



BORRIS L. MILES

STATE SENATOR • DISTRICT 13

COMMITTEES: CRIMINAL JUSTICE • HEALTH & HUMAN SERVICES • NATURAL RESOURCES & ECONOMIC DEVELOPMENT • NOMINATIONS • TRANSPORTATION

June 12, 2023

Erin Chancellor
Executive Director
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78753

RE: Public Comment Relating to the Proposed Changes to the Air Quality Standard
Permit for Concrete Batch Plants

Dear Executive Director Chancellor,

I am writing to you to provide comment on the proposed changes to the Air Quality Standard Permit for Concrete Batch Plants.

From my reading, the proposed changes aim to address some of the concerns I and a number of other legislators have been raising. This includes added venting hoods to capture more of the concrete dust before it escapes into the air, washing down truck tires so that the dust is not carried off of the site, and property setbacks so the dust does not reach into other people's homes as easily.

My office and my community have been sharp critics of your agency. The frustration of the residents of Senate District 13 was demonstrated by the three busloads of constituents who came to Austin last year to testify at the TCEQ Sunset Hearing. Senate District 13 is filled with concrete batch plants whose permits have been rubber stamped by TCEQ. As such, we look forward to continuing to work with you and the staff of TCEQ on this issue moving forward. Please let my office know of any future advisory committees, boards, or panels relating to concrete batch plants that are created so that we can improve the process and make it better for all Texans.

Regarding the current permit, there are a number of changes that I brought to your attention after the Sunset hearing that I do not see in these permit amendments such as:

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I. Cumulative effects

- Give the TCEQ the authority to consider the cumulative public health impacts of all the polluting facilities in an area, and to deny permits because of those cumulative effects. The protectiveness review nominally takes cumulative effects into consideration, but offer no pathway to block a permit due to such effects. (*for example, Senate Bill 87, 87R*).

II. Public participation, input, and justice

- Grant TCEQ the power to customize permits or deny permits in the interest of environmental justice and allow the commission to approve local agreements between industry, applicant, and the community they want to build in (*for example, parts of Senate Bill 365, 87R, allowing local community agreements to be part of permits*).
- Allow large counties and certain municipalities to weigh in on permits (*for example, Senate Bill 1350, 87R, requiring local approval of a permit or site by a local city council or county commission*).

III. Legal standing to contest a case as an affected person

- TCEQ needs to adopt a clear and uniformly applicable standard for who an affected person is (*for example Sunset Advisory Committee Staff Recommendation 1.1, directing TCEQ to develop guidance on how TCEQ applies the current factors in rule to determine who is an affected person*).

IV. Better enforcement: increase fine amounts and end affirmative defenses

- End the affirmative defense for unauthorized air pollution events (SB 364, 87R, *ending industry's ability to claim an automatic defense to unauthorized emission events*).

V. Permitting and enforcement

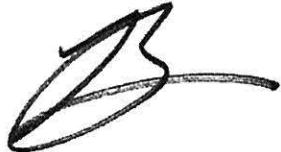
- TCEQ should not allow applicants to break projects up into separate, smaller, projects for permitting purposes (*for example, Sunset Advisory Committee Staff Issue 2 and Recommendation 2.1, discussing TCEQ's distorted use of site complexity - analogous to TCEQ allowing complex sites to operate under various permits rather than comprehensive permits*).
- TCEQ should develop clear guidelines for protecting confidential information and a process for the public to access such information in a confidential matter in order to determine the adequacy and sufficiency of permits.

VI. Sunset review frequency

- Review TCEQ every 6 years to allow Sunset to study TCEQ more often.

These recommendations would have a positive impact on my community and for every Texan. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Borris L. Miles".

Borris L. Miles
Senator, District 13