

**TCEQ AIR QUALITY PERMIT NO. 8597**

2009 JUN -4 AM 11:36

<b>APPLICATION BY</b>	§	<b>BEFORE THE</b>
	§	
<b>APAC-TEXAS INC.</b>	§	<b>TEXAS COMMISSION ON</b>
	§	
<b>FRISCO, COLLIN COUNTY, TEXAS</b>	§	<b>ENVIRONMENTAL QUALITY</b>

CHIEF CLERKS 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 (RTC or Response) on the application for an Air Quality Permit No. 8597 filed by APAC-Texas, Inc. ( APAC or Applicant), and the ED's preliminary decision. 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. 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).

Written comments were received from the following persons: Murali Abburu, Maureen Abernathy, Sabu Abraham, W. W. Abrahams, Mrs. Acosta, Michael S. Acquisto, Shana Acquisto, Marty Adams, Elina Afrid, Rajan Aggarwal, Malak Agha, Mubashir Ahmed, Amela Ahmed, Cherian Alexander, Murali Alloju, Brian & Elizabeth Allphin, Cameron & Erika Anderson, Karen Anderson, Erick & Jennifer Archer, Adriana Ardila, Bruce G. Augustine, Theresa J. Austin, John & Shahrzad Bacon, Intha W. Baggett, Wesley C. Baggett, Tina R. Baldwin, Dmitry Bandouil, Tianming Bao, Stephanie Barnhurst, Clay Barton, Madeline Bate, Roger R. Bate, Chetan Bhanot, Lee Ann Biavaschi, Scott Biavaschi, Ryan & Amy Biggs, Dean Bishop, Nicole Bishop, Pieter Blonk, Ian Bloomfield, Elizabeth Bobo, Greg R. Bobo, Derrell H. Boggs, Mary Bondi, Renuprasad Bonthala, Satya Boppana, Staci & Zach Borynack, Gary Botkin, Laura Botkin, Alan & Gail Bourdo, Candice Bowns, Tim Brandish, Alex Breslav, Dondi Brown, Jason Brown, Marie Brown, Michelle Brown, Randolph R. Brown, John Brozovich, Wesley & Jackie Bryan, Stacey & Nathan Bryant, Michael Buckhaultler, Amy Burrell, Dana A. Call, Chris & Ron Cannon, Mike & Tracy Caouette, Mark Caputo, Paula A. Caputo, Eric & Beth Carlisle, Fernando Castro, Dwight Chambers, Winnie Fei & Lee Chang, Craig Cheatham, Jenny Cheatham, Easton Cherry, Glynis Chester, Cecily Chetlin, Satyapal & Valerie Chhabra, John Chu, Yun Yuan Chuang, Lucille F. Chwalik, Melanie & John C. Classe, Kara Cleckler, Jennifer Cleveland, Elissa & Joe Cloud, Anita Cochran, Grace Codina, Commissioner Phyllis Cole, Concerned Citizen, Keith Coonce, Shawn Copeland, Mike & Laura Coyne, Sandee Crabtree, Marci Crews, Joey & Linda Crocetti, Kevin Cross, Laci Culbert, Sen Dan, Brandon Daniel, Julie & Clay Daniels, Diane Danks, Adam & Amy Davidson, Douglas W. Davis, Mike Deans, Herman R. Deary, Patricia Deckert, Todd Deckert, Drew Demoss, Sandy Demoss, Chris Desjardins, Dennis Desroches, Teryll Desroches, Sridhar Devulapally, Suchitra Devulapally, Peggy Dewane, Jeff D. Diedrich, Xiaomei Ding & Bin Zhang, Kirsten Dixon, Jane Dockweiler, Kraig & Tara Doering, Jennifer Drawe, Yi-Bin Drawe, Karen Dubak, James Dunn, Don Durrett, Don Dyson, Hugo Ebuchi, Ashley & Fritzt Eder, Mark & Stephanie Edmisten, Fadi El-Nachar, Jennifer Ellenberg, Jill Ellison, Nasser Eskandari, Mitchell Fairchild, Megan Fan, Stephanie Farmer, Winnie Fei & Lee Chang,

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

*Page 2 of 14*

Winnie Fei, Guillermo Figueroa, Kristin Figueroa, Ronda Figueroa, Brian Fleming, Howard Flushman, H. J. Ford, Hazel Franklin, James Franklin, Brent A. Fudala, Erik Fuller, Victoria Fuller, Stacy Furrey, Marcus Gabor, Claudia Garcia, Kathryn Garms, Lance Garms, Rachelle Garza, Brent & Michelle Gaynor, Tammy & Richard I. Gehrer, Sen T. George, Terrell Gillespie, Jeffrey & Leslie Girdner, Svetlana Piller Glabai, Cidni & Norman Glass, Bill Glatch, Luann Glatch, Jennifer & Joseph Globensky, James A. Glover Jr., Rusty Glover, Ivan Goh, Kristy Goodwin, Maitena Gorostarzu, Beverly Grassi, Jeff & Jennifer Griffiths, Ira Grossman, Jami Grossman, Duane & Kimberly Guidry, Ron Gunia, Shannon Gunia, Shane Gunkel, Sanjiv Gupta, Vicki Guynes, Joseph Ha, Tracy Ha, Trung Ha, Clay Haggard, Tonya Haggard, James & Julie Hague-Rogers, Robert S. Hague-Rogers, Melissa Hall, Debby & Thomas Hanson, Jennifer A. Hanson, Charles M. Harrison, Barbara Hart, Elizabeth Hartshorn, Commissioner Jack Hatchell, Kelly Head, Scott Head, Tracyne & Chris Heldman, Brad & Staci Henderson, Leanna Hernandez, Liza Hinlo, Commissioner Jerry Hoagland, Sa Hoang, Brian Hogan, Delight Hogan, Denise & Bobby Holden, Kendall Holiman, Amy Hollander, Angela Holt, Jeff Holt, Peter Hong, Sherrill Hood, James E. Howard, Haiyan Li & Yihe Hu, Ying Huang, Jeff L. Hulstein, Lisa Hund, Todd Hunt, Yunsook Hwang, Scott Istas, Jeff & Shannon Jacobs, Stephanie S. Jacobs, Dawn Jamar, Christopher Jamison, Tiffany & Adam Janbolat, Commissioner Joe Jaynes, Kristi E. Jennings, Rick Jennings, Yan Jun Jiang, Tim Johannes, Chip Johnson, Chris & Rhonda Johnson, Curtis & Janet Johnson, Julie Johnson, Kathy Johnson, Greg Jones, M. Austin Jones, Ashwin Joshi, Neelamban Joshi, Pinak & Sanjay Joshi, Kumiko Yamakawa & Victor Juang, Richard Judd, Crystal Kachmar, Kathy Kacir, Kent Kacir, Michelle Kalahar, Suresh Kanagala, Collin Kanelakos, Natalie Kanelakos, Ming Hung Kao, Sreedevi & Ramesh Kari, Teri Karr, Rajaram Kasarla, Bonita Keith, Commissioner Stacey Kemp, Rajesh Kerpil, Kerri Kingsbery, Jessica Kirklin, Mark J. Kirklin, Susan M. Knapp, Carlene Knebel, Kurt Knebel, Ann Kniess, Brad Knight, Eric Koch, Tina Koele, Todd Koele, Kari Korth, Stephen Koonce, Mary & Frank Kosakowski, Carolyn Kresek-Lis, Arun Kuchu, Jeff Kumler, Carole & Rich Kurz, Gene Kush, Frank Kutcher, Angela Lacroix, Kurt Lacroix, Matt Lafata, Darren Landry, Emily Lane, Pilar Lannoo, Steffany Lannoo, Adrienne Lasky, Cristina Lau, Mandy Lawrence, Harrison Le, Jacqueline Le, Jenny Le, Chee Lee, Karen Lee, Lih-Jun Lee, Long Lee, Dawn Lein, Joanne Leitz, Rick & Meg Lesmes, Haiyan Li & Yihe Hu, Qingzhi Li, Kurt Liles, Melissa Liles, 14599 Holly Leaf Dr, Brian Ma & Glory Lin, Vince Lindley, Ronald Lis, Cheri Little, Jodi Littleton, Guixin Liu, Yuan Hsin Lo, Sam Lomenzo, Jennifer E London, Matthew London, Alicia Long, Lilly & J. C. Lopez, Ernie & Carleen Lyle, Brian Ma & Glory Lin, Yao Dong Ma, Cheryl Madani, Shojaeddin B. Madani, Jay M. Madden, Kimberly Madden, Bipasha Mahalanabis & Gopinathan Pan, Richard & Krista Malcolm, Erica & Pete Manias, John Benedict Mark, Todd & Lucy Mark, Frieda Marroquin, Dalisio Martins, Catherine & Jeffrey Mathers, Louis Matrone, Mary M. Matrone, Steve Maxwell, Carrie May, Patti McCormick, John P. McNally, Regina McNally, Lisa and Raymond Mcneme, Anne Meeks, Greg Meeks, Kim Meeks, Mike Meeks, Becky Michael, Kristan L. Miller, Matthew Milleon, Pete Mills, Michelle Missimer, James V. Mitchell, Rebecca M. Mitchell, Cheryl Molitor, Jenni & Michael Montes, Angela Montgomery, Elizabeth Montgomery, Kent Montgomery, C. R. Morgan, K. F. Morgan, M. L. Morgan, R. G. Morgan, Kim Mowery, Srinivas R. Thippaana & Nirmala D. Mula, Carol Mullin, Anahita Mumtaz, Jenifer Murillo, Shinivason Muthiah, Ghulam Nabi, Ramana Nallamolu, Radhakrishna Nallamuthu, Jon Nathanson, Reva Nathanson, Corrie Nativi, Kirk Nativi, Monica & Carlos Navarrete, Jennifer Nelson, Gabrielle Nguyen, Grace Nguyen, Hoang Nguyen, Kent &

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

*Page 3 of 14*

Michelle Nickell, Steven Niekamp, Steven Norris, Mohammad Sadiq Noshahi, Yasmeen Noshahi, Mr. & Mrs. Michael A. Nosal, Ziad Nowan, Mr. & Mrs. Nwarnad, Karen Odorice, Renato Odorice, Yong Oh, Tony Ortega, Donna & Joe Osborne, Daniel & Zara-Leigh Overlin, Bipasha Mahalanabis & Gopinathan Panchanathan, Zaheer Paracha, Sridhar Parvatanegi, Vijay Pasam, Kelly Passmore, Lee Passmore, Vicky Paup, Representative Ken Paxton, Diana Peng, Hsi Hui Peng, Lucy Peng, Luke Peng, Kristi Perry, Amy & Marc Pfalzgraf, Phat Pham, Caroline A. Philip, Meghan Piro, Danielle Poche, Tom Powe, Jacqueline Prentiss, Kelly W. Prentiss, Joseph Pressell, Sherrie Presswell, Jennifer Purcell, Melissa Purvis, Kristin Quidatano, Gordon Quinn, Claire Quiroga, Luis Quiroga, Kirsten & Kellam Radford, Kannan Rajesh, Jessica W. Rall, Matthew Rall, James Ramert, Sujatha Ramesh, Kim Ramirez, Phil Ramirez, Jamie & Jim Ransom, Barbara & David Rappe, R. S. Ratnaweera, Aaron Reed, Kristine K. Reed, Candace Reeves, Bob Reid, L. Reid, Dave & Melissa Renner, John Reyes, Kathleen Reyes, David Richmond, Renee Richmond, James Ridlehuber, Van Ridlehuber, Robert L. Robb, Susan Robb, Michael L. Roberts, Robert & Maureen Robinson, Kathryn Rodriguez, Melinda Roehrig, Patrick J. Ross, Don Roy, Susan P. Roy, Salvatore R. Ruggieri, Stacy Rupert, Grace Rusli, Ronny Rusli, Kerry E. Russell, Russell Moorman & Rodriguez Llp, Melanie Rutter, Mrs. Dolores P. San Nicolas, Margarita A. Sanchez, David & Kimberlie Sanders, Lori & Clint Sands, John & Tracy Sarallo, Alagirisamy Saravanan, Radha Satheeshkumar, Deanne Savage, Phillip G. Schrader, Allison Schurr, Paul Schurr, Denise & Joseph Sciortino, Richard Scislawski, Judge Keith Self, Kelley D. Servigon, Murat Sevil, Turlin Sevil, Deepi Sezlamsett, Mitchell & Jennifer Shack, Mitchell & Jennifer Shack, Mark Shannon, Senator Florence Shapiro, Matthew Shapiro, Meredith Shapiro, Anindhya Sharma, Atul Sharma, Damlay Sharmci, Rama Sharmci, Becky Shelton, D'ann M. Shippy, Tim Shippy, Amy & Brian Showalter, Yang Yang & Keliu Shu, Scott Siegel, Nicole Silver, Joy Simar, Julie Sivley, Kirk Small, Charles & Wendy Smith, Linda Smith, Richard L. Smith, Vickie Smith, Charles & Wendy Smith, Mike Snel, Susan Snel, Jody Sommerfeld, Abdurrahman Sunday, Halima Sunday, Rabia Sunday, Zohra Sunday, John M. Soria, Shellia Soria, Linda & Anthony Sowell, Dana & Kris Spaeth, Muthiah Srinivasan, Papilakshmi Srinivasan, Giri Sripathi, Robbie Stavinoaha, Marge Stern, Judy R Sternagle, Katie Stoneman, Kasandra & Mark Strater, Heather Strozewski, Allison Sullivan, Denise Sullivan, Dr. John Sullivan, Munawar Sultana, Vidya Suresh, David & Jennifer Sutera, Eric Swanson, Sean P. Sweeney, Amy Swift, Len Tanner, Shelley Tanner, Eric Taylor, Heidi Teeling, Srinivas R Thippana & Nirmala D. Mula, Joseph Thomas, Richard Thomas, Ramesh Thyagarajan, Amy Tillman, Jason Tillman, Barbara C. Toney, Roger C. Toney, C. M. Tool, R. J. Tool, Huong Tran, Mai Tran, Jennifer Tran-Vuong, Rebecca & David Trimble, Rebecca & David Trimble, Ba Trinh, Candice Trollope, John Turner, Rose C. Turner, April R. Urbine, April & Bret Urbine, Kristine Vanowen, Eric Vargus, Mythreyi Vattikuti, Sujana Vejendla, Helene & Brent Vilhauer, Sharad M Vittal, Al Vizza Jr, Barbara A Vizza, Jenny Voehringer, David Vosko, Dennis & Kathleen Wander, Jianli Wang, Michael & Sharon Wang, Carrie & Josh Warren, Emilie Wei, Janet Weidenbach, Mark Wempe, Christopher E. Wenaas, Berulied Werner, John West, Cole Whitney, Brad Wilkins, Assistant Superintendent Richard Wilkinson, Kelly Willey, Julee Williams, Tom & Bettina Williford, Alicia M. Wilson, Jon Winthrop, Daniel & Daniel Wolfe, Sylvia Wong, Tony Wong, H. Woodward, Heather Woodward, Martin Woodward, Bob & Nancy Wudeck, Scott Wyatt, Wang Xiaoyan, Z. Bi Xiaoyan, Yizhong Xie, Yunzin Xu, Kumiko Yamakawa & Victor Juang, Julie York, Utah York, Tom & Lisa Young, Marcia Young, Bo Yu, Kan Yun, Jenny Zapoli, J. & Linda Zavala, Dana

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

*Page 4 of 14*

Zdenek, Xiaomei Ding & Bin Zhang, Yifei Zhang, Jie Zheng, Yousue Ziauddin, Tony & Mariana Zlatinski, Elan Zonis, Stacy Zonis, Marco Zvanik.

This Response addresses all timely public comments received, whether or not withdrawn.

**BACKGROUND**

Description of Facility

The Applicant applied to the TCEQ to obtain renewal of Air Quality Permit No. 8597, which would authorize the Applicant to continue operating a hot mix asphalt facility located at 14900 SR 121, Frisco, Collin County, Texas. The facility will emit the following contaminants: particulate matter (PM) including particulate matter less than 10 microns in diameter (PM<sub>10</sub>), nitrogen oxides, carbon monoxide, sulfur dioxide, and organic compounds, including but not limited to, asphalt, diesel, and kerosene vapors.

Procedural Background

The application for the renewal of the permit was received November 12, 2007. The application was declared administratively complete November 28, 2007. The Notice of Receipt and Intent to Obtain (NORI) an Air Quality Permit was published December 20, 2007, in the *Dallas Morning News*. The comment period ended January 4, 2008. An informational meeting was held in Frisco on May 6, 2008. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted pursuant to House Bill 801.

At the request of the TCEQ Air Permits Division, the Applicant performed air dispersion modeling to determine the off-property impacts of emissions from its facility operations. The modeling report was submitted to APD on September 30, 2008. The report was audited by members of the APD Air Dispersion Modeling Team and found to be acceptable on November 4, 2008. The results of the modeling were sent to the Toxicology Section for their review. They concluded that the impacts were acceptable and issued their memorandum on November 13, 2008.

**COMMENTS AND RESPONSES**

Written and oral comments have been combined where it was determined that a common response could be provided.

**COMMENT 1:** Commenters are concerned that emissions from the Applicant's plant, particularly particulate matter, will put their health and the health of their children at risk. Some commenters complain of burning eyes and throats, headaches, and sinus complications. Commenters are especially concerned with children and adult residents who have preexisting respiratory conditions.

**RESPONSE 1:** For many permits, potential impacts to human health and welfare or the environment are 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) and, as defined in the federal regulations (40 Code of Federal Regulations § 50.2), include both primary and secondary standards. The primary standards are those that 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 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 most permit applications, air dispersion modeling is performed. After a permit application’s modeling review is complete, when necessary, the modeling results are then 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 reviews 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 as such 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

---

<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).

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

*Page 6 of 14*

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.

The likelihood of whether adverse health effects caused by emissions from the Applicant'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 of each contaminant from the proposed facility are not likely to adversely impact off-property receptors. TCEQ background concentrations from the geographic area surrounding the site or other appropriate background concentrations are added to the modeled concentrations when applicable. 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.

At the request of the TCEQ Air Permits Division, APAC performed air dispersion modeling to predict the off-property impacts of emissions from their operations and submitted their report on September 30, 2008. Air dispersion modeling is an accepted tool for predicting off-property impacts from emission sources and takes into consideration all source parameters such as stack height, flow rates, and emission rates. The modeling report submitted by APAC included the impacts from sulfur dioxide, asphalt vapors, asphalt fumes, phenanthrene, petroleum distillates, lead, carbon monoxide, inhalable particulate matter (PM<sub>10</sub>), 20 speciated metals, 29 organic constituents, and nitrogen dioxide. The air dispersion modeling submitted by APAC was audited by members of the TCEQ Air Dispersion Modeling Team, and was found to be acceptable. The results showed that impacts from the emissions of criteria pollutants (sulfur dioxide, lead, carbon monoxide, and inhalable particulate matter) meet the NAAQS.

Modeling results also indicated that the impacts of all noncriteria pollutants were below their corresponding ESLs with the exception of asphalt vapors. The maximum off-property concentration of asphalt vapors was predicted to be two times the ESL of 350 micrograms per cubic meter ( $\mu\text{m}^3$ ). The predicted frequency of this exceedance was 18 hours per year. TCEQ toxicologists evaluated the predicted impacts of asphalt vapors for their potential to cause adverse health effects. Considering the magnitudes and frequency of ESL exceedance, the fact that predicted impacts are below the ESL at the residential neighborhood and school, and that the long-term ESL is not exceeded at any receptors, the TCEQ toxicologists concluded that the predicted impacts for asphalt vapors are acceptable.

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, "No person shall discharge from any source whatsoever one or more air contaminants

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

*Page 7 of 14*

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. According to the facility’s maximum allowable<sup>4</sup> emission rate table in the draft permit, the facility will emit approximately 11.23 tons per year of volatile organic compounds. These emissions are not expected to create nuisance conditions.

In summary, based on the potential concentrations reviewed by the Executive Director’s staff, it is not expected that existing health conditions will worsen, or that there will be adverse health effects in the general public, sensitive subgroups, or animal life as a result of exposure to emissions from the Applicant’s plant.

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 Regional Office at 817-588-5800, 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?” 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:** Commenters say their use and enjoyment of their land and neighborhood have been negatively impacted by emissions from the Applicant’s plant. Furthermore, children are reluctant to use the nearby park, go outside during recess, and jump on their trampoline because of emissions from the Applicant’s plant. Some commenters also say they have observed a gritty residue on their outdoor furniture, windows, and feet. Lastly, some commenters are concerned about the health of the wildlife in the area.

**RESPONSE 2:** In addition to protecting health, the NAAQS are also set to address welfare effects such as visibility reduction, crop damage, and material damage. Section 302(h) of the Federal Clean

---

<sup>4</sup> The term “allowable” means the maximum emission rate of a specific pollutant from a given source, as specified in the permit.

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

*Page 8 of 14*

Air Act (FCAA) defines effects on welfare to include effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, hazards to transportation, and impacts to personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants. Because the emissions from this facility should not cause an exceedance of the NAAQS, no impact to land, livestock, crops, or visibility is expected, nor should emissions interfere with the use and enjoyment of surrounding land. The Secondary NAAQS are set below levels which would be expected to cause nuisance conditions (dust accumulation, decreased visibility) or eye and throat irritation, and, therefore, should not impact the welfare of those living near the proposed facility.

Furthermore, all facilities must comply with the Texas Clean Air Act (TCAA) and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from causing or maintaining a nuisance. Specifically the rule states, "No 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." Based on the commission's experience regulating these types of facilities, they can be operated without causing a nuisance problem, provided the facilities are operated in compliance with the terms and conditions of the permit.

**COMMENT 3:** Commenters, stating they live within a few hundred feet from the Applicant's plant, are concerned about the proximity of their residences and an elementary school in relation to the plant. Commenters also note that the land use of the area surrounding the Applicant's plant has changed since 1998. Lastly, some commenters say they were not aware of the plant when they bought their homes.

**RESPONSE 3:** The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. A protectiveness review must be conducted for all contaminants emitted. The maximum concentrations are evaluated at the property line, at the nearest off-property receptor, and, pursuant to the TEXAS HEALTH AND SAFETY CODE (THSC) § 382.052 at any schools located within 3,000 feet of the facilities. The site review indicated that Isabel Elementary is within 3,000 feet. Isbell Elementary School is located approximately 2,500 feet from the property line of APAC. Since the impacts for all constituents that are to be emitted were reviewed by the TCEQ Toxicology Section and determined to be acceptable, no adverse impacts to human health and the environment are anticipated. The recommendation of the TCEQ DFW Regional Office was to proceed with the permit review, and the site review indicated no reasons to deny the permit application.

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

*Page 9 of 14*

**COMMENT 4:** Commenters say the existence of a condition of air pollution at the Applicant's plant is documented by an air quality study commissioned by the City of Frisco and conducted by Wittliff Associates. Commenters go on to say that the study found the following chemicals of concern in concentrations above the long term health effects screening levels (HESLs): acetaldehyde, formaldehyde, o-Tolualdehyde, bis(2-Esthyhexyl)phthalate, butylbenzphthalate, and aluminum (particulate). Lastly, commenters note the study also found the following chemicals of concern above short term HESLs: propanal, carbon disulfide, carbonyl sulfide, calcium and sodium.

**RESPONSE 4:** The plan and execution of the study commissioned by the City of Frisco were conducted with minimal involvement from the TCEQ. The TCEQ did provide Wittliff and Associates with prior mobile monitoring reports and toxicological evaluations of those trips as well as a copy of the results from a tapelift and vacuum bag sample. The TCEQ also provided Wittliff and Associates with effects screening levels (ESLs) for requested compounds. The TCEQ was not asked to evaluate or participate in Wittliff and Associates' sampling methods or procedures prior to their monitoring in the Frisco area. These methods and procedures typically include, but are not limited to, a source environmental description, sampling program description, monitoring site description, monitor descriptions, data reporting processes, and a quality assurance program. Furthermore, upon completion of the Wittliff and Associates monitoring program, the TCEQ was not asked to evaluate any of the monitoring results. Typically, when the TCEQ is consulted and involved in such an exercise, the TCEQ provides technical oversight from toxicologists, monitoring operations, field operations, and permitting staff. The staff would ensure that the study design meets the objectives and includes adequate quality control and reconciles the quality control data and measurement data against the monitoring objectives and acceptance criteria. Because the TCEQ was not involved in this process, the TCEQ is unable to verify the results of the risk assessment study done by Wittliff and Associates for the City of Frisco.

**COMMENT 5:** Commenters state that the current environmental controls at APAC are inadequate. Specifically, commenters request that the TCEQ renew the Applicant's permit only if current Best Available Control Technology (BACT), including a fabric filter, is installed at the Applicant's facility. Commenters also say Reasonably Available Control Technology (RACT) could be installed at the Applicant's plant to improve air quality in the surrounding area.

**RESPONSE 5:** The TCAA, (TEXAS HEALTH AND SAFETY CODE, Chapter 382) and TCEQ rules require an evaluation of new air quality permit applications and amendments to existing permits to determine whether adverse effects to public health, general welfare, or physical property are expected to result from a facility's proposed emissions. As part of the permit evaluation process for a new or modified facility, the permit reviewer identifies all sources of air contaminants at the proposed facility and verifies that the facility will use the Best Available Control Technology (BACT) applicable for the sources and types of contaminants emitted. The BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility. Applying BACT results in requiring technology that best controls air emissions with consideration given to the technical practicability and economic reasonableness of reducing or eliminating emissions.

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

*Page 10 of 14*

The permit application in question is not for new construction or modification of an existing facility. Rather, the application is for the renewal of the existing permit authorizing APAC's hot mix asphalt plant. The Applicant is not representing any emission increases in its permit renewal application; therefore, the level of this permit review is limited to the evaluation of emissions from the facility as operated within the boundaries established by their current permit. The existing emission rates were originally evaluated for compliance with applicable state and federal law, which are protective of health and welfare. Under the TCAA, the commission may not impose requirements more stringent than those of the existing permit unless the commission determines that the requirements are necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements. The commission may only require controls that are economically reasonable and technically practicable, considering the age of the facility, also known as RACT or (Reasonably Available Control Technology).

APAC currently utilizes a wet scrubber to control particulate matter emissions from the dryer. The use of a wet scrubber is consistent with RACT, given the age of the plant. Current BACT for hot mix asphalt plants requires the control of particulate matter emissions from the dryer with a fabric filter baghouse. APAC applied for and registered a standard permit in October 2007 to install a fabric filter baghouse to control particulate matter emissions from the dryer under the Pollution Control Project Standard Permit issued by the TCEQ Air Permits Division. The pollution control standard permit authorizes the installation or replacement of pollution control equipment that is equally or more effective than the controls present at a facility. APAC's permit renewal application includes the control that would be provided by the fabric filter baghouse. If the permit is renewed, APAC will be required to install the baghouse within the deadline stated in the permit conditions. This will raise the level of control on the dryer to BACT level.

**COMMENT 6:** A commenter questions the use of a venturi scrubber at the Applicant's plant and notes that BACT requires a baghouse, and that the scrubber is less efficient due to its age and poorly maintained condition. The Commenter also notes that reducing particulate matter is cost effective.

**RESPONSE 6:** APAC applied for and registered a Standard Permit to replace the wet scrubber with a fabric filter baghouse. The registration approval was mailed to APAC on October 30, 2007. APAC has not yet completed this project. This standard permit will be consolidated with the plant permit during the renewal review. See Response Number 5.

**COMMENT 7:** Commenters note there are no fencing requirements at the plant and APAC needs to build a fence, a wall, or some form of dust suppression barrier around the plant.

**RESPONSE 7:** The review of an air quality permit such as APAC's includes the identification of emission sources and pollutants, the evaluation of applicable abatement equipment, and the impacts of emissions from the facility operations. Plant features that are not related to these categories are beyond the scope of an air quality permit review. APAC's permit conditions require the control of any fugitive dust emissions from the stockpiles by watering or other dust suppressants. In addition,

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

*Page 11 of 14*

the permit conditions require that no visible emissions from the stockpiles leave the plant property. Failure to comply with these conditions would be in violation of the permit.

**COMMENT 8:** Commenters express concern regarding traffic problems, damage to roads and sidewalks, and noise associated with the operation of the Applicant's plant.

**RESPONSE 8:** The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider traffic, public roadways and sidewalks, or noise when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. However, APAC's air quality permit requires that roads within the plant's boundaries be paved and cleaned to prevent fugitive dust emissions.

**COMMENT 9:** Commenters are concerned about odors coming from the Applicants plant.

**RESPONSE 9:** Permit applicants must comply with 30 TAC § 101.4, which prohibits nuisance conditions. The rule states that "no person shall discharge from any source" air contaminants which are or may "tend to be injurious to or 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." "Air contaminant" is defined in the TCAA § 382.003(2), to include "particulate matter, radioactive material, dust, fumes, gas, mist, smoke, vapor, or odor." Emissions from the Applicant's facility are not expected to produce nuisance odors. However, individuals are encouraged to report any concerns about nuisance issues by contacting the Regional Office at 817-588-5800, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. 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.

**COMMENT 10:** Commenters say they are concerned about the use of reclaimed industrial oil at the Applicant's plant, noting that the City of Frisco prohibits the burning of industrial oil. Commenters also note that APAC has failed to monitor the burner feedstock quality.

**RESPONSE 10:** Hot mix asphalt plants that obtain air quality permits from the TCEQ can be authorized to use natural gas, No. 2 or No. 4 fuel oil, or reclaimed oil as a fuel for the dryer burner. The TCEQ does not require a certain type of fuel for this purpose. The fuel types represented and requested by an applicant are reviewed along with other plant parameters. When reclaimed oil is represented as a fuel used in the burner, hot mix plant permits contain special conditions that regulate the ingredients of this fuel, as well as record keeping of these ingredients and the amount of fuel used. APAC is authorized to use natural gas, liquid petroleum gas, first-run No. 2 or No. 4 fuel oil or reclaimed industrial oil as fuel for the dryer burner. If APAC uses reclaimed industrial oil, this fuel has to meet certain criteria that are listed in the draft permit conditions. Failure to comply with these conditions would be in violation of the permit and TCEQ regulations. Additionally, APAC is expected to comply with all local regulations that apply to their operations.

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

*Page 12 of 14*

**COMMENT 11:** Commenters are concerned about the use of reclaimed industrial oil as a fuel source at the Applicant's plant because it is located in an ozone nonattainment area categorized as "serious," making the reduction of sulfur dioxide and nitrogen oxide emissions even more important.

**RESPONSE 11:** APAC's facility is located in Collin County, which is classified as a nonattainment area for ozone. Ozone is created when emissions of volatile organic compounds and nitrogen oxides react with sunlight. The area's nonattainment status does not preclude the use of certain types of fuel in hot mix asphalt plants.

**COMMENT 12:** Commenters note that APAC has no documented stack testing despite a Notice of Violation for opacity exceeding five percent. Commenters further say the commission should consider PM<sub>2.5</sub> testing.

**RESPONSE 12:** APAC's permit contains special conditions limiting the opacity from the wet scrubber stack to five percent, requiring stack sampling analyses or other tests if this opacity limit is exceeded. During a site investigation of APAC's plant on April 15, 2005, a stack opacity in excess of five percent was observed by TCEQ staff and a Notice of Violation was issued. After maintenance of the scrubber was performed by APAC, a subsequent opacity reading of less than five percent was observed from the stack and the Notice of Violation was resolved. The PM<sub>2.5</sub> program is still in the developmental phase. The TCEQ is using the PM<sub>10</sub> program as a surrogate for PM<sub>2.5</sub> per EPA guidance.

**COMMENT 13:** Commenters complain of mounds of manufacturing material left uncovered at the Applicant's plant.

**RESPONSE 13:** APAC's hot mix asphalt plant uses various aggregate materials in the production of hot mix asphalt. These materials are stockpiled on the property upon delivery to the site. APAC's permit conditions require the control of any fugitive dust emissions from the stockpiles by watering or other dust suppressants. In addition, the permit conditions require that no visible emissions from the stockpiles leave the plant property. Failure to comply with these conditions would be in violation of the permit.

**COMMENT 14:** Commenters explain that APAC agreed to make improvements in order to ensure better air quality, yet the Applicant applied for a permit renewal without fulfilling that agreement.

**RESPONSE 14:** TCEQ's review of this renewal application determined the Applicant's facility is being operated in accordance with all requirements, conditions, and representations specified in the current permit, and the emissions from the facility comply with all TCEQ air quality rules and regulations, and with the intent of the of the TCAA. The Applicant's facility meets all permit renewal requirements. Conditions outside the terms of the current permit and outside the permit renewal requirements are beyond the scope of this review.

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

*Page 13 of 14*

Any agreements APAC enters into with third parties may be incorporated into an air quality permit and enforced by the TCEQ only if these agreements pertain to air quality rules and regulations of the TCEQ. All other portions of such an agreement are beyond the scope of an air quality permit and may not be part of the permit.

**COMMENT 15:** Commenters are concerned about the Applicant's compliance history and the Notices of Violation the Applicant has received.

**RESPONSE 15:** During the technical review, a compliance history review of the company and the site is conducted based on the criteria in 30 TAC, Chapter 60. 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 30 TAC, Chapter 60. 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)

This site has a rating of 1.88 and a classification of AVERAGE. The company rating and classification, which is the average of the ratings for all sites the company owns, is 3.18 and AVERAGE.

**Changes Made in Response to Public Comments**

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

Respectfully submitted,

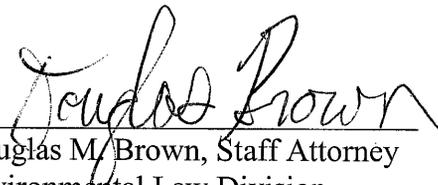
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Mark R. Vickery, PG  
Executive Director

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

**Page 14 of 14**

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

A handwritten signature in black ink that reads "Douglas Brown". The signature is written in a cursive style and is positioned above a horizontal line.

Douglas M. Brown, Staff Attorney  
Environmental Law Division  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-2253

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY