

TCEQ AIR QUALITY PERMIT NUMBER 47881

APPLICATION BY	§	BEFORE THE
PORT OF CORPUS CHRISTI	§	
AUTHORITY OF NUECES	§	
COUNTY	§	TEXAS COMMISSION ON
BULK MATERIAL HANDLING	§	
FACILITY	§	
CORPUS CHRISTI, NUECES	§	
COUNTY	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the New Source Review Authorization application.

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director 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: Mariah Ann Boone, Eva L. Castille, Nick Fye, PC Gardiner, Meggan Houlihan, Emilie Jimenez Olivares, Alexandria Klaas, James Klein, Aixa Laventura, Pilar Longoria, Daniel Lucio, Neil McQueen, Alison Medina, Carolyn Moon, Anne Peticolas, Gerald Allen Sansing, Douglas Sherman, Stants Sherman, and C. Z.

The Office of Chief Clerk timely received identical comment letters from the following persons: Christine Adams, Jennifer Beck, Julie Beers, Howard Bishop, Jennifer Bray, Diane Carroll, Doris Cole, Ernesto Contreras, Jack Cooper, Eugene Desjardins, Peggy Duran, Henry Els, Melanie Flores, Sylvia Flores, Andrew Frankum, Ann Fuentes, Stephen Gambill, Patricia Gardiner, Dona General, Thomas Graf, Judy J. Hales, Roxane Iglesias, Howard Karsh, Joshua Karsh, Ariana Klugiewicz, Bailey Landress, Julia Landress, Patricia Lewis, Analilia Lopez, Eve Lopez, Kris Miller, Shauna Mondragon, Russell Montgomery, Anna Moore, Inge Moorman, Becky Moreno, Jerry Niles, Valerie Noe, Edward Orta, Sharon Purcell, Mary Suzanne Pyrek, Tom Reissig, Karen Ruth, Lorraine Stehn, Marquita Tanner, Eliseo Venecia, James White, Kelly Whitford, Alfred Williams, and Ashley Winkler.

The Office of Chief Clerk timely received a comment letter from the following organizations: Tammy Foster on behalf of Citizens for Environmental Justice, Erin Fonkin on behalf of the Environmental Integrity Project, Tom Smith on behalf of Public Citizen Texas, Brianna Fairbanks and Violet Lehrer on behalf of the Sierra Club Environmental Law Program, and Karen Hadden on behalf of the Sustainable Energy and Economic Development (SEED) Coalition.

This Response addresses all timely public comments received, whether or not withdrawn.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 Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND

Description of Facility

The Port of Corpus Christi Authority of Nueces County (Port of Corpus Christi or Applicant) has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA), §382.0518. This permit will authorize the applicant to continue a material handling operation at Bulk Dock 1, an existing permitted facility.

This facility is located at 4820 East Navigation Boulevard, Corpus Christi, Nueces County. Contaminants authorized under this permit include hydrogen sulfide (H₂S) and particulate matter (PM), including particulate matter with diameters of 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}).

Procedural Background

To continue operating an existing permitted facility that may emit air contaminants, the person planning the continued operation must obtain a permit renewal from the commission. This permit application is for a permit renewal of Air Quality Permit Number 47881.

The permit application was received on July 3, 2012, and declared administratively complete on July 12, 2012. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published in English on August 10, 2012, and May 19, 2015, in the *Corpus Christi Caller-Times*.

The August 10, 2012, publication included notice of both a permit amendment and renewal for the same facility, Bulk Dock 1. The TCEQ received a number of comments regarding both permit actions, and issued a formal Response to Comments document for the permit amendment on February 27, 2015.

The TCEQ received no further comments in response to the May 19, 2015, publication; however, the commission is reissuing a formal Response to Comments document with this permit renewal. Please note that some of the following comments and responses relate more directly to the permit amendment issued on February 27, 2015, than to the permit renewal now issued. Also, the compliance history ratings in Response 6 have been updated to reflect the current values listed in the TCEQ Compliance History Database.

COMMENTS AND RESPONSES

COMMENT 1: Air Quality/Health Effects

Commenters expressed concern regarding amount and type of emissions, particularly H₂S and PM, and their effect on air quality. Commenters stated that because the fugitive dust emissions from the Bulk Dock are emitted at ground level rather than out of a smokestack, they directly impact the neighborhoods nearby and downwind of the facility. Commenters stated that the permit allows for a decrease in the quality of life for Corpus Christi residents by soiling the air.

In addition, the commenters stated that a petcoke and coal export facility poses serious health

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risks for people who live and recreate near it, including the young, the elderly, and individuals with compromised health. A commenter stated that people living near the Port of Corpus Christi already have an extremely high rate of pediatric asthma, and that many schools are in close proximity to the facility.

Commenters stated that, according to the United States Environmental Protection Agency (EPA), PM is a mixture of small particles that include organic chemicals, metals, dust, and toxic ash. Commenters stated that the EPA links PM exposure (particularly fine PM exposure) to irritation of the airways, coughing or difficulty breathing, decreased lung function, aggravated asthma, chronic bronchitis, irregular heartbeat, heart attacks, and premature death in people with heart or lung disease. Commenters stated that exposure to PM and H₂S will negatively impact the health of the community, and that the recent linkage of PM with cancers, metabolic dysfunction, and pulmonary and cardiovascular disease must not be ignored in an area that has so many people living right beside the Port of Corpus Christi and across the fence from industry. Commenters further stated that coal dust contains toxic metals, such as arsenic and mercury, and that exposure to these metals also causes adverse health effects. These health effects include skin damage, problems with circulatory systems, and increased risk of developing cancer.

RESPONSE 1: For this type of permit application, potential impacts to human health and welfare or the environment are determined by comparing air dispersion modeling predicted emission concentrations from the proposed plant to appropriate state and federal standards and TCEQ Effect Screening Levels (ESLs). 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, and TCEQ ESLs^{1, 2}

NAAQS are created and periodically reviewed by the EPA. The NAAQS, as defined in 40 Code of Federal Regulations (CFR) § 50.2, include both primary and secondary standards. Primary standards are those that the EPA Administrator determines are necessary, within an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with preexisting health conditions. Secondary NAAQS are those that the Administrator determines are necessary to protect 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 EPA has set NAAQS for the criteria pollutants: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), sulfur dioxide (SO₂), and PM, including PM₁₀ and PM_{2.5}. A criteria pollutant is one for which a NAAQS has been established. Of the criteria pollutants listed, this proposed plant is expected to emit PM₁₀ and PM_{2.5}. In addition, TCAA, § 382.002(a) provides for "protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public. . . ." The proposed permit will comply with both the

¹ 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.

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.

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NAAQS and the state requirements.

Air dispersion modeling is a technical tool used to estimate off-property impacts and to demonstrate compliance with the NAAQS and state standards, as well as with TCEQ ESLs. Air dispersion modeling was performed for PM₁₀ and H₂S during previous permit actions at this facility. For this amendment, modeling was not conducted because this permitting action does not authorize any increases in the levels of emissions of any pollutants for which there is a federal or state standard or an ESL. This permitting action does authorize an increase in the long-term emission rate of H₂S. However, the off-property concentrations of H₂S are regulated only on a short-term basis as required by 30 TAC Chapter 112. As a result, no additional analysis was performed beyond what was previously conducted when these emission levels were originally authorized in prior permitting actions. The emissions of PM_{2.5} in the Maximum Allowable Emissions Rate Table (MAERT) have been evaluated and authorized during a past permitting action, but were not previously included in the MAERT, in accordance with the practice at that time.

The modeling previously performed demonstrates that maximum allowable emissions are conservatively predicted to be below the NAAQS for the Port of Corpus Christi; therefore, refined air dispersion modeling is not required. Based on potential concentrations reviewed by the Executive Director's staff in previous applications submitted by Port of Corpus Christi, it is not expected that existing health conditions will worsen, or that there will be adverse health effects for the public, sensitive subgroups, or animal life or vegetation as a result of exposure to the expected levels of H₂S, PM, PM₁₀, or PM_{2.5} emissions from this site.

Applicants must also comply with 30 TAC § 101.4, which prohibits nuisance conditions, including prohibition of creating or maintaining a nuisance that interferes with the use and enjoyment of a landowner's property. If the facility is operated in compliance with the terms of the permit, nuisance conditions 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 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 procedures in place for accepting environmental complaints from the general public. 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 Number 278).

COMMENT 2: Existing Poor Air Quality

Commenters stated that Corpus Christi residents who already suffer the adverse effects of air pollution from refineries and other industries will be directly impacted by emissions from the Bulk Dock.

RESPONSE 2: For a discussion on health effects, see Response 1. The TCEQ does not expect this facility to impact existing air quality. The Federal Clean Air Act (FCAA) established the Prevention of Significant Deterioration (PSD) program to ensure that economic growth would occur in a manner consistent with the preservation of existing clean air resources (42 United States Code [USC] § 7470(3)). The PSD program is only applicable to a major emitting facility, which is a facility that is one of the 28 types of sources named in 42 USC § 7479(1), and that emits or has the potential to emit 100 tons per year or more of any air pollutant, or any other source with the potential to emit 250 tons per year or more of any air pollutant (42 USC § 7479(1)). The TCEQ implements the PSD program in Texas, along with the state's permitting program, which requires authorization prior to construction of a new facility or a modification of an existing facility that may emit air contaminants, even if the facility is not "major."

The Port of Corpus Christi is not a major emitting facility as defined by the FCAA. This is because the facility is not one of the 28 types of named sources, and because it will not emit more than 250 tons per year of any air pollutant. The predicted emissions of PM from this facility are four tons per year. Nueces County, where the facilities are located, is in attainment for the PM₁₀ and PM_{2.5} NAAQS. Thus, the TCEQ does not expect that the emissions from this plant, when added to current background levels, will cause or contribute to exceedances of the NAAQS. The data for background levels is from readings over several years from air monitors in the area.

Additionally, 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.

COMMENT 3: Emission Rate Representations

The commenters used the following specific examples to support their statement that the permit application contains incomplete and inaccurate information regarding the type, quantity, and emission rates of all of the bulk materials stored and handled and processes used in its emission rate calculations

- The Applicant does not differentiate between the materials and fuels that are handled and stored at the Bulk Dock; therefore, PM emission rates cannot be calculated according to each material's specific properties, such as silt or moisture content.
- The Applicant inappropriately relied on TCEQ guidance documents that are based on the use of the EPA's AP-42 emission factors. The commenters stated

that these emission factors are based on industry-wide averages, rather than representing the maximum emissions that a particular source can emit.

- The Applicant used generic moisture content levels (4.8 percent) and wind speeds (12 miles per hour), rather than using actual site and meteorological data.
- The Applicant did not adequately support the calculation of PM_{2.5}. The commenters stated that the Applicant proposes establishing maximum allowable rates of PM_{2.5} emissions for each Emissions Point Number (EPN) at a ratio of 15 percent of the allowable PM₁₀ emission rate, rather than using actual, representative data.
- The Applicant did not consider and account for Maintenance, Startup, and Shutdown (MSS) or combustion emissions (including various sizes of PM, and emissions of NO_x, SO₂, CO, and VOC) from increased train, truck, and vessel traffic to and from the Bulk Dock.

RESPONSE 3: Bulk Dock 1 is authorized to handle fuels, aggregate, metallic minerals, and ores, as well as other materials, based on the material flexibility condition of the proposed permit. Emission rates from this facility were based on the maximum hourly and annual handling rates represented by the Applicant.

The emission factors used to predict the emission rates from the identified sources at the proposed facility are the latest provided by the EPA in the Compilation of Air Pollution Emission Factors, AP-42 Manual. EPA has five classifications to rate the quality of these emission factors: excellent, above average, average, below average, and poor. These ratings are assigned based on factors such as the quality of the test data, number of facilities represented, and whether the data is representative of the industry population. EPA has indicated that the calculation methodology in question is considered excellent, and remains at that rating as long as the silt content, moisture content, and wind speed are within specific ranges.

While the Applicant has not provided site-specific analysis of the materials identified in the permit, EPA has provided data regarding the typical silt and moisture content of these materials. The EPA data indicate that both the mean and the range of tested values fall within the above-referenced ranges for the calculation methodology to be considered excellent. In addition, the wind speed used in the calculation also falls within the specified range. Based upon engineering judgment, we therefore conclude that the emissions estimates from the AP-42 calculation methodology are acceptable as representative for this site. The AP-42 Manual is available at <http://www.epa.gov/ttn/chief/ap42/index.html>. These factors are very conservative and provide worst case scenario emission rates. While these emission rates are not specific to the proposed facility, they are higher than any rates reasonably expected at the facility. Compliance with these conservative rates indicates that the actual rates would be well within emission limits.

The control factors used to calculate the emission rates are based on the control efficiencies represented in the application. The Applicant represented that Best Available Control

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Technology (BACT) and best management practices will be implemented through specific control methodologies, such as the use of water sprays, partial enclosures, full enclosures, fabric filter baghouses, and maintenance of all in-plant roads, traffic areas, and active work areas. The EPA's most recent emission factors indicate that the use of wet suppression through water sprays, etc. can achieve over 90 percent control, and some sprays could be as effective as an enclosure.

The Applicant described the controls proposed for use at the plant site as well as the predicted moisture content of the material in the application. The Applicant's emission control methods are commonly used and accepted by the TCEQ and EPA.

The TCEQ permit reviewer analyzed the proposed emission factors and the control efficiencies represented in the application for accuracy and applicability and found the factors to be acceptable. The draft permit Special Conditions specify the controls represented by the Applicant. The proposed and required controls represent the level of control required by BACT.

The material moisture content and wind speed represented by the Applicant and used in emission calculations are consistent with those used in the original permit. They were reviewed and determined to be acceptable based on the materials handled and consistent with meteorological data.

The Applicant has proposed establishing maximum allowable rates of PM_{2.5} emissions for each Emissions Point Number (EPN) at a ratio of 15 percent of the allowable PM₁₀ emission rate. Since the particle size multipliers for PM₁₀ and PM_{2.5} are 0.35 and 0.053 respectively, the value for PM_{2.5} represents 0.151428571 percent of the value for PM₁₀. Using a ratio of 15 percent of PM₁₀ to determine the emission rate of PM_{2.5} is an acceptable method documented in AP-42 Chapter 13.

Given the relationship between throughput and emissions, plant operating parameters, i.e., plant throughput and production, are used to calculate emissions. The draft permit requires recordkeeping of throughput on a daily, monthly, and annual basis in tons per hour, tons per month, and tons per year, from which compliance with emission estimates can be established.

MSS emissions from sources authorized by this permit were reviewed and determined to be no greater than emissions during routine operations and are included in the overall emissions.

Emissions from unloading and loading into mobile sources such as trains and marine vessels were included in the protectiveness evaluation as primary emission sources. Regarding emissions from mobile sources, 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 additional traffic, or emissions from off-site mobile sources when determining whether to approve or deny a permit application.

COMMENT 4: BACT Representation

Commenters stated that the Applicant did not appropriately apply BACT to all increased emissions associated with the permit amendment. The commenters stated that rather than minimizing visible emissions only through the use of water sprays, drop socks, enclosed feeders,

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and plastic sheeting, BACT requires that the applicant fully enclose all storage piles and include enclosures for all associated conveyors. The commenters cited specific examples of facilities that cover all stockpiles, including the JEA Northside Generating Station in Florida and Ambre Energy North America in Oregon. The commenters also cited requirements in California's South Coast Air Quality Management District regulations.

RESPONSE 4: The TCAA and TCEQ rules require an evaluation of the air quality permit application 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 evaluation of applications for new or amended permits, the permit reviewer identifies all sources of air contaminants at the proposed facility and assures that the facility will be using the 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.

TCEQ evaluates BACT in a three-tiered process. In Tier I, the proposed facility's BACT is compared to other existing facilities like it in the state. If none can be found, Tier II compares BACT of existing facilities that are similar in nature. In the case of the Port of Corpus Christi facility, other coal handling facilities were evaluated and bulk material handling facilities and processing and handling facilities were reviewed to ensure BACT was met. Stockpiles are not considered facilities by definition, but are subject to BACT criteria to ensure protectiveness.

BACT for coal handling facilities requires the following:

1. 70 percent reduction in PM during storage pile load-in, at stockpiles, and at roads (this is a best management practice and not a control technology);
2. 85 percent reduction in PM at transfer points;
3. 90 percent reduction in PM during receiving operations, at conveyors, during crushing, and during screening; and
4. 95 percent reduction in PM during loading operations.

The Port of Corpus Christi represented in the permit application that BACT will be used at the proposed site. Material transfer points, conveyor belts and stockpiles are sources of fugitive emissions. Transfer points are equipped with water sprays that provide a control efficiency of at least 70%. The feeder belts and feeder hopper are completely enclosed, and the enclosures provide a minimum of 90% control. All loadout devices are fitted with drop socks and/or water (mineral oil during grain handling) spray bars that provide a control efficiency of at least 90% to minimize emissions. The gantry truck and railcar loadout is equipped with plastic sheeting installed to block wind from the southeast, the prevailing wind direction. No additional control efficiency is included for the plastic curtains. Stockpiles are sprayed with water as necessary, enclosed on at least two sides, and limited to 1 acre in size.

The handling of chunky and prilled sulfur has the potential to emit hydrogen sulfide. The emissions were calculated based on the assumption that 0.25% of the H₂S would be released as fugitive emissions during transport. During the previous permit review, it was determined that no add-on control of H₂S at this concentration is technically feasible, and this determination is

still valid and protective of public health and the environment.

Use of the above mentioned controls meets BACT and best management practices for facilities of this type. The use of these controls will decrease the amount of air contaminants emitted into the atmosphere whether through the process itself or through transportation of the material through the adjoining properties.

The commenters referenced fully enclosed storage piles at a Florida power plant and a proposed coal terminal in Oregon. The facility in Florida is not the same type of facility and, therefore, a different BACT applies. The Oregon facility has yet to be constructed, so the BACT evaluation from this location is not an available option at this time. Actual emission data from existing units are considered in evaluating the technical feasibility of a proposed emission rate and in the evaluation of proposed controls. The facilities must be operating and achieving permitted emission rates continuously to evaluate the applicability of the technologies.

The commenters also referenced California's South Coast Air Quality Management District rules. This area is nonattainment for PM₁₀ and subject to the more stringent Lowest Achievable Emission Rate (LAER) rather than BACT. There is only one coal handling facility in the District, and it does not have fully enclosed storage piles. The EPA's RACT³/BACT/LAER Clearinghouse for major sources does not show any consistent BACT above and beyond those listed above for this project or BACT for the projects referenced by the commenters.

COMMENT 5: Monitoring/Emission Control Representations

Commenters stated that the Applicant did not include sufficient monitoring requirements and emission control measures to ensure that the facility will achieve the performance specified in the application and to ensure compliance with emission limits. The commenters stated that the Applicant did not include direct PM monitoring or frequent opacity monitoring to ensure that emissions permit requirements are met. The commenters expressed specific concern regarding the monitoring of fugitive emissions from the coal storage stockpiles. In addition, the commenters stated that emission control measures are not specific enough to be enforceable, such as guidance regarding the use of water sprayers or a requirement for minimum moisture content.

RESPONSE 5: The permit specifies that there shall be no visible fugitive emissions leaving the property. Observations for visible emissions must be performed in accordance with EPA 40 CFR Part 60, Appendix A, Test Method 22, and recorded quarterly. The visible emissions determination must be made during normal plant observations and is enforceable. Observations must be made on the downwind property line for a minimum of six minutes. If visible emissions are observed, corrective action to eliminate the source of excessive visible emissions must be taken promptly and documented within 24 business hours of completion.

The use of water sprays to control emissions from material handling operations is an effective method for controlling fugitive emissions of PM and provides at least 70 percent control. In addition, the application of water helps maintain the moisture content of the material being handled. In addition to the monitoring requirements discussed above, the facility is required to

³ Reasonably Available Control Technology

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maintain records demonstrating compliance with maximum allowable emission rates. The company is required to comply with all TCEQ regulations, including the General and Special Conditions as documented in the permit authorization. Compliance with these conditions requires that a copy of the permit, along with information and data sufficient to demonstrate compliance with the permit, be maintained in a file at the plant site and made available at the request of personnel from the TCEQ or any air pollution control program having jurisdiction. This information shall include, but is not limited to, production records and operating hours. The Executive Director has determined that this information is sufficient to determine that a company meets all emission rates as specified.

As discussed in Response 1, 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.

COMMENT 6: Compliance History Representation

Commenters stated that compliance history referenced in the application does not clarify or provide further information on the extent of complaints received on the facility by the TCEQ or any actions taken by the TCEQ in response to complaints. In addition, the commenters stated that the compliance history referenced in the application goes back only five years and not the full ten years of the current permit being amended. The commenters noted that the Applicant indicates that the facility does not have a "poor" compliance history, but provides no basis for this assertion.

RESPONSE 6: See Response 7 for information relating to complaints against the facility and action taken by the TCEQ in response to complaints. During the technical review of the permit application, a compliance history review of the company and the site was conducted based on the criteria in 30 TAC Chapter 60. These rules may be found at the following website: www.tceq.texas.gov/rules/index.html. The compliance history for the company and site was reviewed for the five-year period prior to the date the permit application was received by the Executive Director, as specified in 30 TAC § 60.1(b).

The compliance history includes multimedia compliance-related components for the site under review and is not limited to air-related issues. These components include: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emission events, investigations, notices of violations (NOVs), audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance.

Compliance history ratings are classified as following:

- High: rating below 0.10 – complies with environmental regulations extremely well;
- Satisfactory: rating 0.10 – 55.00 generally complies with environmental regulations;
- Unsatisfactory (previously titled "Poor"): rating greater than 55.00 – fails to comply with a significant portion of the relevant environmental regulations.

The compliance history review performed for this application indicated that the rating for the company is 0.20, and classification is satisfactory. The rating for the site was 0.89, and the classification is satisfactory.

COMMENT 7: Enforcement

Commenters stated that this facility is the source of numerous complaints from neighbors, and it is not clear that the TCEQ has taken any actions to address off-site emissions and reduce fugitive dust. The commenters provided an Exhibit to their comments that is a collection of several TCEQ photos in the area of the Corpus Christi ship channel and a transcript of a State Office of Administrative Hearings proceeding regarding the application of the Las Brisas Energy Center, with associated exhibits.

RESPONSE 7: Violations are usually addressed through a notice of violation letter that allows the operator a specified period of time within which to correct the violation. The violation is considered resolved upon timely corrective action. A formal enforcement referral will be made if the cited violation is not timely corrected, if the violation is repeated, or if a violation is causing substantial impact to the environment or the public. In most cases, formal enforcement results in an agreed enforcement order, including penalties and technical requirements for corrective action. Penalties are based upon the severity and duration of the violation(s). Violations are maintained on file and are included in the calculation of a facility's and a person's compliance history. Compliance history ratings are discussed in greater detail in Response 6.

The TCEQ issued a Notice of Violation (NOV) to the Port of Corpus Christi on July 18, 2014, for a nuisance dust violation. As the commenter noted, the TCEQ Corpus Christi Regional Office (Region 14) had received numerous complaints regarding the Port of Corpus Christi facility. Specifically, since March 2009, the Region 14 office has received four complaints regarding the Port of Corpus Christi facility. All four complaints have been investigated, and Region 14 staff have created at least four incidents (incident reports are based on complaints received) and conducted two separate investigations, including taking tape lift samples near the site. In response to the NOV dated July 18, 2014, the Port of Corpus Christi investigated the event and determined the source and cause of the issues. Actions taken included developing a process to ensure appropriate moisture content of the stockpiles, the addition of water sprays at the discharge point of the ship loading spout and the appropriate location of the spout within the ship hold to minimize the dropping distance, monitoring the loading operations at all times, and paving unloading areas and extending roadways to facilitate housekeeping. The Port of Corpus Christi has also initiated the installation of particulate monitors in the adjacent areas, including the Dona Park neighborhood. In addition, staff with the Port of Corpus Christi has met with the port tenants to ensure that handling and loading operations are conducted as required. No additional complaints have been received in the Region 14 office since the NOV was issued and corrective actions implemented.

NOVs are public information. Additionally, the public is able to track complaints on the TCEQ website by complaint tracking number, date, county, TCEQ Region, or Regulated Entity/Customer name or number at the following webpage: <http://www.tceq.texas.gov/complaints/track.html>. A regulated entity's compliance history is also public information.

Permit Special Conditions and a MAERT are created to establish guidelines for the operation of the proposed plant based on the Applicant's representations regarding the plant's operations and emissions. The permit conditions are developed such that a facility that is operated within the terms and conditions of the permit should be in compliance with standards outlined in the

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TCAA and applicable state and federal regulations. In addition, all representations made by the Applicant become part of the permit and are enforceable. Regulated entities are required to maintain records of emissions, including unauthorized emissions. Emissions events, defined in 30 TAC § 101.1(28), above certain thresholds are required to be reported to the TCEQ and are public information.

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. As mentioned in Response 1, citizen-collected evidence may be used in such a case. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence.

COMMENT 8: Permit Application Incomplete and Inaccurate

Commenters stated that the permit application contains incomplete and inaccurate information regarding operations and emissions at the facility and does not comply with the TCEQ's rules in 30 TAC § 116.111(a)(2)(A) – (L). Therefore, the commenters asserted that the application is legally inadequate and the TCEQ should not grant the permit amendment until the Applicant addresses the deficiencies.

Commenters also cited examples of conflicting or inconsistent information in the application, as follows:

- On page 6 of the permit application, the hourly handling rate is listed as 800 tons per hour for unloading “fuel and aggregate” materials, but only as 600 tons per hour for unloading other materials. Also, for the fuel and aggregate materials, the loading and unloading rates are different, and it is not clear why.
- The word “stockpiles” is used on page 43 of the permit application, but the process flow diagram on page 44 shows a single stockpile named EPN SP-1. Later in the application, the area of the stockpile is listed as one acre. In addition, the process flow diagram shows materials only being removed from EPN SP-1, and not added.

RESPONSE 8: Air quality permit applications are evaluated to determine whether standards outlined in the TCAA and applicable state and federal rules and regulations are met. As part of the permit evaluation process, the permit reviewer identifies all sources of air contaminants at the proposed facility, assures that the facility will be using the BACT applicable for the sources and types of contaminants emitted, and assures that no adverse effects to public health, general welfare, or physical property are expected to result from a facility's proposed emissions. During this review, if errors or omissions are found in the application, the permit reviewer sends the applicant a deficiency letter and provides a date by which corrections must be received. If supplemental information is not received, the ED may suspend or void the application. The review does not start over, but rather continues until all information is verified.

In accordance with 30 TAC § 116.111(a)(2)(A) – (L), the Applicant provided sufficient

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information for every item required by the rule. The loading and unloading rates have been clarified in the updated Special Conditions. Emissions from stockpiles at this site have been evaluated and are as represented.

The primary operation at Bulk Dock 1 is bulk material handling, including unloading and loading of marine vessels. The majority of the material is immediately shipped off-site by railcars or trucks. The permit application was reviewed and approved based on the material handling rates represented by the Applicant.

Loading and unloading rates represented in the permit are consistent with a rate of 800 tons per hour for transfer from marine vessels to trucks or railcars and 600 tons per hour for transfer from trucks or rail cars to marine vessels. The permit authorizes a single stock pile, EPN SP-1, as a staging area for transfers, since there is no permanent stockpile storage associated with this permit. The EPA's convention for the calculation of emissions from stockpiles in AP-42 includes the addition of material to the stockpile as part of the overall emissions from the stockpile. However, it does not include emissions resulting from the removal of material from the pile. Consequently, there is an emission point that represents the removal of material but no additional emission point for the addition of material to the pile.

COMMENT 9: Previous and Pending Permit Actions/NSR Demonstration Representation

Commenters stated that the Applicant did not include details or data regarding permit amendments that occurred for this facility on May 8, 2006, July 26, 2006, and June 15, 2009. The commenters stated that the following details were not addressed in the current permit application: whether there were any associated emissions impacts from the previous amendments, whether the amendments were cumulative, and whether the amendments should be aggregated in addressing new source review (NSR) along with the proposed amendments in the current application.

The commenters further stated that at least one of the previous amendments, on June 15, 2009, is within the five-year contemporaneous time period for aggregation for NSR purposes, and that it is not clear whether the TCEQ considered the impacts of these contemporaneous projects in addressing NSR.

RESPONSE 9: As discussed in Response 2, the Port of Corpus Christi is not a major emitting facility as defined by the FCAA, so it is not subject to the PSD program. The facility is not a named source, and it will not emit more than 250 tons per year of any air pollutant. The predicted emissions of PM from this facility are four tons per year. Consideration of past permit amendments and changes to emissions within the contemporaneous window are only considered for federal NSR review netting purposes, which does not apply to this site.

COMMENT 10: Handling of Coal in Port of Corpus Christi

Commenters expressed concern about increased shipments of coal through the Port of Corpus Christi, stating that the current permit amendment would triple the amount of material that is allowed to be shipped through the Port. Commenters stated that they have heard recent media reports and public presentations indicating that the Port made agreements with both New Elk Mining and Ambre Energy to increase shipments of coal through its docks. Commenters further

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stated that the TCEQ should restrict the expansion of the Port of Corpus Christi to materials other than coal.

A commenter asked that the TCEQ provide information about the types of pollution controls that are planned for the facility and about the possible disastrous effects of a tropical storm or hurricane on the facility's operations.

Commenters cited data by Burlington Northern Santa Fe showing that open coal train cars lose 500 – 2,000 pounds of coal dust during transport. The commenters stated that coal trains typically contain 120 cars or more; therefore, the increased delivery of coal to the Bulk Dock will significantly increase PM emissions in the neighborhoods near the facility.

RESPONSE 10: The TCAA and TCEQ rules require an evaluation of an air quality permit application to determine whether adverse effects to the public health, general welfare, or physical property are expected to result from a facility's proposed emissions. As part of the evaluation of applications for new or amended permits, the permit reviewer identifies all sources of air contaminants at the proposed facility and verifies that the facility will be using BACT applicable for all sources. The BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility. Applying BACT is the best control of air emissions with consideration given to technical practicality and economic reasonableness of reducing or eliminating emissions. Refer to Response 4 for more details on BACT review for this facility.

The air permit application has been reviewed based on the representations made by the Applicant. The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The TCEQ has the legal authority to control emissions but does not have the legal authority to limit the types of bulk materials handled at Bulk Dock 1. Preparation and planning to mitigate the effects of a weather event such as a tropical storm or hurricane are outside the jurisdiction of the TCEQ. Any potential emissions from railcars on their way to or from the Port of Corpus Christi are considered emissions from mobile sources and are not within the purview of TCEQ air quality regulations.

COMMENT 11: Environmental Equity

Commenters stated that the neighborhoods adjacent to and downwind from the Port of Corpus Christi are generally working class and minority communities, and that lower income residents are particularly susceptible to adverse health effects from air pollution.

RESPONSE 11: Air permits evaluated by the agency are reviewed without reference to the socioeconomic or racial status of the surrounding community. As discussed in more detail in Response 1 above, potential impacts to human health and welfare or the environment were considered during health impacts evaluation, and it is not expected that existing health conditions will worsen, or that there will be adverse health effects for the public, sensitive subgroups, or animal life, or vegetation as a result of exposure to the expected levels of H₂S, PM, PM₁₀, or PM_{2.5} emissions from this site.

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

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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 commitment to address environmental equity. The Office of the Chief Clerk 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 an equitable manner. You may contact the Office of the Chief Clerk at 512-239-3300 for further information.

As discussed in Response 2, the TCEQ does not have jurisdiction to consider facility location choices made by an applicant because zoning and land use are under the authority of local officials.

COMMENT 12: Las Brisas Energy Center

Commenters stated that the TCEQ should demonstrate why it has chosen to define Bulk Dock 1 as a separate facility and not aggregate its operation with other facilities owned by the Port of Corpus Christi, such as the proposed Las Brisas power plant. The commenters further stated that the Las Brisas Energy Center, if built and operated in accordance with its TCEQ-issued air permit, consumes all of the available Federal Clean Air Act PSD increment for PM. The commenters stated that under longstanding EPA policy, the TCEQ may not issue any new permits that could increase PM emissions at the Port of Corpus Christi until such time as the TCEQ has taken appropriate steps to mitigate the modeled PM air quality violations.

Commenters stated their opposition to the renewal and amendment of the air quality permit for the Las Brisas Energy Center (Permit Number 85013), and requested a public meeting and a contested case hearing. Commenters stated, regarding Las Brisas, that no more pollutants are needed in the community, and that their health and lives are worth more than anything this project has to offer.

RESPONSE 12: This permit amendment is for the Port of Corpus Christi Authority of Nueces County, and it authorizes material handling operations at Bulk Dock 1. The permit application for the Las Brisas Energy Center was voided upon request of the applicant on July 30, 2013, so the concerns regarding the PSD increment for PM and the meeting and hearing requests for Las Brisas Energy Center are included for completeness but not addressed by the Executive Director.

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

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REPRESENTING THE
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