

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 11, 2009

TO: Persons on the attached mailing list.

RE: East Texas Precast Co., Ltd.  
Permit No. 86593

### **Decision of the Executive Director.**

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central Office, the TCEQ Houston Regional Office, and at the Waller County Library, 2331 11<sup>th</sup> Street, Hempstead, Waller County, Texas. The facility's compliance file, if any exists, is available for public review at the Texas Commission on Environmental Quality Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

### **How To Request a Contested Case Hearing.**

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
  - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
  - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing. A person permanently residing within 440 yards of a concrete batch plant under a permit by rule is an affected person who is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

## **How To Request Reconsideration of the Executive Director's Decision.**

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

## **Deadline for Submitting Requests.**

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

LaDonna Castañuela, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

## **Processing of Requests.**

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

## **How to Obtain Additional Information.**

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela  
Chief Clerk

LDC/er

Enclosures

MAILING LIST  
for  
East Texas Precast Co., Ltd.  
Permit No. 86593

FOR THE APPLICANT:

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INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

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Texas Commission on Environmental Quality  
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Michael Gould, Technical Staff  
Texas Commission on Environmental Quality  
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FOR OFFICE OF PUBLIC ASSISTANCE  
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Bridget Bohac, Director  
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FOR PUBLIC INTEREST COUNSEL  
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FOR THE CHIEF CLERK  
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TCEQ AIR QUALITY STANDARD FOR CONCRETE BATCH PLANTS  
REGISTRATION NUMBER 86593

2009 SEP -8 PM 2:49

APPLICATION BY	§	BEFORE THE	CHIEF CLERKS OFFICE
	§		
East Texas Precast Co., Ltd	§	TEXAS COMMISSION ON	
Concrete Batch Plant	§		
Hempstead, Waller County	§	ENVIRONMENTAL QUALITY	

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director of the Texas Commission on Environmental Quality (the Commission, Agency, or TCEQ) files this Response to Public Comment (Response) on the Air Quality Standard Permit registration application and Executive Director's preliminary decision.

As required by Texas Health and Safety Code §§ 382.056 and 382.058, before a registration application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from the following persons: Llayron Adkins, Esel D. Bell, Jeron Barnett, Barbara Brandon, John Brandon, Marshall Brown, Carlton Carter, Dorothy Carter, Gwendolyn B. Carter, Commissioner Sylvia Cedillo, Amy Charleston, Dewayne Charleston, Alvin Coleman, Redessa M. Coleman, Gene O. Collins, Wanda Dopzier, Christine Fletcher, Luther V. Francis, Clifton Gilliard, Hazel Gilliard, Alice Y. Good, Clara C. Gordon, Anna Harris, Vincent Harris, Marie Herndon, Mayor Frank Jackson, Babarba L. Johnson, Cordella Kelly-Brown, Henry P. Kemp, James Kirkwood, Anna Labove, Paulette Matthews-Barnett, Esel Andrea Bell Miller, Teresa Nickleberry, Charvette Royal, Erma Sadberry, Cleophus Sharp, Carolyn Simpson, Jerold Simpson, Willie M. Smith, Donald Sowell, Michael Sowell, William Sowell, Herbert R. Thomas, Corey Turner, Concerned Citizen at 20378 Cochran Rd, Concerned Citizen R.N.S., and Concerned Citizen C.C. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this standard permit registration application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

**BACKGROUND**

Description of Facility

East Texas Precast Co., LTD (Applicant) has applied to the TCEQ for a standard permit registration under the Texas Clean Air Act (TCAA), Texas Health and Safety Code § 382.05195. If granted, this registration will authorize increased production at an existing concrete batch plant that may emit air contaminants.

This standard permit will authorize the applicant to increase production at a permanent concrete batch plant. The facility is located at 44855 Old Houston Hwy, Hempstead, Waller County.

Contaminants authorized under this standard permit include particulate matter (PM), including (but not limited to) aggregate, cement, road dust, and particulate matter with an aerodynamic diameter of 10 microns ( $\mu\text{m}$ ) or less ( $\text{PM}_{10}$ ). Currently, this plant is operating under the specialty concrete batch plant authorization, Registration No. 50702, using the Air Quality Standard Permit for Concrete Batch Plants, effective September 1, 2000.

### Procedural Background

Before work is begun 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 a permit, permit amendment, or registration from the Commission. This registration application is to register for the Air Quality Standard Permit for Concrete Batch Plants. The registration application was received on October 15, 2008, and declared administratively complete on November 3, 2008. The Notice of Receipt and Intent to Obtain an Air Quality Standard Permit Registration (first public notice) for this registration application was published on December 8, 2008, in *The Waller Times*. The Notice of Application and Preliminary Decision for an Air Quality Standard Permit for Concrete Batch Plant Registration (NAPD) (second public notice) for this registration application was published on March 23, 2009, in *The Waller Times*. A public meeting was held on May 28, 2009, in Prairie View, Waller County. The public comment period ended on May 28, 2009, at the adjournment of the public meeting. Since this registration application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

### **COMMENTS AND RESPONSES**

Comments have been combined where it was determined that a common response could be provided.

**COMMENT 1:** Most commenters express concerns regarding cement dust and the potential for plant emissions to negatively impact the health of area residents, particularly children, students, elderly residents, and people with existing health conditions. Many commenters note that area residents, including children, already experience a high number of cases of various health problems including cancer, respiratory problems, Alzheimer's, asthma, chronic obstructive pulmonary disease (COPD), nose bleeds, eye irritation, throat irritation, coughing, nasal and sinus infections, skin rashes, heart and lung disease, vision impairment, and mental distress, which they believe are related to the plant's current operations. Many commenters report that they personally experience these health conditions. Many also note that dust accumulates on cars, plants, roads, porches, and on the inside and outside of area homes. Many commenters note that they are frequently forced to dust and change the air filters in their homes. Many commenters request that the registration application be denied or that issuance of the standard permit be delayed (Llayron Adkins, Jeron Barnett, Esel D. Bell, Barbara Brandon, John Brandon, Marshall Brown, Carlton Carter, Dorothy Carter, Gwendolyn B. Carter, Commissioner Sylvia Cedillo, Amy Charleston, Dewayne Charleston, Alvin Coleman, Redessa M. Coleman, Gene O. Collins, Wanda Dopzier, Christine Fletcher, Luther V. Francis, Clifton Gilliard, Hazel Gilliard, Alice Y. Good, Clara C. Gordon, Anna Harris, Marie Herndon, Mayor Frank Jackson, Babarba

L. Johnson, Cordella Kelly-Brown, Henry P. Kemp, James Kirkwood, Paulette Matthews-Barnett, Esel Andrea Bell Miller, Teresa Nickleberry, Charvette Royal, Erma Sadberry, Cleophus Sharp, Carolyn Simpson, Jerold Simpson, Willie M. Smith, Donald Sowell, Michael Sowell, William Sowell, Herbert R. Thomas, Corey Turner, Concerned Citizen R.N.S., and Concerned Citizen C.C.). Several commenters express concerns regarding deteriorating air quality and general damage to the environment (Llayron Adkins, Barbara Brandon, John Brandon, Marshall Brown, Dewayne Charleston, Alvin Coleman, Redessa M. Coleman, Christine Fletcher, Luther V. Francis, Clifton Gilliard, Hazel Gilliard, Vincent Harris, Marie Herndon, Anna Labove, Esel Andrea Bell Miller, Willie M. Smith, Herbert Thomas, Corey Turner, and Concerned Citizen C.C.). Some commenters express concern for area wildlife, pets, and livestock (John Brandon, Carolyn Simpson, Concerned Citizen C.C.). One commenter specifically notes concern for the health and safety of his horses (Concerned Citizen C.C.). One commenter requests that a quality air report be submitted to the local community (Corey Turner). One commenter expresses concern regarding air modeling (Gene O. Collins).

**RESPONSE 1:** In promulgating the Air Quality Standard Permit for Concrete Batch Plants, potential impacts to human health and welfare and the environment were determined by comparing predicted emission concentrations from concrete batch plant (CBP) facilities to appropriate state and federal standards and effects screening levels.<sup>1, 2, 3</sup> The specific health-based standards or guidance levels employed in evaluating the potential emissions include the National Ambient Air Quality Standards (NAAQS); TCEQ standards contained in 30 Texas Administrative Code (30 TAC); and TCEQ Effect Screening Levels (ESLs).<sup>3</sup>

NAAQS are created by the United States Environmental Protection Agency (EPA), and as defined in the federal regulations (40 C.F.R. § 50.2), include both primary and secondary standards. The primary standards are those which the EPA Administrator 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. "Criteria pollutants" are those pollutants for which NAAQS have been established, including ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and particulate matter (PM).

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<sup>1</sup> See the document "Air Quality Modeling Guidelines" for details on air modeling at the TCEQ website at <http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg25.pdf>. Also visit the agency air modeling page at [http://www.tceq.state.tx.us/permitting/air/nav/modeling\\_index.html](http://www.tceq.state.tx.us/permitting/air/nav/modeling_index.html).

<sup>2</sup> Documents referenced in this response that are available on the TCEQ website are also available in printed form at a small cost from the TCEQ Publications office at 512-239-0028.

<sup>3</sup> To view the ESL list or obtain more information on ESLs, visit the TCEQ website at [http://www.tceq.state.tx.us/implementation/tox/esl/list\\_main.html](http://www.tceq.state.tx.us/implementation/tox/esl/list_main.html).

Particulate matter consists of solid particles and liquid droplets found in the air, and includes PM, total suspended particulates (TSP), PM<sub>10</sub>, and particulate matter less than 2.5 µm in aerodynamic diameter (PM<sub>2.5</sub>). Particles up to 50 µm in diameter are collectively referred to as "total suspended particulate" or (TSP). PM<sub>10</sub> particles are referred to as "coarse" particles and PM<sub>2.5</sub> particles are referred to as "fine" particles. Sources of coarse particles include wind-blown dust, dust generated by vehicles traveling on unpaved roads, material handling, and crushing and grinding operations. Fine particles are usually produced via industrial and residential combustion processes and vehicle exhaust. PM<sub>10</sub> and PM<sub>2.5</sub> are criteria air pollutants for which EPA has established NAAQS.

Pursuant to the EPA PM<sub>2.5</sub> surrogate policy, the TCEQ uses the PM<sub>10</sub> program as a surrogate for the PM<sub>2.5</sub> program until the EPA fully implements and integrates PM<sub>2.5</sub> into the New Source Review program. On October 23, 1997, EPA issued a memorandum providing for PM<sub>10</sub> to be used as a surrogate for PM<sub>2.5</sub>.<sup>4</sup> EPA reaffirmed that conclusion in a memorandum dated April 5, 2005.<sup>5</sup> EPA continued to recognize the issue and outstanding difficulties in implementing PM<sub>2.5</sub> in its Proposed Rule to Implement the Fine Particle National Ambient Air Quality Standards.<sup>6</sup> EPA also noted in the Final Rule that it did not include final PM<sub>2.5</sub> requirements and that they would be issued in a later rule.<sup>7</sup> In its May 16, 2008, final rulemaking for implementation of PM<sub>2.5</sub>, the EPA addressed the transition to the PM<sub>2.5</sub> prevention of significant deterioration (PSD) requirements and concluded that, during the SIP development period, SIP-approved states may, "continue to implement a PM<sub>10</sub> program as a surrogate to meet the PSD program requirements pursuant to the 1997 guidance . . . ."<sup>8</sup> Therefore, PM<sub>10</sub> controls and emissions were modeled and predicted PM<sub>10</sub> concentrations were compared to the PM<sub>10</sub> NAAQS, and compliance with the PM<sub>10</sub> NAAQS was used as the surrogate for compliance with the PM<sub>2.5</sub> NAAQS.

The technical requirements contained in the standard permit are designed to ensure that facilities achieve emission standards which meet both the primary and secondary NAAQS, as well as state and other regulations. This assures that the standard permit is protective of human health and the environment. All facilities emitting PM from a generic CBP were considered in the development of the standard permit. Emission rate calculations were based on emissions factors for CBPs found in the EPA's Compilation of Air Pollutant Emission Factors Manual (AP-42). The PM and PM<sub>10</sub> ground-level concentration standards were used to determine protectiveness. The PM<sub>10</sub> ground-level concentration standards are based upon short-term and long-term health effect considerations. Using AP-42 factors, emissions were modeled to ensure that all CBP configurations would meet both the primary and secondary NAAQS, as well as state and other standards. The state ground-level concentration standards are no longer in effect; however, the distance limitations established under those standards remain a part of the standard permit. The distance limitations were established to ensure that operation of a CBP would not adversely affect human health and the environment, regardless of the configuration of the CBP.

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<sup>4</sup> U.S. EPA Memorandum from John S. Seitz, Director of Office of Air Quality Planning and Standards, Interim Implementation of New Source Review Requirements for PM<sub>2.5</sub>, October 23, 1997.

<sup>5</sup> U.S. EPA Memorandum from Stephen D. Page, Director, Implementation of New Source Review Requirements in PM-2.5 Nonattainment Areas, April 5, 2005.

<sup>6</sup> 70 Fed. Reg. 65984, 66043 (November 1, 2005).

<sup>7</sup> 72 Fed. Reg. 20586 (April 25, 2007).

<sup>8</sup> 73 Fed. Reg. 28321, 28341 (May 16, 2008).

The NAAQS for PM<sub>10</sub> is based on a 24-hour time period. The measurement for predicted concentrations of air contaminants in modeling exercises is expressed in terms of micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). One microgram is 1/1,000,000 of a gram, or 2.2/1,000,000,000 of a pound (approximately the weight of a dust mite) of air contaminant per cubic meter of ambient air. The air volume of a cubic meter is approximately the size of a washing machine. Predicted air concentrations occurring below the 24-hour NAAQS of 150  $\mu\text{g}/\text{m}^3$  are not expected to exacerbate existing conditions or cause adverse health effects. The potential for emissions of PM from CBPs was reviewed, and it was determined that CBP facilities operating under the standard permit would meet the 24-hour federal National Ambient Air Quality Standard (NAAQS) for PM<sub>10</sub>.<sup>9</sup> The review further determined that emissions from facilities operating under a standard permit would meet the state standards in effect at the time, which were 400 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) (one-hour period) and 200  $\mu\text{g}/\text{m}^3$  (three-hour period). Therefore, based on the potential concentrations reviewed by the Executive Director's staff, facilities operating under the standard permit are not expected to have adverse effects on public health and welfare, including sensitive subgroups, animal life, plant life, property, or the environment as a result of exposure to the expected levels of PM.

The Executive Director has conducted a thorough review of this registration application in accordance with the relevant law, policy, and procedures, and the Agency's mission to protect the state's human and natural resources consistent with sustainable economic development. Provided the CBP is operated within the terms of the standard permit, the proposed emissions are not expected to adversely impact human health, air quality, the welfare of persons living in the area, or the environment. Furthermore, the TCEQ appreciates the comments and interest from the public regarding environmental matters before the agency. TCEQ staff evaluates air quality standard permit application registrations based on whether the registration application meets the standards outlined in the Texas Clean Air Act and the applicable state and federal rules and regulations. Although the ED recognizes the opposition of the commenters, public opposition alone is not legally sufficient to justify denial of a standard permit registration application.

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 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 standard permit, it will 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. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide 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

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<sup>9</sup> Emissions from facilities operating under the standard permit also meet the former NAAQS of 50 $\mu\text{g}/\text{m}^3$  annually, which the EPA has since repealed.

the TCEQ publication, "Do You Want to Report an Environmental Problem? 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.state.tx.us](http://www.tceq.state.tx.us) (under Publications, search for document no. 278).

**COMMENT 2:** One commenter expresses concern with the possibility of area resident's developing silicosis (Gene O. Collins).

**RESPONSE 2:** As described in Response 1 above, during the standard permit's protectiveness review considerable effort was dedicated to demonstrating the operation of these plants will not be detrimental to human health and welfare or the environment. The review indicates that no adverse health impacts due to particulate matter are expected beyond 100 feet from the CBP facilities. This result is dependent upon the plant operating in compliance with the standard permit and all air quality rules and regulations.

Crystalline silica, or quartz, is a component of sand. Regarding the proposed plant, sand and gravel will be washed prior to delivery to the site. The washing process removes at least 95% of the coarse ( $PM_{10}$ ) and fine ( $PM_{2.5}$ ) particles. Additionally, the standard permit requires that moisture be applied to the sand and gravel stockpiles at the site for added dust control. Crystalline silica is not classified as a Hazardous Air Pollutant by the EPA. Therefore, there are no specific air quality standards for crystalline silica, except for the NAAQS established for  $PM_{10}$  and  $PM_{2.5}$ . As stated above in Response 1, the concrete batch plant standard permit was developed to meet the EPA's NAAQS for  $PM_{10}$ , as well as all applicable state requirements. The standard permit, therefore, also complies with the NAAQS for  $PM_{2.5}$  via the EPA's surrogate policy. As such, the standard permit is considered protective of human health and welfare, property, and the environment.

**COMMENT 3:** One commenter requests that the TCEQ, or other appropriate state agencies, conduct health monitoring and an epidemiological study of local residents (Gene O Collins). One commenter requests that a medical investigation be conducted and that a report be provided for the community (Alice Y. Good).

**RESPONSE 3:** The TCEQ does not perform health monitoring or epidemiology studies. For additional information please contact the Texas Department of State Health Services, Environmental and Injury Epidemiology and Toxicology Branch, 1100 West 49th Street, Austin, TX 78756, or by phone at 512-458-7269 or 1-800-588-1248. Information is also available on the web at <http://www.dshs.state.tx.us/epitox/default.shtm>.

**COMMENT 4:** Several commenters state that the plant negatively affects the use and enjoyment of their property, noting specifically that the plant's emissions negatively affect yard work, gardening, children playing outside, outdoor recreating, and other outdoor activities. Several commenters note that they have to wear dust masks when working or recreating outside, and that after prolonged outdoor exposure they and their children need medication. Commenters also note that dust from the plant accumulates on their property (Marshall Brown, Clifton and Hazel Gilliard, Barbara L. Johnson, Clara Gordon, Redessa M. Coleman, Dewayne Charleston, Alvin Coleman, Herbert Thomas, Llayron Adkins, Marie Herndon, Carolyn Simpson, Esel D.

Bell, Mayor Frank Jackson, Gene O. Collins, Gwendolyn Carter, Jeron Barnett). One commenter expresses concern regarding impacts on the residents' quality of life (Commissioner Sylvia Cedillo).

**RESPONSE 4:** As discussed above, in addition to protecting public health, the NAAQS are also set to address welfare effects. Section 302(h) of the Federal Clean Air Act (FCAA) defines effects on welfare to include effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, hazards to transportation, and impacts to personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants. Because the emissions from this facility should not cause an exceedance of the secondary NAAQS, no impact to land, livestock, crops, or visibility is expected, nor should emissions interfere with the use and enjoyment of surrounding land. The secondary NAAQS are set below levels which would be expected to cause nuisance conditions (dust accumulation, decreased visibility) or eye and throat irritation, and, therefore, should not impact the quality of life of those living near the proposed facility.

Furthermore, Applicant must comply with 30 TAC § 101.4 which prohibits nuisance conditions. It states that "no person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." The standard permit conditions are drafted to prevent nuisance conditions and the Applicant is not permitted to operate in such a manner as to cause nuisance conditions.

As stated 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 Regional Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 5:** One commenter is concerned with cumulative affects that this plant and others in the area will have on air quality (Marshall Brown).

**RESPONSE 5:** The area surrounding the proposed site is within the federal attainment standards for PM<sub>10</sub>. The standard permit restricts each authorized site to a production of 300 cubic yards per hour of concrete. The standard permit protectiveness review determined that if each site meets the applicable permit requirements, adverse off-property impacts are not expected.

The standard permit requires that all sources of emissions be set at specific distances from the plant's property line, so that state and federal standards are met at the property line. This ensures the standard permit's protectiveness to off-property receptors, including any neighboring residents. The standard permit requires that the suction shroud baghouse exhaust or truck mix point must be located at least 100 feet from any property line. Stationary equipment, stockpiles, or vehicles used for the operation of the concrete batch plant (except for incidental traffic and the entrance and exit to the site) may not be located or operated, respectively, within the following

specified distances to any property line: for those facilities with production rates less than or equal to 200 cubic yards per hour, at least 25 feet; and for those facilities with production rates more than 200 and less than or equal to 300 cubic yards per hour, at least 50 feet. The protectiveness review determined if each site meets the applicable requirements, adverse off-property impacts are not expected.

The Applicant will operate one CBP at the Hempstead site. The total production at this site can not exceed 50 cubic yards per hour of concrete. The Applicant represents they will be using a suction shroud at the truck drop with the exhaust air venting to a central dust collector. This emission point will be located more than 490 feet to any property line. Because the production rate will be set at 50 cubic yards or less, the 25 foot distance requirements apply for all applicable emission points. The Applicant represents they will meet all requirements stipulated in the standard permit; therefore, the plant will be protective of any off-property receptors and no adverse cumulative impacts are expected. Please see Responses 1 & 2 for more information about health and welfare impacts related to CBPs.

**COMMENT 6:** One commenter expresses concern with distance limitations, specifically questioning the requirement that hearing requesters live within 400 yards of the plant (Jeron Barnett).

**RESPONSE 6:** For concrete batch plant standard permit registration applications, Texas Health and Safety Code § 382.058(c) states: "only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing under [Texas Health and Safety Code] Section 382.056 as a person who may be affected." The TCEQ is therefore bound by the 440-yard hearing request requirement.

**COMMENT 7:** One commenter expresses concern for the health and safety of plant's employees (Marshal Brown).

**RESPONSE 7:** The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. As such, the commission does not regulate on-site worker health, but rather ambient, off-property air quality. Employees with complaints regarding alleged safety or health hazards should contact the United States Department of Labor, Occupational Safety and Health Administration (OSHA).

**COMMENT 8:** One commenter notes concern regarding the use of "chemical admixtures" in the Applicant's process, and the potential for additional emissions related thereto. This commenter also asserts that unauthorized burning has occurred at Applicant's plant, creating unauthorized emissions and the smell of chemicals (Marshall Brown).

**RESPONSE 8:** Chemical admixtures are added to concrete in varying small amounts for the purpose of air-entraining, water-reducing, set-retarding, accelerating, and super plasticizing the concrete. The applicant represents that they will be using these common types of admixtures in the production of concrete and in accordance with manufacturer recommendations. These liquid additives are stored in tanks. They are pumped through piping in measured quantities and added to the concrete truck at the truck drop point through piping. The applicant has not represented

that any admixtures are added during the curing process of the concrete. When used in accordance with manufacturer's recommendations no additional emissions are expected from this plant by the use of these admixtures.

The Standard Permit for Permanent Concrete Batch Plants does not include authorization for the burning of any materials. Therefore, any unauthorized burning should be reported to the TCEQ and to local officials. As stated in Response 1 above, 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 Regional Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 9:** Several commenters express concern about the plant's hours of operation (Marshall Brown, Dewayne Charleston, Alice Y. Good, Mayor Frank Jackson, and William Sowell). Some commenters express concern with the size of the plant and the plant's expansion (Commissioner Sylvia Cedillo, and Dewayne Charleston). One Commenter expresses concern with the plant's ability to operate in accordance with their representations (Willie M. Smith).

**RESPONSE 9:** The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction over the size of the Applicant's company, except for issues relating to the emission of air contaminants, including the physical operation of the plant such as throughput, stockpiles, and establishment and maintenance of buffer zones. In addition, the TCEQ does not mandate certain hours of operation for concrete batch plants. However, as described below, Applicant is bound by any representations made during the permitting process.

The protectiveness review, described in Response 1 above, was based on a plant operating at the maximum production rate of 300 cubic yards per hour ( $\text{yd}^3/\text{hr}$ ) for 24-hours per day, 52 weeks per year. The basis of the required emission control specifications and distance requirements in the standard permit reflect the reasonable worst case operating parameters.

Based on the registration application, the Applicant represents the hours of operation are to be as follows: 10 hours per day, 6 days per week, and 52 weeks per year; totaling 3,120 hours per year. The Applicant represents the facility will not be operating at night, so the 10 hours of operation will be conducted during daylight hours. The Applicant represents the total production of the plant will not exceed 50 cubic yards per hour of concrete and 156,000 cubic yards per year. The standard permit contains recordkeeping requirements that track the plant's hours of operation and production. Specifically, paragraph (1)(F) requires production records to be maintained. The plant will be classified as permanent, and all of the standard permit conditions for a permanent facility will apply (paragraphs 1-3 and 6 of this standard permit) including water controls and paved in-plant roads.

All representations with regard to hours of operation, construction plans, operating procedures, and maximum emission rates in any registration for a standard permit become conditions upon which the facility or changes thereto, must be constructed and operated. It is unlawful for any person to vary from such representations if the change will affect that person's right to claim a standard permit. Any change in condition such that a person is no longer eligible to claim this

standard permit requires proper authorization under Title 30 Texas Administrative Code § 116.110 (30 TAC § 116.110) (relating to Applicability). If the facility remains eligible for a standard permit, the owner or operator of the facility shall notify the executive director of any change in conditions which will result in a change in the method of control of emissions, a change in the character of the emissions, or an increase in the discharge of the various emissions as compared to the representations in the original registration or any previous notification of a change in representations. Notice of changes in representations must be received by the executive director no later than 30 days after the change.

A copy of the standard permit, along with information and data sufficient to demonstrate applicability of and compliance with the standard permit, shall be maintained in a file at the plant site and made available at the request of TCEQ representatives, the U.S. Environmental Protection Agency, or any air pollution control program having jurisdiction. This information must include (but is not limited to) production records and operating hours. Information and data sufficient to demonstrate applicability of and compliance with the standard permit and representations made therein must be retained for at least two years following the date that the information or data is obtained. The copy of the standard permit must be maintained as a permanent record.

**COMMENT 10:** Some commenters express concern regarding the plant's emission controls and the use of water (Mayor Frank Jackson, Corey Turner, and Willie M. Smith).

**RESPONSE 10:** The standard permit was developed with consideration of Best Available Control Technology (BACT), health impacts, and welfare impacts. BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility with consideration given to the technical practicability and economic reasonableness of reducing or eliminating emissions.

The standard permit requires the following primary control measures: all dry material storage silos and the weigh hopper shall be equipped with a fabric filter or cartridge filter, or vented to a fabric or cartridge filter system designed to meet at least 0.01 outlet grain loading (grains/dry standard cubic foot), and all silos shall be equipped with audible or visual warning devices to prevent overloading; conveying systems to and from silos shall be totally enclosed and maintained with no tears or leaks; the truck drop point will be equipped with a suction shroud and vented to a fabric or cartridge filter system with a minimum of 4,000 actual cubic feet per minute of air; all filter systems and suction shroud shall be maintained with no tears or leaks; stockpiles shall be sprinkled with water to reduce fugitive emission; sand and gravel used in the concrete process will be washed prior to delivery to the site (the washing process removes at least 95% of fine particles including silica); all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant (including batch truck and material delivery truck roads) shall be paved with a cohesive hard surface that can be maintained intact and shall be cleaned; all batch truck and material delivery trucks shall remain on paved surfaces when entering, conducting primary function, and leaving the property. In addition, to reduce nuisance potential, the standard permit includes property line setbacks to provide buffer zones and restrictions on visible fugitive emissions. These distance requirements are discussed in Response 5.

The Applicant represents they will meet the standard permit requirements. As stated in Response 1 above, 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 Regional Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 11:** Some commenters express concerns with truck traffic (Marshall Brown, Gene O. Collins, Alice Y. Good, and Barbara L. Johnson). One commenter expresses concern with sand on the highway (Gene O. Collins). Some commenters express concerns regarding visibility near the plant and negative impacts on overall area safety (Commissioner Sylvia Cedillo, Mayor Frank Jackson, and Cleophus Sharp). One Commenter expresses concern regarding highway visibility (Esel D. Bell). Some commenters express concern with diesel exhaust, as well as dust blowing across the highway and accumulating on the road (Marshall, Brown, Commissioner Sylvia Cedillo, Gene O. Collins, Alice Y. Good, Mayor Frank Jackson, Barbara L. Johnson, Erma Sadberry, Cleophus Sharp, and Michael Sowell).

**RESPONSE 11:** The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. The definition of facility, as set forth in Texas Health and Safety Code § 382.003, specifically excludes roads. Therefore, the TCEQ does not have jurisdiction over traffic or road safety. Jurisdiction over traffic on public roads is the responsibility of the cities, county, and/or other state agencies such as the Texas Department of Public Safety and the Texas Department of Transportation.

Furthermore, as mobile sources, the TCEQ does not have jurisdiction to consider impacts of emissions from motor vehicles when determining whether to approve a standard permit registration application.

However, 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." Therefore, emissions from the facility shall not create a traffic hazard.

Furthermore, the emissions from plant roads and work areas are controlled by best management practices as required in the standard permit. The standard permit requires that all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant (including batch truck and material delivery truck roads) shall be paved with a cohesive hard surface that is maintained intact and cleaned. All batch trucks and material delivery trucks shall remain on paved surfaces when entering, conducting primary functions, and leaving the property. The Applicant represents the roads will be paved and will be treated with environmentally sensitive chemicals or watered as necessary to control fugitive dust emissions. Additionally, all other traffic areas associated with the operation of the CBP must be minimized by watering, treating with dust-suppressant chemicals, or paving with a cohesive hard surface that is maintained intact and cleaned. Stockpiles will also be watered to reduce fugitive emissions. To reduce the potential for nuisance conditions, the standard permit includes property line setbacks to provide buffer zones and restrictions on visible fugitive emissions.

Regarding visibility, there are several requirements limiting visible emissions included throughout the standard permit. Specifically, paragraphs (3)(B), (3)(C), and (5)(B) establish visible emissions limitations and compliance determination methods for filter systems. There shall be no visible emissions exceeding 30 seconds in a six-minute period in accordance with EPA Test Method (TM) 22. Illumination of all abatement exhausts is also required for night-time operation, so that the operator, or TCEQ regional investigators, can verify visible emission limits are being met. However, as described in Response 9 above, the Applicant has represented that it will not operate at night. Finally, subsection (3)(D) requires a warning system to alert operators before a silo is over-filled in order to avoid a potential upset condition.

As stated in Response 1 above, 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 Regional Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 12:** One commenter expresses concerns regarding lights from the plant (Marshall Brown).

**RESPONSES 12:** As stated in Response 11 above, the standard permit requires illumination of abatement exhausts for night-time operation; however, as stated in Response 9 above, the Applicant has represented that it will not operate at night.

As stated in Response 1 above, 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 Regional Office at 713-767-3500, by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186, or by contacting local officials.

**COMMENT 13:** Several commenters believe that the plant should be moved, noting concerns regarding the location of the plant and its proximity to a children's park, a senior's home, a childcare facility, residential subdivisions, and Prairie View A&M University (Esel D. Bell, John Brandon, Marshall Brown, Dewayne Charleston, Gene O. Collins, Luther Francis, Erma Sadberry, Cleophus Sharp, Jerrold Simpson, and Corey Turner). Some commenters express concerns that area property values will be negatively affected (Amy Charleston, Dewayne Charleston). Most commenters note that the public notice states the plant is in Hempstead, while they assert that the plant is in Prairie View (Llayron Adkins, Jeron Barnett, Barbara Brandon, John Brandon, Marshall Brown, Carlton Carter, Dorothy Carter, Gwendolyn B. Carter, Amy Charleston, Dewayne Charleston, Christine Fletcher, Luther V. Francis, Clifton Gilliard, Hazel Gilliard, Alice Y. Good, Clara C. Gordon, Anna Harris, Vincent Harris, Marie Herndon, Mayor Frank Jackson, Babarba L. Johnson, Cordella Kelly-Brown, Henry P. Kemp, James Kirkwood, Anna Labove, Paulette Matthews-Barnett, Teresa Nickleberry, Charvette Royal, Erma Sadberry, Cleophus Sharp, Carolyn Simpson, Jerold Simpson, Herbert R. Thomas, Concerned Citizen R.N.S., and Concerned Citizen C.C.).

**RESPONSE 13:** 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 an

applicant's choice for plant location when determining whether to approve or deny a registration application, except to the extent that state law imposes specific distance limitations that are enforceable by the TCEQ. The TCEQ does not have authority to consider zoning, land use, property values, or site selection when reviewing air quality standard permit registrations. Such issues should be directed to local officials.

Regarding the plant's location, according to the United States Postal Service (USPS) the address provided by the Applicant is in Hempstead, Texas.

Again, all facilities must comply with the Texas Clean Air Act and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the Houston Regional Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to possible enforcement action.

**COMMENT 14:** Several commenters express concerns regarding noise emanating from the plant's operations (Barbara Brandon, John Brandon, Marshall Brown, Gwendolyn Carter, Gene O. Collins, Alice Y. Good, Anna Harris, Vincent Harris, Mayor Frank Jackson, Henry P. Kemp, Anna Labove, and Teresa Nickleberry).

**RESPONSE 14:** The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider noise from a facility when determining whether to approve a registration for an air quality standard permit. Concerns regarding noise should be directed to local officials.

**COMMENT 15:** Several commenters express concerns regarding potential odor emanating from the plant, noting the presence of strong fumes, a resin odor, and chemical odors (Barbara Brandon, John Brandon, Marshall Brown, Erma Sadberry, and Cleophus Sharp).

**RESPONSE 15:** Applicant must comply with 30 Texas Administrative Code § 101.4, which prohibits nuisance conditions. The rule states that "no person shall discharge from any source" air contaminants which are or may "tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." "Air contaminant" is defined in the Texas Clean Air Act (TCAA), Texas Health and Safety Code § 382.003(2) to include, "particulate matter, radioactive material, dust, fumes, gas, mist, smoke, vapor, or odor." Emissions from the facility are not expected to produce nuisance odors. However, individuals are encouraged to report any concerns about nuisance issues by contacting the Regional Office at 713-767-3500, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of the standard permit, it will be subject to possible enforcement action.

**COMMENT 16:** Some commenters express concern with the Applicant maintaining the plant in compliance (Dewayne Charleston, Gene O. Collins, and Willie M. Smith).

**RESPONSE 16:** During the technical review, a compliance history review of the company and the site was conducted based on the criteria set forth in 30 Texas Administrative Code Chapter 60. These rules may be found at the following website: <http://www.tceq.state.tx.us/rules/index.html>. The compliance history for the company and site was reviewed for the five-year period prior to the date the registration application was received by the Executive Director. The compliance history includes multimedia compliance related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emission events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance.

A company and site may have one of the following classifications and ratings:

- High: rating less than 0.01 (above average compliance record);
- Average by Default: rating equal to 3.01 (sites which have never been investigated);
- Average: rating greater than 0.01 but less than 45 (generally complies with environmental regulations); and
- Poor: rating greater than 45 (performs below average).

This site has a rating of 3.01 and a classification of AVERAGE BY DEFAULT. The company rating and classification, which is the average of the ratings for all sites the company owns, is 0.54 for a classification of AVERAGE.

**COMMENT 17:** One commenter expresses concern with the state's ability to control the plant (Dewayne Charleston). One commenter asks what monitoring plan exists for the CBP (Gene O. Collins). One commenter requests the use of monitors (Corey Turner). One commenter states that Applicant attempts to clean up when it knows that TCEQ officials are coming to the site (Mayor Frank Jackson).

**RESPONSE 17:** Attainment of the standard permit registration by an applicant constitutes an acknowledgment and agreement that the holder will comply with all rules, regulations, and orders of the commission issued in conformity with the Texas Clean Air Act and the conditions precedent to the claiming of the standard permit. If more than one state or federal rule, regulation, or permit condition is applicable, the most stringent limit or condition shall govern. The registration also demonstrates the Applicant's consent to allow entrance of TCEQ employees and designated representatives of any air pollution control program having jurisdiction into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the standard permit.

TCEQ is charged with implementing the environmental laws of the state of Texas, which are designed and intended to protect human health and the environment. The ED takes that duty seriously, and makes every effort to investigate violations and follow-up on enforcement activity.

Unfortunately, the TCEQ does not have the resources to provide 24-hour monitoring at every permitted facility. However, the TCEQ's Office of Compliance and Enforcement (OCE) is responsible for monitoring and enforcing compliance with the state's environmental laws. The OCE includes a Field Operations Division consisting of 16 regional offices located throughout the state with responsibility of conducting investigations for compliance at the permitted and registered air facilities and developing enforcement action referrals for any violations identified during investigations. The OCE also has an Enforcement Division that is responsible for investigating violations of state environmental laws and taking corrective action.

TCEQ investigations are primarily risk-based. If the TCEQ receives a complaint, the facilities are generally not notified in advance of the investigation. Also, if the complaint concerns dust or odor, off-site surveillance is conducted prior to approaching the facility.

The TCEQ places a high priority on responding to citizen complaints. If a citizen files an environmental complaint with one of our regional offices, we will investigate the complaint and provide the citizen with a report on the outcome of our investigation. Details of a complaint incident, or our investigation of that incident, can be found by accessing the following website: <http://www5.tceq.state.tx.us/oce/waci>. The TCEQ investigates all complaints received. If the Applicant is found to be out of compliance with the terms and conditions of the standard permit, it will be subject to possible enforcement action.

Violations are usually addressed through a notice of violation letter that allows the operator a specified period of time within which to correct the problem. The violation is considered resolved upon timely corrective action. A formal enforcement referral will be made if the cited problem is not timely corrected, if the violation is repeated, or if a violation is causing substantial impact to the environment or neighbors. In most cases, formal enforcement results in an agreed enforcement order including penalties and technical requirements for corrective action. Penalties are based upon the severity and duration of the violation(s). Violations are maintained on file and are included in the calculation of compliance history for both the site and the operating entity. As discussed in Response 16 above, compliance history ratings are considered during the review of standard permit registration applications.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation. If the facilities are found to be out of compliance with the terms and conditions of its permits, it will be subject to possible enforcement action. The Houston Regional Office is located at 5425 Polk Ave Ste H Houston, Texas 77023-1452. The regional office may be reached at 713-767-3500.

**COMMENT 18:** One commenter expresses concern that his community is being overlooked, mentioning educational and racial issues (John Brandon).

**RESPONSE 18:** Air quality permits evaluated by the agency are reviewed without reference to the socioeconomic, education, or racial status of the surrounding community. Although there are no TCEQ rules addressing environmental equity issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effect on minority and low-income populations, the TCEQ has made a strong policy commitment to address environmental equity by creating an environmental equity program within the Office of Public Assistance. This program works to help citizens and neighborhood groups participate in the regulatory process, to ensure that agency programs that may affect human health or the environment operate without discrimination, and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

**COMMENT 19:** One Commenter suggests that the Applicant adopt a "Christian" rather than a "Worldly" business strategy (Corey Turner).

**RESPONSE 19:** The TCEQ has no authority to consider religion in any agency action.

**COMMENT 20:** Some commenters express concern with TCEQ's role in the permitting process (Jerron Barnett, Gene O. Collins).

**RESPONSE 20:** The Executive Director has reviewed the standard permit registration application in accordance with the applicable law, policy and procedures, and the Agency's mission to protect the State's human and natural resources consistent with sustainable economic development. If the plant is operated as specified in the standard permit's terms and conditions, the emissions from the plant should not adversely impact human health and welfare, property, air quality, or the environment.

TCEQ is charged with implementing the environmental laws of the State of Texas, which are designed and intended to protect human health and the environment. The ED takes that duty seriously, and makes every effort to investigate violations and follow-up on enforcement activity. As mentioned 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 Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received.

**COMMENT 21:** One commenter notes that he believes the Applicant has been digging and excavating on the site, potentially threatening sewer and water lines (Mayor Frank Jackson).

**RESPONSE 21:** The standard permit authorizes the operation of a concrete batch plant and contains no provisions relating to excavation. Furthermore, the TCEQ does not have jurisdiction over excavation or mining operations. Concerns related to such activities should be directed to local officials.

**COMMENT 22:** Some commenters are concerned that the plant will affect water sources (John Brandon, Marshall Brown, and Mayor Frank Jackson).

**RESPONSE 22:** While the TCEQ is responsible for the environmental protection of all media (including water), the law governing air permitting deals exclusively with the regulation of air emissions. Since this is an air quality permit application, water quality is outside the scope of the review. Depending upon the nature of the facility's operations, the Applicant may need to apply for separate permits to regulate water quality. In addition, the Texas Clean Air Act does not give the TCEQ authority to regulate air emissions beyond the direct impacts (inhalation) that the air emissions have on human health or welfare. Therefore, the TCEQ does not set emission limits to restrict, or perform analysis to determine, impacts emissions may have (by themselves or in combination with other contaminants or pathways), after being deposited on land or water or incorporated into the food chain. However, as discussed in Response 1 above, the secondary NAAQS have been established to protect public welfare and the environment. Since the results of the air modeling performed in the development of the standard permit are below levels of concern under state and federal standards, emissions from the proposed facility are not expected to adversely impact water, vegetation, or animals in the area.

Again, as described above individuals are encouraged to report any environmental concerns at the site by contacting the Regional Office at 713-767-3500 or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of any permit, it will 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 registration issuance.

Respectfully submitted,

Texas Commission on Environmental Quality

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Representing the  
Executive Director of the  
Texas Commission on  
Environmental Quality

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