

**TCEQ AIR QUALITY PERMIT NUMBER 104840 AND N170M1
TCEQ DOCKET NUMBER 2025-1682-AIR**

APPLICATION BY	§	BEFORE THE
FREEPORT LNG DEVELOPMENT LP	§	
FREEPORT LNG PRETREATMENT	§	TEXAS COMMISSION ON
FACILITY	§	
QUINTANA, BRAZORIA 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 contested case hearings submitted by persons listed herein regarding the above-referenced matter. The Texas Clean Air Act (TCAA), Texas Health and Safety Code (THSC) § 382.056(n), requires the Commission to consider hearing requests in accordance with the procedures provided in Texas Water Code (TWC) § 5.556 § 5.556.¹ This statute is implemented through the rules in 30 Texas Administrative 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, the Maximum Allowable Emission Rates Table, technical review summary, Air Quality Analysis Modeling Audit, Second Modeling Audit, current compliance history report, and a copy of the draft permit including special conditions, and the preliminary determination summary 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 mailed 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

Freeport LNG Development, L.P. (Applicant) has applied to the TCEQ for a New Source Review Authorization permit number 104840 and N170M1 under THSC § 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 Freeport LNG Pretreatment Facility. The facility is located at 2363 County Road 690 Freeport, Brazoria County. Contaminants authorized under this permit include carbon monoxide (CO), hazardous air pollutants, hydrogen sulfide (H₂S), nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}), sulfur dioxide (SO₂), and sulfuric acid mist.

III. 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

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

from the commission. This permit application is for a permit amendment of Air Quality Permit Number 104840 and an issuance of N17M01.

The permit application was received on August 9, 2022, and declared administratively complete on August 18, 2022. 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 12, 2022, in *The Facts*, and in Spanish on September 1, 2022, in *La Voz*. The Notice of Application and Preliminary Decision for an Air Quality Permit (NAPD, second public notice) was published on May 13, 2025, in English in *The Facts*, and in Spanish on May 13, 2025, also in *The Facts*. The Applicant published NORI in Spanish in *La Voz*, but because *La Voz* does not meet the criteria to be considered a Spanish language newspaper and no other Spanish language newspaper circulating in the county could be found, the Applicant published NAPD in English in *The Facts* and in Spanish in *The Facts*. Both English and Spanish notices were available on the commission's website at <https://www.tceq.texas.gov/permitting/air/newsourcereview/airpermits-pendingpermit-apps>. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

The Executive Director's Response to Public Comments (RTC) was filed with the Chief Clerk's Office on September 23, 2025, and instructions for accessing the electronic document and requesting a hard copy were mailed to all interested persons on October 1, 2025, including 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 requests for reconsideration of the Executive Director's decision. The letter also explained that hearing requesters 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 October 31, 2025.

TCEQ received timely joint hearing requests that were not withdrawn from Citizens for Clean Air and Clean Water and Sierra Club

IV. APPLICABLE LAW 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 hearing requests. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

1. whether the requester 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 requester's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requester 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:

1. 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;
2. identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester 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;
3. request a contested case hearing;
4. 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 requester should, to the extent possible, specify any of the Executive Director's responses to comments that the requester disputes and the factual basis of the dispute and list any disputed issues of law; and
5. provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

C. Requirement that Requester be an Affected Person/ "Affected Person" Status

In order to grant a contested case hearing, the Commission must determine that a requester 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 requester 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 requester.

In addition to the requirements in 30 TAC § 55.201 and 30 TAC § 55.203, requests for a contested case hearing by a group or association, on an application filed on or after September 1, 2015, must meet the requirements in 30 TAC § 55.205(b). Specifically: (1) the group or association must have submitted timely comments on the application; (2) the request must identify, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right; (3) the interests the group or association seeks to protect must be germane to the organization's purpose; and (4) the claim asserted or the relief requested may not require the participation of the individual members in the case.

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: Citizens for Clean Air and Clean Water and Sierra Club, jointly.

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, if the requesters qualify as affected persons, 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

Citizens for Clean Air and Clean Water and Sierra Club

- a) Whether the group or association submitted timely comments on the application.*

Citizens for Clean Air and Clean Water and Sierra Club left timely comments on behalf of both their organizations jointly during the public comment period. Citizens for Clean Air and Clean Water and Sierra Club jointly requested a contested case hearing during the hearing request period. Therefore, the Executive Director recommends that the Commission find that Citizens for Clean Air and Clean Water and Sierra Club jointly have met this requirement.

b) Whether one or more members of the group or association would otherwise have standing to request a hearing in their own right

Citizens for Clean Air and Clean Water and Sierra Club jointly have identified a member of each of their groups, Melanie Oldham, who they assert has standing to request a hearing in her own right. Based on the address provided by the requester and the site plan submitted by the Applicant, the Executive Director's staff determined that the requester's residence is approximately 3.68 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. The requester group makes the claims that "because [Ms. Oldham] lives nearby and passes even closer to the Plant when she visits Freeport Beach or Quintana Beach" and that she "wants to protect herself and her air from dangerous pollution, including ozone and is concerned that she will have to curtail her outdoor activities to protect her health if Freeport LNG continues to increase its emissions."

However, Citizens for Clean Air and Clean Water and Sierra Club did not indicate how Ms. Oldham may be affected in a manner different from the general public. Therefore, Citizens for Clean Air and Clean Water and Sierra Club did not raise a personal justiciable interest of Ms. Oldham that would give her independent standing to request a hearing in her own right. Without a member of these groups with independent standing in their own right, these groups do not have standing to request a contested case hearing as an affected person.

c) Whether the interests the group or association seeks to protect are germane to the organization's purpose.

Citizens for Clean Air and Clean Water is a nonprofit organization formed to educate Freeport residents about environmental issues and to advocate for solutions to protect and improve air and water quality.²

Sierra Club, a California non-profit corporation with an office in Austin, is the nation's oldest conservation organization. The Sierra Club's state and local chapters include thousands of Texas members who are dedicated to exploring, enjoying, and protecting Texas' natural resources and wild places. Sierra Club promotes the responsible use of the Earth's ecosystem and resources and works to restore the quality of the natural and human environment. In addition to organizing nature outings and public education campaigns, Sierra Club and its Texas members pursue advocacy and litigation on issues including clean air and clean water, solid waste reduction, and sustainable energy and land use policies.³

² Letter from Colin Cox with Citizens for Clean Air and Clean Water and Sierra Club, Comments and Contested Case Hearing Request on the Application to Amend Air Quality Permit No. 104840 to Increase Emissions of Air Pollution at the Freeport LNG Pretreatment Facility, (October 3, 2022) (pg. 4)

³ Letter from Colin Cox with Citizens for Clean Air and Clean Water and Sierra Club, Comments and Contested Case Hearing Request on the Application to Amend Air Quality Permit No. 104840 to Increase Emissions of Air Pollution at the Freeport LNG Pretreatment Facility, (October 3, 2022) (pg. 4)

The Executive Director recommends that the Commission find that the interests of both Citizens for Clean Air and Clean Water and Sierra Club are germane to their purpose, and furthermore that the group has met this requirement for associational standing.

In their hearing request, they raised the following issues⁴ that were also raised in their timely comments:

- **Issue 1:** Whether the proposed emissions will threaten the health and safety of nearby residents.
- **Issue 2:** Whether the proposed emissions will cause or contribute to exceedances of National Ambient Air Quality Standards.
- **Issue 3:** Whether the proposed emissions will exceed allowable Prevention of Significant Deterioration Increments.
- **Issue 4:** Whether Freeport LNG adequately offset nitrogen oxides and volatile organic compounds.
- **Issue 5:** Whether the proposed emissions will cause nuisance conditions violating 30 Tex. Admin. Code § 101.4.
- **Issue 6:** Whether the Freeport LNG's air quality analysis is flawed.
- **Issue 7:** Whether Freeport LNG and TCEQ adequately considered cumulative impacts of air pollution.
- **Issue 8:** Whether the emission sources will utilize pollution control technology reflecting use of Best Available Control Technology or Lowest Achievable Emissions Rate.
- **Issue 9:** Whether the emissions calculation methodologies used in the application are flawed or outdated.
- **Issue 10:** Whether proposed air monitoring and reporting requirements are adequate to ensure compliance with the Clean Air Act and protect local residents.
- **Issue 11:** Whether TCEQ adequately addressed environmental justice concerns and complied with Title VI of the Civil Rights Act in reaching the preliminary decision to issue this permit.

In their joint request, Citizens for Clean Air and Clean Water and Sierra Club have not demonstrated that they would be affected persons as required by 30 TAC § 55.205(b). Therefore, the commission recommends that Citizens for Clean Air and Clean Water and Sierra Club's joint hearing request be denied.

⁴ Letter from Colin Cox with Citizens for Clean Air and Clean Water and Sierra Club, Comments and Contested Case Hearing Request on the Application to Amend Air Quality Permit No. 104840 to Increase Emissions of Air Pollution at the Freeport LNG Pretreatment Facility, (October 3, 2022) (pg. 5-6)

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 Citizens for Clean Air and Clean Water and Sierra Club filed timely hearing requests.
2. The Executive Director recommends the Commission find that the above-named hearing requesters are not affected organizations/persons.
3. The Executive Director recommends the Commission deny the hearing requests of the above-named hearing requesters.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Todd Galiga, Acting Deputy Director
Environmental Law Division



Katelyn Dinng, Staff Attorney
Environmental Law Division
State Bar Number 24146268
PO Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 21st day of November 2025, a true and correct copy of the "Executive Director's Response to Hearing Requests" for Air Quality Permit No. 104840 and N17M01 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 black ink, appearing to read "Katelyn Ding", written in a cursive style.

Katelyn Ding, Staff Attorney
Environmental Law Division

Appendix for Freeport LNG GIS Map

Name	Address	Long	Lat	Distance From Emission Point (Miles)
1 - Melanie Oldham	922 W. 5th. St. Freeport, TX 77541	-95.359033	28.950916	3.68

Freeport LNG

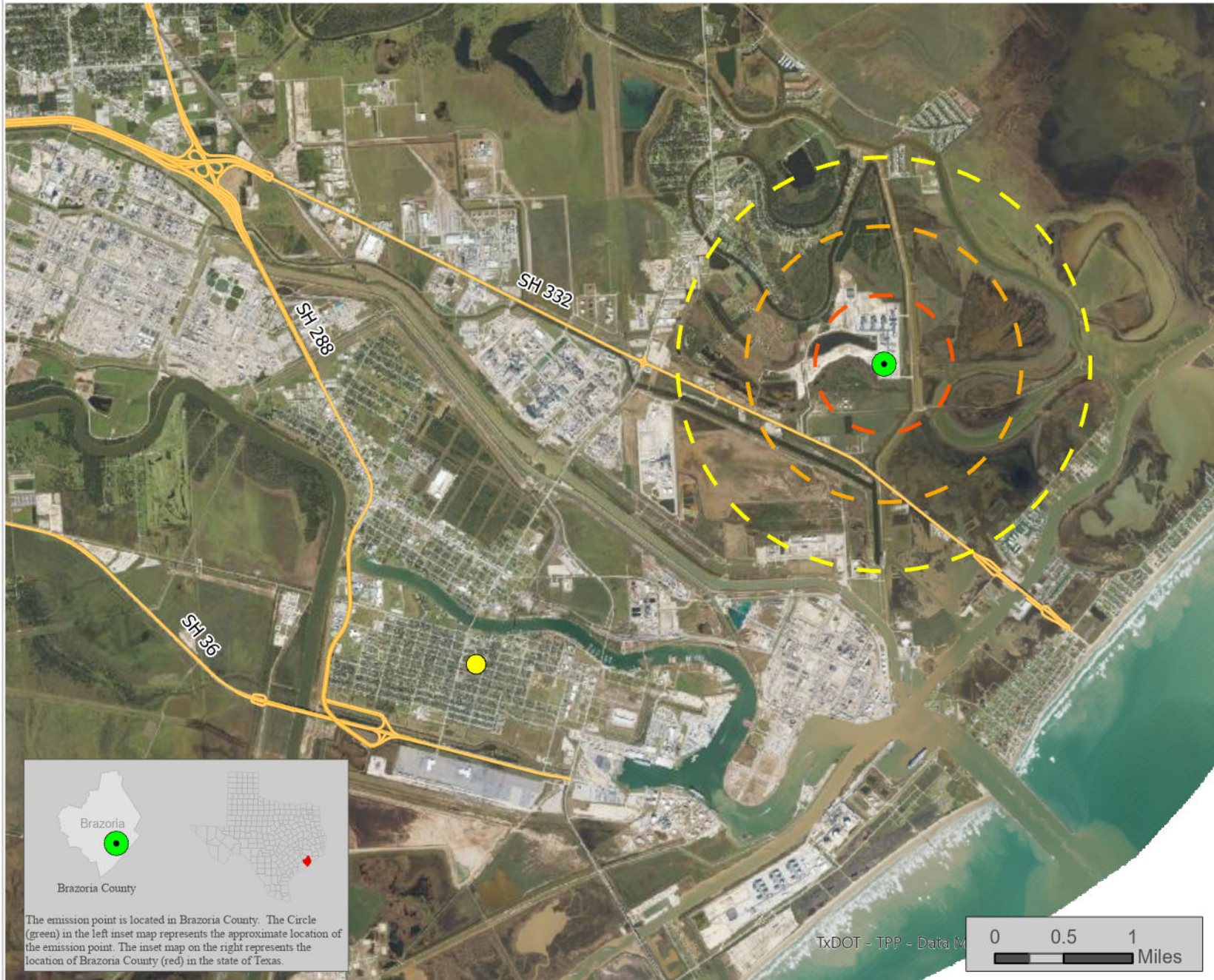
Permit No. 104840

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



*Protecting Texas by
Reducing and
Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 11/14/2025
CRF 0131912
Cartographer: AProvenc



- Emission Point
- Ms. Oldham
- Highway
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius

Requestor distance from
Emission Point 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.

The emission point is located in Brazoria County. The Circle (green) in the left inset map represents the approximate location of the emission point. The inset map on the right represents the location of Brazoria County (red) in the state of Texas.

TxDOT - TPP - Data M

0 0.5 1
Miles

MAILING LIST/LISTA DE CORREO
Freeport LNG Development LP
TCEQ Docket No./TCEQ Expediente N.º 2025-1682-AIR;
Air Quality Permit No./Permiso de calidad del aire N.º 104840 and N170M1

FOR THE APPLICANT/PARA EL SOLICITANTE

Don C. Lewis
Duggins Wren Mann & Romero LLP
600 Congress Avenue
Austin, Texas 78701
dlewis@dwmrlaw.com

Michael Stephenson
Freeport LNG Development LP
1500 Lamar Street
Quintana, Texas 77541
mstephenson@freeportlng.com

REQUESTER(S)/SOLICITANTE(S)/ INTERESTED
PERSON(S)/PERSONA(S) INTERESADA(S)
See attached list/Ver listado adjunto.

FOR THE EXECUTIVE DIRECTOR/PARA EL
DIRECTOR EJECUTIVO
via electronic mail/vía correo electrónico:

Katelyn Ding, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711
Katelyn.Ding@tceq.texas.gov

Cara Hill, Technical Staff
Texas Commission on Environmental Quality
Air Permits Division, MC-163
P.O. Box 13087
Austin, Texas 78711
Cara.Hill.@tceq.texas.gov

Ryan Vise, Deputy Director
Texas Commission on Environmental Quality
External Relations Division
Public Education Program, MC-108
P.O. Box 13087
Austin, Texas 78711
Ryan.vise@tceq.texas.gov

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711
Garrett.Arthur@tceq.texas.gov

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711
Kyle.Lucas@tceq.texas.com

FOR THE CHIEF CLERK/PARA EL SECRETARIO
OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

Cox, Colin
Environmental Integrity Project
1206 San Antonio St
Austin, TX 78701-1834

Cox, Colin
Environmental Integrity Project
P.O. Box 31417
Santa Fe, NM 87594-1417

Gosselin, Thomas
Environmental Integrity Project
98 San Jacinto Blvd Ste 400
Austin, TX 78701-4082

Gosselin, Thomas
Environmental Integrity Project
888 17th St NW Ste 810
Washington, DC 20006-3939