

# Coalition For A Safe Environment

P.O. Box 1918, Wilmington, California 90748  
wilmingtoncoalition @ prodigy.net 310-834-1128

December 12, 2008

Administrator Stephen L. Johnson  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
202-564-4700  
202-501-1450 fax

Re: California South Coast Air Quality Management District  
Ultramar, Inc. Facility ID800026 - Title V Permit  
Su: Petition For Objection To Proposed Ultramar, Inc Title V Permit  
& Request For Denial Of Approval

Dear Administrator Johnson:

The Coalition For A Safe Environment (CFASE) wishes to submit the attached "Petition" requesting that the Administrator for the U.S. Environmental Protection Agency object and deny approval of the proposed California South Coast Air Quality Management District (SCAQMD) Title V Permit to operate for Ultramar, Inc. (Valero) Facility ID 800026 a subsidiary of Valero Energy Corporation.

CFASE submits this "Petition" pursuant to Section 505(b)(2) of the federal Clean Air Act, 42 U.S.C. 7661d(b)(2), 40 C.F.R. 70.8(d).

We request your timely review of this matter. If you have any additional questions, please feel free to contact me directly at 310-834-1128.

Sincerely,

Jesse N. Marquez  
Executive Director

Cc

Dr. Barry R. Wallertsein C/O Jay Chen - SCAQMD  
Mr. David Sanders C/O Wesley Waida - Ultramar, Inc.  
Gerardo Rios – U.S. EPA Region 9 Air Permit Section Chief

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE ADMINSTRATOR**

IN THE MATTER OF	)	PETITON FOR OBJECTION
	)	
Proposed Clean Air Act Title V Operating	)	Facility ID: 800026
Permit Issued to Ultramar, Inc., a	)	
Subsidiary of Valero Energy Corporation	)	
For Operation of Ultramar Refinery	)	
_____	)	

Pursuant to section 505(b)(2) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. § 70.8(d), the Coalition For A Safe Environment (Petitioner) petitions the Administrator of the U.S. Environmental Protection Agency to object and deny approval of the proposed Title V operating permit (Permit) issued by the California South Coast Air Quality Management District (SCAQMD) to Ultramar, Inc. (Ultramar), a wholly owned subsidiary of Valero Energy Corporation, for the operation of the Ultramar Refinery in Wilmington, California. As required by these cited provisions, Petitioner is providing this Petition to the EPA Administrator, the SCAQMD, and Ultramar, Inc. Petitioner is also providing this Petition to the EPA Region IX Air Permit Section Chief.

The Coalition For A Safe Environment is a non-profit Environmental Justice Community based organization with members in over 25 cities in California and in Baja California, Mexico. CFASE was founded on April 25, 2001 in the City of Los Angeles Hispanic community Wilmington. Our organization Mission Statement is: “To protect, promote, preserve and restore our Mother Earth’s delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry

communities. “ Wilmington is the home to four major oil refineries with two additional oil refineries bordering Wilmington to the north in the City of Carson and six petroleum industry bulk loading terminal facilities.

## **BASIS OF PETITION**

### **1...Inadequate Periodic Monitoring & Inadequate Reporting Provisions**

The Title V Permit does not guarantee or provide a means to assure that complete and accurate monitoring and reporting of Criteria and Toxic Pollutants by Ultramar Refinery. This is required by **40 CFR Part 70.6(a)(3)(iii)(A)** and **40 CFR Part 70.6(a)(3)(iii)(B)**.

Research by CFASE has disclosed that emissions in the past have not been properly calculated, recorded, not being reported and not being properly monitored. The SCAQMD required Periodic Monitoring requirements and guidelines have failed to assure compliance and adequate monitoring and monitoring.

We request that the Title V permit include compliance with **40 CFR Part 70.6(a)(3)(iii)(A)** and **40 CFR Part 70.6(a)(3)(iii)(B)**.

We request that the Title V Permit include Compliance Assurance Monitoring (CAM) Plan and Maximum Available Control technology Standards to assure compliance, accurate AER recordkeeping, reporting and compliance per **40 CFR Part 70**, **40 CFR Part 63** and **CFR Part 64**.

### **2...Failure to Include Adequate AER Information For Public Assessment of Compliance**

The Ultramar Refinery Permit Application includes only the most recent 2006 AER reported data which is insufficient to for the public to determine if Ultramar Refinery is complying with permit requirements and is in fact reducing or increasing its annual emissions.

Research by CFASE has disclosed that many categories of criteria and toxic pollutants have in fact been

increasing every year. This is in violation of existing permit requirements, Title V, the Clean Air Act and other laws. The proposed permit requirements do not guarantee or provide a means to assure that Ultramar Refinery reduces its annual emissions.

We request the Ultramar Refinery Title V Permit include all AER Data back to the year 2000 in order for the public to determine permit compliance and reduction of criteria and toxic pollutants.

### **3...Failure to Require Reduction of Criteria & Toxic Pollutants**

The Ultramar Refinery Permit Application and SCAQMD Rules fail to require that Ultramar Refinery reduce its annual criteria and toxic pollutant emissions.

Research by CFASE has disclosed that many categories of criteria and toxic pollutants have in fact been increasing every year. This is in violation of existing permit requirements, Title V, the Clean Air Act and other laws. The proposed permit requirements do not guarantee or provide a means to assure that Ultramar Refinery reduces its annual emissions.

We request that SCAQMD require a monthly in-depth report, explanation and accounting of Ultramar Refineries increases in criteria and toxic pollutants. We request that this report be placed on-line for public review.

We request that SCAQMD update its policies, regulations, rules, compliance measures and Title V Permit requirements to prevent the increase in criteria and toxic pollutant emissions from at least the published SCAQMD AB 2588 Annual Emissions Reporting data on-line baseline year of 2000.

We request that the Title V Permit include a plan for the annual reduction of criteria and toxic pollutants until zero or near zero emissions are achieved by the year 2015.

### **4...Failure to Include Equipment And Parts Efficiency Data**

The Ultramar Refinery Permit Application fails to include equipment and parts efficiency data for the

public to determine if Ultramar Refinery equipment and parts are complying with permit requirements, manufacturer specifications and refinery best industry business practices.

The public has no way of determining if Ultramar Refinery is adequately maintaining equipment and parts. The numerous annual equipment and parts breakdowns reflected by flaring and other toxic and hazardous emission releases disclose that there is a serious problem and that Ultramar Refinery is not complying with SCAQMD Rules, Title V Permit, the Clean Air Act and required or obvious good refinery industry business practices for maintenance or replacement.

The public has no way of determining if Ultramar Refinery is in fact using the Best Available Control Technology (BACT) or the Best Available Industry Technology.

We request that equipment and parts that have efficiencies less than 99% be identified in the Title V Permit.

We request that the Title V Permit require that all equipment and parts that have efficiencies of 99% or better and that a plan for replacement be included in the Title V Permit.

### **5...Failure to Require Storage Tanks to have 100% Closed-Loop Vapor Recovery Systems**

The Ultramar Refinery Title V Permit Application and SCAQMD rules fail to comply with the Clean Air Act and Title V requirements for the prevention and minimizing of the release of criteria and toxic pollutant emissions.

CFASE research has disclosed that storage tanks are major sources of VOC fugitive emissions due to the design of the tanks which allow VOC venting into the atmosphere which is unacceptable. CFASE research has also disclosed that storage tanks are not built to be 100% hermetically sealed. CFASE research has also disclosed that storage tanks which have fiberglass domes still release fugitive emissions and that during an earthquake crude oil, processed fuels and other products can roll over the tanks sides which is not being reported to the public.

The Ultramar Refinery Permit Application and SCAQMD rules fail to require that crude oil storage tanks,

fuel storage tanks, waste water and other types of storage tanks have a 100% closed-loop vapor recovery system to prevent unnecessary criteria and toxic pollutant emission releases. The current SCAQMD Rules and industry practices are not the Best Available Control Technologies.

Vapor recovery technology exist for 100% capture, recycling and reprocessing. The Ultramar Refinery Permit Application fails to require Ultramar Refinery to install 100% closed-loop recovery systems.

We know that the refineries does not want invest in extra storage tanks etc. to capture these emissions, but this is not an option any more.

We request that the Title V Permit require that all storage tanks that store crude oil, refined fuel, partially refined fuel and other hydrocarbon contaminated sources be built to be 100% hermetically sealed and have a 100% closed-loop vapor recovery system with zero emissions.

We request that the Title V Permit require that Ultramar Refinery establish a plan for the replacement or upgrading of all storage tanks.

### **6... The Health Risk Assessment is Not Accurate**

The Ultramar Refinery Facility Health Risk Assessment included in the Title V Permit is not accurate because it is not based on a local impact zone or sensitive receptor Public Health Baseline. The SCAQMD and Ultramar Refinery have not sponsored a local impact zone or sensitive receptor Public Health Study in order to establish a proper Public Health Baseline and Facility Health Risk Assessment.

We request that the Title V Permit require that the Facility Health Risk Assessment data be based on a Public Health Baseline established from a Public Health Survey of all residents within a 3 mile radius of the Ultramar Refinery.

### **7...RECLAIM Trading Credits Program has Failed to Reduce Criteria & Toxic Pollutants**

The SCAQMD RECLAIM Trading Credits Program has failed to significantly reduce Criteria & Toxic Pollutants at the Ultramar Refinery thereby causing significantly environmental and public health impacts in the local communities and cities bordering the facility.

We request that the SCAQMD immediately terminate the RECLAIM Trading Credits Program as part of the Title V Permit and require Ultramar Refinery to establish a plan to reduce its criteria and toxic pollutant emissions.

### **8...Emergency Provision are Unacceptable**

Ultramar Refinery has numerous emergencies every year typically in the form of equipment breakdowns, malfunctions and power outages where they have released excessive amounts criteria and toxic pollutants. Waiting for Ultramar Refinery to report the event two days later is unacceptable.

The public and especially children at Wilmington Park Elementary School and Banning Elementary School are both within one mile of the Ultramar Refinery and should be immediately notified of any emergency release of criteria or toxic pollutants. They are numerous times that parents take their children to the hospital for having an asthma attack or an adult having a heart attack that may have been triggered by a toxic release from Ultramar Refinery. For example: a child may have been exposed to hydrogen sulfide but is being treated for a normal asthma attack. He has had an incorrect or incomplete medical diagnosis and treatment.

We request the Title V Permit require that SCAQMD and Ultramar Refinery prepare and include a Public Emergency Notification, Evacuation & Public Care Plan.

We request the Title V Permit require that SCAQMD and Ultramar Refinery immediately send and deliver a notice of an emergency toxic release to all public schools, child care centers and residents within 3 miles of the Ultramar Refinery.

### **9...Failure to Contain a Certificate of Compliance**

The Ultramar Refinery Title V Permit fails to contain a Certificate of Compliance. This is a requirement of **40 CFR Part 70.6(c)(5)**. It fails to include:

- a. A statement that states that Ultramar Refinery is currently complying with all air quality requirements.

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

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

We request that the Title V Permit include a Certificate of Compliance and compliance with **40 CFR Part 70.6©(5), 40 CFR Part 70.5 ©(8)(iii)(A), 40 CFR Part 70.5(c)(8)(iii)(B) and 40 CFR Part 70.5©(8)(iii)© and 40 CFR Part 70.5©(8)(iv).**

We request that a copy of all consent decrees, variances, notices to comply and notices of violations be included in the Title V Permit.

We request that any submitted Compliance Schedule not allow Ultramar Refinery to operate in violation of an applicable requirement.

We request that no Title V Permit be issued until all consent decrees, variances, notices to comply and notices of violations have been fulfilled.

We further request that all compliance history and status information be included in the Title V Permit.

## **10... Failure to Contain a Certificate of Truthfulness**

The Ultramar Refinery Title V Permit fails to contain a Certificate of Truthfulness. A responsible official must certify under penalty of law that the application is true, accurate and complete. This is a requirement of **40 CFR Part 70.5(d)**.

We request that the Title V Permit include a Certificate of Truthfulness and compliance with **40 CFR Part 70.5(d)**.

### **11... Failure to Include Green House Gas Emissions Limits and Reduction Plan**

The Ultramar Refinery Title V Permit fails to include provisions for addressing Green House Gas (GHG) emissions limits and the preparation of a GHG Emission Reduction Plan per **40 CFR Part 52.21(b)(50)(iv)** and the AB 32 California Global Warming Solutions Act.

We request that the Title V Permit include compliance with **40 CFR Part 52.21(b)(50)(iv)** and the AB 32 California Global Warming Solutions Act.

### **12...Failed to Adequately Protect Environmental Justice Communities and Federally Protected Class Groups**

The SCAQMD and Title V Permit fail to protect Environmental Justice Communities and Federally Protected Class Groups from being exposed to excessive criteria and toxic pollutants emissions. The SCAQMD rules, past permits and current Title V Permit fail to significantly reduce excessive criteria and toxic pollutants emissions in Environmental Justice Communities and Federally Protected Class Groups communities.

The Wilmington and West Long Beach Environmental Justice communities have a significant and disproportionate negative impact on the local environmental, have increased public health risk and public health problems. The asthma rate of children in Wilmington is 23.9% and West Long Beach 19.7% of which Ultramar Refinery is a major contributor.

The Ultramar Refinery Title V Permit also failed to consider the Cumulative Impact of other major

criteria and toxic pollutant sources in, bordering and near Wilmington and West Long Beach. The current SCAQMD RECLAIM Trading Credits Program has failed to significantly reduce criteria & toxic pollutants at the Ultramar Refinery thereby causing significantly environmental and public health impacts in the local Environmental Justice and protected class group communities bordering the facility. The facility is located in the City of Los Angeles community of Wilmington and borders the City of Long Beach Westside community.

The Title V Permit fails to guarantee that the SCAQMD will act promptly and properly upon any existing or future discovered non-compliance. Ultramar Refinery is currently in non-compliance of the Clean Air Act and Title V. SCAQMD has failed to initiate enforcement actions such as: permit termination, permit revocation, reissuance, modification or revision, or denial of a permit renewal application and civil or criminal penalties per **40 CFR Part 70.6(a)(6)(i)**.

We request that the Title V Permit include all requests made in these public comments and comply with all Environmental Justice, Title VI, California Health & Safety Code policies, rules, regulations and guidelines.

We request that the Title V Permit include Compliance Assurance Monitoring (CAM) Plan and Maximum Available Control Technology Standards to assure protection of Environmental Justice Communities and Federally Protected Class Groups and to assure accurate AER recordkeeping, reporting and compliance per **40 CFR Part 70, 40 CFR Part 63 and CFR Part 64**.

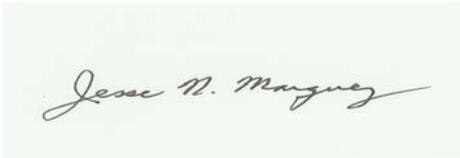
We request that the Title V Permit include compliance with **40 CFR Part 70.6(a)(6)(i)**.

We request that the Title V Permit include an SCAQMD statement it will provide public notice and it will immediately advise the USEPA and California EPA of its intent not to seek enforcement action within 30 days of its decision and discovery of a violation.

## CONCLUSION

The proposed California SCAQMD Title V Permit does not contain adequate requirements, safeguards for the enforcement, compliance, monitoring, reporting and reduction of criteria, toxic and hazardous air pollutants per Title V and the Clean Air Act as described in this petition and in our public comments.

Respectfully submitted,

A rectangular box containing a handwritten signature in cursive script that reads "Jesse N. Marquez".

Jesse N. Marquez  
Executive Director

See Title V Permit Public Comment Attachment

# Coalition For A Safe Environment

P.O. Box 1918, Wilmington, California 90748

wilmingtoncoalition @ prodigy.net 310-834-1128

September 5, 2008

South Coast Air Quality Management District (SCAQMD)

Engineering & Compliance

21865 Copley Drive

Diamond Bar, CA 91765-4178

Attn: Jay Chen

jchen @ aqmd.gov

909-396-2664

909-396-3855 Fax

Re: Title V Permit Application

Ultramar (Valero) Refinery

2402 E. Anaheim Street

Wilmington, CA 90744

Facility ID # 800026

Su: Request To Deny The Title V Permit Application Approval and

Order Ultramar to Immediately Cease Business Operations

Mr. Chen:

The Coalition For A Safe Environment (CFASE) submits our Ultramar (Valero) Refinery Title V Permit Public Comment Letter requesting SCAQMD to deny approval of the Title V Permit Application for Ultramar (Valero) Refinery Facility ID # 800026 and order Ultramar (Valero) Refinery to cease business

operations until a valid Title V Permit has been approved. It is a violation of 40 CFR Part 70 for an oil refinery to operate without a Title V Permit.

The Coalition For A Safe Environment is a non-profit Environmental Justice Community based organization with over 500 members in 20 cities in Los Angeles County. CFASE was founded in April of 2001 in the City of Los Angeles Hispanic community Wilmington. Our organization Mission Statement is:

“To protect, promote, preserve and restore our Mother Earth’s delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities. “

### **1...SCAQMD Intentionally Delayed the Timely Processing of Ultramar (Valero) Refinery Title V Permit in Violation of 40 CFR Part 70.4 (6)**

The Coalition For A Safe Environment would like to comment that the South Coast Air Quality Management District and Ultramar (Valero) Refinery have failed to comply with Title V Permitting requirements which have allowed Ultramar Refinery to operate for over six years without an approved Title V Permit. In addition, SCAQMD and Ultramar Refinery have delayed the timely processing of the Title V Permit, failed to provide proper public notification, submission, public review and approval of Ultramar (Valero) Refinery Title V Permit. SCAQMD failed to issue a Title V permit within 3 years of its permitting approval. See 40 CFR Part 70.4 excerpt below. We have recently conducted research as to when the SCAQMD was granted authority by the USEPA to receive and approve Title V Permits.

**40 CFR Part 70.4 (6)** A showing of adequate authority and procedures to determine within 60 days of receipt whether applications (including renewal applications) are complete, to request such other information as needed to process the application, and to take final action on complete applications within 18 months of the date of their submittal, except for initial permit applications, for which the permitting authority may take up to 3 years from the effective date of the program to take final action on the application, as provided for in the transition plan.

The SCAQMD, “was granted final full approval on November 30, 2001,” to receive and approve Title V permits, yet delayed issuing a Title V Permit over six years later therefore violating the law and depriving the public, local environmental justice and Title VI protected classes and local residents of their rights to review and comment on Ultramar Refineries Title V Permit Application, pursue additional air pollution control technologies, new or revised state laws, rules, regulations, guidelines and request additional environmental and public health mitigation measures. See 40 CFR Part 70 Appendix A excerpt below:

#### **40 CFR Part 70 Appendix A. (dd) South Coast Air Quality Management District:**

(1) Submitted on December 27, 1993 and amended on March 6, 1995, April 11, 1995, September 26, 1995, April 24, 1996, May 6, 1996, May 23, 1996, June 5, 1996 and July 29, 1996; approval effective on March 31, 1997. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on August 2, 2001 and October 2, 2001. South Coast AQMD was granted final full approval effective on November 30, 2001.

## **2...Lack of Adequate Public Notice in Violation of 40 CFR Part 70.7 (h)(1).**

The SCAQMD failed to provide adequate Public Notice and opportunity for public participation by utilizing the minimum public notification requirements.

We request that both SCAQMD and Ultramar Refinery participate in the public notice and public participation process.

We request that SCAQMD update its public notice policies and procedures to include:

### **Public Notification:**

- A. Provided public notice in both regional and local newspapers advising the public that they could register to be placed on a special Oil Refinery & Petroleum Industry Title V Permit Notification List. The public may not want to receive the more than 400 SCAQMD Title V Permit notifications and the hundreds of other public notices. This would discourage the public from wanting to participate.
- B. Prepared and submitted Press Releases and background information to all media outlets which is a free of charge news service. This would include traditional and internet news & blog websites.
- C. Researched and established a local City Public Access Cable TV List of local news and programming which a free of charge news service.
- D. Researched and established a Internet Community News & Blog Notification List
- E. Researched and established a City Community Organization Notification List
- F. Sent SCAQMD staff and public relations personnel to attend Community Organization meetings.
- G. Sent SCAQMD staff and public relations personnel to attend traditional Television and Public Access Cable interviews.
- H. Hired a local Media Consultant Group that has bilingual English and Spanish staff and multimedia ethnic resources.
- I. Contracted with Community Organizations that are coalitions and networks to assist in public notification and outreach.
- J. Provided a 90 day advance notice of intent to release a Public Notification for an Oil Refinery or Petroleum Industry or Calendar.

## Public Participation:

- A. Offered free public classes, workshops and seminars on how to evaluate a Title V Permit Application, a minimum 3 months in advance.
- B. Written, published and distributed a free SCAQMD Guide for Public Commenting on Title V Permit Applications, a minimum 3 months in advance.
- C. Produced and distributed a free CD/DVD SCAQMD Guide for Public Commenting on Title V Permit Applications, a minimum 3 months in advance.
- D. Informed the public that the USEPA had sponsored the research, writing and publishing of a public guide titled, "The Proof is in the Permit." The SCAQMD could have contacted the USEPA for joint sponsorship.
- E. Informed the public that the USEPA has in the past sponsored a free public class on the Title V Permit Process. The SCAQMD could have contacted the USEPA for joint sponsorship.
- F. Contracted with Community Organizations that are coalitions and networks to assist in training, a minimum 6 months in advance.
- G. Delay current schedule to allow public training on how to evaluate a Title V Permit Application.
- H. Provide a 90 day public comment period.
- I. Print and provide a minimum of 5 hard copies of the Title V Permit Application and 5 CD's at each public meeting and public hearing.

**40 CFR Part 70.7 (h) *Public participation.*** Except for modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

(1) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;

### **3...Failure to Require the Accurate Reporting of Air Emissions & Inadequate Recordkeeping Provisions**

The SCAQMD failed to require and enforce Ultramar Refinery to maintain and submit complete records, special reports and Criteria and Toxic Pollutants Air Emissions Reports (AER's). The proposed permit requirements do not guarantee or provide a means to assure that complete and accurate record keeping and reporting by Ultramar Refinery. This is a requirement of **40 CFR Part 70.6(a)(3)(ii)(A)** and **40 CFR Part 70.6(a)(3)(iii)(B)**.

The Title V Permit failed to include information necessary for the public to assess the completeness of the permit, accurate recordkeeping, accurate reporting of information, deviation from requirements and compliance of Ultramar Refinery, as a result CFASE had to conduct further investigation and research of the SCAQMD website information which disclosed that all emissions were not being calculated, not being reported, not being properly monitored and worst yet not decreasing.

In the addition we were not able to obtain some information from the SCAQMD website because it required you to download a special program. The website did not clearly describe this requirement and we had to wait for the public meeting several weeks later to have SCAQMD staff down load the special program into our laptop computer.

CFASE obtained information from the SCAQMD Facility Information Detail (FIND) Website under Emissions – Select AER (Annual Emissions Reporting) Year. See Appendix A - Annual Air Emissions Reporting Criteria Pollutants Chart and . See Appendix B - Annual Air Emissions Reporting Toxic Pollutants Chart

Research by CFASE has disclosed that numerous years of Toxic Pollutant data was missing and not reported without explanation. This is in violation of existing permit requirements, Title V and the Clean Air Act.

The SCAQMD failed to monitor and require Ultramar Refinery to submit complete Toxic Pollutants Air Emissions Reports (AER's). Research by CFASE has disclosed that the annual listing of Toxic Pollutants in the AER's varied significantly from 13 listed reported chemicals to 56 reported chemicals. This is in violation of existing permit requirements, Title V and the Clean Air Act. The proposed permit requirements do not guarantee or provide a means to assure that complete and accurate reporting by Ultramar Refinery. See Appendix B - Annual Air Emissions Reporting Toxic Pollutants Chart

The SCAQMD failed to monitor and require Ultramar Refinery to submit accurate Toxic Pollutant Air Emissions data. SCAQMD and Ultramar Refinery have failed to accurately calculate Flaring Emissions. Two examples include: on September 12, 2005 there was a major power blackout, Ultramar Refinery does not have emergency power back-up sufficient to minimize flaring and therefore emitted hundreds of tons of additional PM, VOC's etc. which were not accurately counted and reported. On October 2, 2007 at night there was a major flaring event which was reported and photographed by the public. Ultramar Refinery yearly and monthly violates SCAQMD Rule 1118 by Flaring illegally. The proposed permit conditions do not guarantee or provide a means to assure complete and accurate reporting by Ultramar Refinery. See Appendix C - Photos

The SCAQMD failed to monitor, penalize, issue notices of violations and fine Ultramar Refinery for its failure to submit accurate and complete AER information. The proposed permit requirements do not guarantee or provide a means to assure that complete and accurate reporting by SCAQMD and Ultramar Refinery. We request that all report of violations both public call-in and inspector verified, penalizations, notices of violations and fines be posted real time on the SCAQMND website.

We request that SCAQMD update its rules, compliance measures and Title V Permit requirements to prevent non-compliance to criteria and toxic pollutant emissions recordkeeping and reporting requirements.

We request compliance with **40 CFR Part 70.6(a)(3)(ii)(A)** and **40 CFR Part 70.6(a)(3)(iii)(B)**.

#### **4...Inadequate Periodic Monitoring & Inadequate Reporting Provisions**

The Title V Permit does not guarantee or provide a means to assure that complete and accurate monitoring and reporting of Criteria and Toxic Pollutants by Ultramar Refinery. This is required by **40 CFR Part 70.6(a)(3)(iii)(A)** and **40 CFR Part 70.6(a)(3)(iii)(B)**.

Research by CFASE has disclosed that emissions in the past have not been properly calculated, recorded, not being reported and not being properly monitored. The SCAQMD required Periodic Monitoring requirements and guidelines have failed to assure compliance and adequate monitoring and monitoring. See Appendix A, B & C.

We request that the Title V permit include compliance with **40 CFR Part 70.6(a)(3)(iii)(A)** and **40 CFR Part 70.6(a)(3)(iii)(B)**.

We request that the Title V Permit include Compliance Assurance Monitoring (CAM) Plan and Maximum Available Control technology Standards to assure compliance, accurate AER recordkeeping, reporting and compliance per **40 CFR Part 70**, **40 CFR Part 63** and **CFR Part 64**.

#### **5...Failure to Include Adequate AER Information For Public Assessment of Compliance**

The Ultramar Refinery Permit Application includes only the most recent 2006 AER reported data which is insufficient to for the public to determine if Ultramar Refinery is complying with permit requirements and is in fact reducing or increasing its annual emissions.

Research by CFASE has disclosed that many categories of criteria and toxic pollutants have in fact been increasing every year. This is in violation of existing permit requirements, Title V, the Clean Air Act and other laws. The proposed permit requirements do not guarantee or provide a means to assure that Ultramar Refinery reduces its annual emissions. See Appendix A - Annual Air Emissions Reporting Criteria Pollutants Chart and Appendix B - Annual Air Emissions Reporting Toxic Pollutants Chart

We request the Ultramar Refinery Title V Permit include all AER Data back to the year 2000 in order for the public to determine permit compliance and reduction of criteria and toxic pollutants.

#### **6...Failure to Require Reduction of Criteria & Toxic Pollutants**

The Ultramar Refinery Permit Application and SCAQMD Rules fail to require that Ultramar Refinery reduce its annual criteria and toxic pollutant emissions.

Research by CFASE has disclosed that many categories of criteria and toxic pollutants have in fact been increasing every year. This is in violation of existing permit requirements, Title V, the Clean Air Act and other laws. The proposed permit requirements do not guarantee or provide a means to assure that Ultramar Refinery reduces its annual emissions. See Appendix A - Annual Air Emissions Reporting Criteria Pollutants Chart and Appendix B - Annual Air Emissions Reporting Toxic Pollutants Chart

We request that SCAQMD require a monthly in-depth report, explanation and accounting of Ultramar Refineries increases in criteria and toxic pollutants. We request that this report be placed on-line for public review.

We request that SCAQMD update its policies, regulations, rules, compliance measures and Title V Permit requirements to prevent the increase in criteria and toxic pollutant emissions from at least the published SCAQMD AB 2588 Annual Emissions Reporting data on-line baseline year of 2000.

We request that the Title V Permit include a plan for the annual reduction of criteria and toxic pollutants until zero or near zero emissions are achieved by the year 2015.

### **7...Failure to Include Equipment And Parts Efficiency Data**

The Ultramar Refinery Permit Application fails to include equipment and parts efficiency data for the public to determine if Ultramar Refinery equipment and parts are complying with permit requirements, manufacturer specifications and refinery best industry business practices.

The public has no way of determining if Ultramar Refinery is adequately maintaining equipment and parts. The numerous annual equipment and parts breakdowns reflected by flaring and other toxic and hazardous emission releases disclose that there is a serious problem and that Ultramar Refinery is not complying with SCAQMD Rules, Title V Permit, the Clean Air Act and required or obvious good refinery industry business practices for maintenance or replacement.

The public has no way of determining if Ultramar Refinery is in fact using the Best Available Control Technology (BACT) or the Best Available Industry Technology.

We request that equipment and parts that have efficiencies less than 99% be identified in the Title V Permit.

We request that the Title V Permit require that all equipment and parts that have efficiencies of 99% or better and that a plan for replacement be included in the Title V Permit.

## **8...Failure to Require Storage Tanks to have 100% Closed-Loop Vapor Recovery Systems**

The Ultramar Refinery Title V Permit Application and SCAQMD rules fail to comply with the Clean Air Act and Title V requirements for the prevention and minimizing of the release of criteria and toxic pollutant emissions.

CFASE research has disclosed that storage tanks are major sources of VOC fugitive emissions due to the design of the tanks which allow VOC venting into the atmosphere which is unacceptable. CFASE research has also disclosed that storage tanks are not built to be 100% hermetically sealed. CFASE research has also disclosed that storage tanks which have fiberglass domes still release fugitive emissions and that during an earthquake crude oil, processed fuels and other products can roll over the tanks sides which is not being reported to the public

The Ultramar Refinery Permit Application and SCAQMD rules fail to require that crude oil storage tanks, fuel storage tanks, waste water and other types of storage tanks have a 100% closed-loop vapor recovery system to prevent unnecessary criteria and toxic pollutant emission releases. The current SCAQMD Rules and industry practices are not the Best Available Control Technologies.

Vapor recovery technology exist for 100% capture, recycling and reprocessing. The Ultramar Refinery Permit Application fails to require Ultramar Refinery to install 100% closed-loop recovery systems. We know that the refineries does not want invest in extra storage tanks etc. to capture these emissions, but this is not an option any more.

We request that the Title V Permit require that all storage tanks that store crude oil, refined fuel, partially refined fuel and other hydrocarbon contaminated sources be built to be 100% hermetically sealed and have a 100% closed-loop vapor recovery system with zero emissions.

We request that the Title V Permit require that Ultramar Refinery establish a plan for the replacement or upgrading of all storage tanks.

## **9... The Health Risk Assessment is Not Accurate**

The Ultramar Refinery Facility Health Risk Assessment included in the Title V Permit is not accurate because it is not based on a local impact zone or sensitive receptor Public Health Baseline. The SCAQMD and Ultramar Refinery have not sponsored a local impact zone or sensitive receptor Public Health Study in order to establish a proper Public Health Baseline and Facility Health Risk Assessment.

We request that the Title V Permit require that the Facility Health Risk Assessment data be based on a Public Health Baseline established from a Public Health Survey of all residents within a 3 mile radius of the Ultramar Refinery.

## **10...RECLAIM Trading Credits Program has Failed to Reduce Criteria & Toxic Pollutants**

The SCAQMD RECLAIM Trading Credits Program has failed to significantly reduce Criteria & Toxic Pollutants at the Ultramar Refinery thereby causing significantly environmental and public health impacts in the local communities and cities bordering the facility.

We request that the SCAQMD immediately terminate the RECLAIM Trading Credits Program as part of the Title V Permit and require Ultramar Refinery to establish a plan to reduce its criteria and toxic pollutant emissions.

### **11...Emergency Provision are Unacceptable**

Ultramar Refinery has numerous emergencies every year typically in the form of equipment breakdowns, malfunctions and power outages where they have released excessive amounts criteria and toxic pollutants. Waiting for Ultramar Refinery to report the event two days later is unacceptable.

The public and especially children at Wilmington Park Elementary School and Banning Elementary School are both within one mile of the Ultramar Refinery and should be immediately notified of any emergency release of criteria or toxic pollutants. They are numerous times that parents take their children to the hospital for having an asthma attack or an adult having a heart attack that may have been triggered by a toxic release from Ultramar Refinery. For example: a child may have been exposed to hydrogen sulfide but is being treated for a normal asthma attack. He has had an incorrect or incomplete medical diagnosis and treatment.

We request the Title V Permit require that SCAQMD and Ultramar Refinery prepare and include a Public Emergency Notification, Evacuation & Public Care Plan.

We request the Title V Permit require that SCAQMD and Ultramar Refinery immediately send and deliver a notice of an emergency toxic release to all public schools, child care centers and residents within 3 miles of the Ultramar Refinery.

### **12...Failure to Contain a Certificate of Compliance**

The Ultramar Refinery Title V Permit fails to contain a Certificate of Compliance. This is a requirement of **40 CFR Part 70.6(c)(5)**. It fails to include:

- h. A statement that states that Ultramar Refinery is currently complying with all air quality requirements.
- i. A copy of all consent decrees, variances, notices to comply and notices of violations.
- j. A listing identifying all non-compliance requirements.
- k. A statement of the methods for determining compliance, an enforcement plan, compliance schedule, including a description of monitoring, recordkeeping, reporting requirements, test methods.
- l. A schedule for submission of compliance certifications after the permit is issued

- m. A statement indicating whether a source is complying with any enhanced monitoring and compliance certifications of the clean Air Act.
- n. A document or place for responsible official to sign

The Title V Permit fails to require immediate and complete compliance to applicable court consent decrees, variances, notices of to comply and notices of violations. While they are mentioned, the Title V Permit does not provide information as to their current status, adoption, new emission standards development, implementation, enhancements, equipment purchase & installation and compliance. Based on what little information is provided, it appears that Ultramar Refinery is not in compliance with the Court Consent Decree and will not meet the September 8, 2008 Rule 1118 Flaring Variance deadline.

In addition, the Title V Permit in fact forces the public to have to go an additional SCAQMD website to research the information on Notices to Comply and Notices of Violation.

We request that the Title V Permit include a Certificate of Compliance and compliance with **40 CFR Part 70.6(c)(5), 40 CFR Part 70.5 (c)(8)(iii)(A), 40 CFR Part 70.5(c)(8)(iii)(B) and 40 CFR Part 70.5(c)(8)(iii)(C) and 40 CFR Part 70.5(c)(8)(iv).**

We request that a copy of all consent decrees, variances, notices to comply and notices of violations be included in the Title V Permit.

We request that any submitted Compliance Schedule not allow Ultramar Refinery to operate in violation of an applicable requirement.

We request that no Title V Permit be issued until all consent decrees, variances, notices to comply and notices of violations have been fulfilled.

We further request that all compliance history and status information be included in the Title V Permit.

### **13... Failure to Contain a Certificate of Truthfulness**

The Ultramar Refinery Title V Permit fails to contain a Certificate of Truthfulness. A responsible official must certify under penalty of law that the application is true, accurate and complete. This is a requirement of **40 CFR Part 70.5(d).**

We request that the Title V Permit include a Certificate of Truthfulness and compliance with **40 CFR Part 70.5(d).**

### **14... Failure to Include Green House Gas Emissions Limits and Reduction Plan**

The Ultramar Refinery Title V Permit fails to include provisions for addressing Green House Gas (GHG) emissions limits and the preparation of a GHG Emission Reduction Plan per **40 CFR Part 52.21(b)(50)(iv)** and the AB 32 California Global Warming Solutions Act.

We request that the Title V Permit include compliance with **40 CFR Part 52.21(b)(50)(iv)** and the AB 32 California Global Warming Solutions Act.

### **15...Failed to Adequately Protect Environmental Justice Communities and Federally Protected Class Groups**

The SCAQMD and Title V Permit fail to protect Environmental Justice Communities and Federally Protected Class Groups from being exposed to excessive criteria and toxic pollutants emissions. The SCAQMD rules, past permits and current Title V Permit fail to significantly reduce excessive criteria and toxic pollutants emissions in Environmental Justice Communities and Federally Protected Class Groups communities.

The Wilmington and West Long Beach Environmental Justice communities have a significant and disproportionate negative impact on the local environmental, have increased public health risk and public health problems. The asthma rate of children in Wilmington is 23.9% and West Long Beach 19.7% of which Ultramar Refinery is a major contributor.

The Ultramar Refinery Title V Permit also failed to consider the Cumulative Impact of other major criteria and toxic pollutant sources in, bordering and near Wilmington and West Long Beach. The

The current SCAQMD RECLAIM Trading Credits Program has failed to significantly reduce criteria & toxic pollutants at the Ultramar Refinery thereby causing significantly environmental and public health impacts in the local Environmental Justice and protected class group communities bordering the facility. The facility is located in the City of Los Angeles community of Wilmington and borders the City of Long Beach Westside community.

The Title V Permit fails to guarantee that the SCAQMD will act promptly and properly upon any existing or future discovered non-compliance. Ultramar Refinery is currently in non-compliance of the Clean Air Act and Title V. SCAQMD has failed to initiate enforcement actions such as: permit termination, permit revocation, reissuance, modification or revision, or denial of a permit renewal application and civil or criminal penalties per **40 CFR Part 70.6(a)(6)(i)**.

We request that the Title V Permit include all requests made in these public comments and comply with all Environmental Justice, Title VI, California Health & Safety Code policies, rules, regulations and guidelines.

We request that the Title V Permit include Compliance Assurance Monitoring (CAM) Plan and Maximum Available Control Technology Standards to assure protection of Environmental Justice Communities and

Federally Protected Class Groups and to assure accurate AER recordkeeping, reporting and compliance per **40 CFR Part 70, 40 CFR Part 63 and CFR Part 64.**

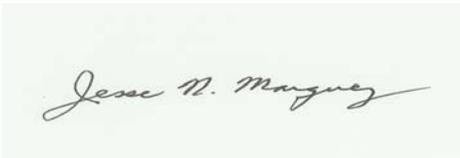
We request that the Title V Permit include compliance with **40 CFR Part 70.6(a)(6)(i).**

We request that the Title V Permit include an SCAQMD statement it will provide public notice and it will immediately advise the USEPA and California EPA of its intent not to seek enforcement action within 30 days of its decision and discovery of a violation.

**16...Request to be Notified and to be Sent a Final Title V Permit Copy**

CFASE requests that we be notified and sent a copy of the Ultramar Refinery Final Title V Permit. We further request that we be informed when the USEPA has completed its review of the Title V Permit and be sent a copy of USEPA's comments..

Respectfully submitted,

A handwritten signature in cursive script that reads "Jesse N. Marquez". The signature is written in black ink on a light green rectangular background.

Jesse N. Marquez

Executive Director

## **Appendix - A**

# SCAQMD

## Ultramar Refinery ID # 800026

### Annual Emissions Reporting

### Criteria Pollutants

( Tons Per Year )

	2000	2001	2002	2003	2004	2005	2006
<b>CO</b>	85.434	146.087	153.960	130.407	188.862	161.218	162.031
<b>NOX</b>	310.958	253.276	267.665	285.112	291.902	257.692	342.027
<b>ROG</b>	130.246	121.178	174.084	105.051	112.748	117.381	128.536
<b>SOX</b>	777.562	780.877	682.276	596.399	604.945	503.309	523.519
<b>TSP</b>	193.449	211.106	153.261	110.354	75.891	102.017	106.067

## **Appendix - B**

# SCAQMD

## Ultramar Refinery ID # 800026

### Annual Emissions Reporting

### Toxic Pollutants

( Selected Examples ) ( Pounds Per Year )

	2000	2001	2002	2003	2004	2005	2006
1,2 4 Trimebenze			741				346
Acetaldehyde			6,846				6,733
Ammonia			109,951	72,407	80,380	67,551	72,829
Benzene	523	596	672	671	618	656	736
Formaldehyde	2,261	2,310	2,286	2,335	2,301		2,454
Hexane			1,332				2,181
Hydrochloric Acid			615				584
Hydrogen Sulfide			7,928				8,023
ME T-Butylether		8,303					
Toluene		1,431					855
Xylenes		1,078					728
PAH's				147	93	211	115
PM							4,292

## **Appendix - C**

# SCAQMD

## Ultramar Refinery ID # 800026

### Annual Emissions Reporting

### Toxic Pollutants Chemical Listing

### Annual Reporting Discrepancies

<b>2000</b>	<b>28</b>	<b>-</b>	<b>Chemicals Data Reported</b>
<b>2001</b>	<b>34</b>	<b>-</b>	<b>Chemicals Data Reported</b>
<b>2002</b>	<b>22</b>	<b>-</b>	<b>Chemicals Data Reported</b>
<b>2003</b>	<b>14</b>	<b>-</b>	<b>Chemicals Data Reported</b>
<b>2004</b>	<b>14</b>	<b>-</b>	<b>Chemicals Data Reported</b>
<b>2005</b>	<b>13</b>	<b>-</b>	<b>Chemicals Data Reported</b>
<b>2006</b>	<b>56</b>	<b>-</b>	<b>Chemicals Data Reported</b>

## **Appendix - D**



**Ultramar Refinery Day Flaring - September 12, 2005**



**Ultramar Refinery Night Flaring - October 2, 2007**