

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Office of Chief Clerk **DATE:** April 6, 2023

**From:** Anthony Tatu  
Staff Attorney  
Environmental Law Division

**Subject:** Backup Documents Filed for Consideration of Hearing Requests at  
Agenda

Applicant: Kinder Morgan Petcoke  
Proposed Permit No.: WQ0002659000  
Program: Water  
Docket No.: TCEQ Docket No. 2023-0387-IWD

Enclosed please find a copy of the following documents for inclusion in the background material for this permit application:

- Draft permit
- Fact sheet and ED's preliminary decision
- Compliance history report



TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

P.O. Box 13087  
Austin, Texas 78711-3087

PERMIT TO DISCHARGE WASTES  
under provisions of  
Section 402 of the Clean Water Act  
and Chapter 26 of the Texas Water Code

Kinder Morgan Petcoke, L.P.

whose mailing address is

9847 Lawndale Street  
Houston, Texas 77017

is authorized to treat and discharge wastes from Sims Bayou Petcoke Facility, a petroleum coke railcar handling facility (SIC 5052)

located 9847 Lawndale Street, in the City of Houston, Harris County, Texas 77017

directly to Sims Bayou Tidal in Segment No. 1007 of the San Jacinto River Basin

only according to effluent limitations, monitoring requirements, and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight, five years from the date of permit issuance.

ISSUED DATE:

TPDES PERMIT NO.  
WQ0002659000  
*[For TCEQ office use only -  
EPA I.D. No. TX0104051]*

This major amendment replaces  
TPDES Permit No.  
WQ0002659000, issued on  
December 13, 2017.

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For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge<sup>1</sup> process wastewater <sup>2</sup> and stormwater associated with industrial activity subject to the following effluent limitations:

Volume: Intermittent and Flow-Variable

Effluent Characteristics	Discharge Limitations			Minimum Self-Monitoring Requirements	
	Daily Average mg/L	Daily Maximum mg/L	Single Grab mg/L	Report Daily Average and Daily Maximum Measurement Frequency	Sample Type
Flow	Report, MGD	Report, MGD	N/A	1/day <sup>3</sup>	Estimate
Total suspended solids	65	85	85	2/week <sup>3</sup>	Grab
Chemical oxygen demand	140	175	175	2/week <sup>3</sup>	Grab
Oil and grease	N/A	15	15	2/week <sup>3</sup>	Grab

2. The pH must not be less than 6.0 standard units nor greater than 9.0 standard units and must be monitored 1/day<sup>3</sup> by grab sample.
3. There must be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
4. Effluent monitoring samples must be taken at the following location: Outfall 001, the discharge point from the stormwater settling pond.

<sup>1</sup> See Other Requirements No. 3.

<sup>2</sup> See Other Requirements No. 5 for definition of the term process wastewater.

<sup>3</sup> When discharge occurs, samples shall be collected within 30 minutes of the beginning of discharge.

**DEFINITIONS AND STANDARD PERMIT CONDITIONS**

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in Texas Water Code §26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

**1. Flow Measurements**

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder, and limited to major domestic wastewater discharge facilities with a one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

**2. Concentration Measurements**

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
  - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
  - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total

mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the sampling day.

The “daily discharge” determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the “daily discharge” determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (Fecal coliform, *E. coli*, or Enterococci) – the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the *n*th root of the product of all measurements made in a calendar month, where *n* equals the number of measurements made; or computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD × Concentration, mg/L × 8.34).
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

### 3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9(a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9(c).
  - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
  5. The term “sewage sludge” is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
  6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

## MONITORING AND REPORTING REQUIREMENTS

### 1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Monitoring results must be signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act; TWC Chapters 26, 27, and 28; and THSC Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

## 2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

## 3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR §264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
  - i. date, time, and place of sample or measurement;
  - ii. identity of individual who collected the sample or made the measurement;
  - iii. date and time of analysis;
  - iv. identity of the individual and laboratory who performed the analysis;
  - v. the technique or method of analysis; and
  - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

## 4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

## 5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site or shall be readily available for review by a TCEQ representative for a period of three years.

## 6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the regional office and the Enforcement Division (MC 224).

## 7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the regional office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the regional office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. For Publicly Owned Treatment Works (POTWs), effective September 1, 2020, the permittee must submit the written report for unauthorized discharges and unanticipated bypasses that exceed any effluent limit in the permit using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
  - i. unauthorized discharges as defined in Permit Condition 2(g).
  - ii. any unanticipated bypass that exceeds any effluent limitation in the permit.
  - iii. violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
- c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the regional office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
- d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.

8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

## 9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the regional office, orally or by facsimile transmission within 24 hours, and both the regional office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. one hundred micrograms per liter (100 µg/L);
  - ii. two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
  - iii. five (5) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. the level established by the TCEQ.

- b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. five hundred micrograms per liter (500 µg/L);
  - ii. one milligram per liter (1 mg/L) for antimony;
  - iii. ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. the level established by the TCEQ.

#### 10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).

#### 11. All POTWs must provide adequate notice to the Executive Director of the following:

- a. any new introduction of pollutants into the POTW from an indirect discharger that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;
- b. any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
- c. for the purpose of this paragraph, adequate notice shall include information on:
  - i. the quality and quantity of effluent introduced into the POTW; and
  - ii. any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

### PERMIT CONDITIONS

#### 1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
  - i. violation of any terms or conditions of this permit;
  - ii. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
  - iii. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

#### 2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment,



revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§305.62 and 305.66 and TWC §7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC §305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility that does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA §402, or any requirement imposed in a pretreatment program approved under the CWA §§402(a)(3) or 402(b)(8).

### 3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC §7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

#### 4. Permit Amendment or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
  - i. the alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC §305.534 (relating to New Sources and New Dischargers); or
  - ii. the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9; or
  - iii. the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes that are not described in the permit application or that would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

#### 5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC §305.64 (relating to Transfer of Permits) and 30 TAC §50.133 (relating to Executive Director Action on Application or WQMP update).

#### 6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

#### 7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to Texas Water Code Chapter 11.

#### 8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

#### 9. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

#### 10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

#### 11. Notice of Bankruptcy.

- a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
  - i. the permittee;
  - ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
  - iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.
- b. This notification must indicate:
  - i. the name of the permittee;
  - ii. the permit number(s);
  - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
  - iv. the date of filing of the petition.

### **OPERATIONAL REQUIREMENTS**

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:
  - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
  - b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC §7.302(b)(6).
7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.
  - a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion or upgrading of the domestic wastewater treatment or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment or collection facilities. In the case of a domestic wastewater treatment facility that reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 219) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
  - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
  10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
  11. Facilities that generate industrial solid waste as defined in 30 TAC §335.1 shall comply with these provisions:
    - a. Any solid waste, as defined in 30 TAC §335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
    - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
    - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC §335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
    - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC §335.5.
    - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
    - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
      - i. volume of waste and date(s) generated from treatment process;
      - ii. volume of waste disposed of on-site or shipped off-site;
      - iii. date(s) of disposal;

- iv. identity of hauler or transporter;
- v. location of disposal site; and
- vi. method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

- 12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC Code Chapter 361.

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**OTHER REQUIREMENTS**

1. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 12 within 24 hours from the time the permittee becomes aware of the violation, followed by a written report within five working days to TCEQ Region 12 and Compliance Monitoring Team (MC 224): None.
2. The Executive Director reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the General Land Office and determined that the action is consistent with the applicable CMP goals and policies.
3. Within 60 days following the first stormwater discharge event after the date of permit issuance, the permittee shall re-evaluate and revise as necessary the Best Management Practices (BMPs) used for the reduction of total suspended solids (TSS) in the discharge at Outfall 001 from the permitted facility. The permittee shall continue to implement and revise BMPs as necessary. All actions taken by the permittee shall be documented in detail and shall include an explanation of how the BMPs are expected to improve the quality of the discharge from the facility. All documentation shall be maintained on-site and be made readily available to TCEQ staff upon request.
4. For the purposes of this permit the term *process wastewater* is defined as all waters that have contacted petroleum coke, coal, or water utilized for washing equipment and cooling machinery.
5. This permit does not authorize the discharge of domestic wastewater. All domestic wastewater must be disposed of in an approved manner, such as routing to an approved on-site septic tank and drainfield system or to an authorized third party for treatment and disposal.

**6. POND REQUIREMENTS**

A wastewater pond must comply with the following requirements. A wastewater pond (or lagoon) is an earthen structure used to evaporate, hold, store, or treat water that contains a *waste* or *pollutant* or that would cause *pollution* upon *discharge* as those terms are defined in Texas Water Code § 26.001, but does not include a pond that contains only stormwater. In the case of this permit, stormwater that contacts petroleum coke, coal, or both is not considered stormwater.

A. This section is intentionally left blank.

B. An **existing** wastewater pond must be maintained to meet or exceed the original approved design and liner requirements; or, in the absence of original approved requirements, must be maintained to prevent unauthorized discharges of wastewater into or adjacent to water in the state. The permittee shall maintain copies of all liner construction and testing documents at the facility or in a reasonably accessible location and make the information available to the executive director upon request.

C. A **new** wastewater pond constructed after the issuance date of this permit must be lined in compliance with one of the following requirements if it will contain process wastewater as defined in 40 CFR § 122.2. The executive director will review ponds that will contain only non-process wastewater on a case-by-case basis to determine whether the pond must be lined. If a pond will contain only non-process wastewater, the owner shall notify the Industrial Permits Team (MC 148) to obtain a written determination at least 90 days before the pond is placed into service and copy the TCEQ Compliance Monitoring Team (MC 224) and regional office. The permittee must submit all information about the proposed pond contents that is reasonably necessary for the executive director to make a determination. If the executive director

determines that a pond does not need to be lined, then the pond is exempt from C(1) through C(3) and D through G of POND REQUIREMENTS.

A wastewater pond that only contains domestic wastewater must comply with the design requirements in 30 TAC Chapter 217 and 30 TAC § 309.13(d) in lieu of items C(1) through C(3) of this subparagraph.

- (1) Soil liner: The soil liner must contain clay-rich soil material (at least 30% of the liner material passing through a #200 mesh sieve, liquid limit greater than or equal to 30, and plasticity index greater than or equal to 15) that completely covers the sides and bottom of the pond. The liner must be at least 3.0 feet thick. The liner material must be compacted in lifts of no more than 8 inches to 95% standard proctor density at the optimum moisture content in accordance with ASTM D698 to achieve a permeability less than or equal to  $1 \times 10^{-7}$  ( $\leq 0.0000001$ ) cm/sec. For in-situ soil material that meets the permeability requirement, the material must be scarified at least 8 inches deep and then re-compacted to finished grade.
  - (2) Synthetic membrane: The liner must be a synthetic membrane liner at least 40 mils in thickness that completely covers the sides and the bottom of the pond. The liner material used must be compatible with the wastewater and be resistant to degradation (e.g., from ultraviolet light, chemical reactions, wave action, erosion, etc.). The liner material must be installed and maintained in accordance with the manufacturer's guidelines. A wastewater pond with a synthetic membrane liner must include an underdrain with a leak detection and collection system.
  - (3) Alternate liner: The permittee shall submit plans signed and sealed by a Texas-licensed professional engineer for any other equivalently protective pond lining method to the TCEQ Industrial Permits Team (MC 148) and copy the regional office.
- D. For a pond that must be lined according to subparagraph C (including ponds with in-situ soil liners), the permittee shall provide certification, signed and sealed by a Texas-licensed professional engineer, stating that the completed pond lining and any required underdrain with leak detection and collection system for the pond meet the requirements in subparagraph C(1) – C(3) before using the pond. The certification shall include the following minimum details about the pond lining system: (1) pond liner type (in-situ soil, amended in-situ soil, imported soil, synthetic membrane, or alternative), (2) materials used, (3) thickness of materials, and (4) either permeability test results or a leak detection and collection system description, as applicable.

The certification must be provided to the TCEQ Water Quality Assessment Team (MC 150), Industrial Permits Team (MC 148), and regional office. A copy of the liner certification and construction details (i.e., as-built drawings, construction QA/QC documentation, and post construction testing) must be kept on-site or in a reasonably accessible location (in either hardcopy or digital format) until the pond is closed.

- E. Protection and maintenance requirements for a pond subject to subparagraph B or C (including ponds with in-situ soil liners).
- (1) The permittee shall maintain a liner to prevent the unauthorized discharge of wastewater into or adjacent to water in the state.
  - (2) A liner must be protected from damage caused by animals. Fences or other protective devices or measures may be used to satisfy this requirement.



- (3) The permittee shall maintain the structural integrity of the liner and shall keep the liner and embankment free of woody vegetation, animal burrows, and excessive erosion.
  - (4) The permittee shall inspect each pond liner and each leak detection system at least once per month. Evidence of damage or unauthorized discharge must be evaluated by a Texas-licensed professional engineer or Texas-licensed professional geoscientist within 30 days. The permittee is not required to drain an operating pond or to inspect below the waterline during these routine inspections.
    - a. A Texas-licensed professional engineer or Texas-licensed professional geoscientist must evaluate damage to a pond liner, including evidence of an unauthorized discharge without visible damage.
    - b. Pond liner damage must be repaired at the recommendation of a Texas-licensed professional engineer or Texas-licensed professional geoscientist. If the damage is significant or could result in an unauthorized discharge, then the repair must be documented and certified by a Texas-licensed professional engineer. Within 60 days after a repair is completed, the liner certification must be provided to the TCEQ Water Quality Assessments Team (MC 150) and regional office. A copy of the liner certification must be maintained at the facility or in a reasonably accessible location and made available to the executive director upon request.
    - c. A release determination and subsequent corrective action will be based on 40 CFR Part 257 or the Texas Risk Reduction Program (30 TAC Chapter 350), as applicable. If evidence indicates that an unauthorized discharge occurred, including evidence that the actual permeability exceeds the design permeability, the matter may also be referred to the TCEQ Enforcement Division to ensure the protection of the public and the environment.
- F. For a pond subject to subparagraph B or C (including ponds with in-situ soil liners), the permittee shall have a Texas-licensed professional engineer perform an evaluation of each pond that requires a liner at least once every five years. The evaluation must include: (1) a physical inspection of the pond liner to check for structural integrity, damage, and evidence of leaking; (2) a review of the liner documentation for the pond; and (3) a review of all documentation related to liner repair and maintenance performed since the last evaluation. For the purposes of this evaluation, evidence of leaking also includes evidence that the actual permeability exceeds the design permeability. The permittee is not required to drain an operating pond or to inspect below the waterline during the evaluation. A copy of the engineer's evaluation report must be maintained at the facility or in a reasonably accessible location and made available to the executive director upon request.
- G. For a pond subject to subparagraph B or C (including ponds with in-situ soil liners), the permittee shall maintain at least 2.0 feet of freeboard in the pond except when:
- (1) the freeboard requirement temporarily cannot be maintained due to a large storm event that requires the additional retention capacity to be used for a limited period of time;
  - (2) the freeboard requirement temporarily cannot be maintained due to upset plant conditions that require the additional retention capacity to be used for treatment for a limited period of time; or
  - (3) the pond was not required to have at least 2.0 feet of freeboard according to the requirements at the time of construction.

7. The permittee shall notify the Executive Director in writing, at least 90 days prior to discontinuing use of any surface impoundment, pit, or basin authorized by this permit. The permittee shall, at the request of the Executive Director, submit such information as it is necessary to evaluate closure of the waste management unit(s) including but not limited to, chemical analyses of bottom sediments, soils, and groundwater samples.

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**DESCRIPTION OF APPLICATION**

Applicant: Kinder Morgan Petcoke, L.P.; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002659000 (EPA I.D. No. TX0104051)

Regulated activity: Industrial wastewater permit

Type of application: Major amendment with renewal

Request: Major amendment with renewal to authorize the addition of process wastewater

Authority: Federal Clean Water Act (CWA) §402; Texas Water Code (TWC) §26.027; 30 Texas Administrative Code (TAC) Chapter 305, Subchapters C-F, and Chapters 307 and 319; commission policies; and Environmental Protection Agency (EPA) guidelines

**EXECUTIVE DIRECTOR RECOMMENDATION**

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit will expire at midnight, five years from the date of permit issuance according to the requirements of 30 TAC §305.127(1)(C)(i).

**REASON FOR PROJECT PROPOSED**

The applicant applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of its existing permit. The proposed amendment would authorize the addition of process wastewater at Outfall 001.

**PROJECT DESCRIPTION AND LOCATION**

The applicant currently operates Sims Bayou Petcoke Facility, a petroleum coke railcar handling facility.

Stormwater generated at the petroleum coke railcar handling facility comes into contact with oil and grease from the rail line and from storage areas. Wash water is generated from when the rail cars/locomotives are washed onsite while on the rail line. Quench water is also generated from the rail cars onsite and comes into contact with petroleum coke and coal. These wastestreams are discharged by gravity flow through Retention Pond #1 and a filter to Outfall 001.

The facility is located 9847 Lawndale Street, in the City of Houston, Harris County, Texas 77017.

**Discharge Route**

The effluent is discharged directly to Sims Bayou Tidal in Segment No. 1007 of the San Jacinto River Basin. The designated uses for Segment No. 1007 are navigation and industrial water supply. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

**Antidegradation Review**

In accordance with 30 TAC §307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review is not required since no exceptional, high, or intermediate aquatic life use

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water bodies have been identified in the discharge route. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

### **Endangered Species Review**

The discharge from this permit is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES) (September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and the Environmental Protection Agency (EPA) only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS's biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

### **Impaired Water Bodies**

Segment No. 1007 is currently listed on the State's inventory of impaired and threatened waters (the 2020 Clean Water Act Section 303(d) list). The listings are for dioxin in edible tissue and polychlorinated biphenyls (PCBs) in edible tissue in Houston Ship Channel (HSC) from a point immediately upstream of Greens Bayou Tidal to immediately upstream of the 69th Street Waste Water Treatment Plant (WWTP) outfall (AU 1007\_01), Sims Bayou Tidal from the HSC confluence to a point 11 km (6.8 mi) upstream (AU 1007\_02), Hunting Bayou Tidal from the HSC confluence to Interstate Highway (IH)-10 (AU 1007\_03), Brays Bayou Tidal from the HSC confluence to downstream of IH-45 (AU 1007\_04), Vince Bayou Tidal from the HSC confluence to State Highway (SH) 225 (AU 1007\_05), Berry Bayou from the HSC confluence to a point 2.4 km (1.5 mi) upstream of the Sims Bayou confluence (AU1007\_06), Buffalo Bayou from immediately upstream of 69th Street WWTP outfall to US 59 (AU 1007\_07) and Little Vince Bayou Tidal from the Vince Bayou confluence to SH 225 (AU 1007\_08). Segment No. 1007 is also listed for bacteria in water and toxicity in sediment in Vince Bayou Tidal from the HSC confluence to SH 225 (AU 1007\_05).

Information submitted with the application indicates dioxin and PCBs are not manufactured or used in any process at the facility, therefore the proposed effluent discharge is not expected to cause additional loadings of dioxin in edible tissue and PCBs in edible tissue, heptachlor epoxide in edible tissue, and mercury in water and toxicity in sediment. There are no known sources of bacteria in the discharge. In addition, this permit prohibits discharge of domestic wastewater (see Other Requirement No. 5). Therefore, no changes were made in the draft permit to address the 303(d) listings.

### **Completed Total Maximum Daily Loads (TMDLs)**

The TMDL project *Fourteen Total Maximum Daily Loads for Nickel in the Houston Ship Channel System (TMDL Project No.1)* has been withdrawn and is no longer applicable.

### **Dissolved Oxygen**

Due to the low concentration of oxygen demanding constituents expected in the wastewater, no significant dissolved oxygen depletion is anticipated in the receiving waters as a result of these discharges.

### **SUMMARY OF EFFLUENT DATA**

The following is a quantitative description of the discharge described in the monthly effluent report data for the period November, 2016 through November, 2021. The "Avg of Daily Avg" values

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presented in the following table are the average of all daily average values for the reporting period for each pollutant. The "Max of Daily Max" values presented in the following table are the individual maximum values for the reporting period for each pollutant. Flows are expressed in million gallons per day (MGD). All pH values are expressed in standard units (SU).

**Flow**

Outfall	Frequency	Avg of Daily Avg, MGD	Max of Daily Max, MGD
001	Intermittent	0.005	0.113

**Effluent Characteristics**

Outfall	Pollutant	Avg of Daily Avg	Max of Daily Max
		mg/L	mg/L
001	Chemical Oxygen Demand (COD)	29.0	154
	Total Suspended Solids (TSS)	44.6	286
	pH	8.2 (SU)	8.8 (SU)

Effluent limit violations documented in the monthly effluent reports are summarized in the following table.

**Effluent Limitation Violations**

Outfall	Pollutant (units)	Report Date	Daily Average		Daily Maximum	
			Limit	Reported	Limit	Reported
001	COD (mg/L)	10/31/2018	140	154	-	-
	TSS (mg/L)	6/30/2017	65	67	-	-
	TSS (mg/L)	8/31/2017	65	130	85	179
	TSS (mg/L)	9/30/2017	65	286	85	286
	TSS (mg/L)	12/31/2017	65	70.5	-	-
	TSS (mg/L)	7/31/2018	65	154	85	154
	TSS (mg/L)	9/30/2018	65	66	85	-
	TSS (mg/L)	10/31/2018	65	284	85	284
	TSS (mg/L)	12/31/2018	65	133	85	133

The draft permit was not changed to address these effluent limit violations because they have not occurred with enough frequency to indicate a chronic issue.

**DRAFT PERMIT CONDITIONS**

The draft permit authorizes the discharge of process wastewater and stormwater associated with industrial activity at an intermittent and flow-variable rate via Outfall 001.

Effluent limitations are established in the draft permit as follows:

Outfall	Pollutant	Daily Average (mg/L)	Daily Maximum (mg/L)
001	Flow (MGD)	(Report)	(Report)
	TSS	65	85
	COD	140	175
	Oil and Grease	N/A	15

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**OUTFALL LOCATIONS**

Outfall	Latitude	Longitude
001	29.712698 N	97.248501 W

**Technology-Based Effluent Limitations**

Regulations in Title 40 of the Code of Federal Regulations (40 CFR) require that technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment (BPJ) in the absence of guidelines. Technology-based effluent limitations from 40 CFR do not apply to the discharge from this facility. Flow reporting is required by 40 CFR § 122.44(i)(1)(ii). Effluent limitations for TSS, COD, and pH were originally included in the permit based on best professional judgment (BPJ) and have been continued based on anti-backsliding regulations found in 40 CFR 122.42 (l)(2). The daily maximum effluent limit for oil and grease is based on EPA guidance for discharges of stormwater associated with industrial activities.

**Water Quality-Based Effluent Limitations**

Water quality-based effluent limitations do not apply to the predominately stormwater driven discharge from this facility.

**Total Dissolved Solids (TDS), Chloride, and Sulfate Screening**

Segment No. 1007, which receives the discharge from this facility, does not have criteria established for TDS, chloride, or sulfate in 30 TAC Chapter 307; therefore, no screening was performed for TDS, chloride, or sulfate in the effluent.

**pH Screening**

Majority of the discharge is stormwater on an intermittent and flow-variable basis; therefore, no pH screening was run. The existing pH limits have been continued based on anti-backsliding regulations found in 40 CFR 122.42 (l)(2).

**Whole Effluent Toxicity Testing (Biomonitoring)**

Biomonitoring requirements are not included in the draft permit.

**SUMMARY OF CHANGES FROM APPLICATION**

A daily maximum limit for oil and grease has been added to the draft permit consistent with EPA's guidance for uncontaminated industrial stormwater runoff.

**SUMMARY OF CHANGES FROM EXISTING PERMIT**

The permittee requested the following changes in their amendment request that the Executive Director has recommended granting.

1. Authorization for the addition of process wastewater at Outfall 001.

The following additional changes have been made to the draft permit.

1. Pages 3-13 were updated (May 2021 version).
2. The Other Requirements section (beginning on page 14) was rearranged to assist with compliance monitoring.

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3. Other Requirement No. 2 from the existing permit has been removed due to the requirement already being covered under the Monitoring and Reporting Requirements section.
4. Other Requirement No. 3 has been deleted because the facility is now authorized to discharge process wastewater which is not limited to dry-weather condition only.
5. New Other Requirement No. 4 has been added to define the term process wastewater.
6. New Other Requirement No. 5 has been added to the draft permit prohibiting the discharge of domestic wastewater.
7. New Other Requirement Nos. 7 and 8, related to the pond requirements have been added to the draft permit.

**BASIS FOR DRAFT PERMIT**

The following items were considered in developing the draft permit:

1. Application received on November 3, 2021, and additional information received on December 8, 2021.
2. Existing permits: TPDES Permit No. WQ0002659000 issued on December 13, 2017.
3. TCEQ Rules.
4. *Texas Surface Water Quality Standards* – 30 TAC §§307.1-307.10, effective March 1, 2018, as approved by EPA Region 6.
5. *Texas Surface Water Quality Standards* – 30 TAC §§307.1-307.10, effective March 6, 2014, as approved by EPA Region 6, for portions of the 2018 standards not approved by EPA Region 6.
6. *Texas Surface Water Quality Standards* – 30 TAC §§307.1-307.10, effective July 22, 2010, as approved by EPA Region 6, for portions of the 2014 standards not approved by EPA Region 6.
7. *Texas Surface Water Quality Standards* – 30 TAC §§307.1-307.10, effective August 17, 2000, and Appendix E, effective February 27, 2002, for portions of the 2010 standards not approved by EPA Region 6.
8. *Procedures to Implement the Texas Surface Water Quality Standards (IPs)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA Region 6.
9. *Procedures to Implement the Texas Surface Water Quality Standards*, Texas Commission on Environmental Quality, January 2003, for portions of the 2010 IPs not approved by EPA Region 6.
10. Memos from the Standards Implementation Team and Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
11. *Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits*, TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
12. EPA Effluent Guidelines: N/A.

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13. Consistency with the Coastal Management Plan: The Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the General Land Office and has determined that the action is consistent with the applicable CMP goals and policies.
14. Letter dated May 28, 2014, from L'Oreal W. Stepney, P.E., Deputy Director, Office of Water, TCEQ, to Bill Honker, Director, Water Quality Protection Division, EPA (TCEQ proposed development strategy for pH evaluation procedures).
15. Letter dated June 2, 2014, from William K. Honker, P.E., Director, Water Quality Protection Division, EPA, to L'Oreal W. Stepney, P.E., Deputy Director, Office of Water, TCEQ (Approval of TCEQ proposed development strategy for pH evaluation procedures).
16. General Guidance – Industrial Permits: Uncontaminated Stormwater Runoff, EPA, January 1997.

### **PROCEDURES FOR FINAL DECISION**

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for reviewing and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent to the Chief Clerk, along with the Executive Director's preliminary decision contained in the technical summary or fact sheet. At that time, the Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment and is not a contested case hearing.

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's response to comments and final decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's response to comments and final decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ commissioners for their consideration at a scheduled commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.



STATEMENT OF BASIS / TECHNICAL SUMMARY AND  
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
TPDES Permit No. WQ0002659000

If the Executive Director calls a public meeting or the commission grants a contested case hearing as described above, the commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application, contact Cole Gray at (512) 239-4736.

*Cole Gray*  
Cole Gray

April 5, 2022  
Date

STATEMENT OF BASIS / TECHNICAL SUMMARY AND  
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
TPDES Permit No. WQ0002659000

**Appendix A**  
**Comparison of Technology-Based Effluent Limits and Water Quality-Based Effluent Limits**

The following table is a summary of technology-based effluent limitations calculated/assessed in the draft permit (Technology-Based), calculated/assessed water quality-based effluent limitations (Water Quality-Based), and effluent limitations in the existing permit (Existing Permit). Effluent limitations appearing in bold are the most stringent of the three and are included in the draft permit.

Outfall	Pollutant	Technology-Based		Water Quality-Based		Existing Permit	
		Daily Avg	Daily Max	Daily Avg	Daily Max	Daily Avg	Daily Max
		mg/L	mg/L	mg/L	mg/L	mg/L	mg/L
001	Flow (MGD)	-	-	-	-	<b>(Report)</b>	<b>(Report)</b>
	Total Suspended Solids (TSS)	-	-	-	-	<b>65</b>	<b>85</b>
	Chemical Oxygen Demand (COD)	-	-	-	-	<b>140</b>	<b>175</b>
	Oil and Grease	-	<b>15</b>	-	-	-	-
	pH	6.0 SU (min)	9.0 SU (max)	-	-	<b>6.0 SU (min)</b>	<b>9.0 SU (max)</b>



Item 11	December 12, 2018	(1546676)
Item 12	February 19, 2019	(1564135)
Item 13	March 20, 2019	(1564136)
Item 14	April 16, 2019	(1573307)
Item 15	May 15, 2019	(1586221)
Item 16	June 19, 2019	(1586222)
Item 17	July 08, 2019	(1594653)
Item 18	August 13, 2019	(1499992)
Item 19	August 20, 2019	(1600954)
Item 20	September 17, 2019	(1607871)
Item 21	October 28, 2019	(1614736)
Item 22	November 06, 2019	(1620525)
Item 23	December 16, 2019	(1627875)
Item 24	January 08, 2020	(1635502)
Item 25	February 12, 2020	(1642119)
Item 26	March 06, 2020	(1648631)
Item 27	April 02, 2020	(1654986)
Item 28	May 05, 2020	(1661545)
Item 29	June 09, 2020	(1668079)
Item 30	July 08, 2020	(1675026)
Item 31	August 11, 2020	(1681794)
Item 32	September 09, 2020	(1688372)
Item 33	October 06, 2020	(1694730)
Item 34	November 10, 2020	(1716781)
Item 35	December 10, 2020	(1716782)
Item 36	January 12, 2021	(1716783)
Item 37	February 03, 2021	(1729865)
Item 38	March 09, 2021	(1729866)
Item 39	April 12, 2021	(1729867)
Item 40	May 12, 2021	(1742223)
Item 41	June 09, 2021	(1742224)
Item 42	July 16, 2021	(1753133)
Item 43	August 13, 2021	(1758538)
Item 44	September 03, 2021	(1767830)
Item 45	October 12, 2021	(1778393)
Item 46	November 03, 2021	(1785064)
Item 47	December 05, 2021	(1792097)
Item 48	January 05, 2022	(1799946)
Item 49	February 09, 2022	(1807778)
Item 50	March 08, 2022	(1814821)
Item 51	April 18, 2022	(1821390)
Item 52	May 19, 2022	(1830287)
Item 53	June 16, 2022	(1836537)
Item 54	July 18, 2022	(1843722)
Item 55	August 18, 2022	(1849884)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

Notice of Intent Date: 11/19/2020 (1692942)

Disclosure Date: 05/04/2021

Viol. Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT Eff. Lim. & Mon. Req. 1

PERMIT Permit Conditions No. 2.b

Description: Failed to sample and analyze the Effluent Characteristics TSS and COD twice a week when discharge occurred over 24 hours in the calendar week. The facility believed that only one sample was required if discharging less than seven calendar days.

*Compliance History Report for CN602846735, RN101610376, Rating Year 2022 which includes Compliance History (CH) components from September 01, 2017, through August 31, 2022.*

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A