

**TCEQ AIR QUALITY STANDARD PERMIT REGISTRATION NO. 77728  
TCEQ DOCKET NUMBER 2016-0435-AIR**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ARGOS READY MIX (SOUTH</b>	<b>§</b>	
<b>CENTRAL) CORP.</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>CONCRETE BATCH PLANT</b>	<b>§</b>	
<b>HOUSTON, HARRIS COUNTY</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**

The Executive Director (ED) of the Texas Commission on Environmental Quality (commission or TCEQ) files this response (Response) to the request for a contested case hearing submitted by the person listed herein regarding the above-referenced matter. The Texas Clean Air Act (TCAA) § 382.056(n), requires the commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code (TWC) § 5.556.<sup>1</sup> This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

A current compliance history report, technical review summary, and a copy of the standard permit for concrete batch plants prepared by the ED's staff have been filed as backup material for the commissioners' agenda. The ED's Response to Public Comment (RTC), which was mailed by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the commission's consideration.

**I. Application Request and Background Information**

Argos Ready Mix (South Central) Corp. (Applicant) applied to the TCEQ for a renewal of a Standard Permit under Texas Clean Air Act (TCAA), § 382.05195. This permit renewal would authorize the continued operation of a permanent concrete batch plant. The plant is located at 110 Holmes Road, Houston, Harris County. Contaminants authorized under this permit include road dust, aggregate, cement, and particulate matter (PM), including PM with aerodynamic diameters of 10 micrometers or less (PM<sub>10</sub>) and 2.5 micrometers or less (PM<sub>2.5</sub>).

This permit application is for the renewal of Registration No. 77728. The permit application was received on January 20, 2016 and declared administratively complete on January 26, 2016. The Notice of Receipt and Intent to Obtain an Air Quality Permit for this permit renewal application was published in English on February 4, 2016 in the *Houston Chronicle* and in Spanish on January 31, 2016 in *El Perrico*. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84<sup>th</sup> Legislature, 2015).

The public comment period ended on February 19, 2016. The ED's RTC along with the letter setting the matter on the Commissioner's Agenda was mailed on April 20, 2016 to all interested persons, including those who asked to be placed on the mailing list for this application and those who submitted comments or requests for a contested case hearing.

The TCEQ received a timely hearing request during the public comment period that was not withdrawn from the following person: State Representative Dr. Alma Allen.

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<sup>1</sup> Statutes cited in this response may be viewed online at [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us). Relevant statutes are found primarily in the THSC and the TWC. The rules in the Texas Administrative Code may be viewed online at [www.sos.state.tx.us/tac/index.shtml](http://www.sos.state.tx.us/tac/index.shtml), or follow the "Rules" link on the TCEQ website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

## **II. Analysis of Hearing Request**

The Applicant is seeking a renewal that would not result in an increase in allowable emissions and would not result in an emission of an air contaminant not previously emitted. TCAA § 382.056(g) states, “The commission may not seek further comment or hold a public hearing . . . in response to a request for a public hearing on an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted.”<sup>2</sup> Therefore, the Commission should deny the hearing request as a matter of law and approve the renewal of Air Quality Standard Permit Registration No. 77728.

Although this renewal application will not result in an increase in allowable emissions and will not result in an emission of an air contaminant not previously emitted, TCAA § 382.056(o) states: “Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant’s compliance history is in the lowest classification under Section 5.753 and 5.756, Water Code, and rules adopted and procedures developed under those sections.”<sup>3</sup> The Commission adopted 30 TAC Chapter 60 to evaluate compliance history. The lowest classification under the Texas Water Code §§ 5.753 and 5.754 and 30 TAC § 60.2 is an “unsatisfactory performer.” Consistent with the statutory provision, pursuant to 30 TAC § 60.3(a)(3)(B), the TCEQ may hold a hearing on an air permit renewal if the site is classified as an unsatisfactory performer. The compliance history for the company and the site is reviewed for the five-year period prior to the date the permit application was received by the ED. The company and this site have a rating of 0.05 and 0.73 respectively, and have been classified as “satisfactory” according to 30 TAC Chapter 60. Therefore, a hearing should not be granted under TCAA § 382.056(o) based on the compliance history if the Applicant.

## **III. Executive Director’s Recommendation**

The renewal of this permit would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. Under these circumstances, TCAA § 382.056(g) directs the Commission to “not seek further comment or hold a public hearing. Because consideration of hearing requests on a “no increase” renewal application is governed by TCAA §§ 382.056(g) and (o), this Response does not include an analysis of the individual hearing request. Accordingly, the ED respectfully recommends the Commission deny the hearing request as a matter of law and approve the renewal of Applicant’s Air Quality Standard Permit Registration No. 77728.

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<sup>2</sup> See also 30 TAC § 55.201(i)(3)(C) (Renewals of air applications that “would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted” are applications for which there is no right to a contested case hearing.)

<sup>3</sup> See also 30 TAC § 55.201(i)(3)(C) (stating the commission may hold a hearing if the application “involves a facility for which the applicant’s compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations”).

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**  
**Coastal Ready Mix, Inc., Permit No. 77728**  
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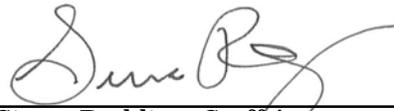
Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E., Executive Director

Caroline Sweeney, Deputy Director  
Office of Legal Services

Robert Martinez, Division Director  
Environmental Law Division



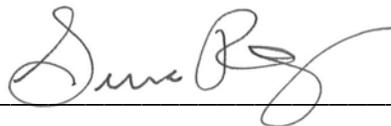
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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

On the 2<sup>nd</sup> day of May 2016, a true and correct copy of the foregoing instrument was served on all persons on the attached mailing list by the undersigned via deposit into the U.S. Mail, inter-agency mail, facsimile, electronic mail, or hand delivery.

A handwritten signature in cursive script, appearing to read "Sierra Redding", is written above a horizontal line.

Sierra Redding

**MAILING LIST**  
**ARGOS READY MIX (SOUTH CENTRAL) CORP.**  
**DOCKET NUMBER 2016-0435-AIR**  
**AIR QUALITY STANDARD PERMIT REGISTRATION NO. 77728**

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FOR THE EXECUTIVE DIRECTOR  
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PUBLIC OFFICIAL (REQUESTER):

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