

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** January 5, 2024

**Thru:** Laurie Gharis, Chief Clerk  
Kelly Keel, Executive Director

**From:** Richard C. Chism, Director *RCC*  
Office of Air

**Docket No.:** 2022-1368-MIS

**Subject:** Commission Approval for Standard Permit Adoption  
Amendment to the Air Quality Standard Permit for Concrete Batch Plants  
Non-Rule Project No. 2022-033-OTH-NR

### **Background and reason(s) for the amendments to the standard permit:**

The Texas Commission on Environmental Quality (TCEQ or commission) is amending the non-rule air quality standard permit authorizing concrete batch plants (CBPs) under the authority of the Texas Clean Air Act (TCAA), Texas Health and Safety Code (THSC), §382.05195, and 30 Texas Administrative Code (TAC) Chapter 116, Subchapter F, Standard Permits. Under 30 TAC §116.605, Standard Permit Amendment and Revocation, the commission will consider the following when determining whether to amend a standard permit: whether a condition of air pollution exists; the applicability of other state or federal standards that apply or will apply to the types of facilities covered by the standard permit; requests from the regulated community or the public to amend a standard permit consistent with the requirements of the TCAA; and whether the standard permit requires best available control technology.

The amendments to the standard permit incorporate the results of an updated air quality analysis (AQA) that was conducted to address public concern about potential health impacts of CBPs registered under the standard permit. The AQA is a report containing information that demonstrates that emissions at a CBP authorized by this standard permit would not cause or contribute to a violation of the National Ambient Air Quality Standards (NAAQS), exceed a state property line standard, or adversely affect human health and the environment. As a result of the updated AQA, the TCEQ is adopting revisions to this standard permit. The amendments include clarifying revisions to certain definitions, revised operational requirements, additional setback limitations, production limitations, and updated best management practices.

### **Scope of the adopted amendments:**

#### **A.) Summary of what the standard permit amendments will do:**

The amendments revise the standard permit's definitions, operational requirements, setback requirements, concrete production rate limitations, nuisance dust control provisions, and best management practices. The specific changes to setback requirements and production rate limitations vary depending on the geographic location of the CBP, the type of batch plant (central mix or truck mix), and the type of capture technology used for the loading operation. The amended standard permit will ensure protectiveness at the property line and reduce the nuisance potential of CBPs authorized by the standard permit.

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**B.) Scope required by federal regulations or state statutes:**

The amendments to this standard permit are authorized by the TCAA, THSC, Chapter 382, and are based on a comprehensive evaluation of air emissions and applicable air quality standards and screening levels. The amendments are not specifically required by federal or state statutes, but pursuant to 30 TAC §116.605(d)(3), the commission is required to consider certain factors when amending or revoking a standard permit.

**C.) Additional staff recommendations that are not required by federal rule or state statute:**

None.

**Statutory authority:**

The amendments to the standard permit will be adopted under Texas Health and Safety Code, Texas Clean Air Act:

- §382.011, General Powers and Duties;
- §382.023, Orders;
- §382.051, Permitting Authority of the Commission; Rules;
- §382.0513, Permit Conditions; and
- §382.05195, Standard Permit.

**Effect on the:**

**A.) Regulated community:**

If the amended air quality standard permit for CBPs is adopted by the commission, the regulated community will be required to comply with the amended requirements. Some regulated entities may incur costs associated with those requirements or be required to acquire authorization through another permitting mechanism. CBP facilities previously registered under earlier versions of the standard permit would comply with the requirements of 30 TAC §116.605 relating to compliance with an amended standard permit.

**B.) Public:**

Updating the standard permit may benefit the public by ensuring that the standard permit is evaluated against current guidelines and that estimated emissions from CBPs operating under the standard permit are protective of human health and the environment.

**C.) Agency programs:**

No significant fiscal implications are anticipated for the agency or the state.

The amendment will require revisions to internal policies and procedures to align with the amended air quality standard permit for CBPs. Existing guidance, workbooks, and applicable checklists available to the regulated community will also be updated.

**Stakeholder meetings:**

In November 2022, the TCEQ held three public stakeholder meetings for this standard permit. A hybrid in-person and virtual meeting was held in Austin, and in-person meetings were held in Dallas and Houston. Interpreters fluent in Spanish were available at the stakeholder meetings. Notice of the stakeholder meetings was posted on the TCEQ's publicly accessible webpage and provided through the GovDelivery email/text service.

The proposed amendments also underwent an extended public comment period, and a public meeting and informational meeting were held. Notice of the draft standard permit was published in the *Texas Register*, the commission's publicly accessible electronic media, and in the newspapers of the largest general circulation in the following metropolitan areas: Austin, Dallas, San Antonio, and Houston.

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**Public Involvement Plan:**

In addition to the statutory public notice requirements, TCEQ developed a public involvement plan to encourage public participation. A plain language summary was provided. Additionally, TCEQ has held three public stakeholder meetings to collect community feedback and comments on the standard permit. These meetings provided an opportunity for the public to learn more about the proposed amendment. An informational meeting was also held in Houston during the formal comment period.

**Alternative Language Requirements:**

Notice of the proposed amendments to the standard permit was published in both English and Spanish in the Austin, Dallas, San Antonio, and Houston areas. Interpreters fluent in Spanish were available at the November 2022 stakeholder meetings. Interpreters were also available at the public meeting in Austin on May 18, 2023, and the informational meeting in Houston on May 22, 2023. A plain language summary and executive summary were provided in Spanish. A Spanish-language agency webpage was also created to provide information on the proposed amendments.

**Public Comment:**

The commission held a public meeting on May 18, 2023. An extended comment period was provided which closed on June 14, 2023. Written and oral comments were received from numerous individuals and groups, including private citizens, public interest groups, environmental advocacy groups, a member of the Texas Senate, local government officials, industry representatives, and the U.S. Environmental Protection Agency (EPA). Commenters generally expressed support for the proposed amendments, while offering additional recommendations for changes. Some commenters expressed concerns about the effects of CBP facilities on their health or quality of life, and concerns about the effectiveness of TCEQ's enforcement of permit requirements. Some commenters expressed concern about various factors that are not within TCEQ's authority or jurisdiction, such as appropriate land use, noise, lighting, and traffic. Please consult the Analysis of Comments section within the technical background summary document for a full description of the comments and TCEQ's detailed responses.

**Significant changes from proposal:**

In response to comments, changes to the standard permit (including revised production limitations, setback distances, and definitions) were made to differentiate central mix plants from truck mix plants, which have different emission characteristics. The definition of setback distance was revised to include a reference to storage silos. The maximum hourly and annual production rates for specialty concrete plants were increased if the CBP complies with a greater setback distance. Certain permit provisions relating to CBPs in or contiguous to the right-of-way of a public works project were revised for consistency with commission rule 30 TAC §116.178. Permit language was added to limit the total surface area of stockpiles. Language was added to require that the owner or operator maintain records to demonstrate that sand or aggregate material has been pre-washed prior to delivery to the site. Language was added to require the owner or operator to maintain a copy of the manufacturer's specifications for engines. Language was added to ensure that dust suppression controls (such as fencing or equivalent barriers) are maintained in good working order. A reference to commission rule 30 TAC §101.4, Nuisance was added to the General Requirements.

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**Potential controversial concerns and legislative interest:**

There has been significant interest in the air quality standard permit for CBPs from EPA, elected officials, local governments, industry, advocacy groups, and citizens of the state.

**Would this non-rulemaking action affect any current policies or require development of new policies?**

The amendment will require minor revisions to internal policies, guidance, and procedures to align with the amended Standard Permit.

**What are the consequences if this standard permit revision does not go forward? Are there alternatives to non-rulemaking?**

The commission could choose not to amend the air quality standard permit for CBPs and continue to use the existing standard permit.

**Key points in the adoption standard permit schedule:**

**Anticipated *Texas Register* adoption publication date:** February 9, 2024

**Anticipated effective date of amended permit:** January 24, 2024

**Agency contacts:**

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**Attachments:**

None.

cc: Chief Clerk, 2 copies  
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Keisha Townsend  
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