



December 6, 2024

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

Re: City of Fort Worth's Comments for Non-Rule Project No. 2024-018-OTH-NR

Dear Ms. Ricco,

The City of Fort Worth ("City") hereby submits the following comments regarding Non-Rule Project No. 2024-018-OTH-NR (Proposed Air Quality Standard Permit for Temporary Public Works Projects). As a Local Air Pollution Control Program charged with investigating and enforcing TCEQ air pollution permits, the City of Fort Worth acknowledges the role TCEQ has in crafting legally enforceable permits that protect human health and the environment.

The City notes that several of the key terms used in the permit, such as "contiguous to the right-of-way" and "single project" are unclear. The City believes that failing to identify the meaning of these terms could lead to consequences the Legislature did not intend when it passed Senate Bill 1397. The City suggests that TCEQ promulgate rules in the Administrative Code which clarify these terms through examples or separate definitions. The proposed permit defines "right-of-way of a public works project" without referencing the word "contiguous." Without providing a separate definition for contiguous, it is unclear how far away from the right-of-way a project can be while remaining within the limits of the proposed permit. "Single project" could mean one project, or multiple sub-parts of one project. Without clarification, entities who enforce the permit would be left to guess if one part of a project is the project itself, or merely a smaller part of a larger project. The City notes the definition of "Site" uses the phrase "contiguous or adjacent properties." The City suggests, in the alternative, that if a separate definition for the term "contiguous" is not provided, that all references to "contiguous" be changed to read "contiguous or adjacent" to add clarity. Currently, Sections 2(F) and 8(A)(iii) only reference "contiguous" without a modifier.

The proposed permit and 30 T.A.C. § 101.1 do not define "public works project." Without a guiding definition, the City is left to assume that all road construction projects are public works projects. Developers frequently perform road construction projects developers and later dedicate the roadways to the City. It is unknown if this type of project would qualify as a public works project under the proposed rules.

As this proposed permit is subject to the same air emissions testing that the standard air permit is pursuant to section 382.05195 of the Texas Health & Safety Code, TCEQ should tailor the environmental emissions modeling data used in its protectiveness review to the specific region of the state where the proposed plant will be located. As the EPA identified in its public comment for TCEQ's 2023 Amendments to the Air Quality Standard Permit for Concrete Batch Plants, TCEQ uses data from Victoria and Austin from 1983, 1984, 1986, 1987, and 1988 to perform its air dispersion modeling. The proposed permit should instead rely upon complete datasets from cities where TCEQ has service centers in each of TCEQ's service regions.

The City submits these comments to help ensure that the proposed permit rules are clear and to ensure the protection of the health and safety of the public. The City looks forward to hearing from your office regarding its comments and its determination in establishing this proposed permit. If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

The City of Fort Worth
100 Fort Worth Trail
Fort Worth, TX 76102