



June 14, 2023

Re: TCEQ Concrete Batch Rulemaking

Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC 105  
PO Box 13087  
Austin, TX 78711-3087

Via Electronic Filing at <https://tceq.commentinput.com/comment/search>.

**RE: TCEQ Proposed Non-Rulemaking 2023 Amendment to the Air Quality Standard Permit for Concrete Batch Plants Rule Project No. 2022-033-OTH-NR**

Dear Sir or Madam:

The Texas Aggregates and Concrete Association (“TACA”) respectfully submits the following comments in your consideration of the changes to the Concrete Batch Plant Standard Air Quality Permit in Texas Commission on Environmental Quality’s (“TCEQ”) proposed non-rulemaking project, No. 2022-033-OTH-NR.

TACA is a statewide trade organization comprised of over 150 producer companies that represent approximately 80% of the aggregates, 75% of the concrete, and 100% of the cement produced in Texas today. TACA also represents over 100 allied companies that provide services to the aggregates, concrete, and cement industries. In Texas alone, the aggregates, concrete, cement, and related construction industries contribute more than 75,000 jobs to the state economy. TACA’s members prepare and supply aggregates, concrete, and other materials for developers, builders and landowners who, in turn, use these materials to develop and construct commercial and residential property. TACA members routinely obtain operational permits from TCEQ and rely on TCEQ’s permitting procedures, rules, regulations, and orders. Accordingly, TACA’s members are likely to be affected by this rulemaking.

**Summary of Project No. 2022-033-OTH-NR:** The proposed amendments to the standard permit will include an updated Air Quality Analysis (AQA) and corresponding revisions to certain provisions of the standard permit. The AQA is a report containing information that demonstrates that emissions at a concrete batch plant authorized by this standard permit would not cause or contribute to a violation of the National Ambient Air Quality Standards, exceed a state property line standard, or adversely affect human health and the environment. The proposed amendments to the standard permit include revised operational requirements, additional setback limitations, production limitations, and updated best management practices. The proposed changes would



support the reduction of emissions from concrete batch plants and ensure that air quality and human health remain protected.

**TACA's Position: It is unclear whether Project No. 2022-033-OTH-NR applies only to concrete plants permitted under the Non-Rule Concrete Batch Plant Standard Air Permit.**

**TACA's Recommendation:**

Please confirm whether Project No. 2022-033-OTH-NR is specific to “concrete plants permitted under the Non-Rule Concrete Batch Plant Standard Air Permit” subject to the TCEQ’s implementation jurisdiction in Texas Health and Safety Code Section 382.05195 and does not relate in any way to other concrete plants permitted under the “concrete batch plant with enhanced controls permit,” which is subject to the design, operation and administrative requirements codified in statute, namely in Section 382.05198 and Section 382.05199.

**TACA's Position: It is unclear whether the amendments to the Air Quality Standard Permit for Concrete Batch Plants will conform to new legislative changes made by State or Federal Government.**

**TACA's Recommendation:**

Please confirm the newly amended Standard Air Permit, which will most likely become effective in Q1 of 2024, will be written to conform to any additional legal requirements under state or federal law. Please explain in writing that some of the revisions that will be necessary to ensure the “Effective Permit” is consistent with state and federal will likely occur after the Public Comment Period has been administratively closed on the proposed revisions. Also, please remind the Public or other interested parties that the TCEQ will allow additional “public comment” before the new permit is actually adopted by the Commission.

**TACA's Position: The “best available control technology” for concrete batch plants is unclear.**

On March 17, 2023, the TCEQ issued an Interoffice Memorandum wherein it states “whether the standard permit requires best available control technology” is a consideration for the commission in determining whether to amend a standard permit.

**TACA's Recommendation:**

TACA asks the TCEQ to define “best available control technology” as written in the March 17, 2023, Interoffice Memorandum.



**TACA's Position: It is unclear how existing plants will continue to comply with their existing standard permits pending the revisions associated with Project No. 2022-033-OTH-NR.**

**TACA's Recommendation:**

Please elaborate on how existing plants should continue to operate in compliance with their existing standard permit, pending the revisions associated with this Project.

**TACA's Position: It is unclear whether section 3(E) only impacts “new” or “modified” sources.**

**TACA's Recommendation:**

As it concerns existing plants, please confirm that Section 3(E) is only impacting “new” or “modified” sources. To be clear, please provide guidance on when existing plants that are not modified (i.e., have no production increase, have no new equipment – i.e., silos, tanks, engines or storage bunkers for sand and aggregates) must conform to the requirements of the new permit. Specifically, please confirm that “renewals shall comply with this standard air permit on the later of (1) two years from the effective date of the permit (e.g., potentially January or February of 2026) or (2) when the date of the facility’s permit is required to be renewed, whichever is later.”

**TACA's Position: It is unclear whether a concrete plant seeking a “straight renewal” would be subject to a request for a contested case hearing.**

**TACA's Recommendation:**

Please confirm that any concrete plant seeking a “straight renewal,” (i.e., whereby there is no change in the production process or where there is actually a reduction in production or increase in setback distance, then there would be “no emissions increases”) would not be subject to a valid request for a contested case hearing.

**TACA is supportive of the following proposed amendments:**

- The definitional revisions in Section 2 of the draft permit;
- The “three-sided solid enclosure” concept in Section 8(F);
- The four examples for preventing tracking of sediment in Section 8(G);
  - To avoid doubt, please provide a response to this comment that the Plant may use any one of these four methods to control tracking of sediment.
- The minimum setback requirement in Section 8(H);



- The practices listed in Section 8(I) as alternatives for complying with the minimum setback requirement of Section 8(H);
- The proposed road and drive path maintenance BMP in Section 8(J);
- The removal of the recordkeeping requirement in the preamble;
- The addition to the preamble that there is no longer a daily production limit;
- TACA agrees the current standard air permit does not prevent multiple concrete batch operations on the same site.

Respectfully submitted,

By: /s/ Josh Leftwich  
President