

**TCEQ AIR QUALITY PERMIT NUMBER 106965
TCEQ DOCKET NUMBER 2025-1293-AIR**

APPLICATION BY	§	BEFORE THE
VALERO REFINING-TEXAS LP	§	
VALERO CORPUS CHRISTI REFINERY	§	TEXAS COMMISSION ON
WEST PLANT	§	
CORPUS CHRISTI, NUECES COUNTY	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality (Commission or TCEQ) files this response (Response) to the requests for reconsideration and contested case hearing submitted by persons listed herein regarding the above-referenced matter. The Texas Clean Air Act (TCAA), TEX. HEALTH & SAFETY CODE (THSC) § 382.056(n), requires the Commission to consider hearing requests in accordance with the procedures provided in TEX. WATER CODE (TWC) § 5.556.¹ This statute is implemented through the rules in 30 TEX. ADMIN. CODE (TAC) Chapter 55, Subchapter F.

Maps showing the location of the proposed plant are included with this Response and have been provided to all hearing requesters listed on the service list for this application. In addition, a current compliance history report, technical review summary, MAERT, map and appendix, and a copy of the draft permit including any special conditions, prepared by the Executive Director’s staff have been filed as backup material for the commissioners’ agenda. The Executive Director’s Response to Public Comment (RTC), which was transmitted by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the Commission’s consideration.

II. PLANT DESCRIPTION

Valero Refining-Texas, L.P. (Applicant) has applied to the TCEQ for an amendment to and renewal of its New Source Review Authorization Air Quality Permit Number 106965 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 the Domestic Crude Unit. The facility is located at 5900 Up River Road, Corpus Christi, Texas, 78407. Contaminants authorized under this permit include ammonia, carbon monoxide (CO), dimethyl disulfide, hydrogen sulfide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns (PM₁₀) or less and 2.5 microns or less (PM_{2.5}), and sulfur dioxide (SO₂).

¹ Statutes cited in this response may be viewed online at www.statutes.legis.state.tx.us. Relevant statutes are found primarily in the THSC and the TWC. The rules in the TAC may be viewed online at www.sos.state.tx.us/tac/index.shtml, or follow the “Rules” link on the TCEQ website at www.tceq.texas.gov.

III. PROCEDURAL BACKGROUND

The permit application was received on August 18, 2023, and declared administratively complete on August 28, 2023. The Notice of Receipt and Intent to Obtain an Air Quality Permit (NORI, first public notice) for this permit application was published in English, on September 15, 2023, in the *Corpus Christi Caller Times* and in Spanish, on September 15, 2023, in *Tejano Y Gruperio News*. A Notice of Application and Preliminary Decision for an Air Quality Permit (NAPD, second public notice) was not published because the total emission increases authorized by the amendment project did not exceed the public notice de minimis levels specified in 30 TAC Rule § 39.402(a)(B). There was no public meeting held due to a lack of substantial public interest on the proposed activity. TCAA § 328.056(k)(2). Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

The Executive Director's RTC was filed with the Chief Clerk's Office on March 18, 2025, and instructions to access the electronic RTC or request a hard copy were mailed to all interested persons on March 25, 2025, including to those who asked to be placed on the mailing list for this application and those who submitted comments or requests for a contested case hearing. The cover letter attached to the RTC included information about making requests for a contested case hearing or for reconsideration of the Executive Director's decision. The letter also explained that hearing requestors should specify any of the Executive Director's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy. The time for requests for reconsideration and hearing requests ended on April 24, 2025.

The TCEQ received timely hearing requests that were not withdrawn during the comment period from: Eli McKay.

IV. THE EVALUATION PROCESS FOR HEARING REQUESTS

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. Senate Bill 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

A. Response to Hearing Requests

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing requests. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requestor is an affected person;
- 2) which issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;

- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the Executive Director's Response to Comment.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- request a contested case hearing;
- list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the Executive Director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
- provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

Requirement that Requestor be an Affected Person/“Affected Person” Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an “affected” person. Section 55.203 sets out who may be considered an affected person.

- a) For any application, 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. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Except as provided by 30 TAC § 55.103, governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - 1) whether the interest claimed is one protected by the law under which the application will be considered;
 - 2) distance restrictions or other limitations imposed by law on the affected interest;
 - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - 5) likely impact of the regulated activity on use of the impacted natural resource by the person;
 - 6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application which were not withdrawn; and
 - 7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203

In regard specifically to air quality permits, the activity the Commission regulates is the emissions of air contaminants into the atmosphere. Any person who plans to construct or modify a facility that may emit air contaminants must receive authorization from the Commission. In addition, Commission rules also include a general prohibition against causing a nuisance. Further, for air quality permits, distance from the proposed facility is particularly relevant to the issue of whether there is a likely impact of the regulated activity on a person's interests because of the dispersion and effects of individual air contaminants emitted from a facility.

For applications filed on or after September 1, 2015, 30 TAC § 55.201(d) allows the Commission to consider, to the extent consistent with case law:

- 1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
- 2) the analysis and opinions of the Executive Director; and
- 3) any other expert reports, affidavits, opinions, or data submitted by the Executive Director, the applicant, or hearing requestor.

D. Referral to the State Office of Administrative Hearings

"When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing." 30 TAC § 50.115(b). The Commission may not refer an issue to SOAH for a contested case hearing unless the Commission determines that the issue:

- 1) involves a disputed question of fact or a mixed question of law and fact;
- 2) was raised during the public comment period by an affected person whose hearing request is granted; and
- 3) is relevant and material to the decision on the application.

30 TAC § 50.115(c).

V. ANALYSIS OF THE HEARING REQUESTS

The commission received timely hearing requests from the following persons: Eli McKay. The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestor qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

Persons the Executive Director Recommends the Commission Find are NOT Affected Persons

Individuals that did not meet the requirements of 30 TAC § 55.203

1. Eli McKay

The Executive Director reviewed the factors found in 30 TAC § 55.201(c) and (d), and § 55.203 for determining whether a requestor is an affected person, and recommends the Commission find that Eli McKay is not an affected person.

Mr. McKay submitted a timely hearing request during the comment period. The hearing request was in writing and provided the required contact information. Based on the address provided by Mr. McKay and the site plan submitted by the Applicant, the Executive Director's staff determined that the requestor's residence is approximately 5.22 miles from the plant. For air authorizations, distance from the proposed facility is particularly relevant to the issue of whether there is a likely impact of the regulated activity on a person's interests because of the dispersion and effects of individual air contaminants emitted from a facility. Mr. McKay wrote that "increase emissions of benzene and other hydrocarbons which impact the health of residents." However, Mr.

McKay did not indicate how he may be affected in a manner different from the general public. Therefore, Mr. McKay did not raise a personal justiciable interest.

Therefore, the Executive Director recommends that the Commission find that Eli McKay is not an affected person based on the criteria in 30 TAC § 55.203 and should deny the hearing request of Eli McKay.

Issued Raised by Mr. McKay:

Issue 1: Whether the permit would be protective of human health.

This issue involves a disputed question of fact, and was not withdrawn, and is relevant and material to the issuance of the draft permit. The issue was raised by a requestor who the Executive Director recommends the Commission find is not an affected person.

VI. Executive Director's Recommendation

The Executive Director respectfully recommends the following actions by the Commission:

1. The Executive Director recommends the Commission find that Eli McKay is not an affected person and deny his hearing requests. If referred to SOAH, refer the following issue:
 - **Issue 1:** Whether the permit would be protective of human health.
2. If referred to SOAH, set the maximum duration of the hearing to be 180 days.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine K. Backens, Deputy Director
Environmental Law Division



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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 15th day of September, a true and correct copy of the "Executive Director's Response to Hearing Requests" for Air Quality Permit No. 106965 was served on all persons on the service list by the undersigned via electronic filing, electronic mail, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.

A handwritten signature in blue ink that reads "Katelyn MR Ding". The signature is written in a cursive, flowing style.

Katelyn Ding, Staff Attorney
Environmental Law Division

Attachment A

Appendix A for VALERO REFINING-TEXAS LP

ID	Name	Address	City	State	ZIP	Lat	Long	Distance from Valero Refining West Plant (Miles)
1	Eli McKay	1008 Marguerite St	Corpus Christi	TX	78401	27.787546	-97.401225	5.22



Protecting Texas by
Reducing and
Preventing Pollution

VALERO REFINING-TEXAS LP

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

Date: 9/5/2025
CRF 0129161
Cartographer: AProvinc



- Valero Refining West Plant
- Requestor
- 5 Mile Radius
- 10 Mile Radius
- County Boundary
- Interstate

Requestor Distance from Valero
Refining West Plant detailed in
Appendix A

Source: This map was requested by the Office of Legal Services(OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information and the hearing requestors provide physical addresses. The map is a visual representation and approximation.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

MAILING LIST / LISTA DE CORREO
for / para
Valero Refining-Texas, L.P.
Air Quality Permit N0. / Calidad del Aire Permiso N0. 106965

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INTERESADAS:

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