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Date: May 1, 2025
To: Chairman Brooks Landgraf and the Members of the House Committee on Environmental Regulation
CC: Vice-Chair Claudia Ordaz, Rep. Rafael Anchía, Rep. Keith Bell, Rep. Ben Bumgarner, Rep. Penny Morales Shaw, Rep. Tom Oliverson, Rep. Ron Reynolds, Rep. Steve Toth
Via hand delivery and by email.

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

Re: SB 763, concrete plant protectiveness reviews – Public Citizen testimony in support

Dear Chairman Birdwell and Members of the Committee:

On behalf of our approximately 30,000 members in Texas, Public Citizen appreciates the opportunity to testify in support of SB 763, relating to the renewal and review of standard permits for certain concrete plants. We support this bill because it provides for a more regular protectiveness review of the standard permit for concrete batch plants.

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

A protectiveness review is a review of the science of air pollution and health intended to determine whether an air permit is still protective of human health and the environment. The Texas Commission on Environmental Quality (TCEQ) performs protectiveness reviews, but at present there is no regular schedule for protectiveness reviews. The last three protectiveness reviews for the concrete batch plant standard permit were on April 14, 2023,[1] September 24, 2012,[2] and December 2000.[3]

The 2023 protectiveness review was done due to overwhelming public pressure and opposition to concrete batch plant proposals across the state. The 2023 review was also done to correct a "clerical error" found in its last standard permit rewrite during a lawsuit the agency lost concerning a specific plant.[4] Without that error, the lawsuit loss, and the general public outcry about concrete plants, it is unclear when the next protectiveness review would have happened.

Given the significant length of time between the last three 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.

This bill passed in both chambers last session.

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[1] On this day the TCEQ released a proposed standard permit revision that included data from a new protectiveness review. *See* *https://www.tceq.texas.gov/permitting/air/newsourcereview/2023-amendment-concrete-batch-standard-permit*.
[2] *See* *https://law.utexas.edu/wp-content/uploads/sites/11/2019/01/2019-EC-ConcreteBatchGuide-AttachmentB.pdf*.
[3] *See* *https://law.utexas.edu/wp-content/uploads/sites/11/2019/01/2019-EC-ConcreteBatchGuide-AttachmentA.pdf*.
[4] *See, e.g.,* *https://www.star-telegram.com/news/local/article254625632.html*.

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During the 88th legislative session in 2023 both chambers of the legislature passed an identical version of this bill in SB 1399 (88R). This committee voted it out unanimously. As originally filed, that bill required a standard permit for concrete batch plants to be renewed every six years and required a protectiveness review of the standard permit for concrete batch plants every six years. The enrolled version of the bill was identical to this filed bill—it included only the six-year protectiveness review.

The Governor vetoed this bill, but we believe it is still good policy and should be sent back to the Governor for his signature.

Concrete batch plants are a danger to public health due primarily to particulate matter, which is deadly.

Finally, we note that the primary pollutant of concern emitted by a concrete batch plant is particulate matter. Particulate matter is associated with a wide range of health impacts including:

- Death[5]
- Stroke[6]
- Heart attack[7]
- Diabetes[8]
- Impairment of brain development[9]
- Low birth weight[10]
- Prenatal exposure[11]

[5] C. W. Tessum, D. A. Paolella, S. E. Chambliss, J. S. Apte, J. D. Hill, J. D. Marshall, "PM2.5 polluters disproportionately and systemically affect people of color in the United States." Sci. Adv. 7, eabf4491 (2021) https://advances.sciencemag.org/content/7/18/eabf4491/tab-pdf.

[6] Zhang, et. al. "Acute Effects of Particulate Air Pollution on Ischemic Stroke and Hemorrhagic Stroke Mortality" (2 Oct. 2018) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6176083/.

[7] Zhao et. al. "Short-term exposure to ambient fine particulate matter and out-of-hospital cardiac arrest: a nationwide case-crossover study in Japan" (Jan. 2020) https://www.thelancet.com/action/showPdf?pii=S2542-5196%2819%2930262-1.

[8] He, et. al "Association between particulate matter 2.5 and diabetes mellitus: A meta-analysis of cohort studies" (Sept. 2017) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5583950/.

[9] Brockmeyer and D'Angiulli "How air pollution alters brain development: the role of neuroinflammation" (21 Mar. 2016) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5017593/.

[10] Bell, et. al. "Prenatal Exposure to Fine Particulate Matter and Birth Weight" Nov. 2010) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3055585/.

[11] Bongaerts et. al. "Maternal exposure to ambient black carbon particles and their presence in maternal and fetal circulation and organs: an analysis of two independent population-based observational studies" (Oct. 2022) https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(22)00200-5/fulltext.