

# **Texas Commission on Environmental Quality**

## **Interoffice Memorandum**

**To:** Commissioners **Date:** October 2, 2025

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

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

**Subject:** Docket No. 2025-1152-RUL / Rule Project No. 2025-032-116-AI  
Commission Approval for Proposed Rulemaking  
Chapter 116, Control of Air Pollution by Permits for New Construction or  
Modification  
Senate Bills (SBs) 763 and SB 2351: Update to Protectiveness Review and  
Amendment Requirements for Concrete Batch Plants  
Highlight and Strikethrough Version of the Proposal Preamble for 30 TAC Chapter  
116

In the revised back-up package filed for Rule Project No. 2025-032-116-AI / Senate Bills (SBs) 763 and SB 2351: Update to Protectiveness Review and Amendment Requirements for Concrete Batch Plants, the Texas Commission of Environmental Quality amends language in §116.605(f) for clarity and to better mirror language from SB 763 and 2351. The language has been struck through and highlighted to indicate where the change has been made in the rule language.

Original back-up materials for this rulemaking project were filed on September 19, 2025.

**Attachments:**

Executive Summary, Adoption Preamble

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Patrick Lopez  
Krista Kyle  
Jessie Powell  
Aubrey Pawelka Carlton  
Office of General Counsel  
David Munzenmaier  
Amy Browning  
Elizabeth Black  
Amanda Kraynok  
Gwen Ricco

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to 30 Texas Administrative Code (TAC) §116.605.

If adopted, these amended rules would be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

### **Background and Summary of the Factual Basis for the Proposed Rules**

Senate Bill (SB) 763 amends Texas Health and Safety Code (THSC), §382.05195, Standard Permit. The bill adds Subsection (e-1) requiring the TCEQ to conduct a protectiveness review at least once every eight years for a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant (CBP) that performs wet batching, dry batching, or central mixing (Air Quality Standard Permit for Concrete Batch Plants (CBP SP)). If the standard permit is amended after a protectiveness review is conducted, TCEQ shall allow facilities authorized to operate under the standard permit as it read before being amended to continue to operate until a date provided by the commission that provides facility operators a reasonable amount of time to comply with the amended standard permit. The bill requires TCEQ to adopt rules necessary to implement these changes no later than March 1, 2026. SB 763 was signed by the Governor on June 20, 2025, and became effective on September 1, 2025.

SB 2351 amends THSC, §382.05195, Standard Permit, by adding Subsection (f-1) that

would apply only to a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing (CBP SP). SB 2351 also amends THSC, §382.05198, Standard Permit for Certain Concrete Plants, by adding Subsection (d) that would apply only to a standard permit issued under that section (Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP)). New THSC, §382.05195, Subsection (f-1) and THSC, §382.05198, Subsection (d) establish that upon TCEQ amending these standard permits, TCEQ may require each facility operator authorized to begin construction of a facility under the former standard permit to update the facility's plans for the new construction in accordance with the amended standard permit if the facility operator did not begin construction before the adoption of the amended standard permit, and if the facility operator filed a request under commission rules for an extension to begin construction. SB 2351 was signed by the Governor on May 24, 2025, and became effective on May 24, 2025, after receiving a vote of two-thirds of all the members of each house.

### **Section by Section Discussion**

To implement the requirements of SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, the commission proposes to amend 30 TAC Chapter 116, Subchapter F (Standard Permits).

The proposed rulemaking would add 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the CBP SP at least once every eight years. The proposed

rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would be applicable only when an amendment to the CBP SP or the CBPEC SP is issued by the commission. New 30 TAC §116.605(f)(1) and (2) would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit if the facility operator did not begin the construction before the adoption of the amended standard permit and the operator filed a request for an extension to begin construction. These proposed requirements would not be applicable to temporary or specialty plants authorized under the CBP SP.

#### **Fiscal Note: Costs to State and Local Government**

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

#### **Public Benefits and Costs**

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance with state law, specifically, SB 763 and SB 2351 from the 89th Regular Legislative Session, 2025. The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

### **Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

### **Rural Communities Impact Assessment**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

### **Small Business Regulatory Flexibility Analysis**

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program, and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Regulatory Impact Analysis Determination**

The commission reviewed the proposed rulemaking considering the regulatory impact analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the proposed rulemaking does not meet the definition of a “Major environmental rule” as defined in that statute, and in addition, if it did meet the definition, would not

be subject to the requirement to prepare a regulatory impact analysis. A “Major environmental rule” means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

The proposed rulemaking’s purpose is to amend 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the concrete batch plant standard permit at least once every eight years. The proposed rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility’s plans for the new construction to comply with the amended standard permit. The new requirements are

required under statutory amendments to THSC, §382.05195.

As defined in the Texas Government Code, TGC, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The proposed amendments to 30 TAC §116.605 do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. The proposed rule implements Senate Bills 763 and 2351, 89th Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits and thus is a specific requirement under state statute. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis during the public comment period. Written comments on the Draft Regulatory Impact Analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.



### **Takings Impact Assessment**

Under TGC, §2007.002(5), taking means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The proposed amendments are procedural in nature and would not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property.

Therefore, this rulemaking action would not constitute a taking under TGC, Chapter 2007.

### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 et seq., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance with Coastal Coordination Act implementation rules, 31 TAC §29.22, and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this proposed rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §26.12(l)). The proposed amendments to Chapter 116 would update TCEQ rules to implement the requirement that a protectiveness review be conducted for the CBP SP at least once every eight years and incorporate requirements for when an operator of a facility authorized under the CBP SP or CBPEC SP must comply with the amended standard permit. The CMP policy applicable to the proposed rulemaking is that commission rules comply with federal regulations in Title 40 of the Code of Federal Regulations (40 CFR) to protect and enhance air quality in the coastal areas (31 TAC §26.32). This rulemaking complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §29.22(e), the commission affirms that this

rulemaking is consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the proposed rules are consistent with these CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### **Effect on Sites Subject to the Federal Operating Permits Program**

The proposed amendments are not expected to have a significant impact on sites subject to the Federal Operating Permits Program. Facilities that operate under a registered standard permit and have a Site Operating Permit (SOP) should evaluate the revised applicable requirements of 30 TAC §116.615 to determine if an update to their SOP is necessary.

#### **Announcement of Hearing**

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Thursday, November 20, 2025, at 2:00 PM in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons.

Individuals may present oral statements when called upon in order of registration.

Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m..

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Tuesday, November 18, 2025. To register for the hearing, please email *Rules@tceq.texas.gov* and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Wednesday, November 19, 2025, to those who register for the hearing.

Members of the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/18d7b168-6cfa-4d0a-afb1-8d87db8289d2@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-032-116-AI. The comment period closes at midnight on November 25, 2025. Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact David Munzenmaier, Air Permits Division, (512) 239-6092.

## **SUCHAPTER F: STANDARD PERMITS**

### **§116.605**

#### **Statutory Authority**

The amendments are proposed under Texas Water Code (TWC), §5.013, concerning General Jurisdiction of Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; THSC §382.05195, concerning standard permits; and §382.05198, concerning standard permits for certain concrete plants.

In addition, the amendments are proposed under TGC, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; TGC, §2001.006, concerning Actions Preparatory to Implementation of Statute or Rule, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; TGC, §2001.142, concerning Notification of Decisions and Orders, which provides a time period for presumed notification by a state agency; and the Federal Clean Air Act, 42 United States Code (USC), §§7401, et seq., which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state. The proposed amendments implement Senate Bills 763 and 2351, 89 Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits.

The proposed amendments implement changes to THSC, §382.05195.

**§116.605. Standard Permit Amendment and Revocation.**

(a) A standard permit remains in effect until amended or revoked by the commission.

(b) After notice and comment as provided by subsection (c) of this section and §116.603(b)-(f) of this title (relating to Public Participation in Issuance of Standard Permits), a standard permit may be amended or revoked by the commission.

(c) The commission will publish notice of its intent to amend or revoke a standard permit in a daily or weekly newspaper of general circulation in the area affected by the activity that is the subject of the standard permit. If the standard permit has statewide applicability, then the requirement for newspaper notice shall be accomplished by publishing notice in the daily newspaper of largest general circulation within each of the following major metropolitan areas: Austin, Dallas, and Houston. The commission will also provide written notice to registrants and any persons requesting to be on a mailing list concerning a specific standard permit. In both cases, the commission will publish notice in the *Texas Register*.

(d) The commission may, through amendment of a standard permit, add or delete requirements or limitations to the permit.

(1) To remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed. The commission may not require compliance with an amended standard permit within 24 months of its amendment unless it is necessary to protect public health.

(2) Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.



(3) The commission will consider the following when determining whether to amend or revoke a standard permit:

(A) whether a condition of air pollution exists;

(B) the applicability of other state or federal standards that apply or will apply to the types of facilities covered by the standard permit;

(C) requests from the regulated community or the public to amend or revoke a standard permit consistent with the requirements of the TCAA; and

(D) whether the standard permit requires best available control technology.

(4) The commission shall conduct a protectiveness review at least once every eight years in accordance with THSC, §382.05195(e-1) to determine whether to amend the standard permit issued under THSC, §382.05195 regarding the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing.

(e) The commission may require, upon issuance of an amended standard permit, or on a date otherwise provided, the owner or operator of a facility to submit a

registration to use the amended standard permit in accordance with the requirements of §116.611 of this title (relating to Registration to Use a Standard Permit).

(f) When standard permits issued under THSC, §§382.05195 and 382.05198 are amended, the commission may require each facility operator authorized to begin new construction of permanent concrete batch plants that perform wet batching, dry batching or central mixing under the former standard permit to update the facility's plan for the new construction in accordance with the amended standard permit that if the facility operator:

(1) did not begin construction before the adoption of the amended standard permit; and

(2) ~~the facility operator~~ filed a request under §116.120 of this title, (relating to Voiding of Permits) for an extension to begin construction before the effective date of the amended standard permit.

(g) [f] If the commission revokes a standard permit, it will provide written notice to affected registrants prior to the revocation of the standard permit. The notice will advise registrants that they must apply for a permit under this chapter or qualify for an authorization under Chapter 106 of this title (relating to Exemptions from Permitting).

(h) [g] The issuance, amendment, or revocation of a standard permit or the issuance, renewal, or revocation of a registration to use a standard permit is not subject to Texas Government Code, Chapter 2001.

# **Texas Commission on Environmental Quality**

## **Interoffice Memorandum**

**To:** Commissioners **Date:** September 26, 2025

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

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

**Subject:** Docket No. 2025-1152-RUL / Rule Project No. 2025-032-116-AI  
Commission Approval for Proposed Rulemaking  
Chapter 116, Control of Air Pollution by Permits for New Construction or  
Modification  
Senate Bills (SBs) 763 and SB 2351: Update to Protectiveness Review and  
Amendment Requirements for Concrete Batch Plants  
Highlight Version of the Executive Summary and Proposal Preamble for 30 TAC  
Chapter 116

In the revised back-up package filed for Rule Project No. 2025-032-116-AI / Senate Bills (SBs) 763 and SB 2351: Update to Protectiveness Review and Amendment Requirements for Concrete Batch Plants, the Texas Commission of Environmental Quality erroneously omitted a citation for Texas Health and Safety Code, §382.05198 in the Statutory Authority section of the executive summary and preamble.

Original back-up materials for this rulemaking project were filed on September 19, 2025.

**Attachments:**

Executive Summary, Adoption Preamble

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Patrick Lopez  
Krista Kyle  
Jessie Powell  
Aubrey Pawelka Carlton  
Office of General Counsel  
David Munzenmaier  
Amy Browning  
Elizabeth Black  
Amanda Kraynok  
Gwen Ricco

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** September 19, 2025

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

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

**Docket No.:** 2025-1152-RUL

**Subject:** Commission Approval for Proposed Rulemaking  
Chapter 116, Control of Air Pollution by Permits for New Construction or  
Modification  
Senate Bills (SBs) 763 and SB 2351: Update to Protectiveness Review and  
Amendment Requirements for Concrete Batch Plants  
Rule Project No. 2025-032-116-AI

### **Background and reason(s) for the rulemaking:**

Legislation enacted through SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, have amended Texas Health and Safety Code (THSC), §382.05195 and §382.05198, to enhance oversight and environmental protections associated with concrete batch plants (CBPs) in Texas.

**SB 763**, effective September 1, 2025, amends THSC, §382.05195 requiring the Texas Commission on Environmental Quality (TCEQ or commission) to conduct a protectiveness review at least once every eight years for standard permits authorizing permanent concrete batch plants using wet batching, dry batching, or central mixing processes. If the Air Quality Standard Permit for Concrete Batch Plants (CBP SP) is amended following such a review, TCEQ must provide a reasonable timeframe for existing facilities operating under the previous permit conditions to comply with the amended standard permit.

**SB 2351**, effective May 24, 2025, further amends THSC, §382.05195 and §382.05198, addressing both the CBP SP and the Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP). These amendments authorize that the commission, upon amending a standard permit, may require facility operators that have not yet begun construction—and have requested an extension to start of construction—to update their construction plans to meet the revised permit requirements.

### **Summary of Rulemaking Need:**

These statutory changes necessitate rulemaking by TCEQ to implement new requirements for the required periodic protectiveness reviews, compliance timelines for amended standard permits, and submittal of construction plan updates under revised standard permit conditions. Although TCEQ currently performs protectiveness reviews as required for all standard permits prior to issuance or amendment, SB 763 requires the commission to conduct a protectiveness review for the CBP SP on a recurring cycle of at least once every eight years. To implement these changes, TCEQ is required to adopt rules by **March 1, 2026**. Additionally, while SB 2351 does not require the commission to adopt new or amended rules, the commission is conducting rulemaking to implement the requirements of the bill.

### **Scope of the rulemaking:**

#### **A.) Summary of what the rulemaking would do:**

The proposed rulemaking establishes new requirements under 30 Texas Administrative Code (TAC) §116.605. Specifically, 30 TAC §116.605(d)(4) would require a protectiveness review of the CBP SP at least once every eight years to ensure continued environmental and public health safeguards.

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Additionally, new provisions under 30 TAC §116.605(f)(1) and (2) would apply when the commission issues amendments to the CBP SP or the CBPEC SP. These provisions would establish criteria where the commission may require operators of permanent facilities—who have not begun construction under a prior permit and have requested an extension—to update their construction plans to meet the new standards of the amended standard permit. These changes would not apply to temporary or specialty plants authorized under the CBP SP. The remaining paragraphs under §116.605 will be re-lettered or re-numbered as needed for administrative consistency.

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

The rulemaking is not explicitly required by federal regulations but is required to comply with amended §382.05195 and §382.05198 in the THCS.

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

None.

**Statutory authority:**

TCEQ proposes the amendments under Texas Water Code:

- §5.013, General Jurisdiction of Commission;
- §5.102, General Powers;
- §5.103, Rules;
- §5.105, General Policy.

Texas Health and Safety Code:

- §382.002, Policy and Purpose
- §382.011, General Powers and Duties;
- §382.012, State Air Control Plan;
- §382.017, Rules;
- §382.023, Orders;
- §382.051, Permitting Authority of the Commission; Rules; and
- §382.05195, Standard Permit
- §382.05198, Standard Permit for Certain Concrete Plants.

**Effect on the:**

**A.) Regulated community:**

Authorized facilities operating under a CBP SP may be impacted by amendments to the standard permit resulting from updated protectiveness reviews. Potential impacts may include modifying operations or physical components to comply with the amended standard permit.

Facilities authorized to begin new construction under a CBP SP or CBPEC SP may be impacted when the standard permit is amended if they have not begun construction at the time the amended standard permit is adopted. Potential impacts include submitting updated facility plans for construction authorization in compliance with the amended standard permit.

**B.) Public:**

The rule would ensure that the potential impacts to the public from existing or planned concrete plants are evaluated based on current protectiveness data and that authorized facilities are constructed and operating under the current standard permit.

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**C.) Agency programs:**

The rule change is not expected to have a significant effect on agency programs. There may be an increase in permit reviews associated with amendments to standard permits, but these can be anticipated and conducted in alignment with planned activities. Revisions to internal and external guidance may be needed.

**Stakeholder meetings**

No stakeholder meetings are planned for this rulemaking. The rules will undergo the required 30-day public comment period and a public hearing will be held. Notice of the proposed rules will be published in the *Texas Register*, the commission's publicly accessible electronic media, and in the newspapers of the largest general circulation in the following metropolitan areas: Austin, Dallas, and Houston.

**Public Involvement Plan**

In addition to the statutory public notice requirements, TCEQ will develop a public involvement plan to encourage public participation. A plain language summary will also be provided.

**Alternative Language Requirements**

The agenda item announcement for proposal and adoption at the commissioners' Agenda Meeting will be provided in English and Spanish. A plain language summary, the Executive Summary, and hearing notice will be provided in Spanish and if a need is identified, other documents may be translated into alternative languages. Notice of the proposed rulemaking will be published in English and Spanish in the Austin, Dallas, and Houston areas. The public will have an opportunity to request additional communication accommodations, including live translation services, for the public hearing.

**Potential controversial concerns and legislative interest**

There has been significant interest in concrete batch plant facilities from elected officials, local governments, industry, advocacy groups, and citizens of the state.

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

No.

**What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?**

The commission could decide not to adopt the rules; however, if the rulemaking is not completed, TCEQ will not meet the legislative requirement for SB 763.

**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** October 8, 2025

**Anticipated *Texas Register* publication date:** October 24, 2025

**Anticipated public hearing date:** November 20, 2025

**Anticipated public comment period:** October 24, 2025 – November 25, 2025

**Anticipated adoption date:** February 25, 2026

**Agency contacts:**

David Munzenmaier, Rule Project Manager, Air Permits Division, (512) 239-6092

Elizabeth Black, Staff Attorney, Environmental Law Division, (512) 239-5423

Amanda Kraynok, Staff Attorney, Environmental Law Division, (512) 239-0633

Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

Commissioners  
Page 4  
September 19, 2025

Re: Docket No. 2025-1152-RUL

**Attachments:**

SB 763  
SB 2351  
Plain Language Summary  
Plain Language Summary (Spanish)

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Jessie Powell  
Partick Lopez  
Krista Kyle  
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Gwen Ricco



The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to 30 Texas Administrative Code (TAC) §116.605.

If adopted, these amended rules would be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

### **Background and Summary of the Factual Basis for the Proposed Rules**

Senate Bill (SB) 763 amends Texas Health and Safety Code (THSC), §382.05195, Standard Permit. The bill adds Subsection (e-1) requiring the TCEQ to conduct a protectiveness review at least once every eight years for a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant (CBP) that performs wet batching, dry batching, or central mixing (Air Quality Standard Permit for Concrete Batch Plants (CBP SP)). If the standard permit is amended after a protectiveness review is conducted, TCEQ shall allow facilities authorized to operate under the standard permit as it read before being amended to continue to operate until a date provided by the commission that provides facility operators a reasonable amount of time to comply with the amended standard permit. The bill requires TCEQ to adopt rules necessary to implement these changes no later than March 1, 2026. SB 763 was signed by the Governor on June 20, 2025, and became effective on September 1, 2025.

SB 2351 amends THSC, §382.05195, Standard Permit, by adding Subsection (f-1) that

would apply only to a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing (CBP SP). SB 2351 also amends THSC, §382.05198, Standard Permit for Certain Concrete Plants, by adding Subsection (d) that would apply only to a standard permit issued under that section (Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP)). New THSC, §382.05195, Subsection (f-1) and THSC, §382.05198, Subsection (d) establish that upon TCEQ amending these standard permits, TCEQ may require each facility operator authorized to begin construction of a facility under the former standard permit to update the facility's plans for the new construction in accordance with the amended standard permit if the facility operator did not begin construction before the adoption of the amended standard permit, and if the facility operator filed a request under commission rules for an extension to begin construction. SB 2351 was signed by the Governor on May 24, 2025, and became effective on May 24, 2025, after receiving a vote of two-thirds of all the members of each house.

### **Section by Section Discussion**

To implement the requirements of SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, the commission proposes to amend 30 TAC Chapter 116, Subchapter F (Standard Permits).

The proposed rulemaking would add 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the CBP SP at least once every eight years. The proposed

rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would be applicable only when an amendment to the CBP SP or the CBPEC SP is issued by the commission. New 30 TAC §116.605(f)(1) and (2) would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit if the facility operator did not begin the construction before the adoption of the amended standard permit and the operator filed a request for an extension to begin construction. These proposed requirements would not be applicable to temporary or specialty plants authorized under the CBP SP.

#### **Fiscal Note: Costs to State and Local Government**

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

#### **Public Benefits and Costs**

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance with state law, specifically, SB 763 and SB 2351 from the 89th Regular Legislative Session, 2025. The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

### **Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

### **Rural Communities Impact Assessment**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

### **Small Business Regulatory Flexibility Analysis**

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program, and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Regulatory Impact Analysis Determination**

The commission reviewed the proposed rulemaking considering the regulatory impact analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the proposed rulemaking does not meet the definition of a “Major environmental rule” as defined in that statute, and in addition, if it did meet the definition, would not

be subject to the requirement to prepare a regulatory impact analysis. A “Major environmental rule” means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

The proposed rulemaking’s purpose is to amend 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the concrete batch plant standard permit at least once every eight years. The proposed rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility’s plans for the new construction to comply with the amended standard permit. The new requirements are

required under statutory amendments to THSC, §382.05195.

As defined in the Texas Government Code, TGC, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The proposed amendments to 30 TAC §116.605 do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. The proposed rule implements Senate Bills 763 and 2351, 89th Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits and thus is a specific requirement under state statute. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis during the public comment period. Written comments on the Draft Regulatory Impact Analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Takings Impact Assessment**

Under TGC, §2007.002(5), taking means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The proposed amendments are procedural in nature and would not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property.

Therefore, this rulemaking action would not constitute a taking under TGC, Chapter 2007.



### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 et seq., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance with Coastal Coordination Act implementation rules, 31 TAC §29.22, and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this proposed rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §26.12(l)). The proposed amendments to Chapter 116 would update TCEQ rules to implement the requirement that a protectiveness review be conducted for the CBP SP at least once every eight years and incorporate requirements for when an operator of a facility authorized under the CBP SP or CBPEC SP must comply with the amended standard permit. The CMP policy applicable to the proposed rulemaking is that commission rules comply with federal regulations in Title 40 of the Code of Federal Regulations (40 CFR) to protect and enhance air quality in the coastal areas (31 TAC §26.32). This rulemaking complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §29.22(e), the commission affirms that this

rulemaking is consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the proposed rules are consistent with these CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Effect on Sites Subject to the Federal Operating Permits Program**

The proposed amendments are not expected to have a significant impact on sites subject to the Federal Operating Permits Program. Facilities that operate under a registered standard permit and have a Site Operating Permit (SOP) should evaluate the revised applicable requirements of 30 TAC §116.615 to determine if an update to their SOP is necessary.

### **Announcement of Hearing**

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Thursday, November 20, 2025, at 2:00 PM in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons.

Individuals may present oral statements when called upon in order of registration.

Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m..

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Tuesday, November 18, 2025. To register for the hearing, please email *Rules@tceq.texas.gov* and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Wednesday, November 19, 2025, to those who register for the hearing.

Members of the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/18d7b168-6cfa-4d0a-afb1-8d87db8289d2@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-032-116-AI. The comment period closes at midnight on November 25, 2025. Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact David Munzenmaier, Air Permits Division, (512) 239-6092.

## **SUCHAPTER F: STANDARD PERMITS**

### **§116.605**

#### **Statutory Authority**

The amendments are proposed under Texas Water Code (TWC), §5.013, concerning General Jurisdiction of Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; THSC §382.05195, concerning standard permits; and §382.05198, concerning standard permits for certain concrete plants.

In addition, the amendments are proposed under TGC, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; TGC, §2001.006, concerning Actions Preparatory to Implementation of Statute or Rule, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; TGC, §2001.142, concerning Notification of Decisions and Orders, which provides a time period for presumed notification by a state agency; and the Federal Clean Air Act, 42 United States Code (USC), §§7401, et seq., which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state. The proposed amendments implement Senate Bills 763 and 2351, 89 Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits.

The proposed amendments implement changes to THSC, §382.05195.

**§116.605. Standard Permit Amendment and Revocation.**

(a) A standard permit remains in effect until amended or revoked by the commission.

(b) After notice and comment as provided by subsection (c) of this section and §116.603(b)-(f) of this title (relating to Public Participation in Issuance of Standard Permits), a standard permit may be amended or revoked by the commission.

(c) The commission will publish notice of its intent to amend or revoke a standard permit in a daily or weekly newspaper of general circulation in the area affected by the activity that is the subject of the standard permit. If the standard permit has statewide applicability, then the requirement for newspaper notice shall be accomplished by publishing notice in the daily newspaper of largest general circulation within each of the following major metropolitan areas: Austin, Dallas, and Houston. The commission will also provide written notice to registrants and any persons requesting to be on a mailing list concerning a specific standard permit. In both cases, the commission will publish notice in the *Texas Register*.

(d) The commission may, through amendment of a standard permit, add or delete requirements or limitations to the permit.

(1) To remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed. The commission may not require compliance with an amended standard permit within 24 months of its amendment unless it is necessary to protect public health.

(2) Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.

(3) The commission will consider the following when determining whether to amend or revoke a standard permit:

(A) whether a condition of air pollution exists;

(B) the applicability of other state or federal standards that apply or will apply to the types of facilities covered by the standard permit;

(C) requests from the regulated community or the public to amend or revoke a standard permit consistent with the requirements of the TCAA; and

(D) whether the standard permit requires best available control technology.

(4) The commission shall conduct a protectiveness review at least once every eight years in accordance with THSC, §382.05195(e-1) to determine whether to amend the standard permit issued under THSC, §382.05195 regarding the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing.

(e) The commission may require, upon issuance of an amended standard permit, or on a date otherwise provided, the owner or operator of a facility to submit a



registration to use the amended standard permit in accordance with the requirements of §116.611 of this title (relating to Registration to Use a Standard Permit).

(f) When standard permits issued under THSC, §§382.05195 and 382.05198 are amended, the commission may require each facility operator authorized to begin new construction of permanent concrete batch plants that perform wet batching, dry batching or central mixing under the former standard permit to update the facility's plan for the new construction in accordance with the amended standard permit that:

(1) did not begin construction before the adoption of the amended standard permit; and

(2) the facility operator filed a request under §116.120 of this title, (relating to Voiding of Permits) for an extension to begin construction before the effective date of the amended standard permit.

(g) [f] If the commission revokes a standard permit, it will provide written notice to affected registrants prior to the revocation of the standard permit. The notice will advise registrants that they must apply for a permit under this chapter or qualify for an authorization under Chapter 106 of this title (relating to Exemptions from Permitting).

(h) [g] The issuance, amendment, or revocation of a standard permit or the issuance, renewal, or revocation of a registration to use a standard permit is not subject to Texas Government Code, Chapter 2001.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## AGENDA ITEM REQUEST

for Proposed Rulemaking

**AGENDA REQUESTED:** October 8, 2025

**DATE OF REQUEST:** September 19, 2025

**INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:** Gwen Ricco, Rule/Agenda Coordinator, (512) 239-2678

**CAPTION: Docket No. 2025-1152-RUL.** Consideration for publication of, and hearing on, proposed amended Section 116.605 of 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, and corresponding revisions to the state implementation plan (SIP).

The proposed rulemaking would implement the requirements as provided in Senate Bills 763 and 2351, 89th Regular Texas Legislature, 2025. The proposed rulemaking would add Section 116.605(d)(4) requiring a protectiveness review to be conducted for the Air Quality Standard Permit for Concrete Batch Plants (CBP SP) at least once every eight years. The proposed rulemaking would also add §116.605(f)(1) and (2) that would be applicable only when an amendment to CBP SP or the Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls is issued by the commission. New Section 116.605(f)(1) and (2) would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit if the facility operator did not begin the construction before the adoption of the amended standard permit and the operator filed a request for an extension to begin construction. (David Munzenmaier, Elizabeth Black, Rule Project No. 2025-032-116-AI)

Richard C. Chism  
\_\_\_\_\_  
**Director**

Samuel Short  
\_\_\_\_\_  
**Division Deputy Director**

Gwen Ricco  
\_\_\_\_\_  
**Agenda Coordinator**

Copy to CCC Secretary? NO ☐ YES ☒

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** September 19, 2025

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

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

**Docket No.:** 2025-1152-RUL

**Subject:** Commission Approval for Proposed Rulemaking  
Chapter 116, Control of Air Pollution by Permits for New Construction or  
Modification  
Senate Bills (SBs) 763 and SB 2351: Update to Protectiveness Review and  
Amendment Requirements for Concrete Batch Plants  
Rule Project No. 2025-032-116-AI

### **Background and reason(s) for the rulemaking:**

Legislation enacted through SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, have amended Texas Health and Safety Code (THSC), §382.05195 and §382.05198, to enhance oversight and environmental protections associated with concrete batch plants (CBPs) in Texas.

**SB 763**, effective September 1, 2025, amends THSC, §382.05195 requiring the Texas Commission on Environmental Quality (TCEQ or commission) to conduct a protectiveness review at least once every eight years for standard permits authorizing permanent concrete batch plants using wet batching, dry batching, or central mixing processes. If the Air Quality Standard Permit for Concrete Batch Plants (CBP SP) is amended following such a review, TCEQ must provide a reasonable timeframe for existing facilities operating under the previous permit conditions to comply with the amended standard permit.

**SB 2351**, effective May 24, 2025, further amends THSC, §382.05195 and §382.05198, addressing both the CBP SP and the Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP). These amendments authorize that the commission, upon amending a standard permit, may require facility operators that have not yet begun construction—and have requested an extension to start of construction—to update their construction plans to meet the revised permit requirements.

### **Summary of Rulemaking Need:**

These statutory changes necessitate rulemaking by TCEQ to implement new requirements for the required periodic protectiveness reviews, compliance timelines for amended standard permits, and submittal of construction plan updates under revised standard permit conditions. Although TCEQ currently performs protectiveness reviews as required for all standard permits prior to issuance or amendment, SB 763 requires the commission to conduct a protectiveness review for the CBP SP on a recurring cycle of at least once every eight years. To implement these changes, TCEQ is required to adopt rules by **March 1, 2026**. Additionally, while SB 2351 does not require the commission to adopt new or amended rules, the commission is conducting rulemaking to implement the requirements of the bill.

### **Scope of the rulemaking:**

#### **A.) Summary of what the rulemaking would do:**

The proposed rulemaking establishes new requirements under 30 Texas Administrative Code (TAC) §116.605. Specifically, 30 TAC §116.605(d)(4) would require a protectiveness review of the CBP SP at least once every eight years to ensure continued environmental and public health safeguards.

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Additionally, new provisions under 30 TAC §116.605(f)(1) and (2) would apply when the commission issues amendments to the CBP SP or the CBPEC SP. These provisions would establish criteria where the commission may require operators of permanent facilities—who have not begun construction under a prior permit and have requested an extension—to update their construction plans to meet the new standards of the amended standard permit. These changes would not apply to temporary or specialty plants authorized under the CBP SP. The remaining paragraphs under §116.605 will be re-lettered or re-numbered as needed for administrative consistency.

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

The rulemaking is not explicitly required by federal regulations but is required to comply with amended §382.05195 and §382.05198 in the THCS.

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

None.

**Statutory authority:**

TCEQ proposes the amendments under Texas Water Code:

- §5.013, General Jurisdiction of Commission;
- §5.102, General Powers;
- §5.103, Rules;
- §5.105, General Policy.

Texas Health and Safety Code:

- §382.002, Policy and Purpose
- §382.011, General Powers and Duties;
- §382.012, State Air Control Plan;
- §382.017, Rules;
- §382.023, Orders;
- §382.051, Permitting Authority of the Commission; Rules; and
- §382.05195, Standard Permit.

**Effect on the:**

**A.) Regulated community:**

Authorized facilities operating under a CBP SP may be impacted by amendments to the standard permit resulting from updated protectiveness reviews. Potential impacts may include modifying operations or physical components to comply with the amended standard permit.

Facilities authorized to begin new construction under a CBP SP or CBPEC SP may be impacted when the standard permit is amended if they have not begun construction at the time the amended standard permit is adopted. Potential impacts include submitting updated facility plans for construction authorization in compliance with the amended standard permit.

**B.) Public:**

The rule would ensure that the potential impacts to the public from existing or planned concrete plants are evaluated based on current protectiveness data and that authorized facilities are constructed and operating under the current standard permit.

**C.) Agency programs:**

The rule change is not expected to have a significant effect on agency programs. There may be an increase in permit reviews associated with amendments to standard permits, but these can be

Re: Docket No. 2025-1152-RUL

anticipated and conducted in alignment with planned activities. Revisions to internal and external guidance may be needed.

**Stakeholder meetings**

No stakeholder meetings are planned for this rulemaking. The rules will undergo the required 30-day public comment period and a public hearing will be held. Notice of the proposed rules will be published in the *Texas Register*, the commission's publicly accessible electronic media, and in the newspapers of the largest general circulation in the following metropolitan areas: Austin, Dallas, and Houston.

**Public Involvement Plan**

In addition to the statutory public notice requirements, TCEQ will develop a public involvement plan to encourage public participation. A plain language summary will also be provided.

**Alternative Language Requirements**

The agenda item announcement for proposal and adoption at the commissioners' Agenda Meeting will be provided in English and Spanish. A plain language summary, the Executive Summary, and hearing notice will be provided in Spanish and if a need is identified, other documents may be translated into alternative languages. Notice of the proposed rulemaking will be published in English and Spanish in the Austin, Dallas, and Houston areas. The public will have an opportunity to request additional communication accommodations, including live translation services, for the public hearing.

**Potential controversial concerns and legislative interest**

There has been significant interest in concrete batch plant facilities from elected officials, local governments, industry, advocacy groups, and citizens of the state.

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

No.

**What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?**

The commission could decide not to adopt the rules; however, if the rulemaking is not completed, TCEQ will not meet the legislative requirement for SB 763.

**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** October 8, 2025

**Anticipated *Texas Register* publication date:** October 24, 2025

**Anticipated public hearing date:** November 20, 2025

**Anticipated public comment period:** October 24, 2025 - November 25, 2025

**Anticipated adoption date:** February 25, 2026

**Agency contacts:**

David Munzenmaier, Rule Project Manager, Air Permits Division, (512) 239-6092

Elizabeth Black, Staff Attorney, Environmental Law Division, (512) 239-5423

Amanda Kraynok, Staff Attorney, Environmental Law Division, (512) 239-0633

Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

**Attachments:**

SB 763, SB 2351

Commissioners  
Page 4  
September 19, 2025

Re: Docket No. 2025-1152-RUL

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Jessie Powell  
Partick Lopez  
Krista Kyle  
Aubrey Pawelka Carlton  
Office of General Counsel  
David Munzenmaier  
Amy Browning  
Elizabeth Black  
Amanda Kraynok  
Gwen Ricco

AN ACT

relating to standard permits for certain concrete plants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.05195, Health and Safety Code, is amended by adding Subsection (e-1) and amending Subsection (k) to read as follows:

(e-1) This subsection applies only to a standard permit issued under this section that authorizes the operation of a permanent concrete plant that performs wet batching, dry batching, or central mixing, as defined by the commission. The commission shall at least once every eight years conduct a protectiveness review of the permit regarding the operation of a permanent concrete plant described by this subsection. If the commission amends the permit after a protectiveness review, the commission shall allow facilities authorized to emit air contaminants under the permit as it read before the amendment to continue to operate until a date provided by the commission under Subsection (f) that provides facility operators a reasonable amount of time to comply with the amended permit.

(k) An application for an authorization to use ~~[the issuance of]~~ a standard permit under this section for a concrete plant that performs wet batching, dry batching, or central mixing, including a permanent, temporary, or specialty concrete batch plant, as defined by the commission, must include a plot plan that clearly shows:



1           (1) a distance scale;

2           (2) a north arrow;

3           (3) all property lines, emission points, buildings,  
4 tanks, and process vessels and other process equipment in the area  
5 in which the facility will be located;

6           (4) at least two benchmark locations in the area in  
7 which the facility will be located; and

8           (5) if the permit requires a distance, setback, or  
9 buffer from other property or structures as a condition of the  
10 permit, whether the required distance or setback will be met.

11         SECTION 2. Not later than March 1, 2026, the Texas  
12 Commission on Environmental Quality shall adopt rules necessary to  
13 implement the changes in law made by this Act.

14         SECTION 3. This Act takes effect September 1, 2025.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> <div>President of the Senate</div>	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> <div>Speaker of the House</div>
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I hereby certify that S.B. No. 763 passed the Senate on April 2, 2025, by the following vote: Yeas 31, Nays 0; May 29, 2025, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 2025, House granted request of the Senate; May 31, 2025, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 763 passed the House, with amendments, on May 28, 2025, by the following vote: Yeas 115, Nays 25, two present not voting; May 30, 2025, House granted request of the Senate for appointment of Conference Committee; May 31, 2025, House adopted Conference Committee Report by the following vote: Yeas 104, Nays 29, two present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor

Chapter 160

S.B. No. 2351

AN ACT

relating to the construction of certain concrete plants under a standard permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.05195, Health and Safety Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) This subsection applies only to a standard permit issued under this section that authorizes the operation of a permanent concrete plant that performs wet batching, dry batching, or central mixing. If the commission amends the standard permit, the commission may require each facility operator authorized to begin new construction of a facility under the former standard permit to update the facility's plans for the new construction in accordance with the amended standard permit if:

(1) the facility operator did not begin the construction before the adoption of the amended permit; and

(2) the facility operator filed a request under commission rules for an extension to begin construction.

SECTION 2. Section 382.05198, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) If the commission amends a standard permit issued under this section, the commission may require each facility operator authorized to begin new construction of a facility under the former standard permit to update the facility's plans for the new

1 construction in accordance with the amended standard permit if:

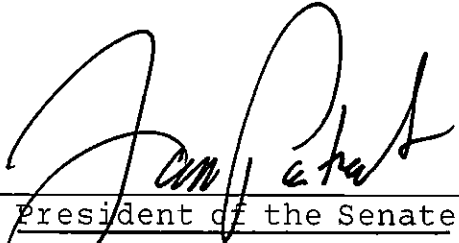
2 (1) the facility operator did not begin the  
3 construction before the adoption of the amended permit; and


4 (2) the facility operator filed a request under  
5 commission rules for an extension to begin construction.

6 SECTION 3. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2025.

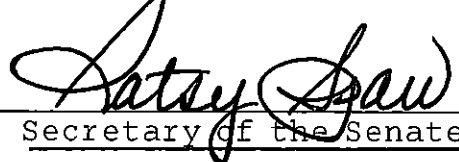
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S.B. No. 2351

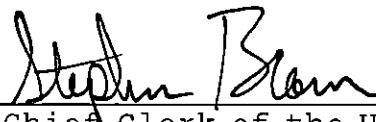
  
President of the Senate

  
Speaker of the House

I hereby certify that S.B. No. 2351 passed the Senate on April 29, 2025, by the following vote: Yeas 27, Nays 4. \_\_\_\_\_


  
Secretary of the Senate

I hereby certify that S.B. No. 2351 passed the House on May 9, 2025, by the following vote: Yeas 106, Nays 31, two present not voting. \_\_\_\_\_

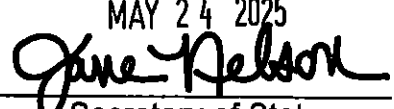
  
Chief Clerk of the House

Approved:

5-21-25  
Date

  
Governor

FILED IN THE OFFICE OF THE  
TEXAS SECRETARY OF STATE  
5:45 pm O'CLOCK

MAY 24 2025  
  
Secretary of State

## Plain Language Summary for Rulemaking Proposal: Updates to implement Senate Bills 763 and 2351 requiring a Protectiveness Review and Amendment Requirements for Concrete Batch Plants Rule Project No. 2025-032-116-AI

### Introduction

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing revisions to 30 Texas Administrative Code (TAC) Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, §116.605, and corresponding revisions to the state implementation plan (SIP) under the requirements of Texas Health and Safety Code, §382.017; Texas Government Code, Chapter 2001, Subchapter B; and 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs.

### Summary

TCEQ is proposing changes to the standard permit rules for concrete batch plants under 30 TAC §116.605.

These changes are based on two new state laws (Senate Bill 763 and Senate Bill 2351), which require TCEQ to update its timelines for conducting protectiveness reviews and issuing and reviewing standard permits for certain types of permanent concrete batch plants.

**Senate Bill 763** requires TCEQ to review these standard permits at least once every eight years to make sure they are still protective of health and the environment. If the standard permit is changed after one of these reviews, facilities already operating under the older version of the standard permit will be allowed to keep operating for a certain period of time.

Senate Bill 763 became law on September 1, 2025, and TCEQ must include these changes in official rules by March 1, 2026.

**Senate Bill 2351** also affects how TCEQ handles permits for permanent concrete batch plants. It says that if TCEQ updates a standard permit, the agency may require that a facility update construction plans to meet any new permit conditions if construction has not started and the operator had asked for more time to start construction.

Senate Bill 2351 became law on May 24, 2025, the same day it was signed by the Governor.

To follow the new requirements set by Senate Bills 763 and 2351, TCEQ is proposing changes to its rules in 30 TAC Chapter 116, Subchapter F, Standard Permits. The changes include:

1. Adding a requirement for TCEQ to conduct a protectiveness review of the standard permit for permanent concrete batch plants at least once every eight years.
2. Adding requirements that apply when TCEQ updates the standard permit for permanent concrete batch plants allowing TCEQ to require application updates for facilities that have not yet started construction and have asked for more time to begin construction.

## Public Comment and Public Meeting Information

TCEQ will offer a hybrid in-person and virtual formal public hearing this proposal in Austin on Thursday, November 20, 2025, at 2:00 p.m. in Building E, Room 201S, at TCEQ's central office located at 12100 Park 35 Circle.

Individuals who plan to attend the meeting virtually and want to provide oral comments must register by Tuesday, November 18, 2025. To register, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the meeting. Instructions for participating in the meeting will be sent on Wednesday, November 19, 2025, to those who register for the meeting.

Members of the public who do not wish to provide oral comments but would like to view the meeting virtually may do so at no cost at:

<https://events.teams.microsoft.com/event/18d7b168-6cfa-4d0a-afb1-8d87db8289d2@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

The meeting will be offered to receive public comments on the proposed non-rule standard permit. Spanish language interpretation services will be provided if requested. For accommodation needs, contact David Munzenmaier, Air Permits Division at (512) 239-6092 or 1-800-RELAY-TX (TDD) as far in advance as possible.

The comment period for this proposed action closes at midnight on November 25, 2025. Submit written comments through TCEQ's Public Comments system at <https://tceq.commentinput.com> or by mail to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. Comments may also be faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Comments must reference Non-Rule Project No. 2025-032-116-AI.

The proposed standard permit can be found on TCEQ's website at <https://www.tceq.texas.gov/permitting/air/nav/standard.html>.

For more information about the proposal or to get help with submitting written comments, contact David Munzenmaier, Rule Project Manager, at (512) 239-6092 or [david.munzenmaier@tceq.texas.gov](mailto:david.munzenmaier@tceq.texas.gov).

## Resumen en lenguaje sencillo sobre propuesta de reglamentación: Actualizaciones para implementar los Proyectos de Ley del Senado 763 y 2351 que requieren una revisión de la protección y requisitos de enmienda para plantas mezcladoras de concreto Proyecto reglamentario no. 2025-032-116-AI

### Introducción

La Comisión de Calidad Ambiental de Texas (TCEQ o la comisión) propone revisiones a la sección 116.605 del Capítulo 116, “Control de la contaminación atmosférica mediante permisos para nueva construcción o modificación” del Título 30 del Código Administrativo de Texas (30 TAC, por sus siglas en inglés) y las revisiones correspondientes al plan de implementación estatal (SIP, por sus siglas en inglés) bajo los requisitos de la sección 382.017 del Código de Salud y Seguridad de Texas, el Capítulo 2001, Subcapítulo b del Código de Gobierno de Texas, y la sección 51.102 del Título 40 del Código de Regulaciones Federales de la Agencia de Protección Ambiental de los Estados Unidos (EPA, por sus siglas en inglés) en relación con los SIP.

### Resumen

La TCEQ propone cambios a las normas de los permisos estándar para plantas mezcladoras de concreto bajo la sección 116.605 del 30 TAC.

Estos cambios se basan en dos nuevas leyes estatales (Proyectos de Ley del Senado 763 y 2351), las cuales requieren que la TCEQ actualice sus cronogramas para la realización de revisiones de la protección y la emisión y revisión de permisos estándar para ciertos tipos de plantas mezcladoras de concreto permanentes.

**El Proyecto de Ley del Senado 763** requiere que la TCEQ revise estos permisos estándar por lo menos una vez cada ocho años para asegurarse de que sigan protegiendo la salud y el ambiente. Si el permiso estándar se cambia después de una de estas revisiones, las instalaciones que ya operan bajo la versión anterior del permiso estándar podrán seguir operando por un periodo de tiempo determinado.

El Proyecto de Ley del Senado 763 se convirtió en ley el 1 de septiembre de 2025 y la TCEQ debe incluir estos cambios en sus normas oficiales antes del 31 de marzo de 2026.

**El Proyecto de Ley del Senado 2351** también afecta la forma en que la TCEQ maneja los permisos para plantas mezcladoras de concreto permanentes, ya que establece que si la TCEQ actualiza un permiso estándar, podría requerir que una instalación actualice los planes de construcción para cumplir con cualquier condición nueva del permiso si la construcción no ha iniciado y el operador ha solicitado más tiempo para iniciar dicha construcción.



El Proyecto de Ley del Senado 2351 se convirtió en ley el 24 de mayo de 2025, el mismo día en que fue firmado por el gobernador.

Para seguir los nuevos requisitos establecidos por los Proyectos de Ley del Senado 763 y 2351, la TCEQ propone cambios a sus normas en el Subcapítulo F ("Permisos estándar) del Capítulo 116 del 30 TAC. Los cambios incluyen:

1. Agregar un requisito para que la TCEQ realice una revisión de la protección del permiso estándar para plantas mezcladoras de concreto permanentes por lo menos una vez cada ocho años.
2. Agregar requisitos que aplican cuando la TCEQ actualice el permiso estándar para plantas mezcladoras de concreto permanentes permitiendo que la comisión requiera actualizaciones a la solicitud para instalaciones que aún no hayan iniciado construcción y hayan solicitado más tiempo para iniciarla.

## Información sobre comentarios y reunión públicos

La TCEQ ofrecerá una audiencia pública en formato híbrido (tanto presencial como virtual) sobre esta propuesta en Austin el jueves 20 de noviembre de 2025 a las 2:00 p. m. en el Salón 201S del Edificio E de sus oficinas centrales ubicadas en 12100 Park 35 Circle.

Las personas que planeen asistir a la audiencia de forma virtual y que deseen ofrecer comentarios orales o que su asistencia quede registrada deben inscribirse a más tardar el martes 18 de noviembre de 2025. Para hacerlo, favor de enviar un mensaje de correo electrónico a [rules@tceq.texas.gov](mailto:rules@tceq.texas.gov) con la siguiente información: nombre, afiliación, dirección de correo electrónico, número telefónico y si desea o no hacer comentarios orales durante la audiencia. Las instrucciones para participar en la audiencia se enviarán a todas las personas inscritas el miércoles 19 de noviembre de 2025.

Las personas que no deseen hacer comentarios orales pero que deseen ver la audiencia, pueden hacerlo de forma gratuita a través del siguiente enlace:

<https://events.teams.microsoft.com/event/18d7b168-6cfa-4d0a-afb1-8d87db8289d2@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

La reunión se ofrecerá para recibir comentarios públicos sobre el permiso estándar no reglamentario propuesto. Se proporcionarán servicios de interpretación al español si se solicitan. Para arreglos especiales, favor de ponerse en contacto con David Munzenmaier de la División de Permisos del Aire mediante llamada al (512) 239-6092 o bien al 1-800-RELAY-TX (TDD, dispositivos de telecomunicación para sordos) con la mayor antelación posible.

El periodo de comentarios para esta acción propuesta concluye el 25 de noviembre de 2025 a medianoche. Los comentarios por escrito pueden enviarse a través del Sistema de Comentarios Públicos de la TCEQ, <https://tceq.commentinput.com>, por correo postal a la siguiente dirección: Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, o por fax a [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Los comentarios deben hacer referencia al Proyecto

No Reglamentario No. 2025-032-116-AI.

Es posible encontrar el permiso estándar propuesto en el sitio web de la TCEQ a través del siguiente enlace: <https://www.tceq.texas.gov/permitting/air/nav/standard.html>.

Para más información sobre la propuesta o para obtener ayuda con el envío de comentarios, favor de ponerse en contacto con David Munzenmaier, Gerente de Proyectos Reglamentarios, mediante llamada al (512) 239-6092 o bien mensaje de correo electrónico a [david.munzenmaier@tceq.texas.gov](mailto:david.munzenmaier@tceq.texas.gov).

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to 30 Texas Administrative Code (TAC) §116.605.

If adopted, these amended rules would be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

### **Background and Summary of the Factual Basis for the Proposed Rules**

Senate Bill (SB) 763 amends Texas Health and Safety Code (THSC), §382.05195, Standard Permit. The bill adds Subsection (e-1) requiring the TCEQ to conduct a protectiveness review at least once every eight years for a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant (CBP) that performs wet batching, dry batching, or central mixing (Air Quality Standard Permit for Concrete Batch Plants (CBP SP)). If the standard permit is amended after a protectiveness review is conducted, TCEQ shall allow facilities authorized to operate under the standard permit as it read before being amended to continue to operate until a date provided by the commission that provides facility operators a reasonable amount of time to comply with the amended standard permit. The bill requires TCEQ to adopt rules necessary to implement these changes no later than March 1, 2026. SB 763 was signed by the Governor on June 20, 2025, and became effective on September 1, 2025.

SB 2351 amends THSC, §382.05195, Standard Permit, by adding Subsection (f-1) that

would apply only to a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing (CBP SP). SB 2351 also amends THSC, §382.05198, Standard Permit for Certain Concrete Plants, by adding Subsection (d) that would apply only to a standard permit issued under that section (Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP)). New THSC, §382.05195, Subsection (f-1) and THSC, §382.05198, Subsection (d) establish that upon TCEQ amending these standard permits, TCEQ may require each facility operator authorized to begin construction of a facility under the former standard permit to update the facility's plans for the new construction in accordance with the amended standard permit if the facility operator did not begin construction before the adoption of the amended standard permit, and if the facility operator filed a request under commission rules for an extension to begin construction. SB 2351 was signed by the Governor on May 24, 2025, and became effective on May 24, 2025, after receiving a vote of two-thirds of all the members of each house.

### **Section by Section Discussion**

To implement the requirements of SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, the commission proposes to amend 30 TAC Chapter 116, Subchapter F (Standard Permits).

The proposed rulemaking would add 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the CBP SP at least once every eight years. The proposed

rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would be applicable only when an amendment to the CBP SP or the CBPEC SP is issued by the commission. New 30 TAC §116.605(f)(1) and (2) would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit if the facility operator did not begin the construction before the adoption of the amended standard permit and the operator filed a request for an extension to begin construction. These proposed requirements would not be applicable to temporary or specialty plants authorized under the CBP SP.

#### **Fiscal Note: Costs to State and Local Government**

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

#### **Public Benefits and Costs**

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance with state law, specifically, SB 763 and SB 2351 from the 89th Regular Legislative Session, 2025. The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

### **Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

### **Rural Communities Impact Assessment**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

### **Small Business Regulatory Flexibility Analysis**

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program, and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Regulatory Impact Analysis Determination**

The commission reviewed the proposed rulemaking considering the regulatory impact analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the proposed rulemaking does not meet the definition of a “Major environmental rule” as defined in that statute, and in addition, if it did meet the definition, would not

be subject to the requirement to prepare a regulatory impact analysis. A “Major environmental rule” means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

The proposed rulemaking’s purpose is to amend 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the concrete batch plant standard permit at least once every eight years. The proposed rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility’s plans for the new construction to comply with the amended standard permit. The new requirements are



required under statutory amendments to THSC, §382.05195.

As defined in the Texas Government Code, TGC, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The proposed amendments to 30 TAC §116.605 do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. The proposed rule implements Senate Bills 763 and 2351, 89th Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits and thus is a specific requirement under state statute. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis during the public comment period. Written comments on the Draft Regulatory Impact Analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Takings Impact Assessment**

Under TGC, §2007.002(5), taking means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The proposed amendments are procedural in nature and would not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property.

Therefore, this rulemaking action would not constitute a taking under TGC, Chapter 2007.

### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 et seq., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance with Coastal Coordination Act implementation rules, 31 TAC §29.22, and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this proposed rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §26.12(l)). The proposed amendments to Chapter 116 would update TCEQ rules to implement the requirement that a protectiveness review be conducted for the CBP SP at least once every eight years and incorporate requirements for when an operator of a facility authorized under the CBP SP or CBPEC SP must comply with the amended standard permit. The CMP policy applicable to the proposed rulemaking is that commission rules comply with federal regulations in Title 40 of the Code of Federal Regulations (40 CFR) to protect and enhance air quality in the coastal areas (31 TAC §26.32). This rulemaking complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §29.22(e), the commission affirms that this

rulemaking is consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the proposed rules are consistent with these CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### **Effect on Sites Subject to the Federal Operating Permits Program**

The proposed amendments are not expected to have a significant impact on sites subject to the Federal Operating Permits Program. Facilities that operate under a registered standard permit and have a Site Operating Permit (SOP) should evaluate the revised applicable requirements of 30 TAC §116.615 to determine if an update to their SOP is necessary.

#### **Announcement of Hearing**

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Thursday, November 20, 2025, at 2:00 PM in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons.

Individuals may present oral statements when called upon in order of registration.

Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m..

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Tuesday, November 18, 2025. To register for the hearing, please email *Rules@tceq.texas.gov* and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Wednesday, November 19, 2025, to those who register for the hearing.

Members of the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/18d7b168-6cfa-4d0a-afb1-8d87db8289d2@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-032-116-AI. The comment period closes at midnight on November 25, 2025. Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact David Munzenmaier, Air Permits Division, (512) 239-6092.

## **SUCHAPTER F: STANDARD PERMITS**

### **§116.605**

#### **Statutory Authority**

The amendments are proposed under Texas Water Code (TWC), §5.013, concerning General Jurisdiction of Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; and THSC §382.05195, concerning standard permits. In addition, the amendments are proposed under TGC, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt

procedural rules; TGC, §2001.006, concerning Actions Preparatory to Implementation of Statute or Rule, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; TGC, §2001.142, concerning Notification of Decisions and Orders, which provides a time period for presumed notification by a state agency; and the Federal Clean Air Act, 42 United States Code (USC), §§7401, et seq., which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state. The proposed amendments implement Senate Bills 763 and 2351, 89 Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits.

The proposed amendments implement changes to THSC, §382.05195.

**§116.605. Standard Permit Amendment and Revocation.**

(a) A standard permit remains in effect until amended or revoked by the commission.

(b) After notice and comment as provided by subsection (c) of this section and §116.603(b)-(f) of this title (relating to Public Participation in Issuance of Standard Permits), a standard permit may be amended or revoked by the commission.



(c) The commission will publish notice of its intent to amend or revoke a standard permit in a daily or weekly newspaper of general circulation in the area affected by the activity that is the subject of the standard permit. If the standard permit has statewide applicability, then the requirement for newspaper notice shall be accomplished by publishing notice in the daily newspaper of largest general circulation within each of the following major metropolitan areas: Austin, Dallas, and Houston. The commission will also provide written notice to registrants and any persons requesting to be on a mailing list concerning a specific standard permit. In both cases, the commission will publish notice in the *Texas Register*.

(d) The commission may, through amendment of a standard permit, add or delete requirements or limitations to the permit.

(1) To remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed. The commission may not require compliance with an amended standard permit within 24 months of its amendment unless it is necessary to protect public health.

(2) Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.

(3) The commission will consider the following when determining whether to amend or revoke a standard permit:

(A) whether a condition of air pollution exists;

(B) the applicability of other state or federal standards that apply or will apply to the types of facilities covered by the standard permit;

(C) requests from the regulated community or the public to amend or revoke a standard permit consistent with the requirements of the TCAA; and

(D) whether the standard permit requires best available control technology.

(4) The commission shall conduct a protectiveness review at least once every eight years in accordance with THSC, §382.05195(e-1) to determine whether to amend the standard permit issued under THSC, §382.05195 regarding the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing.

(e) The commission may require, upon issuance of an amended standard permit, or on a date otherwise provided, the owner or operator of a facility to submit a

registration to use the amended standard permit in accordance with the requirements of §116.611 of this title (relating to Registration to Use a Standard Permit).

(f) When standard permits issued under THSC, §§382.05195 and 382.05198 are amended, the commission may require each facility operator authorized to begin new construction of permanent concrete batch plants that perform wet batching, dry batching or central mixing under the former standard permit to update the facility's plan for the new construction in accordance with the amended standard permit that:

(1) did not begin construction before the adoption of the amended standard permit; and

(2) the facility operator filed a request under §116.120 of this title, (relating to Voiding of Permits) for an extension to begin construction before the effective date of the amended standard permit.

(g) [f] If the commission revokes a standard permit, it will provide written notice to affected registrants prior to the revocation of the standard permit. The notice will advise registrants that they must apply for a permit under this chapter or qualify for an authorization under Chapter 106 of this title (relating to Exemptions from Permitting).

(h) [g] The issuance, amendment, or revocation of a standard permit or the issuance, renewal, or revocation of a registration to use a standard permit is not subject to Texas Government Code, Chapter 2001.