

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 27, 2008

TO: Persons on the attached mailing list.

RE: Citgo Refining and Chemical Company, L.P.  
Permit No. 46637

### **Decision of the Executive Director.**

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Amended Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ central office, the TCEQ Corpus Christi regional office, and the Corpus Christi Central Library, 805 Comanche, Corpus Christi, Nueces County, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

### **How To Request a Contested Case Hearing.**

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

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- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
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  - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
  - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
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LaDonna Castañuela, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

### **Processing of Requests.**

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### **How to Obtain Additional Information.**

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela  
Chief Clerk

LDC/er

Enclosures

MAILING LIST  
for  
Citgo Refining and Chemical Company, L.P.  
Permit No. 46637

FOR THE APPLICANT:

Eric Bigelow, Senior Environmental Advisor  
P.O. Box 9176  
Corpus Christi, Texas 78469-0321

INTERESTED PERSONS:

Enrique Valdivia, Counsel  
Texas Rio Grande Legal Aid  
1111 North Main  
San Antonio, Texas 78212-4713

FOR THE EXECUTIVE DIRECTOR:

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Texas Commission on Environmental Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087

Juan Barrientez, Technical Staff  
Texas Commission on Environmental Quality  
Air Permits Division MC-163  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Bridget Bohac, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance MC-108  
P.O. Box 13087  
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FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental Quality  
Public Interest Counsel MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

LaDonna Castañuela  
Texas Commission on Environmental Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Air Permit No. 46637

APPLICATION BY	§	BEFORE THE	2008 MAY 20 PM 2: 26
	§		
CITGO REFINING AND CHEMICAL	§		CHIEF CLERKS OFFICE
	§	TEXAS COMMISSION ON	
COMPANY, L.P.	§		
	§		
CORPUS CHRISTI, NUECES	§	ENVIRONMENTAL QUALITY	
	§		
COUNTY	§		

**EXECUTIVE DIRECTOR'S AMENDED RESPONSE TO PUBLIC COMMENT**

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Amended Response to Public Comment (Response) on the Permit Amendment application from Citgo Refining and Chemicals Company, L.P. (Applicant). As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letter from the following group: Enrique Valdivia of Texas RioGrande Legal Aid on behalf of Citizens for Environmental Justice, Refinery Reform Campaign, and South Texas Colonias Initiative (commenter). This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

**BACKGROUND**

Description of Facility

Citgo Refining and Chemicals Company, L.P. has applied to the TCEQ for amendment of to existing Air Permit Number 46637 under Texas Clean Air Act (TCAA) § 382.0518. This permit amendment will authorize the applicant to modify Barge Dock 7 to load gasoline and gasoline blend components. The facility is located at 1801 Nueces Bay Boulevard Corpus Christi, Nueces County. Contaminants authorized under this permit include: volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and sulfur dioxide (SO<sub>2</sub>).

Procedural Background

This permit application is for an amendment to Air Permit Number 46637. The permit application was received on February 02, 2007, and declared administratively complete

on March 15, 2007. The Notice of Receipt and Intent to Obtain an Air Quality Permit (NORI) for this permit application was published on April 11, 2007, in the Corpus Christi Caller Times. The Notice of Application and Preliminary Decision for an Air Quality Permit for this permit application was published on November 21, 2007, in the Corpus Christi Caller Times. The public comment period ended December 21, 2007. The RTC was filed on April 1, 2008, but this amended RTC will replace the RTC previously filed. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

## COMMENTS AND RESPONSES

### COMMENT 1:

The commenter expresses concern that Corpus Christi has a higher rate of cancer and birth defects than the rest of the state and the fence-line community of Hillcrest will be directly impacted by the VOC, NO<sub>x</sub>, CO, and SO<sub>2</sub> emissions that would result from the project.

### RESPONSE 1:

For this permit, potential impacts to human health and the environment were determined by comparing air dispersion modeling predicted emission concentrations from the proposed facility to appropriate state and federal standards and effects screening levels.<sup>1, 2, 3</sup> The specific health-based standards or guidance levels employed in evaluating the potential emissions include the National Ambient Air Quality Standards (NAAQS); TCEQ standards contained in 30 TAC § 112.3; and TCEQ Effect Screening Levels (ESLs).<sup>3</sup>

NAAQS are created by the United States Environmental Protection Agency (EPA) as defined in the federal regulations (40 C.F.R. § 50.2), include both primary and secondary standards. The primary standards are those which the Administrator of the EPA

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<sup>1</sup> See the document "Air Quality Modeling Guidelines" for details on air modeling at the TCEQ website at:

<http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg25.pdf>. Also visit the agency air modeling page at:

[http://www.tceq.state.tx.us/permitting/air/nav/modeling\\_index.html](http://www.tceq.state.tx.us/permitting/air/nav/modeling_index.html).

<sup>2</sup> Documents referenced in this response that are available on the TCEQ website are also available in printed form at a small cost from the TCEQ Publications office at 512-239-0028.

<sup>3</sup> To view the ESL list or obtain more information on ESLs, visit the TCEQ website at: [http://www.tceq.state.tx.us/implementation/tox/esl/list\\_main.html](http://www.tceq.state.tx.us/implementation/tox/esl/list_main.html).

determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions. Secondary NAAQS are those that the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air. The standards are set for criteria pollutants: ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and respirable particulate matter (PM). "Criteria pollutants" are those pollutants for which a NAAQS has been established.

For this application, air dispersion modeling was performed. After this permit application's modeling review was complete, the modeling results were sent to the TCEQ's Toxicology Section to evaluate whether emissions from the proposed facility are expected to cause health or nuisance problems. The Toxicology Section reviewed the results from air dispersion modeling by comparing those results to the TCEQ Effects Screening Levels (ESLs). ESLs are constituent-specific guideline concentrations used in TCEQ's effects evaluation of constituent concentrations in air. These guidelines are derived by the Toxicology Section and are based on a constituent's potential to cause adverse health effects, odor nuisances, and effects on vegetation. Health-based screening levels are set at levels lower than levels reported to produce adverse health effects, and the levels are set to protect the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions. Adverse health or welfare effects are not expected to occur if the air concentration of a constituent is below its ESL. If an air concentration of a constituent is above the screening level, it is not necessarily indicative that an adverse effect will occur, but rather that further evaluation is warranted. Generally, maximum concentrations predicted to occur at a sensitive receptor which are at or below the ESL would not be expected to cause adverse effects. Therefore, the Toxicology Section does not expect adverse health effects to occur among the general public from exposure to benzene and gasoline emissions.

The likelihood of whether adverse health effects caused by emissions from Citgo's facility could occur in members of the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions, was determined by comparing the facility's predicted air dispersion computer modeling concentrations to the relevant state and federal standards and effects screening levels. The permit reviewer used modeling results to verify that predicted ground level concentrations from the proposed facility are not likely to adversely impact off-property receptors. The overall evaluation process provides a conservative prediction that is protective of the public. The modeling predictions were reviewed by the TCEQ Air Permits Division, and the modeling analysis was determined to be acceptable.

Also, the area in which the Citgo Barge Loading Dock 7 is located is in TCEQ "Air Pollutant Watch List" area for benzene. The watch list area can be found at: <http://www.tceq.state.tx.us/implementation/tox/AirPollutantMain/APWL.html>. Because the Dock 7 is in the watch area for benzene, Citgo reduced the overall sitewide VOC

emissions by 1.7 tons per year, with a net benzene reduction of 0.15 tons per year through the application of a secondary seal on a storage tank.

In summary, based on the potential concentrations reviewed by the ED's staff, it is not expected that there will be adverse health effects in the general public, sensitive subgroups, or animal life as long as the facility operates in compliance with its permit.

In addition to complying with the federal and state standards and guidelines mentioned above, applicants must also comply with 30 TAC § 101.4, which prohibits nuisance conditions. Specifically, the rule states, "[n]o person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Corpus Christi Regional Office at 361-825-3100, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?" (February 2007). This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at: [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (under Publications, search for document no. 278).

**COMMENT 2:**

The commentor expressed concern about past environmental justice or equity issues in the area.

**RESPONSE 2:**

Air quality permits evaluated by the agency are reviewed without reference to the socioeconomic or racial status of the surrounding community. Although there are no

TCEQ rules addressing environmental equity issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effect on minority and low-income populations, the TCEQ has made a strong policy commitment to address environmental equity by creating an environmental equity program within the Office of Public Assistance. This program works to help citizens and neighborhood groups participate in the regulatory process; to ensure that agency programs that may affect human health or the environment operate without discrimination; and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

**COMMENT 3:**

The commentor states that Citgo Refinery East Plant is under Federal Criminal Indictments and fence-line community of Hillcrest has been directly impacted by the activities under indictment. The commentor states Citgo is alleged to have unlawfully released uncontrolled benzene to the atmosphere from Tanks 116 and 117, due to the lack of proper control devices.

**RESPONSE 3:**

Tanks 116 and 117 are not part of Permit 46637 and are not included in the Permit 46637 amendment application for loading gasoline and gasoline blend products and, therefore, are not subject to review in this permitting action.

In addition, during the technical review, a compliance history review of the company and the site is conducted based on the criteria in Title 30, Chapter 60 of the Texas Administrative Code (TAC). These Rules may be found at the following website: <http://www.tceq.state.tx.us/rules/index.html>. The compliance history for the company and site is reviewed for the five-year period prior to the date the permit application was received by the ED. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

This permit application was received after September 1, 2002, and the company and site have been rated and classified pursuant to Title 30, Chapter 60 of the Texas Administrative Code. A company and site may have one of the following classifications and ratings:

High: rating < 0.10 (above-average compliance record)

Average by Default: rating =3.01 (these are for sites which have never been investigated)

Average:  $0.10 < \text{rating} < 45$  (generally complies with environmental regulations)  
Poor:  $45 < \text{rating}$  (performs below average)

At the time the permit application was received, this site had a rating of 5.68 and a classification of Average. At the time the permit application was received, the Applicant had a rating of 2.92 and a classification of Average.

**COMMENT 4:**

The commentor expresses concerns that inconsistencies exist between the annual and hourly emissions rates for VOC, NO<sub>x</sub>, CO, and SO<sub>2</sub>.

**RESPONSE 4:**

The short-term (hourly) emission rate limits are established based upon loading the product with the highest vapor pressure (gasoline) at the maximum loading rate (See Appendix A - Table 1 in the permit application). This represents the "highest level" short-term emissions authorized by the permit. Because the maximum short-term rate represents "highest level" emissions, these do not represent an average emissions rate and should not be used to calculate the annual emission rate.

The annual emission rate is established based on the loading of various gasoline and heavy oil products (See Appendix A - Table 2 in the permit application) which vary significantly with respect to vapor pressure. The expected annual quantity of each product being loaded is used to calculate the resulting annual emission rate. The emission rates for the products are totaled together to establish the annual emission limit. Short-term and annual emission rates for NO<sub>x</sub>, CO, and SO<sub>2</sub> from the marine emission control (MEC) are based on the quantity of VOC routed to the control device and the amount of assist gas used. The short-term rates are based on the maximum hourly VOC emissions routed to the MEC. The annual rate is based upon the total annual quantity of VOC routed to the MEC.

The loading operation does not occur at a steady, continuous 24 hour rate. The nature of the loading into barges is intermittent and occurs for only a limited number of hours per year. In addition, products will not always be loaded at the maximum rate; a limitation on operating hours based on the maximum hourly emission rate would not be representative of the actual operation. The permit requires the applicant to maintain records to demonstrate compliance with the annual emission rate based on the quantity of each product being loaded using the loading loss formula from AP-42, which provides a more accurate account of the annual emissions than tracking hours of operation.

**CHANGES MADE IN RESPONSE TO COMMENT**

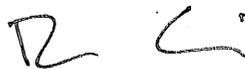
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Glenn Shankle  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

Robert Martinez, Division Director  
Environmental Law Division



---

Dede Sigman, Staff Attorney  
Environmental Law Division  
State Bar No. 24044640

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on May 20, 2008, the "Executive Director's Amended Response to Public Comment" for amendment of Permit No. 46637 (air) was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

DC

Dede Sigman, Staff Attorney  
Environmental Law Division  
State Bar No. 24044640

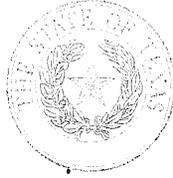
REPRESENTING THE  
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CHIEF CLERKS OFFICE

2008 MAY 20 PM 2:26

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QUALITY

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*Protecting Texas by Reducing and Preventing Pollution*

April 8, 2008

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Sincerely,



LaDonna Castañuela  
Chief Clerk

LDC/er

Enclosures

MAILING LIST  
for  
Citgo Refining and Chemical Company, L.P.  
Permit No. 46637

FOR THE APPLICANT:

Eric Bigelow, Senior Environmental Advisor  
P.O. Box 9176  
Corpus Christi, Texas 78469-0321

INTERESTED PERSONS:

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Texas Rio Grande Legal Aid  
1111 North Main  
San Antonio, Texas 78212-4713

FOR THE EXECUTIVE DIRECTOR:

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Air Permit No. 46637

APPLICATION BY  
CITGO REFINING AND CHEMICAL  
COMPANY, L.P.  
CORPUS CHRISTI, NUECES  
COUNTY

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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CHIEF CLERK'S OFFICE

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Permit Amendment application from Citgo Refining and Chemicals Company, L.P. (Applicant). As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letter from the following group: Citizens for Environmental Justice (commenter). This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

**BACKGROUND**

Description of Facility

Citgo Refining and Chemicals Company, L.P. has applied to the TCEQ for amendment of to existing Air Permit Number 46637 under Texas Clean Air Act (TCAA) § 382.0518. This permit amendment will authorize the applicant to modify Barge Dock 7 to load gasoline and gasoline blend components. The facility is located at 1801 Nueces Bay Boulevard Corpus Christi, Nueces County. Contaminants authorized under this permit include: volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and sulfur dioxide (SO<sub>2</sub>).

Procedural Background

This permit application is for an amendment to Air Permit Number 46637. The permit application was received on February 02, 2007, and declared administratively complete on March 15, 2007. The Notice of Receipt and Intent to Obtain an Air Quality Permit (NORI) for this permit application was published on April 11, 2007, in the Corpus Christi Caller Times. The Notice of Application and Preliminary Decision for an Air Quality

Permit for this permit application was published on November 21, 2007, in the Corpus Christi Caller Times. The public comment period ended December 21, 2007. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

## COMMENTS AND RESPONSES

### COMMENT 1:

The commenter expresses concern that Corpus Christi has a higher rate of cancer and birth defects than the rest of the state and the fence-line community of Hillcrest will be directly impacted by the VOC, NO<sub>x</sub>, CO, and SO<sub>2</sub> emissions that would result from the project.

### RESPONSE 1:

For this permit, potential impacts to human health and the environment were determined by comparing air dispersion modeling predicted emission concentrations from the proposed facility to appropriate state and federal standards and effects screening levels.<sup>1, 2, 3</sup> The specific health-based standards or guidance levels employed in evaluating the potential emissions include the National Ambient Air Quality Standards (NAAQS); TCEQ standards contained in 30 TAC § 112.3; and TCEQ Effect Screening Levels (ESLs).<sup>3</sup>

NAAQS are created by the United States Environmental Protection Agency (EPA) as defined in the federal regulations (40 C.F.R. § 50.2), include both primary and secondary standards. The primary standards are those which the Administrator of the EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions. Secondary NAAQS are those that the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or

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<sup>1</sup> See the document "Air Quality Modeling Guidelines" for details on air modeling at the TCEQ website at:

[http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg2\\_5.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg2_5.pdf). Also visit the agency air modeling page at:

[http://www.tceq.state.tx.us/permitting/air/nav/modeling\\_index.html](http://www.tceq.state.tx.us/permitting/air/nav/modeling_index.html).

<sup>2</sup> Documents referenced in this response that are available on the TCEQ website are also available in printed form at a small cost from the TCEQ Publications office at 512-239-0028.

<sup>3</sup> To view the ESL list or obtain more information on ESLs, visit the TCEQ website at: [http://www.tceq.state.tx.us/implementation/tox/esl/list\\_main.html](http://www.tceq.state.tx.us/implementation/tox/esl/list_main.html).

anticipated adverse affects associated with the presence of an air contaminant in the ambient air. The standards are set for criteria pollutants: ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and respirable particulate matter (PM). "Criteria pollutants" are those pollutants for which a NAAQS has been established.

For this application, air dispersion modeling was performed. After this permit application's modeling review was complete, the modeling results were sent to the TCEQ's Toxicology Section to evaluate whether emissions from the proposed facility are expected to cause health or nuisance problems. The Toxicology Section reviewed the results from air dispersion modeling by comparing those results to the TCEQ Effects Screening Levels (ESLs). ESLs are constituent-specific guideline concentrations used in TCEQ's effects evaluation of constituent concentrations in air. These guidelines are derived by the Toxicology Section and are based on a constituent's potential to cause adverse health effects, odor nuisances, and effects on vegetation. Health-based screening levels are set at levels lower than levels reported to produce adverse health effects, and the levels are set to protect the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions. Adverse health or welfare effects are not expected to occur if the air concentration of a constituent is below its ESL. If an air concentration of a constituent is above the screening level, it is not necessarily indicative that an adverse effect will occur, but rather that further evaluation is warranted. Generally, maximum concentrations predicted to occur at a sensitive receptor which are at or below the ESL would not be expected to cause adverse effects. Therefore, the Toxicology Section does not expect adverse health effects to occur among the general public from exposure to benzene and gasoline emissions.

The likelihood of whether adverse health effects caused by emissions from Citgo's facility could occur in members of the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions, was determined by comparing the facility's predicted air dispersion computer modeling concentrations to the relevant state and federal standards and effects screening levels. The permit reviewer used modeling results to verify that predicted ground level concentrations from the proposed facility are not likely to adversely impact off-property receptors. The overall evaluation process provides a conservative prediction that is protective of the public. The modeling predictions were reviewed by the TCEQ Air Permits Division, and the modeling analysis was determined to be acceptable.

Also, the area in which the Citgo Barge Loading Dock 7 is located is in TCEQ "Air Pollutant Watch List" area for benzene. The watch list area can be found at: <http://www.tceq.state.tx.us/implementation/tox/AirPollutantMain/APWL.html>. Because the Dock 7 is in the watch area for benzene, Citgo reduced the overall sitewide VOC emissions by 1.7 tons per year, with a net benzene reduction of 0.15 tons per year through the application of a secondary seal on a storage tank.

In summary, based on the potential concentrations reviewed by the ED's staff, it is not expected that there will be adverse health effects in the general public, sensitive subgroups, or animal life as long as the facility operates in compliance with its permit.

In addition to complying with the federal and state standards and guidelines mentioned above, applicants must also comply with 30 TAC § 101.4, which prohibits nuisance conditions. Specifically, the rule states, “[n]o person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.” As long as the facility is operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Corpus Christi Regional Office at 361-825-3100, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, “Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?” (February 2007). This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at: [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (under Publications, search for document no. 278).

**COMMENT 2:**

The commentor expressed concern about past environmental justice or equity issues in the area.

**RESPONSE 2:**

Air quality permits evaluated by the agency are reviewed without reference to the socioeconomic or racial status of the surrounding community. Although there are no TCEQ rules addressing environmental equity issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effect on minority and low-income populations, the TCEQ has made a strong policy commitment to address environmental equity by creating an environmental equity program within the Office of Public Assistance. This program

works to help citizens and neighborhood groups participate in the regulatory process; to ensure that agency programs that may affect human health or the environment operate without discrimination; and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

**COMMENT 3:**

The commentor states that Citgo Refinery East Plant is under Federal Criminal Indictments and fence-line community of Hillcrest has been directly impacted by the activities under indictment. The commentor states Citgo is alleged to have unlawfully released uncontrolled benzene to the atmosphere from Tanks 116 and 117, due to the lack of proper control devices.

**RESPONSE 3:**

Tanks 116 and 117 are not part of Permit 46637 and are not included in the Permit 46637 amendment application for loading gasoline and gasoline blend products and, therefore, are not subject to review in this permitting action.

In addition, during the technical review, a compliance history review of the company and the site is conducted based on the criteria in Title 30, Chapter 60 of the Texas Administrative Code (TAC). These Rules may be found at the following website: <http://www.tceq.state.tx.us/rules/index.html>. The compliance history for the company and site is reviewed for the five-year period prior to the date the permit application was received by the ED. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

This permit application was received after September 1, 2002, and the company and site have been rated and classified pursuant to Title 30, Chapter 60 of the Texas Administrative Code. A company and site may have one of the following classifications and ratings:

High: rating < 0.10 (above-average compliance record)

Average by Default: rating =3.01 (these are for sites which have never been investigated)

Average: 0.10 < rating < 45 (generally complies with environmental regulations)

Poor: 45 < rating (performs below average)

At the time the permit application was received, this site had a rating of 5.68 and a classification of Average. At the time the permit application was received, the Applicant had a rating of 2.92 and a classification of Average.

**COMMENT 4:**

The commentor expresses concerns that inconsistencies exist between the annual and hourly emissions rates for VOC, NO<sub>x</sub>, CO, and SO<sub>2</sub>.

**RESPONSE 4:**

The short-term (hourly) emission rate limits are established based upon loading the product with the highest vapor pressure (gasoline) at the maximum loading rate (See Appendix A - Table 1 in the permit application). This represents the "highest level" short-term emissions authorized by the permit. Because the maximum short-term rate represents "highest level" emissions, these do not represent an average emissions rate and should not be used to calculate the annual emission rate.

The annual emission rate is established based on the loading of various gasoline and heavy oil products (See Appendix A - Table 2 in the permit application) which vary significantly with respect to vapor pressure. The expected annual quantity of each product being loaded is used to calculate the resulting annual emission rate. The emission rates for the products are totaled together to establish the annual emission limit. Short-term and annual emission rates for NO<sub>x</sub>, CO, and SO<sub>2</sub> from the marine emission control (MEC) are based on the quantity of VOC routed to the control device and the amount of assist gas used. The short-term rates are based on the maximum hourly VOC emissions routed to the MEC. The annual rate is based upon the total annual quantity of VOC routed to the MEC.

The loading operation does not occur at a steady, continuous 24 hour rate. The nature of the loading into barges is intermittent and occurs for only a limited number of hours per year. In addition, products will not always be loaded at the maximum rate; a limitation on operating hours based on the maximum hourly emission rate would not be representative of the actual operation. The permit requires the applicant to maintain records to demonstrate compliance with the annual emission rate based on the quantity of each product being loaded using the loading loss formula from AP-42, which provides a more accurate account of the annual emissions than tracking hours of operation.

**CHANGES MADE IN RESPONSE TO COMMENT**

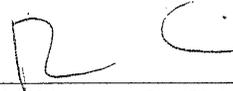
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Glenn Shankle  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

Robert Martinez, Division Director  
Environmental Law Division



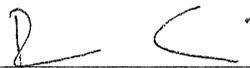
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Dede Sigman, Staff Attorney  
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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on April 1, 2008, the "Executive Director's Response to Public Comment" for amendment of Permit No. 46637 (air) was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
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ENVIRONMENTAL QUALITY