TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 4, 2025

TO: All interested persons.

RE: Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC)
TCEQ Air Quality Permit No. 169687

**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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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. 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, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central Office, the TCEQ Beaumont Regional Office, and at the Marion & Ed Hughes Public Library, 2712 Nederland Avenue, Nederland, Jefferson County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas.

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

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,

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**
**for**
**Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC)**
**TCEQ Air Quality Permit No. 169687**

The Executive Director has made the Response to Public Comment (RTC) for the application by Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC) for TCEQ Air Quality Permit No. 169687 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 (169687) and click the "Search" button. The search results will display a link to the RTC.

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

## Additional Information

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

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central Office, the TCEQ Beaumont Regional Office, and at the Marion & Ed Hughes Public Library, 2712 Nederland Avenue, Nederland, Jefferson County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas.

COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

*Protegiendo a Texas reduciendo y previniendo la contaminación*

4 de abril de 2025

TO: Todas las personas interesadas.

RE: Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC)
Permiso de Calidad del Aire TCEQ No. 169687

**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, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Oficina Central de la TCEQ, la Oficina Regional Beaumont de la TCEQ y la biblioteca pública de Marion & Ed Hughes, 2712 Avenida Nederland, el condado de Jefferson, Texas. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la Oficina Regional Beaumont de la TCEQ.

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

Laurie Gharis
Secretaria Oficial

LG/cb

Recinto

**RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO**
**para**
**Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC)**
**Permiso de Calidad del Aire TCEQ No. 169687**

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC) del Permiso de Calidad del Aire TCEQ No. 169687. 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 (169687) 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, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Oficina Central de la TCEQ, la Oficina Regional Beaumont de la TCEQ y la biblioteca pública de Marion & Ed Hughes, 2712 Avenida Nederland, el condado de Jefferson, Texas. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la Oficina Regional Beaumont de la TCEQ.

MAILING LIST / LISTA DE CORREO
for / para
Beaumont New Ammonia LLC (formerly known as OCI Clean Ammonia LLC)
TCEQ Air Quality Permit No. 169687 / Permiso de Calidad del Aire TCEQ No. 169687

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Beshoy Guirguis, CFO OCI Americas
OCI Clean Ammonia LLC
Post Oak Boulevard, Suite 3150
Houston, Texas 77056

Corbin Smith, Environmental Engineer
OCI Nitrogen North America
1560 Lone Star Drive
Nederland, Texas 77627

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

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

Ariel Ramirez, 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

AKBARI , ARIANA
108 1ST AVE
NEDERLAND TX 77627-3365

BUCHANAN , ELLEN
PO BOX 1489
KOUNTZE TX 77625-1489

BUCHANAN , ELLEN
1245 S PINE ST
KOUNTZE TX 77625-7643

PORTER , CHASE
LONE STAR LEGAL AID
1415 FANNIN ST
HOUSTON TX 77002-7632

STELLY , TERRY D PRESIDENT
SOUTHEAST TEXAS CLEAN AIR & WATER INC
227 N 30TH ST
NEDERLAND TX 77627-7031

**TCEQ AIR QUALITY PERMIT NUMBER 169687**

| | | |
|---|---|---|
| **APPLICATION BY** | **§** | **BEFORE THE** |
| **BEAUMONT NEW AMMONIA LLC** | **§** | |
| **FKA OCI CLEAN AMMONIA LLC** | **§** | **TEXAS COMMISSION ON** |
| **OCI CLEAN AMMONIA PRODUCTION FACILITY** | **§** | |
| **NEDERLAND, JEFFERSON 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: Golden Triangle Group of the Sierra Club (Ariana Akbari, Ellen Buchanan, and Terry D. Stelly) and Lone Star Legal Aid (Chase Porter). 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

Beaumont New Ammonia LLC (Applicant), formerly known as OCI Clean Ammonia 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 modification of an existing facility that may emit air contaminants.

This permit will authorize the Applicant to modify the OCI Clean Ammonia Production Facility. The facility is located approximately 6.0 miles South of the Interstate Highway 10 and Highway 90 intersection, and the following directions: from Interstate Highway 10 and Highway 90 in Beaumont, take Interstate Highway 10 West, then staying right at the fork, continue on U.S. Highway 287/69/96 South, exit onto Texas Highway 347 East for approximately 4.0 miles, Nederland, Jefferson County. Contaminants authorized under this permit include anhydrous ammonia, carbon monoxide, nitrogen oxides, organic compounds, particulate matter, including particulate matter with diameters of 10 microns or less and 2.5 microns or less, and sulfur dioxide.

## Procedural Background

Before work begins on the modification of an existing facility that may emit air contaminants, the person planning the modification must obtain a permit amendment from the commission. This permit application is for a permit amendment of Air Quality Permit Number 169687.

The permit application was received on June 17, 2024, and declared administratively complete on June 25, 2024. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for this permit application was published in English on July 11, 2024, in the *Beaumont Enterprise*, and in Spanish on July 11, 2024, in *El Perico.* The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published on August 29, 20024, in English in the *Beaumont Enterprise*, and in Spanish on August 29, 2024, in *El Perico*. The original permit application and the notices were under the applicant's original name, OCI Clean Ammonia LLC, which has since been changed to Beaumont New Ammonia LLC. Since 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/Cumulative Effects

Commenters expressed concern about the effect of emissions from the proposed project on the air quality and health of people, particularly sensitive populations such as the elderly, children, and people with pre-existing medical conditions. Commenters are also concerned about the potential health effects of ammonia and the impact of cumulative effects of the proposed project.

(Lone Star Legal Aid, Golden Triangle Group of the Sierra Club)

**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 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 continually evaluates the NAAQS, which include both primary and secondary standards, for pollutants considered harmful to public health and the environment.[1] Primary NAAQS protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS

[1] 40 C.F.R. § 50.2

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 ($NO_2$), ozone ($O_3$), sulfur dioxide ($SO_2$), particulate matter less than or equal to 10 microns in aerodynamic diameter ($PM_{10}$), and particulate matter less than or equal to 2.5 microns in aerodynamic diameter ($PM_{2.5}$).[2]

The Applicant conducted a NAAQS analysis for CO, $NO_2$, $PM_{10}$, $PM_{2.5}$, and $SO_2$. The first step of the NAAQS analysis is to compare the proposed modeled emissions against the established de minimis level. Predicted concentrations ($GLC_{max}$)[3] below the de minimis level are so low that further NAAQS analysis is not required. Table 1 contains the results of the de minimis analysis.

Table 1. Modeling Results for De Minimis Review

| Pollutant | Averaging Time | $GLC_{max}$ (µg/m$^3$) | De Minimis (µg/m$^3$) |
|---|---|---|---|
| $NO_2$ | 1-hr | 28.24 | 7.5 |
| $NO_2$ | Annual | 1.23 | 1 |
| CO | 1-hr | 618.74 | 2000 |
| CO | 8-hr | 140.32 | 500 |
| $PM_{10}$ | 24-hr | 6.94 | 5 |
| $PM_{2.5}$ | 24-hr | 5.49 | 1.2 |
| $PM_{2.5}$ | Annual | 0.04 | 0.13 |
| $SO_2$ | 1-hr | 7.52 | 7.8 |
| $SO_2$ | 3-hr | 7.15 | 25 |

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

The Applicant conducted a full NAAQS analysis for those pollutants above de minimis, accounting for cumulative effects by including evaluations of all on-property sources, applicable off-property sources, and representative monitored background concentrations. Results of the NAAQS analysis are presented below in Table 2. The total concentration was determined by adding the $GLC_{max}$ to the appropriate background concentration. Background concentrations are obtained from ambient air monitors across the state and added to the modeled concentration (both on-property and off-property sources) to account for sources not explicitly modeled. The ambient air monitors were selected to ensure that they are representative of the proposed site. The total concentration was compared to the NAAQS to ensure that the concentration is below the standard. For any subsequent projects submitted pertaining to this facility, or any other facility in the area, the air quality analysis for that project will

[2] Issuance of a new source review authorization considers the standards in effect on a case-by-case basis. Due to the changes in the annual NAAQS standard for $PM_{2.5}$ becoming effective on May 6, 2024, the TCEQ evaluated this new source review authorization under the updated NAAQS standard for $PM_{2.5}$.
[3] The $GLC_{max}$ is the maximum ground level concentration predicted by the modeling.

include the emissions authorized by this project, as well as other applicable off-property sources, if a full impacts analysis is required.

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

| Pollutant | Averaging Time | $GLC_{max}$ ($\mu g/m^3$) | Background ($\mu g/m^3$) | Total Conc. = [Background + $GLC_{max}$] ($\mu g/m^3$) | Standard ($\mu g/m^3$) |
|---|---|---|---|---|---|
| $NO_2$ | 1-hr | 42.22 | 47 | 89.22 | 188 |
| $NO_2$ | Annual | 1.36 | 9 | 10.36 | 100 |
| $PM_{10}$ | 24-hr | 7.42 | 122 | 129.42 | 150 |
| $PM_{2.5}$ | 24-hr | 5.16 | 20 | 25.16 | 35 |

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

Effects Screening Levels

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

The Applicant conducted a health effects analysis using the Modeling and Effects Review Applicability (MERA) guidance.[4] The MERA is a tool to evaluate impacts of non-criteria pollutants. It is a step-by-step process, evaluated on a chemical species by chemical species basis, in which the potential health effects are evaluated against the ESL for the chemical species. The initial steps are simple and conservative, and as the review progresses through the process, the steps require more detail and result in a more refined (less conservative) analysis. If the contaminant meets the criteria of a step, the review of human health and welfare effects for that chemical species is complete and is said to "fall out" of the MERA process at that step because it is protective of human health and welfare. All pollutants, including ammonia, satisfy the MERA criteria as shown in table 3 below, and therefore, are not expected to cause adverse health effects.

[4] *See* APDG 5874 guidance document.

Table 3. Health Effects Modeling Results

| Pollutant | CAS# | Averaging Time | $GLC_{max}$ (µg/m$^3$) | ESL (µg/m$^3$) |
|---|---|---|---|---|
| ammonia | 7664-41-7 | 1-hr | 113.58 | 180 |
| | | Annual | 8.63 | 92 |

State Property Line Analysis (30 TAC Chapter 112)

Since this application has sulfur emissions, the Applicant conducted a state property line analysis to demonstrate compliance with TCEQ rules for net ground-level concentrations for sulfur dioxide ($SO_2$), hydrogen sulfide ($H_2S$), and sulfuric acid ($H_2SO_4$), as applicable. This analysis demonstrated that resulting air concentrations will not exceed the applicable state standard.

Cumulative Effects

As described above, as part of the review process air dispersion modeling was performed to evaluate potential impacts to human health and welfare or the environment from the project. When appropriate, background concentrations are added to the modeled project concentrations to account for other existing emission sources in the area surrounding the plant. Background concentrations are obtained from ambient air monitors and would include emissions from other industries, population, and vehicles. The TCEQ cannot evaluate future emissions that may result from economic and population growth. The current emission rates for this permit were evaluated and determined to be protective when they were previously authorized. For each criteria pollutant subject to a NAAQS review, a modeling significance analysis was conducted to determine if the contaminant was below its Significant Impact Level (SIL) or whether a full NAAQS analysis would be required. The SIL value is defined as that value below which a significant change in air quality is not anticipated due to the emissions generated by the source, and no further evaluation of that contaminant is required. A full impacts analysis requires an evaluation of all on-property sources, off-property sources within the modeling domain, and representative monitored background concentrations, which is added to the modeled concentration (both on-property and off-property sources) to account for sources not explicitly modeled. Please note that for any subsequent projects submitted pertaining to this or any other facility in the area, the air quality analysis for that project will have to include the emissions authorized by this project, as well as other off-property sources within the modeling domain, if a full impacts analysis is required.

In summary, based on the Executive Director's staff review, it is not expected that existing health conditions will worsen, or that there will be adverse health effects on the general public, sensitive subgroups, or the public welfare and the environment, as a result of proposed emission rates associated with this project.

**COMMENT 2: Compliance History**

Commenters expressed concern about the compliance history of the applicant and site, as well as the compliance history of other facilities in the area. Commenters are particularly concerned about emission events such as ammonia leaks and methanol leaks.

(Golden Triangle Group of the Sierra Club)

**RESPONSE 2:** 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: http://www.tceq.texas.gov/rules/index.html

The compliance history is reviewed for the five-year period prior to the date the permit application was received and includes multimedia compliance-related components about the site under review. These components include enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance. However, the TCEQ does not have jurisdiction to consider violations outside of the State of Texas.

A company and site may have one of the following classifications and ratings:

- High: rating below 0.10 – complies with environmental regulations extremely well;
- Satisfactory: rating 0.10 – 55.00 – generally complies with environmental regulations;
- Unsatisfactory: rating greater than 55.00 – fails to comply with a significant portion of the relevant environmental regulations; and
- Unclassified: rating of N/A – generally given to new facilities without a history to rate or facilities under local air quality program jurisdiction

The site and company has a rating of N/A, and a classification of 'Unclassified,' as both the site and company have been in operation for less than the five-year review period. The company rating reflects the average of the ratings for all sites the company owns in Texas.

The TCEQ evaluates all complaints received. If a facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Beaumont Regional Office at 409-898-3838 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen-collected evidence may be used in such an action. *See* 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. Under the citizen-collected

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

**COMMENT 3: Area Map – Nearby School**

Chase Porter expressed concern that the application is incomplete or has inaccurate representations, specifically commenting that the permit application failed to identify a school within 3,000 feet of the facility. Mr. Porter further commented that the TCEQ must identify this school and evaluate whether the proposed project would contribute to any health or nuisance effects at the school.

(Lone Star Legal Aid)

**RESPONSE 3:** An area map must be submitted with an NSR permit application. The area map must include a true north arrow, accurate scale, the entire plant property, and the location of the property relative to prominent geographical features. The area map is a legacy requirement which dates to before the reviewer had easy access to computerized maps. The documents submitted with the application and the supplemental use of software-based mapping tools was sufficient to allow the permit reviewer to confirm that the representations provided met the requirements of the NSR permit. The representations on the provided area map are not part of the Air Quality Analysis (AQA), nor does the area map dictate how the AQA is conducted. The NAAQS do not have special provisions or limitations for schools, rather they apply to all points beyond the property line. Similarly, because there were no predicted exceedances of ESLs at any point beyond the property line (*See* Response 1), the potential existence of a school or other non-industrial receptor was irrelevant to the review.

**COMMENT 4: Best Available Control Technology**

Chase porter questioned whether the permit application and draft permit meet BACT requirements, including emission limits, operational constraints, pollution controls, and monitoring needed to ensure compliance, further questioning whether the draft permit includes adequate monitoring to ensure compliance with all emissions limitations. Mr. Porter commented that the Applicant must utilize the lowest achievable option and secure the maximum reduction of emissions possible.

Mr. Porter questioned the BACT demonstration for the auxiliary boiler and heater, including the represented $NO_x$ and CO emission limits, questioned whether the boiler and heater meet BACT for VOC emissions, and questioned the use of 40 CFR Part 60, Appendix A, Reference Method 9 as sufficient monitoring for opacity of emissions.

Mr. Porter questioned whether the represented drift eliminators for the cooling tower meet BACT requirements, stating that the TCEQ should require the Applicant to adopt a 0.005% drift to meet BACT. Mr. Porter questioned the maintenance and inspection requirements contained in the draft permit for cooling towers, stating that the provisions are too vague and too infrequent to ensure the drift eliminators are reducing drift at the rates originally represented by the manufacturers. Mr. Porter requests that the permit specify the modes of inspection and require at least semi-annual inspection and maintenance of the drift eliminators.

Mr. Porter commented that the Applicant did not provide a BACT analysis for the elevated flare emissions and controls, questioned the represented flare destruction and removal efficiencies, and questioned the proposed flare monitoring requirements.

(Lone Star Legal Aid)

**RESPONSE 4:** 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. The TCAA and the TCEQ rules require an evaluation of air quality permit applications to determine whether adverse effects to public health, general welfare, or physical property are expected to result from a facility's proposed emissions. As part of the evaluation of applications for new or amended permits, the permit reviewer audits all sources of air contaminants at the proposed facility and assures that the facility will be using the BACT applicable for the sources and types of contaminants emitted. The BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility. TCEQ's BACT guidance is not set on a regular publication schedule; rather, BACT guidance is updated as needed, and each applicant must demonstrate that their proposed facility meets BACT. Applying BACT results in requiring technology that best controls air emissions with consideration given to the technical practicability and economic reasonableness of reducing or eliminating emissions.[5] BACT may be numerical limitations, the use of an add-on control technology, design considerations, the implementation of work practices, or operational limitations.

The TCEQ BACT evaluation is conducted using a "tiered" analysis approach. The evaluation begins at the first tier and continues sequentially through subsequent tiers only if necessary, as determined by the evaluation process described in this document. In each tier, BACT is evaluated on a case-by-case basis for technical practicability and economic reasonableness. The three tiers are described in the following paragraphs:

**Tier I:** Emission reduction performance levels accepted as BACT in recent permit reviews for the same process and/or industry continue to be acceptable.

**Tier II:** Tier II BACT evaluation involves consideration of controls that have been accepted as BACT in recent permits for similar air emission streams in a different process or industry. For example, an applicant may propose to control VOC emissions in one industry using technology already in use in another industry. A Tier

[5] *See* TCAA § 382.0518. *See also* 30 TAC § 116.111.

II evaluation includes issues relating to stream comparison and possible differences in overall performance of a particular emission reduction option. In addition, the Tier II evaluation considers technical differences between the processes or industries in question. To demonstrate technical practicability, detailed technical analysis may be required to assess the cross-applicability of emission reduction options. In Tier II, economic reasonableness is established by historical and current practice.

**Tier III:** A Tier III BACT evaluation is a detailed technical and quantitative economic analysis of all emission reduction options available for the process under review and is similar to EPA's top-down approach. Technical practicability is established through demonstrated success of an emission reduction option based on previous use, and/or engineering evaluation of a new technology. Economic reasonableness is determined solely by the cost-effectiveness of controlling emissions (dollars per ton of pollutant reduced) and does not consider the effect of emission reduction costs on corporate economics.

BACT criteria differ from the lowest achievable emission rate (LAER) requirements. LAER standards are more stringent than BACT standards and does LAER not take economic feasibility into account. LAER is applicable in counties that are considered to be in nonattainment of the federal Clean Air Act. Since Jefferson County is not a nonattainment county, LAER does not apply to this project.

The Applicant represented in the permit application that BACT will be used at the site. Use of appropriate control measures will decrease the amount of air contaminants emitted into the atmosphere by this plant. The plant will emit the following air contaminants: anhydrous ammonia, carbon monoxide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less and sulfur dioxide. The primary control measures proposed for this plant are identified as follows:

Auxiliary Boiler and Startup Heater

The auxiliary boiler and startup heater will utilize good combustion practices and fire low-sulfur fuel, in accordance with Tier I BACT requirements. The auxiliary boiler and startup heater will be equipped with low-$NO_x$ burners with a $NO_x$ emission factor of 0.036 lb/MMBtu. Selective catalytic reduction (SCR) is not appropriate emission control technology due to the limited duration of each operating period and SCR design "turndown" limitations. Low-$NO_x$ burners are represented as BACT based on the planned heater design. The startup heater will be designed for natural draft combustion air intake. Ultra-low-$NO_x$ burner systems are compatible with more sophisticated methods of controlling air feed rates and other combustion zone conditions; therefore, low-$NO_x$ burners are proposed for compatibility with the basic type of heater to be installed. Additionally, both combustion units are represented to only operate intermittently to support planned startup events and other Maintenance, Startup, and Shutdown (MSS) activities. The CO factor is based on TCEQ Tier I BACT for gas-fired heaters with 100 ppmvd for short-term fluctuations in combustion conditions.

The auxiliary boiler will be equipped with Continuous Emissions Monitoring System (CEMS) for both $NO_x$ and CO. The primary role of the startup heater will be to provide

process heat during plant-wide startups. The Applicant identified certain operating scenarios outside of a plant-wide startup when additional process heat may be needed, and the startup heater would be operated for short durations outside of a plant-wide startup. These "non-startup" heater operating scenarios would occur infrequently, and total annual operations will not exceed the 960 hours/year value used to estimate annual emissions for the startup heater (as represented in the heater emissions calculation, Table C-3 in Appendix C of the confidential application document). These "non-startup" operating scenarios are not expected to occur every year and would not normally be scheduled with enough advanced notice to coordinate a Relative Accuracy Test Audit (RATA) test if a CEMS were required. Additionally, the heater is integrated with the ammonia process unit and is not designed to operate outside of plant startup events; therefore, operating the heater during normal plant operations could cause damage to certain process equipment. The plant is designed to operate continuously for more than a year without a shutdown or startup for a unit turnaround. Shutting down and restarting the entire plant just to perform annual Appendix F/Procedure 1 RATA tests on the startup heater would lead to unnecessary plant startup emissions exceeding the potential emission rates from the startup heater.

In lieu of CEMS, and as detailed above, the permit requires periodic testing and tune up requirements for the heater as identified in Special Condition Numbers 8 and 9 of the permit special conditions. The auxiliary boiler and startup heater will be fired with pipeline-quality natural gas containing no more than 5 grains of total sulfur per 100 dry standard cubic feet (dscf). The permit also requires that if visible emissions are observed from an emission point, then opacity shall be determined and documented within 24 hours for that emission point using 40 CFR Part 60, Appendix A, Reference Method 9. EPA Method 9 is the standard test method that has been relied upon for compliance demonstration of opacity requirements and is commonly specified in NSPS and MACT standards. When the test method is not specified in an applicable standard, the Applicant can propose other test methods. TCEQ would evaluate that method and if it is determined to be equivalent or better, TCEQ would develop conditions requiring use of the test method. TCEQ does not generally include all possible test methods in conditions. BACT is satisfied for the auxiliary boiler and startup heater.

Cooling Tower

Tier I BACT for PM control from cooling towers requires that the cooling tower be equipped with drift eliminators having a manufacturer's design assurance of 0.001% drift or less. The Applicant represented that the cooling tower will be equipped with drift eliminators which achieve a vendor guaranteed drift of <0.001%. As described above LAER is not applicable to this project. The representation of 0.001% drift meets Tier I BACT requirements for cooling towers. Requirements for particulate matter monitoring from cooling towers are incorporated into the special conditions, including maintenance and inspection requirements for the drift eliminators. These conditions contain the necessary requirements to demonstrate the cooling tower can reasonably be assured to comply with the permit MAERT.

Elevated Flare

The TCAA and the TCEQ rules require an evaluation of air quality permit applications to determine whether adverse effects to public health, general welfare, or physical property are expected to result from a facility's proposed emissions. As part of the evaluation of applications for new or amended permits, the permit reviewer audits all sources of air contaminants at the proposed complex and ensures that the facility will be using BACT applicable for the sources and types of contaminants emitted. BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility. Applying BACT results in requiring technology that best controls air emissions with consideration given to the technical practicability and economic reasonableness of reducing or eliminating emissions (*see* TCAA § 382.0518; *see also* 30 TAC § 116.111). BACT may be numerical limitations, the use of an add-on control technology, design considerations, the implementation of work practices, or operational limitations.

The current NSR permit authorizes one elevated, unassisted flare (Emission Point Number [EPN] FLR1), which is not within the scope of the review for the current project as it is not proposed to be modified. The current amendment application proposes to authorize one additional elevated, unassisted flare (EPN FLR2) at the site.

Flares are used to control routine emissions, planned maintenance, startup, and shutdown (MSS), and process upsets. BACT for VOCs is compliance with 40 CFR § 60.18 specifications for maximum tip velocity and minimum net heating value. A waste gas flow monitor and a gas composition analyzer or calorimeter are required. The flares are required to be equipped with a thermocouple or infrared monitor to ensure the presence of a pilot flame. Visible emissions are prohibited except for periods not to exceed a total of five minutes during any two consecutive hours. Special Condition No. 12.H requires pilot and supplemental (fuel) gas combusted in the new flare (EPN FLR2) to be sweet natural gas containing no more than 5 grains of total sulfur per 100 dry standard cubic feet.

Since the Beaumont New Ammonia LLC site is an ammonia production facility and not a petroleum refinery, the provisions of 40 CFR Part 63 Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries do not apply to this site. The design and monitoring requirements in 40 CFR Part 63 Subpart CC have not been established as BACT for all flares across various industries. Nonetheless, the new flare (EPN FLR2) at this site will comply with the design and operating requirements of 40 CFR Part 63 Subpart CC. The flare (EPN FLR2) requirements in the draft permit for this site include reference to 40 CFR §63.670 requirements. These requirements specify the methods used to determine the parameters outlined within even though the facility is not subject to or regulated under 40 CFR Part 63 Subpart CC.

Regarding the assumed VOC destruction/removal efficiency (DRE) of the flares, TCEQ's practice is based on longstanding guidance that, when properly operated in accordance with permit requirements and the provisions of 40 CFR § 60.18, 99 percent DRE should be attained for compounds up to three carbons, and 98 percent DRE for

compounds with four or more carbons. TCEQ flare guidance and assumed DRE values are based in part on historical EPA research and publications. [6]

TCEQ also relies upon the EPA flare studies conducted in the 1980s to support the development of appropriate flare destruction efficiencies. The 1980s study shows destruction efficiencies well above 99 percent for the properly operated flares. Documents published since these studies continue to support these conclusions. EPA AP-42 Chapter 13.5 (*Industrial Flares*, revised September 1991), states that "[p]roperly operated flares achieve at least 98 percent combustion efficiency in the flare plume, meaning that hydrocarbon and CO emissions amount to less than 2 percent of hydrocarbons in the gas stream…Recent EPA tests using propylene as flare gas indicated that efficiencies of 98 percent can be achieved when burning an offgas with at least 11,200 kJ/$m^3$ (300 Btu/$ft^3$)." [AP-42 Section 13.5.2] The combustion zone is being monitored through the requirements of the permit Special Condition No. 12.A, which references 40 CFR §§ 63.670(k-m) requirements.

TCEQ is aware that more recent studies have observed in some tested cases that compliance with the flare tip velocity and stream heating value requirements of 40 CFR § 60.18 alone may not always result in 98 percent or 99 percent DRE. However, at this juncture TCEQ has not seen enough conclusive data to establish a different and specific DRE value, or to substantially revise BACT requirements for flares.

TCEQ is also aware of the possibility that over-assistance can occur at improperly operated steam- or air-assisted flares. As noted in the April 2012 publication from EPA's Office of Air Quality Planning and Standards (OAQPS), entitled *Parameters for Properly Designed and Operated Flares*, excess aeration "can actually result in a flare operating outside its stable flame envelope, decreasing the combustion efficiency," and "can dilute the flare vent gas, making the flare vent gas too lean to burn in the combustion zone." The proposed new flare (EPN FLR2) is unassisted, which alleviates the concerns of over-assistance.

40 CFR § 60.18(c)(1) prohibits visible emissions, except for a maximum of 5-minutes during any 2 consecutive hours. This prohibition on visible emissions is reiterated in Special Condition No. 12.C of the permit for the new flare (EPN FLR2). TCEQ believes that compliance with the visible emissions limit is one indicator of proper use air-assist and good combustion. The additional continuous monitoring requirements for pilot flame, waste gas flow, and composition for minimum heating value in accordance with 40 CFR 63.670 will also help duplicate efforts to ensure good combustion at the flares although not required. Since the new flare (EPN FLR2) is a non-assisted, elevated flare, over-assistance is not an issue of concern.

TCEQ reviewed the Excel spreadsheet, *Steam assisted flare FTIR Data and 15-minute run average data* (Reference No. 2), which evaluates data collected from various flare studies. However, the spreadsheet does not include any description of each individual flare test evaluated in the spreadsheet. The study indicates that its purpose was to "better understand the effects of steam" or other parameters. Although specific

[6] *Flare Efficiency Study*, EPA-600/2-83-052, U.S. Environmental Protection Agency, Cincinnati, OH, July 1983; and *Evaluation of the Efficiency of Industrial Flares: Test Results*, EPA-600/2-84-095, U.S. Environmental Protection Agency, Research Triangle Park, NC, May 1984.

information was not provided regarding the conditions of the testing, and the purpose was to determine the effects of oversteaming, the resulting data clearly indicates that 99 percent DRE is achieved with a higher heating value above 400 btu/scf, despite the purpose of the evaluation. Beaumont New Ammonia LLC has represented that this heating value will be achieved at all times for the new flare (EPN FLR2), and the requirement to operate the new flare to maintain the net heating value of the flare vent gas at or above 400 Btu/scf is included in Special Condition No. 12.G. The conditions in the permit require appropriate monitoring to ensure that the heating value will remain above this threshold.

The permit reviewer evaluated the proposed BACT and confirmed it to be acceptable.

**COMMENT 5: Fuel Type**

Chase Porter commented that the permit application failed to consider the use of cleaner fuels.

(Lone Star Legal Aid)

**RESPONSE 5:** Under the jurisdiction established by the Texas Legislature, the TCEQ cannot prohibit a private company from using any product or fuel source as long as such usage does not result in a violation of applicable environmental regulations or the NAAQS. The permit application represented, and the permit special conditions require that combustion units as defined in 30 TAC §101.1 be fired with pipeline-quality natural gas containing no more than 5 grains of total sulfur per 100 dry standard cubic feet (dscf), which meets Tier I BACT requirements. Please *see* Response 1 for an evaluation of this project's impacts in relation to the NAAQS, and Response 4 regarding BACT.

**COMMENT 6: 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 areas, including adjacent school facilities.

(Golden Triangle Group of the Sierra Club)

**RESPONSE 6:** The 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 the TCEQ. Zoning and land use are beyond the authority of the 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. Although TCEQ cannot consider zoning or land use, the TCEQ does conduct a health effects review to ensure that there will be no adverse impacts to human health and welfare. As described in Response 1, a protectiveness review was conducted for all contaminants emitted. The maximum concentrations were evaluated at the property line, at the

nearest off-property receptor, and at any schools located within 3,000 feet of the facilities and were found to be protective of human health and the environment.

**COMMENT 7: Environmental Justice**

Chase Porter raised concerns regarding the environmental justice implications of this project.

(Lone Star Legal Aid)

**RESPONSE 7:** Air permits evaluated by the TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community. The TCEQ is committed to protecting the health of the people of Texas and the environment regardless of location. A health effects review was conducted for the proposed facilities during the permit review and the permit was found to be protective of human health and the environment.

The TCEQ encourages participation in the permitting process. The Office of the Chief Clerk works to help the public and neighborhood groups participate in the regulatory process to ensure that agency programs that may affect human health or the environment operate without discrimination and to make sure that concerns are considered thoroughly and are handled in a way that is fair to all. You may contact the Office of the Chief Clerk at 512-239-3300 for further information. More information may be found on the TCEQ website: Title VI Compliance at TCEQ - Texas Commission on Environmental Quality - www.tceq.texas.gov.

## 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

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