


# Navigating the TCEQ APO Permit Approval Processes



County-to-County Workshop, November 18, 2024

PERALES,  
ALLMON &  
ICE, P.C.

# Types of APO Activities

- ❖ **Quarrying and Mining:** Extraction of raw materials (limestone, granite, sand, gravel).
- ❖ **Rock & Concrete Crushing:** Breaking down larger rocks into smaller, usable aggregates. Often involves screening and sorting by size. May be done dry or wet or otherwise involve washing.
- ❖ **Concrete Production:** Mixing aggregates with cement and water to create concrete.
- ❖ **Asphalt Manufacturing:** Production of hot and cold mix asphalt for paving.
- ❖ **Cement Kilns:** Finely ground limestone, clay, and other additives are heated at extremely high temperatures in a kiln, and then cooled rapidly, mixed with gypsum, and ground again to form cement.

# Types of TCEQ Permits

## By Pollutant:

- Stormwater Permits
- Wastewater Permits
- Air Emissions Permits

## Coverage Type:

- Individual Permits
- General Permits / Standard Permits
- Permits by Rule

# Air Permits - APO Industry

Permit Type	Description of Activities	Operational Requirements	Public Participation Requirements
<b>TCEQ AIR PERMIT PROGRAMS</b>			
New Source Review (NSR) (also called “Preconstruction Permits”) 30 TAC §116	Any new or modified facility that will emit air pollutants and does not qualify for a standard permit or permit by rule.	Permitting includes a BACT and impacts review. Could also trigger nonattainment or PSD review.	Notice, comment, public meeting, and contested case hearing opportunity.
Federal Operating Permits (FOP) (also called “Title V Permits”) 30 TAC §122	Authorizes the operation of major sources of air pollution (sites with high emissions).	Generally, 10 tpy of one hazardous air pollutant (25 tpy total), or 100 tpy of any air pollutant (with exceptions).	Notice, 30-day comment, public meeting, and “notice and comment” hearing.
<b>STANDARD PERMITS</b>			
Standard Permit for Permanent Rock and Concrete Crushers	Primary throughput of 200 tons/hr or less; limits on the number of emission sources.	Concrete crushing facility must be at least 440 yards from residence, school, or place of worship (exceptions); includes setbacks.	Limited; no opportunity for a contested case hearing.
Standard Permit for Concrete Batch Plants	Permanent, temporary, or specialty plants; production varies.	Setbacks vary.	Limited; hearing only to resident within 440 yards.
Standard Permit or Concrete Batch Plants with Enhanced Controls	Production of concrete at the site must not exceed 300 cubic yards/hour.	Central Bag House must be at least 440 yards from residence, school, or place of worship; includes setbacks.	Limited; no opportunity for a contested case hearing.
<b>PERMITS BY RULE</b>			
	Simplified permitting process for facilities with emissions that do not meet <i>de minimis</i> criteria but will not make a significant contribution of air emissions.	Small operations, including portable crushers and conveyors.	None.



# Standard Permit for Rock Crushing Plants

## Public Notice Requirements

- Applicant publishes notice:
  - 30 days after technically complete; or
  - 75 days after application submitted.
- In newspaper of general circulation inside municipality where facility located or nearest one to crusher.
  - Potentially also in a second language
- Must include:
  - Location of Commission's nearest office where a copy of the application is available
  - Description of the public comment process and deadlines
- Public comment deadline is 30 days from publication.
- Within 30 days, TCEQ ED will approve or deny the permit.
  - Will also prepare response to comments and mail to each commenter.

**NO OPPORTUNITY FOR CONTESTED CASE HEARING**

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



### NOTICE OF APPLICATION FOR AN AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE CRUSHERS

PROPOSED AIR QUALITY REGISTRATION NUMBER 174652

**APPLICATION.** Austex Aggregates LLC, 851 County Road 239, Florence, TX 76527-4620 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 174652, which would authorize construction of a permanent rock and concrete crusher. The facility is proposed to be located at the following directions: from the intersection of Highway 195 and CR 239, travel east on CR 239 for approximately 0.3 miles to the site entrance on the north side of the road, Georgetown, Williamson County, Texas 78633. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.720078,30.76658&level=13>. This application was submitted to the TCEQ on November 17, 2023. The executive director has determined the application was technically complete on February 1, 2024.

**PUBLIC COMMENT.** Written public comments about this application may be submitted at any time during the public comment period. You may submit public comments either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/). Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. The deadline to submit public comments is 30 days after newspaper notice is published.

**RESPONSE TO COMMENTS.** A written response to all relevant comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and requested to be added to the mailing list. The response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 30 days after the end of the public comment period, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

**CENTRAL/REGIONAL OFFICE.** The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Austin Regional Office, located at 12100 Park 35 Circle Bldg A Rm 179, Austin, Texas 78753-1808, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

**INFORMATION.** For more information about this permit application or the permitting process, please call the Public Education Program toll free at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from Austex Aggregates Llc, 851 County Road 239, Florence, TX 76527-4620, or by calling Ms. Monique Weils, Environmental Consultant at (512) 292-4314.

Notice Issuance Date: February 6, 2024

# Standard Permit for Concrete Batch Plants

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



EXAMPLE A

### Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision

Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 177792L001

**Application.** Onx Manufacturing, LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 177792L001, which would authorize construction of a concrete batch plant located at 825 County Road 289, Georgetown, Williamson County, Texas 78633. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/locationMapper/?marker=97.839166,30.729722&level=13>. The proposed facility will emit the following air contaminants: particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

This application was submitted to the TCEQ on October 6, 2024. The executive director has completed the administrative and technical reviews of the application and determined that the application meets all of the requirements of a standard permit authorized by 30 TAC § 116.611, which would establish the conditions under which the plant must operate. The executive director has made a preliminary decision to issue the registration because it meets all applicable rules. The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Austin regional office, and at Georgetown Public Library, 402 West 8th Street, Georgetown, Williamson County, Texas, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas. Visit [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) to review the standard permit.

**Public Comment/Public Meeting.** You may submit public comments or request a public meeting. See Contacts section. The TCEQ will consider all public comments in developing a final decision on the application. The deadline to submit public comments or meeting requests is 30 days after newspaper notice is published. Issues such as property values, noise, traffic safety, and zoning are outside of the TCEQ's jurisdiction to consider in the permit process.

The purpose of a public meeting is to provide the opportunity to submit comments or ask questions about the application. A public meeting about the application will be held if the executive director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing. If a public meeting is held, the deadline to submit public comments is extended to the end of the public meeting.

**Contested Case Hearing.** You may request a contested case hearing. A contested case hearing is a legal proceeding similar to a civil trial in state district court. Unless a written request for a contested case hearing is filed within 30 days from this notice, the executive director may approve the application.

A person who may be affected by emissions of air contaminants from the facility is entitled to request a hearing. To request a hearing, a person must actually reside in a permanent residence within 440 yards of the proposed plant. If requesting a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number; (2) applicant's name and registration number; (3) the statement "[I/we] request a contested case hearing;" (4) a specific description of how you would be adversely affected by the application and air emissions from the facility in a way not common to the general public; (5) the location and distance of your property relative to the facility; (6) a description of how you use the property which may be impacted by the facility; and (7) a list of all disputed issues of fact that you submit during the comment period. If the request is made by a group or association, one or more members who have standing to request a hearing must be identified by name and physical address. The interests which the

## Public Notice Requirements

- TCEQ performs administrative and technical review. Once complete, Applicant must publish a single public notice called "Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision"
- In newspaper of general circulation inside municipality where facility located or nearest one to crusher.
  - Potentially also in a second language
- Sign Posting is Required.
- Within 30 days from publication:
  - Submit comments; public meeting requests, and contested case hearing requests.
  - A public meeting does not extend hearing request deadline.
- **Hearing requesters must reside in a permanent residence within 440 yards of the proposed plant.**
  - Request must include multiple items, including how requester would be adversely affected by the air emission in a way not common to general public
- TCEQ ED will prepare Response to Comments and decision on application, send to all on mailing list.
  - If no hearing requests, then the ED may approve the permit.
  - If timely hearing requests are pending, ED will refer to Commissioners Agenda.

# Standard Permit for Concrete Batch Plants with Enhanced Controls

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



### NOTICE OF APPLICATION AND PUBLIC HEARING FOR AN AIR QUALITY STANDARD PERMIT FOR A CONCRETE BATCH PLANT WITH ENHANCED CONTROLS

PROPOSED AIR QUALITY REGISTRATION NUMBER 177283

**APPLICATION.** JD Woodruff Construction LLC, PO Box 2, Mc Queeney, TX 78123-0002 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 177283 to authorize the operation of a concrete batch plant. The facility is proposed to be located at 1.3 miles East of 1150 on Southside of Highway 90 Alt, Seguin, Guadalupe County, Texas 78638. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.754276,29.541241&level=13>. This application was submitted to the TCEQ on August 19, 2024. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on September 10, 2024.

**PUBLIC COMMENT / PUBLIC HEARING.** Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, TX 78711-3087, or electronically at [www14.tceq.texas.gov/epic/Comment/](http://www14.tceq.texas.gov/epic/Comment/). Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

**THE PUBLIC HEARING IS TO BE HELD:  
WEDNESDAY, OCTOBER 30, 2024, AT 6:00 PM  
AMERICAN LEGION HALL 245  
618 E KINGSBURY STREET  
SEGUIN, TEXAS 78165**

**RESPONSE TO COMMENTS.** A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

copying at the TCEQ Central Office  
onio, Texas 78233-4480, during the  
ation of this notice.

the permitting process, please call  
en Español, puede llamar al

Box 2, Mc Queeney, TX 78123-0002,

## Public Notice Requirements

- Applicant publishes notice:
  - 30 days after technically complete; or
  - 75 days after application submitted.
- In newspaper of general circulation inside municipality where facility located or nearest one to crusher.
  - Potentially also in a second language
- Must include (among other things):
  - Location of Commission's nearest office where a copy of the application is available
  - Description of the public comment process and deadlines
- Public hearing (non-evidentiary) must be held between 30-45 days after first notice is published.
- Public comment deadline is 30 days from publication or to the end of the public hearing.
- No later than 35 days after the public hearing, ED must approve or deny an application.
  - Will also prepare response to comments and mail to each commenter.

**NO OPPORTUNITY FOR CONTESTED CASE HEARING**

# TCEQ Permitting Resources

**Search Commissioners Integrated Database (CID):**

[https://www.tceq.texas.gov/agency/decisions/cc/cc\\_db.html](https://www.tceq.texas.gov/agency/decisions/cc/cc_db.html)

**Search TCEQ Notices:**

[https://www.tceq.texas.gov/agency/decisions/cc/pub\\_notice.html](https://www.tceq.texas.gov/agency/decisions/cc/pub_notice.html)

**Request to be added to mailing list:** 1) general permits; 2) individual permits; or 3) the permanent mailing list for a specific county:

<https://www14.tceq.texas.gov/epic/eComment/>

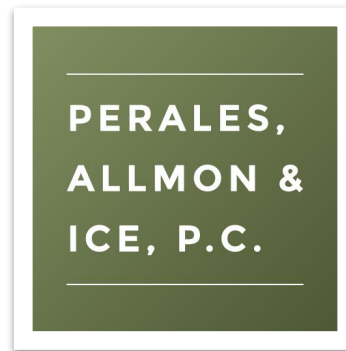


# City & County Authority

- TCAA Sec. 382.112. RECOMMENDATIONS TO COMMISSION. A local government may make recommendations to the commission concerning a rule, determination, variance, or order of the commission that affects an area in the local government's territorial jurisdiction.
  - “The commission shall give maximum consideration to a local government's recommendations.”
- Participate as an “affected person” in contesting a permit
  - 30 TAC 55.203 requires the Commission to consider: “for governmental entities, their statutory authority over or interest in the issues relevant to the application.”
- TCAA Sec. 382.111. INSPECTIONS; POWER TO ENTER PROPERTY. Gives a local government (City, County, health district) power to inspect the air and to enter public or private property inside its jurisdiction to determine: if air emissions meet levels set by TCEQ or municipality; or if the person is complying w TCAA or TCEQ rules.
  - Some limitations; must send results of inspections to the Commission when requested.
- Under Texas Water Code Sec. 26.173, a “local government ” (more broadly defined) has the same power as does TCEQ to enter property within its jurisdiction to inspect and investigate “conditions related to water quality.”
  - Some limitations; must send results of inspections to the Commission when requested.
- Under Texas Water Code Secs. 7.351-7.353, a local government may sue for injunctive relief and penalties for violations of air and water laws or permits.



# Questions?



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