

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 19, 2024

TO: All interested persons.

RE: Caprock Precast, LLC.

Air Quality Standard Permit Registration No. 175658

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 in Austin, Texas. Additionally, a copy of the application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Dallas/Fort Worth Regional Office, and at Whitewright Municipal Center, 206 W. Grand St. Whitewright, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Dr, Fort Worth, Texas. Visit <https://www.tceq.texas.gov/goto/cbp> to review the standard permit.

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.

A person permanently residing within 440 yards of a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants is an affected person who is entitled to request a contested case hearing. The hearing request must state a personal justiciable interest.

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,



Laurie Gharis  
Chief Clerk

LG/cb

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**for**  
**Caprock Precast, LLC.**  
**Air Quality Standard Permit Registration No. 175658**

The Executive Director has made the Response to Public Comment (RTC) for the application by Caprock Precast, LLC., for Air Quality Standard Permit Registration No. 175658 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 (175658) 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), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, copy of the application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Dallas/Fort Worth Regional Office, and at Whitewright Municipal Center, 206 W. Grand St. Whitewright, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Dr, Fort Worth, Texas. Visit <https://www.tceq.texas.gov/goto/cbp> to review the standard permit.

MAILING LIST  
for  
Caprock Precast, LLC.  
Air Quality Standard Permit Registration No. 175658

FOR THE APPLICANT:

Paul Black, Vice President  
Caprock Precast, LLC  
11201 State Highway 205  
Lavon, Texas 75166

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

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

Ava Enriquez, 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

BRITT , JUSTIN  
303 E GRAND ST  
WHITEWRIGHT TX 75491-2230

BROCKLES , LESLEY  
PO BOX 583  
TOM BEAN TX 75489-0583

CRUMPLEY , MR CHARLES  
TD  
136 CHICKEN FIELD RD  
WHITEWRIGHT TX 75491-5206

DELASHAW , ALYSSA  
102 CHICKEN FIELD RD  
WHITEWRIGHT TX 75491-5206

EVANS , MARK  
14356 COUNTY ROAD 485  
LAVON TX 75166-1815

FRIEDMAN , ADAM M  
MCELROY SULLIVAN MILLER & WEBER LLP  
PO BOX 12127  
AUSTIN TX 78711-2127

FRIEDMAN , ADAM M  
MCELROY SULLIVAN MILLER & WEBER LLP  
STE 200  
4330 GAINES RANCH LOOP  
AUSTIN TX 78735-6733

HICKS , LEIGH  
5053 STATE HIGHWAY 160  
WHITEWRIGHT TX 75491-4741

HUDGINS , PAUL  
10252 COUNTY ROAD 534  
WHITEWRIGHT TX 75491-7292

JENSEN , AARON  
332 KNOTHOLE RD  
WHITEWRIGHT TX 75491-4710

LITZKOW , CAMERON  
126 ALMA LN  
WHITEWRIGHT TX 75491-3030

MCDONALD , CORY  
298 KNOTHOLE RD  
WHITEWRIGHT TX 75491-4792

MCDONALD , JODI  
298 KNOTHOLE RD  
WHITEWRIGHT TX 75491-4792

NEATHERY , KATRINA  
26 BURKHALTER LN  
WHITEWRIGHT TX 75491-7317

NEATHERY , TIM  
26 BURKHALTER LN  
WHITEWRIGHT TX 75491-7317

OWEN , SARAH BETH  
CITY OF WHITEWRIGHT  
PO BOX 966  
WHITEWRIGHT TX 75491-0966

SAENZ , ALYDIA  
672 ANDY THOMAS RD  
WHITEWRIGHT TX 75491-5152

SEGRETI , JOSEPH M  
9331 COUNTY ROAD 534  
WHITEWRIGHT TX 75491-7208

STEELE , ADRIANNE  
225 GREEN MEADOW CT  
GUNTER TX 75058-3193

**TCEQ AIR QUALITY STANDARD PERMIT FOR CONCRETE BATCH PLANTS  
REGISTRATION NO. 175658**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>CAPROCK PRECAST, LLC.</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>CONCRETE BATCH PLANT</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>WHITEWRIGHT, GRAYSON COUNTY</b>	<b>§</b>	

**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 Standard Permit 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: Sarah Beth Owen (Mayor of the City of Whitewright), Justin Britt, Lesley Brockles, Charles Crumpley, Alyssa Delashaw, Mark Evans, Leigh Hicks, Paul Hudgins, Aaron Jensen, Cameron Litzkow, Cory McDonald, Jodi McDonald, Katrina Neathery, Tim Neathery, Alydia Saenz, Joseph M Segreti, Adrienne Steele, and Kurt and Amber Warford (represented by Adam M Friedman). 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 TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

**BACKGROUND**

Description of Plant

Caprock Precast, LLC., (Applicant) has applied to TCEQ for a Standard Permit under TEXAS CLEAN AIR ACT (TCAA) § 382.05195. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a Concrete Batch Plant. The plant is proposed to be located at 1 State Highway 160, Whitewright, Grayson County, Texas 75495. Contaminants authorized under this permit include particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less, road dust, aggregate, and cement.

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 an authorization from the commission. This permit application is for an initial issuance of Air Quality Standard Permit for Concrete Batch Plants Registration No. 175658.

The permit application was received on March 13, 2024, and declared administratively complete on March 14, 2024. The Consolidated Public Notice of Receipt and Intent to Obtain an Air Quality Permit and Notice of Application and Preliminary Decision for this permit application was published in English on April 25, 2024, in *The Whitewright*

*Sun.* The public comment period ended on May 28, 2024. 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.

(Justin Britt, Charles Crumpley, Alyssa Delashaw, Mark Evans, Leigh Hicks, Paul Hudgins, Aaron Jensen, Cory McDonald, Katrina Neathery, Tim Neathery, Sarah Beth Owen, Alydia Saenz, Joseph M Segreti, and Kurt and Amber Warford)

**RESPONSE 1:** During the development of the Standard Permit, the Executive Director conducted an extensive protectiveness review to ensure protectiveness of human health and the environment.<sup>1</sup> The protectiveness review determined potential impacts to human health and welfare or the environment by comparing emissions allowed by the standard permit to appropriate state and federal standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS) and TCEQ rules. The Executive Director determined that the emissions authorized by the standard permit are protective of both human health and welfare and the environment.

The United States (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. 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>).

The primary contaminants that have the potential to be emitted from the plant are dust particles having particle sizes of less than or equal to 10 and 2.5 micrometers in aerodynamic diameter (PM<sub>10</sub> and PM<sub>2.5</sub>, respectively). All the potential dust concentrations, as well as emissions from combustion sources, have been evaluated using reasonable worst-case operating parameters and compared to the federal criteria mentioned above. The Standard Permit requires substantial dust control processes to minimize dust issues, which include paving in-plant roads and work areas, using water

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<sup>1</sup> Issuance of a standard permit considers the standards in effect at the time of issuance. Individual registrations for authorization under a standard permit must demonstrate compliance with the standard permit. Updates to the Air Quality Standard Permit for Concrete Batch Plants (standard permit) were adopted on January 24, 2024. All pending and new applications to register for authorization under the standard permits are required to meet the recently adopted amendment. Due to the changes in the annual NAAQS standard for PM<sub>2.5</sub> becoming effective on May 6, 2024, the TCEQ will evaluate whether updates are necessary to the current standard permit technical requirements.



sprays on stockpiles, and shall shelter the drop point by an intact three-sided enclosure with a flexible shroud hanging from above the truck, or equivalent dust collection technology that extends below the mixer truck-receiving funnel. The applicant shall shelter the truck loading operation with a three-sided solid enclosure or equivalent that extends from the ground level to three feet above the truck-receiving funnel to prevent flyaway dust. The applicant has represented in their application materials that their operations will be protective of human health and the environment and meets the protective requirements of the January 24, 2024 Air Quality Standard Permit for Concrete Batch Plants.

Additionally, TCEQ has reviewed ambient air crystalline silica levels measured near aggregate production operations (APOs) similar to this proposed facility in various locations throughout the United States where data are available. These data indicate that the contribution of crystalline silica from these facilities to ambient levels of particulate matter and respirable crystalline silica is negligible or minimal and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by TCEQ. Monitoring of facilities producing aggregate materials for concrete batch plants indicates no issues with crystalline silica as outlined in the 2020 TCEQ report "Crystalline Silica Ambient Air Monitoring and Evaluation of Community Health Impacts Near Aggregate Production Operations". <https://www.tceq.texas.gov/downloads/toxicology/publications/community-health-impacts-as-202.pdf>.

As summarized in the report, "[t]he results of these monitoring studies indicate that the overall contribution of APOs to ambient air concentrations of particulate matter and crystalline silica is minimal or negligible. When compared to TCEQ's AMCVs for crystalline silica, the concentrations of crystalline silica near APOs are generally not likely to cause chronic adverse health effects and are not associated with silicosis (ATSDR 2019)." Therefore, no adverse health effects from crystalline silica are expected.

#### **COMMENT 2: Dust Control**

Commenters expressed concern about dust generated by the proposed project.

(Mark Evans, Leigh Hicks, Aaron Jensen, Cory McDonald, Katrina Neathery, Sarah Beth Owen, Alydia Saenz, Joseph M Segreti, Adrienne Steele, and Kurt and Amber Warford)

**RESPONSE 2:** The primary activities that have the potential to emit particulate matter (i.e., dust) resulting from this project are material handling and transfer and drop points. The applicant has represented that they will comply with all the control processes required to minimize dust. The Standard Permit requires control processes to minimize dust. When a company operates in compliance with the Standard Permit requirements there should be no deterioration of air quality or the generation of dust such that it impacts visibility. While these 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.

### **COMMENT 3: Animals / Wildlife / Habitat Loss**

Commenters are concerned about the effect of the proposed project on animals, wildlife, and habitat loss.

(Alyssa Delashaw, Leigh Hicks, Paul Hudgins, Aaron Jensen, Cory McDonald, Katrina Neathery, and Kurt and Amber Warford)

**RESPONSE 3:** The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, 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 secondary 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. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

### **COMMENT 4: Jurisdictional Issues**

#### Location/Zoning:

Commenters expressed concern regarding the location of the facility as it relates to current zoning ordinances and the proximity to residential and public areas, including schools.

(Justin Britt, Charles Crumpley, Alyssa Delashaw, Mark Evans, Leigh Hicks, Paul Hudgins, Aaron Jensen, Cameron Litzkow, Cory McDonald, Jodi McDonald, Tim Neathery, Katrina Neathery, Sarah Beth Owen, Alydia Saenz, Joseph M Segreti, Adrienne Steele, and Kurt and Amber Warford)

#### Truck Traffic

Commenters are concerned about increased traffic of cars and trucks as a result of the proposed project.

(Justin Britt, Leigh Hicks, Paul Hudgins, Cameron Litzkow, Cory McDonald, Katrina Neathery, Tim Neathery, and Kurt and Amber Warford)

#### Quality of Life / Aesthetics / Property Value

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

(Charles Crumpley, Alyssa Delashaw, Leigh Hicks, Paul Hudgins, Cameron Litzkow, Cory McDonald, Katrina Neathery, Tim Neathery, and Adrienne Steele)

#### Noise

Commenters are concerned about noise from the proposed project.

(Justin Britt, Leigh Hicks, Paul Hudgins, Aaron Jensen, Cory McDonald, and Katrina Neathery)

#### **RESPONSE 4:**

##### Location / Zoning

TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, TCEQ does not have jurisdiction to consider plant location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule imposes specific distance limitations that are enforceable by TCEQ. Zoning and land use are beyond the authority of TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. The issuance of an air quality authorization does not override any local zoning requirements that may be in effect and does not authorize an applicant to operate outside of local zoning requirements.

##### Truck Traffic

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 Dallas/Fort Worth Regional Office at 817-588-5800 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, 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 TCEQ. 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.

##### Quality of Life / Aesthetics / Property Value

TCEQ does not have the authority to consider potential effects from plant location, aesthetics, zoning and land use issues, or effects on property values when determining whether to approve or deny this air permit.

##### Noise

TCEQ does not have authority under the TCAA to require or enforce any noise abatement measures. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. Commenters should contact their local authorities with questions or complaints about noise.

**COMMENT 5: Compliance with Permit**

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

(Justin Britt, Mark Evans, Sarah Beth Owen, and Joseph M Segreti)

**RESPONSE 5:** The permit holder is required to maintain records and keep them on-site for a rolling 24-month period to demonstrate compliance with the emission rates and terms of the permit, including the monitoring requirements. Records must be made available upon request to representatives of 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 required recordkeeping.

TCEQ evaluates all complaints received. If a facility is found to be out of compliance with the terms and conditions of its permit, it may 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 Dallas/Fort Worth Regional Office at 817-588-5800 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 6: Violations / Enforcement**

Commenters asked about the consequences of violating the terms of the permit.

(Justin Britt, Mark Evans, Sarah Beth Owen, and Joseph M Segreti)

**RESPONSE 6:** 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(s). 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.

**COMMENT 7: Compliance History**

Commenters asked about the compliance history of the Applicant and site.

(Mark Evans, Sarah Beth Owen, and Kurt and Amber Warford)

**RESPONSE 7:** 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, 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 compliance rating of N/A, due to it being an initial site and not yet constructed. This applicant has a company rating of 0.44 and a classification of Satisfactory. The company rating reflects the average of the ratings for all sites the company owns in Texas.

**COMMENT 8: Public Notice - Sign Posting**

Commenters questioned if the sign posting requirements were met.

(Kurt and Amber Warford)

**RESPONSE 8:** Title 30 TAC § 39.604 requires that signs be placed at the site of the existing or proposed facility. The sign(s) must state that an application for a standard permit has been filed and the manner in which the commission may be contacted for further information.

Each sign placed at the site must be located within ten feet of every property line paralleling a public highway, street, or road. Signs must also be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs are required along any property line paralleling a public highway, street, or road. Finally, in cases which notice is required to be published in an alternative language, the applicant must also post signs in the applicable alternative language.

The Applicant provided verification to the Office of the Chief Clerk in accordance with 30 TAC § 39.605 that signs were posted at the proposed site in accordance with 30 TAC § 39.604.

**COMMENT 9: Responsibility to the Community**

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

(Justin Britt, Lesley Brockles, Charles Crumpley, Alyssa Delashaw, Mark Evans, Leigh Hicks, Paul Hudgins, Aaron Jensen, Cameron Litzkow, Cory McDonald, Jodi McDonald, Tim Neathery, Katrina Neathery, Sarah Beth Owen, Alydia Saenz, Joseph M Segreti, Adrienne Steele, and Kurt and Amber Warford)

**RESPONSE 9:** The Executive Director's staff has reviewed the registration 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. TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met.

**COMMENT 10: Wastewater / Water Contamination**

Commenters are concerned about wastewater and water contamination as it relates to the proposed facility.

(Justin Britt, Leigh Hicks, Paul Hudgins, and Joseph M Segreti)

**RESPONSE 10:** Although TCEQ is responsible for the environmental protection of air and water as well as the safe management of waste, this registration will regulate the control and abatement of air emissions only. Therefore, issues regarding water quality or discharge, water availability, or water use are not within the scope of this permit review. The Applicant may be required to apply for separate authorizations for water quality and water usage. This permit does not authorize the discharge of pollutants into a body of water.

**CHANGES MADE IN RESPONSE TO COMMENT**

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel  
Executive Director

Charmaine Backens, Interim Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



---

Contessa N. Gay, Staff Attorney  
Environmental Law Division  
State Bar Number 24107318  
PO Box 13087, MC 173  
Austin, Texas 78711-3087

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY