



AGC of TEXAS

Highway, Heavy, Utilities & Industrial Branch
JENNIFER WOODARD, Chief Executive Officer



January 24, 2025

Mr. Jess Robinson
MC-175
Office of Legal Services
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

RE: APO BMP List Proposal

Dear Ms. Robinson:

The Associated General Contractors of Texas (AGC of Texas) Highway, Heavy, Utilities, and Industrial Branch 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 aggregate production operations (APOs), as well as other construction-related activities, such as rock crushers. Thank you for TCEQ's proactive outreach and the opportunity to provide comments on the list of Best Management Practices (BMPs) for APOs.

General Comments

The Governing Statute is Texas Water Code, Chapter 28A, Subchapter D

AGC of Texas notes that the governing statute is the above-referenced Subchapter in the Texas Water Code. While there is still a Rider that is included in TCEQ's Legislative Appropriations Request, an Appropriations Act is limited to spending under the Texas Constitution and cannot create general law. It is, therefore, appropriate that TCEQ has ensured that the requirement to develop BMPs for APOs is consistent solely with the provisions of the Texas Water Code.

BMPs are Voluntary and Limited Strictly to Matters Under TCEQ's Jurisdiction

Texas Water Code (TWC), §28A.151(a) limits BMPs strictly to matters that are under TCEQ's jurisdiction, specifically dust control, water use, and water storage. Further, the statute (TWC, §28A.151(c)) clearly states that the BMPs are not subject to enforcement. The addition of BMPs concerning *any* matters that are not under TCEQ's jurisdiction would go beyond the direction of the Legislature and exceed TCEQ's authority. AGC of Texas believes that the proposed language is consistent with the statute and appreciates that the language also clearly states that the BMPs are for informational purposes only and are not enforceable.

For even greater clarity, AGC of Texas respectfully recommends that the webpage be titled “Aggregate Production Operations (APOs): ~~Voluntary [General]~~ Best Management Practices (BMPs),” as well as amended to add a link to Texas Water Code, Chapter 28A, Subchapter D (Best Management Practices).

Specific Comments

AGC of Texas makes the following clarifying comments.

1) Under the section titled “Be a Good Neighbor,” AGC of Texas recommends that the second bullet be amended to read as follows:

- *Cover dust sources ~~from facility haul roads within 500 feet of the public roadway with [in impermeable]~~ materials, such as recycled asphalt pavement, roofing shingles or shredded [wettened] tire rubber chips.*

2) Under the section titled “Select Appropriate Equipment,” AGC of Texas recommends the first bullet be amended to read as follows:

- *Use fuel-efficient and appropriately sized equipment to reduce emissions, operation time, and the overall amount of dust ~~[you]~~ produced.*

3) Under the section titled “Minimize Sediment Leaving the Site,” AGC of Texas recommends that the last sentence be amended to read as follows:

- *All these methods can help control erosion, sediment, and stormwater from the site.*

4) Under the section titled “Stockpiles, Screens, and Conveyors,” AGC of Texas recommends that the second bullet be amended to read as follows:

- *Screens or conveyors longer than 300 feet should be covered if the site boundary’s distance is less than 200 feet.*

Thank you again for the opportunity to provide comments on the proposed BMPs for APOs. 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