Comment Reconciliation for Draft Permit 7301-SM for Fort Myer Construction Corporation, Plant 1 Asphalt Plant

On February 16, 2024, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE) issued a draft synthetic minor air quality permit for the Fort Myer Construction Corporation (FMCC) hot mix asphalt plant located at 2001 5th Street NE, in the Eckington neighborhood of Washington DC, for public review, see 71 DCR 1718 Vol. 71 - No. 7, 001718-001721. The review period initially extended through March 18, 2024, but was subsequently extended through March 25, 2024. A public hearing was held on March 18, 2024.

Discussion

DOEE received numerous comments on the draft permit. This document responds to those comments. Some comments have been paraphrased and combined with other similar comments for efficiency of response. Additionally, some comments not germane to the air quality permit were not addressed in this document. Comments regarding administrative procedures, the handling of 311 complaints, communications with FMCC, zoning concerns, and Freedom of Information Act requests should be directed to the respective processes and controlling agencies.

Additionally, some topics raised by the commenters, specifically noise, heat emissions, safety impacts, and alternative land use proposals, are not germane to an air quality permitting process as they are not the subject of the air quality regulatory standards that are incorporated into an air permit. Therefore, DOEE has not addressed these comments in the response document.

Odor Concerns

DOEE recognizes that odors are generated by the operations of an asphalt plant. The permit incorporates additional odor controls not required in previous permits for this facility, such as the installation of the blue smoke condensers on the vent of the liquid asphalt storage tank. These controls are expected to substantially reduce odors from the facility. Additionally, separate from this permitting process, under the requirements of 20 DCMR § 903, FMCC has submitted an odor control plan (OCP), which is under review by DOEE. The OCP is designed to ensure compliance with the District's odor regulation. If odor controls proposed in the OCP are determined to be insufficient to meet the requirements of 20 DCMR § 903, DOEE can require additional control measures, or if determined to be insufficient after the OCP is approved, can require revision and resubmission of the OCP.

Air Pollution Permitting

Air pollution is inherent in asphaltic concrete production. DOEE is requiring FMCC to have an air pollution permit to regulate the emissions from operations. This permit incorporates

requirements of the various regulations that limit such emissions and are included in full in the permit. Commenters have raised concerns about the health effects of the various air pollutants from the facility. The relevant District and federal regulations incorporated into the permit ensure that emissions and operations are permitted at levels that protect public health and the environment. The permit does not authorize increased emissions, is substantially more stringent than the prior permit, and is expected to result in reduced emissions of pollutants from the facility.

Conclusions

DOEE has concluded that issuance of permit 7301-SM to FMCC is appropriate and consistent with the requirements of 20 DCMR § 201, with certain revisions made in response to various comments received on the draft permit. Changes from the draft consist of:

1. Specifically requiring wet sweeping of the segment of 5th Street NE bordering the plant at least twice daily on each day of facility operations and as necessary to minimize fugitive dust from the facility;
2. Limiting nighttime (9:00 PM to 4:00 AM) operation of the plant to no more than 50 nights per year, including both production operations and loadout operations;
3. Increasing the required frequency of fluorescent dust leak tests of the baghouse to quarterly or within one week of reaching 25,000 tons of asphalt production since the last test, whichever comes later, but not less than twice per year; and
4. Prohibiting operation of the crusher/screener unit between the hours of 9:00 PM and 4:00 AM.

Based on this conclusion, DOEE will promptly issue this permit, as revised.

Appeals

Under D.C. Official Code § 8-101.05h(a) and 20 DCMR § 107, any person impacted by this final action may appeal the action to the Office of Administrative Hearings, pursuant to § 2-1831.03(a).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Energy and Environment

PUBLIC COMMENT RESPONSES

COMMENT RESPONSES

The comments and responses below have been organized into subject matter categories. DOEE staff have worked to paraphrase and quote necessary language to ensure all comments are addressed properly. Subject matter categories are bolded. Comment summaries or quotes are in plain text. DOEE responses are in italics.

1. SOURCE OVERSIGHT

a. Limits on Bad Air Quality Days

A commenter requested that FMCC limit operating hours and output to reduce community impact (M-F, 9:00 AM – 3:00 PM), excepting rare emergency operating needs. Additionally, the commenter requested the facility limit output on poor air-quality days and during the rare emergency needs that might take place outside normal operating hours.

Another commenter stated that operations should be curtailed on days with poor air quality to mitigate potential health risks.

A commenter proposed: "no asphalt production or tank filing on "code orange" air days (as determined by one or more of the District air monitoring stations)." Another commenter proposed to limit or prohibit plant operations on poor air quality days when DC's Air Quality Index is "orange" (101 - 150) or above.

Many commenters recommended the following permit amendment pursuant to 20 DCMR § 201, to ensure "...the issuance of the permit will not be inimical to the public health and welfare [of the public]" explaining, "Limit FMCC Plant #1's operations when air quality is compromised, including:

- A 50 percent reduction in permitted operations when the air quality index for DC is moderate (yellow) and
- A complete prohibition on operations when air quality index for DC is unhealthy for certain groups (orange) or worse."

Many commenters felt that these requirements are considered both reasonable and achievable.

Another commenter recommended, in addition to annual limits, more granular limits, especially on poor air quality days (code red and orange days). The commenter proposed that the facility, and users of the facility, such as DDOT, need to adjust their operations accordingly because the plant should not be operating at maximum output on air quality days. There should be a line drawn with respect to how much production is allowed on these air quality days.

> ***DOEE Response –*** *The unpredictability of operating or not operating based on the air quality index (AQI) could potentially have serious impacts on FMCC's business and ability to fulfill contracts, while the reduction or elimination of emissions from this site on a high-AQI day would have little impact on the pollutant concentrations reflected by the AQI, which are regional, not local, in nature. While the air quality forecasts and monitoring provide valuable insight into regional conditions, it may not reflect hyper-*

local variations or directly attribute elevated pollution levels to a specific source. Multiple factors, including transported pollution and natural sources, contribute to a Code Orange or Red AQI designation, making it an insufficient basis on its own for requiring a facility to shut down or curtail operations.

b. Limiting Truck Traffic

Commenters recommended that the permit require DOEE enforcement of designated truck routes and FMCC traffic to avoid local streets on which trucks are prohibited by DDOT. In addition, a commenter stated that the trucks crossing the path pose imminent dangers to people using the trail. Another commenter proposes limiting the number of trucks.

DOEE Response - *DOEE has no permit authority over truck operations (e.g., number of trucks, truck routes). If certain routes are prohibited by DDOT, but are still being used by company trucks, this concern should be raised to DDOT.*

c. Operating Hours

Multiple commenters recommended that limitations on hours of operation be established in the permit for FMCC Plant #1 because their operations are damaging the air quality. Several different proposals were submitted as follows:

- Limit operations to between 9:00 AM and 3:00 PM (when school lets out and when trail use is highest), with emissions remaining limited during these restricted times. Another commenter suggested that starting at 9:00 AM allows people to commute to work/school before the plant starts up.
- Limit operations to between 9:00 AM and 3:00 PM, excluding federal and District holidays.
- Limit operations of the RAP crusher to 4 hours a day from 10:00 AM to 2:00 PM.
- "The draft permit allows 10 hours of operation a day at a limit of 150 tons per hour of recycled asphalt payment. That equates to 1,500 tons per day and 10,500 tons per week (rates that are equivalent to 546,000 tons/year if the plant was in continuous operation). Regulations state that DOEE 'may establish a condition in a permit issued pursuant to this chapter that limits, in a manner that is enforceable as a practical matter, emissions from a source so as to avoid applicability of the permitting requirements of § 300.1.' It is not self-evident that this language precludes or requires any hourly or other operational limitations. Given that the permit allots 10 hours of operation a day at a limit of 150 tons per hours of recycled asphalt, if fully running this would be the equivalent of 546,000 ton/year. Given the draft permit sets a limit of 240,000 tons per year and is nearby more than 8000 residents at a higher density within ½ mile radius, we recommend limitations to allow for only work from 9a-4p weekdays only, excluding holidays and weekends. This would reduce capacity down to 257,600 tons and even account for emergency uses."

- The plant should not operate during commuting hours when pedestrians are using the Metropolitan Branch Trail (MBT) to get to and from work.
- Limit production to hours of 8:00 AM and 3:00 PM, Monday through Friday (excluding federal holidays).
- No part of the plant should operate outside of 9:00 AM and 5:00 PM (Monday-Friday) to preserve ambient noise, smells generated by the plant, and for the volume of trucks on the road.
- The plant should shut down by 2:30 PM as the trail is busy by 3:00 PM, or alternatively,10:00 AM – 2:00 PM operating hours to avoid the primary hours of use of the MBT.
- Preclude operation of FMCC Plant #1 on weekends and federal and District holidays (when trail use is highest).

DOEE Response – *Due to the nature of the asphalt product, it must be made fresh and maintained at temperature to remain a viable product. Storage, at temperature of large amounts of asphalt product is only feasible to a certain point and involves maintaining large amounts of storage capacity, which is not always reasonable. Due to the nature of the paving industry, road work cannot always be done during the middle of the business day, which, combined with the difficulty of storing hot mix asphalt in large quantities makes it untenable to produce hot mix asphalt* ***only*** *during the workday (or an abbreviated workday) as proposed by the commenters. Therefore, no limits on daytime plant operating times are included in the final permit in response to the comments.*

A commenter stated that "I understand that Fort Myer has emergency contracts with the District of Columbia for services to do road repairs at all hours of the day. Given the health and welfare of our community, we request that these emergency service requests that require after-hour support are fulfilled at another site that is located more than ½-mile from any residential homes. If they must be done on this site after hours, it should be done for less than 30 minutes and done no more than once a quarter (per year) at this site. It was doubtful that when federal standards were developed, that they considered these standards when an asphalt plant was in the middle of the city immediately adjacent to residents."

DOEE Response – *If any such contracts exist, an air quality permit condition is not the appropriate means to establish such a contract requirement.*

d. Permit Duration

A commenter recommended that the permit be reviewed every year instead of every five years until "trust is built that the plans that are in place according to the permit are working they [sic] way they should and protecting people's health, welfare, and quality of life effectively. Given the overwhelming response from residents, 5 years is too long for residents to wait to provide additional and thorough public comment, which should last 60 days, not 30 days."

Another commenter requested that DOEE consider that, with DOEE planning to expand its mobile community air monitoring project across the tracks to Eckington in the near future, if

DOEE grants FMCC an operating permit, it should only be effective for a year because results from the mobile monitoring project may be valuable in determining concentrations and sources of various pollutants in Eckington.

Another commenter proposed an option to grant a renewal to the permit at this time, but on a non-renewable basis.

Another commenter wrote in opposition to the Department issuing a "permanent permit" to the applicant for this facility.

> ***DOEE Response –*** *The standard duration of a permit is five years. DOEE cannot issue a permit that does not expire, and it is not necessary or reasonable to require that a permit be renewed annually. Underlying regulatory requirements do not change often enough to require updates annually, and if substantial regulatory revisions need to be incorporated into a permit, DOEE has the authority to reopen the permit for cause. Additionally, even if not incorporated into a permit in a timely fashion, a regulation is enforceable by itself. Similarly, if non-compliance or new regulations occur and warrant permit amendments, DOEE has the authority to take steps to reopen a permit to revise it. Finally, during the period between the draft permit and the final permit, the results from the second year of the mobile monitoring program were available for consideration in drafting the final permit. Elevated levels of pollution were not found in the area near FMCC Plant #1 and thus do not warrant DOEE issuing a short-term permit.*

e. Recordkeeping and Reporting

A commenter requested a "third-party inspector" monitor, contracted by the District Government and paid for by FMCC, to verify a log of the crushing and screening operations at the site on a monthly basis, rather than the facility doing the monitoring themselves.

Another commenter asserted that federal law also requires extra (semi-annual) reporting on compliance.

> ***DOEE Response –*** *DOEE does not have the authority to charge a certain facility fees to pay for District government contractors to monitor that facility. Additionally, the procedures established to require facilities to monitor their own activities and keep records of those activities, combined with DOEE inspector oversight of operations and review of company records, are an established and effective way to monitor facility compliance.*
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> *DOEE's permitting regulations do not require semi-annual reporting for synthetic minor facilities, which is the type of permit being issued to FMCC. These regulations have been reviewed and approved by the U.S. EPA as compliant with federal Clean Air Act requirements. The comment does not cite any specific federal regulation to support its claim so if the commenter is referring to a federal law other than the Clean Air Act, DOEE is unable to respond to this comment.*

A commenter noted under the Draft Permit that if visible emissions of fugitive dust or smoke are observed in excess of the limits specified in Conditions III(b)(1)(B), (C), or (D), prompt action shall be taken to correct the problem. Operations shall not continue if such exceedances are observable, until such time as the problem has been addressed to the satisfaction of the Department. The commenter recommended the permit to be changed so that these exceedances would be publicly reported on the DOEE Website via a dashboard. This dashboard should include:

- Rates and emissions
- 311 complaints and resolutions

DOEE Response – *This permit establishes requirements that apply to the Permittee. What data DOEE posts on its website is not regulated by this permit.*

f. Public Engagement

Commenters recommended requiring FMCC to hold quarterly meetings with Eckington residents and a DOEE representative so that community concerns can be discussed on an ongoing basis and data about air quality for the preceding quarter is disclosed.

DOEE Response – *The air quality regulations do not provide authority to DOEE to require a condition in an air quality permit for the permittee to meet on a regular basis with the surrounding community.*

A commenter asserted DOEE should not issue the permit without extending the public comment period to enable the community to evaluate and comment on the maintenance, compliance, and oversight activities at the plant

DOEE Response – *All appropriate and legally required public outreach and engagement occurred with respect to this permitting action. DOEE provided a 30-day public comment period on the application and draft permit from February 16, 2024, through March 18, 2024, as required pursuant to 20 DCMR § 210. The public notice was posted on DOEE's website and in the D.C. Register on February 16, 2024, and a public hearing was announced at that time. DOEE did receive requests from some commenters to extend the comment period, which it did from March 18, 2024, to March 25, 2024. DOEE received numerous comments and these comments have been considered and addressed herein.*

g. Ambient Monitoring

A commenter cited to data from Shaun Howe's Eckington air quality analysis: "The data displayed on my website uses a global EPA correction factor to correct the PurpleAir data. I am currently working on, and close to finalizing, a correction factor based on our PurpleAir sensor co-location we performed with the DC DOEE back in June. Some highlights from my analysis

thus far are that the daily averages don't appear too high but the hourly exceedances can be rather high."[1]

> ***DOEE Response –*** *Firstly, Purple Air sensors are useful tools to generally understand changes in Particulate Matter, but they are especially prone to produce incorrect sampling data, especially in high-humidity environments like that of the District. While Mr. Howe's analysis did rely on a correction factor to address some of these issues, even the corrected data is not sound enough to make a determination of an exceedance of the NAAQS let alone one attributable to FMCC.*
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> *Additionally, there is no clear way to connect the data presented to FMCC specifically. There are numerous potential air pollution sources in a complex urban environment such as the District and Purple Air sensors lack the key meteorological indicators of wind speed and direction to enable identification of a specific source of air pollution.*
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> *Furthermore, the 24-hour PM NAAQS (35 µg/m³) is calculated based on the 98th percentile of the daily averages, averaged over three years. There would need to be multiple exceedances of the standard in at least one, if not all of the years, shown in the analysis. Here, there was no more than one exceedance at any given sensor over the course of several years. Purple Air sensors are not of high enough quality to make actionable comparisons to the NAAQS. Even so, the daily averages presented are still not sufficient to indicate exceedances of the NAAQS.*
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> *Hourly levels that were above 35 µg/m³ were also presented as part of the comment. EPA develops the form[2] of the NAAQS to ensure that measured air pollution levels are at a level that is protective of the public health and welfare. EPA set a 24-hour average limit for PM2.5 of 35 µg/m³, not an hourly limit, so several hourly levels above 35 µg/m³do not mean air pollution levels are above federal standards.*

Commenters suggested adding a permanent or regular mobile air quality monitor on the MBT near the Fort Myers site to collect data on trail users' exposure to ozone, nitrogen dioxide, carbon monoxide, and PM2.5 with particulate composition testing for carcinogens and silica. Commenters believed air quality monitoring data should be analyzed against local and federal regulatory standards by DOEE, or a reputable third-party testing company and that air quality monitoring should at least be conducted from spring to fall, when degraded ambient air quality coincides with heavier MBT use. Also, commenters recommended that DOEE's 'Hyperlocal Mobile Air Pollution Monitoring Project' may be an option to provide this capability."

A commenter stated FMCC should pay for the installation and operation of an ambient air quality station (testing for PM 2.5, Hazardous Air Pollutants (HAPs), and Volatile Organic Compounds (VOCs) next to FMCC Plant 1, with the data being available to the public in real time, as a condition to continue operations.

[1] https://shaunhowe31.github.io/dc_aq/eckington_aq

[2] The statistical analysis used to show attainment. *see* https://www.epa.gov/criteria-air-pollutants/naaqs-table.

A commenter suggested a higher frequency of testing is required for a meaningful understanding of localized air quality issues. Such infrequent testing wouldn't help identify sources of pollution and ways to mitigate them.[3]

> ***DOEE Response:*** *DOEE does not believe that it is necessary to require FMCC to perform ambient air monitoring at this time.*
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> *Regarding particulate matter monitoring, there are two nearby PurpleAir monitors, one due west and one southwest of the site, that to date have not identified particulate matter concentrations of concern so requiring additional monitoring would be of minimal value.*
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> *Regarding general VOC or hydrocarbon monitoring, since these groups of pollutants vary broadly in characteristics, including both odor thresholds and toxicity, and the pollutants can come from many sources, such general monitoring would not be useful in identifying emissions specific to the FMCC facility.*
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> *Regarding speciated organics, such as individual hazardous air pollutants (HAPs), this type of monitoring is highly expensive and is not reasonable to require FMCC to implement. As stated above, the pollutants can come from many sources, and such general monitoring would not be useful in identifying emissions specific to the FMCC facility. DOEE has a station to measure speciated organics in Ward 5 at McMillan Reservoir.*
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> *Comments related to monitoring performed directly by DOEE are not relevant to this permitting action.*

h. Source Testing

A commenter recommended that DOEE should "Require third-party testing for PM 2.5 and PM 10, at FMCC's expense, quarterly to ensure compliance with permit. Require replacement of any filters that fail."

A commenter stated that "There don't seem to be real testing and monitoring requirements for most pollutants in the draft permit, except for visible emissions and the sulfur content of fuel. According to permit requirements, DOEE could and should mandate that FMCC install, use, and maintain certain monitoring equipment and/or take air quality samples on a periodic or continuous basis, and make those results publicly available."

A commenter stated that the permit should require quarterly baghouse testing to ensure compliance with the permit and ensure that the results are public within 30 days.

[3] https://www.liebertpub.com/doi/abs/10.1089/env.2020.0066

A commenter stated that independent maintenance inspections should be done on a biweekly basis to ensure proper compliance.

> ***DOEE Response:*** *The draft permit proposed 1) annual EPA reference method emission testing of particulate matter and other pollutants (See Conditions III(a)(3)(L) and (M)), 2) semi-annual fluorescent dust leak testing (See Condition III(a)(3)(R)), 3) daily visual observations for the presence or absence of visible emissions (See Condition III(a)(3)(F)), and 4) annual EPA Reference Method 9 visible emission testing (See Condition III(a)(3)(Q)). With the combination of these test methods, DOEE believes that sufficient monitoring of the emissions from the baghouse to ensure proper operation of the baghouse will occur. However, in response to these and similar comments, and to provide additional assurance of proper baghouse operation, DOEE has modified the fluorescent dust test requirement to require that FMCC perform the test quarterly or within one week of producing 25,000 tons of asphalt since the last fluorescent dust leak test, whichever occurs later, but not less than twice per year. DOEE anticipates that this will result in approximately three tests per year, as it is likely that tests will be performed quarterly except during the low production winter quarter.*
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> *DOEE has also included in the final permit record keeping, data availability, and reporting requirements to cover all required monitoring and testing to assist with proper DOEE oversight of FMCC.*
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> *Further, 20 DCMR § 502.1 states: "The Mayor may conduct, or cause to be conducted, or require an owner or operator to conduct, tests of emission of air pollutants from any source. The Mayor shall not require an owner or operator to conduct tests with unreasonable frequency." (emphasis added). Third-party stack (emissions) testing is very costly. Quarterly testing of this type is an unreasonable frequency for this type of operation and is therefore not included in the permit conditions.*

i. Third Party Oversight

A commenter suggested that DOEE require an unbiased third-party organization to monitor, measure, and report air quality, emissions, and all pollution control devices affiliated with Plant #1 daily to DOEE, with all collected data being made publicly available. Other commenters added that operating hours and odor levels should be added to the information monitored by the third parties.

Another commenter suggested that the monitoring and testing contractors should not be hired by the facility, and the monitoring contractor should be hired by the District of Columbia, and paid for by the facility, to prevent any tampering, the appearance of impropriety, or conflict of interest.

> ***DOEE Response:*** *Some testing, such as the performance testing required under permit conditions III(a)(3)(L) and (M), is performed by third parties hired by the permittee. Other monitoring and testing is implemented by plant personnel, such as monitoring plant throughput. Other monitoring and testing may be performed by either facility staff or a third party, such as visible emissions testing, though some of the visible emissions*

testing must be performed by a certified individual. Much of the monitoring and testing, including the performance testing and certain of the visible emissions testing, must comply with specific test methodologies developed and/or approved by EPA to ensure that valid data is obtained. Hiring a third party for all monitoring and testing, or for subsets of monitoring and testing, on a permanent basis would be neither reasonable nor necessary. However, DOEE does provide periodic oversight through inspections, review of testing and monitoring reports, observation of emission test programs, etc., to ensure that the monitoring and testing are being done properly. Therefore, no changes to the permit as drafted have been made as a result of these comments.

2. PERMITTING

a. "Relief" and Synthetic Minor Designation

Commenters expressed general concern that use of a synthetic minor permit waives or grants relief to FMCC from the Clean Air Act and EPA regulations. One commenter believed the reduction in operations will not be enough because they believed Fort Myer is using a reduction in operations to avoid more stringent requirements. Another commenter believed that switching to a synthetic minor will relieve FMCC from EPA's compliance assurance monitoring.

A commenter opposed granting FMCC a synthetic minor permit because "a major source permit requires 1) more extensive monitoring, 2) stricter emission limits, and 3) additional regulatory scrutiny." Additionally, the commenter stated that major sources are required to comply with the Maximum Achievable Control Technology (MACT) standards or other stringent emission standards under the Clean Air Act. Synthetic minor sources have the potential to emit above major source thresholds, but voluntarily limit their emissions through enforceable permit controls.

A commenter asked the Department to "require the asphalt plant to abide by all EPA regulations to ensure the health and safety of our community."

DOEE Response – *The proposed permit does not "grant relief" from any Clean Air Act or other relevant requirements. The permit will place strict, legally enforceable limits on total emissions that FMCC voluntarily accepted, thus changing their classification under the Clean Air Act through the process outlined in 20 DCMR § 200.6. FMCC will be required to meet all legal requirements under this classification. Nothing in this permit removes any agency's authority to perform inspections of the source or evaluate the required records.*

This reclassification does mean that some reporting requirements will no longer be required because the facility has taken on operating limits to ensure that its emissions remain below Clean Air Act-defined major source thresholds. Specifically, instead of submitting semi-annual and annual compliance certifications, FMCC will only be required to submit annual compliance certification. Additionally, under EPA policy, recommended minimum inspection frequencies are reduced; however, in practice, DOEE inspects the facility far more often than the minimum inspection frequencies established by EPA. DOEE intends to maintain an appropriate inspection frequency to properly

monitor the compliance status of the facility. Further, specific testing and monitoring frequencies established in the synthetic minor permit are actually more stringent than those in the old Title V permit.

Additionally, by limiting their operations and becoming a synthetic minor source, the facility removes the applicability of 40 CFR 64, Compliance Assurance Monitoring (CAM), which was applicable under the previous Title V major source permit. However, as noted in the Technical Support Memorandum issued with the draft permit, since the requirements of the CAM plan are also considered to be necessary to ensure that other aspects of the permit are "enforceable as a practical matter" (see 20 DCMR § 199 for the definition), the requirements of the former CAM plan were substantially included in the draft permit.

Regarding the applicability of MACT standards, FMCC is not avoiding requirements related to major sources of hazardous air pollutants (HAPs). As noted in the Technical Support Memorandum, even before the establishment of the synthetic minor limitations, the facility's total potential to emit HAPs was 4.18 tons per year, compared to major source thresholds of 10 tons per year for any individual HAP or 25 tons per year of all HAPs combined. With the synthetic minor limitations in place, the potential to emit HAPs is reduced to 1.41 tons per year.

b. Technical Comments

A commenter recommended keeping the acceptable baghouse pressure drop range listed in the current permit Condition III.a2.E. as 2-4 inches and not allow for the loosening of restrictions to a pressure drop range of 1.5 - 4.5 for the baghouse as requested by Fort Myer's consultant, Cornerstone Environmental Health and Safety, Inc. in their November 18, 2020 letter.

DOEE Response – *DOEE concurs with this comment and is maintaining the previously existing 2-4 inch of water pressure drop range as was proposed in the draft permit.*

A commenter stated, "Draft Permit Section III(a)(1)(A)(i) limits the totals suspended particulate (TSP) emissions to 3.5 lbs/hr. This is a significant reduction compared to the current permitted TSP emissions limit of 40 lbs/hr (*Title V Operating Permit (Permit No. 028-R1) for Fort Myer Construction Plant 1, Section III(a)(1*) (Current Permit). The Technical Support Memorandum (TSM) issued with the Draft Permit provides the following explanation of how the TSP limit was determined for the Draft Permit. Here are excerpts from the first full paragraph on page 5 of the TSM:

- AQD reviewed six recent sets of stack test results performed between 2019 and 2023
- Of these results, two were discounted as they showed extremely high results that were subsequently found to be the result of maintenance issues within the baghouse (the September 1, 2020, and June 15, 2022, tests).
- A third result, the test performed on August 1, 2023, was also excluded from consideration as its results were approximately three times higher than the results of the highest of the

remaining three tests, and appeared to not be representative of what the facility was capable of performing when properly maintained and operating under normal conditions.
- AQD developed the standard in the draft permit based on an analysis of the three remaining test results, adjusted to the asserted 120 ton per hour maximum throughput of the facility, and adding two standard deviations to the mean of those tests.

[The commenter] agree[s] with the Air Quality Division's (AQD) approach in determining the Draft Permit's TSP emission limit. [They] also agree that the September 1, 2020, and June 15, 2022, tests should not be included in the data set used to calculate the draft TSP limit due to maintenance issues with the baghouse. [They], however, object to the exclusion of the August 1, 2023, TSP test results (0.028 gr/dscf and 6.35 lbs/hr), since this test demonstrated the facility was compliant with the Current Permit's TSP emissions limits of 0.03 gr/dscf (also Draft Permit limit) and 40 lbs/hr. The assertion that the control equipment was not 'properly maintained' during the August 1, 2023, test is not directly supported by this test data. The exclusion of the August 1, 2023, data was arbitrary and created a biased result. When the result of the August 1, 2023, stack test are included in the data used to determine the mean and standard deviation, the permit limit would be approximately 9.2 lbs/hr."

The commenter stated "With all mechanical equipment, however, there can be variances in operating efficiency over time. The draft TSP limit is arbitrarily low and does not provide sufficient buffer for minor fluctuations in the efficiency of the baghouse system. The calculated lbs/hr emission limit should use all compliant test data from 2019 to 2023. [The commenter] believe[s] the resulting calculated limit using the compliant test data would protect the environment and be fair to FMCC."

> ***DOEE Response –*** *As described in the Technical Support Memorandum, DOEE evaluated the results of a significant number of emission tests and determined that the facility previously has been capable of meeting a much more stringent standard than the 0.03 gr/dscf and 40 lb/hr TSP standards set as generic particulate matter standards for "Particulate Matter Processes" in 20 DCMR § 603.1 (promulgated February 1, 1985). Based on our review, DOEE does not believe that a tripling of emissions compared to the highest of a set of three other emission test results can be attributed to "minor fluctuations in the efficiency of the baghouse system," but rather results from heavily worn, failing, or failed baghouse filters, which are indicative of improper maintenance.*
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> *DOEE believes that shorter intervals between maintenance and testing of the filters will ensure more consistent maintenance of the lower emission levels observed during the three emissions tests included in DOEE's analysis. Therefore, DOEE has proposed increased maintenance and testing intervals in the permit, along with the tightened lb/hr emission standard of 3.5 lb/hr TSP and maintains that this is an appropriate new standard indicative of proper operation and maintenance.*

3. COMPLIANCE

a. Past Compliance

A commenter believed DOEE did not sufficiently evaluate the past compliance of FMCC with prior permits or regulatory requirements. The commenter asserted that DOEE did not properly consider previous air quality violations enforced by the U.S. Environmental Protection Agency in 2015 when determining whether to issue this permit to FMCC. Furthermore, the commenter asserted that the draft permit did not take into account the past maintenance failures and compliance issues that resulted in emissions exceedances.

> ***DOEE Response –*** *DOEE proposed a permit that establishes additional requirements to ensure improved performance at the plant, including tightened emission limits paired with increased emissions (stack) testing frequency and establishment of regular fluorescent dust testing to ensure dust collector integrity. DOEE also provides oversight of the facility and, should future compliance issues occur, DOEE will conduct a thorough review of the issue. Therefore, no changes to the proposed permit were made as a result of this comment.*

b. Inspection Frequency

A commenter suggested that engine idling enforcement should be completed at the beginning on a daily basis and then randomly and regularly on a weekly basis until compliance is fully noted at multiple hours of the early morning and throughout the day.

> ***DOEE Response –*** *DOEE inspection responsibilities are not addressed in a permit. The permit properly incorporates the requirements of the idling regulation, so these requirements are enforceable as permit violations (in addition to directly through the regulation).*

The commenter suggested that independent maintenance inspections should be done on a biweekly basis to ensure proper compliance based on previous reports of improper maintenance.

Another commenter recommended random weekly inspections without notice to see if use of the sweeper truck by FMCC is actually taking place.

> ***DOEE Response –*** *DOEE has authority to perform inspections as determined to be appropriate and necessary to enforce compliance with the permit, and DOEE performs such inspections, some announced and others unannounced.*

c. Controls

Commenters recommended "DOEE clarify which specific pollution control devices are required by FMCC to install to fulfill the parameters of this permit;"

> ***DOEE Response –*** *The permit does require specific emission control devices be installed by FMCC, such as baghouse filters and blue smoke condensers.*

d. Maintenance Oversight

A commenter stated that "FMCC's proposed solution (and as part of the condition of this permit) is to perform twice yearly inspections on their dust collection (called a "bag house"). As per [DOEE], this is not a compliance test to determine emission rates. This means to me that it is not a reason to relieve FMCC from monitoring requirements, This test is a maintenance test to see if there are rips in their filters. If there are, there does not seem to be a mechanism to compel FMCC to replace filters or fix the problem. Deciding on maintaining the systems seems to be up to the same decision makers who over the past three years were fine with allowing poor maintenance to push PM 2.5 into our air. I question whether a self-administered maintenance test by these people should be the basis for permitting air quality in my neighborhood"

> ***DOEE Response –*** *The referenced twice-yearly inspections of the baghouse refer to Condition III(a)(3)(R) of the draft permit, which establishes a requirement to perform fluorescent dust leak tests of the baghouse and is addressed in detail in comment response 1.h. This is not intended to be a replacement for the emissions tests required elsewhere in the permit, but only as a supplement to other requirements included in the permit to ensure that the equipment is regularly inspected and properly maintained. Records of the results of the test must be maintained and made available to DOEE inspectors per Condition III(a)(4)(B)(xv).*

4. DUST

a. Dust Control

A commenter stated that "Large vehicles are polluting by leaving the back of their truck containers open, releasing heavy toxins on neighbors throughout the community, especially on 4th Street. All covers should be sealed tight with rubber gaskets to prevent leakage of contaminants... All covers should be sealed tight with rubber gaskets to prevent leakage of contaminants."

A commenter noted that the Department should "[r]equire the implementation of advanced air filtration technologies and air quality management methods that vastly exceed industry standards, with third-party consultation and verification."

A commenter asserted that any location on the facility with dust creating activities "should be fully enclosed with MERV 14 and odor controlling desiccants via carbon filters make the space negatively pressurized to minimize contaminants from getting out into the air into adjacent communities - they should be replaced every 2 weeks."

A commenter stated, "while dust mitigation tactics (spraying) are taken during the warmer months, additional measures must be taken against dust and flying debris during the cooler, yet windier/gustier months."

> ***DOEE Response –*** *There is no requirement for rubber gaskets to be installed on trucks under 20 DCMR § 605.1(c)(1), FMCC is required to fully cover the materials in their trucks "with a tarpaulin or other material." Under 20 DCMR § 605.1(c)(2), FMCC must*

operate, maintain, and load the vehicles, distribute the loaded material on or in the vehicle, and limit the quantity of material loaded in or on the vehicle, so that there will be no spillage of the material onto the roads. These requirements are incorporated into Condition II(c)(1)(C) of the draft permit.

Based on the amount of dust observed from the RAP crushing/processing operations and other material handling activities at the site in the past, DOEE does not believe that full enclosure of the plant, or portions thereof, is necessary to meet the "reasonable precaution" standard of 20 DCMR § 605.3.

The dust controls methods in the permit are prevalent in the industry. If the facility is unable to meet emission limits with the required equipment, as determined through monitoring and testing specified in the permit as well as other DOEE oversight, action will be taken to ensure that compliance is achieved, by requiring additional or different control devices if necessary.

b. Street Sweeping

A commenter stated, "Fort Myer has operated their own street sweeping equipment in the neighborhood, but I suspect the burden of their mess falls upon DC's weekly street sweeping. Regardless, dust frequently covers Eckington and loose aggregate is regularly on the 4th street, especially in the bike lanes."

Other commenters indicated that the dust control measures FMCC states they are completing for the dedicated sweeper broom truck have not been witnessed by residents, and that random weekly/regular inspections should be done to ensure that FMCC is actually doing the sweeping.

DOEE Response – *FMCC must meet all requirements to alleviate dust under 20 DCMR § 605, which is in effect year-round.*

The permit includes requirements to use a wet sweeper broom truck to sweep dust at the facility twice daily to reduce track-out from the facility. Dust nearby the facility could come from other sources, so the air quality permit can only address dust directly connected to the facility. In response to comments, the permit has been modified to explicitly require sweeping of the segment of 5th Street NE bordering the plant. The permit also incorporates a requirement to keep records of the use of the sweeper truck. Those records must be made available to DOEE upon request.

c. Enclosing Facility

A commenter asserted, "The vast majority of [PM]2.5 emissions is from the Material Crushing, Screening and Conveying, Asphalt load-out, silo filling, on-site [yard], and materials storage piles. All of these areas should be covered with a structure and negatively pressurized and exhausted out to filter out the PM2.5 and VOCs coming from the plant."

Commenters recommended that DOEE require more significant odor and dust mitigation by FMCC at Plant #1 and at the lot to the east of the MBT, including the provision, implementation, and maintenance of enclosures over and around any asphalt or gravel/silica piles, including MERV 15 filtration and negatively pressurized spaces with manufacturer-recommended filter changes based on preventative maintenance schedules.

> ***DOEE Response –*** *DOEE does not believe that enclosure of the entire facility or specific portions thereof as requested in the comments is a necessary step to comply with District and federal regulations. See also comment response 4.a.*

5. ODOR

a. General

A commenter stated that the permit should require FMCC to "Install odor detectors in the neighborhoods surrounding the plant, and regularly conduct odor inspections. Require FMCC to suspend operations if three or more odor complaints are received at 311 within 30 days from at least three separate addresses."

> ***DOEE Response –*** *If odor complaints about the FMCC facility are consistently received, DOEE may re-open any approved OCP to require FMCC to implement further odor reduction measures or implement odor monitoring activities. The OCP is the most effective venue for addressing odor issues since it looks at any odor concerns at the plant holistically. It is not reasonable to tie the facility's ability to operate directly to the number of complaints without investigating those complaints to determine the duration of odors and other relevant factors before implementing any additional measures.*

b. Odor Control Plan (OCP)

A commenter stated that, "the Odor Mitigation Plan currently in place is not effective - what was submitted in June 2021 has continued to occur without abatement. The mixing ratio of two quarts neutralizer per 6000 gallons of asphaltic binder is not sufficient. It may help mitigate to some degree, but what is currently being done is still giving off significant odors."

That commenter proposed that FMCC's OCP should include "detailed data publicly available on the effectiveness of odor neutralizers and blue condensers."

> ***DOEE Response –*** *This permit adopts elements of the previously submitted odor mitigation plan, but it also requires additional odor controls. The content of the facility's Odor Control Plan (OCP), while partially overlapping with the permit, is not fully incorporated into a permit. In addition, FMCC has submitted an OCP. If such odor controls in the final approved OCP prove to be insufficient to mitigate odors from the facility, DOEE has the authority to reopen the plan to require additional odor control actions. Justification of the effectiveness of odor controls* ***is*** *not appropriate for inclusion in a permit for the facility, but will rather be addressed in the OCP.*

c. Odor Controls

Commenters recommended full approval by DOEE of a revised OCP from FMCC, with data made publicly available on the changes in chemistry of the emissions when odor neutralizers and blue condensers are added to Plant #1 machinery and equipment.

A commenter stated, "…processes used to eliminate odors should be evaluated to ensure they do not cause emission of toxic non odorous particulates."

A commenter proposed that FMCC should be required to use thermal oxidizers to reduce emissions from the round dryer to "lessen emissions and improve operational efficiencies, as evidenced by a 2015 study from the National Asphalt Pavement Association, Information Series 139 on High-RAP Asphalt Pavements Japan Practice - Lessons Learned."[4]

A commenter stated, "FMCC has made promises in the past to mitigate odors, such as their commitment to use no-odor binders in 2021. As I have noted, this has not mitigated the odors. FMCC's past actions are insufficient, or they have failed to carry them out. Either way, FMCC's solutions have not fixed the problem, making any future commitments suspect."

> ***DOEE Response –*** *The Odor Control Plan (OCP) process is separate from the air quality permitting process. DOEE agrees that the plan should incorporate effective and proven odor control systems. As stated above, DOEE can require that the facility reopen the plan to address any deficiencies.*
>
> *The blue smoke condensers condense organic materials out of the air stream they are controlling and will not create any additional emissions through their operation. The odor neutralizer used is liquid in form and is not expected to cause any particulate emissions. The Safety Data Sheet (SDS) for the neutralizer does not list any components listed as "hazardous air pollutants" under the federal Clean Air Act.*

6. PUBLIC HEALTH

a. Cumulative Impacts

A commenter asserted that Eckington is an "overburdened neighborhood." As evidence, the commenter referenced the U.S. Climate Vulnerability Index funded by the Environmental Defense Fund and Texas A&M University. The commenter cited supporting information, which appears to be based primarily on data from 2017 through 2019, that indicates that the census tract in which the plant is located (Tract 11001008702) is ranked 51 out of 179 tracts in the District of Columbia for pollution sources and in the 90th percentile nationally. The commenter also stated, "Most of their vulnerability is driven by air quality concerns and the prevalence of pollution,

[4] National Asphalt Pavement Association, Information Series 139 on High-RAP Asphalt Pavements Japan Practice - Lessons Learned, https://www.asphaltpavement.org/uploads/documents/EngineeringPubs/IS139_High_RAP_Asphalt_Pavements_Japan_Practice-lr.pdf.

something our governments must consider thoughtfully when approving future permits. We cannot continue to add to the cumulative impacts Eckington… [is] already facing."

> ***DOEE Response –*** *Exposure of nearby residents is considered when evaluating air quality permits. In this case, the applicant is not proposing to increase emissions, but rather to continue to operate an existing facility. Furthermore, the permit, has substantially increased the stringency of the requirements to ensure that emissions are reduced. Additionally, DOEE modified the permit to increase the enforceability of regulatory requirements.*

b. Emission Limits

A commenter stated, "There is no acceptable level of particulate matter that should be generated this close to a residential area, therefore no plant operations that produce this should be permitted. The level in the draft permit is 10.67, which is above EPA recommendations for annual emissions."

A commenter requested, "Please limit this plant's permit to operate in such a way that it produces no harmful particulates or VOCs at all, whether by reducing production limits, hours of production, or installing additional scrubbers and similar technology."

A commenter indicated that the Department should, "Ensure new air pollution output limits and odor standards reflect a considerable improvement over current levels and are not simply a continuation of the status quo."

> ***DOEE Response –*** *Zero emissions is an unattainable and unreasonable emission limit, and such a limit is not necessary to meet the requirements of 20 DCMR § 201. The purpose of an air quality permit is to restrict emissions in accordance with regulatory limits, which has been done in the permit.*
>
> *Regarding the emission limits cited, the Commenter references a draft permit level of 10.67, which appears to reference the potential to emit of the facility in total tonnage, assuming maximum allowable emissions and maximum allowable operations for a full 12-month period. The commenter incorrectly compares that to the new National Ambient Air Quality Standard (NAAQS), which establishes an ambient air quality health level of 9.0 micrograms per cubic meter, measured as an annual mean of ambient concentration, averaged over three years. These two values are not directly comparable metrics.*
>
> *As discussed in the Technical Support Memorandum[5] for the draft permit, and summarized in the associated Fact Sheet[6], the draft permit significantly tightened a*

[5] Technical Support Memorandum found at: https://doee.dc.gov/sites/default/files/dc/sites/doee/release_content/attachments/Technical%20Memo%20Fort%20Myer%20Construction%20Corporation%20Plant%201%20Permit%207301-SM_0.pdf

[6] Fact Sheet found at: https://doee.dc.gov/sites/default/files/dc/sites/doee/release_content/attachments/Fort%20Myer%20Construction%20Corporation%20Plant%201%20Draft%20Air%20Quality%20Permit%20Fact%20Sheet.pdf

number of emission limits, monitoring and testing requirements, etc. Additionally, odor requirements are being tightened both through the requirements of this permit and the separate OCP development as required under the odor regulation at 20 DCMR§ 903. Thus, no changes were made as a result of these comments.

c. Not Inimical to the Public Health and Welfare

A commenter submitted various scientific studies and other documents concluding that air pollution from asphalt plants can be harmful. On this basis, the commenter asserted that the plant should not be allowed to operate in a community as it would violate 20 DCMR § 201.

A commenter suggested that DOEE should deny the permit based on 20 DCMR § 903.1 and 20 DCMR § 201.1. The commenter explained that they believe there is significant research which indicates that this plant has affected the public health and welfare based on the hundreds of testimonies provided since the draft synthetic minor permit was offered for public feedback.

A commenter asserted that DOEE should not issue a permit to FMCC "to operate in a growing neighborhood that is highly trafficked by pedestrians and bicyclists" because "they release pollutants that are harmful to public health...The proposed permit would allow FMCC to emit air pollutants like PM2.5 that are inimical to public health and welfare."

DOEE Response – *DOEE, and other regulatory agencies, such as the U.S. Environmental Protection Agency (EPA), recognize that asphalt plants emit air pollutants that can be harmful to those exposed to them if these exposures are in high enough concentrations. This is why emissions from such facilities are strictly regulated.*

Interpreting 20 DCMR § 201 to prohibit the emission of any pollutants that have negative effects on people exposed to them, without considering the concentration of pollutants, is not a reasonable interpretation of the regulation. Such interpretation would prohibit other situations in which emissions of pollutants occur, such as buildings being heated in the winter or gas stations selling gasoline. Interpreting 20 DCMR § 903.1 to prohibit any odorous emissions would have similar consequences.

Instead of prohibiting such activities, EPA and DOEE focus on ensuring that emissions from pollutant sources are well-controlled. This permit is more stringent than the previously-issued permit. Emissions under this permit are expected to be reduced as a result. Additionally, in parallel with the development of this permit, DOEE has implemented the updated 20 DCMR § 903, requiring the facility to establish an odor control plan (OCP) to reduce odors that may interfere with reasonable enjoyment of life or property.

d. Particulate Matter

A commenter raised concerns that the facility emits PM2.5 and that EPA recently found that the prior PM2.5 NAAQS was not stringent enough to protect public health with an adequate margin

of safety. The commenter also pointed out that people living in Wards 5, 7, and 8 (this plant is located in Ward 5) are the most impacted by PM2.5 levels in the city.

A commenter explained they believe the role of sections 20 DCMR § 903.1 and 20 DCMR § 201 "is to protect the health and welfare of the residents of this city" and "[t]his air quality permit should not be approved as noted until it can be proved with evidence-based testing and monitoring that it can mitigate these sources that harm our community."

A commenter stated, "I find it hard to believe that the plant is truly emitting less than the recommended PM during its time of operation… it does not matter if it averages out under the DOEE set levels over the course of a year if our children are directly affected (increased coughing, etc.) while it is live."

> ***DOEE Response –*** *These comments relate to the District's compliance with the 2024 Particulate Matter NAAQS established by EPA and are not germane to this air quality permitting action. All federally approved air quality monitors in the District are measuring compliance with the more stringent 2024 PM NAAQS, and three of them are in the Wards listed by the commenter as most impacted. Additionally, the District is now measuring compliance with all other NAAQS, including the 2015 Ozone NAAQS, with which the District most recently achieved compliance.*
>
> *All emission limits in the proposed permit are short-term limits. However, when combined with operational limits in the permit, some also become long-term (annual or 12-month rolling) limits. As such, the NAAQS limits, which are based on compliance on an annual average basis, as described in this comment.*

e. Blue Smoke Condensers

A commenter stated, "The condensers are odor control devices, not pollution control devices. They may mitigate the amount of volatile Organic Compounds going into the air, but this is not their first purpose."

A commenter proposed that DOEE "Temporarily prohibit filling of tanks until "blue smoke condensers" are installed and operational."

A commenter stated, "the blue smoke condensers rely on the outside air to cool the fumes and condense them as liquid back into the tank. I question how this will work on days with high temperatures, as they will cool the fumes much less, letting more VOCs into the air." The commenter further proposed a requirement in the permit that there be: "No filling of tanks when the temperature is 85 degrees or hotter based on reduced effectiveness of the ambient cooling ability of the blue smoke condenser."

> ***DOEE Response –*** *At the time of drafting of this document, the blue smoke condensers have been installed and are operating at the plant. The primary goal of the blue smoke condensers is to control odorous emissions from the hot asphalt tanks. They accomplish this by reducing emissions of odorous organic pollutants, which would reduce overall emissions of VOCs and some HAPs as well. They had been proposed by the applicant as*

part of an odor control plan (OCP) required under 20 DCMR § 903 and were granted authority to begin operation through the OCP process.

Blue smoke condensers are designed to bring the temperature of the gas stream below approximately 250°F. Even on a hot 90°F day, that ambient air temperature would be well below the target temperature, and the ambient air should be able to be used as a cooling source.

7. ZONING AND LOCATION

Commenters noted that the presence of almost all industrial zoned space in DC is concentrated in Ward 5 and not spread across Ward 2 and other more affluent neighborhoods with drastically different diversity. This presents serious environmental justice and equity issues.

A commenter stated that "[t]here has to be a much better use for this space in this location." "A parking spot for trucks, many of which have Maryland license plates, has to be among the worst use cases for this property."

Another commenter stated, "I urge the exploration of alternative locations for the plant that would minimize its impact on residential communities."

A commenter felt a commercial facility such as Ft. Myer should not be in a residential and school zone with commercial facilities but in an industrial one.

Another commenter proposed "distancing of the industry to residential areas" (a buffer zone around the facility).

Commenters noted the extensive residential growth that has occurred in the neighborhood in recent years as a reason to close the existing plant. Commenters also referenced the fact that the site borders a popular public trail and is near several schools and community centers.

Another commenter performed a mapping analysis to show that the population density has greatly increased in the area of this plant and is far more dense than the areas surrounding other asphalt plants in the District and surrounding states. This commenter also cited past "failure[s] to operate within expected emissions parameters during testing by AQD." Based on the growth and density of residential population, as well as other sites such as schools (the commenter cites eight Pre-Kindergarten to grade12 schools and one school serving adult immigrants within one kilometer of the plant), and past emissions exceedances, the commenter concluded that this plant should not be sited at this location.

One commenter expressed support for the plant remaining at its current site because it makes sense to have the plant close to where products are being used, cutting back on trucks driving in from outside the city.

Another commenter referenced gentrification in the neighborhood and the need for asphalt plants to be placed somewhere as they provide an important commodity (road asphalt). This commenter proposed that emissions should be restricted from the plant, but that the plant should remain at the current location near the railroad tracks.

DOEE Response – *The air quality permit process is designed to ensure that air quality regulatory requirements are met by the facility. Issues of zoning or plant location cannot be addressed through an air quality permit process. The air quality permitting process does not allow DOEE to move the facility, rezone the facility, create an industrial buffer, encourage a different use of the land, or take other land use actions. While zoning is not part of this permitting action, DOEE notes that plant is in a PDR-4 zone. This Production, Distribution, and Repair (PDR) type of zone is appropriate for this type of activity.*[7]

This permit mandates numerous actions to be taken by the facility to further restrict emissions and improve monitoring and testing to ensure improved compliance and ensure protection of public health and the environment.

8. OTHER

a. Equipment for Neighbors

A commenter suggested, "[a] rebate for air filters for commercial and residential establishments located within 400 feet of Ft. Myers".

Another commenter suggested that subsidies should be provided for disadvantaged neighbors (presumably for home air purifying equipment).

DOEE Response – *There is no basis in the air quality regulations to require a facility to provide air filtration devices for nearby buildings. Rather, the air quality regulations are designed to ensure that the ambient air is safe for all.*

b. Information

One comment asserted that past compliance information for a facility should be made publicly available as part of any permit process DOEE conducts.

DOEE Response – *20 DCMR § 210.2 specifies what information is to be made available for public inspection during the public comment period. Similarly, 20 DCMR § 210.5 specifies the information that must be included in the public notice of a draft permit.*[8]

The required items specified in 20 DCMR §§ 210.2 and 210.5 do not include a compliance history of the facility. As a result, this information was not made available. Such information is made available separately through Freedom of Information Act (FOIA) procedures when requested.

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[7] DC Zoning Map - *https://maps.dcoz.dc.gov/zr16/#l=18&lotPoint=-8571507.915225,4709867.075968405&basemap=dcbasemap&mms=lots!square!pendingZones!pendingPuds!zoneBoundary!zoneDistrict.*

[8] 20 DCMR §§ 210.2 and 210.5 can be found at: https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?DownloadFile={8556766E-9D6F-4110-B44E-7459A4AE77DE}.

c. Tree Planting

A commenter recommended that DOEE require the planting of trees along the border FMCC Plant #1 and the Metropolitan Branch Trail. The commenter stated, "Planting trees in between the plant and trail will reduce pollution in the long term. Trees are an incredible natural climate solution that absorbs particulate matter, adding another layer of defense between the plant and the neighborhood."

A commenter asserted, DOEE to "require the installation and maintenance of hedges and/or trees around FMCC facilities. There's significant evidence that hedges capture and significantly reduce some fine and ultrafine air pollution. It is a localized effect, but it could increase air quality at street level near the FMCC facilities, especially on the MBT, which is surrounded by FMCC facilities at some parts."

> ***DOEE Response*** *– It is DOEE's understanding that the strip of land between the plant and the MBT is in the District Department of Transportation's (DDOT) right-of-way. Thus, it would not be appropriate for inclusion in a private entity's permit to require planting of trees in a neighboring public right-of-way. DOEE notes that DDOT is responsible for permitting and/or maintaining any hedge or tree plantings within the DDOT right-of-way. This proposal has been forwarded to DDOT for consideration but will not be included in the permit as a requirement placed upon FMCC.*

d. Greenhouse Gases

Commenter proposed more stringent requirements on CO2.

> ***DOEE Response*** *- DOEE does not have regulations that apply to CO2 emissions from asphalt plants and thus there are no "applicable requirements" that could be included in this air quality permit. This is because CO2 is a global scale pollutant and does not have direct health effects on nearby residents.*

Date Issued:

11/21/2025

Approved by:

Stephen S. Ours

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