

TCEQ AIR QUALITY PERMIT NO. 4421A
TCEQ DOCKET NO. 2025-0791-AIR

APPLICATION BY	§	BEFORE THE
TAMKO BUILDING PRODUCTS LLC	§	
ASPHALT ROOFING	§	TEXAS COMMISSION ON
MANUFACTURING PLANT	§	
DALLAS, DALLAS COUNTY	§	ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR’S RESPONSE TO REQUESTS FOR RECONSIDERATION AND
HEARING REQUESTS**

The Executive Director of the Texas Commission on Environmental Quality (commission or TCEQ) files this response (Response) to the request for a contested case hearing submitted by persons listed herein. The Texas Clean Air Act (TCAA) § 382.056(n) requires the Commission to consider hearing requests in accordance with the procedures provided in Texas Water Code § 5.556.¹ This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

The final draft of the permit special conditions, the Emission Sources – Maximum Allowable Emission Rates, the compliance history summary, and the permit renewal source analysis and technical review prepared by the Executive Director’s staff are being filed concurrently with TCEQ’s Office of the Chief Clerk for the Commission’s consideration. In addition, the Executive Director’s Response to Public Comments (RTC), which was mailed by the Chief Clerk to all persons on the mailing list, is on file with the Chief Clerk for the Commission’s consideration.

I. Application Request and Background Information

TAMKO Building Products LLC (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 an Asphalt Roofing Manufacturing Plant. The facility is located at 7910 South Central Expressway, Dallas, Dallas County. Contaminants authorized under this permit include carbon monoxide, hazardous air pollutants, hydrogen chloride, hydrogen sulfide, 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.

To continue operating an existing permitted facility that may emit air contaminants, the person planning the continued operation must obtain a permit renewal from the commission. This permit application is for a permit renewal of Air Quality Permit Number 4421A.

The permit application was received on November 26, 2024 and declared administratively complete on December 16, 2024. The Notice of Receipt of Application

¹ Statutes cited in this response may be viewed online at www.statutes.legis.state.tx.us. Relevant statutes are found primarily in the Texas Health and Safety Code and the Texas Water Code. The rules in the Texas Administrative Code may be viewed online at www.sos.state.tx.us/tac/index.shtml, or follow the “Rules, Policy & Legislation” link on TCEQ’s website at www.tceq.texas.gov.

and Intent to Obtain an Air Permit Renewal (NORI, public notice) for this permit application was published in English on January 07, 2025, in the *Lone Star TX Newspaper* and in Spanish on January 9, 2025 in *La Prensa*. The public comment period ended on January 24, 2025. 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).

The Executive Director's Response to Comments was filed on March 12, 2025 and mailed out on March 24, 2025, along with the letter with instructions on how to request reconsideration or a contested case hearing.

TCEQ received two timely hearing requests during the public comment period that were not withdrawn from Wendi Hammond (Legal Aid of Northwest Texas, on behalf of Joppa Freedman Town Association "JFTA") and Caleb Roberts (on behalf of Downwinders at Risk). The Executive Director Received Requests for Reconsideration from Wendi Hammond (Legal Aid of Northwest Texas, on behalf of Joppa Freedman Town Association "JFTA").

II. Analysis of Requests for Reconsideration

Any person may file a request for reconsideration of the Executive Director's decision. However, for the Commission to consider the request, it must substantially comply with the following requirements set forth in 30 TAC § 55.201(e): give the name, address, daytime telephone number and, when possible, fax number of the person who files the request; expressly state that the person is requesting reconsideration of the Executive Director's decision; and give reasons why the decision should be reconsidered.

TCEQ received timely requests for reconsideration from Wendi Hammond (Legal Aid of Northwest Texas, on behalf of JFTA). In general, the requests for reconsideration reiterated concerns that the Executive Director responded to in the RTC. The requestors referenced several RTC responses with which they disagreed. There were several responses where the request for reconsideration did not explain reasons as to why the response should be reconsidered. The Executive Director provides the following responses to the requests for reconsideration for which reasons to be reconsidered were provided by the requester.

Request for Reconsideration of Response 4: Compliance History

Wendi Hammond requested reconsideration of Response 4 because the public comment period ended before the public had the opportunity to comment on the technically complete application and compliance history, both of which were completed after the close of the comment period.

EXECUTIVE DIRECTOR'S RESPONSE: In response 4, the Executive Director explained that a compliance history review of the company and site is conducted during the technical review of the application. This review concluded that the site has a rating of 4.82 and a classification of satisfactory; and the company rating has a rating of 4.82, and a classification of satisfactory.

In Response 5, the Executive Director explained that this application is for a renewal of a permit that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted, and the applicant

has a satisfactory compliance history rating. Therefore, THSC § 382.056(g) prohibits the commission from holding a public meeting or extending the comment period to seek additional public comment on this type of application.

Request for Reconsideration of Response 5: Public Notice/Public Participation

Wendi Hammond requested reconsideration of Response 5 due to concerns that the Applicant failed to meet all requirements for public notice. Ms. Hammond raised specific concerns that JFTA representatives were unable to reach Applicant by the phone number provided in the public notice and that the newspapers where public notice was published was not a paper of general circulation in the municipality of the facility.

EXECUTIVE DIRECTOR'S RESPONSE: As explained in Response 5 of the Executive Director's Response to Comments, the NORI for this permit application was published in English on January 07, 2025, in the Lone Star TX Newspaper and in Spanish on January 9, 2025, in La Prensa. The public comment period ended on January 24, 2025. 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 Office of the Chief Clerk received the NORI affidavit and the Alternative Language NORI affidavit on January 9, 2025. Publication dates are available on the commissioner's integrated database and are posted when the affidavits are received. The applicant's contact information is provided in the notice; however, the agency cannot require the applicant to be responsive to phone calls or other inquiries from the public.

Request for Reconsideration of Response 8: Demonstrate Compliance with the Permit

Wendi Hammond requests reconsideration of Response 8 due to concerns that monitoring requirements and on-site records are not available through a Texas Public Information Act request.

EXECUTIVE DIRECTOR'S RESPONSE: As explained in Response 8, 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 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.

Request for Reconsideration of Response 9: Jurisdictional Issues:

Wendi Hammond requests reconsideration of Response 9 because the application does not consider the social and economic value of the source, citing THSC § 382.024.

EXECUTIVE DIRECTOR'S RESPONSE: TCEQ jurisdiction is established by the Texas Legislature and is limited to issues set forth in statutes and rules. Generally, TCEQ does not have jurisdiction to consider local economic impacts or community improvements in the surrounding area when determining whether to approve or deny a permit application.

III. Analysis of Hearing Requests

The Applicant is seeking a renewal that would not result in an increase in allowable emissions and would not result in an emission of an air contaminant not previously emitted. TCAA § 382.056(g) states: "The commission may not seek further comment or hold a public hearing...in response to a request for a public hearing on an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted."² Therefore, the commission should deny the hearing requests as a matter of law and approve the renewal of Applicant's Permit No. 4421A.

Although this renewal application will not result in an increase in allowable emissions and will not result in an emission of an air contaminant not previously emitted, TCAA § 382.056(o) states: "Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant's compliance history is in the lowest classification under §§ 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections."³ The Commission adopted 30 TAC Chapter 60 to evaluate compliance history. The lowest classification under the Texas Water Code §§ 5.753 and 5.754 and 30 TAC § 60.2 is an "unsatisfactory performer." Under 30 TAC § 60.3(a)(3)(B), TCEQ may hold a hearing on an air permit renewal if the site is classified as an unsatisfactory performer. The compliance history for the company and the site is typically reviewed for the five-year period prior to the date the permit application was received by the Executive Director. When the compliance history summary report was rated, the site had a rating of 4.82 and a classification of satisfactory, the company had a rating of 4.82 and a classification of satisfactory. Therefore, a hearing should not be granted under TCAA § 382.056(o) based on the compliance history of the Applicant.

IV. Executive Director's Recommendation

The renewal of this permit would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. Under these circumstances, TCAA § 382.056(g) directs the Commission to "not seek further comment or hold a public hearing." Because consideration of hearing requests on a "no increase" renewal application is governed by TCAA § 382.056(g) and (o), this Response does not include an analysis of the individual hearing requests. Accordingly, the Executive Director respectfully recommends the Commission deny the hearing requests as a matter of law and approve the renewal of Applicant's Permit No. 4421A.

² See also 30 TAC § 55.201(i)(3)(D) (Renewals of air applications that "would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted" are applications for which there is no right to a contested case hearing).

³ See also 30 TAC § 55.201(i)(3)(D) (stating the commission may hold a hearing if the application "involves a facility for which the applicant's compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations").

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 30th day of June 2025, a true and correct copy of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" for Air Quality Permit No. 4421A was served on all persons on the service list by the undersigned via electronic filing, electronic mail, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Elizabeth Black, Staff Attorney
Environmental Law Division

MAILING LIST
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TCEQ Docket No./TCEQ Expediente N.º 2025-0791-AIR;
Air Permit No./Air Permiso N.º 4421A

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