

**TCEQ AIR QUALITY STANDARD PERMIT FOR CONCRETE BATCH PLANT  
REGISTRATION 77728**

<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 AMENDED RESPONSE TO PUBLIC COMMENT**

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Standard Permit application.

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received a comment letter from the following person: State Representative Dr. Alma Allen. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

**BACKGROUND**

Description of Facility

Argos Ready Mix (South Central) Corp. (Applicant) has 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>).

Procedural Background

Before work begins on the construction of a new facility or a modification of an existing facility that may emit air contaminants, the person planning the construction or modification must obtain an authorization from the commission. This permit application is for the renewal of Registration 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).

## **COMMENTS AND RESPONSES**

### **COMMENT 1: Air Quality/Health Effects**

Dr. Allen stated that the proliferation of concrete batch plants in District 131, Houston, threatens the health and safety of residents, and reduces the beauty of the community.

**RESPONSE 1:** The stated purpose of the Texas Clean Air Act (TCAA) is to "safeguard the state's air resources from pollution by controlling or abating air pollution and emission of air contaminants." In accordance with this policy, prior to the Air Quality Standard Permit for Concrete Batch Plants (Standard Permit) being approved in 2000 and amended in 2012, the TCEQ conducted an extensive protectiveness review to determine the technical requirements, which included property line distance requirements, compliance with the National Ambient Air Quality Standards (NAAQS) for PM, and maximum production rates at which a plant's operation will not be detrimental to human health and welfare or the environment.

The EPA established and periodically reviews the NAAQS. The NAAQS, as defined in 40 Code of Federal Regulations (CFR) § 50.2, include both primary and secondary standards. The primary standards are those which the Administrator of the EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions.

Secondary NAAQS are those which the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air.

The EPA has set NAAQS for criteria pollutants: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>, the indicator for the larger group of NO<sub>x</sub>), ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), and PM, including PM<sub>10</sub> and PM<sub>2.5</sub>. A criteria pollutant is one for which a NAAQS has been established. Of the criteria pollutants listed, this plant is expected to emit PM<sub>10</sub> and PM<sub>2.5</sub>. In addition, TCAA § 382.002(a) provides for "protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public. . . ." The Standard Permit is designed to be in compliance with both the NAAQS and state requirements.

The primary contaminants that have the potential to be emitted from the plant are dust particles due to vehicle traffic and material handling (specifically aggregate and cement) and having particle sizes less than or equal to 10 and 2.5 micrometers in aerodynamic diameter (PM<sub>10</sub> and PM<sub>2.5</sub>, respectively). All of the potential dust concentrations have been evaluated using reasonable worst case operating parameters and compared to the federal criteria mentioned above. When a company operates in compliance with the Standard Permit, there should be no deterioration of air quality or the generation of dust such that it impacts visibility. The Standard Permit requires substantial dust control processes to minimize dust issues, which include paving in-plant roads and work areas, using water sprays on stockpiles, and using a suction shroud and three-sided curtain to prevent flyaway dust.

Applicants must comply with 30 TAC § 101.4, which prohibits nuisance conditions. If the facility is operated in compliance with the terms of the permit, nuisance conditions are not expected. The TCEQ cannot deny authorization of a facility if a permit application contains a

demonstration that all applicable statutes, rules, and regulations will be met.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it may be subject to possible enforcement action.

Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. Under the citizen-collected evidence program, individuals are providing information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Make an Environmental Complaint? Do You Have Information or Evidence"? This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028 and may be downloaded from the agency website at [www.tceq.texas.gov](http://www.tceq.texas.gov) (under Publications, search for Publication Number 278).

**COMMENT 2: Cumulative Effects of Facilities in District 131**

Dr. Allen commented that she is very concerned about the number of concrete batch plants in District 131, and that this standard permit renewal registration, combined with the emissions of other recently permitted concrete batch plants in District 131, may impact the health and safety of community residents.

**RESPONSE 2:** As discussed in Response 1, the technical requirements contained in the Standard Permit are designed to ensure that facilities operating under a Standard Permit, 30 TAC § 116.611, achieve the emission standards determined to be protective of human health and the environment. During the protectiveness review in the development of the Standard Permit, the TCEQ examined the potential for emissions of PM from concrete batching facilities and determined that facilities operating under the Standard Permit will meet the NAAQS for PM<sub>10</sub>, which are 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) for a 24-hour period and 50  $\mu\text{g}/\text{m}^3$  annually.<sup>1</sup> The NAAQS evaluation also included PM<sub>2.5</sub>, which has a 24-hour standard of 35  $\mu\text{g}/\text{m}^3$  and an annual standard of 12  $\mu\text{g}/\text{m}^3$ . Therefore, if the plant is operated in accordance with the proposed permit renewal, there should be no adverse impact to air quality as a result of cumulative operations.

As noted in Response 1, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 3: Standard Permit Requirements**

Dr. Allen stated that the plant and other concrete batch plants in District 131 operate at hours and days of the week that interfere with sleep and other community activities.

**RESPONSE 3:** The Standard Permit provides for 24-hour operation and does not require an

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<sup>1</sup>The annual standard has been revoked by EPA but still included here because it was effective at the time the TCEQ developed the Standard Permit.

**Executive Director's Response to Public Comment**  
**Argos Ready Mix (South Central) Corp., Standard Permit Registration No. 77728**  
**Page 4 of 5**

applicant to provide specific working hours. The Applicant represented operation up to 24 hours per day and seven days per week, but production will be limited to 200 cubic yards per hour.

**COMMENT 4: Trucks/Property Values**

Dr. Allen stated that the plant's operations (as well as those of other concrete batch plants in District 131) will create additional large truck traffic in the area that damages local roads and reduces property values in the area.

**RESPONSE 4:** The TCEQ does not have jurisdiction to consider traffic impacts when determining whether to approve or deny a permit application. Trucks are considered mobile sources, which are not regulated by the TCEQ. Moreover, the TCEQ is prohibited from regulating roads per TCAA, § 382.003(6), which excludes roads from the definition of "facility."

Although the TCEQ is prohibited from regulating trucks, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 30 TAC § 101.5 states, "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use."

Jurisdiction over traffic on public roads, including any load-bearing restrictions and public safety, including access, speed limits, and public roadway issues, are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation (TxDot) and the Texas Department of Public Safety (DPS). An air quality permit does not authorize a violation of any road safety or load-bearing restrictions. Concerns regarding roads should be addressed to appropriate state or local officials.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider potential effects on property values or zoning when determining whether to approve or deny a permit application.

As noted previously, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it may be subject to possible enforcement action.

**CHANGES MADE IN RESPONSE TO COMMENT**

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

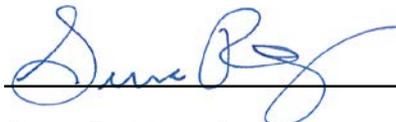
Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
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ENVIRONMENTAL QUALITY