

Texas Commission on Environmental Quality  
June 30, 2023

## Plain Language Summary of Withdrawal of Proposed Rule Amendment to Chapter 116 - Control of Air Pollution by Permits for New Construction or Modification

### Introduction

The Texas Commission on Environmental Quality (TCEQ or commission) is withdrawing a proposed amendment to Chapter 116, Control of Air Pollution by Permits for New Construction or Modification. The proposed amendment to §116.615(2) would have added language under a new paragraph (2)(B) to require that, for any requested on-site movement of a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants, the owner or operator shall submit a new or amended registration and fee and comply with the public notice requirements, including the opportunity to request a contested case hearing, unless the new location is greater than 440 yards from any property line..

The executive director has elected to cancel this rulemaking project in order to ensure any proposed rule language remains consistent with existing statute under Texas Health and Safety Code (THSC) §382.058(c) and further evaluate options for addressing this potential issue that were not included for consideration in the proposed rule.

### Summary of Rulemaking Withdrawal

If approved by the Commission, the previously proposed amendment relating to §116.615(2) would be withdrawn and no further action would be taken on this rulemaking item.

### Public Comment and Hearing Information

No stakeholder meetings were held for this rulemaking; however, a rule public hearing was held during the comment period in Austin on April 6, 2023. Notice of the proposed rules was 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.

TCEQ received three comments during the comment period, all expressing concern that the proposed rule was not consistent with THSC §382.058(c) as a means for measuring the distance to determine whether a person may be an affected person. No comments were received in support of the proposed rule change.

For more information about the withdrawal of the amendment or to get help with reviewing submitted comments, contact David Munzenmaier, Rule Project Manager, (512) 239-6092 or [david.munzenmaier@tceq.texas.gov](mailto:david.munzenmaier@tceq.texas.gov)