Pollution Control Services

Dr. Latrice Babin, Executive Director

Established in 1953



August 2, 2024

Gwen Ricco Texas Commission on Environmental Quality Texas Register Rule Development Team, MC 205 P.O. Box 13087 Austin, Texas 78711-3087

Re: Stakeholder Comments on 2024-003-039-LS- Test

Dear Ms. Ricco,

Harris County Pollution Control Services (PCS) respectfully submits the following comments for changes to current requirements in 30 TAC Chapters 39 and 55.

PCS inspects facilities in Harris County for compliance with environmental laws and regulations, reviews permit applications, and submits comments to the Texas Commission on Environmental Quality (TCEQ) on permitting actions. PCS also works closely with the TCEQ's Houston Region 12 office, which refers a substantial number of environmental complaints, including nuisance complaints, from Harris County citizens. PCS then investigates these complaints and, when appropriate, issues Violation Notices and refers cases to the Harris County Attorney's Office or District Attorney's Office for civil or criminal enforcement.

Below is a list of comments and concerns identified by PCS.

1. Per 30 TAC §39.413 Mailed Notice Unless otherwise specified in Subchapters I-M of this chapter (relating to Public Notice of Solid Waste Applications, Public Notice of Water Quality Applications and Water Quality Management Plans, Public Notice of Air Quality Applications, Public Notice of Injection Well and Other Specific Applications, and Public Notice for Radioactive Material Licenses), when this chapter requires mailed notice, the chief clerk shall mail notice to: (1) the landowners named on the application map or supplemental map, or the sheet attached to the application map or supplemental map...

30 TAC §39.413 is referenced and cited in 30 TAC §39.418, §39.419, §39.501, §39.503, §39.551, §39.653, §39.1003, §39.1005, §39.1007, §39.1009, §305.69, §305.70, §305.172, and §305.572.

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PCS Comment/Recommendation

During the review of multiple permit applications, PCS has noticed a growing trend that is negatively impacting the actual residents living near the regulated sites. PCS has noticed that the landowner's mailing addresses provided in the applications mailing list often reside outside the vicinity of the regulated site. As such, the landowners potentially affected by the regulated site are notified but the renters, tenants, occupants, or inhabitants adjacent to the regulated site are not notified.

PCS is concerned that regulations are ineffective at informing and protecting residents and businesses located near regulated sites due to a growing trend in which many landowners are investors and not residents who physically occupy the property near the site. Therefore, the rule prescribing who must be notified is no longer improving public participation or protecting public health, because renters or tenants are not being made aware of permitting actions, which may adversely affect said renters or tenants, who are actually in close proximity to the site. PCS is also concerned that landowners are under no legal obligation to convey relevant permitting information, such as public meetings, notice of hearings, new solid waste management facilities, permit amendments, etc., to the renter or tenant in a timely manner to ensure tenants are informed of permitting actions and can participate in the permitting process as allowed. In addition, PCS is concerned the residents and businesses occupied by renters around sites, are members of the environmental justice community who are limited by affordable rental options and consequently are impacted the most by these regulated sites.

In a June 15, 2022, Bloomberg article by Patrick Clark entitled "Investors Bought Record Share of Homes as Mortgage Costs Climbed" showed how rising interest rates cooled the housing market for individual home buyers but landlords and investors proved more able to compete and purchase homes. Upon review of information from EPA's Environmental Justice Screening and Mapping Tool, particularly the 2010 census and 2015-2019 American Community Survey (ACS) Report, the following is presented. During a recent permitting action in Harris County, it was noted that approximately 35% of the households surrounding the facility are owner-occupied, while 65% are occupied by renters. Furthermore, 86% of the people in the area are people of color, and 53% are low-income. PCS had concerns regarding another permitting action in Harris County. Per the 2010 census, 45% of the households surrounding the permittee are owner-occupied while 55% are occupied by renters, with 93% being people of color and 51% being low-income, according to the ACS. Another recent permitting action in Harris County also gained attention with a similar situation. Per the 2010 Census and ACS, 52% of the households surrounding the facility are owner-occupied while 49% are occupied by renters, with 98% being people of color and 62% low income.

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PCS recommends 30 TAC §39.413 be considered for a modification to address the current physical reality of land ownership versus physical occupancy, for protecting human health within the physical vicinity of a regulated site. PCS believes that occupants as well as landowners should be notified of TCEQ actions in the required mail notifications. Should the regulation remain unchanged, PCS requests all mailed notices specified per 30 TAC §39.413 or regulations that refer to or cite 30 TAC §39.413, be sent to the occupants and businesses at the physical locations near the site as provided in the mailing list in the application when the landowner mailing address per the appraisal records differs from the physical address near the regulated site. PCS requests this be achieved by addressing the mail to "Resident" at the physical mailing address surrounding the site on the mailing list. Additionally, PCS requests the correspondence be in the language specified per the language access plan and 30 TAC Chapter 39.

2. The Notice of Receipt of Application and Intent (NORI) is published on the TCEQ website. The NORI has a date, and it identifies a public place where the application is available for the public to view.

Multiple TCEQ application forms ask the applicant to identify the public place where the application will be made available, and they site 30 TAC Section 39.405(g)).

Per 30 TAC 39.405(g) Copy of application. The applicant shall make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located. If the application is submitted with confidential information marked as confidential by the applicant, the applicant shall indicate in the public file that there is additional information in a confidential file. The copy of the application must comply with the following.

A copy of the administratively complete application must be available for review and copying beginning on the first day of newspaper publication of Notice of Receipt of Application and Intent to Obtain Permit and remain available for the publications' designated comment period.

A copy of the complete application (including any subsequent revisions to the application) and executive director's preliminary decision must be available for review and copying beginning on the first day of newspaper publication required by this section and remain available until the commission has taken action on the application or the commission refers issues to State Office of Administrative Hearings

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PCS Comment/Recommendation

As a public service, PCS visits the public locations specified in a NORI and on the TCEQ website to verify applications are available for public viewing and review as indicated. However, on multiple occasions, PCS has discovered that the applicant failed to place said application(s) at the designated location. Because of this failure, PCS has found that citizens and applicants become confused about when the applications must be placed in a public location for viewing. In multiple cases, PCS has contacted the applicants regarding the missing document(s). In response, on several occasions, the applicant has subsequently presented PCS with a letter from the TCEQ's License & Permit Specialist Business & Program Services Section stating, "On or before the date you publish notice (in a Newspaper Publication), place a copy of your permit application in a public place in the county where the facility is or will be located. This copy must be accessible to the public for review and copying, must be updated to reflect changes to the application, and must remain in place throughout the comment period." On other occasions, PCS has discovered that the public place where the applicant placed the permit application for public viewing was unreasonably outside the vicinity of the regulated facility, making it unreasonably difficult for residents to view the documents. However, in several of these cases, PCS easily identified a public place significantly closer to the regulated facility. A public place where the documents could have been more readily accessed by potentially impacted residents.

PCS requests that the rules be amended to specify when an application must be placed in a public location. PCS also requests that the TCEQ require the applicant to provide a signed and dated affidavit from a responsible employee of the public place where the document will be available for viewing. PCS also requests that the public place utilized, be within a reasonable distance of the impacted community, or close proximity to the regulated facility requesting authorization.

3. Per Senate Bill 1397 Sec. 5.1734. ELECTRONIC POSTING OF PERMIT APPLICATIONS. (a) The commission shall post on its website at the time a permit application becomes administratively complete: (1) the permit application and any associated materials; and (2) for a permit application under Subchapter D, Chapter 11, any map accompanying the permit application. (b) If a permit application is revised or amended after the permit application has become administratively complete, the commission shall post on its website the revised or amended permit application. (c) The commission may exempt any

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associated materials from being posted on its website under Subsections (a) and (b) if the commission determines that: (1) posting the materials on the website would be unduly burdensome; or (2) the materials are too large to be posted on the website (d) Notwithstanding any other law, the commission shall require each applicant for a permit, permit amendment, or permit renewal that requires notice be published to include in the notice the address of the website where the public can access information about the permit as described by Subsection (a). (e) In implementing this section, the commission shall consider and accommodate residents of each area affected by a proposed permit, permit amendment, or permit renewal who may need assistance accessing the application and associated materials because of a lack of access to Internet services, particularly when there is a heightened public interest or in response to public comment.

Sec. 5.583. ELECTRONIC PUBLICATION OF NOTICE. (a) The commission shall publish notice of a permit application on the commission's website and may provide additional electronic notice through other means, including direct e-mail. Notice published under this section is in addition to any other notice requirement. (b) The commission shall consider and accommodate residents of each area affected by a proposed permit, permit amendment, or permit renewal who may need assistance accessing notice published by electronic means because of a lack of access to Internet services, particularly when there is a heightened public interest or in response to public comment.

PCS Comment/Recommendation

The agency currently makes public notice results available via <u>Search the TCEQ Chief Clerk's Database - Texas Commission on Environmental Quality - www.tceq.texas.gov</u>. PCS is concerned the application available online will be a short synopsis that doesn't provide a substantial portion of the application document. Additionally, PCS is concerned the public may not be able to easily navigate the website to readily access the documents. Furthermore, some residents may not have any access or have limited access to internet services or computers but may be interested in reviewing the application.

PCS requests that the entire permit application (and subsequent revisions) be available online to facilitate public access to the application. Additionally, PCS requests the permit applications continue to be made available in a public place to accommodate residents with no internet (or limited internet) service.

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4. Per 30 TAC 39.503(c)(2)(B) the executive director or chief clerk shall mail notice of this determination along with a copy of the application or summary of its contents to the mayor and health authority of a municipality in whose territorial limits or extraterritorial jurisdiction the solid waste facility is located, and to the county judge and the health authority of the county in which the facility is located.

Per 30 TAC 39.510(a)(3)(C) the county judge and health authorities of the county in which the facility is located or proposed to be located; and

Per 39.805(3) the county judge and health authorities of the county in which the facility is or will be located or in which waste is or will be disposed of;

Multiple TCEQ application forms request the applicant provide the county health authority information

PCS Comment/Recommendation

PCS is the County Department with the authority to oversee a facility's compliance with Title 30, Texas Administrative Code (TAC). As a point of reference, please find attached the Harris County order dated January 5, 2011, that created the Harris County Pollution Control Department. Additionally, please find attached the "TCEQ - Local Air Pollution Control Programs (APD-ID 161v2.0, revised 07/23)" information that identifies contact persons for permit requirements, note PCS is identified under Harris County (also https://www.tceq.texas.gov/downloads/permitting/air/info/local-programs.pdf).

PCS recommends the TCEQ update the rule to account for scenarios where a county government, such as Harris County, has granted environmental regulatory jurisdiction to an entity other than the county's health department. For Example, in Harris County, the entity with environmental regulatory jurisdiction is Harris County Pollution Control Services; not Harris County Public Health Department. PCS also recommends the TCEQ establish a list for applicants that reference Harris County Pollution Controls Services and their Director, Dr. Latrice Babin, rather than Harris County Public Health as the authority with oversight for environmental jurisdiction within the boundaries of Harris County.

5. Per 30 TAC 39.651(c)(4) For Notice of Receipt of Application and Intent to Obtain a Permit concerning Class I or Class III underground injection wells, the chief clerk shall also

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mail notice to:...(B) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;...(D) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located; and...

Per 30 TAC 39.653(b) Notice of Receipt of Application and Intent to Obtain Permit. After the executive director determines that the application is administratively complete, notice shall be given as required by §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit). This notice must contain the text as required by §39.411(b)(1) - (9) and (11) of this title (relating to Text of Public Notice). The chief clerk shall also mail notice to:(2) landowners adjacent to the property on which the existing or proposed production area is or will be located;...(4) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed production area is or will be located; and

Per 30 TAC 39.705 When notice by mail is required under this subchapter, the chief clerk shall mail notice under only §39.413(2), (3), (8), (9), and (12) of this title (relating to Mailed Notice), and to each owner of property adjacent to the proposed site. For purposes of determining the ownership of property adjacent to the proposed site under this subchapter, the applicant shall provide the chief clerk with the names of the landowners from the county tax rolls that are available no more than 30 days before the date of newspaper publication of the notice.

Per 30 TAC 39.1011 a) For notice of application for the voluntary transfer of an injection well permit, the chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice). The chief clerk shall also mail notice to:...(2) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;...(4) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located.

PCS Comment/Recommendation

In another permitting action brought to PCS' attention, landowners who share a property line with a regulated site are considered adjacent and therefore receive notices regarding regulated activities. However, landowners whose property is bisected from each other by a public street,

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(not suggesting an interstate or major thoroughfare) are not considered as adjacent to the regulated site, and therefore do not receive a notice of regulated activities. Individuals across the street and not adjacent to the regulated site are just as likely to be impacted. This is especially true for air emissions, groundwater plumes, or large surface water discharges, which are not respectful of land boundaries. As such, PCS would prefer a specific distance limitation similar to those found in 30 TAC 39.510, 39.501, and 39.651.

PCS recommends the TCEQ update the rule to mail notices to landowners and residents/occupants within a certain distance from the regulated site.

PCS appreciates the opportunity to submit these comments for your consideration. Should you or other TCEQ staff have questions, please contact Herman Rogers at (713) 274-6237 or by email at herman.rogers@pcs.hctx.net

Sincerely,

Dr. Latrice Babin Executive Director

cc: Kaylee Stephenson - Harris County Judge's Office

Zac Nguyen - Harris County Judge's Office

Mikayla Panariello - Harris County Judge's Office

Sarah Utley - Harris County Attorney's Office

Nicole Bealle - TCEQ Region 12

Maureen Haver - Harris County Precinct 1

Alan Deleon- Harris County Precinct 1

Kristen Lee - Harris County Precinct 2

Bruce High - Harris County Precinct 3

Amanda Leal - Harris County Precinct 4

EBC/CLB/WOL/CD/HFR/SAM/KJ

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Pollution Control Services

Dr. Latrice Babin, Executive Director





Steve Radack, Commissioner
Harris County Precinct 3

January 5, 2011

AGENDA ITEM

Members of Commissioners Court Administration Building Harris County, Texas

Members of the Court:

Precinct Three requests approval of the attached order authorizing creation of the Harris County Pollution Control Department The Department is to have programs and services in air quality and associated nuisances, solid and hazardous waste and water quality including but not limited to, drinking water quality and storm water quality functions currently performed by EPH and not being performed by PID.

The employees who perform these services are to be transferred from Harris County Public Health and Environmental Services Department to the Harris County Pollution Control Department with discussion and possible action on the appointment of an Interim Director.

Also, HCPHES, is to be renamed Harris County Public Health Department.

Your consideration and approval of this request is appreciated.

Sincerely,

Presented to Commissioner's Court

JAN 1 1 2011

APPROVE Refer to management Recorded Vold 72 Page 185 Page

HARRIS COUNTY HANGEMENT SERVICES

14:11 MA 2- NAL IT

County Commissioner
Precinct Three

SR:It

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Steve Radack

Administration Building • 1001 Preston, Suite 924, Houston, Texas 77002 • (713) 755-6306 • Fax: (713) 755-8928

Comm Pc-1 3 - Cop E-mail: pct3@hctx.net • www.pct3.hctx.net

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	Presented to Commissioner's	Cou
THE STATE OF TEXAS §	JAN 11 2011	
§		
COUNTY OF HARRIS §	APPROVE	
at the Harris County Administration Building of	county, Texas, convened at a meeting of said Con in the City of Houston, Texas, on thed the following members present, to-wit:	urt lay
Ed Emmett	County Judge	
El Franco Lee	Commissioner, Precinct No. 1	
Jack Morman	Commissioner, Precinct No. 2	
Steve Radack	Commissioner, Precinct No. 3	
Jerry Eversole	Commissioner, Precinct No. 4	
and the following members absent, to-wit: _constituting a quorum, when among other bus		_,
constituting a quorum, when among other bus	ness, the following was transacted:	
HARRIS COUNTY POLLUT	ING CREATION OF THE TION CONTROL DEPARTMENT introduced an order and made ssioner seconded t tion, carrying with it the adoption of the order	a the er,
	Yes No Abstain	
Judge Ed Emmett	0 0 0 -	
Comm. El Franco Lee	0 0 0	
Comm. Jack Morman	0 0 0	
Comm. Steve Radack	0 0 0	
Comm. Jerry Eversole	0 0 0	
WHEREAS, Harris County recognize safety and health by ensuring that residents h and that the aesthetic quality of the environme WHEREAS, the Commissioners Cou	es the paramount importance of protecting publiave clean air and water and proper waste dispos	lic al,
	RED BY THE COMMISSIONERS COURT O	OF

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Section 1: The recitals set forth in this Order are true and correct.

Section 2: The Harris County Pollution Control Department is created.

Section 3: The Harris County Pollution Control Department shall have programs and services in the following areas: air quality and associated nuisances, solid and hazardous waste, and water quality, including, but not limited to, drinking water quality and storm water quality functions currently performed by the Environmental Public Health Division of the Harris County Public Health and Environmental Services Department and not being performed by the Harris County Public Infrastructure Department.

Section 4: The Harris County Pollution Control Department shall perform the following activities: (a) secure compliance with State rules on air, water, wastewater, drinking water, and solid waste, and County rules on storm water through surveillance, monitoring, and inspections; (b) respond to citizen complaints on air, water, solid waste, wastewater, water supply, and nuisances; (c) review, comment, and take appropriate action on proposed State air, wastewater, and solid waste permit issuance and renewals; (d) conduct laboratory analyses of water, soil, and solid waste samples; (e) conduct on-site assessments of potential indoor air pollution and occupational safety health hazards at small businesses; (f) respond and lend assistance to County departments as needed; (g) respond and lend assistance at HazMat emergency/disaster related events; and (h) issue violation notices, assess and compile reports and evidence for litigation, and coordinate the administration of certain penalties for environmental projects.

Section 5: The programs, services, and activities referenced in Sections 3 and 4 above, the employees who perform them, the current building space and equipment, and the corresponding budget shall be transferred from the Harris County Public Health and Environmental Services Department to the Harris County Pollution Control Department.

is renamed the Harris County Public Health Dep	artmen	ıt.					
Section 7: County Pollution Control Department.	is	named	Interim	Director	of	the	Harris

The Harris County Public Health and Environmental Services Department

Section 8: All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

Section 6:

Pollution Control Services

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Local Air Pollution Control Programs Texas Commission on Environmental Quality

Person to Contact	Person to Contact	Person to Contact
City of Abilene - Taylor County Ms. Terri Auger Environmental Health Manager Environmental Health Section Abilene-Taylor County Public Health District 633 Walnut St. Abilene, Texas 79601-5225 Bus: 325-676-6291 Fax: 325-676-6289 TCEQ Region 3	City of Austin Mr. Zach Baumer Climate Program Manager Office of Sustainability City of Austin P,O, Box 1088 Austin, Texas 78767 Bus: 512-974-2836 TCEQ Region 11	Brazoria County Ms. Jodie Vice Director Environmental Health Brazoria County Health Department 111 E. Locust Bidg. A-29, Ste. 107 Angleton, Texas 77515-4642 Bus: 979-864-1686 Fac: 979-864-1904 TCEQ Region 12
City of Carrollton Mr. Cory Heiple, RS Environmental Quality Manager Environmental Services Department City of Carrollton 1945 E, Jackson Rd, Carrollton, Texas 75006-1737 Bus: 972-466-3058 Fax: 972-466-3175 TCEQ Region 4	City of Dallas Mr. Joseph Vu Manager Air Compliance Program City of Dallas Office of Environmental Quality & Sustainability 1500 Marilla Rm 7AN Dallas, Texas 75201-6318 Bus: 214-670-1200 Fas: 214-670-0123 TCEQ Region 4	City of El Paso - El Paso County Mr. Al Melero Director Code Compliance Manager Code Compliance Division City of El Paso 7968 San Paulo El Paso, Texas 79907-1261 Bus: 915-212-6038 Fax: 915-599-6281 TCEQ Region 6
City of Farmers Branch Mr. Shane Davis Director of Sustainability and Public Health City of Farmers Branch 13000 William Dodson Pkwy. Farmers Branch, Texas: 75234-6253 Bus: 972-919-2614 Fax: 972-919-2544 TCEQ Region 4	City of Fort Worth Mr. Anthony Williams Environmental Supervisor, Air Quality Section Environmental Quality Division, Code Compliance Department City of Fort Worth 200 Texas St, Fort Worth, Texas 76102-6314 Bus: 817-392-6462 Fax: 817-392-6359 TCEQ Region 4	Galveston County Mr. Ronnie Schultz Director of Environmental Health Programs Air and Water Pollution Services Galveston County Health District P.O. Box 939 La Marque, Texas 77568-0939 Bus: 409-938-2314 Fax: 409-938-2271 TCEQ Region 12

TCEQ—Local Air Pollution Control Programs (APD-ID 161v2.0, revised 67/23)

This form is for use by facilities subject to air quality permit requirements and may be revised periodically.

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Dr. Latrice Babin, Executive Director



Person to Contact Harris County Dr. Latrice Babin Director Harris County Pollution Control Services 101 S, Richey St, Ste, H Pasadena, Texas 77506-1023 Bus: 713-274-6413 Fax: 713-274-6475 TCEQ Region 12 Person to Contact City of Houston Mr. Nguyen Ly, "El V" Senior Project Manager Houston Department of Health and Human Services Bureau Chief of Pollution Control and Prevention 7411 Park Place Blvd, Houston, Texas 77087-4441 Bus: 832-393-5635 Fax: 832-393-5726 TCEQ Region 12		City of Irving				
						City of Lewisville Ms. Jordan Strickler Environmental Control Services Manager Environmental Control Services City of Lewisville P.O. Box 299002 Lewisville, Texas 75029-9002 Bus: 972-219-3509 Fax: 972-219-3508 TCEQ Region 4
City of Richardson Mr. Bill Alsup Director of Health Health Administration City of Richardson 411 W. Arapaho Rd. Richardson, Texas 75080-4551 Bus: 972-744-4080 Fax: 972-744-5802 TCEQ Region 4	City of San Antonio Mrs. Kyle Cunningham Health Program Manager Air Quality San Antonio Metropolitan Health District 2509 Kennedy Circle, Bldg, 125 San Antonio, Texas 78235-5160 Bus: 210-207-2071 Fax: 210-207-2282 TCEQ Region 13	City of Sugar Land Ms. Taylor Danesi Environmental Manager Environmental and Neighborhood Services City of Sugar Land P.O. Box 110 Sugar Land, Texas 77478-0110 Bus: 281-275-2497 Fax: 281-275-2360 TCEQ Region 12				
ravis County Is. Janet Pichette hief Epidemiologist ustin Public Health pidemiology and Public Health reparedness Division, RBJ Health enter 5 Waller St., 4th Fl ustin, Texas 78702-5240 us: 512-972-5772 CEQ Region 11 City of Webster Mr. John D. Warnement Interim Director Public Works City of Webster 85 Magnolia St. Webster, 7 Webster 85 Magnolia St. Webster, 7 Webster 85 Magnolia St. Webster, 7 Faxas 77598-5417 8 Us: 281-316-3700 8 Fax: 281-316-3729 8 TCEQ Region 12		City of Wichita Falls - Wichita County Ms. Samantha Blair General Environmental Administrator Environmental Health Wichita Falls-Wichita County Public Health District 1700 Third St, Wichita Falls, Texas 76301-2113 Bus: 940-761-7822 Fax: 940-761-7645 TCEQ Region 3				

If you have questions regarding this information please contact us.

TCEQ — Local Air Pollution Control Programs (APD-ID 161v2.0, revised 07/23)

This form is for use by facilities subject to air quality permit requirements and may be revised periodically,

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