

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 6, 2026

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 Rulemaking Adoption
Chapter 116, Control of Air Pollution by Permits for New Construction or
Modification
Senate Bills (SBs) 763 and 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 SBs 763 and 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 does:

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

Re: Docket No. 2025-1152-RUL

Additionally, new provisions under 30 TAC §116.605(f)(1) and (2) will apply when the commission issues amendments to the CBP SP or the CBPEC SP. These provisions 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 do not apply to temporary or specialty plants authorized under the CBP SP. The remaining paragraphs under §116.605 were 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 THSC.

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

None.

Statutory authority:

TCEQ adopts 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 ensures 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 were held for this rulemaking. The rules underwent the required 30-day public comment period and a public hearing was held. Notice of the proposed rules were 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, a plain language summary was provided and TCEQ held a public hearing and received public input.

Alternative Language Requirements

The agenda item announcement for adoption at the commissioners' Agenda Meeting will be provided in English and Spanish. A plain language summary and hearing notice were provided in Spanish, and if a need is identified, other documents may be translated into alternative languages. Notice of the proposed rulemaking were published in English and Spanish in the Austin, Dallas, and Houston areas.

Public comment:

The commission held a public hearing on November 20, 2025. The comment period closed on November 25, 2025. The commission received comments from Senator Carol Alvarado (Texas Senate District 6), Representative Armando Walle (Texas House District 140), Bill Alsup on behalf of the City of Richardson, Sydney Beckner on behalf of Texans for Responsible Aggregate Mining (TRAM), Karina Yonekawa Blest, Lisa Brenskille, Theresa Q. Tran Carapucci on behalf of the City of Houston Health Department (HHD), Harris County Attorney's Office (HCAO), Alexandra Cormier, Esteban De La Rosa, Amy Dinn of Lone Star Legal Aid (LSLA) on behalf of Super Neighborhood 48 Trinity/Houston Gardens, Lucia Garcia, Genesis Granados, Kathryn Guerra on behalf of Public Citizen, Leticia Gutierrez of Air Alliance Houston, Jennifer Hadayia of Air Alliance Houston, Julian Hernandez, Omar Herandez, Rich Herweck, Rosa Hines, Iris King, Gavin Linley-Elwell, Mike Renna, Sarah Sam, Adrian Shelly on behalf of Public Citizen, Reem Tariq, Tatum Ownes, Carmela Walker, Ebee Ward of Rigby Slack on behalf of the Texas Aggregate and Concrete Association, and Indira Zaldivar.

No comments were received in opposition to the rule.

Senator Carol Alvarado and Representative Armando Walle commented that the legislature's intention under SB 2351 was that the TCEQ would *require* a permit holder requesting an extension to comply with the most recent version of the standard permit.

In response, the commission noted that the rulemaking action aligns with the statutory language in SB 2351 and that the rulemaking gives TCEQ the ability to require operators authorized under a concrete batch plant standard permit to update plans to comply with an amended standard permit while allowing some discretion when amendments to the standard permit do not warrant an operator submitting updated facility plans.

Significant changes from proposal:

None.

Re: Docket No. 2025-1152-RUL

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.

Will 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 adoption rulemaking schedule:

Texas Register proposal publication date: October 24, 2025

Anticipated *Texas Register* adoption publication date: March 13, 2026

Anticipated effective date: April 2, 2026

Six-month *Texas Register* filing deadline: April 24, 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

Plain Language Summary

Plain Language Summary (Spanish)

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