

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 20, 2023

TO: All interested persons.

RE: Mine Service, Inc  
Air Quality Permit No. 169683

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. 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](mailto:chiefclk@tceq.texas.gov). A complete copy of the RTC (including the mailing list), 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 Waco Regional Office, and the Waco-McLennan County Library Central Library, 1717 Austin Avenue, Waco, McLennan County, Texas 76701. The facility's compliance file, if any exists, is available for public review at the TCEQ Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, 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](http://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,

A handwritten signature in black ink that reads "Laurie Gharis". The signature is written in a cursive, flowing style.

Laurie Gharis  
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**for**  
**Mine Service, Inc**  
**Air Quality Standard Permit No. 169683**

The Executive Director has made the Response to Public Comment (RTC) for the application by Mine Service, Inc, for Air Quality Permit No. 169683 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 (169683) 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](mailto: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), 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 Waco Regional Office, and the Waco-McLennan County Library Central Library, 1717 Austin Avenue, Waco, McLennan County, Texas 76701. The facility's compliance file, if any exists, is available for public review at the TCEQ Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas.



## COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

*Protegiendo a Texas al Reducir y Prevenir la Contaminación*

20 de diciembre de 2023

TO: Todas las personas interesadas.

RE: Mine Service, Inc  
Permiso de calidad del aire No. 169683

### **Decisión del Director Ejecutivo.**

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov). Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. La solicitud de permiso, la decisión preliminar del director ejecutivo y el borrador del permiso estarán disponibles para ver y copiar en la Oficina Central de TCEQ, la Oficina Regional de TCEQ Waco y la Biblioteca Central del Condado de Waco-McLennan, 1717 Austin Avenue, Waco, Condado de McLennan, Texas 76712. El archivo de cumplimiento de la instalación, si existe, está disponible para revisión pública en la Oficina Regional de TCEQ en Waco, 6801 Sanger Avenue, Suite 2500, Waco, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

### **Cómo solicitar una audiencia de caso impugnado.**

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
  - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
  - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
  - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.
- (3) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (4) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".

Su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas. Una persona que pueda verse afectada por las emisiones de contaminantes del aire de la instalación tiene derecho a solicitar una audiencia de caso impugnado.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

### **Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.**

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

**Fecha límite para la presentación de solicitudes.**

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a [www.tceq.texas.gov/agency/decisions/cc/comments.html](http://www.tceq.texas.gov/agency/decisions/cc/comments.html) o por correo a la siguiente dirección:

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

**Procesamiento de solicitudes.**

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

**Cómo obtener información adicional.**

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis  
Secretaria Oficial

LG/erg

Recinto

**RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO**  
**para**  
**Mine Service, Inc**  
**Permiso de calidad del aire No. 169683**

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Mine Service, Inc, del permiso de calidad del aire No. 169683. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:  
<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (169683) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov).

**Información adicional**

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. La solicitud de permiso, la decisión preliminar del director ejecutivo y el borrador del permiso estarán disponibles para ver y copiar en la Oficina Central de TCEQ, la Oficina Regional de TCEQ Waco y la Biblioteca Central del Condado de Waco-McLennan, 1717 Austin Avenue, Waco, Condado de McLennan, Texas 76712. El archivo de cumplimiento de la instalación, si existe, está disponible para revisión pública en la Oficina Regional de TCEQ en Waco, 6801 Sanger Avenue, Suite 2500, Waco, Texas.

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MAILING LIST / LISTA DE CORREO  
for / para  
Mine Service, Inc  
Air Quality Permit No. 169683 / Permiso de calidad del aire No. 169683

FOR THE APPLICANT /  
PARA EL SOLICITANTE:

Euell Campbell, Project Manager  
Aggregate/Trucking Division  
Mine Service, Inc.  
P.O. Box 32  
Rockdale, Texas 76567

INTERESTED PERSONS /  
PERSONAS INTERESADAS:

See Attached List

Ver lista adjunta

FOR THE EXECUTIVE DIRECTOR / PARA  
EL DIRECTOR EJECUTIVO  
via electronic mail /  
por correo electrónico:

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

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

FOR PUBLIC INTEREST COUNSEL /  
PARA ABOGADOS DE INTERÉS PÚBLICO  
via electronic mail /  
por correo electrónico:

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 /  
PARA EL SECRETARIO OFICIAL  
via electronic mail  
por correo electrónico:

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

BELL , KAY  
104 ROYAL CT  
WACO TX 76712-3031

COOPER , MARIA  
2373 MCLENNAN CROSSING RD  
WACO TX 76712-3022

HERBERT , PEGGY A  
2351 MCLENNAN CROSSING RD  
WOODWAY TX 76712-3022

LUEDTKE , CINDY  
2422 MCLENNAN CROSSING RD  
WOODWAY TX 76712-3008

LUEDTKE , DAVE  
2422 MCLENNAN CROSSING RD  
WOODWAY TX 76712-3008

PRESSMAN , ALBERT  
1729 MCLENNAN CROSSING RD  
WOODWAY TX 76712-3020

QUADE , DR. MATTHEW  
133 ROYAL CT  
WACO TX 76712-3031

TUEL , DAVID    & KAY  
105 ROYAL CT  
WOODWAY TX 76712-3031

## TCEQ AIR QUALITY PERMIT NUMBER 169683

APPLICATION BY	§	BEFORE THE
MINE SERVICE, INC.	§	
ROCK CRUSHING AND SCREENING	§	TEXAS COMMISSION ON
PLANT	§	
WACO, MCLENNAN COUNTY	§	ENVIRONMENTAL QUALITY

### EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the New Source Review Authorization application 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: Maria Cooper, Peggy A. Herbert, Cindy Luedtke, Dave Luedtke, and Albert Pressman. 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](http://www.tceq.texas.gov).

### BACKGROUND

#### Description of Facility

Mine Service, Inc. (Applicant) has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA) § 382.0518. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a Rock Crushing and Screening Plant. The plant is located at 1953 Tom Ledbetter, Waco, McLennan County. Contaminants authorized under this permit include carbon monoxide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less, and sulfur dioxide.

#### Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain a permit from the commission. This permit application is for an initial issuance of Air Quality Permit Number 169683.

The permit application was received on July 15, 2022, and declared administratively complete on July 21, 2022. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for this permit application was published in English on August 5, 2022, in the *Waco Tribune Herald*. The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published on April 4,

2023, in English in the *Waco Tribune Herald*. The comment period closed on May 4, 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, such as cancer, asthma, allergies, and Parkinson's. Albert Pressman asked about the modeling conducted for wind.

(Albert Pressman, Maria Cooper, Cindy Luedke, Dave Luedtke, Peggy A. Herbert)

**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.<sup>1</sup> 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 (NO<sub>2</sub>), ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), particulate matter less than or equal to 10 microns in aerodynamic diameter (PM<sub>10</sub>), and PM less than or equal to 2.5 microns in aerodynamic diameter (PM<sub>2.5</sub>).

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<sup>1</sup> 40 CFR 50.2

The Applicant conducted a NAAQS analysis for NO<sub>2</sub>, CO, PM<sub>2.5</sub>, PM<sub>10</sub>, and SO<sub>2</sub>. The first step of the NAAQS analysis is to compare the proposed modeled emissions against the established de minimis level. Predicted concentrations (GLC<sub>max</sub><sup>2</sup>) 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 <sup>3</sup> )	De Minimis (µg/m <sup>3</sup> )
NO <sub>2</sub>	1-hr	24	7.5
NO <sub>2</sub>	Annual	0.4	1
CO	1-hr	22	2000
CO	8-hr	13	500
PM <sub>10</sub>	24-hr	4.7	5
PM <sub>2.5</sub>	24-hr	1.5	1.2
PM <sub>2.5</sub>	Annual	0.1	0.2
SO <sub>2</sub>	1-hr	7.2	7.8
SO <sub>2</sub>	3-hr	6	25

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.

The Applicant conducted a full NAAQS analysis for those pollutants above de minimis to account for cumulative effects by including an evaluation of all on-property sources, applicable off-property sources, and representative monitored background concentrations. Results of the NAAQS analysis are presented below in Table 2. The total concentration was determined by adding the GLC<sub>max</sub> to the appropriate background concentration. Background concentrations are obtained from ambient air monitors across the state and are added to the modeled concentration (both on-property and off-property sources) to account for sources not explicitly modeled. The ambient air monitors were selected to ensure that they are representative of the proposed site. The total concentration was then compared to the NAAQS to ensure that the concentration is below the standard. For any subsequent projects submitted pertaining to this or any other facility in the area, the air quality analysis for that project will have to include the emissions authorized by this project, as well as other applicable off-property sources, if a full impacts analysis is required.

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<sup>2</sup> The GLCmax is the maximum ground level concentration predicted by the modeling.

Table 2. Total Concentrations for NSR NAAQS (Concentrations > De Minimis)

Pollutant	Averaging Time	GLCmax (µg/m <sup>3</sup> )	Background (µg/m <sup>3</sup> )	Total Conc. = [Background + GLCmax] (µg/m <sup>3</sup> )	Standard (µg/m <sup>3</sup> )
NO <sub>2</sub>	1-hr	24	87	111	188
PM <sub>2.5</sub>	24-hr	1.5	21	23	35

The NAAQS analysis results are below the standard for each pollutant, should not cause or contribute to violation of the NAAQS, and are protective of human health and the environment.

The modeling analysis considers wind and meteorological factors. Emissions from this facility were determined by using the TCEQ Rock Crushing Guidance Document RG-058 and a mathematical equation calculated according to the EPA's Compilation of Air Pollutant Emission Factors, AP-42 Manual. The Applicant represented the appropriate methodologies to control and minimize emissions and utilized corresponding control efficiencies when calculating the emission rates. As provided in 30 TAC § 116.116(a), the Applicant is bound by these representations, including the represented performance characteristics of the control equipment. In addition, the permit holder must operate within the limits of the permit, including the emission limits as listed in the Maximum Allowable Emissions Rate Table (MAERT).

### Effects Screening Levels

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

The Applicant conducted a health effects analysis using the Modeling and Effects Review Applicability (MERA) guidance.<sup>3</sup> 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

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<sup>3</sup> See APDG 5874 guidance document.

the ESL for the chemical species. The initial steps are simple and conservative, and as the review progresses through the process, the steps require more detail and result in a more refined (less conservative) analysis. If 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 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, except for formaldehyde and diesel fuel pollutants.

The following pollutants did not meet the criteria of the MERA guidance document and required further analysis. Site-wide modeling was performed and demonstrated that the predicted concentrations will not exceed the ESL (Table 3 below).

Table 3. Minor NSR Site-wide Modeling Results for Health Effects

Pollutant	CAS#	Averaging Time	GLCmax (µg/m³)	GLCmax Location	ESL (µg/m³)
Formaldehyde	50-00-0	1-hr	2	East Property Line	15
Diesel fuel	68334-30-5	1-hr	47	East Property Line	1000

#### 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 (SO<sub>2</sub>), hydrogen sulfide (H<sub>2</sub>S), and sulfuric acid (H<sub>2</sub>SO<sub>4</sub>), as applicable. This analysis demonstrated that resulting air concentrations will not exceed the applicable state standard.

In summary, based on the Executive Director's staff review, this facility will not create adverse health effects on the general public, including sensitive subgroups, and will be protective of human health and the environment.

#### **COMMENT 2: Dust Control/Nuisance**

Commenters are concerned about dust generated by the proposed project.  
Commenters are concerned about wind blowing particulates onto their property.

(Maria Cooper, Albert Pressman, Dave Luedtke)

**RESPONSE 2:** The primary activities that have the potential to emit particulate matter (i.e. dust) resulting from this project are conveying systems, rock crushing, material handling, truck loading, stockpiles, and vehicle traffic. All of the potential dust concentrations from the permitted sources have been evaluated based on operating parameters represented in the application and compared to the federal criteria mentioned above. The proposed permit contains the required control processes to

minimize dust. When a company operates in compliance with the proposed permit there should be no deterioration of air quality or the generation of dust such that it impacts visibility. While nuisance conditions are not expected if the facility is operated in compliance with the terms of the permit, operators must also comply with 30 TAC § 101.4, which prohibits nuisance conditions.

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 Waco Regional Office at 254-751-0335 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 3: Quality of Life & Property Value**

Commenters are concerned about the effect of the proposed project on their quality of life and on their property value.

(Peggy A. Herbert, Maria Cooper, Dave Luedtke, Albert Pressman)

**RESPONSE 3:** The TCEQ does not have the authority to consider potential effects from plant location or effects on property values when determining whether to approve or deny this air permit. The TCAA prohibits a concrete crusher from being located within 440 yards of a residence, school, or place of worship. Because the proposed concrete crusher complies with this requirement, the TCEQ cannot deny this air permit based on plant location.

### **COMMENT 4: Traffic/Trucks**

Commenters are concerned about increased traffic of cars and trucks as a result of the proposed project. Albert Pressman asked about airborne dust, congestion, safety for children and other pedestrians, damage to roadways, noise, and vibrations associated with truck use.

(Cindy Luedtke, Albert Pressman)



**RESPONSE 4:** The Applicant is prohibited by TCEQ rule (30 TAC § 101.5) from discharging air contaminants, uncombined water, or other materials from any source which could cause a traffic hazard or interference with normal road use. If the sources are operated in compliance with the terms and conditions of the permit, these conditions should not occur. 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 Waco Regional Office at 254- 751- 0335 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it may be subject to possible enforcement action.

Although TCEQ rules prohibit creation of a nuisance, the TCEQ does not have jurisdiction to consider traffic, road safety, or road repair costs when determining whether to approve or deny a permit application. In addition, trucks are considered mobile sources, which are not regulated by the TCEQ. The TCEQ is also prohibited from regulating roads per the TCAA § 382.003(6) which excludes roads from the definition of "facility."

Similarly, TCEQ does not have the authority to regulate traffic on public roads, load- bearing restrictions, and public safety, including access, speed limits, and public roadway issues. These concerns are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation (TxDot) and the Texas Department of Public Safety (DPS). Concerns regarding roads should be addressed to the appropriate state or local officials.

**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, Executive Director

Erin E. Chancellor, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



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Amanda Kraynok, Staff Attorney  
Environmental Law Division  
State Bar Number 24107838  
PO Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-0633

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY