



**Benicia Refinery** • Valero Refining Company - California

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October 26, 2012

Comments on Proposed Amendments to  
Regulations 2-1, 2-2, 2-4, and 2-6: Permits,  
New Source Review, Emissions Banking,  
Major Facility Review (Reg. 2's)

Ms. Carol Lee  
Senior Air Quality Engineer  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Dear Ms. Lee:

Valero Refining Company – California (“Valero”) appreciates this opportunity to provide comments concerning the District’s proposed revisions to the provisions of Regulation 2 governing stationary source permits (the “Proposed Regulation 2 Revisions”). Valero owns and operates a petroleum refinery in Benicia, California, which is subject to the requirements of Regulation 2. Based upon our experience in addressing air permitting requirements under the current regulatory regime, we offer these comments in support of the revisions to Regulation 2 to promote environmental protection objectives, clear and efficient air permitting implementation, changing demand for consumer products, and reasonable opportunity to comply with the continued changes in local, state, and federal regulatory requirements.

We acknowledge the extensive work that District Staff have invested to incorporate the required and desired changes to the rule, namely inclusion of PM 2.5 and greenhouse gases into the regulations, and reorganization the rules to improve clarification. We are grateful for the District’s investment in dialogue with all interested parties to understand the issues and to alleviate unintended consequences that may arise due to the volume of changes in wording and reorganization associated with these amendments. It is important to the regulated community, to concerned citizens, and to the District to produce a permitting rule amendment that is clear. This provides permitting requirement certainty for both the regulated community and for the District Permit Engineers to implement.

Valero has been working with WSPA and supports the comments on the proposed rule presented in the WSPA letter to the District on October 26, 2012.

Valero is in receipt of the District's latest draft proposed amendments dated September 26, 2012. Valero offers the following comments to the District regarding the latest group of draft proposed amendments, reports, and comment letters.

1. Comment on BAAQMD Responses to Valero Comment letter dated October 2, 2012

Valero appreciates the District's interest to fully understand important issues related to NSR. In response to your comments on Valero comment letter, we want to provide the following to clarify your understanding of our recent comments.

- A. Some environmentally beneficial projects may not be undertaken if they were subject to PSD permitting requirements for certain emissions because of the additional burdens associated with these requirements (retrofitting for Best Available Control Technology and possible reduction in permit limits). It is important that projects to reduce emissions required by CARB's GHG legislation are allowed to be implemented and associated energy efficiency modernization projects are allowed to occur without unduly limiting the operational capability and flexibility of certain facility processes. Industry needs the flexibility to meet both the regulatory requirements to produce in California while meeting changing consumer demands. (Reference Page 13)
- B. Not undertaking the energy efficiency projects would not likely lead to higher emissions. However, it would likely hinder the implementation of beneficial facility improvement projects, thus slowing emissions reductions. This is an example where NSR Reform methodology *is* more stringent than non-NSR Reform methodology. (Reference Page 14)

2. NSR Reform Methodology

Exceeding a permit applicant's stated emissions increases using Baseline Actual Emissions to Future Projected Actual Emissions (BAE to PAE) based on EPA guidelines has real consequences if the PAE is exceeded. To verify that emissions increases above that stated in the permit have not occurred, annual emissions calculations and reporting are required for 5 or 10 years, depending on the project's potential emissions effect. This is detailed in EPA 40CFR52.21(r)(6). We are supportive of the District continuing to work with the State and the regulated community to utilize the EPA or similar requirement in the local rule to satisfy the District that the emissions estimates for the proposed changes are accurate.

According to the Staff Report, SB288 requires subsequent rule amendment language to be "no less stringent" than the rules that the California Air Districts had implemented as of 2002. We interpret that this was implemented to protect the environment from real emissions increases. SB288, however, does not directly define 'stringent'. Because NSR Reform methodology was at the time viewed as a less stringent permitting option at that time, its use was excluded from future rule amendments. However, if NSR Reform methodology reduces the burden for facilities to modernize and reduce emissions, then this is actually *more* stringent based on providing an environmental benefit. Providing less burdensome processes for facilities to modernize to reduce emissions and provide products that consumers demand and use in California and the flexibility to comply with new emissions regulations should be a primary component of any regulatory rule language.



As industry commenters continue to assert, components of the current rule amendment language have the potential to hinder some environmentally beneficial projects from being implemented by potentially requiring BACT and accepting lower permit limits for projects that are rationally beneficial to the environment. Providing straightforward rule language and guidance documentation that alleviates this concern is an extremely important component of this rule amendment.

We suggest utilizing NSR Reform methodology solely for projects whose primary purpose is emissions reduction, energy conservation, or state or federally mandated product reformulations, while requiring non-NSR Reform methodology for all other projects. This meets the intent of the stringency requirements demanded by SB288 by not relaxing potential for *real* emissions increases to the atmosphere, while allowing facilities cost-effective alternatives. In exchange for utilizing NSR Reform on these specific projects, the federal reporting requirements would apply.

### 3. Emissions Reduction Credit Calculation Procedures (2-2-605)

Pages 105 to 106 of the Staff Report clearly discuss the difference in the Emissions Reduction Credit (ERC) calculation dependent on whether or not the source is fully offset. The Staff Report discussion parallels the current practice. However, based on the definition of Potential to Emit (PTE) in Reg. 2-1-217 for a fully offset source, PTE for this situation could be misinterpreted as its physical or operational limitation, rather than its fully offset permitted limit. This would be an issue if its physical or operational limitation is lower than its permitted limit. This misinterpretation would reduce the amount of ERC available to be banked. If this issue arose, the Staff Report could perhaps be utilized. However, we believe that providing clarifying language to the calculation methodology in Reg. 2-2-605 is the preferred alternative. This will eliminate any future misinterpretation of the calculation procedure.

The methodology and language to calculate ERC's for fully offset sources utilized in the current version of the rule is as follows.

(2-2-605.4, 605.5) "For a source which has, contained in a permit condition, an emission cap or emission rate which has been fully offset by the facility, ... the baseline throughput and baseline emission rate shall be based on the levels allowed by the permit condition." ... " adjusting the baseline emission rate downward, if necessary, to comply with the most stringent of RACT, BARCT..."

Suggested changes to the currently proposed Reg. 2-2-605 language are below.

605.2 Fully-Offset Source: For a source that is fully offset as defined in Section 2-2-213, the amount of emission reduction credits is the difference between: (i) the source's potential to emit as stated in its permit condition before the change, adjusted downward, if necessary, to reflect the most stringent of RACT, BARCT, and applicable federal and District rules and regulations in effect or contained in the most recently adopted Clean Air Plan; and (ii) the source's potential to emit as stated in its permit condition after the change.

4. Particulate Matter less than 2.5 Microns in diameter (PM 2.5)

We continue to be challenged with respect to the implementation and enforcement of PM 2.5 emissions limits. None of the current three EPA approved test methods speciate for PM 2.5 for wet stacks or for samples greater than 450F. There is also a low repeatability in test results for some of the EPA test methods for low concentration PM. This would apply to nearly all gaseous combustion devices. This means that PM currently measured is actually total PM based on EPA Method 5 and Method 202. Additionally, a majority of PM for gaseous combustion devices (furnaces and boilers) results from atmospheric PM, not from the products of combustion. It would be helpful if these issues are directly addressed in either the rule language, or supporting documentation, so that when new PM limits are set as part of a permit condition, available stack test methods are utilized to assist in developing the compliance limit.

We appreciate this opportunity to provide comments on the Proposed Regulation 2 revisions, and look forward to continued participation in the District's regulatory development process. Please contact feel free to contact me at 707-745-7203 should you have any questions about these comments.

Sincerely,



Susan K. Gustofson, P.E.  
Staff Environmental Engineer

SKG/tac

ecc: Alexander (Sandy) Crockett, Assistant Counsel, BAAQMD  
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