

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 24, 2025

TO: All interested persons.

RE: TAMKO Building Products LLC
TCEQ Air Quality Permit No. 4421A

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 chiefclerk@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. Additionally, the application will be available for viewing and copying at the TCEQ Central Office, TCEQ Dallas/Fort Worth Regional Office, and the Lancaster-Kiest Branch Library, 2008 East Kiest, Dallas, Dallas County, Texas. The facility's compliance file, if any exists, is available for public review in the Dallas/Fort Worth Regional Office of the TCEQ.

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 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. Your hearing request 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.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) 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."
- (4) 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.

Additionally, 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 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/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
TAMKO Building Products LLC
TCEQ Air Quality Permit No. 4421A

The Executive Director has made the Response to Public Comment (RTC) for the application by TAMKO Building Products LLC for TCEQ Air Quality Permit No. 4421A 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 (4421A) 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 chiefclerk@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, The application will be available for viewing and copying at the TCEQ Central Office, TCEQ Dallas/Fort Worth Regional Office, and the Lancaster-Kiest Branch Library, 2008 East Kiest, Dallas, Dallas County, Texas. The facility's compliance file, if any exists, is available for public review in the Dallas/Fort Worth Regional Office of the TCEQ.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

24 de marzo de 2025

TO: Todas las personas interesadas.

RE: TAMKO Building Products LLC
Permiso de Calidad del Aire TCEQ No. 4421A

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. 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. Además, la solicitud estará disponible para su visualización y copia en la Oficina Central de la TCEQ, la Oficina Regional de la TCEQ en Dallas/Fort Worth, y en el Lancaster-Kiest Branch Library, 2008 East Kiest, Dallas, Condado de Dallas, Texas. El expediente de cumplimiento de la instalación, si existe, está a disposición para revisión pública en la Oficina Regional de la TCEQ en Dallas/Fort Worth.

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) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) 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".
- (4) 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.

Además, 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 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/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
TAMKO Building Products LLC
Permiso de Calidad del Aire TCEQ No. 4421A

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de TAMKO Building Products LLC del Permiso de Calidad del Aire TCEQ No. 4421A. 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 (4421A) 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.

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. Además, la solicitud estará disponible para su visualización y copia en la Oficina Central de la TCEQ, la Oficina Regional de la TCEQ en Dallas/Fort Worth, y en el Lancaster-Kiest Branch Library, 2008 East Kiest, Dallas, Condado de Dallas, Texas. El expediente de cumplimiento de la instalación, si existe, está a disposición para revisión pública en la Oficina Regional de la TCEQ en Dallas/Fort Worth.

MAILING LIST / LISTA DE CORREO

for / para

TAMKO Building Products LLC

TCEQ Air Quality Permit No. 4421A / Permiso de Calidad del Aire TCEQ No. 4421A

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Jason White, General Manager
TAMKO Building Products LLC
7910 South Central Expressway
Dallas, Texas 75216

Shyla Blackketter Dwyer
TAMKO Building Products LLC
220 West 4th Street
Joplin, Missouri 64801

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

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

Kristyn Jacher, 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

CHAPARRO, JULIO & DAVIS, EMMANUEL
JUSTICE FOR JOPPA
4706 FELLOWS LN
DALLAS TX 75216-4129

HAMMOND, WENDI
LEGAL AID OF NORTHWEST TEXAS
STE 1420
400 S ZANG BLVD
DALLAS TX 75208-6600

ROBERTS, CALEB
DOWNWINDERS AT RISK
APT 202
1808 S GOOD LATIMER EXPY
DALLAS TX 75226-2202

TCEQ AIR QUALITY PERMIT NUMBER 4421A

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 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: Wendi Hammond (Legal Aid of Northwest Texas, on behalf of Joppa Freedman Town Association "JFTA"), Emmanuel Davis and Julio Chaparro, Caleb Roberts (on behalf of Downwinders at Risk). 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

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.

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 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 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).

COMMENTS AND RESPONSES

COMMENT 1: Health Effects/Air Quality

Commenters expressed concern 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 expressed concern that the proposed project would cause negative health effects and conditions, including but not limited to a negative impact on life expectancy, higher rates of asthma, respiratory illnesses, chronic obstructive pulmonary disease (COPD), and other long-term health problems. Wendi Hammond questioned whether the application and permit are protective of human health and welfare, including with respect to cumulative emissions from the surrounding area. Wendi Hammond questioned whether the project would cause or contribute to any exceedance of the National Ambient Air Quality Standards (NAAQS), including with respect to ozone, PM₁₀, and PM_{2.5}, and questioned whether modeling conducted to support the application is outdated, inadequate, or flawed.

(Wendi Hammond, Emmanuel Davis and Julio Chaparro, Caleb Roberts)

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}).

This renewal application is a “no increase renewal,” meaning that it does not seek to authorize an increase in the allowable emission rates, nor does it request to emit any new air pollutants. Applicants seeking a no increase renewal are not required to submit an additional impacts analysis unless it is necessary to avoid a condition of air pollution. *See* 30 TAC § 116.311(b). In addition, the commission may not impose requirements more stringent than those of the existing permit unless the commission determines that the requirements are necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements. TCAA § 382.055(e). In summary, all emissions authorized by the existing permit were appropriately modeled and reviewed in previous permitting actions and found to meet all applicable state and federal standards. Because this is a no-increase renewal application, the commission’s previous finding that the emissions authorized by this permit would not be expected to impact air quality or result in adverse health effects remains unchanged. 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 the renewal of this permit.

COMMENT 2: Environmental Concerns

Wendi Hammond expressed concern about the effect of the proposed project on surrounding wildlife and the environment, specifically questioning whether the application and permit are protective of property and the environment.

(Wendi Hammond)

¹ 40 CFR 50.2

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: Dust/Nuisance

Wendi Hammond expressed concern regarding dust generated by the proposed project, which could be exacerbated by winds and impact downwind communities. Wendi Hammond questioned whether the project would create visible emissions at the property line and if the permit conditions are adequate to protect against visible emissions.

(Wendi Hammond)

RESPONSE 3: The primary activities that have the potential to emit particulate matter (i.e. dust) resulting from this project are traffic, material handling, coating and aggregate application processes, cooling towers, and sheet cutting processes. 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. *See* Response 8 regarding demonstration of compliance with the permit.

COMMENT 4: Compliance History

Caleb Roberts expressed concern regarding the compliance history of the applicant and site, including concerns about the applicant being on a list of 'major polluters' as determined by the local news, and further concerns that the applicant has been 'nonconforming' for the past 40 years.

(Caleb Roberts)

RESPONSE 4: 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.
- Unclassified: rating of N/A – generally given to new facilities without a history to rate or facilities under local air quality program jurisdiction.

This site has a rating of 4.82 and a classification of satisfactory. The company rating has a rating of 4.82, and a classification of satisfactory. The company rating reflects the average of the ratings for all sites the company owns in Texas.

COMMENT 5: Public Notice/Public Participation

Caleb Roberts expressed concern that the public notice issuance date was close to the Christmas and New Years holiday, stating that this prevented community groups from requesting a hearing during the 15-day window. Caleb Roberts further asked that the TCEQ honor the request to host a public hearing in the city to hear public feedback on how the Applicant has negatively impacted the enjoyment of their community.

Wendi Hammond questioned whether the TCEQ and Applicant complied with all federal and state public notice requirements. Wendi Hammond requests both a public meeting and contested case hearing and further asks that the request for a contested case hearing be extended to 30 days after the mailing of the Executive Director's Response to Comments. Wendi Hammond expressed concern that the public notice stated that further information could be obtained from the Applicant, stating that they were unable to contact the Applicant at the number provided to find out when the notice had been published. Wendi Hammond commented that the public was robbed of its opportunity to meaningfully participate in the public process throughout the entire available comment period and therefore public notice should be published again.

(Wendi Hammond, Caleb Roberts)

RESPONSE 5: TCEQ welcomes public participation in the permitting process. The Executive Director instructs applicants to provide public notice as required by commission rules, in accordance with statutory requirements. Specifically, the 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 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. TCEQ adopted rules for these public notice requirements in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice.

As described above, the Notice of Receipt of Application and Intent to Obtain an Air Permit Renewal (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. 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. 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.

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, as discussed in Response 4. 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.

Any member of the public may submit comments on the application. This Response is the written response to all formal comments received during the comment period for the application. A copy of this Response will be mailed to each person who submitted a formal comment or who requested to be on the mailing list for this permit application and provided a mailing address. All timely formal comments received are included in this Response and are considered before a final decision is reached on the permit application. This Response provides a final 30-day period to request a contested case hearing.

In order for an issue to be considered at a contested case hearing, it must have been first raised in a comment or in a request for a contested case hearing during the public comment period by the affected person or group requesting the hearing.

The commissioners' decision whether to grant a contested case hearing is based in part on the information the requester submits. When requesting a hearing, it is necessary to demonstrate that the requester is an "affected person," in order to be granted party status. This means that the requester must be personally affected by the permit decision and that granting the permit would specifically affect the requester in ways not shared by the general public – for example, by impairing the requester's health or safety or by interfering with the use or enjoyment of the requester's property. Affected persons may request a hearing to challenge the Executive Director's decision on an application.

The public notice rules applicable to this application are described above. Information on public meetings, contested case hearings, providing comments, requesting accommodations, and more can be found on the TCEQ website at www.tceq.texas.gov/goto/participation.

COMMENT 6: Application Representations

Wendi Hammond questioned whether the information provided by the Applicant in the application is factually accurate, whether proposed emissions are reasonable, and whether the application includes enough information to determine compliance with applicable federal and state statutes, regulations, and policies.

(Wendi Hammond)

RESPONSE 6: The Air Permits Division and other applicable TCEQ staff have conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. An applicant is bound by its representations in the application and those representations become an enforceable part of the permit, including production rates, authorized emission rates, and equipment. If the Applicant deviates from the representations made in the application, on which the permit was developed, the Applicant may be subject to enforcement action. TCEQ evaluates all complaints received. If a facility or plant is found to be out of compliance with the terms and conditions of its permit, it may be subject to possible enforcement action. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by contacting 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.

As stated in Response 1, this renewal application is a "no increase renewal", meaning that it does not seek to authorize an increase in the allowable emission rates, nor does it request to emit any new air pollutants.

COMMENT 7: Best Available Control Technology

Wendi Hammond questioned whether the facility would utilize BACT, and whether proposed emissions are reasonable considering the technical practicability and economic reasonableness of further reducing or eliminating the proposed emissions.

(Wendi Hammond)

RESPONSE 7: Best Available Control Technology (BACT) is an air pollution control method for a new or modified facility that through experience and research, has proven to be operational, obtainable, and capable of reducing or eliminating emissions from the facility, and is considered technically practical and economically reasonable for the facility. BACT may be numerical limitations, the use of an add-on control technology, design considerations, the implementation of work practices, or operational limitations. The Applicant has represented in the permit application that BACT will be used for the proposed new and modified sources.

The contaminants authorized by this permitting action are 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. The primary control measures applied to this facility are: spray bars and water sprays, dust collectors, fabric filters, fume filters, low NO_x burners, direct fired thermal oxidizers (DFTO), building enclosures, and the use of sweet natural gas and the use of ultra-low sulfur diesel (ULSD) in an emergency generator. The permit reviewer evaluated the proposed BACT and confirmed it to be acceptable.

COMMENT 8: Demonstrate Compliance with the Permit

Wendi Hammond questioned whether the permit conditions and Executive Director's preliminary decision includes the information necessary to determine compliance with applicable federal and state air control statutes, regulations, and policies. Wendi Hammond questioned whether there were sufficient air monitoring requirements in the draft permit. Wendi Hammond questioned whether the proposed activities would cause nuisance conditions and whether the permit conditions are adequate to protect against nuisance conditions. Wendi Hammond questioned whether the permit conditions are adequate to protect against cumulative impacts and protect against causing or contributing to exceedances of the NAAQS. Wendi Hammond questioned whether the permit Maximum Allowable Emission Rates Table (MAERT) improperly allows higher emissions than necessary for the operation of the facility considering existing pollution control technology and the facility's past air emission tests and reports.

(Wendi Hammond)

RESPONSE 8: 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 stack sampling, quarterly observations for visible emissions and/or opacity determinations, pressure drop reading devices in each baghouse (dust collector), cooling tower equipped with drift eliminators, cooling water sampling, upkeep of daily and annual throughput and production records (in tons), records of materials used that have the potential to emit HAPs, kept in sufficient detail in order to allow all required emission rates to be fully and accurately calculated, runtime meters, flow rates, and temperature monitoring. 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.

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 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. 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 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 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 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).

As stated, this renewal application is a "no increase renewal", meaning that it does not seek to authorize an increase in the allowable emission rates, nor does it request to emit any new air pollutants. See Response 1 regarding for concerns regarding health effects and air quality, Response 4 regarding compliance history, Response 7 regarding BACT, and Response 6 regarding application representations.

COMMENT 9: Jurisdictional Issues

Location/Zoning/Local Economy

Commenters expressed concern regarding the location of the facility and/or whether it complies with current local zoning ordinances. Commenters expressed concern regarding the location of the facility as it relates to residential and public areas, including recreational areas, parks, and trails. Commenters expressed concern regarding the facility and its proximity to other existing industrial sources in the area. Caleb Roberts expressed concern that the site is not part of the City's long-term plans for the area, stating that the TCEQ should honor the city and push to deindustrialize Joppa. Wendi Hammond questioned whether the proposed emissions are reasonable considering the lack of social and economic value, and the non-priority of location of the area involved.

(Wendi Hammond, Emmanuel Davis and Julio Chaparro, Caleb Roberts)

Traffic/Trucks/Roads/Public Infrastructure

Caleb Roberts expressed concern regarding exposure to pollution from mobile sources, including traffic, other factories and smokestacks, and trains.

Quality of Life/Aesthetics

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

(Wendi Hammond, Caleb Roberts)

RESPONSE 9:

Location/Zoning/Local Economy

Generally, TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule specifically requires the Commission to consider some aspect of the location. Generally, however, zoning is beyond the authority of TCEQ to consider when reviewing permit applications. The issuance of a permit 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. Commenters may wish to contact local (i.e., city or county) zoning authorities with questions or concerns relating to the location of the facility.

TCEQ does not have jurisdiction to consider local economic impacts or community improvements in the surrounding areas when determining whether to approve or deny a permit application. Commenters may direct concerns regarding economic effects from the facility to local groups that focus on economic development (e.g., city or county economic development departments). Commenters may direct concerns regarding the location of the facility to local zoning authorities.

Traffic/Trucks/Roads/Public Infrastructure

TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. For many authorizations, TCEQ does not have jurisdiction to consider traffic issues when determining whether to approve or deny a permit application. The scope of the agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property. Commenters may contact the [Texas Department of Transportation \(TxDOT\)](#) for any state highway-related concerns. For any concerns related to city- or county-maintained roads, commenters may contact their local, city, or county public works or roads/streets department.

Quality of Life/Aesthetics

TCEQ does not have the authority to consider potential effects from plant location, aesthetics, zoning and land use issues, or quality of life when determining whether to approve or deny an air permit. TCEQ does not have jurisdiction to consider whether the proposed activity will impact development, property values, property transactions, or investment property when determining whether to approve or deny a permit application. However, the issuance of a permit does not authorize injury to persons or property or invasion of other property rights or violation of state or local law or regulation. A person affected in these ways may pursue a remedy in civil court. The Executive Director's review of a permit application is limited to whether the application and proposed activities meet the requirements of applicable TCEQ rules.

In summary, TCEQ jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statutes and rules. TCEQ rule requirements are intended to safeguard human health and the environment. If permitted facilities are operated in compliance with TCEQ rules and the terms and conditions of the permit, the facility should not adversely impact human health or the environment. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with any permit terms or other environmental regulations by contacting TCEQ [Regional Office](#) for their area or by calling the 24-hour toll free Environmental Complaints Hotline at 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. The issuance of a permit does not authorize injury to persons or property, invasion of other property rights, or infringement of state or local law or regulation, and does not limit the ability of an individual to seek legal remedies against an owner or operator regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 10: Environmental Justice (EJ)

Commenters raised concerns regarding the environmental justice implications of this project Caleb Roberts citing health data from the EPA's EJ Screen. Wendi Hammond questioned whether continued operation of the facility fails to comply with federal and state environmental justice executive orders, laws, regulations, and policy guidelines, and whether the permit conditions are adequate to protect environmental justice concerns.

(Wendi Hammond, Caleb Roberts)

RESPONSE 10: Air permits evaluated by TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community. 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. 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 TCEQ website: [Title VI Compliance at TCEQ - Texas Commission on Environmental Quality - www.tceq.texas.gov](http://www.tceq.texas.gov). See Response 8 regarding compliance with the permit.

COMMENT 11: TCEQs Responsibility to the Community/General Opposition

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

(Wendi Hammond, Emmanuel Davis and Julio Chaparro, Caleb Roberts)

RESPONSE 11: TCEQ appreciates the comments and interest from the public in environmental matters before the agency and acknowledges the comments in opposition of the project. The TCAA establishes TCEQ's jurisdiction to regulate air emission in the state of Texas. Accordingly, 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. TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met.

CHANGES MADE IN RESPONSE TO COMMENT

No changes to the draft permit have been made in response to public comment.

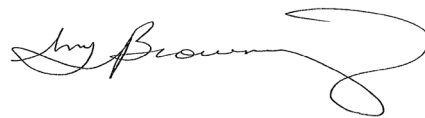
Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Amy Browning, Staff Attorney
Environmental Law Division
State Bar Number 24059503
PO Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY