete Title V permit for Tesoro's Golden Eagle Refinery and Amorco Terminal.

We look forward to continued discussion and resolution of these outstanding errors and issues with Tesoro's Proposed Major Facility Permit. If you have any questions concerning the contents of this transmittal or its attachments, please contact either Sharon Lim at (925) 335-3467 or Christina McDowell at (925) 372-3115.

Sincerely,

Alan A. Savage, III  
Environmental Manager

cc: Mr. Terry Carter, BAAQMD  
Mr. Tim O'Connor, BAAQMD (Hand Deliver)

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<sup>7</sup> Please note that Tesoro's September 2002 Comments are incorporated herein as if set forth in full.

bcc: Rob Gronewold (Auburn)  
Matt Buell (Auburn)  
Jeff Haffner (San Antonio)  
Bill Haywood  
Sharon Lim  
Chris McDowell  
Colleen Doyle (Bingham McCutchen)

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
1.	Table II-C Plant #B2759 S55	Grandfathered Limit	Capacity – <b>70,080 K bbl/yr</b> <b>(192 K bbl/day)</b>	Pursuant to Regulation 2-1-234, the capacity of a source can and should be based on design capability. The Amorco Terminal's capacity is based on the design flow rate of the transfer pumps (from Amorco to the refinery). The transfer pumps represent the limiting factor for Amorco wharf throughput capacity. There are three identical pumps, of which two are continuously used. The third one is a spare pump, and is used to maintain flow rates during scheduled pump maintenance activities (see attached pump curve for capacity).
2.	Table II-C Plant #B2759 S19, S21, S30, S49, & S50	Grandfathered Limit	Capacity – <b>70,080 K bbl/yr</b> <b>(192 K bbl/day)</b>	Throughput limit for the entire Amorco terminal (i.e. S19, S21, S30, S49, & S50) should equal the throughput limit on the entire Amorco wharf (S55). A combined throughput is the best since the tanks are interchangeable and this allows for increase during maintenance of a particular tank.
3.	Section VI Permit Cond. #18372	Reg 9-10	<b>Change</b> applicable NO <sub>x</sub> Limit (lb/MMBtu) <b>S912 0.031</b> <b>S926 0.031</b>  <b>S913, S916, S919, S920, S921,</b> <b>S922, S972, S951 were not</b> <b>modified.</b>	This permit condition was issued on the vendor design basis for the retrofitted ULNB. Actual source testing conducted following installation and submitted to BAAQMD demonstrates that the retrofitted burners are not capable of meeting the design, and are capable of achieving the 0.031 lb NO <sub>x</sub> /MMBtu limit. The NO <sub>x</sub> Control Plan was modified to reflect this testing, but the permit condition was not changed. Further, the heaters listed did not have ULNB installed, as it was not needed for the refinery to meet the bubble standard. The conditions must be changed to be consistent with the NO <sub>x</sub> Control Plan.
4.	Table IV-M S806	Reg 9-1-304	<b>Remove</b> reference to <b>Reg 9-1-304</b> <b>standard</b>	Since the Fluid Coker has an emission limitation referenced by Reg 9-1-310, the SO <sub>2</sub> limitation in Reg 9-1-304 does not apply.
5.	Table IV-Z	Reg 9-1-304	<b>Remove</b> reference to <b>Reg 9-1-304</b>	Since #6 Boiler is used as back-up for #5 Boiler for

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
	S904		<b>standard</b>	combustion of CO gas from the Fluid Coker, it should have an emission limitation under Reg 9-1-310, as applied to the Fluid Coker (S806).
6.	Section VI Permit Cond. #799, 2.) S963	Permit Condition Language	<b>Change</b> wording to original A/C language ; <b>“the PRV on the spare LPG vaporizer shall be connected to the flare and be used for emergency use only.”</b>	The A/C had the noted language when issued; however, when the A/C was converted to a P/O, the language was changed to that shown in the draft T5 permit, which is incorrect.
7.	Table II-A S901	Grandfathered Limit	Capacity – <b>668 MMBtu / hr</b>	In prior discussions with Permitting section, Tesoro has provided data to verify this source has always had greater firing duty than the grandfathered limit listed as 332 MMBtu/hr. (See attached supporting documents for No. 7 Boiler firing design rate.)
8.	Table IV-A Facility #B2759	40 CFR Part 60 40 CFR Part 61 40 CFR Part 63, Subpart CC Reg 9 Rule 1 Reg 9 Rule 2	<b>Remove all references to these regulations in the source specific applicable requirements</b>	All of these regulatory requirements are applicable to petroleum refining. Facility #B2759 is the Amorco Terminal, which is not a refining operation, and these regulations do <u>not</u> apply to terminals.
9.	Table IV-AA S902, S905, S923	Reg 9 Rule 10	<b>Remove all reference to Reg 9 Rule 10 for these 3 sources.</b>	These furnaces are not subjected to any requirements cited in Reg 9 Rule 10 since these sources are not boilers or process heaters as defined by Regulation 9-10.
10.	Table IV-AA (pg. 108) Table IV-AA, (pg. 112) Table IV-Y Table IV-Z Table IV-AD	Reg 9-1-302	<b>Remove all reference to Reg 9-1-302 for all sources in all these tables.</b>	All of these furnaces are not governed by Reg 9-1-302, as specified in the conditional exemption cited by Reg 9-1-110. Since the facility meets the requirements of 9-1-110.1 and 110.2, the standard under Section 302 shall not apply.

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
	Table IV-AF, <b>S951 only</b>			
11.	Table IV-X S943, S-944, S945, and S1012	40 CFR Part 60, Subpart J	<b>Remove reference to 40 CFR Part 60, Subpart J for all these sources.</b>	All of these sources were constructed prior to 1973, and are not subject to the provisions of this NSPS regulation.
12.	Table IV-T S851	40 CFR Part 61, Subpart A	<b>Remove all reference to 40 CFR Part 61, Subpart A for this source.</b>	This source is not subject to any subparts under 40 CFR Part 61, and thus should not be subject to the General Provisions of Subpart A.
13.	Table IV-O S819	40 CFR Part 63, Subpart VV 40 CFR Part 61, Subpart A	<b>Remove all reference to 40 CFR Part 63, Subpart VV and 40 CFR Part 61, Subpart A for this source.</b>	Under the source specific standards for the facility #B2758, under Table IV-A, there is no cited reference to 40 CFR Part 63, Subpart VV. If the facility source is not regulated by this requirement, then the specific source, S819, is also not subject to this requirement. The applicability of 40 CFR Part 61, Subpart A should be deleted, since BWON does not require us to place controls on S819, API Separator.
14.	Table IV-CZ	40 CFR Part 61, Subpart FF	<b>Remove this entire column's reference to fugitive sources.</b>	This Subpart specifies that the facility has the option to alter its control strategy over a period of time, and the designations for specific process units can be changed at the facility's request. Therefore, no provision of Subpart FF should ever be considered as directly applicable to a specific process unit, and the entire reference to this regulation should be removed..
15.	Table IV-CZ	40 CFR Part 61, Subpart V	<b>Remove this entire column's reference to fugitive sources.</b>	Subpart V is never directly applicable to these sources; it is made applicable by other provisions (already cited) referencing this specific Subpart.
16.	Table II-A S825	Grandfathered limit	<b>Add this source to permitted sources at capacity of 2130 gpm.</b>	S825, the DEA Regenerator, has not been listed as a permitted source. The source was part of the initial permitting process in 1977.

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
17.	Permit Cond. #878	Sections 1. through 5., and reference Parts B-1 through B-5	Correct <b>typographical</b> errors, and correct emission limits in Parts B-1, B-3, B-4 and B-5.	This condition contains many typographical errors, and some of the emission limits listed are different than the original A/C and P/O. Attached copy of condition shows errors.
18.	Table II-A S499		<b>Should include this source in Table IV-CJ, under Tank Cluster 26.</b>	This source is listed under Table II, permitted sources, but does not appear in Table IV with source specific requirements.
19.	Table II-A S1464, S1465, and S1418		<b>Should include these sources in Table IV, under Cluster 01b requirements.</b>	These sources are listed under Table II, permitted sources, but do not appear in Table IV with source specific requirements.
20.	Table IV-N S815, S816, S817	Permit Cond. # 8548, Part 1	<b>Include reference to No. 5 Gas Plant and Flare Gas Recovery as <u>additional</u> abatement devices to A-12.</b>	See specific language in permit condition, which includes these two additional devices.
21.	Table II-A S863		<b>Include this source in a new Table IV, since it has a permit condition.</b>	Listed under Section VI, permit conditions, is Cond. # 799, which is specific to the source, but not shown in the Source Specific Applicable Limits.
22.	Table IV-D S101	Reg 8 Rule 6 Reg 8 Rule 33	<b>Remove reference to these regulations from table.</b>	This truck loading rack is used for heavy oil, and is exempt from the requirements of these two regulations governing volatile materials.
23.	Table IV-G S125	Reg 8 Rule 33	<b>Remove reference to Reg 8 Rule 33 from table.</b>	This truck/rail loading rack is used for heavy oil, and is exempt from the requirements of this regulation's governing volatile materials.
24.	Table IV-A Facility #B2758	40 CFR Part 61, Subpart M	<b>Add this Subpart as applicable to the facility.</b>	This Subpart (Asbestos NESHAP) should be applicable to the facility wide requirements, as an overall facility standard.
25.	Table II-A	Grandfathered	Capacity – <b>12,800 kbbl/yr</b>	This is the sister tank to S702, and has the same throughput

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
	S664	Limit		capacity based on equal design tank turnovers as S702.
26.	Table II-A S739	Grandfathered limit	Capacity – <b>1,689 kbbl/yr.</b>	This tank receives crude drained from hoses on the wharf, and small spills to containment basin on wharf. The annual throughput capacity is based on the pump design (which transfers the oil/rainwater material back to the refinery for further processing).
27.	Table II-A S819	Grandfathered limit	Capacity – <b>133,255 kbbl/yr</b>	Wastewater enters the wastewater plant through S819 (API Separator) and goes directly to S831 (Oxidation Pond). These two sources should have the same capacity throughput.
28.	Table II-C S54	Grandfathered limit	Capacity – <b>375 kbbl/yr.</b>	This slop oil tank receives rainwater and oil from the wharf, and should have the rated capacity based on the transfer pump design data.
29.	Table III	40 CFR 82.156, 40 CFR 82.161, 40 CFR 82.166	<b>Delete these regulatory citations</b>	Delete the subsections since 40 CFR 82 is already cited to be applicable. Since 40 CFR 82 contains ongoing compliance obligations, this citation should be moved to Table IV-A. Lastly, 40 CFR 82 should be noted as federally enforceable
30.	Table IV-A Facility #B2758 and #B2759	40 CFR Part 60, Subpart A 40 CFR Part 61, Subpart A 40 CFR Part 63, Subpart A	<b>Add to each reference of Subpart A, <u>“these general provisions are only applicable to equipment that is subject to a specific standard under 40 CFR 60, 61 and 63. The applicability of these general standards can be further limited by the specific provisions of the applicable subpart which may not require compliance with certain general provisions.”</u></b>	None of these general provisions are applicable to every piece of equipment at the facilities. Specific subparts of NSPS/NESHAP/MACT standards in many cases either do not require compliance with or change compliance standards under the applicable Subpart A. For example, NSPS Subpart Kb at 40 CFR 60.110b(b) exempts tanks less than 75 cubic meters from the provisions of 40 CFR 60 Subpart A. Tesoro is concerned that listing the general provisions for each affected source will cause a general provision to become applicable although the applicable subpart voids that general provision.
31.	Table IV-M S806	Reg 6 Section 601	<b>Delete the referral to Manual of Procedures.</b>	This section is already in Table VIII for test methods.

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
32	Table IV-P S823, S824	Reg. 6	<b>Delete Reg. 6</b>	This is already cited in Table III. Cleaning heat exchanger bundles at the cleaning pits does not cause visible emissions.
33.	Table IV-U S854, S992, and S1013	40 CFR Part 60, Subpart A 40 CFR Part 61, Subpart A 40 CFR Part 63, Subpart A	<b>Delete all regulatory Subpart As (Part 60, Part 61 and Part 63) and keep reference only to 40 CFR 60.18 and 40 CFR 63.11.</b>	Since these flares are not used as routine control devices they are exempt from all provisions of 40 CFR 61 and are only subject to the control device requirements found in 40 CFR 60.18 and 40 CFR 63.11
34.	Table IV-U S854, S992, and S1013	40 CFR 60 Appendix A	<b>Move Appendix A to Table VIII.</b>	Test methods are not applicable requirements under the operating permit program. Therefore all references to test methods in this table should be moved to Table VIII.
35.	Table IV-U S854, S992, and S1013	40 CFR 63 Subpart CC	<b>Delete 40 CFR 63 Subpart CC</b>	The two sets of provisions are the controls required on Group 1 process vents and the provisions associated with a facility that complies with Refinery MACT I through an emissions averaging approach. The facility does not have any Group 1 process vents and the facility does not comply through the emissions averaging approach. These conditions should therefore be deleted.
36.	Table VII S854, S992, and S1013	40 CFR 63.643(a) 40 CFR 60.104 (a) (1)	<b>Delete 40 CFR 63.643(a) and 40 CFR 60.104 (a)(1).</b>	There are no process vents at the facility that require controls. The SO2 limit does not apply since these flares are not used as routine control devices.
37.	Table VII S943, S944, S945, and S1012	40 CFR 63.643(a)	<b>Delete 40 CFR 63.643(a)</b>	There are no process vents at the facility that require controls.
38.	Table VII-I Components	40 CFR 60.692- 5(a) and (b)	<b>Delete 40 CFR 60.692-5(a) and (b)</b>	Delete design standards since these are not monitoring requirements.
39.	Table VII-I	40 CFR	<b>Add 40 CFR 60.592(a)</b>	This is necessary since 40 CFR 60 Subpart VV is not

## Significant Errors with Golden Eagle Title V Draft Permit

Item No.	Referenced Section	Regulatory Citation	Proposed Language Change	Underlying Principle for Requested Change
	Components	60.592(a)		directly applicable to the facility and only becomes applicable through 40 CFR 60.592(a) requiring compliance with its provisions.

Clarity in terms of enforceability is required in several areas of the permit. It is not clear what Tesoro's compliance certification will cover. Tesoro believes that this clarity in enforceability is critical to both Tesoro and the District, as this will prevent outside third parties from taking alternative interpretations of applicable provisions not intended in the issuance of the permit.

If a conflict does arise between applicable requirements included in the facility's annual Permit to Operate (PTO) and the Title V Permit due to obsolete, missing, inaccurate, or amended requirements, then the requirements in the Title V Permit should supercede the PTO requirements for purpose of compliance, except in cases where the Title V Permit requirements are in error.

The following is a list of areas where explicit language should be included to clarify what is enforceable and what information is presented as an aid, but is not enforceable.

1. Part I Condition B.2 states, "The permit holder shall comply with all conditions of this permit. The permit consists of this document and all appendices." This could be construed to indicate that every written word in this document is in some way enforceable as a permit condition. This clause makes it imperative that the district better define what is a permit condition and what is not a permit condition.
2. Table IIA lists throughput limits for all nonexempt sources in the refinery. Some limits are stated explicitly in permit conditions, some are implied from information provided by the facility in a permit application and the rest have been derived from criteria stated in BAAQMD Regulation 2-1-234.3. The latter are termed "grandfather" sources. Part I, Section J of the Title V permit, and a new permit condition added to Section VI for Title V purposes, state the consequences of exceeding Table IIA limits. Exceedances of non-grandfather source throughput limits are treated as violation of permit conditions. Exceedances of grandfather source throughput limits require notification to the District to facilitate a determination of whether a modification has occurred. Another important distinction is that non-grandfather source limits are federally enforceable and grandfather source limits are not federally enforceable.

The refinery has identified many sources that have been assigned grandfather status. Since the criteria used by the District to make these assignments has not been provided to the refinery and since a consistent set of criteria cannot be inferred from the assignment themselves, the refinery proposes corrections based on the following criteria, which we think is the correct criteria for assigning grandfather source status.

- a) It should be recognized that grandfather status applies more to the limit than to the source itself. If a source has an annual limit based on explicit or implied permit conditions, but the daily limit was derived from Regulation 2-1-234.3, then exceedance of the annual limit should be treated as a violation of a permit condition and exceedance of the daily limit should only require District notification--and vice versa. Otherwise, a limit adopted somewhat arbitrarily by the District would carry an inappropriate and excessive enforcement consequence. The limit would be presumed to have been derived from a comprehensive NSR-level of review and would be presumed to mark

the level at which decisions made during an NSR review would be invalidated.

- b) Annual and daily throughput limits stated as explicit permit conditions are clearly non-grandfather limits.
- c) Annual and daily throughput limits that are implied by an Authority to Construct are non-grandfather limits only if they were used directly in making BACT, offsets, or toxics determinations. This distinction is especially important in permitting activities where a throughput may have been presented in a permit application--for informational purposes only--as a nominal or historic or typical level, and was never intended to represent the design or maximum capacity of a source, or to have any bearing on an NSR decision. The District has no authority to adopt these numbers as enforceable throughput limits.
- d) Otherwise, throughput limits stated in Table IIA should be regarded as grandfather limits.

Further, the wordings of Section I, Part J of the Title V permit, and of the new permit condition which was added to Section VI for Title V purposes, are inconsistent with each other, with the Statement of Basis, with the Consolidated Response to Comments, and among the Bay Area refineries. They should be reworded so as to be consistent.

- 3. Part II - Equipment. No section of this table is enforceable except to the extent that throughput limitations are imposed by Part V – Permit Conditions or the restriction imposed on Grandfathered Limits in Part I of the permit. Tesoro requests the written concurrence of the BAAQMD with the interpretation noted above and the inclusion of the following language at the start of Part II of the permit: “None of the information included in Part II of this permit is a direct limit on the source except to the extent that other sections of the permit reference information contained in these tables. The facility is not required to submit a compliance certification covering any term of this part.”
- 4. Part III – Generally Applicable Requirements. This section of the Title V Permit document should include all facility wide general requirements, and should be equivalent to Part III of all the other Bay Area refineries’ Title V Permit documents. Consistency with all other refining facilities is necessary, especially in the enforcement of the Title V permits.
- 5. Part IV. Source-Specific Applicable Requirements. The permit should state clearly that the language contained in the column titled “Regulation Title or Description of Requirement” is an informational description of the requirement and not enforceable. Further, the only place where a row should be considered enforceable is if there is text in the column labeled “Applicable Requirement” and there is either a Y or an N in the column called “federally enforceable”. Tesoro requests that language clearly explaining this be added into the beginning of Section IV. This language is especially important when considering the impact on the tables that relate to tanks. For example in Table AZ, listed under Applicable Requirement is 40 CFR 63.654(i). Under the column “Regulation Title or Description of Requirement” are three separate text boxes that describe the three elements that are required for compliance with 40 CFR 63.654(i). Next to each of the three boxes in the column of “Federally Enforceable” this is noted as Yes. This makes the permit very unclear as to

whether Tesoro merely needs to certify compliance with 40 CFR 63.654(i) once for Table IV-AZ or three times. Tesoro believes that the language noted above would remove situations where the permit is unclear.

6. The permit is inconsistent from table to table in terms of what is an applicable requirement. This is especially prevalent for conditions related to storage tanks. Taking an example from Table IV-AZ, there is a row that describes the “Applicable Requirement” as Refinery MACT, the “Regulation Title or Description of Requirement” as NESHAP for Petroleum Refineries Requirements for Tanks Also Subject to NSPS Kb and “Federally Enforceable” column marked as Y. This is obviously the description of the regulation that will be covered by the applicable requirements below it and should not be enforceable. However by noting that the condition as federally enforceable, clarity is lost that it is not enforceable. Tesoro therefore requests where anything is meant to be a title that the text box for “Federally Enforceable” be left blank throughout the permit.
7. Part VII Applicable Limits & Compliance Monitoring Requirements is unclear as to whether any of the items contained in these tables are conditions or simply for informational purposes. The language at the start of the section is contradictory. The first sentence states, “This section has been included to summarize...” this suggests the section is informational. Stated further below is the following “No monitoring (N) has been required if the current applicable rule or regulation does not require monitoring, and the operation is unlikely to deviate from the applicable emission limit based on the nature of the operation.” That text would seem to indicate the section is enforceable. Since all of the monitoring conditions appear to be included in sections of Table IV already, Tesoro believes the District did not intend to create redundant requirements. Tesoro does however request that the BAAQMD make the lack of enforceability of this entire section explicitly clear by adding text at the start of Part VII stating “This section strictly informational and the permittee is not required to certify compliance with any section of this part.”
8. Part VIII Test Methods. It is unclear whether this section is enforceable. Tesoro believes the section should be indirectly enforceable as this creates the clear method(s) by which compliance can be determined other than MRR required by that condition and bars other methods not specifically included. Tesoro requests specific language stating “The test methods cited here are the sole means outside of the monitoring, recordkeeping and reporting required by this permit to establish compliance or noncompliance with an applicable requirement. As such, the permittee is not required to certify compliance directly to any item in this Part, but permittee will not be required to rely on information obtained by methods other than those specified.”
9. Part 1 Condition B.11 requires certification of all documents submitted under this permit by a responsible official. This requirement requires certification of practically all of the items that are currently routinely submitted by the facility to the District and the expectation that the responsible official sign each of these upon submittal is an unreasonable burden. Conditions similar to this appear in every facility operating permit issued by every permitting authority. Other permitting authorities have realized the incredible burden that would be

imposed by this requirement and taken a less burdensome approach that requires the responsible official to certify all of the documents submitted in the preceding in the semi-annual monitoring report. The following is language taken from the operating permit issued by the Northwest Air Pollution Control Authority to the refinery that Tesoro owns in Anacortes, Washington. "All required reports must be certified by a responsible official. Where an applicable requirement requires reporting more frequently than once every six months, the responsible official's certification need only to be submitted once every six months, covering all required reporting since the date of the last certification, provided that the certification specifically identifies all documents subject to the certification." Tesoro believes this language is far less burdensome and should be the basis for all compliance reporting required by Regulation 2 Rule 6. Further this language does not lessen the intent of the condition that all documents be certified by a responsible official in any manner.

10. Part I Conditions F & G. These are the conditions related to semi-annual monitoring reports and annual compliance certifications. These conditions should be changed such that the first semi-annual report will cover the period from the date of permit issuance to either December 31 or June 30 whichever comes first. Subsequent semi-annual reports would then cover the periods from 1/1-6/30 and 7/1-12/31. The first annual certification would cover the period from the date of permit issuance to 12/31. Subsequent annual certifications would cover the period from 1/1-12/31. As in the current draft, the facility would have 30 days to produce the report. These schedules are consistent with the monthly, quarterly, semi-annual and annual reporting that is routinely done by the facility.
11. There are numerous instances where there is no rule version date listed in the permit. Some examples include Table IV-A related to NSPS Subpart A, Table IV-A 40 CFR 63 Subpart B, Table IV-A 40 CFR 63 Subpart CC, Table IV-C 40 CFR 63 Subpart CC. Tesoro requests that the district review the document and ensure that rule version dates be inserted as appropriate.
12. There are several instances including Table IV-K where the permit lists a requirement as federally enforceable and not federally enforceable. This appears to result from regulations that have only been partially approved such as BAAQMD 1-522 where 1-522.7 is not federally approved and other subsections are approved and 9-1-313 where 9-1-313.1 is federally approved and 9-1-313.2 is not federally approved. Tesoro would suggest in cases like this that 9-1-313 itself not be considered an applicable requirement and instead the applicable requirements would be 9-1-313.1 and 9-1-313.2. As was suggested previously by the inclusion of clarifying text and the removal of any text in the "Federally Enforceable" column, this would not be considered an applicable requirement.
13. Table VII cites to the requirements of Tesoro to meet the requirements of BAAQMD 9-1-501 and 9-2-501. These conditions require monitoring upon the request of the APCO. The request that Tesoro received to perform this monitoring should be attached to the permit to provide a clear record of what was requested of Tesoro.
14. References in Part VII to monitoring that is periodic/continuous are not logical requirements. Examples of these contradictory requirements are 40 CFR 60.105(a)(3) and 40

CFR 63.644(a)(2). The first requires a continuous monitor while the second is a continuous indication.

15. There are a number of problems with Table IV-CZ. This table requires clarifying text that makes it clear that this table is interlinked with Table IV-DA. Tesoro suggests the following text: “This table shows the process units to which various regulations apply in part or in whole. The actual applicable regulations for these units are found in Table IV-DA. No compliance certification is required for any element of this table as the certification is included in the certification of Table IV-DA.”
16. To clarify what is intended by continuous monitoring, the BAAQMD should place additional text into the opening paragraph of Part VII as follows: “Where continuous monitoring is specified and a continuous emission monitor (CEM) is required to meet the condition, this continuous monitoring is to be performed in accordance with the BAAQMD Manual of Procedures (MOP).”
17. There are a number of errors in Part VIII of the permit where what is noted as an applicable requirement is not an emission standard or limit. Test methods are designed to clearly demonstrate what test methods will be used to establish compliance with a standard. This table must cite standard(s) or limit(s); not monitoring conditions or test methods and then directly link the test methods that are used to establish compliance with those standards. Following are the terms noted by Tesoro that are called applicable requirements when there are not truly a standard or a limit.
  - a) BAAQMD 1-604 (describes CEM requirements)
  - b) BAAQMD 8-5-601, 602, 603 & 605 (either cited test methods or cited calculation procedure)
  - c) BAAQMD 8-6-502 (monitoring method)
  - d) BAAQMD 8-6-601, 603 & 604 (efficiency calculation, test method and applicability determination methodology)
  - e) BAAQMD 8-8-504 (instrument requirement)
  - f) BAAQMD 8-8-601 through 603 (test methods)
  - g) BAAQMD 8-33-601 through 605 (test methods).
18. Locations where there are apparently incorrect citations to the applicable requirement. Following are the instances noted by Tesoro.
  - a) Reference to BAAQMD 8-5-304 (refers to requirements for external floating roof tanks while referencing a means to determine true vapor pressure). This reference should be 8-5-301 (a table that requires various levels of controls based on maximum TVP of liquid stored in the tank and volume of tank).
  - b) Reference to BAAQMD 8-5-311.3. This is a deleted requirement.
  - c) Reference to BAAQMD 8-5-328.2. This should refer to 8-5-328.1.2 that requires control until the concentration of VOCs is less than 10,000 ppm. This would be measured by the test method cited.
  - d) Reference to BAAQMD 8-5-320.3. This is a requirement on allowable gap space, but the noted test method is Method 21 that is not appropriate.

- e) Reference to BAAQMD 8-44-304.1. This should be expanded to include BAAQMD 8-44-303 and 8-44-304.
  - f) Reference to BAAQMD 8-46-304.1. This should be expanded to include BAAQMD 8-46-303 and 8-46-304.
19. There are several instances where the regulations seem to allow multiple testing methods, but there is only one listed testing method. These should be expanded to include the alternate methods.
- a) BAAQMD 8-7-301 and 302 allow in addition to the procedures in the Manual of Procedures, CARB methods TP-201.1 in lieu of ST-36, TP-201.3 in lieu of ST-30, TP-201.2E and TP-201.2D in lieu of ST-41.
  - b) BAAQMD 8-18-306 allows the use of the EPA protocol or another calculation method approved by the APCO.
20. In cases where test methods are cited in the regulations and there is either a direct citation or clear link to an emission standard, the regulatory citation to the test method should be included in lieu of a written description of the method. This will help prevent any misinterpretations. Following are the instances noted by Tesoro.
- a) BAAQMD 8-2-301 is directly linked to BAAQMD 8-2-601.
  - b) BAAQMD 8-8-301 and 302 are directly linked to BAAQMD 8-8-603.
  - c) BAAQMD 8-18-301 through 305 are directly linked to BAAQMD 8-18-602.
  - d) BAAQMD 8-18-306 is directly linked to BAAQMD 8-18-604.
  - e) BAAQMD 8-44-301 is directly linked to BAAQMD 8.44.601 and 602.
  - f) BAAQMD 8-46.303 and 304 are directly linked to BAAQMD 8-46-603.
  - g) BAAQMD 9-1-301 is directly linked to BAAQMD 9-1-604.
  - h) BAAQMD 9-1-302 is directly linked to BAAQMD 9-1-601.
  - i) BAAQMD 9-1-310.1 is directly linked to BAAQMD 9-1-601.
21. The permit is inconsistent and contains inaccuracies in how it treats test methods for federal regulations including the following.
- a) The test methods for 40 CFR 60 Subpart J are in part IV and not in part VIII of the permit. However, test methods for 40 CFR 60 Subpart QQQ are in Part IV-DA and Part VIII. The testing conditions should be included in Part VIII of the permit to make it clear that wherever the applicable standard appears, these are the test methods to ensure compliance. Tesoro does not object to these references in part IV of the permit as well in those cases where the cited reference has independent emission limits or standards associated with it such as 40 CFR 60 Subpart Kb that sets the test method for measuring gaps but has the separate requirement to test at certain frequencies.
  - b) The permit cites test methods for 40 CFR 60 Subpart GG. Since there are no turbines at the refinery subject to 40 CFR 60 Subpart GG, this reference should be deleted.
  - c) The permit lists NSPS Subpart VV test methods. Subpart VV is not directly applicable at petroleum refineries and is only made applicable by references in 40 CFR 60 Subpart GGG and 40 CFR 63 Subpart CC. Tesoro suggests the permit should cite 40 CFR 63.648 as the applicable standard and 40 CFR 60.485 as the

test methods for that standard. For Subpart GGG, the citation should be 40 CFR 60.592 as the applicable requirement and then 40 CFR 60.593 and 40 CFR 60.485 as the reference test methods.

- d) The permit cites 40 CFR 61 Subpart V as an applicable requirement. This is not accurate. The applicable requirement is 40 CFR 61 Subpart J that refers to Subpart V. The applicable citation here is 40 CFR 61.112 with the test method citation of 40 CFR 61.245.
- e) There are extensive test methods associated with 40 CFR 61 Subpart FF. The applicable requirement for this section is 40 CFR 61.342(a) and (b) with a citation to 40 CFR 61.355. This will cover the numerous possibilities associated with this rule.
- f) 40 CFR 60 Subpart QQQ would better be cited by calling the applicable requirements 40 CFR 692-1 through -7 and 40 CFR 693-1 and -2 should be linked to the test methods in 40 CFR 60.696.
- g) There are other federal regulations applicable to the refinery where there is not a clear link between some or all of the emission limitations and the applicable test methods such as non-LDAR provisions of 40 CFR 63 Subpart CC and 40 CFR 60 Subparts Ka and Kb.

Pg. 5 See Tesoro's comment under "Additional Errors / Issues , item # 2. for the third paragraph under I. Standard Conditions.

**Pg. 6 Add S605 to the list of deleted sources for Plant # 12758 under the heading "*Devices Removed from Service Since Application was Submitted*".**

**Pg. 13 Table II-C should be changed to Table II-A for Plant #B2758, to reflect the same table identification shown in the draft Title V permit.**

**Pg. 13 Capacity of S97, S98 and S99 should be changed to reflect the same capacities shown in the draft Title V permit, Table II-A.**

**Pg. 15 S434, S435 and S436 are shown in Table II-C, but are cited as being out of service in pg. 6 under "*Devices Removed from Service Since Application was Submitted*".**

Pg. 16 S606 and S607 capacities should be changed to reflect the capacities shown in the draft Title V permit, Table II-A

Pg. 20 S834 and S851 capacities should be changed to reflect the capacities shown in the draft Title V permit, Table II-A.

Pg. 21 S904 capacity should be changed to reflect the capacity shown in the draft Title V permit, Table II-A.

Pg. 24 S983 capacity should be changed to reflect the capacity shown in the draft Title V permit, Table II-A.

Pg. 29 Table II-A should be changed to Table II-C for Plant #B2759, to reflect the same table identification in the draft Title V permit.

Pg. 32 For the SO<sub>2</sub> Source Table – S1401 should be listed as the correct source for BAAQMD citation 9-1-313.2 and 9-1-313.1. In the "Monitoring" column for Reg 9-1-

313.2, delete the reference to the “Annual Source Test for S-4227-9”, since this is not a source at Plant #B2758.

Pg. 33            For footnotes 4 and 5 – add S1401 as source number of reference.

Attached is a subset of the original comments written by Tesoro Refining and Marketing Company for the Golden Eagle Refinery (Facility **B2758**) and Amorceo Wharf (Facility **B2759**) draft Title V permit. The basis for the referenced page numbers is from the original draft Title V document made publicly available on June 17, 2002 on the BAAQMD website. The original comments were submitted on September 16, 2002, and this subset of comments represents outstanding issues that have not been addressed by the District.

**The items shown in bold type are also noted on the Significant Errors with Golden Eagle Title V Draft Permit document. A cross-reference to the Significant Errors document is shown at the end of the specific text in parentheses, as in (XX).**

The page references are based on the PDF file on the BAAQMD website.

3. For entire permit

In the process of reviewing the draft operating permit issued for the Golden Eagle Refinery, Tesoro has reviewed draft permits that were issued to the other petroleum refineries regulated by the BAAQMD. This review shows that there are inconsistencies in the way applicable requirements are cited in these draft permits, which should be the same for each refinery. The petroleum refining industry is an extremely competitive industry, and Tesoro is concerned that these inconsistencies could potentially place it at a competitive disadvantage with other refiners. Tesoro requests that the BAAQMD work with the five local refiners to review the five draft permits and develop a series of standard conditions for certain regulations that should apply equally to all of the refineries. The following are a few examples of the inconsistent application of regulations:

- ~~○ 40 CFR 61 Subpart FF. In Tesoro's draft permit, this regulation is noted as being applicable to Facility B2758 (Golden Eagle Refinery) and B2759 (Amoreco Terminal) along with applicability assigned to numerous individual sources at the facility. In the draft permit issued to Phillips 66 Company, the requirements of this regulation are noted as being applicable only to the entire facility and not to individual sources. The citation in the Phillips permit is appropriate. As is discussed in subsequent comments by citing applicability of this rule to specific sources, the flexibility inherent in the regulation is decreased. This loss of flexibility places Tesoro at a disadvantage.~~
- Tesoro has permit conditions that do not provide for maintenance downtime. Every piece of equipment, including air pollution control devices, need maintenance in order to function properly. Some refineries have more stringent requirements than others do, which is inequitable.

11. p.6 Permit Condition I.K. – Accidental Release states, “The permit holder shall submit a risk management plan (RMP) by the date specified in 68.10.” The RMP has already been submitted. The condition should be revised to state “The permit holder shall revise the RMP as required by 68.150(c).”

Table IIA

- 15. p. 7-8 - Combine S-100, 106, 107, 108, 114 throughputs since we have existing systems to tabulate what is loaded and unloaded from the Avon Wharf but not from the individual berths.
- 21. p. 9 – Modify throughput for S513 to 5756 kbbl/year. The design rate is slightly higher than what is currently in the draft permit.
- 27. p. 11- Combine S-655, 656, 657, and 658 throughputs. These four tanks are interchangeable.

28. **p. 11 - S664 increase throughput to 12,800 kbbbl/year. It is the sister tank to S702 and should have the same throughput. (25.)**
29. p. 12 – S-696, S697, S698 should be equal to S101 Truck Rack of 7300 kbbbl/year since these tanks feed the truck rack. Please combine the throughput for these three tanks to equal 7300 kbbbl/year.
30. p. 12 – S-699, Change the throughput from 500 kbbbl/year to 3,754 kbbbl/year based on design for the tank.
31. **p. 13 – S-739, Need to clarify that the rate is in reference to the crude drained from hoses and minor leaks. Rainwater is excluded from this throughput. (26.)**
34. p. 13 - S808, S810, S821 should have a similar throughput as S659 and S660 of 1,016,160 tons/year since this is the coke production rate. If the silos were completely out of service, the alternative is to go the coke pile.
35. **p. 14 - Throughputs for S819 and S831 should be identical. Since they are in series the throughput should be increased to 133,255 kbbbl/year. Wastewater that comes into the API Separator (S819) ends up going to the bioxidation pond (S831). (27.)**
38. **p. 14 - Add S825 DEA Regenerator (Normal Operations) at 2130 gpm design. This unit was part of the original permit data forms submitted in 1977, but was never added to our permit to operate. Also change S856 to 1000 gpm only. Delete “as 2130 gpm feed to stripper” since it does not make sense when the spare stripper can only run 1000 gpm. (16.)**
40. **p. 15 - Change S901 capacity from 332 MMBTU/hr to 688 MMBTU/hr based on design data. (7.)**
50. p. 21 - The rate to S1416 and S1417 is the same as S714. We can combine the throughput of these two tanks and make it equal to S714's. The combined throughput for S1416 and S1417 is 6,257 kbbbl/year, which equals the acid going through S714. The capacity in tons/year does not make sense.
54. p. 22 Table II B – Abatement Devices has columns titled “Operating Parameters” and “Limit or Efficiency”. The permit should add a statement that clarifies that these columns are descriptive and do not impose any regulatory limits. Compliance is to be demonstrated with the conditions noted in the column labeled “Applicable Requirement.”
56. p. 22 - Table II B – Abatement Devices has for abatement device A-12 an applicable requirement of BAAQMD Regulation 1-301. Regulation 1-301 limits public nuisance odors. Public nuisance odors are an offsite impact that is applicable to the entire refinery

and not individual pieces of equipment. Tesoro therefore requests that the citation to this regulation be deleted.

66. **p. 29 - S19, S21, S30, S49, and S50 of B2759 should have the same throughput as S-55. Tesoro requests a throughput limit of 192,000 bbl/D based on wharf design rates. (2.)**
67. **p. 29 - S54 of B2759 should have a throughput of 30,000 gal/year. No other capacity was assigned previously to this tank which is based on use of the slop tank. (28.)**
68. p. 30 Add the following tanks to Table IIC for the exempt tank list: Source No. 198, ~~273~~, 300, ~~368, 369, 391, 406, 429, 453, 489, 494, 495, 496, 503~~, 506, ~~510~~, 514, 515, 516, ~~517~~, 554, 572, ~~574, 585, 586~~, 598, 599, ~~602, 604~~, 618, ~~620, 621~~, 646, 647, 648, 649, 652, ~~654~~, ~~662~~, 666, 667, 668, 669, 670, ~~672~~, ~~691~~, 695, and 749. These are either pressurized tanks, aqueous solutions, or heavy liquids. (The deleted items were added to Table II D)
70. p. 33 – Table III contains a column labeled “Regulation Title or Description of Requirement.” Tesoro is concerned that these will be construed as enforceable requirements. Tesoro requests that a statement be added to the opening paragraphs of Section III of the permit stating, “The terms of the column titled “Regulation Title or Description of Requirement” are not enforceable conditions and are included in the permit solely for informational purposes only.”
71. **Table III – Generally Applicable Requirements imposes as applicable conditions 40 CFR 82.156, 40 CFR 82.161 and 40 CFR 82.166, in addition to citing all of 40 CFR Part 82 as generally applicable. Tesoro requests the following regarding these conditions.**
- **Delete the conditions requiring compliance with 40 CFR 82.156, 82.161 and 82.166 from the permit, since the permit also cites to 40 CFR Part 82 as an applicable requirement to the facility and this obviously includes the obligation to comply with the conditions requested for deletion.**
  - **Since there are ongoing compliance obligations with the provisions of 40 CFR Part 82, Tesoro requests that this applicable regulation be moved to Section IV of the permit and inserted into Table IV-A.**
  - **The provisions of 40 CFR 82 should be listed a federally enforceable. (29.)**
74. Table IV’s require compliance with various BAAQMD and federal regulations. An important element of this section is the listing of the approval date of the regulation for which compliance must be achieved. However, the draft permit is not consistent in listing the applicable regulation date.

75. Table IV contains a column labeled “Regulation Title or Description of Requirement.” Tesoro is concerned that these will be construed as enforceable requirements. Tesoro requests that a statement be added to the opening paragraphs of Section IV of the permit stating, “The terms of the column titled, “Regulation Title or Description of Requirement” are not enforceable conditions and are included in the permit solely for informational purposes only, except in cases where the text is noted as directly enforceable. In situations where the text is directly enforceable, it will be further highlighted by underlining the enforceable text.”

76. Table IV of the permit cites a number of regulations where Tesoro must comply both with the rule as adopted into the State Implementation Plan (SIP) (which is federally enforceable) and revised rules that have yet to be adopted into the SIP (which is not federally enforceable). Tesoro requests that language be added to the permit that will automatically delete the rules currently in the SIP upon adoption of the revised rule into the SIP. Tesoro proposes the following language: “Notwithstanding any other provision of this permit, the permit holder shall not be required to comply with any prior version of a BAAQMD rule or regulation that subsequently has been amended or repealed by the BAAQMD, once the updated rule or regulation (or repeal) has been approved by EPA the California State Implementation Plan (“SIP”). After that EPA approval, any terms of this permit based on the superseded version of the BAAQMD rule and regulation are immediately null and void, and the permit holder will be required to comply with the new version of the rule or regulation approved into the SIP.”

78. **p. 35 - Table IV-A lists the Subpart A requirements of NSPS/NESHAP/MACT sections as applicable to sources B2758 and B2759, which are the Golden Eagle Refinery and Amorco Terminal respectively. This is not an appropriate designation since the requirements of the various Subpart As are only applicable to equipment (affected facilities) that are subject to a NSPS/NESHAP/MACT standard. None of these general provisions are applicable to every piece of equipment at the facilities. Specific subparts of NSPS/NESHAP/MACT standards in many cases either do not require compliance with or change compliance standards under the applicable Subpart A. For example, NSPS Subpart Kb at 40 CFR 60.110b(b) exempts tanks less than 75 cubic meters from the provisions of 40 CFR 60 Subpart A. Tesoro is concerned that listing the general provisions for each affected source will cause a general provision to become applicable although the applicable subpart voids that general provision. Since the exceptions are too numerous and complicated to practically enumerate in each case. Tesoro requests the addition of the following directly enforceable text into the references to Subparts A of NSPS/NESHAP/MACT in Table IV-A – “these general provisions are only applicable to equipment that is subject to a specific standard under 40 CFR 60, 61 and 63. The applicability of these general standards can be further limited by the specific provisions of the applicable subpart which may not require compliance with certain general provisions.” (30.)**

79. Section IV of the permit lists various sections of Subparts A of 40 CFR 60, 61 and 63 as applicable to various sources at the refinery. Although all of the items cited are applicable requirements as defined in BAAQMD 2-6-202, many do not impose ongoing emission limits, monitoring, recordkeeping or reporting conditions on the facility. Since there are no ongoing compliance obligations associated with these requirements, Tesoro requests that they be moved to Section III of the permit. A table citing these conditions is attached.

Tesoro notes that several items that are listed in Section III of the permit also appear in various tables in Section IV of the permit. Since Section III is generally applicable to all sources at the facility and does not include any items with ongoing compliance obligations, there is not a need to repeat these conditions in subsequent sections of the permit. Tesoro thinks that this repetition creates confusion in tracking compliance with the permit.

There are portions of Subpart A in 40 CFR 60, 61 or 63 where there are ongoing compliance obligations. These compliance obligations are only imposed on a source if there is a non-general subpart applicable to that source. Tesoro has created replacement text that should be substituted into the tables of Section IV where there are currently compliance requirements under 40 CFR 60, 61 and/or 63 Subpart A. These tables only include items that have an on-going compliance obligation and will simplify tracking compliance with the permit.

Tesoro requests that the following language be added to the permit. "In cases where a specific subpart either changes a general provision (Subpart A) obligation or removes a general provision (Subpart A) obligation, compliance with the condition in the applicable subpart will be adequate to certify compliance."

80. There are numerous tables in Section IV that require Tesoro to comply with the provisions of 40 CFR 63.642(g)-(l) of the permit. The only appropriate location to cite these references are in a table of generally applicable requirements to the Golden Eagle Refinery. These provisions describe the overall compliance strategies available to refiners. The appropriate citation is only 40 CFR 63.642(i) as this approach gives the appropriate amount of flexibility in complying with the provisions of the rule. Refinery MACT I established two approaches for refiners to achieve compliance: To install appropriate controls on Group 1 wastewater streams, process vents, loading racks, marine loading facilities and storage tanks and monitor applicable components in organic HAP service or to utilize an emissions average for all of the facility or for a portion of the facility in combination with controls on GROUP 1 sources. By citing all of the methods, it is possible to construe that Golden Eagle is required to install controls on all its Group 1 sources and comply with the emissions average approach. Golden Eagle's compliance strategy is to appropriately control all of the GROUP 1 sources and does not utilize an emissions average.
81. **There are no provisions of the permit that require compliance with 40 CFR 61 Subpart M (Asbestos NESHAP). As this is a facility-wide standard and not a**

source-by-source requirement, it is most appropriate to include these conditions in Table IV-A. Tesoro requests that appropriate conditions be added and has attached suggested language to add to Table IV-A of the permit. (24.)

82. In Table IV-A, 40 CFR 63 Subpart CC is listed as applicable to B2759. 40 CFR 63 Subpart CC does not apply to source B2759 (Amorco Terminal) since the terminal is not a refinery and is not subject to the provisions of 40 CFR 63 Subpart CC. Attached is a letter from EPA Region X to Tesoro Alaska stating that the provisions of 40 CFR 63 Subpart CC are not applicable at a collocated terminal as they relate to required controls on wastewater streams, tanks and equipment leaks at refineries. (8.)
177. p. 61 – Delete 6-601 since it refers to the manual of procedures and is already in Table VIII for test methods.
201. Table IV-P, Delete Reg. 6 since it is already part of Table III.
203. Table IV-Q 1-301 Based on comparison of SIP approved and BAAQMD regulations, federal enforceability should be denoted "No". (33.)
204. Table IV-Q Reg. 8 Rule 2 Based on comparison of SIP approved and BAAQMD regulations, federal enforceability should be denoted "No". (33.)
206. Tesoro makes the following comments regarding Table IV-U~~Y~~ S-854, S992, and S1013. Tesoro requests that the attached revisions to Table IV-Y that incorporates Tesoro's comments be made to the draft permit.
- Table IV-U~~Y~~ references Subparts A of 40 CFR 60, 61 and 63. Since these flares only combust gases that result from emergency conditions and are not used as routine control devices they are exempt from all provisions of 40 CFR 61 and are only subject to the control device requirements found in 40 CFR 60.18 and 40 CFR 63.11. (34.)
  - Table IV-U~~Y~~ references 40 CFR 60 Appendix A as an applicable requirement. Appendix A contains test methods. Test methods are not applicable requirements under the operating permit program. Therefore all references to test methods in this table should be moved to Table VIII. (35.)
  - Table IV-U~~Y~~ references certain provisions of 40 CFR 63 Subpart CC (Refinery MACT I) as applicable to these flares. The two sets of provisions are the controls required on Group 1 process vents and the provisions associated with a facility that complies with Refinery MACT I through an emissions averaging approach. The facility does not have any Group 1 process vents and the facility does not comply through the emissions averaging. These conditions should therefore be deleted. (36.)

- **The only applicable standards for 40 CFR 60, 61 and 63 Subparts A is 40 CFR 60.18 and 40 CFR 60.11. The provisions of 40 CFR 63 Subpart CC are noted as being applicable to the flare. The provisions of Refinery MACT 1 are applicable to miscellaneous process vents, tanks, components, wastewater streams, loading racks and marine docks. Flares do not qualify in any of the categories noted above. Flares can be used as a control device to comply with control provisions for the sources noted above, however flares do not have any specific compliance obligations under the Refinery MACT I provisions. These provisions should be deleted from the permit. (34. & 36.)**
207. p. 81 - Table IV- Z      Add S825 DEA Stripper.
224. **p. 83 - Table IV – XAB contains the applicable requirements for the following four flares: S943 - Tank 691 Safety Flare, S944 – North Steam Flare, S945 – South Steam Flare and S1012 – West Air Flare. All of these flares were built before 1973 and are not subject to the provisions of 40 CFR 60 Subpart J. The only applicable requirements are 40 CFR 60.18 and 40 CFR 60.11. Any references to Subpart J should be removed from this table, including language in Condition #19528, part 11. (11.)**
356. p. 103 - 9-8-401 Condition deadline has past. All engines meet requirements. Delete.
357. p. 103 - 9-8-501 Initial source test complete. Delete from Table IV-AH.
361. p. 104 - 9-8-401 Condition deadline has past. All engines meet requirements. Delete.
362. p. 104 - 9-8-501 Initial source test complete. Delete from Table IV-AH (please note that there are two Table IV-AH).
419. 159, 161 - Tables IV – BD and BE regulate storage tanks that are subject to the provisions of 40 CFR Subpart Kb. Tesoro offers the following comments:
- Tesoro requests that the applicability determination between 40 CFR 63 CC and 40 CFR 60 Kb be moved to the Statement of Basis Report.
438. Create separate process units for each of the compressors subject to 40 CFR 60 Subpart GGG as these are defined as separate affected facilities for purposes of this regulation. Directly enforceable text should be inserted for these process units “only applicable provisions are those related to compressors.”
574. p. 624 -729  
Section VII of the permit has a number of columns in the tables included in the section that are not applicable. These include columns titled “Type of Limit”, “Limit”, “Monitoring Frequency” and “Monitoring Type”. Tesoro requests that at the beginning of Section VII, language be inserted that makes it clear that these provisions are not enforceable and are only included for informational purposes.

575. Section VII of the permit has multiple tables all noted as Table VII-A. Tesoro requests that these tables be renumbered.

576. p. 62 Table VII-A related to sources S-101, S125 and S1025 (bulk plants)

~~This table incorrectly indicates that the sources noted above are subject to Regulation 8, Rule 6. Regulation 8, Rule 6 applies to Bulk Plants and Bulk Terminals. We do not have any sources subject to this regulation. We do have one source, S1025, that is subject to Regulation 8, Rule 33 (Gasoline Bulk Terminals). Since we are subject to Regulation 8, Rule 33, we are not subject to Regulation 8, Rule 6 as indicated in Regulation 8-6-115 that states:~~

~~8-6-115 Exemption, Bulk Gasoline Distribution Facilities: Gasoline bulk terminals and bulk plants are not subject to the requirements of this rule. Such facilities are subject to the provisions of Regulation 8, Rules 33 or 39.~~

~~All reference to Regulation 8, Rule 6 should be removed from this table.~~

In addition, S-1025 is not currently in service. This section should note that “Tesoro must meet the applicable requirements identified in this table if the source returns to operation.” This is needed because the source cannot, or should not reasonably be required to, comply with these requirements while the source is not in operation. Also, it appears that the required periodic monitoring is a source test every six months on this source. Tesoro believes that source testing as frequently as every six months is an onerous condition and that any source testing should be done much less frequently than once every six months. This is particularly true considering the control equipment associated with this source. Tesoro would suggest testing once every five years.

**Sources S-101 and S-125 cannot load gasoline or other volatile materials. These sources should be removed from this table since, to the best of our knowledge, there are no applicable requirements for these sources. (22. & 23.)**

**578. Table VII-A related to S854, S992 and S1013 (flares) objects to several of the conditions in this table as follows:**

- **The reference to 40 CFR 63.643(a) is incorrect, as there are no process vents at the facility that require controls. Further, the appropriate monitoring requirement for flares is found at 40 CFR 63.644(a)(2) whereas the draft permit references 40 CFR 63.644(a)(1) and (a)(3).**
- **The H2S monitoring provisions of 40 CFR 60.104(a)(1) is not appropriate for these flares, since they combust only purge gases, process upset gases or fuel gas that are released as a result of relief valve leakage or other emergency malfunctions. Such releases are exempt from the requirements of 40 CFR 60 Subpart J. (37.)**

- 579. Table VII-A related to S943, S944, S945 and S1012 (flares) references monitoring associated with abated process vents. There are no Group 1 process vents at the refinery that require control and therefore this citation is not appropriate. (38.)**
- 586. Tesoro makes the following comments with respect to Table VII – I (Components).**
- **There are monitoring requirements cited for 40 CFR 60.692-5(a) and (b). As each of these are design standards, there is no monitoring requirement and any citations to monitoring should be deleted. (39.)**  
**Add 40 CFR 60.592(a) to the list of applicable requirements. This is necessary since 40 CFR 60 Subpart VV is not directly applicable to the facility and only becomes applicable through 40 CFR 60.592(a) requiring compliance with its provisions. (40.)**
  - **Citations of Limit such as 40 CFR 60.482-9(d), 60.482-4(a), 60.482-10(b) and 60.482-10(c) are noted as having no monitoring requirement. As such, these line items should be deleted.**
  - **Numerous monitoring conditions are cited for 40 CFR 61 Subpart V. Since 40 CFR 61 Subpart V is not applicable anywhere in the facility, these references should be deleted.**
- 593. p. 650 – Delete S902, S905, S923, and S991 – These heaters are not part of the refinery wide bubble since they have low usage rates. (9.)**
604. p. 671 - Combine Tank Cluster 01a S3 and S658 with p. 673's S28, etc.
605. p. 674 – 678 - Combine Tank Cluster 01b S1, S529, S530, S651, etc.
606. p. 679-680 -Combine Tank Cluster 01b - out of service tanks.
607. p. 682-684 - Combine Tank Cluster 11.
608. p. 687-689 - Combine Tank Cluster 20.
609. p. 689-700 - Combine Tank Cluster 23. If there are specific permit conditions, then add a line for each such tank and specify which conditions are applicable.
610. p. 700-712 - Combine Tank Cluster 24. If there are specific permit conditions, then add a line for each such tank and specify which conditions are applicable.
611. p. 715 – 718 - Combine Tank Cluster 25. If there are specific permit conditions, then add a line for each such tank and specify which conditions are applicable.
612. p. 719-723 - Combine Tank Cluster 26. If there are specific permit conditions, then add a line for each such tank and specify which conditions are applicable.

**614. Per our discussions with the District, modifications need to be made to these conditions to make them consistent with the refinery's latest NOx Control Plan. These revisions need to take place prior to the issuance of the Title V permit. We will contact you to set up a time to develop the revised permit conditions. (3.)**

615. p. 730 - Section IX of the permit contains the permit shield provisions of the permit, which includes requirements that have been subsumed. Here, the only requirements that are listed as having been subsumed are some recordkeeping provisions for some tanks of BAAQMD Regulation 8 Rule 5 and 40 CFR Part 60 Subpart Kb into the Notification of Compliance Status under Refinery MACT. This is not consistent with the requirements that have been subsumed in the other permits for BAAQMD regulated petroleum refineries. Particularly the draft permit issued for Valero contains other subsumed requirements unrelated to tanks. Tesoro believes that the subsumed requirements for generally applicable regulations should be consistent amongst the five refineries and requests that appropriate changes be made.