

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 11, 2023

TO: All interested persons.

RE: Lyondell Chemical Company
Air Quality Permit No. 83817

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Public Comment. A copy of the complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Houston Regional Office, and the North Channel Library, 15741 Wallisville Road, Channelview, Harris County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk Street Suite H, Houston, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two types of requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.

- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

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

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

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

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

Deadline for Submitting Requests.

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

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

Processing of Requests.

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

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Participation and Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Lyondell Chemical Company
Air Quality Permit No. 83817

The Executive Director has made the Response to Public Comment (RTC) for the application by Lyondell Chemical Company for Air Quality Permit No. 83817 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (83817) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Houston Regional Office, and the North Channel Library, 15741 Wallisville Road, Channelview, Harris County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk Street Suite H, Houston, Texas.

MAILING LIST
for
Lyondell Chemical Company
Air Quality Permit No. 83817

FOR THE APPLICANT:

Christopher M. Cain, Site Manager
Lyondell Chemical Company
P.O.Box 777
Channelview, Texas 77530

Teresa Peneguy, Environmental Permitting
LyondellBasell
P.O.Box 777
Channelview, Texas 77530

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Amanda Kraynok, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Louis Malarcher, Technical Staff
Texas Commission on Environmental
Quality
Air Permits Division MC-163
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

CONCERNED CITIZEN ,
16022 CLEARMEADOW ST
CHANNELVIEW TX 77530-2839

D'SOUZA , ANTHONY PETER
STE 100
2520 CAROLINE ST
HOUSTON TX 77004-1000

GARZA , MR EDWARD SANTOS
8005 GLENLOCH DR
HOUSTON TX 77061-1005

GLASS , PHILIP
16406 LISA DAWN LN
HOUSTON TX 77049-4910

GLENN , JOSEPH C
14319 RAINY SUN CIR
HOUSTON TX 77049-3670

GUTIERREZ , DINA
14919 LOFTON ST
CHANNELVIEW TX 77530-3227

HADAYIA , JENNIFER M
AIR ALLIANCE HOUSTON
STE 100
2520 CAROLINE ST
HOUSTON TX 77004-1000

HERNANDEZ , THE HONORABLE ANA STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 143
PO BOX 2910
AUSTIN TX 78768-2910

HERNANDEZ , THE HONORABLE ANA STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 143
1233 MERCURY DR
HOUSTON TX 77029-2007

KIMMEL , MADELEINE
3913 RAU DR
DICKINSON TX 77539-6120

LEE , KRISTEN
1303 BAYOU GLEN DR
LA PORTE TX 77571-9613

PEREZ , NORMA
16022 CLEARMEADOW ST
CHANNELVIEW TX 77530-2839

STEWART , DOUGLAS R
16531 SHADY LN
CHANNELVIEW TX 77530-2761

STEWART , JOYCE
16916 SHADY LN
CHANNELVIEW TX 77530-2749

STONE , CAROLYN
318 LAKESIDE DR
CHANNELVIEW TX 77530-4420

TORRES , ALONDRA
15354 BEDFORD GLEN DR
CHANNELVIEW TX 77530-2105

URRETA , LUCIA
547 S 2ND ST
BELLAIRE TX 77401-5048

TCEQ AIR QUALITY PERMIT NUMBER 83817

APPLICATION BY	§	BEFORE THE
LYONDELL CHEMICAL COMPANY	§	TEXAS COMMISSION ON
LYONDELL CHEMICAL	§	ENVIRONMENTAL QUALITY
CHANNELVIEW	§	
CHANNELVIEW, HARRIS COUNTY		

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: Representative Ana Hernandez, Concerned Citizen, Edward Santos Garza, Philip Glass, Dina Gutierrez, Jennifer M. Hadayia (Air Alliance Houston), Madeleine Kimmel, David Pedersen (Air Alliance Houston), Norma Perez, Douglas R Stewart, Carolyn Stone (Channelview Health and Improvement Coalition), Alondra Torres (Air Alliance Houston), Lucia Urreta (EarthUP in Houston and United Nations Youth Constituency on Climate Change). 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

Lyondell Chemical Company (Applicant) has applied to the TCEQ for a 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 the Lyondell Chemical Channelview Plant. The plant is located at 2502 Sheldon Rd., Channelview, Harris County. Contaminants authorized under this permit include carbon monoxide, hazardous air pollutants, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns (PM₁₀) or less and 2.5 microns or less (PM_{2.5}), and sulfur dioxide. The purpose of this amendment is to add preexisting PM emissions resulting from maintenance, startup, and shutdown (MSS) activities to the permit. At the time this plant was permitted, thermal oxidizers were recognized as flares and not a source of PM emissions. Flares remain authorized without consideration of PM emissions; however, thermal oxidizers are being updated to include PM emissions.

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 and amendment from the commission. This permit application is for a permit renewal and amendment of Air Quality Permit Number 83817.

The permit renewal application was received on July 21, 2021, and declared administratively complete on July 26, 2021. The permit amendment application was received on December 17, 2021, and declared administratively complete on January 12, 2022. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for the combined amendment and renewal permit application was published in English on February 2, 2022, in the *Pasadena Citizen* and in Spanish on February 2, 2022, in *La Voz*. The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published on June 22, 2022, in English in the *Pasadena Citizen* and in Spanish on June 22, 2022, in *La Voz*. A public meeting was held on January 12, 2023, at San Jacinto College North Campus N-12.200 (Monument Room), 5800 Uvalde Road, Houston, Texas 77049.

The notice of public meeting was distributed on November 16, 2022. The public comment period ended on January 12, 2023. 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: Health Effects/Air Quality

Commenters are concerned about the effect of the emissions from the proposed project on the air quality and health of people, particularly sensitive populations such as the elderly, children, and people with existing medical conditions. Commenters specifically asked about the cumulative impacts of the facility. Commenters asked about the flaring at this facility. Lucia Urreta asked about the carcinogens, toxins, carbon dioxide, nitrogen oxides, and PAH's emitted from this facility. Ms. Urreta stated these containments alter DNA.

(Lucia Urreta, Madeleine Kimmel, Jennifer M. Hadayia, Concerned Citizen, Dina Gutierrez, Carolyn Stone, Alondra Torres, David Pedersen, Edward Santos Garza, Norma Perez)

RESPONSE 1: The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment. For this type of air permit application, potential impacts to human health and welfare or the environment are determined by comparing the Applicant's proposed air emissions to appropriate state and federal standards and guidelines. 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 welfare and the environment.

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 Applicant conducted a NAAQS analysis for PM₁₀ and PM_{2.5}. The first step of the NAAQS analysis is to compare the proposed modeled emissions against the established de minimis level. Predicted concentrations (GLCmax²) below the de minimis level are considered to be so low that they do not require further NAAQS analysis. Table 1 contains the results of the de minimis analysis.

Table 1. Modeling Results for De Minimis Review

Pollutant	Averaging Time	GLCmax (µg/m ³)	De Minimis (µg/m ³)
PM ₁₀	24-hr	0.76	5
PM _{2.5}	24-hr	0.76	1.2
PM _{2.5}	Annual	0.15	0.2

The pollutants below the de minimis level should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.

Flares

The Applicant conducted a health effects analysis using the Modeling and Effects Review Applicability (MERA) guidance for flares.³ The MERA is a tool to evaluate impacts of non-criteria pollutants. It is a step-by-step process, evaluated on a chemical species by chemical species basis, in which the potential health effects are evaluated against the Effective Screening Level (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 the 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

1 40 CFR 50.2

2 The GLCmax is the maximum ground level concentration predicted by the modeling.

3 See APDG 5874 guidance document.

process at that step because it is protective of human health and welfare. All pollutants satisfy the MERA criteria and therefore are not expected to cause adverse health effects.

As currently authorized, this permit authorizes emissions which would be subject to MERA review from the flares identified as the MTBE Flares (EPN EFL6103 and EFL6104), BDO Flare (EPN EFL 6105), POSM I Flare (EPN EFL60731), POSM II Flare (EPN EFL68491), and Utilities Flare (EPN EFL68910) for MSS emissions. These flares are also authorized for emissions during routine operations of the site through other NSR permits. NSR Permit 19155 authorizes emissions for flare EPNs EFL6103 and EFL6104. NSR Permit 18103 authorizes emissions for flare EPN EFL 6105. NSR Permit 4121 authorizes emissions for flare EPN EFL60731. NSR Permit 19613 authorizes emissions for flare EPN EFL68491. NSR Permit 19155 authorizes emissions for flare EPN EFL68910.

The Applicant has determined that the emissions from the flares authorized through the other NSR permits include the emissions occurring during planned maintenance, startup, and shutdown (MSS) authorized through this permit. Therefore, the additional emissions authorized through this permit are not necessary. There is no increase in flare operation proposed during routine or MSS operations at the site. Instead, this project seeks the removal of currently authorized emissions from the flares of 289.49 lb/hr and 3.20 tpy of organic compounds and hazardous air pollutants. There are no increases for these emissions being authorized. This meets step 1 of the MERA for these emissions with the net change in speciated emissions for all organic compounds and hazardous air pollutants being less than or equal to zero.

State Property Line Analysis (30 TAC Chapter 112)

Because this application has sulfur emissions, the Applicant conducted a state property line analysis to demonstrate compliance with TCEQ rules for net ground-level concentrations for sulfur dioxide (SO₂). This analysis demonstrated that resulting air concentrations will not exceed the applicable state standard.

As with the MERA analysis, the removal of the flare emissions from this permit will have the effect of reducing the authorized SO₂ emissions from the site by 13.54 lb/hr and 4.43 tpy without any other changes to the emissions authorized at the site. With only a reduction in sulfur compound emissions, no further state property line analysis for this compound was required.

The amended permit does not authorize an increase in VOC emissions (PAHs). Therefore, an Effective Screening Level (ESL) analysis for VOC is not necessary, and VOC emissions are not expected to cause adverse health effects. Further, no carbon dioxide emissions are authorized under this permit.

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, or the public welfare and the environment as a result of proposed emission rates associated with this project.

COMMENT 2: Plants/Animals

Dina Gutierrez stated these pollutants negatively affect wildlife in the area.

RESPONSE 2: The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and structures, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the emissions from this facility should not cause an exceedance of the NAAQS, air emissions from this facility are not expected to adversely impact land, livestock, wildlife, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water. Please see Response 1 for an evaluation of this project's impacts in relation to the NAAQS. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

COMMENT 3: Contaminant Limits

Commenters asked why they should consider the limits set for a contaminant as protective.

(Jennifer M. Hadayia, Lucia Urreta, Philip Glass)

RESPONSE 3: For criteria pollutants including CO, NO_x, PM₁₀, and PM_{2.5}; the EPA has established limits for the country to be protective. For some contaminants such as hydrogen sulfide, sulfur dioxide, and sulfuric acid; Texas has reviewed the effects of these pollutants and established state property line standards to ensure the protectiveness of the established limits for these pollutants.

Chemicals are also evaluated by the Toxicology, Risk Assessment, and Research division of the TCEQ to establish limits that are protective. Part of the mission statement for the Toxicology division is: TCEQ toxicologists identify chemical hazards, evaluate potential exposures, assess human health risks and communicate risk to the general public and stakeholders. More information may be found at the TCEQ Toxicology Website.⁴

COMMENT 4: Ethylene Oxide

Commenters asked about the site and the project's emissions of ethylene oxide. The commenters referred to the EPA evaluation of the effects of ethylene oxide on human health.

(Jennifer M. Hadayia, Lucia Urreta)

RESPONSE 4: There is no increase in ethylene oxide emissions associated with this project. Therefore, following the rules for reviewing renewal and amendment projects, an evaluation of the ethylene oxide emissions from the site would not be included in this project review.

⁴ See <https://www.tceq.texas.gov/toxicology>.

In an effort to better address concerns specific to ethylene oxide emissions from the site, a review of past modeling for projects was conducted to see if site-wide modeling for ethylene oxide was done. Site-wide modeling was completed in 2013, and as permit 83817 was issued on February 27, 2012, the site wide modeling audit 2013 would have included emissions from this permit. The Toxicology division has also created a webpage to specifically explain how the ESL for ethylene oxide was established.⁵

COMMENT 5: Compliance History/Violations

Jennifer M. Hadayia asked about the compliance history of the applicant and site, including recent emission events.

RESPONSE 5: During the technical review of the 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. However, the TCEQ does not have jurisdiction to consider violations outside of the State of Texas.

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 2.89, and a classification of satisfactory. The company rating has a rating of 4.64, and a classification of satisfactory. The company rating reflects the average of the ratings for all sites the company owns in Texas.

⁵ See <https://www.tceq.texas.gov/toxicology/ethylene-oxide>

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

Since January 1, 2017, the site has had seven effective final enforcement orders and four of the seven were in calendar year 2017. The site has not had any criminal convictions or chronic excessive emission events since January 1, 2017. The site received one written notice of violations from the TCEQ since January 1, 2017. None of the effective orders, written notice of violations, or excessive emission events were related to this permit.

COMMENT 6: Permit Compliance

Commenters asked how the Applicant will demonstrate compliance with the terms of their permit on a continuous basis.

(Carolyn Stone, Norma Perez, Madeleine Kimmel, Jennifer M. Hadayia, Alondra Torres)

RESPONSE 6: Special conditions have been included as part of the proposed permit to ensure the Applicant can demonstrate compliance with the emission limitations set forth in the permit. Emissions will be monitored by control of emissions during planned MSS activities on equipment which contained compounds with a vapor pressure greater than or equal to 0.5 psia (pounds per square inch) until the concentration of volatile organic compounds in the equipment being cleared has been reduced to less than 10,000 part per million by volume (ppmv). Once the concentration is reduced to below this limit in the equipment, as verified through instrument techniques, the equipment is allowed to be vented to the atmosphere so that it can be cleared for maintenance work. The permit authorizes the use of portable or temporary control devices for planned MSS to be carbon adsorption systems for emissions from vacuum truck use or thermal oxidizers for emissions from degassing of floating roof storage tanks. Carbon adsorption systems will be monitored at least once an hour for breakthrough to ensure emissions are being controlled. Thermal oxidizers will have been stack tested within the past 12 months to determine the minimum temperature at the firebox exit that will ensure control of the emissions. In addition, flow to the thermal oxidizer will be limited to ensure an adequate residence time of the waste stream within the oxidizer and monitoring of the firebox exit temperature to ensure oxidation and control of the emissions is occurring when in use.

The permit holder is also required to maintain records to demonstrate compliance, including the monitoring listed above. Records must be made available upon request to representatives of the TCEQ, EPA, or any local air pollution control program having jurisdiction. The Regional Office may perform investigations of the plant as required. The investigation may include an inspection of the site including all equipment, control devices, monitors, and a review of all calculations and required recordkeeping.

The TCEQ evaluates all complaints received. If a facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at (713) 767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

Citizen-collected evidence may be used in such an action. *See* 30 TAC § 70.4, *Enforcement Action Using Information Provided by Private Individual*, for details on gathering and reporting such evidence. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law. The information, if gathered according to agency procedures and guidelines, can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?" This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028 and may be downloaded from the agency website at <http://www.tceq.texas.gov> (under Publications, search for document number 278).

COMMENT 7: Environmental Justice

Commenters raised concerns regarding the environmental justice implications of this project.

(Madeleine Kimmel, Jennifer M. Hadayia, David Pedersen, Lucia Urreta, Alondra Torres)

RESPONSE 7: 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 location. A health effects review was conducted for the proposed facilities during the permit review and the permit was found to be protective of human health and the environment. 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 further information. More information may be found on the TCEQ website: [Title VI Compliance at TCEQ - Texas Commission on Environmental Quality - www.tceq.texas.gov](http://www.tceq.texas.gov).

COMMENT 8: Corporate Profits

Lucia Urreta questioned the corporate profits made by this project at a cost to the surrounding community.

RESPONSE 8: The TCEQ is not authorized to consider a company's financial status nor its profits in determining whether a permit should be issued. TCEQ's review of this company's application included an analysis of health impacts and application of best available control technology (BACT), and based on this review, the facility should comply with all applicable health effects guidelines and emission control requirements. Continued compliance with health effects guidelines and BACT requirements is expected if the company operates in compliance with the permit terms and conditions. Individuals are encouraged to report any environmental concerns at the facility by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-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 will be subject to possible enforcement action.

COMMENT 9: TCEQs Responsibility to the Community

Commenters asked that the TCEQ consider residents and their wishes and choose not to approve the permit registration for the proposed plant.

(Representative Ana Hernandez, Jennifer M. Hadayia, Norma Perez, Alondra Torres Lucia Urreta)

RESPONSE 9: The Executive Director's staff has reviewed the permit application in accordance with the applicable state and federal law, policy and procedures, and the agency's mission to protect the state's human and natural resources consistent with sustainable economic development. The TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met.

This permitting action will not allow an increase of any activities from the site. It will add authorization for currently existing particulate emissions from the use of thermal oxidizers for control of floating roof storage tanks during planned MSS activities. The use of the thermal oxidizers is currently authorized.

The TCEQ, since approximately 2018, has been requiring that thermal oxidizers represent particulate emissions as a more conservative approach to protecting human health and the environment. This is also to provide a more complete understanding of where particulate emission may occur.

COMMENT 10: Public Participation

Commenters asked that a second meeting be held due to questions which were not answered during the public meeting due to lack of expertise. Commenters have additional environmental concerns which may be addressed with additional communication between the public, this site, and the TCEQ.

(Douglas R. Stewart, Norma Perez)

RESPONSE 10: Public participation is an integral part of the permitting process. TCAA § 382.056 requires that an applicant publish notice. Notice must be published in a newspaper of general circulation in the municipality in which the proposed facility is located or proposed to be located. The notice must include a description of the facility, information on how an affected person may request a public hearing, pollutants the facility will emit, and any other information the TCEQ requires by rule. The commission also requires that notice be published in an alternative language if the elementary or middle school nearest the proposed facility offers a bilingual education program as required by Texas Education Code Chapter 29, Subchapter B and either: “(a) students are enrolled in a program at that school; (b) students from that school attend a bilingual education program at another location; or (c) the school that otherwise would be required to provide a bilingual education program.”⁶ The TCEQ adopted rules for these public notice requirements in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice.

As detailed in the Procedural Background section above, the Applicant published The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for the combined amendment and renewal permit application was published in English on February 02, 2022, in the *Pasadena Citizen* and in Spanish on February 02, 2022, in *La Voz*. The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published on June 22, 2022, in English in the *Pasadena Citizen* and in Spanish on June 22, 2022, in *La Voz*. A public meeting was held on January 12, 2023 in Houston. The Executive Director determined that a second public meeting was not warranted in this case.

To demonstrate compliance with public notice requirements, applicants are required to provide the Office of the Chief Clerk with copies of the published notice and a publisher's affidavit verifying facts related to the publication, including that the newspaper is a paper of general circulation in the municipality in which the proposed facility is located or proposed to be located. The Applicant provided the Office of the Chief Clerk with copies of the published notice and a publisher's affidavit and met all public notice requirements. Verification of publication requirement information can be found at the TCEQ Commissioners' Integrated Database.⁷

The public meeting held on January 12, 2023, concerning this project followed the TCEQ guidelines including ensuring that TCEQ staff were present to address questions specifically associated to the project under review. Every effort is made to ensure the

⁶ 30 TAC § 39.426.

⁷ See https://www.tceq.texas.gov/agency/decisions/cc/cc_db.html.

appropriate experts are present to address the review which is being done. The TCEQ provides phone numbers, addresses, and emails to the public so that any question regarding how the agency conducts reviews or establishes standards can be discussed. Please use these methods to reach out to the agency with any questions related to the mission of the TCEQ and the appropriate expert within the TCEQ will respond to the question.

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

Kelly Keel, Interim Executive Director

Charmaine Backens, Acting Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Amanda Kraynok, Staff Attorney
Environmental Law Division
State Bar Number 24107838
PO Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY