

*This Document without Attachments or 'Certificate-of-Service' shall be known as:
“Doc-EE_GEng_Permit-Brief-Appeal-to-USEPA-EAB_6pp_2024-10-26.pdf” (6 pages)*

*This Document, plus 2 'Certificates-of-Service', but without Attachments, shall be known as:
“Doc-EE1_GEng_Permit-Brief-Appeal-to-USEPA-EAB_with-Certs_8p_2024-10-28.pdf” (8 pages),
for electronic submission to [www.epa.gov/eab],
along with submission of 9 separate attachments:*

'Doc-00', 'Doc-01', 'Doc-02', 'Doc-13a', 'Doc-13b', 'Doc-14', 'Doc-18', 'Doc-AA', 'Doc-BB'

*This Document plus above referenced 9 Attachments, but excluding 'Certificate-of-Service' shall be known as:
“Doc-EE2_GEng_Permit-Brief-Appeal-to-USEPA-EAB-with-Attachments_2024-10-26.pdf”*

**Permit Brief Appeal by Gengmun Eng (“Citizen”, “Petitioner”)
to US EPA Environmental Appeals Board (“EAB”)
Regarding Denial of Citizen Petition No. IX-2024-14
in its entirety by US EPA Administrator Michael S. Regan
on 4 October 2024 in the matter of:
Region 9 Title-V Refinery Operating Permit Renewal
as constituted on May 28, 2024
for the Valero Ultramar Wilmington HF Refinery
2402 East Anaheim Street, Wilmington, CA 90744.**

**Citizen Appeal requests that the
US EPA Environmental Appeals Board (EAB)
reverse the US EPA Administrator denial decision
specifically for Claims #6, #7, and #12,
of the original Citizen Petition No. IX-2024-14 and
require needed Permit Additions and Modifications
as outlined herein.**

Submitted by:
Gengmun Eng (“Citizen”)
5215 Lenore St., Torrance, CA 90503
geng001@socal.rr.com
October 28, 2024



South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178

| | |
|--------------|--------------|
| Title Page | |
| Facility ID: | 800026 |
| Revision #: | 149 |
| Date: | May 28, 2024 |

FACILITY PERMIT TO OPERATE

**ULTRAMAR INC
2402 E ANAHEIM ST
WILMINGTON, CA 90744**

Electronically Submitted to:

[www.epa.gov/eab]

Electronic Copies (*excluding Certificates of Service*) Submitted to:

cc: Michael S. Regan, Administrator of the US EPA

US EPA Headquarters (HQ)

*Mail Drop: C-504-01, 109 T.W. Alexander Drive, P.O. Box 12055
RTP Research Triangle Park, NC 27711 {Regan.Michael@epa.gov}*

*cc: Mr. Gerardo Rios, Air Permits Manager, US EPA Pacific-Southwest Region 9
75 Hawthorne St., San Francisco, CA 9105 {Rios.Gerardo@epa.gov}*

*cc: Dr. Bhaskar Chandan, Senior Air Quality Engineering Manager
The South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765 {BChandan@aqmd.gov}*

Copy of:

Citizen Permit Brief Appeal to US EPA Environmental Appeals Board ("EAB")

Submitted by US Postal Service Mail to:

*cc: Ultramar, Inc., 2402 E. Anaheim St., Wilmington, CA 90744
(excluding Attachments and Certificate of Service)*

Citizen Permit Brief Appeal: Abstract with 2 Prayers that EAB Concur with:

BPA-01: As part of operating an HF Refinery, Valero-Ultramar Shall Develop a Risk Management Plan (RMP) specifically for all stages of a Category 4 Catastrophic HF Release, including those that go “Outside the Refinery”, and have it vetted as adequate by the SCAQMD and the US-EPA.

BPA-02: Valero-Ultramar Shall Develop and Maintain a Proper and Accurate Modern-day Chemical Inventory, which: [BPA-02-i] Contains no [BLANK] amounts for chemical quantity, and [BPA-02-ii] Contains no fictitious units of quantity such as [OTHERS]; and [BPA-02-iii] Release it to the LAFD CUPA, SCAQMD, US-EPA, so that the LAFD CUPA, SCAQMD, US-EPA and its related agencies can perform a proper assessment of the risks to Public Health and Safety that can arise from Refinery Operation, including the development of proper and accurate modern-day Disaster Mitigation Plans (DMP), especially for Refinery Category 4 Catastrophic Releases.

Documents from Original Citizen Petition of 7-15-2024 to US EPA Administrator Michael S. Regan

Doc-00: 7/15/2024 33-page Original Citizen Formal Petition.

Filename: “Doc-00_GEng_Amended_Petition-to-US-EPA-Administrator_33pp_2024-07-15.pdf”

Original Citizen Formal Petition re: Valero-Ultramar Wilmington HF Refinery, Facility ID 800026. Submitted to US EPA Administrator Michael S. Regan. Identifier “*Final-Title-V*” was used to indicate a hypothetical future document, with all Citizen elements and concerns taken into account, beyond what was vetted by the US EPA Region 9 in the ‘Facility EPA-Permit to Operate (Version #149 of 5-28-2024)’, which was called ‘*EPA-Permit*’.

Doc-01: 5/10/2024 29-page Prior Citizen Emergency Petition.

Filename: “Doc-01_GEng_Emergency-Petition-to-USEPA-Region-9_re-Ultramar-Title-V-renewal_29pp_2024-05-10.pdf”

Citizen Emergency Petition to the US EPA Region 9 staff, dated 10 May 2024, appealing SCAQMD 5/28/2024 decision to grant a Valero-Ultramar ‘*Title-V EPA-Permit Renewal*’ {“*EPA-Permit*”}, and further requesting *EPA-Permit* additions and modifications to be properly protective of the Public Health and Safety.

Doc-02: 6/18/2024 US EPA Region 9 Staff Response to 5/10/24 Citizen Emergency Petition.

Filename: “Doc-02_US-EPA_Region9-letter-to-Citizen_re-Ultramar-Refinery_2024-06-18.pdf”

Letter of June 18, 2024 to Citizen from US EPA Region 9 Staff accepting the *EPA-Permit* as-is, with no *EPA-Permit* changes. Region 9 Staff noted Citizen should submit a Petition directly to US EPA Headquarters (HQ).

Doc-13: 12/25/2023 693-page LAFD CUPA PRA Request Data Response.

[NOT included in this EAB appeal because of its size.]

This is a 693-page document that Citizen called “*LAFD-2022*”, as an identifier. It is 54.7 KB in size, and it was included in its entirety in the Original Citizen Petition. Citizen notes that this document release by the CUPA overseeing the Refinery Facility was the result of a PRA (Public Records Act) request by the Torrance Refinery Action Alliance (TRAA). In this EAB appeal, two important large extracts from *LAFD-2022* are included here instead, as “*Doc-13a*” and “*Doc-13b*”.

Doc-13a: 12/25/2023 63-page Valero-Ultramar Chemical Inventory.

Filename: “Doc-13a_Valero-Ultramar-Chemical-Inventory_LAFD-CUPA-pp236-294_of-693pp_12-25-2023a.pdf”

This Valero-Ultramar Chemical Inventory was extracted from the original 693 page document release from the Los Angeles Fire Department (LAFD) CUPA (Certified Unified Public Agency), containing all the *Refinery* – CUPA written communications in their records, which originally was pp. 236-294 of 693 pages.

Doc-13b: 12/25/2023 186-page Valero-Ultramar ERM/ERP.

Filename: “Doc-13b_Valero-Ultramar-ERM-ERP_LAFD-CUPA-pp304-489-of-693pp_12-25-2023b.pdf”

The entire Valero-Ultramar ERM (Emergency Response Manual) and ERP (Emergency Response Plans) was extracted from the original 693 page document release from the Los Angeles Fire Department (LAFD) CUPA (Certified Unified Public Agency), containing all the *Refinery* – CUPA written communications in their records, which originally was pp. 304-489 of 693 pages.

Doc-14: 7/15/2024 10-page Citizen Extract from LAFD-2022 Document Highlighting Insufficiencies.

Filename: “Doc-14_LAFD-CUPA_10-page-extract_from-693pp-LAFD-PRA-Release_2023-12-25c.pdf”

Original Citizen Petition extracted 10 pages from the 693-page “*LAFD-2022*” highlighting various insufficiencies. Every insufficiency is a defect or flaw in the *EPA-Permit* Record, or the *EPA-Permit* Process. As such this Citizen Petition prayed that the US EPA Administrator request and require all identified defects and flaws to be corrected, prior to issuance of a *Final-Title-V*.

Doc-18: 4/45/2024 19-page SCAQMD Responses to Prior Public Comments re-Valero-Ultramar Title V Renewal.

Filename: “Doc-18_AQMD_Ultramar_800026_616101_04052024_Comments-and-Responses_19pp_2024-04-05.pdf”

SCAQMD Detailed Responses to Citizen and TRAA President Mr. Steve Goldsmith with respect to their objections and concerns regarding the *Draft-Title-V*. SCAQMD noted their decision was that no *EPA-Permit* changes were being made in spite of Citizen and TRAA objections and concerns.

Additional Document attachments to this Citizen Appeal Petition of 11-2-2024 to the US EPA EAB.

“Doc-AA_USEPA-Administrator_GEng-USEPA-Petition-Denied-in-its-entirety_17pp_2024-10-04.pdf”

“Doc-BB_USW-United-Steelworkers_A-Risk-Too-Great_60pp_2010.pdf”

“Doc-EE_GEng_Permit-Brief-Appeal-to-USEPA-EAB_6pp_2024-10-28.pdf” {Short Name for this Document}.

Citizen Permit Brief Appeal: Background and Rationale for EAB Claims Relief

BPA-01: As part of operating an HF Refinery, Valero-Ultramar Shall Develop a Risk Management Plan (RMP) specifically for all stages of a Category 4 Catastrophic HF Release, including those that go “Outside the Refinery”, and have it vetted as adequate by the SCAQMD and the US-EPA.

On p.12 of Administrator Regan's Petition Denial, he states: “..title V permits are not required to contain information related to an RMP beyond the requirements specified in 40 C.F.R. § 68.215. The Petitioner does not allege that the Permit does not satisfy or include the requirements of 40 C.F.R. § 68.215”, which includes the registration and submission of the RMP (Risk Management Plan).

Citizen Petition Claims #6 and #7 to the USEPA Administrator found severe defects in the Valero-Ultramar Emergency Response Manual (ERM) and Emergency Response Plan (ERP) portion of their RMP. Citizen claims that Administrator Regan erred in not concurring with the severity of these ERM/ERP defects, and not granting Citizen Petition Claims #6 and #7. Citizen further claims that Administrator Regan erred in not using 40 C.F.R. § 68.215 to help justify his concurrence with the validity of Claims #6 and #7.

As a result, in this Permit Brief Appeal Citizen prays that the EAB concur with Citizen that these defects, detailed next, are so severe that the RMP, which includes the ERM/ERP, does satisfy 40 C.F.R. § 68.215. Citizen thus prays for EAB reversal of Administrator Denial of Claims #6 and #7, and seeks EAB concurrence the RMP, which includes the ERM/ERP, does not satisfy 40 C.F.R. § 68.215. Citizen Permit Brief Appeal Defect Details follow:

Defect #1: As detailed by Petitioner on p.16 of 33, for a Category 4 Catastrophic HF Release, the primary ERP “plan” is to “Activate Emergency Response Plan”, which is self-referential and therefore offers no actual guidance for a Category 4 Catastrophic HF Release.

Defect #2: The Valero-Ultramar ERP only advises in Table 2-2 in FD/ERT paragraph 2, for a “typical response to the incipient stage of an emergency”. This typical response does not apply to Category 4 Catastrophic HF Releases, because the “incipient stage of an emergency” means it has not yet become a Category 4 Catastrophic event. Thus, that ERM/ERP advisement provides no guidance for a Category 4 Catastrophic HF Release.

Defect #3: The same Table 2-2 notes that: “The possibilities of other emergencies that may occur are too numerous to discuss in detail”, so that NONE are discussed, thereby providing no actual guidance for a Category 4 Catastrophic HF Release.

Defect #4: Citizen in his Petition Claim #7 Citizen asserts that there is a 100% certainty that a Valero-Ultramar Category 4 Catastrophic HF/MHF release scenario will go 'Outside the Refinery'. This assertion has not been challenged by the US-EPA, and should be considered as factual. However, Valero-Ultramar only considered HF/MHF release scenarios that go 'Outside the Refinery' up to Category 3. There is no Valero-Ultramar ERM/ERP covering Category 4 Catastrophic HF Releases that go 'Outside the Refinery'. Petitioner finds that having Valero-Ultramar simply ignore this type Category 4 Catastrophic HF Release risk constitutes Defect #4.

Enabling Valero-Ultramar operate with such a defective ERM/ERP means that the Valero-Ultramar ERM/ERP cannot be construed as being equivalent to them having submitted an RMP for Category 4 Catastrophic HF Releases. Furthermore, these defects also demonstrate that the SCAQMD erred in their assertion, on p. 13 of 19 in their “South Coast AQMD Staff Responses to Public Comments” that “The refinery has a comprehensive Risk Management Plan” (RMP).

In consideration of these above defects, which constitutes a large portion of the Citizen Petition Claims #6 and #7, Petitioner maintained there is no actual Valero-Ultramar RMP that specifically covers Category 4 Catastrophic HF Releases, including those that go “Outside the Refinery”, as compared to covering only smaller releases or only the “incipient stage” of a major release.,

Citizen Petition Claims #6 and #7 requested that Valero-Ultramar, as part of Refinery Operation, be required to develop an actual RMP for Category 4 Catastrophic HF Releases, that: [i] includes all HF Release stages beyond just the “incipient stage”, and [ii] includes Category 4 Catastrophic HF Releases that go “Outside the Refinery”, and [iii] cures the above Defects #1-#4; and [iv] have it vetted as adequate by the SCAQMD and US-EPA, prior to granting a Final-Title-V Permit Renewal.

BPA-02: Valero-Ultramar shall develop and maintain a proper and accurate modern-day Chemical Inventory, which: [BPA-02-i] Contains no [BLANK] amounts for chemical quantity, and [BPA-02-ii] Contains no fictitious units of quantity such as [OTHERS]; and [BPA-02-iii] Release it to the LAFD CUPA, SCAQMD, US-EPA, so that the LAFD CUPA, SCAQMD, US-EPA and its related agencies can perform a proper assessment of the risks to Public Health and Safety that can arise from Refinery Operation, including the development of proper and accurate modern-day Disaster Mitigation Plans (DMP), especially for Refinery Category 4 Catastrophic Releases.

Citizen in his Petition Claim #12 to the USEPA Administrator alleged severe defects in the Valero-Ultramar *EPA-Permit Record*, which are severe enough that they prevent the LAFD CUPA, SCAQMD, US-EPA, and other agencies from a proper assessment of the risks to Public Health and Safety can arise from Valero-Ultramar HF Refinery Operation; and because of the severity of these defects, they need to be cured prior to granting a Final-Title-V Permit Renewal; and furthermore, that these defects all violate:

"Section K(25){(Permit) Administration}" [*Draft-Title-V* {p. 1352 of 1381} & *EPA-Permit* {p. 1339 of 1369}]: *"All records, reports, and documents required to be submitted by a Title-V Operator to AQMD or EPA shall contain a certification of accuracy consistent with Rule 3003(c)(7) by a responsible official (as defined in Rule 3000. [3004(a)(12)]"*.

The two most critical defects that need curing, as identified by Citizen in his Petition Claim #12 are:

[Defect-I]: Many items in the 55-page LAFD-CUPA released 'Ultramar Chemical Inventory' comprise a deficient and incomplete *EPA-Permit Record*, because many listed chemicals with a proper unit of quantity, such as '*pounds*' or '*gallons*', have an amount that is BLANK, including one of the most hazardous chemicals in the Inventory, which is Hydrogen Fluoride.

[Defect-II]: Many items in the 55-page LAFD-CUPA released 'Ultramar Chemical Inventory' comprise a deficient and incomplete *EPA-Permit Record*, because many chemicals are listed with a fictitious unit of quantity called '*Others*', instead of an actual unit of quantity such as '*pounds*' or '*gallons*'.

Administrator Regan noted in his Petition Denial that:

"In Claim 12, the Petitioner asserts that the "Ultramar Chemical Inventory" transmitted to LAFD is incomplete due to various issues, including the units of measurement, blank entries, and the age of the inventory." [Doc-AA, p. 11-of-17]."

"As an initial matter, many of the issues raised in Claims 5, 6, 7, 8, 10, 11, 12, 13, 14, and 16 were not raised in public comments, and therefore cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v)." [Doc-AA, p. 12-of-17]."

Citizen notes here that [Doc-AA, p.11-of-17] shows that the existence of the above [Defect-I] and [Defect-II] was not challenged by Administrator Regan, thus they remain as serious continuing concerns.

Citizen further notes here, that while Administrator Regan [Doc-AA, p.12-of-17] claimed "many of the issues raised ... were not raised in public comments", these two particular issues [Defect-I] and [Defect-II] were raised in the prior Public Comment document entitled: ***"Doc-01_GEng_Emergency-Petition-to-USEPA-Region-9_re-Ultramar-Title-V-renewal_29pp_2024-05-10.pdf"***, as NOTE II:IX and NOTE II:X on pp.15-16 of 29. Thus, the above admonishment [Doc-AA, p. 12-of-17] by Administrator Regan does not apply to these two particular items, so that Citizen has the proper standing to bring these [Defect-I] and [Defect-II] concerns to the EAB.

Citizen further asserts that, aside of the above two substantive notes regarding Citizen Petition Claim #12, Administrator Regan in his blanket Citizen Petition Denial [Doc-AA] offered no other reasons for denying Claim #12. Therefore, in this Citizen Permit Brief Appeal now brings these two concerns to the EAB, and prays for proper adjudication of the above [Defect-I] and [Defect-II] prior to granting a Final-Title-V Permit Renewal.

**Certificate-of-Service to US EPA and SCAQMD Agency Personnel
and Signature/Date for Permit Brief Appeal by Genghmun Eng ("Citizen", "Petitioner")
to US EPA Environmental Appeals Board ('EAB')**

From: geng001@socal.rr.com
To: "Regan.Michael@epa.gov" <Regan.Michael@epa.gov>, "Rios.Gerardo@epa.gov" <Rios.Gerardo@epa.gov>, "BChandan@aqmd.gov" <BChandan@aqmd.gov>, "geng001@socal.rr.com" <geng001@socal.rr.com>
Cc:
Bcc:
Priority: High
Date: Saturday October 26 2024 10:49:11PM
241026_from-GEEng_Citizen-Permit-Brief-Appeal-to-US-EPA-Environmental-Appeals-Board_EAB

Dear Dr. Michael Regan, Dr. Gerardo Rios, and Dr. B. Chandan,

Enclosed please find from me, Dr. Genghmun Eng, a copy of the following 6-page Citizen Permit Brief Appeal to US EPA Environmental Appeals Board ("EAB"), regarding the US-EPA Administrator Denial of Formal US EPA Petition No. IX-2024-14 in the Matter of Ultramar Inc. Permit Renewal for Facility ID 80026, with full title:

"Permit Brief Appeal by Genghmun Eng ("Citizen", "Petitioner") to US EPA Environmental Appeals Board ("EAB") Regarding Denial of Citizen Petition No. IX-2024-14 in its entirety by US EPA Administrator Michael S. Regan on 4 October 2024 in the matter of Region 9 Title-V Refinery Operating Permit Renewal as constituted on May 28, 2024 for the Valero Ultramar Wilmington HF Refinery, 2402 East Anaheim Street, Wilmington CA 90744"

which is enclosed herein as the electronic file:

"Doc-EE_GEng_Permit-Brief-to-USEPA-EAB_6pp_2024-10-26.pdf"

I also attest herein that I will also send a paper copy of this 6-page Citizen Permit Brief Appeal to US EPA Environmental Appeals Board ("EAB"), by US Postal Service Certified Mail to: Ultramar, Inc., 2402 E. Anaheim St., Wilmington, CA 90744, with this email also demonstrating "Proof of Service" to your respective agencies.

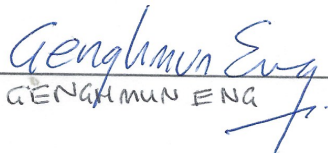
This 6-page document will also be electronically submitted to [www.epa.gov/eab] along with 9 separate attachments, as required by their website.

I am also enclosing an electronic file herein that includes those 9 attachments, entitled:

"Doc-EE2_GEng_Permit-Brief-Appeal-to-USEPA-EAB-with-Attachments_2024-10-26.pdf".

Thank you Most Sincerely,
(Dr.) Genghmun Eng
[geng001@socal.rr.com]

SIGNATURE/DATE FOR "PERMIT BRIEF APPEAL BY
GENGHMUN ENG ("CITIZEN", PETITIONER")
TO US EPA ENVIRONMENTAL APPEALS BOARD ('EAB')"



GENGHMUN ENG

26 OCTOBER 2024

DATE

**Certificate-of-Service to Ultramar, Inc., 2402 E. Anaheim St., Wilmington, CA 90744
re: Citizen Permit Brief Appeal to US EPA EAB**

