

Date: April 5, 2023  
To: Chairman Birdwell and the Members of the Senate Committee on Natural Resources & Economic Development  
CC: Sen. Judith Zaffirini, Sen. Carol Alvarado, Sen. César Blanco, Sen. Kelly Hancock, Sen. Bryan Hughes, Sen. Lois W. Kolkhorst, Sen. Borris L. Miles, Sen. Kevin Sparks  
*Via hand delivery and by email.*

**From: Adrian Shelley, Public Citizen, [ashelley@citizen.org](mailto:ashelley@citizen.org), 512-477-1155**

**Re: SB 1399 - Public Citizen testimony in support**

Dear Chairman Birdwell 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 Infrequent protectiveness review lead to outdated permits that do not protect human health.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.<sup>1</sup> 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.<sup>2</sup>

The TCEQ is now redoing its protectiveness review of the concrete batch plant standard permit after a decade. However, this review only comes on the heels of a lawsuit the agency lost due to a “clerical error” found in its last standard permit rewrite.<sup>3</sup> Without that error or the general public outcry about concrete plants, it is unclear when another protectiveness review would have been done.

---

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

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

<sup>3</sup> See, e.g., <https://www.star-telegram.com/news/local/article254625632.html>.



**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.