

Debbie Zachary

NSR
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From: PUBCOMMENT-OCC
Sent: Wednesday, October 5, 2022 9:11 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 104840
Attachments: Freeport LNG 346088 Pretreatment Comments FINAL 10.03.22.pdf

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From: colincox@environmentalintegrity.org <colincox@environmentalintegrity.org>
Sent: Monday, October 3, 2022 4:43 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 104840

REGULATED ENTY NAME FREEPORT LNG PRETREATMENT FACILITY

RN NUMBER: RN106481500

PERMIT NUMBER: 104840

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: FREEPORT LNG DEVELOPMENT LP

CN NUMBER: CN601720345

FROM

NAME: Colin Cox

EMAIL: colincox@environmentalintegrity.org

COMPANY: Environmental Integrity Project

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AUSTIN TX 78701-1834

PHONE: 8323160580

FAX:

COMMENTS: Please see the attached comments and hearing requests from Citizens for Clean Air and Clean Water and Sierra Club.



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Austin, Texas 78701
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October 3, 2021

Ms. Laurie Gharis
Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Via Electronic Filing

Re: 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.

I. Introduction

Freeport LNG Development, L.P. ("Freeport LNG") has applied to amend Air Quality Permit 104840 for its Freeport LNG Pretreatment Facility in Brazoria County, Texas (the "Application"). TCEQ refers to this as project 346088. The Application makes numerous changes to the Freeport LNG's permit, including increases in the hourly and annual limits of ozone precursors – nitrogen oxides and volatile organic compounds – from the plant.

Citizens for Clean Air and Clean Water and Sierra Club (collectively, "Commenters") submits these comments and contested case hearing requests regarding Freeport LNG's Application.

II. Comments

a. This project should be aggregated with Freeport LNG's pending project 346087 to increase emissions at its Liquefaction Plant.

In addition to this Application to increase emissions at its Pretreatment Facility, Freeport LNG is simultaneously seeking to increase emissions at its Liquefaction Plant, permits 100114 and N304, project 346087. Freeport LNG has submitted separate applications for the emissions increases at these facilities and incorrectly seeks to treat them as entirely independent projects. Because the amendments to the Liquefaction Plant and Pretreatment Facility are substantially related, their emissions should be

aggregated for purposes of determining the applicability of New Source Review regulations, including Prevention of Significant Deterioration and Non-attainment New Source Review.

In determining whether Prevention of Significant Deterioration and/or Non-attainment New Source Review apply to a project, it is important to properly identify the project to ensure that all relevant emissions are accounted for. If a project is not accurately characterized, an applicant could improperly divide a higher-emitting major project into multiple lower-emitting pseudo-projects in an attempt to avoid more stringent regulatory review. To prevent such manipulation, EPA has established an aggregation policy that “ensures that nominally-separate projects occurring at a source are treated as a single project for [New Source Review] applicability purposes where it is unreasonable not to consider them a single project.”¹

This policy, laid out in EPA’s 2009 NSR Aggregation Action, calls for TCEQ to aggregate emissions from nominally-separate projects when they are “substantially related.”² Whether separate projects are “substantially related” and must be aggregated is a case-by-case and site specific analysis. Factors relevant to this analysis are whether there is a technical or economic interconnection between the projects and whether the projects took place close in time to each other.³ As EPA stated when the policy was promulgated:

“Activities at a source should be aggregated when they are substantially related. To be “substantially related,” there should be an apparent interconnection—either technically or economically—between the physical and/or operational changes, or a complementary relationship whereby a change at a plant may exist and operate independently, however its benefit is significantly reduced without the other activity.”⁴

Freeport LNG’s Pretreatment Facility and Liquefaction Plant are substantially related because they are technically and economically interconnected such that neither facility can operate effectively without the other. The Pretreatment Facility purifies methane gas that is then sent to the Liquefaction Plant where the purified methane gas is liquefied and stored in tanks for export. This is stated repeatedly in Freeports LNG’s application to amend the permit for the Pretreatment Facility.

For example, Freeport LNG states that “the Pretreatment Facility would consist of three trains for the purification of natural gas to support Freeport LNG’s Liquefaction

¹ Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Aggregation; Reconsideration, 83 Fed. Reg. 57,326 (Nov. 15, 2018).

² Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting, 74 Fed. Reg. 2376 (Jan. 15, 2009).

³ *Id.* at 2378, 2379.

⁴ *Id.* at 2378.

Plant.”⁵ Further, Freeport LNG “owns and operates a natural gas Pretreatment Facility located near Freeport, Texas, to purify pipeline quality natural gas to be sent to its downstream Liquefaction Plant for the production of liquefied natural gas (LNG).”⁶ And “[e]ach pretreatment train consists of processing steps to prepare the natural gas stream for use in the downstream liquefaction units.”⁷ Finally, in Freeport LNG’s detailed process description, the final step of the Pretreatment Facility process states that “[t]he residue gas from the gas-gas exchanger is sent to the dehydration feed cooler for energy recovery before being compressed by the residue gas compressors and cooled for transportation via pipeline to the liquefaction units on Quintana Island.”⁸ These last two references do not even identify the Liquefaction Plant as a separate facility. Instead, they identify specific units within the Liquefaction Plant where the gas from the Pretreatment Facility will go.

It is clear from Freeport LNG’s applications that the Liquefaction Plant needs treated feed gas to operate and that the Pretreatment Facility exists to treat the feed gas and “support” the Liquefaction Plant. The Liquefaction Plant could not operate without pretreated feed gas and is dependent upon the Pretreatment Facility to operate. The Pretreatment Facility likewise has no place to send its treated gas other than the Liquefaction Plant. The Pretreatment Facility feeds only the Liquefaction Plant, and the Liquefaction Plant receives gas only from the Pretreatment Facility. Neither the Plant nor the Facility is capable effectively operating independently. Construction and operation of either facility without the other would be illogical and technically unsound.

In addition to the total technical and economical interconnectedness described above, the timing of the projects also supports the case for aggregation. EPA’s 2009 Aggregation Action explains that projects being planned or built close in time can serve as an indication that they are substantially related and should be aggregated.⁹ Freeport LNG’s timing supports the case for aggregation because the applications to amend the Pretreatment Facility and the Liquefaction Plant were submitted to TCEQ on the same day.

Freeport LNG’s attempt to separate one project into two projects is an unlawful circumvention of New Source Review permitting requirements. This is especially problematic because the proposed emissions exceed both Prevention of Significant Deterioration and Non-attainment New Source Review thresholds for multiple pollutants, including ozone precursors nitrogen oxides and volatile organic compounds. Freeport

⁵ Letter from Ruben I. Velasquez, P.E., Atkins North America, Inc., to Mr. Samuel Short Director, Air Permits Division, TCEQ, *Application for Amendment of Texas Commission on Environmental Quality (TCEQ) Air Quality Permit No. 104840/N170 - Project Updates Freeport LNG Pretreatment Facility (RN106481500)* (August 5, 2022).

⁶ Freeport LNG Development, L.P., TCEQ NSR PERMIT NO. 104840 AMENDMENT (July 2022) at 1-1.

⁷ *Id.* at 5-1.

⁸ *Id.* at 5-2.

⁹ Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting, 74 Fed. Reg. 2376 at 2379 (Jan. 15, 2009).

LNG's facilities are a major source of ozone precursor pollutants and are sited in the Houston-Galveston-Brazoria Non-attainment area, where ozone pollution has persisted at unhealthy levels since the National Ambient Air Quality Standards were established. Our airshed is already compromised by unhealthy ozone levels, and TCEQ must not allow Freeport LNG to avoid the more rigorous permitting standards that apply to major sources of ozone precursors in this non-attainment area.

Because the pending projects at the Pretreatment Facility and Liquefaction Plant are substantially related, they must be aggregated when determining major New Source Review applicability.

III. Contested Case Hearing Request

Citizens for Clean Air and Clean Water and Sierra Club request a contested case hearing on this Application. Please direct all communication regarding these hearing requests to Colin Cox, Attorney at Environmental Integrity Project, at the contact information below.

Citizens for Clean 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. To accomplish this, Citizens for Clean Air and Clean Water holds community meetings to raise awareness about potentially harmful air and water pollution events in Freeport. The group communicates with the TCEQ and other state and local governmental entities to remain up to date on the latest developments in the area. Citizens for Clean Air and Clean Water continues to engage with the public participation component of the environmental permitting process by submitting comments, and engaging in hearings on air, water, and waste permits. The goal of the group is to encourage protection of public health through compliance with environmental laws. Members of Citizens for Clean and Clean Water live in close proximity to the Pretreatment Facility and are harmed by Freeport LNG's air pollution.

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. Sierra Club members live in close proximity to the Pretreatment Facility and are harmed by Freeport LNG's air pollution.

Melanie Oldham is a member of both Citizens for Clean Air and Clean Water and Sierra Club. She resides at 922 W. 5th St., Freeport, Texas 77541. Ms. Oldham is affected

by pollution from Freeport LNG's Liquefaction Plant because she lives nearby and passes even closer to the Plant when she visits Freeport Beach or Quintana Beach. Ms. Oldham is keenly aware of the dangers of air pollution that Freeport LNG emits. She is also aware of the fact that Brazoria County is in nonattainment for ozone. Ms. Oldham wants to protect herself and her air from dangerous pollution, including ozone. She is concerned that she will have to curtail her outdoor activities to protect her health if Freeport LNG continues to increase its emissions. And she is worried that ozone levels - which are already unhealthy at times - will get even more unhealthy if Freeport is allowed to increase its emissions of nitrogen oxides and volatile organic compounds.

Ms. Oldham has standing in her own right to request a contested case hearing. The interests that Citizens for Clean Air and Clean Water and Sierra Club seek to protect by requesting this hearing are germane to their purposes, stated above. And neither the claim asserted nor the relief requested requires the participation of the individual members in this case.

a. Disputed Issues of Fact

In addition to the issues detailed above, Commenters provide the following list of disputed issues that are relevant and material to the Commission's decision on this application, for consideration as part of the requested contested case hearing:

- Whether the proposed emissions will threaten the health and safety of nearby residents.
- Whether the proposed emissions will cause or contribute to exceedances of National Ambient Air Quality Standards.
- Whether the proposed emissions will exceed allowable Prevention of Significant Deterioration Increments.
- Whether Freeport LNG adequately offset nitrogen oxides and volatile organic compounds.
- Whether the proposed emissions will cause nuisance conditions violating 30 Tex. Admin. Code § 101.4.
- Whether the Freeport LNG's air quality analysis is flawed.
- Whether Freeport LNG and TCEQ adequately considered cumulative impacts of air pollution.
- Whether the emission sources will utilize pollution control technology reflecting use of Best Available Control Technology or Lowest Achievable Emissions Rate.

- Whether the emissions calculation methodologies used in the application are flawed or outdated.
- Whether proposed air monitoring and reporting requirements are adequate to ensure compliance with the Clean Air Act and protect local residents.
- 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.

IV. Conclusion

Commenters appreciate the opportunity to file these comments and these contested case hearing requests and reserve the right to provide additional information on the matters discussed in this document as allowed by the Clean Air Act, the Texas Clean Air Act, and regulations implementing these statutes.

/s/Colin Cox

ENVIRONMENTAL INTEGRITY PROJECT

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*Attorney for Citizens for Clean Air and Clean
Water, Sierra Club*

Tammy Washington

From: PUBCOMMENT-OCC
Sent: Tuesday, June 10, 2025 3:13 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 104840
Attachments: Freeport 104840 Supplemental Comment FINAL FILING COPY.pdf

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From: tgosselin@environmentalintegrity.org
Sent: Tuesday, June 10, 2025 2:42 PM
To: PUBCOMMENT-OCC
Subject: Public comment on Permit Number 104840

REGULATED ENTY NAME FREEPORT LNG PRETREATMENT FACILITY

RN NUMBER: RN106481500

PERMIT NUMBER: 104840

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: FREEPORT LNG DEVELOPMENT LP

CN NUMBER: CN601720345

NAME: Thomas Gosselin

EMAIL: tgosselin@environmentalintegrity.org

COMPANY: Environmental Integrity Project

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Austin, TX 78701

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COMMENTS: Please see attached comments



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June 10, 2025

Electronically Submitted

Laurie Gharis, MC-105

TCEQ

P.O. Box 13087

Austin, Texas 78711-3087

*Re: Public Comments on the Application to Amend Air Quality Permit Nos.
104840 and N170M1 to Increase Emissions of Air Pollution at the Freeport
LNG Pretreatment Facility*

Introduction

Freeport LNG Development L.P. ("Freeport LNG") has applied to amend Air Quality Permit Nos. 104840 and N170M1 (collectively "104840") for its Freeport LNG Pretreatment Facility in Brazoria County, Texas ("the Application"). TCEQ refers to this as Project 346088.¹ The Application makes numerous changes to Freeport LNG's permit, including increases in the hourly and annual limits of ozone precursors—nitrogen oxides (NO_x) and volatile organic compounds (VOC)—from the plant.

These comments are submitted on behalf of Citizens for Clean Air and Clean Water and Sierra Club (collectively "Commenters"). On October 3, 2022, these commenters provided comment on the Application and requested a contested case hearing. These comments supplement Commenters' previous comments, which Commenters incorporate here by reference. Commenters maintain their request for a contested case hearing.

Comments

The Application is fundamentally deficient for three main reasons.

First, as Commenters previously pointed out in our October 3, 2022 comments on the application, Freeport LNG failed to aggregate the emissions from this project with the emissions from another, substantially related, project (Project No. 346087) to determine whether its emissions exceed the major modification thresholds and, therefore, triggers the Prevention of Significant Deterioration ("PSD") and Major Nonattainment New Source Review ("NNSR") provisions. Because this deficiency was raised in Commenters' previous comments, it will not

¹ Freeport LNG also has a pending application to renew this permit. These comments do not concern Freeport LNG's renewal application.

be discussed in detail here.² Freeport LNG determined that the Application only triggers the Major NNSR requirements for NO_x.³ Freeport LNG also determined that the Application does not trigger the PSD requirements for any pollutants and that it does not trigger the Major NNSR requirements for any pollutants besides NO_x.⁴ Had Freeport LNG aggregated the emissions increases from both projects, as it was required to do, this would not be the case. For example, when emissions are aggregated, Freeport LNG's VOC emissions are over 25 tons per year, triggering the NNSR provisions for that pollutant.⁵ Additionally, when emissions are aggregated, Freeport LNG's CO emissions are over 250 tons per year, triggering the PSD provisions for that pollutant.⁶ Then, because the project is a major modification, the PSD provisions apply to all pollutants that cross the relevant significance threshold.⁷ Here, that includes all forms of particulate matter.⁸

Second, Freeport LNG failed to aggregate all the emissions covered by Permit 104840. Freeport LNG evaluated whether the Application crossed the major modification threshold for the Trains 1-3 emissions and Train 4 emissions separately.⁹ There simply is no basis in law for this approach.¹⁰ Freeport LNG is required to evaluate Major NNSR and PSD applicability by reference to all of the emissions covered by a given permit. Taking the correct approach here, Freeport LNG is over the Major NNSR threshold for VOC emissions.¹¹ Thus, even if Freeport LNG is not required to aggregate emissions from both of its permits (it is), Freeport LNG's VOC emissions covered by just this permit still trigger the Major NNSR requirements for those emissions.

² See Citizens for Clean Air and Clean Water *et al.*, Comments and Contested Case Hearing Request at 1-2. See also Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Aggregation, Reconsideration, 83 Fed. Reg. 57,326 (Nov. 15, 2018); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting, 74 Fed. Reg. 2,376 (Jan. 15, 2009).

³ Permit No. 104840 Preliminary Determination Summary at 1-2.

⁴ *Id.*

⁵ See Permit No. 100114 Preliminary Determination Summary at 1-2.

⁶ *Id.*

⁷ 30 TAC 116.12(20) ("the ... significant thresholds for prevention of significant deterioration pollutants are identified in 40 Code of Federal Regulations ... 51.166(b)(1) and (23)); 40 C.F.R. 52.166(23) (identifying significance thresholds).

⁸ Permit No. 104840 Preliminary Determination Summary at 1-2.

⁹ *Id.*

¹⁰ Cf. TCEQ, Major New Source Review Determination – Applicability Determination (describing how to determine major source applicability and not directing applicants to take Freeport LNG's approach).

¹¹ Permit No. 104840 Preliminary Determination Summary at 1-2.

And, third, Freeport LNG did not properly evaluate the Application as an “as-built” amendment. This is indeed an as-built amendment, which means that Freeport LNG is not proposing any physical changes to its LNG export plant but is, instead, simply seeking to emit additional air pollution.¹² Accordingly, Freeport LNG is required to evaluate the applicability of the Major NNSR and PSD provisions by reference to all of the proposed emissions as if they were included in the initial application.¹³ In other words, Freeport LNG must evaluate whether its emissions exceed the major source or modification thresholds by reference to *all* of its proposed emissions (i.e., the originally permitted emissions plus the new higher emissions from the as-built amendment) rather than just the increase proposed by the Application.¹⁴ Freeport LNG did not do that here.¹⁵ Under the correct approach, Freeport LNG’s VOC emissions trigger the Major NNSR requirements because the VOC emissions are over the 25 tons per year Major NNSR threshold.¹⁶ Additionally, Freeport LNG’s CO emissions trigger the PSD requirements because they are over the 250 tons per year major source threshold.¹⁷ Freeport cannot lawfully initially permit its emissions through minor NSR and then increase those emissions above major NNSR/PSD levels without triggering Major NNSR/PSD requirements.

Another consequence of Freeport LNG’s failure to properly evaluate the Application as an “as-built” amendment, is that Freeport LNG unlawfully failed to perform the required analyses for pollutants that are over their respective “significance” levels as opposed to those that have crossed the applicable “major” threshold.¹⁸ Because this is an “as-built” amendment and the project is already “major,” Freeport LNG was required to perform the required analyses for all pollutants that exceeded their significance thresholds. Here, that requires PSD analyses for particulate matter (PM/PM₁₀/PM_{2.5}) and NO_x.

Because Freeport LNG uniformly failed to appropriately determine whether its emissions are subject to NNSR and PSD requirements, the Application must be denied. Freeport LNG has a burden to establish that it is complying with all the Clean Air Act requirements.¹⁹ Here, because Freeport LNG wrongly determined

¹² Permit No. 104840 Preliminary Determination Summary at 1.

¹³ TNRCC, *Retrospective Federal Permit Analyses and Reviews* at 2 (Jul. 5, 2000), available at <https://www.tceq.texas.gov/assets/public/permitting/air/memos/retrorevmemo.pdf>.

¹⁴ *Id.*

¹⁵ Permit No. 104840 Preliminary Determination Summary at 1-2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* (comparing emissions to major source thresholds); *see also* 30 TAC 116.12(20) (“the ... significant thresholds for prevention of significant deterioration pollutants are identified in 40 Code of Federal Regulations ... 51.166(b)(1) and (23)); 40 C.F.R. 52.166(23) (identifying significance thresholds).

¹⁹ 30 TAC 116.111(a)(2).

that its VOC and CO emissions do not exceed the major modification threshold, it failed to attempt the required demonstrations for these emissions. The public has no burden to speculate, *e.g.*, what LAER is for Freeport LNG's VOC emissions or what major-source BACT is for Freeport LNG's CO, NO_x, and particulate matter emissions. Nor does the public have a burden to speculate on the results of any air quality analysis.

Conclusion

Commenters appreciate the opportunity to submit these comments and reserve the right to provide additional information on the matters discussed in this document as allowed by the Clean Air Act, the Texas Clean Air Act, and the regulations implementing these statutes.

Respectfully submitted,

/s/ Thomas Gosselin

Thomas Gosselin

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*Attorney for Citizens for Clean Air and
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Tammy Washington

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June 10, 2025

Electronically Submitted

Laurie Gharis, MC-105

TCEQ

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¹³ TNRCC, *Retrospective Federal Permit Analyses and Reviews* at 2 (Jul. 5, 2000), available at

<https://www.tceq.texas.gov/assets/public/permitting/air/memos/retrorevmemo.pdf>.

¹⁴ *Id.*

¹⁵ Permit No. 104840 Preliminary Determination Summary at 1-2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* (comparing emissions to major source thresholds); *see also* 30 TAC 116.12(20) (“the ... significant thresholds for prevention of significant deterioration pollutants are identified in 40 Code of Federal Regulations ... 51.166(b)(1) and (23)); 40 C.F.R. 52.166(23) (identifying significance thresholds).

¹⁹ 30 TAC 116.111(a)(2).

that its VOC and CO emissions do not exceed the major modification threshold, it failed to attempt the required demonstrations for these emissions. The public has no burden to speculate, *e.g.*, what LAER is for Freeport LNG's VOC emissions or what major-source BACT is for Freeport LNG's CO, NO_x, and particulate matter emissions. Nor does the public have a burden to speculate on the results of any air quality analysis.

Conclusion

Commenters appreciate the opportunity to submit these comments and reserve the right to provide additional information on the matters discussed in this document as allowed by the Clean Air Act, the Texas Clean Air Act, and the regulations implementing these statutes.

Respectfully submitted,

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