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14 TORRANCE REFINERY ACTION ALLIANCE, INC.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17 TORRANCE REFINERY ACTION)	Case No.:
18 ALLIANCE, INC.,)	
19)	VERIFIED PETITION FOR WRIT OF
20 Petitioner/Plaintiff,)	MANDATE AND COMPLAINT FOR
21)	DECLARATORY RELIEF FOR
22 v.)	VIOLATIONS OF THE CALIFORNIA
23)	PUBLIC RECORDS ACT WITH
24 CITY OF LOS ANGELES,)	EXHIBITS A THROUGH E.
25)	
26 Respondent/Defendant.)	

27 Under California Code of Civil Procedure sections 1085 and 1060 and
28 Government Code sections 7923.000 and 7923.100, Petitioner/Plaintiff **TORRANCE**
REFINERY ACTION ALLIANCE, INC. ("TRAA" or "Petitioner") petitions this
Court for a writ of mandate and declaratory relief directed to Respondent/Defendant
CITY OF LOS ANGELES ("City") acting by and through its LOS ANGELES FIRE
DEPARTMENT ("LAFD"), ordering it to produce all records responsive to Petitioner's
California Public Records Act ("CPRA") requests.

1 In this verified Petition, TRAA alleges as follows:

2 **INTRODUCTION**

3 1. TRAA is a nonprofit advocacy organization dedicated to protecting
4 communities surrounding the Valero Wilmington Refinery (the “Refinery”) from the
5 catastrophic risks posed by the continued use of modified hydrofluoric acid (“MHF”) in
6 the refinery’s alkylation process. A release of MHF could create a lethal, ground-hugging
7 toxic cloud threatening hundreds of thousands of residents.

8 2. California’s Program 4 regulations, adopted specifically to prevent major
9 incidents at petroleum refineries, require every refinery owner or operator to conduct a
10 comprehensive Hierarchy of Hazard Control Analysis (“HCA”) for all existing processes.
11 (Cal. Code Regs., tit. 19, § 2762.13.) The HCA regulation mandated that at least 50% of
12 existing processes be analyzed by October 1, 2020 and that 100% be completed by
13 October 1, 2022. The regulation further requires that HCA reports prepared in
14 connection with new processes or facilities be transmitted to the Certified Unified
15 Program Agency (“CUPA”) and posted publicly within 30 days, with appropriate
16 protection for legitimate trade secret information.
17
18

19 3. The Los Angeles Fire Department serves as the CUPA with oversight
20 responsibility for the Refinery. Beginning in June 2023, TRAA and its counsel sought
21 to obtain the Refinery’s HCA report(s) from the LAFD through informal requests and
22 formal California Public Records Act (“CPRA”) requests. The LAFD has failed and
23 refused to produce the HCA report(s), claiming it does not possess a copy and relying
24 exclusively on onsite inspections to verify compliance rather than ever requesting or
25 retaining the document.
26

27 4. The LAFD’s claim that it does not “have” the HCA report is not a lawful
28 basis for withholding it under the CPRA. The LAFD has admittedly used the HCA report

1 Angeles, including the Valero Wilmington Refinery located at 2402 E. Anaheim Street,
2 Wilmington, CA 90744, Facility ID# FA0019079.

3 **STANDING**

4 8. Government Code section 7923.000, subdivision (a), provides that "[a]ny
5 person may institute proceedings for injunctive or declarative relief or writ of mandate
6 in any court of competent jurisdiction to enforce his or her right to inspect or to receive
7 a copy of any public record or class of public records under this chapter."

8 9. "Person" is defined in Government Code section 7920.520 to include
9 "any natural person, corporation, partnership, limited liability company, firm, or
10 association...." The term has been interpreted broadly to include nonprofit
11 organizations. (*North County Parents Organization for Children with Special Needs*
12 *v. Department of Education* (1994) 23 Cal.App.4th 144, 148; *Sierra Club v. Superior*
13 *Court* (2013) 57 Cal.4th 157, 163.)

14 10. Petitioner is a nonprofit corporation and is a "person" entitled to institute
15 proceedings for injunctive or declarative relief or writ of mandate to compel the City to
16 disclose public records pursuant to the CPRA.

17 **JURISDICTION AND VENUE**

18 11. This Court has jurisdiction to issue writs of mandate pursuant to Code of
19 Civil Procedure section 1085(a) and Government Code section 7923.000. The Court
20 has jurisdiction to grant injunctive and declaratory relief pursuant to Code of Civil
21 Procedure sections 525, 526, and 1060.

22 12. Venue is proper in the County of Los Angeles pursuant to Code of Civil
23 Procedure section 393, subdivision (b), and Government Code section 7923.100,
24 because the City is located within Los Angeles County, and the records and acts giving
25 rise to the claims at issue occurred in Los Angeles County.

1 **FACTS SUPPORTING THIS ACTION**

2 ***A. Modified Hydrofluoric Acid and the Wilmington Refinery Pose***
3 ***Catastrophic Risks to Surrounding Communities***

4 13. Modified hydrofluoric acid ("MHF") is an extraordinarily hazardous
5 industrial chemical used in the alkylation process to produce high-octane gasoline.
6 MHF is essentially hydrofluoric acid ("HF")—one of the most corrosive and toxic
7 substances in industrial use—combined with a sulfolane additive that was intended,
8 when added in sufficient quantities, to suppress the formation of an aerosol cloud upon
9 release. However, as the scientific and regulatory record has demonstrated, sulfolane is
10 present in MHF at only small levels, insufficient to prevent MHF from forming a toxic,
11 ground-hugging vapor cloud that can drift for miles at lethal concentrations upon
12 release. (See www.traa.blog/2020/03/22/1986-hydrofluoric-acid-release-test/, last
13 accessed on April 21, 2026; [https://www.aqmd.gov/docs/default-
14 source/Agendas/Governing-Board/2019/2019-feb1-025.pdf?sfvrsn=6](https://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2019/2019-feb1-025.pdf?sfvrsn=6), last accessed on
15 April 21, 2026.)

16 14. The U.S. Department of Homeland Security has identified hydrofluoric
17 acid as one of the most dangerous chemicals in the country due to its potential to cause
18 mass casualties in the event of a catastrophic release, listing it as a chemical of interest
19 under its Chemical Facility Anti-Terrorism Standards. (See [www.cisa.gov/chemical-
20 facility-anti-terrorism-standards](http://www.cisa.gov/chemical-facility-anti-terrorism-standards), last accessed on March 24, 2026.) HF and MHF are
21 corrosive to skin, eyes, and mucous membranes, and systemic fluoride toxicity can
22 cause cardiac arrest. In 1986, researchers at Lawrence Livermore National Laboratory
23 released 8,300 pounds of HF in a controlled test (the "Goldfish" test) and found that
24 100 percent of the HF became airborne in a dense, ground-hugging cloud—none fell to
25 the ground. Two miles downwind, the HF concentration was still more than twice the
26 lethal concentration. (See www.nrdc.org/court-battles/hydrogen-fluoride-refineries,
27 last accessed on March 24, 2026; [www.traa.blog/2020/03/22/1986-hydrofluoric-acid-
28 release-test/](http://www.traa.blog/2020/03/22/1986-hydrofluoric-acid-release-test/), last accessed on March 24, 2026.)

1 15. The Valero Refinery in Wilmington sits in a densely populated
2 community in Los Angeles County. It is the only petroleum refinery in California, other
3 than the Torrance refinery, that uses MHF in its alkylation process. The other
4 California refineries that perform alkylation use sulfuric acid, which does not carry the
5 same mass-casualty risk. (See [www.aqmd.gov/docs/default-](http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2019/2019-feb1-025.pdf)
6 [source/Agendas/Governing-Board/2019/2019-feb1-025.pdf](http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2019/2019-feb1-025.pdf), last accessed on March
7 24, 2026.)

8 16. On February 18, 2015, an explosion and fire at the Torrance Refinery
9 registered as a magnitude 1.7 earthquake, injured four workers, and covered
10 surrounding communities with airborne catalytic dust. The explosion propelled an
11 80,000-pound piece of equipment that struck down approximately five feet from
12 storage tanks containing approximately 50,000 pounds of MHF. The U.S. Chemical
13 Safety and Hazard Investigation Board ("CSB") conducted a multi-year investigation
14 and determined in its 2017 report that had those tanks been struck, the resulting
15 release of MHF would have been potentially catastrophic for the surrounding
16 communities. The CSB report found that the community had narrowly avoided a mass-
17 casualty disaster. (See [www.csb.gov/csb-releases-final-report-into-2015-explosion-at-](http://www.csb.gov/csb-releases-final-report-into-2015-explosion-at-exxonmobil-refinery-in-torrance-california/)
18 [exxonmobil-refinery-in-torrance-california/](http://www.csb.gov/csb-releases-final-report-into-2015-explosion-at-exxonmobil-refinery-in-torrance-california/), last accessed on March 24, 2026.)

19 17. The South Coast Air Quality Management District ("SCAQMD"),
20 following the 2015 explosion, undertook an extensive rulemaking process (Proposed
21 Rule 1410) that included over twenty public meetings from 2017 through 2019
22 examining the safety and viability of alternatives to MHF. The SCAQMD's own
23 technical staff reports acknowledged that MHF, at the concentrations of sulfolane
24 additive actually used at the refineries, would rapidly expand upon release and could
25 travel at lethal concentrations up to two miles. While the SCAQMD ultimately required
26 enhanced safety measures rather than a ban, the proceedings generated a substantial
27 public record confirming the dangerous properties of MHF and the ongoing risk to
28 surrounding communities. (See www.aqmd.gov/home/rules-

1 [compliance/rules/scaqmd-rule-book/proposed-rules/rule-1410](#), last accessed on
2 March 24, 2026.)

3 18. The ongoing threat posed by MHF use has prompted legislative action at
4 both the state and federal levels. In February 2026, Representative Maxine Waters (D-
5 CA) reintroduced the Preventing Mass Casualties from Release of Hydrofluoric Acid at
6 Refineries Act of 2026 (H.R. 7384, 119th Congress), which would amend the Toxic
7 Substances Control Act to prohibit the use of hydrogen fluoride at petroleum
8 refineries. The bill is co-sponsored by Representatives Robert Garcia (D-CA), Nanette
9 Barragán (D-CA), Ted Lieu (D-CA), and others representing communities near
10 California's MHF refineries. (See [www.congress.gov/bill/119th-congress/house-](http://www.congress.gov/bill/119th-congress/house-bill/7384)
11 [bill/7384](http://www.congress.gov/bill/119th-congress/house-bill/7384), last accessed on March 24, 2026.) As recently as 2025, the U.S.
12 Environmental Protection Agency settled enforcement action against the Valero
13 Refinery in Wilmington, fining Valero more than \$270,000 for numerous safety and
14 procedural violations in connection with its handling of MHF. (See
15 [www.epa.gov/newsreleases/epa-fines-valero-wilmington-refinery-chemical-safety-](http://www.epa.gov/newsreleases/epa-fines-valero-wilmington-refinery-chemical-safety-violations)
16 [violations](http://www.epa.gov/newsreleases/epa-fines-valero-wilmington-refinery-chemical-safety-violations), last accessed on March 24, 2026.)

17 ***B. State Regulations Require the HCA Report to Be Made Public***

18 19. California's CalARP Program 4 regulations, codified at Cal. Code Regs., tit.
19 19, § 2762.0 et seq., were adopted to prevent major incidents at petroleum refineries and
20 to protect the health and safety of surrounding communities and the environment. (Cal.
21 Code Regs., tit. 19, § 2762.0.2.)

22 20. Section 2762.13 of those regulations requires every refinery owner or
23 operator to perform an HCA — a comprehensive, process-by-process analysis that
24 identifies hazards, assesses risks, and documents a hierarchy of inherent safety
25 measures, passive safeguards, active safeguards, and procedural safeguards designed to
26 eliminate or reduce each hazard to the greatest extent feasible. (Cal. Code Regs., tit. 19,
27 § 2762.13(d)–(h).) The HCA must be performed and documented by a qualified team,
28

1 updated on a prescribed schedule, and supported by written recommendations
2 developed in priority order to address identified hazards.

3 21. The regulation required refineries to complete HCA analyses for at least
4 50% of existing processes by October 1, 2020, and for 100% of existing processes by
5 October 1, 2022. (Cal. Code Regs., tit. 19, § 2762.13(a).)

6 22. For HCA reports prepared in connection with new processes, new process
7 units, or new facilities, the regulation explicitly requires the owner or operator to provide
8 the report to the CUPA, and requires the CUPA to post the report publicly on its website
9 within 30 calendar days, with appropriate protection for trade secret information. (Cal.
10 Code Regs., tit. 19, § 2762.13(b)(4).)

11 23. MHF is the single most significant chemical hazard at the Valero
12 Wilmington Refinery. A release of MHF can form a dense, ground-hugging toxic cloud
13 capable of causing mass casualties across a wide area. The population threatened by a
14 potential MHF release includes communities identified by the California Attorney
15 General as ranking at the highest level for Environmental Justice burden. The
16 International Longshore Workers Union dispatch hall, where approximately 2,000
17 workers critical to the Ports of Los Angeles and Long Beach are based, is located less
18 than 6,000 feet from the Refinery's MHF storage tank.

19 **C. TRAA's Efforts to Obtain the HCA Report**

20 24. Beginning on June 22, 2023, TRAA member Ian Patton contacted LAFD
21 CUPA inspector Alvin Dong seeking a copy of the HCA report for the Valero Wilmington
22 Refinery or information about where it had been posted online pursuant to § 2762.13. A
23 true and correct copy of Mr. Patton's email chain with Mr. Dong is attached hereto as
24 **Exhibit A.**

25 25. On June 23, 2023, Mr. Dong responded, asserting that the LAFD's
26 interpretation of the regulation required submission of HCA reports to the CUPA only
27 in connection with new processes or new facilities, and that the Refinery had not
28 designed any new processes or units. (See Ex. A.)

1 26. Mr. Patton responded the same day, directing Mr. Dong to subsection (a)
2 of § 2762.13, which requires HCA completion for all existing processes within the
3 prescribed schedule, with 100% completion due by October 1, 2022. (See Ex. A.)

4 27. On July 3, 2023, Mr. Dong responded, asserting that subsection (a) does
5 not require submission of HCAs to the CUPA and that there is no requirement to post
6 such reports publicly. (See Ex. A.)

7 28. On July 12, 2023, TRAA submitted a formal CPRA request through the
8 City’s online portal (CPRA Request No. 23-7073), seeking all HCA reports for the Valero
9 Wilmington Refinery and all documentation demonstrating that the Refinery had been
10 required to comply with, and had completed, all HCA analyses required under the
11 regulations. A true and correct copy of CPRA Request No. 23-7073 is attached hereto as
12 **Exhibit B.**

13 29. On July 13, 2023, LAFD program manager Royce Long responded,
14 asserting that the LAFD verifies compliance through routine and non-routine
15 inspections and informal communications, and that its inspectors are trained to verify
16 compliance with the HCA requirements. (See Ex. A.)

17 30. Through further correspondence spanning July through September 2023,
18 it became apparent that the LAFD had never requested a copy of the Refinery’s
19 completed HCA report(s) and did not hold a copy in its files. Critically, an internal LAFD
20 email dated June 28, 2023 — sent by Mr. Dong to a Valero representative shortly after
21 Mr. Patton first made contact — asked the Refinery whether it was “on schedule to have
22 completed all your HCAs as required under Program 4,” adding that the representative
23 could “just call me with an answer — if you don’t want to write it down.” This email was
24 later produced to TRAA pursuant to a subsequent CPRA request and is attached hereto
25 as **Exhibit C.** It demonstrates that the LAFD had not verified HCA compliance at all
26 prior to TRAA’s inquiries, and that Mr. Dong actively suggested the Refinery avoid a
27 written response.

28

1 37. The CPRA expressly provides that "access to information concerning the
2 conduct of the people's business is a fundamental and necessary right of every person
3 in this state." (Gov. Code § 7921.000.) The purpose is to "give the public access to
4 information that enables them to monitor the functioning of their government." (*CBS,*
5 *Inc. v. Block* (1986) 42 Cal.3d 646, 651; *Times Mirror Co. v. Superior Court* (1991) 53
6 Cal.3d 1325, 1350.)

7 38. Under the CPRA, all records that are prepared, owned, used, or retained
8 by any public agency and that are not subject to the CPRA's statutory exemptions to
9 disclosure must be made publicly available for inspection and copying upon request.
10 (Gov. Code §§ 7920.530, 7922.525(a)-(b).) "Generally, any 'record . . . kept by an
11 officer because it is necessary or convenient to the discharge of his official duty . . . is a
12 public record.'" (*City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 618.)

13 39. There is a "statutory presumption that all governmental records are
14 available to any person" unless the agency demonstrates that nondisclosure is
15 statutorily warranted. (*ACLU v. Superior Court* (2011) 202 Cal.App.4th 55, 85; §
16 7922.000.) The burden of proving that an exemption applies falls squarely on the
17 public agency. (Gov. Code § 7922.540(c); *CBS Broadcasting v. Sup. Ct.* (2001) 91
18 Cal.App.4th 892, 908; *Long Beach Police Officers Assn. v. City of Long Beach* (2014)
19 59 Cal.4th 59, 70.) Exemptions to disclosure are narrowly construed. (Cal. Const., Art.
20 1, § 3(b)(2).)

21 40. Upon a request for copies of records, the agency is required to make the
22 records "promptly available" and to "within 10 days from receipt of the request,
23 determine whether the request, in whole or in part, seeks copies of disclosable public
24 records in the possession of the agency." (Gov. Code § 7922.535(a).) The City violated
25 this requirement as to both CPRA Requests.

1 **B. The HCA Report Is a Public Record of Which the LAFD Has**
2 **Constructive Possession**

3 41. The LAFD’s assertion that it does not possess a copy of the HCA report
4 does not relieve it of its CPRA obligations. Under the CPRA, records do not have to be
5 in the agency’s physical custody to qualify as public records. The statute applies to
6 records “prepared, owned, used, or retained” by the agency. (Gov. Code § 7920.530
7 [emphasis added].)

8 42. In *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, the California
9 Supreme Court held that an agency’s actual or constructive possession of records is
10 relevant in determining whether it has an obligation to search for, collect, and disclose
11 requested material. The Court held that emails on personal accounts related to public
12 business are public records even where the agency never maintained them on its own
13 servers, because the statute’s purpose is “to prevent an agency from evading its
14 disclosure duty by transferring custody of a record to a private holder and then arguing
15 the record falls outside CPRA because it is no longer in the agency’s possession.” (Id. at
16 616.)

17 43. Courts have further recognized that “an agency has constructive
18 possession of records if it has the right to control the records, either directly or through
19 another person.” (*Bd. of Pilot Comm’rs for the Bays of S.F., San Pablo and Suisan v.*
20 *Superior Court* (2013) 218 Cal.App.4th 577, 598, quoting *Consol. Irrigation Dist. v.*
21 *Superior Court* (2012) 205 Cal.App.4th 697, 710.) An agency is obligated to seek and
22 obtain records in a regulated entity’s files where it has the right to demand those records.
23 (*Cnty. Youth Athletic Ctr. v. City of National City* (2013) 220 Cal.App.4th 1385, 1428.)

24 44. Because the CPRA was modeled after the federal Freedom of Information
25 Act (“FOIA”), California courts routinely look to federal FOIA decisions for guidance in
26 construing its provisions. The leading federal precedent, *Burka v. U.S. Dep’t of Health*
27 *& Human Services* (D.C. Cir. 1996) 87 F.3d 508, 515, identifies four factors relevant to
28 whether an agency has constructive control over records held by a third party: (1) the

1 intent of the document’s creator to retain or relinquish control; (2) the ability of the
2 agency to use and dispose of the record as it sees fit; (3) the extent to which agency
3 personnel have read or relied upon the document; and (4) the degree to which the
4 document was integrated into the agency’s record system or files. Critically, the D.C.
5 Circuit has held that “use is the decisive factor” in this analysis. (*Judicial Watch v.*
6 *Federal Housing Finance Agency* (D.C. Cir. 2011) 646 F.3d 924, 928.) The Ninth Circuit
7 has similarly recognized that an agency can constructively possess documents in the
8 hands of third parties where it “extensively supervised or was otherwise significantly
9 entangled with” the production and management of those records. (*Am. Small Business*
10 *League v. SBA* (9th Cir. 2010 623 F.3d 1052, 1053.)

11 45. Here, constructive possession is established on multiple independent
12 grounds:

- 13 a. First — The LAFD Has Used the HCA Report. The CPRA’s definition of
14 “public record” is stated in the disjunctive: a record is subject to disclosure
15 if it is “prepared, owned, used, or retained” by the agency. (Gov. Code §
16 7920.530 [emphasis added].) A record need not be owned, retained, or
17 physically held — “used” alone is sufficient. By the LAFD’s own
18 representations, its inspectors verify compliance with § 2762.13 —
19 including the HCA requirements — during onsite inspections, reviewing
20 HCA documentation during those visits. The 2022 CalARP inspection
21 report confirms this: seven separate HCA compliance line items (items
22 236–244) were marked “No Violation Observed,” demonstrating that the
23 inspector reviewed and assessed the Refinery’s HCA documentation and
24 made compliance determinations based upon it. An agency that reads and
25 relies upon a document to make official compliance determinations has
26 “used” that document within the meaning of the CPRA. Federal courts
27 applying the analogous FOIA standard agree: the extent to which “agency
28 personnel have read or relied upon the document” is the decisive factor in

1 establishing agency control, and “use is the decisive factor.” (*Judicial*
2 *Watch v. FHFA*, 646 F.3d at 928; *Burka*, 87 F.3d at 515.) Because LAFD
3 inspectors reviewed and relied upon the HCA report during the 2019 and
4 2022 inspections of the Refinery to reach compliance determinations that
5 are now the official public record of the agency, the HCA report is a public
6 record the LAFD has “used,” regardless of whether the LAFD retained a
7 physical copy.

8 b. Second — The LAFD Has the Legal Right to Control the HCA Report. The
9 CalARP Program 4 regulations vest the CUPA with oversight authority
10 over all CalARP program requirements at regulated facilities, including the
11 HCA requirements of § 2762.13. The LAFD, as CUPA, has the legal right
12 to demand that the Refinery provide any CalARP program document at
13 any time. Where an agency has the legal right to demand and obtain
14 records from a regulated entity, the agency has constructive possession of
15 those records for purposes of the CPRA. (*Consol. Irrigation Dist.*, 205
16 Cal.App.4th at 710.)

17 c. Third — The LAFD’s Deliberate Decision Not to Obtain the HCA Report
18 Does Not Extinguish Its Public Record Status. The fact that the City
19 deliberately chose not to take physical custody of the HCA report —
20 apparently to avoid public disclosure requirements — has no bearing on
21 whether the document is a disclosable public record. The California
22 Supreme Court was explicit on this point in *City of San Jose*: the CPRA’s
23 purpose is “to prevent an agency from evading its disclosure duty by
24 transferring custody of a record to a private holder and then arguing the
25 record falls outside CPRA because it is no longer in the agency’s
26 possession.” (*City of San Jose*, 2 Cal.5th at 616.) The Court further warned
27 that “if public officials could evade the law simply by” structuring their
28 practices to keep records out of agency custody, “sensitive information

1 could routinely evade public scrutiny.” (*Id.*) That is precisely what the
2 LAFD has done here. The LAFD has admitted that it deliberately does not
3 request copies of HCA reports from regulated refineries — relying instead
4 on onsite review without retention — even though those reports are public
5 health and safety documents mandated by state regulation. That this
6 policy is designed to avoid disclosure obligations is strongly suggested by
7 Inspector Dong’s June 28, 2023 email inviting Valero to respond verbally
8 rather than in writing, so as not to create a record. A public agency cannot
9 circumvent the CPRA by deliberately structuring its oversight practices to
10 avoid physical custody of records it is using, reviewing, and relying upon
11 in the performance of its regulatory duties. Such a rule would allow
12 agencies to insulate virtually any inconvenient record from public scrutiny
13 simply by never asking for it.

14 46. The LAFD has offered no statutory exemption to justify its refusal to
15 produce the HCA report. It has not invoked any privilege, trade secret protection, or
16 other CPRA exemption. Its sole basis for non-production — that it does not physically
17 hold a copy — fails as a matter of law for the reasons set forth above.

18 **C. The LAFD Has Violated the CPRA**

19 47. The LAFD failed to properly respond to TRAA’s CPRA requests within the
20 timeframes prescribed by the CPRA. (Gov. Code § 7922.535.) The LAFD ultimately
21 produced some responsive records but failed to produce the HCA report — the primary
22 record sought.

23 48. The LAFD’s continued refusal to produce the HCA report constitutes an
24 improper withholding of a public record in violation of Government Code § 7922.525.
25 The LAFD has not identified any applicable exemption, has not met its burden of
26 justifying the withholding, and has failed to comply with the CPRA’s mandate that
27 exemptions be narrowly construed.

1 49. Petitioner has exhausted its administrative and informal remedies.
2 Petitioner made repeated requests over nearly two years, engaged in extensive
3 correspondence with LAFD personnel, retained counsel who sent a formal demand
4 letter, and submitted multiple CPRA requests. All have been unavailing. The only plain,
5 speedy, and adequate remedy left to Petitioner is the relief provided by Government
6 Code § 7923.000.

7 50. An actual controversy exists between the parties regarding whether the
8 City has improperly delayed, denied, and obstructed the production of disclosable public
9 records in response to Petitioner's CPRA Requests.

10 51. Government Code section 7923.000 provides: "Any person may institute
11 proceedings for injunctive or declarative relief or writ of mandate in any court of
12 competent jurisdiction to enforce his or her right to inspect or to receive a copy of any
13 public record or class of public records under this chapter."

14 52. When a verified petition shows that records are being improperly
15 withheld, "the court shall order the officer or person charged with withholding the
16 records to disclose the public record or show cause why he or she should not do so."
17 (Gov. Code § 7923.100(a).)

18 53. The City has a ministerial duty to perform according to the laws of the
19 State of California, including the CPRA. The City has a present legal duty and present
20 ability to perform its ministerial duties, as required by the CPRA. The City has failed to
21 perform its ministerial duties.

22 54. Petitioner has an interest in having the laws executed and public duties
23 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.
24 Petitioner has a clear, present, and legal right to the City's performance of its
25 ministerial duties, as required by the CPRA.

26 **WHEREFORE, PETITIONER PRAYS AS FOLLOWS:**

27 1. This Court issue a peremptory writ of mandate, without a hearing or
28 further notice, directing the City to immediately produce all HCA report(s) for the

1 Valero Wilmington Refinery responsive to Petitioner's CPRA requests; or, in the
2 alternative, an order to show cause why these public records should not be released;

3 2. This Court issue a declaratory judgment that the public records requested
4 by Petitioner are disclosable public records and that the City violated the California
5 Public Records Act by:

6 (a) failing to properly respond to Petitioner's CPRA requests;

7 (b) failing to produce responsive records;

8 (c) delaying and obstructing the production of responsive records; and,

9 (d) improperly withholding the HCA report(s) by refusing to obtain records over
10 which it has constructive possession;

11 3. This Court set "times for responsive pleadings and for hearings in these
12 proceedings ... with the object of securing a decision as to these matters at the earliest
13 possible time," as provided in Government Code section 7923.005.

14 4. This Court enter an order allowing Petitioner to recover attorneys' fees and
15 costs incurred in this action pursuant to Government Code section 7923.115 and/or
16 Code of Civil Procedure section 1021.5; and,

17 5. This Court award such further relief as is just and proper.

18
19 DATED: June 4, 2026

LAW OFFICES OF KELLY AVILES

20
21
22
23 By: 

Kelly Aviles

Attorneys for Petitioner/Plaintiff TRAA

VERIFICATION
(C.C.P. §§ 446 and 2015.5)

I, Ian Patton, am the Coordinator of Public Records for Torrance Refinery Action Alliance, Inc., Petitioner/Plaintiff in the above-entitled action or proceeding. I have read the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF FOR VIOLATIONS OF THE CALIFORNIA PUBLIC RECORDS ACT WITH EXHIBITS A THROUGH E** and know the contents thereof, and I certify that the same is true and correct of my own knowledge, except as to those matters which are therein stated upon my information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed on June 4, 2026 at Long Beach, California.



Ian Patton

Exhibit A

Subject: Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery
Date: Wednesday, April 10, 2024 at 12:08:48 PM Pacific Daylight Time
From: Royce Long <royce.long@lacity.org>
To: Ian Patton <ispatton@yahoo.com>
CC: Alvin Dong <alvin.dong@lacity.org>, Minh Le <minh.u.le@lacity.org>, Steve Goldsmith <sgoldsmith84@gmail.com>, Kelly Aviles <kaviles@opengovlaw.com>
Attachments: 1710381441205blob.jpg, 1710381671595blob.jpg, 1710383295719blob.jpg, 1710380667522blob.jpg, 1710381060293blob.jpg

Good afternoon Mr Patton,

I hope this email finds you well. I am writing in response to your concerns regarding the manner in which the Los Angeles Fire Department Certified Unified Program Agency (LAFD CUPA) regulates our local petroleum refineries under the California Accidental Release Prevention (CalARP) Program. As a refinery safety advocate, your dedication to the well being of refinery workers and the community is commendable and we appreciate your engagement on this issue.

I want to assure you that the LAFD CUPA takes every possible program measure to ensure the CalARP Program is fully implemented to safeguard the public and the environment. We understand and value your concerns regarding the regulation of petroleum refineries. If you believe our past responses to your questions are not in alignment with the laws governing the CalARP program I encourage you to contact our state oversight, the California Environmental Protection Agency, for further clarification.

Additionally, as you are already aware, the California Public Records Act ensures all members of the public have the option to request program records related to LAFD CUPA's oversight of the local petroleum refineries. You can utilize the public records request service within the City of Los Angeles to access relevant information and documents to further understand our regulatory processes and compliance measures.

Best regards,

Royce Long

On Wed, Mar 20, 2024 at 5:01 PM Ian Patton <ispatton@yahoo.com> wrote:

Hi Mr. Long,

Does your CUPA intend to respond to my email (below) of last week?

best,

Ian S. Patton

c562.810.9329

On Wednesday, March 13, 2024 at 07:51:47 PM PDT, Ian Patton <ispatton@yahoo.com> wrote:

Hello Messrs. Long and Dong,

Mr. Long:

As you can see below, on Aug. 23, 2023 you wrote to me, "Thank you for the follow up on your request. You have raised some additional topics that we are currently researching. Please allow us some additional time to prepare our response," and last replied to me on Sept.7, 2023, "we are still working on this."

Since then--now two months ago--we have transmitted the attached attorney demand letter, which includes the following pertinent assessment of the California Public Records Act (highlights added by me):

agency. burden of proof falls squarely on the City, and failure to submit any evidence in support of this contention does not meet that heavy burden. (Gov. Code § 7922.540(c) [“[a]n agency shall justify withholding any record...”]; *CBS Broadcasting v. Sup. Ct.* (2001) 91 Cal.App.4th 892, 908; *Long Beach Police Officers Assn. v. City of Long Beach* (2014) 59 Cal.4th 59, 67.) Exemptions to disclosure are narrowly construed. (Cal. Const., Art. 1, § 3(b)(2)).

The CPRA defines the term “public records” to include “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (Gov. Code § 7920.530.) “Generally, any ‘record . . . kept by an officer because it is necessary or convenient to the discharge of his official duty . . . is a public record.’” *City of San Jose*, 2 Cal. 5th at 618 (quoting *Braun v. City of Taft*, 154 Cal. App. 3d 332, 340, 201 Cal. Rptr. 654 (1984)).

However, records do not have to be in the agency’s custody to be a public record as the CPRA applies to records “prepared, owned, used or retained.” For example, in *City of San Jose*, the California Supreme Court held that emails sent to or from public officials through nongovernmental email accounts relating to official agency business are public records under the CPRA even though the city did not maintain the emails on its own servers. (*Id.* at 616.)

In so holding, the court recognized that an agency’s actual or constructive possession of records is deemed relevant in determining whether it has an obligation to search for, collect, and disclose material requested. (*City of San Jose*, 2 Cal. 5th at 623 [holding city had obligation to implement search procedures for records in possession of city employees who used personal accounts to conduct official business]; see also *Bd. of Pilot Comm’rs for the Bays of S.F., San Pablo and Suisan v. Superior Court* (2013) 218 Cal.App.4th 577, 598 [“an agency has constructive possession of records if it has the right to control the records, either directly or through another person,” quoting *Consol. Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 710 [holding that consultants files were within constructive possession of city]; *Cnty. Youth Athletic Ctr. v. City of National City* (2013) 220 Cal.App.4th 1385, 1428 [holding that agency did have constructive possession of records in consultant’s files and thus was obligated to seek to obtain them in response to CPRA request].)

The fact that the City claims to have not taken possession of a copy of the HCA report (and possibly others) intentionally to avoid public disclosure requirements is alarming. However, it has no bearing on whether the document is a disclosable public record. Since the City has oversight obligations of the Refinery and has admitted to reviewing the inspection reports, including the HCA Report, its actual possession of the record is irrelevant to whether the record is a public record. Since the City has admittedly used the HCA report in its inspection, as is required by state regulations and in furtherance of the City’s oversight role of the Wilmington Refinery, the record is “used” by the City and is, therefore, a public record.

researching and when that research will be completed.

Since your last update, while we have not received the long-sought, complete HCA report for the Valero Wilmington refinery, we have received public record disclosures of two inspections of the refinery--in 2019 and 2022--conducted by Mr. Dong, as well as an email he sent last year.

I observe on page 9 of the 6/2/22 inspection report the following for the HCA section:

Hierarchy of Hazard Control Analysis	
236 Conducted an HCA for all existing processes in accordance with schedule ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
237 Conducted a timely HCA in specified instances ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
238 Updated all HCAs ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
239 Complied with HCA team qualifications and requirements ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
240 Ensured HCA team complied with Section 2762.13(e) requirements ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
241 Ensured HCA team develop written recommendations ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
242 Ensured HCA team complete an HCA report ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
243 Followed corrective action work process when resolving HCA team's finding(s) ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
244 Retained all HCA reports for the life of each process ■ NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	

Mr. Dong:

Can you explain why you marked No Violation Observed (NVO) for all these HCA items? Was there or was there not an HCA report available for your review at the refinery?

While HCA reporting for the *entire* facility was not due until 10/1/22, [the regulation](#) states the due date for "No less than 50% of existing processes [is] within three (3) years of the effective date of this Article", making 50% of HCA reporting due by 10/1/20 and meaning that there had to have been an HCA report available for you, in order for the refinery not to be out of compliance.

If there was one available, why did you not obtain a copy for retention? And if there was one, did you read every page of it, and if so, how could you assess whether it was written accurately or not during the course of an on site visit?

As you are aware, the report would not be light reading, as its requirements per the regulation include the following:

(d) An HCA shall be performed, updated, and documented by a team with expertise in engineering and process operations and the team shall include at least one operating employee who currently works on the process and has experience and knowledge specific to the process being evaluated. The team shall also include one member knowledgeable in the HCA method being used. The owner or operator shall provide for employee participation in this process, pursuant to section [2762.10](#). As necessary, the team shall consult with individuals with expertise in damage mechanisms, process chemistry, and control systems.

(e) The HCA team shall:

(1) Include all risk-relevant data for each process or recommendation, including incident investigation reports pursuant to section [2762.9](#);

(2) Identify, characterize and prioritize each process safety hazard.

(3) Identify, analyze, and document all inherent safety measures and safeguards (or where appropriate, combinations of measures and safeguards) in an iterative manner to reduce each hazard to the greatest extent feasible. Identify, analyze, and document relevant, publicly available information on inherent safety measures and safeguards. This information shall include inherent safety measures and safeguards that have been:

(A) achieved in practice by for the petroleum refining industry and related industrial sectors; or,

(B) required or recommended for the petroleum refining industry, and related industrial sectors, by a federal or state agency, or local California agency, in a regulation or report.

(f) For each process safety hazard identified using the analysis required by subdivision (e), the team shall develop written recommendations to eliminate hazards to the greatest extent feasible using first order inherent safety measures. The team shall develop written recommendations to reduce any remaining hazards to the greatest extent feasible using second order inherent safety measures. If necessary, the team shall also develop written recommendations to address any remaining risks in the following sequence and priority order:

(1) Effectively reduce remaining risks using passive safeguards;

(2) Effectively reduce remaining risks using active safeguards;

(3) Effectively reduce remaining risks using procedural safeguards.

Furthermore, please note the email you sent to the refinery a few days after I began contacting you last year:

Alvin.Dong@lacity.org

From: Alvin Dong <alvin.dong@lacity.org>
Sent: Wednesday, June 28, 2023 12:31 PM
To: Doran, Michelle
Cc: Luong, Thomas; Elliott, Jon
Subject: HCA

Hi Michelle,
Just a random question--
as far as I remember, your facility was on schedule to have completed
all your HCAs as required under Program 4?

you may just call me with an answer--if you don't want to write it down--
I've added Tommy and Jon because I heard you might be on vacation.

Thanks,
Alvin Dong
CUPA RMPPS
Fire Prevention Bureau
Los Angeles Fire Department
213.238.3515 c



This email makes it quite clear that you did not know whether the full HCA reporting due on 10/1/22 had been completed, even though it was your CUPA's responsibility to ensure that. (I would also note that it was not "a random question", as it was a question prompted by my inquiries.)

I would also appreciate if you could explain some items from p.12 of your 6/22/22 inspection report, Mr. Dong:

General Facility Requirements	
General Duty Clause	
283 Hazards assessed & ID'd, steps taken to maintain safety & prevent releases/reduce consequences <input type="checkbox"/> NVO <input type="checkbox"/> OUT <input checked="" type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
284 Administration/Documentation - General <input checked="" type="checkbox"/> NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
285 Administration/Documentation - General Local Ordinance <input type="checkbox"/> NVO <input type="checkbox"/> OUT <input checked="" type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
286 Training - General <input checked="" type="checkbox"/> NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
287 Training - General Local Ordinance <input type="checkbox"/> NVO <input type="checkbox"/> OUT <input checked="" type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
288 Operations/Maintenance - General <input checked="" type="checkbox"/> NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
289 Operations/Maintenance - General Local Ordinance <input type="checkbox"/> NVO <input type="checkbox"/> OUT <input checked="" type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
290 Release/Leaks/Spills - General <input checked="" type="checkbox"/> NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
291 Release/Leaks/Spills - General Local Ordinance <input type="checkbox"/> NVO <input type="checkbox"/> OUT <input checked="" type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
292 Abandonment/Illegal Disposal/Unauthorized Treatment - General <input checked="" type="checkbox"/> NVO <input type="checkbox"/> OUT <input type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	
293 Abandonment/Illegal Disposal/Unauthorized Treatment - General Local Ordinance <input type="checkbox"/> NVO <input type="checkbox"/> OUT <input checked="" type="checkbox"/> NA <input type="checkbox"/> UD <input type="checkbox"/> COS <input type="checkbox"/> RPT	

Please explain why you marked Undetermined (NA) for "Hazards assessed & ID'd, steps taken to maintain safety & prevent releases/reduce consequences" and for "Release/Leaks/Spills - General Local Ordinance".

Mr. Long & Mr. Dong:

I would further appreciate an explanation, Mr. Long, in light of Mr. Dong's above email to the refinery, why you stated to me in an email on July 13, 2023 the following:

"The LAFD inspectors verify compliance of the CalARP Program requirements, including the HCA, for each of the refineries located within the department's purview through routine formal inspection activities, non-routine inspections and visits, and informal communications. In other words, the refineries and the CUPA are consistently in communication to ensure compliance is met within the required mandates."

It certainly appears that there was no communication or oversight performed to ensure that HCA reporting had been fully complied with by 10/1/22 until prompted by my communications with Mr. Dong which began on June 22, 2023.

Mr. Dong's email to the refinery, frankly, raises a number of questions about how the LAFD

CUPA is being run with regard to refinery oversight.

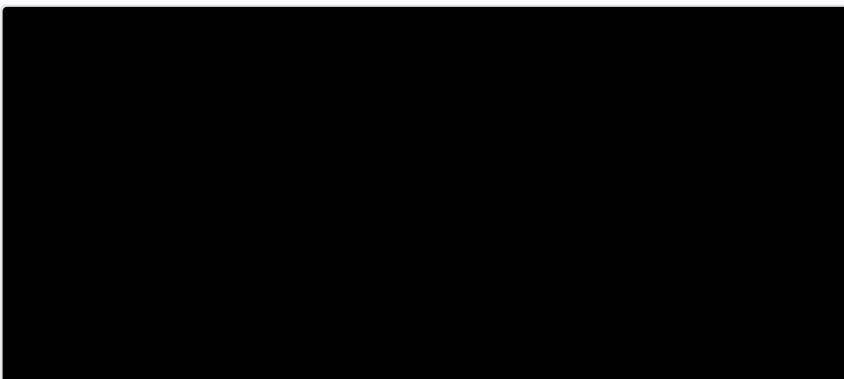
For one thing, I would like to know if it is routine procedure for CUPA staff to invite facilities' management to evade the transparency of the California Public Records Act by taking conversations immediately offline and instead onto the telephone? Why is an inspector such as Mr. Dong bending over backwards to accommodate the interests of the subjects of his inspections? Is there a revolving door between inspectors and perhaps higher paid positions in the industry?

I think these are reasonable questions to ask of public servants tasked with protecting the safety of hundreds of thousands of residents.

Furthermore, is there no internal system for tracking the progress of facilities who have requirements coming due over time, which are overseen by the CUPA? Is there no calendar to track due dates, such as 10/1/22, which was a crucial deadline for an extraordinarily important rule, whose promulgation seven years ago was prompted by several past near misses, i.e. near catastrophic releases of toxic hydrogen fluoride (HF).

Most prominent among those near misses was the 2015 incident, whose 9th anniversary was marked by our organization three weeks ago:

[LA Times: Torrance residents fear continued use of hydrofluoric acid at Torrance Refinery endangers community](#)



Torrance residents fear continued use of hydrofluoric acid at Torrance R...

Dozens of demonstrators rallied Saturday to mark the ninth anniversary of an explosion at the Torrance Refinery

...

Thank you in advance for your continuing attention to this urgent matter. We simply seek the HCA report which was determined to be essential for public safety many years ago.

best,
Ian S. Patton
c562.810.9329

On Thursday, September 7, 2023 at 02:54:40 PM PDT, Ian Patton <ispatton@yahoo.com> wrote:

Of course. I appreciate the responsiveness.

best,
Ian S. Patton
c562.810.9329

On Thursday, September 7, 2023 at 02:53:11 PM PDT, Royce Long <royce.long@lacity.org> wrote:

Hi Mr Patton,

You are correct, we are still working on this.
Thank you for your patience.

Respectfully,
Royce

On Thu, Sep 7, 2023 at 2:51 PM Ian Patton <ispatton@yahoo.com> wrote:

Hi Mr. Long,

Just checking in on the status of things. If you're office is still working on this, not a problem.

best,

Ian S. Patton
c562.810.9329

On Wednesday, August 23, 2023 at 05:21:04 PM PDT, Ian Patton <ispatton@yahoo.com> wrote:

No problem at all. Thanks for the update.

Ian S. Patton
c562.810.9329

Sent via mobile

On Aug 23, 2023, at 4:21 PM, Royce Long <royce.long@lacity.org> wrote:

Good afternoon Mr Patton,

Thank you for the follow up on your request. You have raised some additional topics that we are currently researching. Please allow us some additional time to prepare our response.

I will be in contact with you soon.

Respectfully,
Royce Long

On Wed, Jul 26, 2023 at 1:00 PM Ian Patton <ispatton@yahoo.com> wrote:

Hello Mr. Long,

Thank you for this more detailed description of your CUPA's approach.

It strikes me that the problem with this approach is that it is non-transparent. The regulation ([Cal. Code Regs. Tit. 19, § 2762.13 - Hierarchy of Hazard Control Analysis](#)) provides for redaction of sensitive information in conjunction with public disclosure: "*The UPA shall make these HCA reports available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information.*"

I understand that your office has taken the position that the wording "these HCA reports" only applies to *new* processes/units/facilities, as it falls under subsection (b)(4) and that that interpretation is apparently borrowed from Cal. EPA.

Granted, it is a poorly, if not very ambiguously, worded regulation. It seems highly illogical that the purpose of this regulation, which instituted the HCA requirement for refineries, would be robust, rapid public disclosure *only of a small fraction of the mandated HCA analysis*. We have a call with Cal. EPA coming up soon, and we'll discuss this interpretation of the regulation with them further at that time.

That said, within your interpretation of the regulation there are two things which you could still do in the spirit of full public transparency:

a) Obtain a copy of all required HCA analyses, so that at least they are available for public disclosure under a request per the Cal. Public Records Act.

b) Comply with § 2762.13 with regard to posting online the HCAs for the new processes/units/facilities, as we believe there are in fact new installations at Valero Wilmington. **Please confirm if either these HCAs already exist on your web site and we've missed them or, alternatively, that your office is of the opinion and has confirmed that there are no new processes/units/facilities whatsoever since 10/1/2017 when this regulation went into effect.**

The purpose of public transparency is both to ensure maximal confidence that all due oversight is being exercised when it comes to public safety and to do so by making it possible for the public, especially expert advocacy groups like our own, to assist with that oversight. That clearly was the intention of § 2762.13.

It also clearly intended that there be an extremely robust process of hazards control analysis, to ensure that refineries, which have a history of accidental explosions and accidental release of harmful chemicals, cannot *continue* to endanger the public during the course of their daily operations. The requirements of an HCA analysis, and the refinery's required response to any deficient findings by their own "HCA team", are outlined in subsection (d) through (h) of the regulation. I have to confess that I still have trouble envisioning that such documents could be more easily reviewed for full compliance *onsite*--where presumably the emphasis is on physical facilities

inspection--as opposed to by obtaining a copy for your office to maintain. That said, I do not have the expertise to make a final conclusion about the sufficiency of onsite inspections in this regard.

I do have a right, however, to request all inspection reports and any communications between inspectors and refineries relating the HCAs and compliance with § 2762.13, per the Cal. Public Records Act. In lieu of simply obtaining the HCAs and providing them to us, which would be optimal, **would you at least ask your staff to provide us with these HCA-related inspection reports and inspector communications?** While I take for granted that you have utmost confidence in your inspectors, that would enhance our confidence, as public watchdogs, that at least someone is holding the refineries accountable, to the highest degree mandated, for the new § 2762.13 rules, even if we can't do it ourselves.

best,
Ian S. Patton
c562.810.9329

On Tuesday, July 25, 2023 at 10:48:25 PM PDT, Royce Long <royce.long@lacity.org> wrote:

Good evening Mr Patton,

The purpose of LAFD CUPA's CalARP program is to prevent accidental releases of substances that pose the greatest risk to the public and the environment and works to minimize the consequences if releases do occur. CalEPA's stated purpose for the CalARP program is to prevent accidental releases of substances that can cause serious harm to the public and the environment, and to minimize the damage if releases do occur.

LAFD CUPA does not request any CalARP documents that are not required to be submitted to the UPA. The LAFD CUPA verifies the refinery's compliance with CalARP by employing different modalities to verify compliance via formal vis-a-vis inspections conducted every three years, episodic reinspections, and informal communications. Refineries inspections are not conducted all within a single day, but are completed in multiple visits. A typical inspection of a refinery takes months to complete. The inspectors are trained to verify the HCAs meet the requirements of Title 19 Section

2762.13. The onsite review provides the LAFD sufficient access to any and all documentation but also provides the refinery security to ensure potentially sensitive information is not improperly disseminated.

Respectfully,

Royce Long

On Fri, Jul 21, 2023 at 1:09 PM Ian Patton <ispatton@yahoo.com> wrote:

Hi Mr. Long,

You said to let you know if I had any further questions, and I appreciate that willingness.

Did you have any comment on my reply (below), in particular my questioning of how it's possible to verify a robust HCA by means solely of on-site inspection without obtaining a copy of the HCA.

best,

Ian S. Patton

c562.810.9329

On Thursday, July 13, 2023 at 02:10:22 PM PDT, Ian Patton <ispatton@yahoo.com> wrote:

Thank you for this response, Mr. Long.

Just to give you a heads up, if you haven't received it yet, (since I hadn't heard back) I did put in this public record request yesterday:

As the CUPA for the Valero refinery in Wilmington (Valero Wilmington, 2402 E Anaheim St., Wilmington, CA 90744; Facility ID# FA0019079), I am seeking from the LAFD CUPA office any and all Hierarchy of Hazard Control Analysis (HCA) reports relating to this facility (as required by Cal. Code Regs. Tit. 19,

§ 2762.13) and any documentation and/or communications which exist which demonstrate that this facility has been required by the CUPA to comply with, and has completed all HCA analysis required under, the Cal. Code of Regulations.

I hope the response to this PRA clarifies some questions I do still have.

Essentially I think the issue boils down to this:

a) although neither you nor Mr. Dong has *quite* stated it explicitly, it appears that your agency has never requested receipt of the full refinery facility HCA reporting which was required by Oct. 2022 by the relatively new regulation § 2762.13, and therefore don't have a copy to provide the public (despite the intent of the regulation certainly appearing to be full public transparency with regard to the newly required level of hazards control analysis); and

b) instead, compliance enforcement seems to rely entirely on onsite inspection, which would seem insufficient in order to ensure, beyond the mere existence of full HCA reporting, that the content of such complex analysis meet sufficient standards and rigor, much less public disclosure for full transparency.

If you could enlighten us at TRAA further as to how an onsite inspection would be sufficient to analyze what should presumably be a substantial, professional study of potential hazards and potential risk mitigation strategies, it would be very much appreciated.

Given the significance of hazard control analysis viz-a-viz public safety and prevention of a mass casualty event from a hydrofluoric acid release incident, one has to ask the question as to why the CUPA would not simply want to have a copy of that report/s (and why, if it has been requested, the refinery would take the position of not releasing it to the agency, in redacted form to eliminate any issue of trade secrets, if in fact it has).

Members of TRAA would also be willing to meet in person if that would be useful, as HF safety is the reason our organization exists.

best,
Ian S. Patton

c562.810.9329

On Thursday, July 13, 2023 at 01:47:22 PM PDT, Royce Long <royce.long@lacity.org> wrote:

Good afternoon Mr Patton,

Our apologies for the delay in responding as Alvin has been away from the office.

The LAFD inspectors verify compliance of the CalARP Program requirements, including the HCA, for each of the refineries located within the department's purview through routine formal inspection activities, non-routine inspections and visits, and informal communications. In other words, the refineries and the CUPA are consistently in communication to ensure compliance is met within the required mandates.

Please let me know if you have any additional questions.

Respectfully,

Royce Long

<Royce Signature Block No Phone.jpg>

On Fri, Jul 7, 2023 at 1:49 PM Ian Patton <ispatton@yahoo.com> wrote:

Hello Mr. Dong,

I'd like to reiterate the email reply I sent to you (forwarded below) on July 3rd. If you're away on a no doubt well-deserved vacation this week, as many are, I hope you are having an enjoyable one.

When you are available to address this matter I would appreciate your assistance.

We at TRAA take this matter quite seriously as it relates to a potential mass casualty event, should there be a successful attack on or catastrophic accidental failure of containment (due either to one of the frequent refinery explosions or a natural disaster such as an earthquake) of the modified hydrofluoric acid (MHF) stored at and used for alkalization at two refineries

in our region (the Torrance Refinery and the Valero Wilmington Refinery).

Therefore it is essential that the newly fully required Hierarchy of Hazards Control Analysis reports fully address MHF (which if released, can form a lethal ground-hugging toxic cloud which will spread out with the prevailing wind), the single most clear and present danger to the public at these sites.

TRAA has been active in campaigning for safer alkalization processes (which exist at other refineries) for many years. We have the support of several US senators, as well as local members of the House or Representatives--including Congresswoman Maxine Waters, Congresswoman Nanette Barragan, and Congressman Ted Lieu--and Mayor Karen Bass:

[TRAA: Letters of Support from Elected Officials & Civic Organizations](#)



**Letters of Support from
Elected Officia...**

Thank you in advance for your assistance in clarifying the LAFD CUPA office's regulatory role and actions with regard to the required HCA analysis at the Valero Wilmington Refinery.

I'm cc'ing our organization's president Steve Goldsmith to keep him in the loop on this discussion.

best,

Ian S. Patton

c562.810.9329

On Monday, July 3, 2023 at 12:31:26 PM PDT, Ian Patton <ispatton@yahoo.com> wrote:

Hello Mr. Dong,

Thank you for that response. I understand your CUPA's interpretation. And I will go ahead and contact Cal EPA, as I believe it's an extremely poorly worded regulation. I believe the *intent* of the regulation is quite clear.

Nonetheless, may I ask how you ensure compliance with the acknowledged Oct. 2022 deadline for the 100% HCA reporting without that report (or reports) being provided to you?

best,

Ian S. Patton

c562.810.9329

On Monday, July 3, 2023 at 05:21:12 AM PDT, Alvin Dong <alvin.dong@lacity.org> wrote:

Dear Mr. Patton,

Thank you for your email.

Title 19 Section 2762.13(a) does require refineries to have completed all their HCAs by October of 2022. However, subsection (a) does not have a provision for the refineries to submit the 5-yr HCAs to the UPA, nor a requirement to post said HCAs.

Section 2762.13(b)(4) does have a provision, as was mentioned by your original email and stated in the previous response, which requires the refinery to submit the HCA when prepared for the purpose of design and review of new processes, new process units, new facilities, and their related process equipment.

2762.13(b)(4) *During the design and review of new processes, new process units, and new facilities, and their related process equipment. **An HCA report prepared for this purpose** shall be provided to the UPA. The UPA shall make these HCA reports*

available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information.

Should you have any questions regarding our department's interpretation of section 2762.13 19 CCR, please contact [CalEPA](#), the State Agency responsible for CalARP oversight. You may send them an email: calarp@calepa.ca.gov

Respectfully,

Alvin Dong
CUPA RMPPS
Fire Prevention Bureau
Los Angeles Fire Department
213.238.3515 c

From: Ian Patton <ispatton@yahoo.com>

Sent: Friday, June 23, 2023 4:34 PM

To: alvin.dong@lacity.org

Subject: Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Hello Mr. Dong,

Thank you for your response. But I'm afraid that's not correct. You're only looking at subsection b of the regulation I linked to. If you look at subsection a, it says:

*(a) **The owner or operator shall conduct an HCA for all existing processes.** The HCA for existing processes shall be performed in accordance with the following schedule, and may be performed in conjunction with the PHA schedule:*

(1) No less than 50% of existing processes within three (3) years of the effective date of this Article;

*(2) Remaining processes **within five (5) years of the effective date***

of this Article.

This regulation is all from § 2762.13 of Article 6.5, which [became operative on 10-1-2017](#), which means that HCA reporting was required on 100% of processes by Oct. 1st of last year. (This is in accord with the time frame we believe another refinery we're investigating, under a different CUPA, completed its HCA.)

Subsection b only adds that *more recent* changes to a facility necessitate publishing *new* HCA reports, on those new facilities/processes when they come into operation.

best,

Ian S. Patton

c562.810.9329

On Friday, June 23, 2023 at 04:09:13 PM PDT, alvin.dong@lacity.org <alvin.dong@lacity.org> wrote:

Good afternoon Mr. Patton,

Our department has reviewed your request for the HCA for Valero Wilmington Refinery and this refinery has not designed any new processes nor new process units to our knowledge.

Under Section 19 CCR 2762.13(b)(4), the refineries are only required to prepare the HCA you're requesting during the "design and review of new processes, new

process units, and new facilities, and their related process equipment". Only the HCA prepared for those purposes is required to be provided to the UPA.

*(4) During the design and review of new processes, new process units, and new facilities, and their related process equipment. An HCA report **prepared for this purpose** shall be provided to the UPA. The UPA shall make these HCA reports available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information.*

Should Valero decide to either design a new process or process unit, they will be required to provide the UPA with a copy of the HCA related to the new process or new process units. At that time, we will post the report online at <https://lafd.org/fire-prevention/cupa/calarp>

Respectfully,
Alvin Dong
CUPA RMPPS
Fire Prevention Bureau
Los Angeles Fire Department
213.238.3515 c

From: Ian Patton <ispatton@yahoo.com>
Sent: Thursday, June 22, 2023 2:54 PM
To: alvin.dong@lacity.org
Subject: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

As the CUPA for the Valero refinery in Wilmington (Valero Wilmington, 2402 E Anaheim St., Wilmington, CA 90744; Facility ID# FA0019079), I am seeking from your office the Hierarchy of Hazard Control Analysis (HCA) report for this facility or to be directed to where it may already have been posted online.

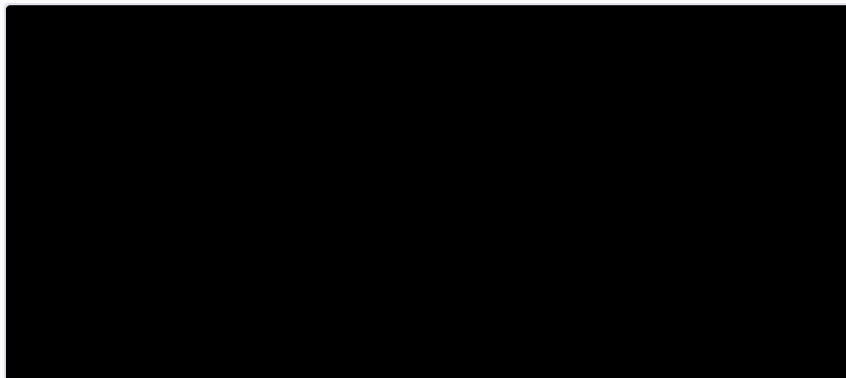
Per the Cal. Code of Regulations, I believe this report should be available

online:

Cal. Code Regs. Tit. 19, § 2762.13 - Hierarchy of Hazard Control Analysis says:

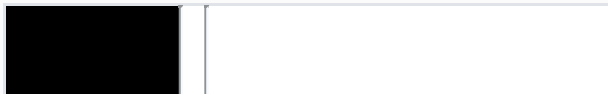
*(4) During the design and review of new processes, new process units, and new facilities, and their related process equipment. An HCA report prepared for this purpose shall be provided to the UPA. The UPA shall make these HCA reports available to the public by **posting them on the UPA's website within 30 calendar days**, with appropriate protections for trade secret information.*

[Cal. Code Regs. Tit. 19, § 2762.13 - Hierarchy of Hazard Control Analysis](#)



Cal. Code Regs. Tit. 19, § 2762.13 - Hierarchy of Hazard Control Analysis

Cal. Code Regs. Tit. 19, § 2762.13 - Hierarchy of Hazard Control Analysis





Cal. Code Regs. Tit. 19, §
2762.13 - Hi...

best,

Ian S. Patton

c562.810.9329

Subject: Re: CPRA Request 24-1158/23-7073
Date: Friday, February 2, 2024 at 10:58:30 AM Pacific Standard Time
From: Minh Le <minh.u.le@lacity.org>
To: Kelly Aviles <kaviles@opengovlaw.com>
Attachments: TRAA HCA Request.pdf

Good morning Ms. Aviles,

The CPRA office informed me you might not be able to access the files because you did not create the original request. For efficiency, I have attached the requested files to this email.

Thank you,

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



On Thu, Feb 1, 2024 at 2:25 PM Minh Le <minh.u.le@lacity.org> wrote:

Good afternoon Ms. Aviles,

This email is to notify you that the following public records request, made via email in reference to Request 23-7073, has been fulfilled via Request 24-1158.

"All communications regarding TRAA or its requests for the HCA Report (excluding any which were sent to or from Ian Patton) from June 22, 2023 to the present, specifically including those with the Wilmington Refinery or its agents, employees, or representatives"

You will be able to view the documents via NextRequest. You can access the website here: <https://recordsrequest.lacity.org/>

I have listed you as the requester, so you will have access to the documents using this email address.

If you have any trouble accessing the documents via Next Request, please let me know.

Thank you,

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



Subject: [Document Released to Requester] City of Los Angeles public records request #24-1158
Date: Thursday, February 1, 2024 at 2:29:21 PM Pacific Standard Time
From: publicrecords@lacity.org <messages@nextrequest.com>
To: Kelly Aviles <kaviles@opengovlaw.com>

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City of Los Angeles Public Records

**A document has been released to you
for record request #24-1158:**

- TRAA HCA Request.pdf

[View Request 24-1158](#)

<https://lacity.nextrequest.com/requests/24-1158>



*Questions about your request? Reply to this email or sign in to contact staff at City of Los Angeles.
Technical support: See our [help page](#)*

Subject: CPRA Request 24-1158/23-7073
Date: Thursday, February 1, 2024 at 2:26:31 PM Pacific Standard Time
From: Minh Le <minh.u.le@lacity.org>
To: Kelly Aviles <kaviles@opengovlaw.com>

Good afternoon Ms. Aviles,

This email is to notify you that the following public records request, made via email in reference to Request 23-7073, has been fulfilled via Request 24-1158.

"All communications regarding TRAA or its requests for the HCA Report (excluding any which were sent to or from Ian Patton) from June 22, 2023 to the present, specifically including those with the Wilmington Refinery or its agents, employees, or representatives"

You will be able to view the documents via NextRequest. You can access the website here: <https://recordsrequest.lacity.org/>

I have listed you as the requester, so you will have access to the documents using this email address.

If you have any trouble accessing the documents via Next Request, please let me know.

Thank you,

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



Subject: Your City of Los Angeles public records request #24-1158 has been closed.

Date: Thursday, February 1, 2024 at 2:17:30 PM Pacific Standard Time

From: publicrecords@lacity.org <messages@nextrequest.com>

To: Kelly Aviles <kaviles@opengovlaw.com>

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City of Los Angeles Public Records

Record request #24-1158 has been closed. The closure reason supplied was:

Your request has been completed and closed. Please see attachment.

Respectfully,
The Los Angeles Fire Department

[View Request 24-1158](#)

<https://lacity.nextrequest.com/requests/24-1158>



Questions about your request? Reply to this email or sign in to contact staff at City of Los Angeles.

Technical support: See our [help page](#)

Subject: [Document Released to Requester] City of Los Angeles public records request #24-1158

Date: Thursday, February 1, 2024 at 2:17:16 PM Pacific Standard Time

From: publicrecords@lacity.org <messages@nextrequest.com>

To: Kelly Aviles <kaviles@opengovlaw.com>

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City of Los Angeles Public Records

A document has been released to you for record request #24-1158:

- TRAA HCA Request.pdf

[View Request 24-1158](#)

<https://lacity.nextrequest.com/requests/24-1158>



POWERED BY CIVICPLUS

Questions about your request? Reply to this email or sign in to contact staff at City of Los Angeles.

Technical support: See our [help page](#)

Subject: Your City of Los Angeles public records request #24-1158 has been opened.

Date: Thursday, February 1, 2024 at 2:15:15 PM Pacific Standard Time

From: publicrecords@lacity.org <messages@nextrequest.com>

To: Kelly Aviles <kaviles@opengovlaw.com>

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City of Los Angeles Public Records

Your record request #24-1158 has been submitted successfully.

[View Request 24-1158](#)

<https://lacity.nextrequest.com/requests/24-1158>

As the requester, you can always see the status of your request by signing into the City of Los Angeles [portal](#).

If you haven't already signed in, you may need to [activate or setup your account](#) to get started. Once your account is activated, you can communicate directly with the City of Los Angeles through NextRequest.



Reply to this email or sign in to contact City of Los Angeles.

[Change your email settings](#) | [Visit our help center](#)

Exhibit B

Request 23-7073 Closed

Dates

Received

July 12, 2023 via web

Staff assigned

Departments

Fire Department (LAFD CPRA only)

Point of contact

Jennifer Cornejo

Request

As the CUPA for the Valero refinery in Wilmington (Valero Wilmington, 2402 E Anaheim St., Wilmington, CA 90744; Facility ID# FA0019079), I am seeking from the LAFD CUPA office any and all Hierarchy of Hazard Control Analysis (HCA) reports relating to this facility (as required by Cal. Code Regs. Tit. 19, § 2762.13) and any documentation and/or communications which exist which demonstrate that this facility has been required by the CUPA to comply with, and has completed all HCA analysis required under, the Cal. Code of Regulations.

Timeline

Documents



Request closed

Anyone with access to this request 

Your request has been completed and closed. Please see attachment.

Respectfully,

The Los Angeles Fire Department

January 29, 2024, 2:34pm by Staff



Document(s) released

Anyone with access to this request

valeroCalARP2019.pdf
valeroCalARP2022.pdf
valeroHCAquestion.pdf

January 29, 2024, 2:34pm by Staff



Request reopened

Anyone with access to this request

January 29, 2024, 1:03pm by Staff



Request closed

Anyone with access to this request

Your request has been completed and closed. Please see attachment.

Respectfully,

The Los Angeles Fire Department

July 24, 2023, 2:54pm by Staff



Department assignment

Anyone with access to this request

Fire Department (LAFD CPRA only)

July 12, 2023, 3:59pm by the requester



Request opened

Anyone with access to this request

Request received via web

July 12, 2023, 3:59pm by the requester

[FAQS](#)

[Help](#)

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[Terms](#)

[City Webpage](#)

 **CIVICPLUS**
NextRequest

Exhibit C



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Minh Le <minh.u.le@lacity.org>

Fri, Jun 23, 2023 at 8:04 AM

To: Alvin Dong <alvin.dong@lacity.org>

Hi Alvin,

Did you already reply to this guy? Did he email his request directly to you?

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

alvin.dong@lacity.org <alvin.dong@lacity.org>

Fri, Jun 23, 2023 at 9:11 AM

To: Minh Le <minh.u.le@lacity.org>

He sent it to me

I couldn't read my schedule—the tournament ended yesterday—I did tell you Tuesday...

[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Minh Le <minh.u.le@lacity.org>

Fri, Jun 23, 2023 at 9:57 AM

To: alvin.dong@lacity.org

Okay, I'm going to draft a response and send it to you just to make sure I have it correct.

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Minh Le <minh.u.le@lacity.org>

Fri, Jun 23, 2023 at 11:13 AM

To: Alvin Dong <alvin.dong@lacity.org>

Thanks Alvin.

You should just send the response since you're working today. I thought you were going to be out the rest of the day.

I would remove your phone number from the signature.... he will call you.

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Minh Le <minh.u.le@lacity.org>

Mon, Jul 10, 2023 at 8:01 AM

To: alvin.dong@lacity.org, Royce Long <royce.long@lacity.org>

Royce and I discussed whether you should respond to Mr. Patton any longer or if Royce would just take over at this point. I'll see what Royce wants to do.

Royce, see Alvin's response below.

Thank you,
Minh

[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Royce Long <royce.long@lacity.org>

Thu, Jul 13, 2023 at 10:04 AM

To: Minh Le <minh.u.le@lacity.org>

When you have a moment can you call me on this one. I'm looking to answer his last question to Alvin which is when do we verify compliance with the submittal date required under the regs? I'm assuming at the next inspection? What does Contra Costa, LA County and Torrance do?

Thanks.

[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Minh Le <minh.u.le@lacity.org>

Thu, Jul 13, 2023 at 10:05 AM

To: Royce Long <royce.long@lacity.org>

Yes, let's talk about it. I'm in the DMU meeting right now. I'll call you when it's done.

Minh U. Le, M.S., REHS
Hazardous Materials Supervisor
Bureau of Fire Prevention & Public Safety
Los Angeles City Fire Department
Direct: 213-469-1261



[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Royce Long <royce.long@lacity.org>
To: Minh Le <minh.u.le@lacity.org>

Thu, Jul 13, 2023 at 10:07 AM

I'm meeting with James now then CalEPA at 11. Will be free after 12.
[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Minh Le <minh.u.le@lacity.org>

Thu, Jul 13, 2023 at 10:09 AM

To: Royce Long <royce.long@lacity.org>

Okay, you call me when you're free then 🙄

Minh

[Quoted text hidden]



Minh Le <minh.u.le@lacity.org>

Re: Seeking HCA (Hazard Control Analysis) report for Valero Wilmington Refinery

Royce Long <royce.long@lacity.org>

Thu, Jul 13, 2023 at 10:14 AM

To: Minh Le <minh.u.le@lacity.org>

Will do.

[Quoted text hidden]

Exhibit D

LAW OFFICES OF KELLY A. AVILES

January 12, 2023

Hydee Feldstein Soto
Los Angeles City Attorney
200 N. Main Street, #800
Los Angeles, CA 90012

(via email only to hydee.feldsteinsoto@lacity.org)

Re: Improper Withholding Hierarchy of Hazard Control Report
CPRA Request No. 23-7073

Dear Ms. Soto:

Our office represents Torrance Refinery Action Alliance, Inc. (“TRAA”) in regards to its July 12, 2023 California Public Records Act (“CPRA”) Request, No. 23-7073. Please direct all further communications regarding this matter to our office.

TRAA advocates for the replacement of an extremely dangerous chemical modified hydrofluoric acid (MHF) at the Torrance Refinery and the Valero Wilmington refinery, the only California refineries where it is stored onsite and unnecessarily used for the alkylation process.¹ Release of the chemical could cause catastrophic health consequences to those in the vicinity.² According to the California Attorney General, the population threatened in the event of a release with death or permanent injury includes communities that rank at the highest level for Environment Justice burden. Also, the dispatch hall for the International Longshore Workers Union, where 2,000 workers critical to the Ports of Los Angeles and Long Beach are based, is less than 6,000 feet from the MHF tank. Thus, the public interest in this issue cannot be understated.

California regulations require “the owner or operator [of a petroleum refinery] to conduct a Hazard Control Analysis, reporting information about the use of various chemicals, including MHF. (Cal. Code Regs., tit. 19, § 2762.13.) The regulations were

¹ See <https://laist.com/news/modified-hydrifluoric-acid-sothern-california-refineries>;
<https://www.dailybreeze.com/2023/02/18/advocates-renew-call-for-mhf-ban-on-8th-anniversary-of-torrance-refinery-explosion/>;
<https://www.dailybreeze.com/2022/03/07/local-battle-over-toxic-chemical-at-torrance-wilmington-refineries-continues/>

² See <https://www.youtube.com/watch?v=rdTEzgkkTmU&t=5156s> at 1:26:00.

adopted under Program 4, the purpose of which is to “to prevent major incidents at petroleum refineries in order to protect the health and safety of communities and the environment.” (Cal. Code Regs., tit. 19, § 2762.0.2.) Those regulations also require that “[t]he owner or operator [] provide documents or information developed or collected pursuant to this Article to the UPA upon request and specifically requires that HCA reports are made available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information. (Cal. Code Regs., tit. 19, § 2762.13(b)(4).)

Thus, the entire purpose of the state regulation is not only to ensure the refineries perform a robust hazards analysis, but to ensure public transparency with regard to the results of that analysis.

The City of Los Angeles Fire Dept. (LAFD) acts as the CUPA (Certified Unified Program Agency, often referred to as the CUPA or UPA) and manages the following four hazardous materials programs within the city of Los Angeles: The Hazardous materials disclosure program, Article 1 Chapter 6.95 Health & Safety Code, The California Accidental Release Program, Article 2 Chapter 6.95 H&SC, The Underground Storage Tank Program, Chapter 6.7 H&SC, California Fire Code dealing with Hazardous Materials Management Plans.

On June 22, 2023, my client emailed Alvin Dong with the Los Angeles Fire Department (“LAFD”) asking for a copy of the HCA report for the Valero Wilmington refinery or to be directed to where it was posted online, consistent with the regulations.

On June 23, 2023, Mr. Dong responded claiming that:

Our department has reviewed your request for the HCA for Valero Wilmington Refinery and this refinery has not designed any new processes nor new process units to our knowledge.

Under Section 19 CCR 2762.13(b)(4), the refineries are only required to prepare the HCA you're requesting during the "design and review of new processes, new process units, and new facilities, and their related process equipment". Only the HCA prepared for those purposes is required to be provided to the UPA.

*(4) During the design and review of new processes, new process units, and new facilities, and their related process equipment. An HCA report **prepared for this purpose** shall be provided to the UPA. The UPA shall make these HCA reports available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information.*

Should Valero decide to either design a new process or process unit, they will be required to provide the UPA with a copy of the HCA related to the new process or new process units. At that time, we will post the report online at <https://lafd.org/fire-prevention/cupa/calarp>

My client responded the same day, directing Mr. Dong to a different subsection in the regulation, which requires: the “owner or operator shall conduct an HCA for all existing processes... within five (5) years of the effective date of this Article.” My client also noted that because the regulation became operative on October 1, 2017, the HCA report would be due already.

On July 3, Mr. Dong responded, claiming that “subsection (a) does not have a provision for the refineries to submit the 5-yr HCAs to the UPA, nor a requirement to post said HCAs.”

My client responded the same day, noting that, while he understood LAFD’s position on posting the regulation, he questioned how the Department has ensured that the refinery was in compliance with the HCA reporting requirements if the refinery has not provided the LAFD with a copy of the report.

On July 12, 2023, TRAA submitted a CPRA request through the City’s online portal, requesting copies of “any and all Hierarchy of Hazard Control Analysis (HCA) reports relating to [the Valero refinery in Wilmington] (as required by Cal. Code Regs. Tit. 19, § 2762.13) and any documentation and/or communications which exist which demonstrate that this facility has been required by the CUPA to comply with, and has completed all HCA analysis required under, the Cal. Code of Regulations.”

On July 13, 2023, Royce Long of the LAFD responded, indicating that Mr. Dong had been away from the office. He indicated that:

The LAFD inspectors verify compliance of the CalARP Program requirements, including the HCA, for each of the refineries located within the department’s purview through routine formal inspection activities, non-routine inspections and visits, and informal communications. In other words, the refineries and the CUPA are consistently in communication to ensure compliance is met within the required mandates.

My client responded the same day, referring Mr. Long to the July 12th CPRA request and objecting to the City’s failure to disclose the report:

a) although neither you nor Mr. Dong has *quite* stated it explicitly, it appears that your agency has never requested receipt of the full refinery facility HCA reporting which was required by Oct. 2022 by the relatively new regulation § 2762.13, and therefore don't have a copy to provide the

public (despite the intent of the regulation certainly appearing to be full public transparency with regard to the newly required level of hazards control analysis); and

b) instead, compliance enforcement seems to rely entirely on onsite inspection, which would seem insufficient in order to ensure, beyond the mere existence of full HCA reporting, that the content of such complex analysis meet sufficient standards and rigor, much less public disclosure for full transparency.

If you could enlighten us at TRAA further as to how an onsite inspection would be sufficient to analyze what should presumably be a substantial, professional study of potential hazards and potential risk mitigation strategies, it would be very much appreciated.

Given the significance of hazard control analysis viz-a-viz public safety and prevention of a mass casualty event from a hydrofluoric acid release incident, one has to ask the question as to why the CUPA would not simply want to have a copy of that report/s (and why, if it has been requested, the refinery would take the position of not releasing it to the agency, in redacted form to eliminate any issue of trade secrets, if in fact it has).

Members of TRAA would also be willing to meet in person if that would be useful, as HF safety is the reason our organization exists.

Receiving no response, on July 21, 2023 wrote to Mr. Long again, asking for a reply.

On July 25, 2023, Mr. Long responded, claiming that:

The purpose of LAFD CUPA's CalARP program is to prevent accidental releases of substances that pose the greatest risk to the public and the environment and works to minimize the consequences if releases do occur. CalEPA's stated purpose for the CalARP program is to prevent accidental releases of substances that can cause serious harm to the public and the environment, and to minimize the damage if releases do occur.

LAFD CUPA does not request any CalARP documents that are not required to be submitted to the UPA. The LAFD CUPA verifies the refinery's compliance with CalARP by employing different modalities to verify compliance via formal vis-a-vis inspections conducted every three years, episodic reinspections, and informal communications. Refineries inspections are not conducted all within a single day, but are completed in multiple visits. A typical inspection of a refinery takes months to complete. The inspectors are trained to verify the HCAs meet the

requirements of Title 19 Section 2762.13. The onsite review provides the LAFD sufficient access to any and all documentation but also provides the refinery security to ensure potentially sensitive information is not improperly disseminated.

On July 26, 2023, my client responded, thanking Mr. Long for the additional information, but objecting to the LAFD's lack of transparency.

It strikes me that the problem with this approach is that it is non-transparent. The regulation (Cal. Code Regs. Tit. 19, § 2762.13 - Hierarchy of Hazard Control Analysis) provides for redaction of sensitive information in conjunction with public disclosure: "*The UPA shall make these HCA reports available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information.*"

I understand that your office has taken the position that the wording "these HCA reports" only applies to *new* processes/units/facilities, as it falls under subsection (b)(4) and that that interpretation is apparently borrowed from Cal. EPA. Granted, it is a poorly, if not very ambiguously, worded regulation. It seems highly illogical that the purpose of this regulation, which instituted the HCA requirement for refineries, would be robust, rapid public disclosure *only of a small fraction of the mandated HCA analysis*. We have a call with Cal. EPA coming up soon, and we'll discuss this interpretation of the regulation with them further at that time.

That said, within your interpretation of the regulation there are two things which you could still do in the spirit of full public transparency:

a) Obtain a copy of all required HCA analyses, so that at least they are available for public disclosure under a request per the Cal. Public Records Act.

b) Comply with § 2762.13 with regard to posting online the HCAs for the new processes/units/facilities, as we believe there are in fact new installations at Valero Wilmington. **Please confirm if either these HCAs already exist on your web site and we've missed them or, alternatively, that your office is of the opinion and has confirmed that there are no new processes/units/facilities whatsoever since 10/1/2017 when this regulation went into effect.**

The purpose of public transparency is both to ensure maximal confidence that all due oversight is being exercised when it comes to public safety and to do so by making it possible for the public, especially expert advocacy

groups like our own, to assist with that oversight. That clearly was the intention of § 2762.13.

It also clearly intended that there be an extremely robust process of hazards control analysis, to ensure that refineries, which have a history of accidental explosions and accidental release of harmful chemicals, cannot *continue* to endanger the public during the course of their daily operations. The requirements of an HCA analysis, and the refinery's required response to any deficient findings by their own "HCA team", are outlined in subsection (d) through (h) of the regulation. I have to confess that I still have trouble envisioning that such documents could be more easily reviewed for full compliance *onsite*--where presumably the emphasis is on physical facilities inspection--as opposed to by obtaining a copy for your office to maintain. That said, I do not have the expertise to make a final conclusion about the sufficiency of onsite inspections in this regard.

I do have a right, however, to request all inspection reports and any communications between inspectors and refineries relating the HCAs and compliance with § 2762.13, per the Cal. Public Records Act. In lieu of simply obtaining the HCAs and providing them to us, which would be optimal, **would you at least ask your staff to provide us with these HCA-related inspection reports and inspector communications?** While I take for granted that you have utmost confidence in your inspectors, that would enhance our confidence, as public watchdogs, that at least someone is holding the refineries accountable, to the highest degree mandated, for the new § 2762.13 rules, even if we can't do it ourselves.

On Aug 23, 2023, Mr. Long responded, noting that the prior correspondence "raised some additional topics that we are currently researching" and asked for my client to "allow [the LAFD] some additional time to prepare our response," noting that Mr. Long would be in "contact with you soon."

My client followed up on September 7, 2023, and Mr. Long responded the same day indicating that the LAFD was "still working on this." However, no further communication was received.

Ultimately, the City produced some responsive records, but notably, not any HCA reports.

The California Public Records Act ("CPRA") requires state & local agencies to disclose any public record on request to any member of the public unless the record falls within a specific statutory exemption from disclosure. (Gov. Code §§ 7922.525, 7922.530.) Therefore, the burden of proving an exemption exists falls squarely on the public

agency. burden of proof falls squarely on the City, and failure to submit any evidence in support of this contention does not meet that heavy burden. (Gov. Code § 7922.540(c) [“[a]n agency shall justify withholding any record...”]; *CBS Broadcasting v. Sup. Ct.* (2001) 91 Cal.App.4th 892, 908; *Long Beach Police Officers Assn. v. City of Long Beach* (2014) 59 Cal.4th 59, 67.) Exemptions to disclosure are narrowly construed. (Cal. Const., Art. 1, § 3(b)(2)).

The CPRA defines the term “public records” to include “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (Gov. Code § 7920.530.) “Generally, any ‘record . . . kept by an officer because it is necessary or convenient to the discharge of his official duty . . . is a public record.” *City of San Jose*, 2 Cal. 5th at 618 (quoting *Braun v. City of Taft*, 154 Cal. App. 3d 332, 340, 201 Cal. Rptr. 654 (1984)).

However, records do not have to be in the agency’s custody to be a public record as the CPRA applies to records “prepared, owned, used or retained.”

For example, in *City of San Jose*, the California Supreme Court held that emails sent to or from public officials through nongovernmental email accounts relating to official agency business are public records under the CPRA even though the city did not maintain the emails on its own servers. (*Id.* at 616.)

In so holding, the court recognized that an agency’s actual or constructive possession of records is deemed relevant in determining whether it has an obligation to search for, collect, and disclose material requested. (*City of San Jose*, 2 Cal. 5th at 623 [holding city had obligation to implement search procedures for records in possession of city employees who used personal accounts to conduct official business]; *see also Bd. of Pilot Comm’rs for the Bays of S.F., San Pablo and Suisan v. Superior Court* (2013) 218 Cal.App.4th 577, 598 [“an agency has constructive possession of records if it has the right to control the records, either directly or through another person,” quoting *Consol. Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 710 [holding that consultants files were within constructive possession of city]; *Cnty. Youth Athletic Ctr. v. City of National City* (2013) 220 Cal.App.4th 1385, 1428 [holding that agency did have constructive possession of records in consultant’s files and thus was obligated to seek to obtain them in response to CPRA request].)

The fact that the City claims to have not taken possession of a copy of the HCA report (and possibly others) intentionally to avoid public disclosure requirements is alarming. However, it has no bearing on whether the document is a disclosable public record. Since the City has oversight obligations of the Refinery and has admitted to reviewing the inspection reports, including the HCA Report, its actual possession of the record is irrelevant to whether the record is a public record. Since the City has admittedly used the HCA report in its inspection, as is required by state regulations and in furtherance of the City’s oversight role of the Wilmington Refinery, the record is “used” by the City and is, therefore, a public record.

Hydee Feldstein Soto

January 12, 2024

Page 8

Therefore, please produce the full HCA Report(s) for the Valera Wilmington refinery no later than the close of business on January 23, 2024.

Additionally, please consider this a request for the following additional public records:

1. All communications regarding TRAA or its requests for the HCA Report (excluding any which were sent to or from Ian Patton) from June 22, 2023 to the present, specifically including those with the Wilmington Refinery or its agents, employees, or representatives

If the City continues to withhold the report and my client is required to obtain a court order compelling the City to comply with the requirements of the CPRA, my clients will seek recovery its attorneys' fees and costs. (*See Filarsky v. Superior Court* (2002) 28 Cal. 4th 419, 431 [noting that the CPRA's attorney-fee "provision contemplates that the public agency always will pay any costs and attorney fees should the plaintiff prevail"]; *Los Angeles Times Communications LLC v. Alameda Corridor Transp. Auth.* (2001) 88 Cal. App. 4th 1381, 1390 [prevailing party must be awarded fees under the CPRA].)

Sincerely,



Kelly Aviles

cc: Ian Patton & Steven Goldsmith, TRAA (via email only)

Mayor Karen Bass, via email only to mayor.helpdesk@lacity.org

LA City CPRA Requests, via email only to cpraatty@lacity.org

Exhibit E

[Skip to main content](#)

City of Los Angeles

 NextRequest



Request 24-1158 Closed

Dates

Received

January 12, 2024 via email

Staff assigned

Departments

Fire Department (LAFD CPRA only)

Point of contact

Jennifer Cornejo

Request

"All communications regarding TRAA or its requests for the HCA Report (excluding any which were sent to or from Ian Patton) from June 22, 2023 to the present, specifically including those with the Wilmington Refinery or its agents, employees, or representatives."

Timeline

Documents



Request closed

Anyone with access to this request

Your request has been completed and closed. Please see attachment.

Respectfully,

The Los Angeles Fire Department

February 1, 2024, 2:17pm by Staff



Department assignment

Anyone with access to this request

Fire Department (LAFD CPRA only)

February 1, 2024, 2:15pm by Staff



Request opened

Anyone with access to this request

Request received via email

February 1, 2024, 2:15pm by Staff

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NextRequest