



## TCEQ GENERAL INFORMATION

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External Relations Division  
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# Issues Outside TCEQ's Jurisdiction: Answers to Public Comments We Receive

Public comments are a critical component of TCEQ's decision-making process. While TCEQ strives to assist in every way possible, some matters fall outside of our jurisdiction. The purpose of this document is to help guide commenters to the right places so that concerns can be properly addressed.

## Understanding Our Role and Limitations

The authority, or jurisdiction, of the Texas Commission on Environmental Quality (TCEQ or agency) is limited by statutes (i.e., laws) passed by the Texas Legislature. When the Texas Legislature passes a new statute or amends an existing statute, TCEQ adopts rules that conform with the statutes. When making a decision on an application, TCEQ must consider criteria set forth in statutes and rules, and the agency is prohibited from considering factors not in statute or rule, as those factors are outside TCEQ's jurisdiction.

## Navigating Specific Concerns

Following are some examples of comments that the agency frequently receives expressing concerns that—for many types of authorizations—are outside TCEQ's jurisdiction, meaning that TCEQ cannot consider these concerns when evaluating whether to issue the authorization. The comments and responses below apply to many authorizations; however, the information may vary depending on specific circumstances including the type of permit, type of facility, or location of the facility.

### ***Location/Zoning***

***Commenters express concern regarding the location of the facility, and/or whether it complies with current local zoning ordinances.***

**Response:** Generally, TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule specifically requires the Commission to consider some aspect of the location. For example, for hazardous waste management facilities, the Health and Safety Code prohibits a facility from locating within a half mile of an established residence, church, school, day care center, surface water body used for a public drinking water supply, or a dedicated park. Another example: For concrete crusher permits, the Texas Clean Air Act prohibits a concrete crusher from being located within 440 yards of a residence, school, or place of worship. Generally, however, zoning is beyond the authority of TCEQ to consider when reviewing permit applications. The issuance of a permit does not override any local zoning requirements that may be in effect and does not authorize an applicant to operate outside of local

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zoning requirements. Commenters may wish to contact local (i.e., city or county) zoning authorities with questions or concerns relating to the location of the facility.

## **Property Value**

*Commenters express concern about possible devaluation of property in the area.*

**Response:** TCEQ does not have jurisdiction to consider whether the proposed activity will impact development, property values, property transactions, or investment property when determining whether to approve or deny a permit application. However, the issuance of a permit does not authorize injury to persons or property or invasion of other property rights or violation of state or local law or regulation. A person affected in these ways may pursue a remedy in civil court. The Executive Director's review of a permit application is limited to whether the application and proposed activities meet the requirements of applicable TCEQ rules.

## **Noise**

*Commenters express concern about noise from the proposed project.*

**Response:** TCEQ does not have authority to require or enforce any noise abatement measures, as noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. Accordingly, TCEQ does not have jurisdiction to consider noise from a facility when determining whether to approve or deny a permit application. The scope of the agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property. Commenters may wish to contact local authorities to inquire if there are any applicable local noise ordinances in the area where the facility is located. Commenters may wish to contact local (i.e., city or county) law enforcement authorities with questions or complaints about noise.

## **Light Pollution**

*Commenters express concern regarding light pollution from the proposed project.*

**Response:** TCEQ does not have the authority to address issues regarding light pollution as part of the permitting process. However, the permit does not limit the ability of an individual to seek legal remedies against the applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property. Commenters may wish to contact local (i.e., city or county) authorities with questions or concerns about light pollution, including whether there are any applicable local ordinances in the area of the proposed project.

## **Traffic**

*Commenters express concern over additional traffic because of the facility.*

**Response:** TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. For many authorizations, TCEQ does not have

jurisdiction to consider traffic issues when determining whether to approve or deny a permit application. The scope of the agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property. Commenters may contact the [Texas Department of Transportation \(TxDoT\)](#)<sup>1</sup> for any state highway-related concerns. For any concerns related to city- or county-maintained roads, commenters may contact their local, city, or county public works or roads/streets department.

### *Municipal Solid Waste (MSW)-Related Traffic Comments*

**Additional Response:** TCEQ rules require an owner or operator applying for a new permit or permit amendment for an MSW landfill facility to provide data including the availability and adequacy of roads that the owner or operator will use to access the site; the volume of vehicular traffic on access roads within one mile of the facility, both existing and expected, during the expected life of the facility; and the projected volume of traffic expected to be generated by the facility on the access roads within one mile of the facility. When reviewing MSW permit applications, the Executive Director defers to TxDoT recommendations on transportation and traffic issues regarding the traffic impacts and adequacy of state-maintained roadways and to local authorities' recommendations on transportation and traffic issues regarding the traffic impacts and adequacy of locally maintained roadways. TCEQ rules require that all on-site and other access roadways be maintained by the MSW permit applicant in a clean and safe condition. Litter and any other debris must be picked up at least daily and taken to the working face of the landfill, and access roadways must be re-graded to minimize depressions, ruts, and potholes.

### ***Effect on Local Economy***

*Commenters express concern about the effects the proposed project could have on the local economy.*

**Response:** TCEQ does not have jurisdiction to consider local economic impacts or community improvements in the surrounding areas when determining whether to approve or deny a permit application. Commenters may direct concerns regarding economic effects from the facility to local groups that focus on economic development (e.g., city or county economic development departments). Commenters may direct concerns regarding the location of the facility to local zoning authorities.

### ***Historic Sites***

*Commenters express concern that the proposed facility will potentially affect a historic site location.*

**Response:** TCEQ does not consider the location of historic sites or conduct a land use review of historic sites for air quality permit applications. However, the commission does consider the location of historic sites for some water quality and waste permit applications. An applicant may be required to submit Supplemental Permit Information Forms that provide information to various agencies, including the Texas Historical Commission (THC). In addition, for MSW permit applications, TCEQ rules require an

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<sup>1</sup> [www.txdot.gov/about/contact-us.html](http://www.txdot.gov/about/contact-us.html)

applicant to submit a review letter from the THC documenting compliance with the Texas Antiquities Code. Furthermore, the commission considers the location of historic sites near proposed facilities for hazardous wastes, medical wastes, and uranium recovery/by-product disposal applications. Commenters may wish to contact the THC for any inquiries or additional information regarding historic sites at (512) 463-6100 or [thc@thc.texas.gov](mailto:thc@thc.texas.gov). If concerns are about state lands, commenters may also wish to [contact the General Land Office](#)<sup>2</sup> for any inquiries or additional information at (800) 998-4456.

## In Summary

TCEQ jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statutes and rules. TCEQ rule requirements are intended to safeguard human health and the environment.

If permitted facilities are operated in compliance with TCEQ rules and the terms and conditions of the permit, the facility should not adversely impact human health or the environment. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with any permit terms or other environmental regulations by contacting the TCEQ [Regional Office](#)<sup>3</sup> for their area or by calling the 24-hour toll free Environmental Complaints Hotline at (888) 777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it may be subject to possible enforcement action.

The issuance of a permit does not authorize injury to persons or property, invasion of other property rights, or infringement of state or local law or regulation, and does not limit the ability of an individual to seek legal remedies against an owner or operator regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

## For More Information

For questions about the permitting process, call or email our Public Education Program at 800-687-4040 or [pep@tceq.texas.gov](mailto:pep@tceq.texas.gov).

You can also view pending permit applications, find information on public meetings and contested case hearings, provide comments, request accommodations, and more on our website at [www.tceq.texas.gov/goto/participation](http://www.tceq.texas.gov/goto/participation).

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<sup>2</sup> [s3.glo.texas.gov/glo/contact/email-us/index.html](http://s3.glo.texas.gov/glo/contact/email-us/index.html)

<sup>3</sup> [www.tceq.texas.gov/agency/directory/region](http://www.tceq.texas.gov/agency/directory/region)