

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 3, 2023

TO: All interested persons.

RE: On-Site Concrete Solutions, LLC  
Air Quality Standard Permit No. 171356

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Public Comment. A copy of the complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Houston Regional Office, and the Brazoria County Library – Freeport, 410 Brazosport Boulevard, Freeport, Brazoria County, Texas, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk Street Suite H, Houston, Texas. Visit [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) to review the standard permit.

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. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two types of 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;
  - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
  - (C) by name and physical address 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 authorized by the Air Quality Standard Permit for Concrete Batch Plants is an affected person who is entitled to request a contested case hearing. The hearing request must state a personal justiciable interest.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

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 **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

### **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 [www.tceq.texas.gov/agency/decisions/cc/comments.html](http://www.tceq.texas.gov/agency/decisions/cc/comments.html) or by mail to the following address:

Laurie Gharis, 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 TCEQ's Alternative Dispute Resolution Program 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 Public Participation and Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis  
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**for**  
**On-Site Concrete Solutions, LLC**  
**Air Quality Standard Permit No. 171356**

The Executive Director has made the Response to Public Comment (RTC) for the application by On-Site Concrete Solutions, LLC for Air Quality Standard Permit No. 171356 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (171356) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov).

**Additional Information**

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Houston Regional Office, and the Brazoria County Library – Freeport, 410 Brazosport Boulevard, Freeport, Brazoria County, Texas, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk Street Suite H, Houston, Texas. Visit [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) to review the standard permit.



## COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

*Protegiendo a Texas al Reducir y Prevenir la Contaminación*

3 de mayo de 2023

TO: Todas las personas interesadas.

RE: On-Site Concrete Solutions, LLC  
Permiso estándar de calidad del aire No. 171356

### **Decisión del Director Ejecutivo.**

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo a los Comentarios Públicos (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov). Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. La solicitud, la decisión preliminar del director ejecutivo y el permiso estándar estarán disponibles para su visualización y copia en la Oficina Central de la TCEQ, la Oficina Regional de la TCEQ en Houston, y la Biblioteca del Condado de Brazoira, - Freeport, 410 Brazosport Bouevard, Freeport, Brazoira County, Texas. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la oficina regional 12, 5425 Polk Street Suite H, Houston, Texas. Visite [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) para revisar el permiso estándar.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

### **Cómo solicitar una audiencia de caso impugnado.**

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los

requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
  - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
  - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
  - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.
- (3) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (4) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".

Su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas. Una persona que pueda verse afectada por las emisiones de contaminantes del aire de la instalación tiene derecho a solicitar una audiencia de caso impugnado.

Una persona que reside permanentemente dentro de las 440 yardas de una planta de concreto autorizada por el Permiso de Estándar de Calidad del Aire para Plantas de Concreto por Lotes es una persona afectada que tiene derecho a solicitar una audiencia de caso impugnado. La solicitud de audiencia debe indicar un interés personal justiciable.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos

que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

### **Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.**

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

### **Fecha límite para la presentación de solicitudes.**

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a [www.tceq.texas.gov/agency/decisions/cc/comments.html](http://www.tceq.texas.gov/agency/decisions/cc/comments.html) o por correo a la siguiente dirección:

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

### **Procesamiento de solicitudes.**

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

### **Cómo obtener información adicional.**

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis  
Secretaria Oficial

LG/erg

Recinto

**RESPUESTA DEL DIRECTOR EJECUTIVO A LOS COMENTARIOS DEL PÚBLICO**  
**para**  
**On-Site Concrete Solutions. LLC**  
**Permiso estándar de calidad del aire No. 171356**

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de On-Site Concrete Solutions, LLC del permiso estándar de calidad del aire No. 171356. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (171356) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov).

**Información adicional**

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. La solicitud, la decisión preliminar del director ejecutivo y el permiso estándar estarán disponibles para su visualización y copia en la Oficina Central de la TCEQ, la Oficina Regional de la TCEQ en Houston, y la Biblioteca del Condado de Brazoira, - Freeport, 410 Brazosport Bouevard, Freeport, Brazoira County, Texas. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la oficina regional 12, 5425 Polk Street Suite H, Houston, Texas. Visite [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) para revisar el permiso estándar.



MAILING LIST / LISTA DE CORREO

for / para

On-Site Concrete Solutions, LLC

Air Quality Standard Permit No. 171356 / Permiso estándar de calidad del aire No. 171356

FOR THE APPLICANT /  
PARA EL SOLICITANTE:

Michael Peek, Manager  
On-Site Concrete Solutions, LLC  
800 Lawrence Road, Suite 188  
Kemah, Texas 77565

Tina Gray  
Altamira-US, LLC  
4001 Technology Road, Suite 120  
Angleton, Texas 77515

INTERESTED PERSONS /  
PERSONAS INTERESADAS:

Valerie Jansky  
3230 Highway 36  
Freeport, Texas 77541

FOR THE EXECUTIVE DIRECTOR / PARA  
EL DIRECTOR EJECUTIVO  
via electronic mail /  
por correo electrónico:

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087

Abigail Adkins, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087

Kristyn Jacher, Technical Staff  
Texas Commission on Environmental  
Quality  
Air Permits Division MC 163  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /  
PARA ABOGADOS DE INTERÉS PÚBLICO  
via electronic mail /  
por correo electrónico:

Garrett T. Arthur, Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR THE CHIEF CLERK /  
PARA EL SECRETARIO OFICIAL  
via electronic mail  
por correo electrónico:

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

**TCEQ AIR QUALITY STANDARD PERMIT NUMBER CONCRETE BATCH PLANT  
REGISTRATION 171356**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ON-SITE CONCRETE SOLUTIONS, LLC</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>CONCRETE BATCH PLANT</b>	<b>§</b>	
<b>FREERPORT, BRAZORIA COUNTY</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**EXECUTIVE DIRECTOR’S 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 and Executive Director’s preliminary decision.

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 Chief Clerk received timely comments from the following person: Valerie Jansky. 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

On-Site Concrete Solutions, LLC (Applicant) has applied to the TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) § 382.05195. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a permanent Concrete Batch Plant. The plant is to be located 0.2 miles east of the intersection between County Road 217 and US Highway 36 on County Road 217, Freeport, Brazoria County. Contaminants to be authorized under this permit include particulate matter (PM), including (but not limited to) aggregate, cement, road dust, and PM with diameters of 10 microns or less (PM<sub>10</sub>) and 2.5 microns or less (PM<sub>2.5</sub>).

Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain an authorization from the commission. This permit application is for an initial issuance of Air Quality Permit Number 171356.

The permit application was received on December 27, 2022 and declared administratively complete on December 28, 2022. The Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (public notice) for this permit application was published in English on February 2, 2023, in the *The Facts* and in Spanish on February 2, 2023 in *El Perico*. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

## COMMENTS AND RESPONSES

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

Commenter is concerned about the effects of the emissions from the proposed plant on the air quality and the environment. Commenter expressed concern regarding the potential adverse health effects of people in close proximity to the plant, particularly sensitive populations, such as people with existing medical conditions. Commenter expressed concern about health effects from exposure to carbon monoxide, nitrogen oxides, volatile organic compounds, nickel, and formaldehyde.

(Valerie Jansky)

**Response 1:** During the development of the Standard Permit, the Executive Director conducted an extensive protectiveness review to ensure protectiveness of human health and the environment. The protectiveness review determined potential impacts to human health and welfare or the environment by comparing emissions allowed by the standard permit to appropriate state and federal standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS) and TCEQ rules. As described in detail below, the Executive Director determined that the emissions authorized by the standard permit are protective of both human health and welfare and the environment.

The U.S. Environmental Protection Agency (EPA) created and continues to evaluate the NAAQS, which include both primary and secondary standards, for pollutants considered harmful to public health and the environment. Primary standards protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects from air contaminants. The EPA has set NAAQS for criteria pollutants, which include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), particulate matter less than or equal to 10 microns in aerodynamic diameter (PM<sub>10</sub>), and PM less than or equal to 2.5 microns in aerodynamic diameter (PM<sub>2.5</sub>). The Standard Permit is designed to be in compliance with the NAAQS.

The primary contaminants that have the potential to be emitted from the plant are dust particles having particle sizes of 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, as well as emissions from combustion sources, have been evaluated

using reasonable worst-case operating parameters and compared to the federal criteria mentioned above. 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. When a company operates in compliance with the Standard Permit, they should not cause or contribute to an exceedance of the NAAQS and are protective of human health and the environment.

Concrete is made up of four main ingredients: water, Portland cement, fly ash, and aggregates. Portland cement is the most common cement used and is composed of alumina, silica, lime, iron, and gypsum. Aggregates are sand, gravel, and crushed stone.

These ingredients are considered non-hazardous dust under normal conditions. Certain types of silica (e.g., crystalline silica), when inhaled over a long period, have been shown to cause silicosis and lung cancer. However, the TCEQ has determined that concrete production facilities authorized under standard permits do not to make a significant contribution of air contaminants to the atmosphere. Emissions from these facilities have already undergone a comprehensive TCEQ internal modeling of impacts and a health effects review. No adverse effects are expected to occur from facilities that meet all requirements of a standard permit for a concrete batch plant.

#### **Comment 2: Dust Control/Nuisance/Indoor Air Quality**

Commenter is concerned about dust generated by the proposed project. Commenter expressed concern that the proposed plant would create nuisance dust conditions near the plant and air contaminants will be blown onto her property. Commenter expressed concern that dust would negatively impact road conditions. Commenter expressed concern that dust particles impact the indoor air quality of her home including the HVAC systems.

(Valerie Jansky)

**Response 2:** The primary activities that have the potential to emit particulate matter (i.e., dust) resulting from this project are vehicle traffic and material handling. All of the potential dust concentrations from the permitted sources have been evaluated based on operating parameters represented in the application and compared to the federal criteria mentioned above. The Standard Permit requires control processes to minimize dust. When a company operates in compliance with the Standard Permit requirements there should be no deterioration of air quality or the generation of dust such that it impacts visibility. While nuisance conditions are not expected if the facility is operated in compliance with the terms of the permit, operators must also comply with 30 TAC § 101.4, which prohibits nuisance conditions.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ's authority is limited to ambient (outdoor, off-property) air resources. Ambient air is defined as "that portion of the atmosphere, external to buildings, to which the general public has access."<sup>1</sup> As such, the TCEQ does not have the authority to regulate indoor air quality.

TCEQ also does not have jurisdiction to consider traffic or road safety when determining whether to approve or deny a permit application. Moreover, the TCEQ is prohibited from regulating roads per TCAA § 382.003(6), which excludes roads from the definition of "facility." These concerns 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). Concerns regarding roads should be addressed to the appropriate state or local officials. However, emissions from these sources may not constitute a nuisance as defined in 30 TAC § 101.4. 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."

The TCEQ takes the health and environmental concerns of the public seriously. The Standard Permit meets all federal and state regulatory requirements and is protective of human health and the environment. 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.

### **Comment 3: Flora/Fauna/Habitat Loss**

Commenter is concerned about the effect of the proposed project on flora and fauna. (Valerie Jansky).

**Response 3:** The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the emissions from this facility should not cause an exceedance of the NAAQS, air emissions from this facility are not expected to adversely impact land, livestock, wildlife, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water. Please see Response 1 for an evaluation of the Standard Permit's impacts in relation to the NAAQS. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

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<sup>1</sup> 40 C.F.R. § 50.1(e)

**Comment 4: Location/Zoning**

Commenter expressed concern regarding the location of the facility and its proximity to residential areas.

(Valerie Jansky)

**Response 4:** The TCEQ does not have jurisdiction to consider plant location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. The issuance of an air quality authorization does not override any local zoning requirements that may be in effect and does not authorize an applicant to operate outside of local zoning requirements.

**Comment 5: Permit Review Process**

Commenter had concerns about the technical review of the application and the consideration of their residence in proximity to the location of the facility. Commenter disputes that the application meets all applicable rules.

(Valerie Jansky)

**Response 5:** The TCEQ conducted a review and verified the representations in the application meet the standard permit requirements. This review included both an administrative and technical review. During the administrative review, TCEQ verified the following:

- The correct application was submitted;
- The application form and TCEQ Core Data Form have been signed by the Responsible Official;
- The company is an entity legally entitled to do business in Texas;
- The information is accurately recorded in the TCEQ's Central Registry;
- The appropriate application fee was received;
- The mailing addresses for the company and site are USPS validated; and
- There are no delinquent fees owed by the company.

During the technical review, the TCEQ evaluated the following:

- All sources of air contaminants at the proposed facility have been properly identified;
- Appropriate controls have been proposed for each emission source;

- Proposed operations meet all applicable Standard Permit requirements including that the >50 ft. buffer to the property line will be maintained for stationary equipment, stockpiles, or vehicles used for the operation of the concrete batch plant and that there will be  $\geq$  100 ft. from the baghouse stack to the property line;
- Compliance history for the site and the operator; and
- Public notice requirements were fulfilled.

Based on this review, the TCEQ determined the application meets the requirements of the standard permit.

**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

Erin E. Chancellor, Interim Executive Director

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REPRESENTING THE  
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