

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 21, 2010

TO: Persons on the attached mailing list.

RE: TPCO America Corporation
Permit Nos. 86860 and PSDTX1188

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 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 at the Bell Whittington Public Library, 2400 Memorial Parkway, Portland, San Patricio County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839.

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.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (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.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

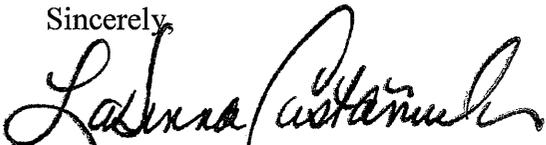
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

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/ms

Enclosures

MAILING LIST
for
TPCO America Corporation
Permit Nos. 86860 and PSDTX1188

FOR THE APPLICANT:

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INTERESTED PERSONS:

See attached list.

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TCEQ AIR QUALITY PERMIT NUMBER 86860 / PSDTX1188

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APPLICATION BY	§	BEFORE THE
	§	CHIEF CLERKS OFFICE
TPCO AMERICA CORPORATION	§	TEXAS COMMISSION ON
	§	
GREGORY, SAN PATRICIO COUNTY,	§	
TEXAS	§	ENVIRONMENTAL QUALITY

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”) on the request to issue State Air Quality Permit No. 86860 and Prevention of Significant Deterioration (“PSD”) Air Quality Permit PSDTX1188 filed by TPCO America Corporation (“TPCO” or “Applicant”) and the ED’s preliminary decision.

As required by 30 TEXAS ADMIN. CODE § 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 letters from the following persons: Adair Apple, J.M. “Mickey” Breaux, Carolyn Moon and John Williams. 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.

BACKGROUND

Description of Facility

TPCO has applied to the TCEQ for issuance of State Air Quality Permit Number 86860 and issuance of PSD Air Quality Permit Number PSDTX1188, which would authorize construction of a pipe manufacturing steel mini-mill.

The proposed plant, when authorized, is to be located east of the intersection of Texas State Highway 35 and Texas State Highway 361 near Gregory, San Patricio County, Texas. Contaminants authorized under this permit include carbon monoxide (“CO”), nitrogen oxides (“NO_x”), sulfur dioxide (“SO₂”), volatile organic compounds (“VOCs”), particulate matter (“PM”) (including, but not limited to particulate matter with diameters of 10 microns or less (“PM₁₀”) and 2.5 microns or less (“PM_{2.5}”)), lead, cadmium, chromium, mercury, manganese, nickel, silicon and zinc.

Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain authorization from the Commission. This application is for an initial issuance of State Air Quality Permit Number 86860 and PSD Air Quality Permit Number PSDTX1188.

The permit application was received on November 17, 2008 and declared administratively complete on December 3, 2008. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published in the *Corpus Christi Caller-Times* on December 30, 2008 and was published in *The Portland News* on January 1 and January 8, 2009. The Amended Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) for this permit application was published on October 29, 2009 in *The Portland News*. The public comment period ended on November 30, 2009. 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:

One commenter requested information about what "Best Available Control Technology" will be utilized at the facility. (Adair Apple)

RESPONSE 1:

As part of the evaluation process, all sources of air contaminants at the proposed facility were identified to insure the facility would be using the Best Available Control Technology ("BACT") applicable for the sources and types of contaminants emitted. BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility. BACT requires technology that best controls air emissions with consideration given to the technical practicability and economic reasonableness of reducing or eliminating the emissions from the facility. TEX. HEALTH & SAFETY CODE § 382.0518(b); 30 TEX. ADMIN. CODE § 116.111(2)(C).

The primary emission sources at the facility will be an electric arc furnace ("EAF"), a ladle furnace ("LF"), the rotary hearth, reheat and quench furnaces in the rolling mill, and miscellaneous sources in the steel making workshop. Proposed controls and or emission limits for these emission sources are discussed in the chart below:

EMISSION SOURCE

EAF and LF

CONTROL

A combination of direct evacuation and canopy hoods will be used to capture emissions and exhaust them through a fabric filter for control of PM/PM₁₀/PM_{2.5} and lead. PM emissions from the EAF fabric filter

will be required to meet an outlet grain loading of <0.0018 grains per dry standard cubic foot (gr/dscf) filterable PM and <0.0024 gr/dscf total catch PM. PM emissions from the LF fabric filter will be required to meet an outlet grain loading of <0.0018 gr/dscf filterable PM and <0.0052 gr/dscf total catch PM. The foregoing controls will provide an overall PM emission reduction of 99 percent. No add-on control will be employed for control of other pollutants, but good process management and specific emission limits will be used.

Rolling Mill Furnaces and Boiler

These sources will use pipeline quality natural gas for fuel and good combustion practice without add-on controls. Emission limits that meet BACT criteria have been established in terms of pounds per million Btu (lbs/MMBtu) for each pollutant from each source. The proposed emission limits are:

Pollutant	Pollutant Limit (lbs/MMBtu)
NO _x	0.10
CO	0.0824
SO ₂	0.0006
VOCs	0.0054
PM/PM ₁₀ /PM _{2.5}	0.0075

Material Handling and Storage

A combination of enclosure, water use (70% control), capture and routing exhaust through a fabric filter (0.01 gr/dscf outlet grain loading and 100 percent capture) are proposed in conjunction with specific emission rate limits.

Painting/Coating Operations

While emissions from these operations will be small, a combination of strategies for controlling emissions will be employed, including enclosure,

capture of overspray, carbon absorption of VOC, and use of waterborne and/or low VOC coatings. Overall control efficiencies are 96 percent for PM reduction, up to 99 percent for VOC reduction resulting from low VOC content paint, and 60 percent VOC reduction from carbon absorption.

COMMENT 2:

One commenter requested information regarding the assurances that BACT will be installed. (Adair Apple)

RESPONSE 2:

There are several means to assure that BACT will be installed. The permit conditions specify the types of control required and performance levels, and the allowable emission rates are dependent on the proposed controls. Both initial and follow-up stack testing will be required to demonstrate compliance with the allowable emission rates and the specified outlet grain loadings for the EAF fabric filter. TCEQ Regional Staff will observe the stack testing and review stack test reports. In addition, the TCEQ Regional Staff will periodically conduct inspections to ensure the facility is in compliance with the permit.

COMMENT 3:

One commenter expressed concern about the human health effects of emissions of particulate matter, volatile organic compounds, sulfur dioxide and nitrogen dioxide. (Adair Apple)

RESPONSE 3:

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.^{1, 2} 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 Chapters 111 and 112 of the Texas Administrative Code, specifically 30 TEX. ADMIN. CODE § 112.3; and TCEQ Effect Screening Levels ("ESLs").³

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

¹ 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.

² 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.

³ 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.

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 which 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. "Criteria pollutants" are those pollutants for which a NAAQS has been established.

For most permit applications, an air quality analysis, which may include air dispersion modeling, is performed. After a permit application's modeling review is complete, in most instances, 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 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 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.

For this specific permit application, appropriate air dispersion modeling was performed. The likelihood of whether adverse health effects caused by emissions from TPCO'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. TCEQ background concentrations from the geographic area surrounding the site or other appropriate background are added to the modeled concentrations when applicable. The overall evaluation process provides a conservative prediction that is protective of the public. TCEQ Air Permits Division reviewed the modeling predictions and determined that the modeling analysis was acceptable.

In addition to complying with the federal and state standards and guidelines mentioned above, applicants must also comply with 30 TEX. ADMIN. CODE § 101.4, which prohibits nuisance conditions. Specifically, the rule states that "[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 air pollution are not expected. According to the facility's Maximum Allowable Emission Rate Table in the draft permit, the facility will emit approximately 211.60 tons per year (“tpy”) of PM, 301.10 tpy of NO_x, 275.49 tpy of SO₂, 2071.11 tpy of CO, 167.86 tpy of VOCs, and 0.00241 tpy of mercury. These emissions are not expected to create nuisance conditions.

With respect to the NAAQS, emissions of PM, SO₂ and NO_x were evaluated for the TPCO facility. PM consists of solid particles and liquid droplets found in the air. PM includes “total suspended particulates” (“TSP”) (particles up to 50 microns (µm) in diameter), PM₁₀ (particles less than 10 µm in diameter), and PM_{2.5} (particles less than 2.5 µm in diameter). PM₁₀ particles are referred to as “coarse” particles, and PM_{2.5} particles are referred to as “fine” particles. Sources of coarse particles include wind-blown dust, dust generated by vehicles traveling on unpaved roads and material handling. Fine particles are usually produced via industrial and residential combustion processes and vehicle exhaust.

The NAAQS for PM₁₀ is based on 24-hour and annual time periods. The measurement for predicted concentrations of air contaminants in modeling exercises is expressed in terms of micrograms per cubic meter (µg/m³). One microgram is 1/1,000,000 of a gram, or 2.2/1,000,000,000 of a pound (approximately the weight of a dust mite) of air contaminant per cubic meter of ambient air. The air volume of a cubic meter is approximately the size of a washing machine. Predicted air concentrations occurring below the 24-hour and annual NAAQS of 150 µg/m³ and 50 µg/m³, respectively, are not expected to exacerbate existing conditions or cause adverse health effects. Modeling for this facility resulted in predicted PM₁₀ concentrations, at the facility's property line, to be 89.83 µg/m³ (24-hour) and 29.43 µg/m³ (annual), which are both below the NAAQS.

PM_{2.5} evaluation was accomplished using the EPA approved PM₁₀ surrogate policy. This PM₁₀ PSD Program continues to be a reasonable surrogate for the PM_{2.5} program as technical difficulties remain, including those relating to emissions factors, ambient monitoring assumptions, and condensables (which are considered to be a component of “direct” emissions). Accordingly, based on the PM₁₀ evaluation, PM_{2.5} emissions are not expected to exceed the NAAQS for PM_{2.5}.

VOC is a classification for a variety of compounds with similar properties, thus there is not a NAAQS for VOC. For VOC compounds, each speciated compound that met the definition of VOC was evaluated against its ESL. For TPCO's permit, the evaluation for each speciated VOC compound predicted compliance with each applicable ESL.

The SO₂ NAAQS, regulated by the EPA, are based on three-hour, twenty-four hour and annual time periods. Predicted SO₂ air concentrations occurring below the three-hour, twenty-four hour and annual NAAQS of 1,300 µg/m³, 365 µg/m³ and 80 µg/m³, respectively, are not expected to exacerbate existing conditions or cause adverse health effects. Modeling of this facility resulted in predicted air concentrations of SO₂ to be 240.00 µg/m³ (three-hour), 77.00 µg/m³ (twenty-four hour) and 14.27 µg/m³ (annual), each of which is below the NAAQS

The nitrogen dioxide (“NO₂”) NAAQS, regulated by the EPA, is based on an annual time period. Predicted NO₂ air concentrations occurring below the annual NAAQS of 100 µg/m³ are not expected to exacerbate existing conditions or cause adverse health effects. Modeling of this facility resulted in predicted air concentrations of NO₂ to be 36.00 µg/m³ (annual), which is below the NAAQS.

In summary, based on the potential concentrations reviewed by the ED’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 the expected levels of PM, PM₁₀, PM_{2.5}, SO₂, NO_x, CO, or VOCs.

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 (361) 825-3100 or by calling the 24-hour toll-free Environmental Complaints Hotline at (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 TEX. ADMIN. CODE § 70.4 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 (under Publications, search for document no. 278).

COMMENT 4:

One commenter requested information regarding the quantity of mercury emissions from the facility. (Adair Apple)

RESPONSE 4:

The Maximum Allowable Emissions Rate Table establishes the maximum allowable emissions for each emission point and for each compound emitted. Accordingly, mercury emissions will not exceed 0.00241 tpy.

COMMENT 5:

Commenters expressed concern regarding the effect of emissions from the facility on air quality in San Patricio County. (Adair Apple, Carolyn Moon)

RESPONSE 5:

As discussed in the foregoing responses, the emissions from the TPCO facility were evaluated using accepted procedure. Specifically, the predicted concentrations for each compound to be emitted—which included the contribution from TPCO and the existing background concentration

for each compound—were compared to their applicable standard. This comparison predicted no expected adverse health effects.

COMMENT 6:

One commenter requested information regarding the current air quality in San Patricio County. (Adair Apple)

RESPONSE 6:

Information regarding the current air quality for the San Patricio County can be obtained from ambient air monitors in the geographic region of the proposed site. San Patricio County has four monitors that are currently monitoring for ozone. Numerous monitors in Nueces County are currently monitoring for PM, VOCs, and SO₂. These monitors are located near the proposed site and provide a reasonable estimate of the current air quality in San Patricio County. NO₂ is not currently monitored in the area; however, several ambient air monitors throughout the state of Texas can be used to determine a reasonable background concentration for San Patricio County using county emissions and population data. Additional information on ambient monitoring can be found at the following websites:

TCEQ Monitoring Operations websites

<http://www.tceq.state.tx.us/compliance/monitoring/air/monops/agc/autogc.html>

http://www.tceq.state.tx.us/compliance/monitoring/air/monops/hourly_data.html

EPA AirData website

<http://www.epa.gov/air/data/index.html>

In summary, San Patricio County and the surrounding area is classified “attainment” by EPA, thus, the air quality in the area complies with EPA standards.

COMMENT 7:

One commenter expressed concern regarding the adverse economic impact the facility will have on members of the United Steelworkers and other steel facilities. (Mickey Breaux)

RESPONSE 7:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statutes. Accordingly, the TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization to emit air contaminants, nor can the TCEQ prohibit owners and operators from receiving authorization to emit air contaminants if they comply with all statutory and regulatory requirements. The TCEQ is not authorized to consider a company's financial status, economic impact and/or profit issues in determining whether or not a permit should be issued.

CHANGES MADE IN RESPONSE TO COMMENT

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

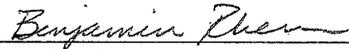
Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G., Executive Director

Stephanie Bergeron Perdue, Deputy Director
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Robert Martinez, Director
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Representing the
Executive Director of the
Texas Commission on
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