



June 14, 2023

Gwen Ricco
MC 205, Office of Legal Services
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: *Comments on TCEQ's Concrete Batch Plant Air Quality Standard Permit Amendment Process 2023* – filed electronically at: <https://tceq.commentinput.com/comment/search> on the Non-Rule Project No. 2022-033-OTH-NR

Dear Ms. Ricco:

The Sierra Club's Lone Star Chapter has networked with many communities and local groups in Texas since the 1990s-2023 who have repeatedly raised public health and environmental impact concerns about the siting, permitting and operations of Concrete Batch Plants across the state.

We strongly support the TCEQ's background and reasons for the proposed amendments to improve the CBP standard air permit as stated in the March 17, 2023 Interoffice Memorandum under Docket No. 2022-1368-MIS.

However, we find that the TCEQ could improve the proposed amendments further than the published new standard air permit and help protect CBP communities.

As a result, these technical comments are made in response to the TCEQ Concrete Batch Plant (CBP) Air Quality Standard Permit Amendment Process (2022-033-OTH-NR) as part of the agency's efforts to improve the siting, permitting, enforcement and operations of CBPs.

TCEQ's Public Comment Form states:

Please note that this comment form is for the purpose of submitting comments to the Texas Commission on Environmental Quality (TCEQ or commission). TCEQ is amending the Air Quality Standard Permit for Concrete Batch Plants under the authority of the Texas Clean Air Act, Texas Health and Safety Code, §382.05195, and 30 TAC Chapter 116, Subchapter F, Standard Permits. The proposed amendments to the standard permit (Non-Rule Project No. 2022-033-OTH-NR) will include an updated Air Quality Analysis and corresponding revisions to certain provisions of the standard permit.

Moreover, Sierra Club's Lone Star Chapter has participated with many citizens and organizations in the Texas Sunset Advisory Commission's last three Sunset reviews of TCEQ and emphasizes that, during each Sunset review, citizens, local groups and Sierra Club's Lone Star Chapter have expressed repeated concerns that the TCEQ is not effectively enforcing the air permits issued to CBPs and adequately addressing the weaknesses in the existing CBP standard permit for both permanent and temporary CBPs.

Despite the three Sunset reviews to get public input on TCEQ's deficiencies and weak programs such as CBP siting, permitting and enforcement, citizens have continued to file complaints of Nuisance Air Pollution Conditions in CBP neighborhoods and sensitive receptors where CBPs are operating under TCEQ standard permits where typically little to no enforcement efforts were carried out by the TCEQ's Regional programs to respond to citizen complaints.

Yet TCEQ is mandated by law to enforce its rules and regulations on CBP standard air permits that include the specific special conditions set forth in and in the proposed new rules defined in the following sections: *(1) Applicability rules, (2) Definitions, (3) Administrative Requirements, (4) Public Notice, (5) General Requirements, (6) Engines, (7) Planned Maintenance, Startup, and Shutdown (MSS) Activities, (8) Operational Requirements for Permanent and Temporary Concrete Plants, (9) Additional Requirements for Specialty Concrete Batch Plants, and (10) Temporary Concrete Plants Relocation Requirements.*

Nonetheless, the existing and proposed amended CBP permit conditions do not clearly state that CBPs possessing inherent fugitives emissions of cement dust, aggregate dust, fly ash dust, and sand dust are strictly prohibited from causing or contributing to a Condition of Air Pollution defined under the authority of the Texas Clean Air Act and Texas Health and Safety Code including a Nuisance as defined under TCEQ General Rule 101.4 that states:

No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentrations and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

Large urban centers including Houston, Dallas-Fort Worth, San Antonio, El Paso, Austin and others need the bulk construction products that are manufactured by CBPs and we recognize their primary role in supporting local economic growth and infrastructure projects while the agency has a critical duty to the public to protect public health and the environment throughout Texas.

We encourage the agency to be more proactive in its enforcement at CBPs where they are found to be operating in violation of all permit special and general conditions, even though under the Clean Air Act CBPs are classified as "minor" air pollution sources for six criteria pollutants and

results in less aggressive inspections and enforcement by the TCEQ's Regions given they are a lower annual priority to inspect large "major" sources as the higher priority at industrial sites.

CBPs pose unique nuisance dust concerns due to the characteristic small sizes of cement bulk materials as TCEQ knows that cement particulate matter (PM) has a range of microscopic size and contributes to the challenges in handling and controlling the cement fines at all transfer points at such facilities.

Cement dust itself does contain PM material smaller than PM10. Cement Kiln Dust (CKD), which will end up in the cement products from the ground clinker, does contain PM smaller than PM10 as well.

A micron size analysis of cement PM and CKD at some Portland cement plants shows that as much as 40.3% of cement particulates are PM10 or smaller and 7% are PM2.5 or smaller.

Small particles are typical with up to 69.99% of fly ash particulates (used in batch mix concrete) are PM10 or smaller and 24.12% are PM2.5 or smaller in certain cement products.

Section 5 comments of the TCEQ's proposed standard air permit amendment

1. Multiple plants on one site (5)(J) – TCEQ needs to address the *multiple plant siting problem* when there are two or more CBPs operating within one industrial site even though TCEQ has tended to grant separate air permits as they are treated as different CBPs for permitting purposes.

More stringent air permitting and technical evaluations need to be required including cumulative air modeling analysis of such adjacent CBPs. This should also apply to *multiple CBP plants* sited next door to each other.

2. Support (5)(L): All sand and aggregate bulk materials need to be washed prior to delivery to the facility. This precleaning would help reduce fugitive PM likely to be emitted from sand and aggregate bulk materials.

3. Section 8 comments: Operational Requirements for Permanent and Temporary Concrete Plants.

A. Adopt uniform setback distances and apply state-wide in (8)(A) rather than the proposed piece-meal setback distances as the TCEQ setbacks fail to address rapid growth around existing and new CBP facilities which is a common growth problem in large urban areas in Texas.

As shown in Tables 1, 2 and 3 on p. 9 of the Proposed Amendment, the TCEQ arbitrarily specifies different setback distances for different counties. But TCEQ needs to seriously consider a more stringent proposal to adopt a single setback distance and require it as a state-wide rule. The end result will be the implementation of a much stronger consistent application of this rule across the state because local governments have to help implement CBP permits and need the TCEQ's help with requiring a single setback distance rather than a mixture of distances. As growth occurs around CBP sites, a single setback distance will support local governments who are need of TCEQ's more stringent CBP permits to help balance industrial growth.

B. Require all dust controls in (8)(G)

Fugitive dust can be better controlled with several best management practices where fugitive dust emissions are generated at CBPs. Water sprinklers and other dust suppression methods are typical fugitive dust controls on piles for aggregate and transfer points along aggregate conveyors where they are used and required by air permit special conditions. TCEQ routinely requires different types of bulk materials handling plants to make extensive use of covered conveyors and water sprinklers at transfer points to keep fugitive particulates under control at facilities including 1) Sand mining & processing plants, 2) Coal rail car unloading, transfer handling and piles at coal-fired power plants, 3) Lignite mining & transfer handling at lignite-fired power plants, 4) Limestone mining, processing & transfer handling at Portland cement plants plus controls in the clinker grinding, 5) Rock crusher mining & processing plants, 6) Lime mining & processing plants, 7) Asphalt processing plants, and other bulk materials handling and storage facilities.

C. Establish specific permit rules that require the stationary equipment, stockpiles and vehicles being used at all new CBPs to be sited and operated at a minimum distance of 100 feet from any property line in (8)(H).

D. Support (8)(J) – requiring the paving of all traffic and parking areas within a facility is a good rule.

Section 9 comments: Additional Requirements for Specialty CBPs

TCEQ needs to require a permit condition of a 300-foot setback from the property line for exhaust from batch mixer feed (9B) and a 100-foot setback from any property line for operating vehicles used for operation on CBPs (9E).

E. Additional Recommendations: TCEQ needs to improve the protectiveness review for CBPs. Toxic chemicals present in virtually all varieties of Portland cements have long been a serious public health concern such as the known human cancer-causing agent, Chromium VI or Hexavalent Chromium. TCEQ needs an expanded protectiveness review to include Cr VI.

F. General Best Management Practices – TCEQ needs to improve the best management practices for use in its air quality models to more carefully evaluate if they should be required.

This is a critical requirement due to the rapid growth of neighborhoods and sensitive receptors around CBPs that is happening as Texas continues to grow across the state.

1. More extensive use of water sprinklers on uncovered stockpiles to reduce and prevent fugitive dust emissions unless a CBP constructs storage sheds to shield stockpiles from windy conditions.
2. Require more cleaning of roads to better reduce and control dust emissions.
3. Require reduced speed limits of 5 mph for new and existing plants to better reduce and control fugitive road dust and fugitive truck dust.
4. New CBPs need to meet a one-half-mile (880 yards) distance as a more protective buffer from local community land uses such as parks, schools, houses of worship, and residences.

Finally, we support the shared technical comments of Texans for Responsible Air Management, Air Alliance Houston, Public Citizen, and Environmental Defense Fund among other groups who have been raising similar concerns on siting, permitting, enforcement and operations of CBPs to the TCEQ for years.

We agree with the above four groups about the need to better protect neighborhood air quality and public health in Texas near CBPs in view of the hundreds of CBP facilities and even clusters of CBPs operating too often next door to residential areas and other sensitive receptors such as schools, parks and churches without an adequate consideration given to their proximity and nuisance potential.

Respectfully,

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