

TCEQ AIR QUALITY PERMIT NUMBER 93546

APPLICATION BY § BEFORE THE
WESTERN REFINING TERMINALS, LLC §
MARATHON EL PASO REFINERY §
EL PASO, EL PASO COUNTY § **TEXAS COMMISSION ON**
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 and Executive Director's preliminary decision.

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 received timely comments from the following persons: U.S. Representative Veronica Escobar, State Senator Cesar Blanco, State Representative Claudia Ordaz Perez, Camila Abbud, Torri Jennifer Ainsa, William Allen, Ericka Amador, Melissa Armendariz, Carol G. Bahmueller, Ashley Bangert, Gregory Beam, Kenneth Bell, Andrea Beltran, Sophia Beltran, Stefanie I. Block, Thomas W. Brashier, John William Brown, Adriana Carolina Camacho, Adrian Cano, Jaime J. Cano, Veronica Carbajal, Daniel Carey-Whalen, Norma Alvarez Castillo, Elvira Carrizal-Dukes, Jacory Carter, Eric Chavez, Jonathan Alberto Contreras, Christina Cruz Cooney, Samantha Cooney, Andrea Cote Botero, Hannah Curtis, Elizabeth Day, Cemelli De Aztlan, Carolina De La Garza, Albert De Santos, Kiara J. Diaz, Miguel Angel Escoto, Sergio Estrada, Kate Feuille, Jaclyn M. Fike-Taveras, Adrian Garcia, Juan Alberto Garcia, Alyssa Garza, Richard Genera, Marco Gomez, Kathia Gonzalez, Fatima Gutierrez, Blanca Victoria Hernandez, Aaron Hockman, Rosalinda Hockman, Jennifer Holguin, Marlo Holguin, Rebeka Isaac, Jorb Jensen, Aaron Johnson, Cynthia Juarez, Sabiha Khan, Yolanda Kraynick, Kiana M. Limon, Stephanie Limon, Jack Lopez, Natalia Lowe, Fernanda Lugo, Melissa Lugo, Imelda Lujan, Elizabeth Marie Luna, Elise Madrid, Sarah Celine Madrid, Michael Lee Maney, Rachel Marquez, Andrew Maxwell, Kimberly McKean, Brittany Medellin, Angel Melendez, Monica Michel, Desiree Savannah Miller, Maria Claudia Montesinos, D. Moran, Austin Isaiah Moreno, Marcos Adan Munoz, Alyssa Navarrette, Marisa O'Donnell, Deenay Sophia Ochoa, Amabilia Payen, Maria Fernanda Pena Prieto, Sylvia Peregrino, Anna L. Perez, Aylin Perez, Tina M. Priester, Jose Quintero, Mia Ramirez, Cynthia Renteria, Esmeralda Resendez, Cassandra Alicia Reynolds, Ana Luisa Reza, Ashley Rodarte, Carlos Rodriguez, Shelby Ruff, Jon S., Gabby Salas, Jacob Salgado, Christopher Sandoval, Sylvia Searfoss, Sebastian Servin, Ashlimae Silva, Joshua Blaine Simmons (on behalf of Eco El Paso), Micah Smalley, Lillian Smith, Mia Solis, Nickie Solis, Tiffany Maria Somers, Kathleen Staudt, Diana Stone, Babak Tavakoli, April Thomas, Jesse Thomas, Jess Tolbert, Lupita Torres, Bridgette M. Valdes, Mariana Vasquez, Marylu Vazquez, Jacob Aaron Waggoner, Anastasia Walhovd, Genevieve Simone Willgrubs, Sara Yazdi, and Calvin Zielsdorf.

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

Western Refining Terminals, LLC (Applicant) has applied to the TCEQ for a renewal of its New Source Review Authorization under Texas Clean Air Act (TCAA) § 382.0518. This will authorize the continued operation of an existing facility that may emit air contaminants.

This permit will authorize the Applicant to continue operation of facilities that support the Marathon El Paso Refinery, including storage tanks that comprise the site's storage terminal (collectively the "terminal"). This permit does not authorize the refinery or the refinery's process facilities, which are authorized by a different permit. Other actions included with this renewal include incorporating by reference and incorporating by consolidation several Permits by Rule (PBRs) and a Standard Permit (SP) in accordance with 30 TAC § 116.116(d)(2) and 30 TAC § 116.615(3), respectively, and including updated tank emission calculation methodologies based on the current EPA guidance. The terminal is located at 6501 Trowbridge Dr., El Paso, El Paso County. Contaminants authorized under this permit include carbon monoxide, hazardous air pollutants, hydrogen sulfide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}), and sulfur dioxide.

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 No. 93546.

The permit application was received on December 10, 2020 and declared administratively complete on December 18, 2020. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published in English, on January 15, 2021, in the *El Paso Times* and in Spanish, on January 15, 2021, in *El Diario de El Paso*. A public meeting was held on May 24, 2022, in El Paso, Texas. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

COMMENTS AND RESPONSES

COMMENT 1: PUBLIC PARTICIPATION/COMMENT PERIOD

Senator Cesar Blanco and Representative Claudia Ordaz Perez requested that TCEQ hold a public meeting to provide an opportunity for the community to be heard and voice their concerns about the renewal application. Commenters also expressed concern about the amount of time given for the community to participate and voice their concerns regarding the permit. Representative Veronica Escobar commented that it is crucial that El Pasoans be given more time and space to make comments on the permit. Some commenters requested that TCEQ not rush the permitting process and allow time for public input.

Jess Tolbert questioned whether TCEQ had requested input from persons living near the terminal. Jacob Aaron Waggoner questioned whether input had been sought from disinterested academic experts in air pollution. Ashley Rodarte commented that the Applicant waited until the last moment to allow citizens and the community to speak up against the renewal which demonstrated a malicious and corrupt intent.

(Representative Veronica Escobar, Senator Cesar Blanco, Representative Claudia Ordaz Perez, Gregory Beam, Stefanie I. Block, Andrea Cote Botero, Kimberly McKean, Ashley Rodarte, April Thomas, Jess Tolbert, Jacob Aaron Waggoner)

RESPONSE 1: The TCEQ welcomes public participation in the permitting process. An overview of public participation for applications filed after September 1, 2015 is available on the TCEQ website at:
<https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/public-participation-9-1-2015>.

The Executive Director instructs applicants to provide public notice as required by commission rules, in accordance with statutory requirements. Specifically, TCAA § 382.056 and corresponding rules in 30 TAC Chapter 39 require that public notice of applications be published in a newspaper of general circulation in the municipality in which the proposed plant is located or proposed to be located. As described above, the Applicant published notice of this application in English, on January 15, 2021, in the *El Paso Times* and in Spanish, on January 15, 2021, in *El Diario de El Paso*.

The TCEQ rules also require that a public meeting be held if a member of the legislature who represents the general area in which the facility is located requests a public meeting or if the TCEQ Executive Director determines that there is a substantial or significant degree of public interest. *See* 30 TAC § 55.154(c)(2). At the request of Senator Blanco and Representative Ordaz Perez, the TCEQ conducted a public meeting on May 24, 2022, in El Paso, Texas. The public comment period thus began on January 16, 2021 and was extended to the close of the public meeting held on May 24, 2022.

The applicable public notice rules do not specifically require soliciting comments from outside experts; however, any member of the public may submit comments on the application. This Response is the written response to all formal comments received during the comment period for the application. A copy of this Response will be mailed to each person who submitted a formal comment or who requested to be on the mailing list for this permit application and provided a mailing address. All timely formal comments received are included in this Response and are considered before a final decision is reached on the permit application.

COMMENT 2: AIR QUALITY / ENVIRONMENT / HEALTH EFFECTS

Commenters are concerned about the effect of the emissions from the proposed renewal on air quality and the health of people, particularly sensitive populations such as the elderly, children, and people with existing medical conditions. Several commenters are specifically concerned that the emissions may increase the risk of respiratory-related health issues and cancer. Juan Alberto Garcia expressed concern that studies have shown elevated cancer rates in persons residing in close proximity to a petroleum refinery. Marco Gomez commented that research publications have indicated that proximity to refineries increases the risk of developing cancer. Sergio Estrada, Fernanda Lugo, and Maria Claudia Montesinos expressed concern about

adverse effects of the renewal on biodiversity and the surrounding ecosystems. Maria Claudia Montesinos requested that the TCEQ prioritize life over harmful industry. Some commenters are concerned about eye irritation due to the proposed renewal and stated that they are experiencing eye irritation which they attribute to the existing refinery. Sergio Estrada expressed concern that the emissions may impact plants and animal habitats. Marisa O'Donnell expressed concern that emissions from the refinery may have impacted personal property and damaged vehicles.

Commenters also expressed concern about visible smog and haziness. Specifically, commenters expressed concern about unsightliness that they attributed to smog and air pollution in the area and the potential for the Applicant to contribute to smog in the area. Joshua Simmons and Anastasia Walhovd also expressed concern that emissions from the terminal may drift to neighboring communities surrounding El Paso. Many commenters also expressed concern that El Paso is not meeting federal air quality standards. Commenters stated that air quality in El Paso is already poor and expressed concern that the refinery is one of the largest sources of emissions in the area.

Several commenters expressed concern that the Applicant was proposing to increase emissions, including emissions of hydrogen cyanide (HCN), carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter including 10 microns and less than 2.5 microns (PM, PM₁₀, PM_{2.5}), hydrogen sulfide (H₂S), sulfur dioxide (SO₂), lead, sulfur chloride, ozone, and volatile organic compounds (VOCs) including benzene, toluene, xylene, and ethylbenzene.

(Representative Veronica Escobar, Camila Abbud, Torri Jennifer Ainsa, William Allen, Melissa Armendariz, Cemelli De Aztlan, Carol G. Bahmueller, Ashley Bangert, Gregory Beam, Kenneth Bell, Andrea Beltran, Sophia Beltran, Stefanie I. Block, Andrea Cote Botero, Adriana Carolina Camacho, Adrian Cano, Daniel Carey-Whalen, Elvira Carrizal-Dukes, Jacory Carter, Norma Alvarez Castillo, Eric Chavez, Jonathan Alberto Contreras, Christina Cruz Cooney, Samantha Cooney, Kiara J. Diaz, Miguel Angel Escoto, Sergio Estrada, Kate Feuille, Jaclyn M. Fike-Taveras, Adrian Garcia, Juan Alberto Garcia, Alyssa Garza, Carolina De La Garza, Marco Gomez, Kathia Gonzalez, Fatima Gutierrez, Blanca Victoria Hernandez, Aaron Hockman, Rosalinda Hockman, Jennifer Holguin, Rebeka Isaac, Jorb Jensen, Aaron Johnson, Cynthia Juarez, Sabiha Khan, Yolanda Kraynick, Kiana M. Limon, Stephanie Limon, Jack Lopez, Natalia Lowe, Fernanda Lugo, Melissa Lugo, Imelda Lujan, Elizabeth Marie Luna, Elise Madrid, Sarah Celine Madrid, Michael Lee Maney, Rachel Marquez, Andrew Maxwell, Kimberly McKean, Brittany Medellin, Angel Melendez, Monica Michel, Desiree Savannah Miller, Maria Claudia Montesinos, D. Moran, Austin Isaiah Moreno, Marcos Adan Munoz, Deenay Sophia Ochoa, Marisa O'Donnell, Amabilia Payen, Sylvia Peregrino, Anna L. Perez, Aylin Perez, Tina M. Priester, Tina M. Priester, Maria Fernanda Peno Prieto, Jose Quintero, Cynthia Renteria, Esmeralda Resendez, Cassandra Alicia Reynolds, Ana Luisa Reza, Carlos Rodriguez, Shelby Ruff, Gabby Salas, Christopher Sandoval, Sylvia Searfoss, Ashlimae Silva, Joshua Blaine Simmons on behalf of Eco El Paso, Micah Smalley, Lillian Smith, Mia Solis, Nickie Solis, Tiffany Maria Somers, Kathleen Staudt, Diana Stone, April Thomas, Jess Tolbert, Lupita Torres, Bridgette M. Valdes, Mariana Vasquez, Marylu Vazquez, Jacob Aaron Waggoner, Anastasia Walhovd, Genevieve Simone Willgrubs, Sara Yazdi, Calvin Zielsdorf).

RESPONSE 2: The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment. The likelihood of whether adverse health effects caused by emissions from the terminal 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. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS), TCEQ Effects Screening Levels (ESLs), and TCEQ rules. As described in detail below, the Executive Director determined that the emissions authorized by this permit are protective of both human health and the environment.

The proposed renewal will authorize the Applicant to continue operation of the refinery's support terminal assets. This permit does not authorize the refinery process units which are authorized under a separate permit. In addition, through this renewal, the Applicant is incorporating previously issued Permits by Rule (PBRs) and a Standard Permit and has updated its tank emission calculations in accordance with the latest EPA guidance. This permit action will authorize an overall decrease of 102.35 tons per year of volatile organic compounds (VOCs), including a decrease of 1.83 tons per year of benzene, a decrease of 0.37 tons per year of toluene, and a decrease of 0.18 tons per year of xylene. Furthermore, emissions of hydrogen cyanide, sulfur chloride, and lead are not currently authorized or proposed to be authorized by this permit.

NAAQS

The U.S. Environmental Protection Agency (EPA) created and continues to evaluate the NAAQS, which include both primary and secondary standards, for pollutants considered harmful to public health and the environment.¹ Primary standards protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects from air contaminants. The EPA has set NAAQS for criteria pollutants, which include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), sulfur dioxide (SO₂), particulate matter less than or equal to 10 microns in aerodynamic diameter (PM₁₀), and PM less than or equal to 2.5 microns in aerodynamic diameter (PM_{2.5}).

The maximum allowable emission rates of criteria pollutants are not increasing in this project and were therefore not subject to a NAAQS review. However, these emissions were previously reviewed and determined to not exceed the NAAQS. Visible smog is formed when NO_x and VOCs react in the presence of sunlight. With respect to the ozone precursors (NO_x and VOC) authorized by this permit, the maximum allowable annual NO_x emission rate is not changing with this renewal action while the maximum allowable annual VOC emission rate is decreasing by 102.35 tons per year. Because ozone precursors will not increase as a result of this renewal, it is not expected that the renewal will contribute to increased ozone or smog in the area.

Health Effects Review

The Applicant conducted an air quality analysis for the emissions previously authorized by the PBRs that are proposed to be consolidated in this permit and for its

¹ 40 C.F.R. § 50.2

updated tank emissions, which were required to be recalculated in accordance with the latest EPA guidance.² In accordance with 30 TAC § 116.116(d)(2), emissions from consolidated PBRs must undergo an impacts review and utilize the best available control technology (BACT). The Applicant conducted a health effects analysis in accordance with the TCEQ's Modeling and Effects Review Applicability (MERA) guidance.³ The MERA provides a step-by-step process to evaluate non-criteria pollutants, on a chemical species by chemical species basis, in which the proposed emissions are evaluated against the ESL for the chemical species. The initial steps are simple and conservative, and as the review progresses through the process, the steps require more detail and result in a more refined (less conservative) analysis. If a contaminant meets the criteria of a step, the review of human health and welfare effects for that chemical species is complete and is said to "fall out" of the MERA process at that step because it is protective of human health and welfare.

ESLs are specific guideline concentrations used in TCEQ's evaluation of certain pollutants. These guidelines are derived by the TCEQ's Toxicology Division and are based on a pollutant's potential to cause adverse health effects, odor nuisances, and effects on vegetation. Health-based ESLs are set below levels reported to produce adverse health effects and are set to protect the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions. The TCEQ's Toxicology Division specifically considers the possibility of cumulative and aggregate exposure when developing the ESL values that are used in air permitting, creating an additional margin of safety that accounts for potential cumulative and aggregate impacts. Adverse health or welfare effects are not expected to occur if the air concentration of a pollutant is below its respective ESL. If an air concentration of a pollutant is above the screening level, it is not necessarily indicative that an adverse effect will occur, but rather that further evaluation is warranted. The results of the health effects analysis are summarized in Table 1.

Table 1. Health Effects Modeling Results

Pollutant & CAS#	Averaging Time	GLCmax (µg/m ³)	ESL (µg/m ³)
Diesel Fuel 68334-30-5	1-hr	98.24	1,000
	Annual	0.56	100
Gasoline 8006-61-9	1-hr	510.94 (<i>from all increases authorized since the last site-wide modeling was performed</i>); 318.71 (<i>from the increases proposed in this project only</i>)	3,500
	Annual	18.15	350
Refinery Lights -	1-hr	197.40	3,500

² These emissions were recalculated based on the most recent EPA guidance; however, this recalculation does not represent an increase in actual emissions.

³ See APDG 5874 guidance document.

Pollutant & CAS#	Averaging Time	GLCmax (µg/m ³)	ESL (µg/m ³)
Naphtha, petroleum, light alkylate 64741-66-8	Annual	3.87	350
Distillates (Petroleum), Crude Oil 68410-00-4	1-hr	94.57	3,500
	Annual	0.56	350
Benzene 71-43-2	1-hr	1.74	170
	Annual	0.01	4.5
Ethanol 64-17-5	1-hr	5,222.58	18,880
	Annual	1.53	1,880
Jet fuel	1-hr	77.54	1000
	Annual	0.03	100

As demonstrated in the table, all non-criteria pollutants were below their respective ESLs and therefore satisfied the MERA criteria and would not be expected to cause adverse health effects. In summary, based on the Executive Director's staff review, it is not expected that existing health conditions will worsen or that there will be adverse health effects on the general public, sensitive subgroups, public welfare or the environment as a result of the renewal of this permit.

COMMENT 3: ODOR

Commenters are concerned about odor from facilities associated with the renewal and stated that they have detected a smell or excessive fumes in residences located near the site. William Allen stated that he has frequently experienced eye irritation and a sulfurous smell even with his doors and windows shut. (William Allen, Norma Alvarez Castillo, Carolina De La Garza, Rachel Marquez)

RESPONSE 3: The potential for odor nuisance is reviewed through the use of ESLs. In this case, the particular ESLs considered in the review were health-based ESLs which are generally more restrictive than odor-based ESLs. As discussed in Response 2, the health effects review compared the emissions proposed to be authorized to the ESLs and determined that all emissions were below their ESL. In addition, the TCEQ El Paso Regional Office conducted a site review on June 12, 2020. The site review provided that the potential for nuisance condition and odor was low and noted that there was not an existing odor problem. However, individuals are encouraged to report any concerns about nuisance issues or odors by contacting the El Paso Regional Office at 915-834-4949 or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ evaluates all complaints received. If the facility is found to be out of compliance with the terms and conditions of the permit, it may be subject to possible enforcement action.

COMMENT 4: OPERATING HOURS

Maria Fernanda Pena Prieto expressed concern that the Applicant may be emitting excess carbon emissions during early morning hours. Rachel Marquez commented that she has smelled excessive fumes from the refinery during the early morning hours. (Rachel Marquez, Maria Fernanda Pena Prieto)

RESPONSE 4: The TCEQ does not have the authority to regulate the hours of operations of a facility or site if the permit review demonstrates all applicable federal and state regulations are met. The Applicant represented operations up to 8,760 hours per year. Accordingly, the permit does not contain limitations on the operating hours of the terminal. During the technical review, the Executive Director ensures that the emissions calculations are conservative by evaluating each emission point at its maximum operating conditions on both an hourly and annual basis. However, despite the representation of 8,760 hours per year, which is typically done for conservatism in modeling and flexibility in operations, facilities typically do not operate that many hours per year. *See* Response 2 for additional information about the review of the permit.

COMMENT 5: EMISSION RATES AND CALCULATIONS

Commenters questioned the accuracy and methodology for determining the emission rates for this renewal. Miguel Angel Escoto, Marlo Holguin, and Jesse Thomas expressed concern that the calculations were based on default values that do not reflect actual operations. These commenters stated that whenever possible, emissions calculation should be based on actual monitored emission data. Marlo Holguin commented that the refinery has been in operation for many years and as such emissions calculations should be based on actual monitored emissions data. Joshua Blaine Simmons requested that the Applicant be required to provide data based on actual on-site air quality monitors. Miguel Angel Escoto and Jesse Thomas commented that updating emissions rates for the tanks constitute a modification of the facility. (Miguel Angel Escoto, Marlo Holguin, Imedla Lujan, Joshua Blaine Simmons, Jesse Thomas, Anastasia Walhovd)

RESPONSE 5: Consistent with TCEQ and EPA approved methods, emissions from this terminal were determined using actual stack testing data, manufacturer's data, and by using the most updated emission factors provided by the EPA in the Compilation of Air Pollution Emissions Factors, AP-42 Manual.⁴

Permit No. 93546 authorizes multiple tanks that comprise the terminal assets. As required by the TCEQ, emission rates for liquid storage tanks must be calculated according to the estimation equations developed by the American Petroleum Institute (API) and presented in AP-42. Some of the applicable AP-42 equations and emission factors were updated in June 2020. As a result, TCEQ requires applicants seeking to renew authorization for storage tanks to update their emission calculations using the updated equations and emission factors. Accordingly, the renewal is not proposing new storage tank emissions, but rather the Applicant was required to update its calculations in accordance with EPA's updated AP-42 Manual. To calculate emission rates for each individual storage tank authorized by this permit, the Applicant used

⁴ The AP-42 Manual is available at <https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emissions-factors>.

the tank's specific design data, including tank diameter, height, liquid level, and roof type and also used specific operational data including stored liquid, hourly pump rate, and annual throughput. For each loading operation, the Applicant used specific operational data including volume of liquid loaded and vapor pressure of liquid loaded. The TCEQ permit reviewer reviewed the calculations, the proposed emission factors, and the control efficiencies represented in the application for accuracy and applicability and found the factors and corresponding calculations to be acceptable.

A modification of an existing facility is any physical change in or change in method of operation of a facility in a manner that increases the amount of any air contaminant emitted by the facility into the atmosphere or that results in the emission of any air contaminant not previously emitted. *See* 30 TAC § 116.10(9). With this renewal project, the Applicant has not proposed any physical changes or changes in operations of any storage tanks. Any change in authorized emission rates is due to the updated calculations and will not result in an increase of actual emissions. Therefore, updating the storage tank emission calculations does not constitute a modification.

Furthermore, the increases that resulted from the emission calculation updates were modeled and their modeled impacts were evaluated for protectiveness of the health and environment. *See* Response 2 for additional information about the review of the permit.

COMMENT 6: CONSOLIDATED PBRs

Miguel Angel Escoto and Jesse Thomas expressed concern that the Applicant has used Permits by Rule (PBRs) to authorize a major source in violation of the federal Clean Air Act. Specifically, the commenters stated that the Applicant has claimed multiple PBRs since October 2015 to authorize changes at the refinery and now seeks to incorporate those PBRs into this permit. The commenters stated the federal Clean Air Act and EPA rules prohibit the use of PBRs to authorize emissions that constitute a major stationary source and that because the refinery is a major source, it is ineligible to claim PBRs. Mr. Escoto and Mr. Thomas also stated that it is unclear from the application which sources at the refinery were authorized by PBR. The commenters also expressed concern that sources authorized by PBRs were not previously subject to a BACT review and requested that these sources be evaluated to ensure the Applicant is using BACT. (Miguel Angel Escoto, Jesse Thomas)

RESPONSE 6: The proposed renewal will authorize the Applicant to continue operation of the refinery's support terminal assets. This permit does not authorize the refinery which is authorized by a separate permit.

PBRs authorize sources with emission that are greater than de minimis but less than the level of emissions that would require an NSR case-by-case permit. The general requirements and specific PBRs are found in 30 TAC Chapter 106. In order to qualify for a PBR a facility must meet each condition of the rule exactly, with no exceptions, and must not exceed the strict emission limitations for sources authorized by PBR. *See* 30 TAC § 106.4(a)(1). When a PBR is claimed, a BACT review is not required because a BACT review was conducted at the time the PBR was promulgated. The TCEQ rules prohibit PBRs from being used to authorize major sources. *See* 30 TAC § 106.4(a)(2) (any facility or group of facilities, which constitutes a major stationary source ... or any modification which constitutes a major modification ... cannot qualify for a permit by rule under this chapter ...). Thus, while the rules prohibit PBRs from being used to

authorize a major source or major modification, they do not prevent an existing major source from using a PBR to authorize a new or modified facility if the facility or operation proposed to be authorized will not exceed the emissions limitations applicable to any source authorized by PBR.

The Applicant proposed to incorporate several PBRs and a Standard Permit into this permit as required by the TCEQ rules. *See* 30 TAC § 116.116(d)(2). The Applicant identified the facilities being incorporated in TCEQ Form PI-1 General Application on tabs "General" and "Unit Types - Emission Rates", the latter of which listed them on a facility (emitting source) basis. In addition, the specific facilities or emissions authorized by PBR and how they are being incorporated into this permit are listed in Attachment A. For all PBRs being incorporated into the permit by consolidation, the permit reviewer confirmed which authorized sources will be administratively transferred into this NSR permit and evaluated those sources to ensure emission rate estimates were accurate and that the BACT would be utilized. In addition, as described in Response 2, an impacts review was conducted for these emissions. *See* Response 2 for additional information on the impacts review and Response 8 concerning BACT.

COMMENT 7: REPRESENTED MSS LIMITATIONS

Miguel Angel Escoto and Jesse Thomas expressed concern that the Applicant's planned maintenance, startup, and shutdown emissions were based on a maximum number of startup hours. These commenters asked that the permit incorporate the Applicant's representations so that they are enforceable. (Miguel Angel Escoto, Jesse Thomas)

RESPONSE 7: An applicant is bound by representations it makes in an application and those representations become an enforceable part of the permit. *See* 30 TAC § 116.116(a)(1) (Representations regarding construction plans and operation procedures become conditions upon which a permit is issued). The Applicant is therefore bound to the representations in the application, including any representations concerning the maximum number of startup hours for MSS activities.

Additionally, Special Condition No. 47 of the draft permit explicitly limits combustion units at the site to a maximum of 96 hours per year for planned startups and shutdowns. This special condition also limits each planned startup period to a duration not to exceed eight hours and each shutdown period to a duration not to exceed four hours. The permit holder is required to maintain records of start and end times of each planned MSS activity and documentation that the requirements for each activity have been satisfied. Records must be made available upon request to representatives of the TCEQ, EPA, or any local air pollution control program having jurisdiction.

COMMENT 8: BEST AVAILABLE CONTROL TECHNOLOGY

Commenters questioned whether the permit requires the use of the best available control technology (BACT). Yolanda Kraynick commented that the permit should only be renewed if it includes significant air pollution controls to reduce negative impacts on the community. Anastasia Walhovd commented that the Applicant must agree to lower its emissions and update relevant equipment and technology to reduce emissions. (Yolanda Kraynick, Anastasia Walhovd)

RESPONSE 8: As part of the evaluation of applications for new or amended permits, the permit reviewer audits all sources of air contaminants in the proposed project and assures that each facility will be using the best available control technology (BACT) applicable for the facility and types of contaminants emitted. BACT is an air pollution control method for a new or modified facility that through experience and research, has proven to be operational, obtainable, and capable of reducing or eliminating emissions from the facility, and is considered technically practical and economically reasonable for the facility. BACT may be numerical limitations, the use of an add-on control technology, design considerations, the implementation of work practices, or operational limitations. The sources authorized by the existing permit were subject to a BACT review during the initial authorization. When a permit is renewed, any consolidated PBR sources must be evaluated to meet BACT. The permit reviewer evaluated the represented BACT and confirmed it to be acceptable for the consolidated PBR sources.

In addition, the Applicant represented that BACT will be satisfied for the PBR sources that are being incorporated by consolidation into this permit.

The contaminants authorized by this permit are PM, PM₁₀, PM_{2.5}, VOC, NO_x, CO, SO₂, Benzene, H₂S, NH₃, Toluene, and Xylene. The primary control measures demonstrated to satisfy BACT for the PBR consolidated sources are:

- External floating roof storage tanks (EPNs T-202, T-165, T-126, T-117, 124, 44) are painted white and equipped with a mechanical shoe primary seal and a rim-mounted secondary seal. Tanks T-210, T-183, and T-137 have slotted guide poles with pole sleeves, and wipers. The maximum true vapor pressure of stored materials is less than 11 psia. These design features and operations limitations meet TCEQ BACT.
- During tank MSS activities, the permit holder must comply with best management practices. Tank roof landings are limited to change of tank service or tank inspection and maintenance as identified in the permit application and vapors must be routed to a control device for degassing. Recordkeeping requirements are specified in the permit conditions. These work practices and operational limitations are considered BACT.
- All fixed roof tanks have permanent submerged fill pipes and white or aluminum exterior surfaces. These design features meet BACT.
- Piping and Equipment Leak fugitive emissions are subject to the 28VHP Leak Detection and Repair (LDAR) monitoring program for VOCs and audio, visual, and olfactory (AVO) inspections for H₂S. These work practices meet BACT.
- Truck loading activities must implement submerged or bottom loading. Splash loading is not allowed. This operational limitation meets BACT.

COMMENT 9: PERMIT RENEWAL SCHEDULE

Commenters expressed concern about the permit renewal schedule. Elizabeth Day expressed concern that a 10-year renewal period was not enough to ensure compliance. Cynthia Renteria commented that she opposed issuing the Applicant a 10-year permit. (Camila Abbud, Melissa Armendariz, Eric Chavez, Samantha Cooney, Elizabeth Day, Cynthia Juarez, Natalia Lowe, Michael Lee Maney, Monica Michel, Marisa O'Donnell, Cynthia Renteria, Ana Luisa Reza, Jess Tolbert)

RESPONSE 9: In accordance with TCAA § 382.055(2)(A) and the TCEQ rules at 30 TAC § 116.315(d)(2), the permit is subject to renewal every 10 years after the date of issuance. Permit No. 93546 was due to expire on May 23, 2021, and, therefore, the Applicant submitted a renewal application on December 10, 2020.

COMMENT 10: STRICTER EMISSION LIMITS/REGULATIONS

Commenters requested that TCEQ decrease the allowable emission rates, enforce stronger emissions limits, and require additional controls as a condition of the issuance of the renewal. (Representative Veronica Escobar, Carol G. Bahmueller, Gregory Beam, Kenneth Bell, Stefanie I. Block, Andrea Cote Botero, Christina Cruz Cooney, Kate Feuille, Jaclyn M. Fike-Taveras, Jennifer Holguin, Aaron Johnson, Sabiha Khan, Yolanda Kraynick, Elizabeth Marie Luna, Kimberly McKean, Savannah Miller, Sylvia Searfoss, Tiffany Maria Somers, April Thomas, Marylu Vazquez, Anastasia Walhovd)

RESPONSE 10: As described throughout this Response, TCEQ staff reviewed the permit application in accordance with the applicable state and federal law, policy, and procedures; and in accordance with the agency's mission to protect the state's public health and natural resources consistent with sustainable economic development. The combination of controls and control measures as specified in the permit meet current BACT requirements for plants of this type. The TCEQ cannot require an applicant to use more stringent requirements than those required for other similar facilities unless there is a documented unsatisfactory compliance history. *See* Response 12 concerning compliance history.

The EPA is the regulatory agency charged with ensuring the NAAQS are set at levels that are protective of human health and welfare. As such, concerns about the protectiveness of the current NAAQS are beyond the jurisdiction of the TCEQ. In determining whether and under which conditions a preconstruction permit should be renewed, TCAA § 382.055(e) provides that the commission shall not impose conditions more stringent than the existing permit as a condition for renewal unless the commission determines more stringent conditions are necessary to avoid a condition of air pollution or to ensure compliance with other state and federal air quality control requirements. The renewal review is intended to continue the operation for which a permit was originally sought. It is not intended to authorize changes in operation, physical modifications, or construction of new facilities. *See* Response 2 for more information concerning the health effects review and Response 8 concerning BACT.

COMMENT 11: NONATTAINMENT STATUS/NONATTAINMENT PERMIT

Commenters are concerned that El Paso County is in nonattainment and that the emissions proposed to be renewed will prevent the county from reaching attainment. Several commenters are particularly concerned that overall pollution levels of the city

of El Paso are much higher than the federal Clean Air Act standards. Miguel Angel Escoto commented that the new nonattainment designation for ozone will apply stricter emission standards that will affect the refinery. Mr. Escoto expressed concern that the Applicant was attempting to rush this renewal to avoid the applicability of these nonattainment permitting requirements. Veronica Carbajal commented that El Paso's nonattainment status should be grounds for denying this permit. (Andrea Beltran, Sophia Beltran, Veronica Carbajal, Miguel Angel Escoto, Kathia Gonzalez, Fatima Gutierrez, Blanca Victoria Hernandez, Jobb Jensen, Fernanda Lugo, Melissa Lugo, Elise Madrid, Sarah Celine Madrid, Brittany Medellin, Monica Michel, D. Moran, Austin Isaiah Moreno, Deenay Sophia Ochoa, Aylin Perez, Ana Luisa Reza, Shelby Ruff, Ashlimae Silva, Joshua Simmons on behalf of Eco El Paso, Mia Solis, Bridgette M. Valdes, Sara Yazdi)

RESPONSE 11: The Federal Clean Air Act (FCAA) requires EPA to determine whether areas meet the NAAQS. EPA designates areas as attainment, nonattainment, or unclassifiable. As of the date of the filing of this Response, El Paso County is currently designated as moderate nonattainment for PM₁₀, marginal nonattainment for ozone, and attainment or unclassifiable for all other pollutants. The FCAA requires states to develop State Implementation Plans (SIPs) to address attainment and maintenance of the NAAQS. A SIP is a collection of regulations and documents used by a state, territory, or local air district to implement, maintain, and enforce the NAAQS and to fulfill other requirements of the FCAA. The Texas SIP, which is federally enforceable, includes Texas' NSR permitting programs for both major and minor sources, and these programs implement both the FCAA and the TCAA.

In an effort to help protect public health and welfare, the FCAA created two Major New Source Review permitting programs. The Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) permitting programs to apply to new major sources, and major modifications of existing major sources. The PSD permitting program is applicable for criteria pollutants in areas that are in compliance with the NAAQS for that pollutant. The PSD permitting program is also applicable to certain non-criteria pollutants. The NNSR permitting program is applicable for criteria pollutants in areas which are out of compliance (or in nonattainment) with the NAAQS for that pollutant. When a project is proposed, and review is begun by TCEQ, one of the first steps is to check whether major NSR review is applicable. The applicability of the Nonattainment New Source Review (NNSR) permitting program to applications in nonattainment areas is set forth in federal and state rules. *See* 40 CFR §§ 51.165(a)(1)(iv)(A), 51.165(a)(1)(x)(A), 51.165(a)(9), and 51.165(a)(10) and 30 TAC §§ 116.150 and 116.151. For an existing source in El Paso County, NNSR would apply to a major modification of a source that meets the emissions thresholds based on the nonattainment pollutant and area classification as defined in 30 TAC § 116.12(20). Because the project is not a major modification, NNSR does not apply.

COMMENT 12: COMPLIANCE HISTORY/ EMISSIONS EVENTS / UNAUTHORIZED EMISSIONS

Commenters expressed concern about the Applicant's compliance history and, more specifically, about unauthorized emissions. Several commenters stated that a recent report demonstrated that the Applicant has been emitting in excess of authorized limits. In addition, several commenters expressed concern that the Applicant is self-reporting unauthorized emissions and stated that the TCEQ should be conducting

emissions testing to ensure compliance and hold the Applicant accountable for violations. Veronica Carbajal stated that the refinery's 2016 Settlement Agreement with EPA should be grounds for denying the permit. (Camila Abbud, Melissa Armendariz, Kenneth Bell, Veronica Carbajal, Samantha Cooney, Miguel Angel Escoto, Cynthia Juarez, Melissa Lugo, Imelda Lujan, Michael Lee Maney, Monica Michel, Maria Claudia Montesinos, Amabilia Payen, Cynthia Renteria, Ana Luisa Reza, Shelby Ruff, Christopher Sandoval, Sylvia Searfoss, Joshua Simmons on behalf of Eco El Paso, Jesse Thomas, Jess Tolbert, Marylu Vazquez, Jacob Aaron Waggoner, Anastasia Walhovd, Sara Yazdi)

RESPONSE 12: During the technical review of a permit application, a compliance history review of both 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:
<https://www.tceq.texas.gov/rules/index.html>.

The compliance history is reviewed for the five-year period prior to the date the permit application was received and includes multimedia compliance-related components about the site under review. These components include: 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.

A company and site may have one of the following classifications and ratings:

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

This site has a rating of 0.45 and a classification of Satisfactory. The company has a rating of 0.45, and a classification of Satisfactory. The company rating reflects the average of the ratings for all sites the company owns in Texas.

The Western Refining Clean Air Act Settlement was an enforcement action taken by the EPA in response to violations of the Clean Air Act. The action resulted in a consent decree that imposed a penalty and required several corrective actions to be implemented by the Applicant. The applicable requirements from the consent decree applicable to the terminal have been implemented and are included in Special Condition 53 of the draft permit.⁵

The Maximum Allowable Emission Rate Table (MAERT) in the permit lists the only emissions authorized to be emitted from the terminal. The TCEQ defines an upset event as an unplanned or unanticipated occurrence or excursion of a process or operation that results in an unauthorized emissions of air contaminants. An upset event that results in unauthorized emissions from an emission point is an emissions event. If an upset occurs, the permit holder must comply with the requirements in

⁵ More information about the Western Refining Clean Air Act Settlement is available at <https://www.epa.gov/enforcement/western-refining-clean-air-act-settlement>.

30 TAC § 101.201 regarding the recording and reporting of emission events. If the permit holder fails to report in accordance with 30 TAC § 101.201, the commission may initiate enforcement action for failing to report the underlying emissions event itself.

In accordance with 30 TAC § 101.201(a), regulated entities are required to notify the TCEQ regional office within 24 hours of the discovery of releases into the air and in advance of maintenance activities that could or have resulted in emissions in excess of a reportable quantity. The reportable quantity varies based on the air contaminant released. In the event a citizen is adversely impacted by air emissions from this or any other facility, they may register a complaint with the TCEQ El Paso Regional Office at 915-834-4949 or by calling the 24-hour toll free Environmental Complaints Hotline at 1-888-777-3186. Complaints are addressed in accordance with TCEQ procedures. Staff from the TCEQ regional office review all complaints and may conduct investigations.

COMMENT 13: OFFSETS

Jacob Aaron Waggoner questioned what efforts would be made to offset the environmental impact of this facility.

RESPONSE 13: Permits subject to Nonattainment NSR (NNSR) are required to offset emissions increases. An "offset" is an actual emission reduction of the pollutant or precursor pollutant that is increasing and must be obtained prior to operation. The offset ratio depends on the nonattainment classification. *See generally* 30 TAC § 116.12(23). As described in Response 11, this permit renewal is not subject to NNSR and therefore the Applicant was not required to obtain emission offsets. However, as described in Response 2, the emissions proposed to be authorized will not exceed state and federal standards and would not be expected to cause adverse health effects or impact the environment.

COMMENT 14: WATER QUALITY

Jamie J. Cano expressed concern about impacts to water quality and requested that TCEQ test the water in the neighborhoods surrounding the refinery.

RESPONSE 14: Although the TCEQ is responsible for the environmental protection of all media (i.e., air, water, and the safe disposal of waste), the TCAA specifically addresses air-related issues. This permit will regulate the control and abatement of air emissions only. Therefore, issues regarding water quality issues or water testing are not within the scope of the review of this application.

Individuals are encouraged to report environmental concerns, including water quality issues, or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the TCEQ El Paso Region Office at 915-834-4949 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ reviews all complaints received. If the facility is found to be out of compliance with the terms and conditions of the permit, the Applicant may be subject to enforcement action.

COMMENT 15: LOCATION / ECONOMIC IMPACTS

Commenters expressed concern regarding the location of the terminal and its proximity to residential and public areas, including schools. Several commenters stated

that the facility should be relocated or shut down. Kathleen Staudt commented that EPA data shows nearby Ramona Elementary School is in the top 1% of the most contaminated campuses for soil and air quality. Christopher Sandoval expressed concern about indoor air quality at nearby schools and stated that a study determined that indoor air quality at schools located near refineries contained toxic contaminants. Jacob Aaron Waggoner questioned what alternative sites have been considered. (William Allen, Kenneth Bell, Eric Chavez, Samantha Cooney, Hannah Curtis, Kiara J. Diaz, Alyssa Garza, Aaron Hockman, Sabiha Khan, Elise Madrid, Angel Melendez, Monica Michel, Desiree Savannah Miller, Marcos Adan Munoz, Marisa O'Donnell, Anna L. Perez, Torri Jennifer Reynolds, Shelby Ruff, Christopher Sandoval, Nickie Solis, Kathleen Staudt, Marylu Vazquez, Jacob Aaron Waggoner, Sara Yazdi)

Yolanda Kraynick expressed concern that the terminal would negatively impact future progress, growth, and economic opportunities for other businesses in the area. (Yolanda Kraynick)

RESPONSE 15: The TCAA establishes the TCEQ's jurisdiction to regulate air emissions in the state of Texas. The TCEQ's review of requests for air quality authorizations is limited to a review of the best available control technology (BACT) and a health effects review. 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 a statute or rule 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. Similarly, the TCEQ does not have the authority to consider potential economic effects when determining whether to approve or deny an air quality permit.

The TCEQ's authority is limited to ambient (outdoor, off-property) air resources. Ambient air is defined as "that portion of the atmosphere, external to buildings, to which the general public has access" as specified in 30 TAC § 101.1(4). As such, the TCEQ does not have the authority to regulate indoor air quality. However, in accordance with TCAA § 382.052, the TCEQ must consider possible adverse health effects on individuals attending schools located within 3,000 feet of a facility or proposed facility. The area map supplied with the application showed Ramona Elementary School is within 3,000 feet of the terminal. As described in Response 2, an impacts evaluation was conducted for all contaminants with allowable emission increases and from the consolidated PBRs and Standard Permit as required for a renewal. Based on the impacts evaluation, it is not expected that existing health conditions will worsen or that there will be adverse health effects on the general public, sensitive subgroups, or the public welfare and the environment as a result of proposed renewal.

COMMENT 16: CORPORATE PROFITS

Commenters questioned the corporate profits made by this terminal at the cost to the surrounding community. Several commenters expressed concern that the TCEQ prioritizes business interests over the health and welfare of citizens. (Gregory Beam, Kenneth Bell, Andrea Beltran, John William Brown, Adriana Carolina Camacho, Adrian Cano, Eric Chavez, Christina Cruz Cooney, Kiara J. Diaz, Imelda Lujan, Brittany Medellin, Alyssa Navarrette, Anna L. Perez, Jose Quintero, Esmeralda Resendez, Cassandra Alicia Reynolds, Ashley Rodarte, Carlos Rodriguez, Kathleen Staudt, Lupita Torres)

RESPONSE 16: 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. Further, TCEQ is not authorized to consider a company's financial status or profits in determining whether a permit should be issued.

COMMENT 17: FOSSIL FUELS / RENEWABLE ENERGY / CHEMICAL POLICY REFORM

Commenters stated that the permit should not be issued on the grounds that the Applicant's facility involves fossil fuel production. Commenters also stated that the TCEQ should incentivize investment in renewal energy sources. In addition, several commenters stated that there is a need for an overall chemical policy reform.

(Andrea Beltran, Adrian Cano, Samantha Cooney, Hannah Curtis, Adrian Garcia, Carolina De La Garza, Blanca Victoria Hernandez, Rebeka Isaac, Jorb Jensen, Cynthia Juarez, Kiana M. Limon, Stephanie Limon, Melissa Lugo, Elise Madrid, Brittany Medellin, Monica Michel, Austin Isaiah Moreno, Deenay Sophia Ochoa, Marisa O'Donnell, Aylin Perez, Shelby Ruff, Ashlimae Silva, Joshua Simmons on behalf of Eco El Paso, Kathleen Staudt, Jess Tolbert)

RESPONSE 17: Control technologies and facilities for projects are proposed by applicants. The TCEQ cannot require that other facilities be proposed, but rather must review the facilities as proposed in the application. Accordingly, the Executive Director may not deny a permit on the basis that it does not propose a renewable energy source. The TCEQ does not have the authority to provide incentives to direct or influence investment in any technology or industry. In addition, unless specifically incorporated into the applicable law, policy, or procedures applicable to this permit, changes to federal regulations or chemical policy reform are not within the scope of this permit review.

COMMENT 18: CLIMATE CHANGE

Commenters are concerned about the effects of this renewal in relation to climate change. Several commenters stated that it is irresponsible for the Applicant to request increased allowable emission rates. Additionally, several commenters stated that the threat of climate change is especially serious considering the COVID-19 pandemic. (Representative Veronica Escobar, Camila Abbud, Melissa Armendariz, De Aztlan, Andrea Beltran, Sophia Beltran, Adrian Cano, Veronica Carbajal, Elvira Carrizal-Dukes, Jonathan Alberto Contreras, Samantha Cooney, Hannah Curtis, Miguel Angel Escoto, Sergio Estrada, Adrian Garcia, Richard Genera, Kathia Gonzalez, Fatima Gutierrez, Blanca Victoria Hernandez, Rebeka Isaac, Jorb Jensen, Aaron Johnson, Cynthia Juarez,

Yolanda Kraynick, Kiana M. Limon, Stephanie Limon, Fernanda Lugo, Melissa Lugo, Imelda Lujan, Elise Madrid, Sarah Celine Madrid, Michael Lee Maney, Rachel Marquez, Brittany Medellin, Monica Michel, D. Moran, Austin Isaiah Moreno, Deenay Sophia Ochoa, Amabilia Payen, Aylin Perez, Cynthia Renteria, Ana Luisa Reza, Ashley Rodarte, Shelby Ruff, Gabby Salas, Christopher Sandoval, Sebastian Servin, Ashlimae Silva, Joshua Simmons, Mia Solis, Kathleen Staudt, Babak Tavakoli, Jess Tolbert, Bridgette M. Valdes, Marylu Vazquez, Sara Yazdi)

RESPONSE 18: EPA has stated that unlike the criteria pollutants for which EPA has historically issued Prevention of Significant Deterioration (PSD) permits, there is no National Ambient Air Quality Standard (NAAQS) for greenhouse gases (GHGs), including no PSD increment. Climate change modeling and evaluations of risks and impacts are typically conducted for changes in emissions that are orders of magnitude larger than the emissions from individual projects that might be analyzed in permit reviews. Thus, EPA has concluded it would not be meaningful to evaluate impacts of GHG emissions on a local community in the context of a single permit. For these reasons, the TCEQ has determined that an air quality analysis for GHG emissions would provide no meaningful data and has not required the Applicant to perform one.

Furthermore, the Applicant is not requesting an allowable increase in annual emissions of any pollutants and the overall allowable annual emissions of VOCs will be decreasing by 102.35 tons per year. The proposed renewal project did not trigger a GHG major action, there is not a GHG permit associated with Permit No. 93546, and therefore GHG air permitting was not applicable to this renewal project.

COMMENT 19: ENVIRONMENTAL JUSTICE

Commenters expressed concern about environmental justice. Many commenters stated that the community contains vulnerable populations, including low income, Spanish speaking, immigrant, Hispanic, and Mexican-American children and families. Several commenters are concerned that residents exposed to the emissions from the facility do not have adequate access to healthcare. Some commenters are also concerned that black and Hispanic Americans are disproportionately exposed to industrial emissions. Veronica Carbajal commented that the permit runs counter to the goals of President Biden's Executive Order on Environmental Justice. (Representative Veronica Escobar, Camila Abbud, Torri Jennifer Ainsa, Melissa Armendariz, Cemelli De Aztlan, Kenneth Bell, Andrea Beltran, Sophia Beltran, Veronica Carbajal, Elvira Carrizal-Dukes, Jonathan Alberto Contreras, Samantha Cooney, Hannah Curtis, Kiara J. Diaz, Alyssa Garza, Marco Gomez, Kathia Gonzalez, Fatima Gutierrez, Blanca Victoria Hernandez, Rebeka Isaac, Jorb Jensen, Cynthia Juarez, Kiana M. Limon, Stephanie Limon, Fernanda Lugo, Melissa Lugo, Elise Madrid, Sarah Celine Madrid, Michael Lee Maney, Brittany Medellin, Monica Michel, D. Moran, Austin Isaiah Moreno, Deenay Sophia Ochoa, Marisa O'Donnell, Amabilia Payen, Aylin Perez, Mia Ramirez, Cynthia Renteria, Cassandra Alicia Reynolds, Shelby Ruff, Christopher Sandoval, Ashlimae Silva, Mia Solis, Kathleen Staudt, Diana Stone, Jess Tolbert, Bridgette M. Valdes, Marylu Vazquez, Sara Yazdi)

RESPONSE 19: Air permits evaluated by the TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community. The TCEQ is committed to protecting the health of the people of Texas and the environment regardless of facility location. A health effects review was conducted for this renewal during the technical review of the application and the permit was found to be protective of human health and the environment as discussed in Response 2.

The TCEQ encourages participation in the permitting process. The Office of the Chief Clerk works to help the public 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 concerns are considered thoroughly and are handled in a way that is fair to all. You may contact the Office of the Chief Clerk at 512-239-3300 for more information.

In addition, as described in the Background section above, the public notice for this permit application was published in Spanish, on January 15, 2021, in *El Diario de El Paso*. In addition, a Spanish-language interpreter was present at the public meeting to ensure persons with limited English proficiency were able to fully participate in the permitting process and ask questions of both the TCEQ staff and the Applicant. More information on Environmental Equity may be found on the TCEQ website:

<https://www.tceq.texas.gov/agency/hearings/envequ.html>.

COMMENT 20: TCEQ's RESPONSIBILITY TO THE COMMUNITY / PROJECT OPPOSITION AND SUPPORT

Commenters expressed opposition to the renewal of the permit and asked that the TCEQ not issue the renewal. Ashley Bangert commented that allowing the Applicant to continue polluting the air is irresponsible. Carlos Rodriguez commented that inhumane and evil companies must be stopped from killing nearby communities. Jennifer Holguin commented that citizens pay taxes so TCEQ can do its job and provide clean air. Miguel Angel Escoto urged TCEQ to deny the permit on the basis that it is insufficient and unjust. Maria Claudia Montesinos commented that issuing the renewal is criminal.

Thomas W. Brashier commented in support of the renewal and stated that the facility produces an essential product and provides employment. Aaron Johnson also commented in support of the renewal provided there are associated decreases in emissions.

(Camila Abbud, Ericka Amador, Melissa Armendariz, Cemelli De Aztlan, Carol G. Bahmueller, Ashley Bangert, Kenneth Bell, Andrea Beltran, Sophia Beltran, Thomas W. Brashier, John William Brown, Adriana Carolina Camacho, Adrian Cano, Veronica Carbajal, Elvira Carrizal-Dukes, Jacory Carter, Norma Alvarez Castillo, Eric Chavez, Jonathan Alberto Contreras, Christina Cruz Cooney, Samantha Cooney, Hannah Curtis, Kiara J. Diaz, Miguel Angel Escoto, Sergio Estrada, Kate Feuille, Jaclyn M. Fike-Taveras, Adrian Garcia, Alyssa Garza, Carolina De La Garza, Richard Genera, Kathia Gonzalez, Fatima Gutierrez, Blanca Victoria Hernandez, Aaron Hockman, Rosalinda Hockman, Jennifer Holguin, Marlo Holguin, Rebeka Isaac, Jobb Jensen, Aaron Johnson, Cynthia Juarez, Kiana M. Limon, Stephanie Limon, Jack Lopez, Natalia Lowe, Fernanda Lugo, Melissa Lugo, Elise Madrid, Sarah Celine Madrid, Michael Lee Maney, Andrew Maxwell, Brittany Medellin, Angel Melendez, Monica Michel, Desiree Savannah Miller, Maria Claudia Montesinos, D. Moran, Austin Isaiah Moreno, Marcos Adan Munoz, Alyssa

Navarrette, Deenay Sophia Ochoa, Marisa O'Donnell, Joshua Blaine Simmons (on behalf of Eco El Paso), Amabilia Payen, Sylvia Peregrino, Anna L. Perez, Aylin Perez, Tina M. Priester, Maria Fernanda Pena Prieto, Jose Quintero, Mia Ramirez, Cynthia Renteria, Esmeralda Resendez, Cassandra Alicia Reynolds, Ana Luisa Reza, Ashley Rodarte, Carlos Rodriguez, Shelby Ruff, Jon S., Gabby Salas, Jacob Salgado, Christopher Sandoval, Albert De Santos, Sylvia Searfoss, Sebastian Servin, Ashlimae Silva, Micah Smalley, Lillian Smith, Mia Solis, Nickie Solis, Tiffany Maria Somers, Kathleen Staudt, Diana Stone, Babak Tavakoli, Jesse Thomas, Jess Tolbert, Lupita Torres, Bridgette M. Valdes, Marylu Vazquez, Jacob Aaron Waggoner, Anastasia Walhovd, Genevieve Simone Willgrubs, Sara Yazdi, Calvin Zielsdorf)

RESPONSE 20: The TCEQ appreciates the comments and interest from the public in environmental matters before the agency and acknowledges the comments in opposition and support of the permit renewal. The TCAA establishes the TCEQ's jurisdiction to regulate air emission in the state of Texas. TCEQ's review of requests for air quality authorizations to emit air contaminants is limited to a review of the best available control technology (BACT) and a health effects review. The TCEQ cannot deny a permit if an applicant demonstrates that all applicable statutes, rules, and regulations will be met. Special conditions and a maximum allowable emission rates table are created to establish limits for the operation of the terminal. The permit conditions are developed such that if the terminal is operated within the terms and conditions of the permit it will operate in compliance with standards outlined in the TCAA and all applicable state and federal rules and regulations.

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
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Attachment A
Permit by Rule and Standard Permit Incorporation

Permit by Rule (PBR) / Standard Permit / Permit Nos.	Authorization	Description (and affected EPNs)	Action (Reference / Consolidate / Void)
PBR Registration No. 140939	30 TAC § 106.261 and § 106.262	Evaluate Dryness of Liquid Petroleum Gases per ASTM D2713 (LPG Freeze Test)	Reference
Standard Permit Registration No. 159720	Non rule Pollution Control Project Standard Permit	Portable combustion system comprised of a Portable Equalizer Tank and Vapor Burner to control emissions from loading and unloading operations (Portable Vapor Combustion Unit)	Reference
PBR Registration No. 162737	30 TAC § 106.263 and 30 TAC § 106.472	Replacement tank; Replaced T-106 with Tank T-102b (normal and MSS operations). PBRs §106.472 and §106.263 authorized both routine tank emissions and MSS operations (EPNs T-102b and T-102b-MSS).	Reference
PBR Registration No. 162737	30 TAC § 106.261	Replacement tank; Replaced T-106 with Tank T-102b (normal and MSS operations). PBR §106.261 authorized fugitive emissions associated with this tank replacement project and is being consolidated (EPN TNK-FUG-T). Only EPN TNK-FUG-T will be consolidated into the permit.	Partial Consolidation
Claimed PBR/Not Registered	30 TAC § 106.263	TK-136 MSS	Reference
Claimed PBR/Not Registered	30 TAC § 106.261	TK-136 Fugitives	Reference
Claimed PBR/Not Registered	30 TAC § 106.511	Wacker Neuson G 100 mobile generator	Reference
PBR Registration No. 138663	30 TAC § 106.261 and § 106.263	PBR authorized the South Alkylation Units Corrosion Identification and Control Project which included authorizations for EPNs 44 (Permit No 93546), Alky-MSS (Permit No. 18897), F-5 (Permit No. 18897), F-20S (Permit No.	Partial Consolidate

Permit by Rule (PBR) / Standard Permit / Permit Nos.	Authorization	Description (and affected EPNs)	Action (Reference / Consolidate / Void)
		18897), T4272 (Permit No. 18897), T4273 (Permit No. 18897), and 122 (Permit No. 18897). Only EPN 44 will be consolidated into the permit.	
PBR Registration No. 139750	30 TAC § 106.261	PBR authorized the 2015 annual fugitive emission change which included authorizations for EPNs TNK-FUG-T, FUG-T, FUELFUG, F-16S-T.	Partial Consolidate
PBR Registration No. 142938	30 TAC § 106.261, § 106.262 and § 106.263	PBR authorized the installation of equipment to route CCTM (Crude Collector Tray Material) and transmix to the FCCU Unit which led to an increase in emissions at the tanks and the associated units which included authorizations for EPNs F-16N (NSR Permit No. 18897), F-11 (NSR Permit No. 18897), 112 (NSR Permit No. 18897), TranColMSS (NSR Permit No. 18897), T-126 (NSR Permit No. 93546), T-202 (NSR Permit No. 93546), T-117 (NSR Permit No. 93546), T-165 (NSR Permit No. 93546), T-183 (NSR Permit No. 93546), T-136 (NSR Permit No. 93546), 124 (NSR Permit No. 93546), 119 (NSR Permit No. 93546), and 120 (NSR Permit No. 93546). Only EPNs T-126, T-202, T-117, T-165, T-183, T-136, 124, 119, and 120 will be consolidated into the permit.	Partial Consolidate
PBR Registration No. 145691	30 TAC § 106.261	PBR authorized the 2016 annual fugitive emission change which included authorizations for EPNs TNK-FUG-T, FUG-T, FUELFUG, F-16S-T.	Partial Consolidate
PBR Registration No. 150238	30 TAC § 106.261 and § 106.262	PBR authorized Transmix Unloading which included EPN TNK-FUG-T	Consolidate
PBR Registration No. 151223	30 TAC § 106.261	PBR authorized the 2017 annual fugitive emission change, which	Partial Consolidate

Permit by Rule (PBR) / Standard Permit / Permit Nos.	Authorization	Description (and affected EPNs)	Action (Reference / Consolidate / Void)
		included authorizing additional fugitive emissions for EPNs TNK-FUG-T, FUG-T, FUELFUG, F-16S-T.	
PBR Registration No. 156429	30 TAC §106.261	PBR authorized the 2018 annual fugitive emission change which included authorizing additional fugitive emissions for EPNs TNK-FUG-T, FUG-T, FUELFUG, F-16S-T.	Partial Consolidate
PBR Registration No. 160826	30 TAC §106.261	PBR authorized the 2019 annual fugitive emission change which included authorizing additional fugitive emissions for EPNs TNK-FUG-T, FUG-T, FUELFUG, F-16S-T.	Consolidate
PBR Registration No. 159664	30 TAC § 106.261	PBR authorized a marketing terminal throughput Increase which included authorizations for EPN CA-SK and LRACK-FUG.	Consolidation