

Date: May 10, 2023

To: Chairman Landgraf and the Members of the House Committee on Environmental Regulation

CC: Rep. R. D. "Bobby" Guerra, Rep. Keith Bell, Rep. Jay Dean, Rep. John Kuempel, Rep. Janie Lopez, Rep. Thresa "Terry" Meza, Rep. Penny Morales Shaw, Rep. Ron Reynolds

Via hand delivery and by email.

From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155

Re: SB 1399 – Six-year review of concrete permits – Public Citizen testimony in support

Dear Chairman Landgraf and Members of the Committee:

Public Citizen appreciates the opportunity to testify in support of SB 1399 by Senator Charles Schwertner, relating to the renewal and review of certain air quality permits. We support both a six-year protectiveness review and a six-year term for standard permits.

We support a protectiveness review of each standard permit every six years.

The Texas Commission on Environmental Quality (TCEQ) does protectiveness reviews to ensure that its permits are protective of human health and the environment. For many reasons, we do not believe that TCEQ permits generally meet that goal today. In fact, we believe that significant overhaul of the agency is needed, including to permitting. For example, permitting ignores siting and therefore cannot address environmental justice impacts to low-income communities of color or cumulative impacts of multiple polluting facilities siting in one community.

More regular protectiveness reviews are one way to begin to address this problem. Infrequent protectiveness review lead to outdated permits that do not protect human health. To take a timely example, the TCEQ last conducted a protectiveness review of the concrete batch plant permit on September 24, 2012.¹ Last year the agency announced it would amend the concrete batch plant standard permit and would conduct a new protectiveness review. This announcement included an opportunity for comment during which Public Citizen (and others) offered a critique of the 2012 protectiveness review.²

On April 14, 2023, the TCEQ released a proposed standard permit revision that included data from a new protectiveness review.³ These means the protectiveness review of the concrete batch plant standard permit happened after eleven years. However, this review only comes on the heels of a lawsuit the agency lost due to a “clerical error” found in its

¹ See <https://law.utexas.edu/wp-content/uploads/sites/11/2019/01/2019-EC-ConcreteBatchGuide-AttachmentB.pdf>. In 2021 Public Citizen provided comments on

² See <https://www.citizen.org/news/public-citizen-urges-texas-to-adopt-stronger-rules-for-concrete-plants/>.

³ See <https://www.tceq.texas.gov/permitting/air/newsourcereview/2023-amendment-concrete-batch-standard-permit>.



People • Power • Progress YEARS

last standard permit rewrite.⁴ Without that error or the general public outcry about concrete plants, it is unclear when another protectiveness review would have been done at all.

Given the significant length of time between the last two protectiveness reviews for the concrete batch plant industry, and the increased public awareness and concern about this industry, a more regular protectiveness review is appropriate.

We support shortening the permit renewal from ten years to six.

SB 1399 also shortens the term of a standard permit from ten years to six. This means that a standard permit holder would need to apply to renew their permit every six years. The permit renewal is an opportunity for the TCEQ to review the permit and ensure that it is still protective of human health and the environment. Reviewing permits more frequently will help to ensure that permits that are not protective of human health are updated more regularly.

We believe this more regular review will lead to permits that are more protective of human health.

For these reasons we support SB 1399.

⁴ See, e.g., <https://www.star-telegram.com/news/local/article254625632.html>.