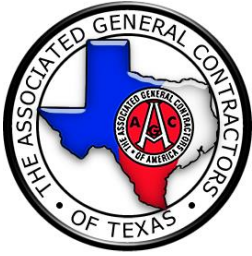


Jennifer Woodard

Please find attached the comments from the Associated General Contractors of Texas Highway, Heavy, Utilities, and Industrial Branch (AGC of Texas) on the Non-Rule Project Number 2024-018-OTH-NR. Thank you for the opportunity to provide input.



# AGC of TEXAS

**Highway, Heavy, Utilities & Industrial Branch**

Jennifer Woodard, Chief Executive Officer



December 6, 2024

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

RE: Non-Rule Project Number 2024-018-OTH-NR

Dear Ms. Ricco:

The Associated General Contractors of Texas Highway, Heavy, Utilities, and Industrial Branch (AGC of Texas) is an organization comprised of 700 member firms across Texas, and one of more than 32,000 networking firms comprising the Associated General Contractors of America. AGC of Texas' members build and maintain state, city, and county roads and bridges, as well as civil projects such as airports, bridges, dams, and municipal utilities.

AGC of Texas' members are regulated by the Texas Commission on Environmental Quality (TCEQ) across all environmental media. Their operations can include temporary operations that are located in or contiguous to the right-of-way of a public works project. Thank you for the opportunity to provide comments on the proposed amendments to the Non-Rule Air Quality Standard Permit for Temporary Public Works Projects (PWP SP).

AGC of Texas supports the issuance of the PWP SP. Through constitutional amendments overwhelmingly approved by voters, the State of Texas has substantially proactively invested in roads, bridges, water supplies, and flood protection. TCEQ's Air Quality Analysis demonstrates that the PWP SP will protect human health and the environment, and it provides a clear and appropriate authorization mechanism for these unique and vitally important operations.

We also want to take this opportunity to note that the deployment of temporary, portable facilities that exclusively support public works projects, such as a concrete batch plant, comes only after multiple state and federally mandated opportunities for the public to provide input. A majority of these unique projects include front-end, robust stakeholder involvement in the planning and development phase as requirements of both state and federal law. Material production and other construction or industrial activity that may occur on the right-of-way or contiguous to the right-of-way is presumed and, therefore, accounted for in the review and stakeholder process. It is also vital to always consider that these facilities are temporary, their operations are intermittent, and they are removed as quickly as possible once a project is complete.

AGC of Texas supports the majority of the conditions proposed in the PWP SP. They are appropriate, feasible, and protective of off-site receptors. We respectfully submit the following brief comments on two specific permit conditions.

**Section (5) Engines.** As proposed, the requirements for engines will virtually eliminate the availability and utility of this standard permit. The PWP SP should account for smaller engines that may have lower overall emissions. Additionally, supply chain issues may limit the availability of Tier 4 engines. Finally, engine operation can be temporary as contractors will utilize line power as soon as practicable, and in any case, is intermittent.

To operate a double drum wet mix concrete batch plant used in concrete paving, it is necessary to utilize an engine with a rated horsepower of 1,300 Hp or greater. In lieu of the proposed language in Section (5), we would request amended language to allow a stationary compressor engine to be authorized separately under Title 30, Texas Administrative Code, §106.512 if it is going to remain onsite for more than a year. We further recommend any other conforming changes that would be needed elsewhere in the proposed standard permit as a result of this change.

**Section (7) Operational Requirements.** Subsection (B) limits daily operations to a maximum operating schedule of 12 hours (consecutive or non-consecutive) during any 24-hour period. Unplanned delays caused by weather and other unforeseen events commonly impact public works project schedules. Working two shifts per day over short periods is a common mitigative measure to offset delay. Limiting operating hours to 12 hours (one shift) removes this measure, which will result in increased time to complete projects and added risk to the operator for delay costs and liquidated damages. These risks make this permit undesirable compared to the current standard permit. We request that TCEQ allow plants to operate 24 hours/day under this permit.

**Section (8) Relocation Requirements.** AGC of Texas urges that the approval process under Section (8) be streamlined to the greatest extent possible. The proposed language could be amended to add a provision that a relocation of a temporary concrete batch plant under proposed paragraph (8)(A)(i) is considered approved within five business days of submittal if there is no action taken by the executive director. In the long term, AGC of Texas urges TCEQ to consider implementing an “automatic approval” process similar to that used for many permits-by-rule. AGC of Texas is committed to working with TCEQ on making the approval process as efficient as possible.

Thank you again for the opportunity to provide comments on the proposed PWP SP. AGC of Texas believes that the PWP SP will support the construction of the infrastructure vital to Texas’ future growth and continuing prosperity.

Please do not hesitate to contact me at (512) 478-4691 if you have any questions or require additional information.

Sincerely,



Jennifer Woodard  
Chief Executive Officer  
AGC of Texas