



February 08

**Proposed Amendments to
Air Quality
Standard Permit
for Temporary Rock and
Concrete Crushers ~~and~~
~~Temporary Concrete~~
Crushers**



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Table of Contents

I. Executive Summary	1
II. Explanation and Background of Air Quality Standard Permit	1
III. Overview of Air Quality Standard Permit Amendments	1
IV. Permit Condition Analysis and Justification	1
V. Protectiveness Review	3
VI. Public Notice and Comment Period	3
VII. Public Meeting	3
VIII. Statutory Authority	4
Amendments to Air Quality Standard Permit for Temporary Rock and Concrete Crushers.	5

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SUMMARY DOCUMENT FOR AMENDED AIR QUALITY STANDARD PERMIT FOR TEMPORARY ROCK AND CONCRETE CRUSHERS

I. EXECUTIVE SUMMARY

In accordance with Title 30 Texas Administrative Code (30 TAC) §116.605, Standard Permit Amendment and Revocation, the Texas Commission on Environmental Quality (TCEQ or commission) is proposing amendments to the air quality standard permit for temporary rock and concrete crushers. These amendments include several technical and administrative improvements and corrections.

II. EXPLANATION AND BACKGROUND OF AIR QUALITY STANDARD PERMIT

The New Source Review (NSR) Program under 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, requires any person who plans to construct any new facility or to engage in the modification of any existing facility which may emit air contaminants into the air of the state to obtain a permit pursuant to 30 TAC §116.111, General Application, or satisfy the conditions of a standard permit, a flexible permit, a permit by rule, or the criteria for a de minimis facility or source, before any actual work is begun on the facility. A standard permit authorizes the construction or modification of new or existing facilities that are similar in terms of operations, processes, and emissions. A standard permit provides an efficient mechanism for qualifying facilities to obtain authorization, as an alternative to a case-specific air quality permit. The standard permit for temporary rock and concrete crushers first became effective on February 14, 2002, and was amended July 5, 2005. The standard permit is applicable to temporarily-sited rock and concrete crushers that process nonmetallic minerals or a combination of nonmetallic minerals, and have a feed hopper throughput that is equal to or less than 250 tons per hour (tph). Facilities covered by this standard permit are often used to produce aggregate materials for road construction, or crush concrete resulting from demolition projects. Temporary rock and concrete crushers may also be used in applications such as commercial and residential construction.

III. OVERVIEW OF AIR QUALITY STANDARD PERMIT AMENDMENTS

During development of the Air Quality Standard Permit for Permanent Rock and Concrete Crushers, a review of the Air Quality Standard Permit for Temporary Rock and Concrete Crushers revealed the need for minor adjustments to this permit. The commission is proposing technical and administrative amendments to improve readability, flexibility, and enforceability of this standard permit. Requirements concerning emission limits, control requirements, and recordkeeping have not changed substantively.

IV. PERMIT CONDITION ANALYSIS AND JUSTIFICATION

The commission proposes to change the title of the standard permit to, "Air Quality Standard Permit for Temporary Rock and Concrete Crushers." The opening paragraph would require any permit holder to demonstrate compliance with any or all of the conditions of this standard permit upon request in order to ensure that facilities operating under this permit have the correct authorization.

The commission proposes a definition of the term "residence" be added to the general requirements. The term residence is used throughout various statutes and rules of the TCEQ and other state agencies. However, the term is not defined under the Texas Clean Air Act or by air quality-related agency rules. Webster's defines "reside" as "to live in a place for a permanent or extended time." It further defines "residence" as "the place in which one lives." (Webster's II New College Dictionary, 1995) Texas courts

have generally accepted that “residence” means “the place where one actually lives or has his or her home; a person’s dwelling place or place of habitation; a dwelling house.” (*Owens Corning v. Carter*, 997 S.W.2d 560 (Tex. 1999); *Malnar v. Mechell*, 91 S.W.3d 924 (Tex. App. Amarillo 2002); *Dickey v. McComb Development Co., Inc.* 115 S.W. 3d 42 (Tex. App. San Antonio 2003))

In most situations, whether or not a structure is a residence is generally self-evident. In some cases, however, questions may arise as to the character of a structure located near a facility in determining its compliance with applicable distance requirements. When necessary, a case-by-case determination shall be made by the TCEQ executive director regarding whether or not a structure is in fact a residence. The executive director may consider factors and circumstances specific to the situation in making the determination. Potential factors that may be considered include, but are not limited to:

- Local tax rolls showing the property as a residence
- Utility bills showing a residential rate
- Location of the structure in a neighborhood with any deed restrictions or zoning ordinances on use as a business or other non-residential activity
- Frequency of use of structure as a residence

The commission proposes a change to paragraph (1)(D)(iv) to make clear that the exception for recycling does not apply in any county adjacent to a county with a population of greater than 2.4 million people. In subsection (1)(E) the requirement to cover conveyors would be narrowed to only those conveyors over 300 feet long. This requirement represents best available control technology (BACT) as required by the Texas Health and Safety Code (THSC). The operation of conveyors less than 300 feet long without covers is not likely to adversely impact off-property receptors.

The commission proposes to add language to subsections (1)(Q), (2)(E), (2)(H), and (3)(G) which makes clear that the limitations in those sections do not apply to facilities in storage. The commission also proposes to change the requirement in subsection (1)(U) to be consistent with a similar requirement in the proposed Air Quality Standard Permit for Permanent Rock and Concrete Crushers. This subsection would limit the owner or operator of a facility authorized by this standard permit from seeking authorization for a crushing facility under THSC, §382.0518, Preconstruction Permit, located at the same site for a period of 12 months from the date of notification. The purpose of this condition is to prevent an applicant for a case-specific NSR permit from using this standard permit to begin construction of the facility prior to issuance of the permit. The commission proposes to add subsection (1)(V) to prevent an applicant for a case-specific NSR permit from using this standard permit to avoid a contested case hearing. Proposed subsection (1)(W) states that maintenance activities are not authorized by this standard permit and would require a separate authorization. Additionally, startup and shutdown emissions that exceed those expected during production operations are not included in this authorization and would also require a separate authorization.

The amendment to subsection (3)(E) make clear that the time limits in this condition do not apply to a facility that is located at a public works project and complies with the requirements of subsection (3)(H).

The commission proposes to add subsection (3)(H) to facilitate the use of this standard permit to authorize temporary facilities at a public works site that provides material exclusively to the public works project. It allows a facility to remain at a public works site for the length of the project or related project segments. A project is a public works contract or series of contracts for segments of related work. For crushers on a Texas Department of Transportation right-of-way (ROW) or contiguous to the ROW, related project segments are one contract or one contractor with multiple contracts for a single project. A crusher that is sited on the ROW is usually within project limits. However, a crusher located at an

intersection or wider ROW outside project limits is acceptable if it can be easily associated to the project. Subsection (3)(H) is not intended as a means for siting a permanent facility.

V. PROTECTIVENESS REVIEW

The primary pollutant emitted from rock or concrete crushers is particulate matter. The characteristics of these emissions (such as particle size) may vary depending on the type of material being crushed, the specific operation generating the dust (crushing, screening, etc.), and the type of control techniques applied to the source. The only portion of the amendments with the potential to affect off-property impacts is the removal of the requirement to cover conveyors that are less than 300 feet long. The operation of conveyors less than 300 feet long without covers is consistent with current BACT for these facilities. Additionally, emission reductions based on covering all conveyors were not considered in the emission calculations for the original protectiveness review. The commission has previously determined that the 200-foot and 300-foot limits for Tier I and II crushers are protective, and would not result in exceedances of the national ambient air quality standard for particulate matter less than ten microns in diameter. Because existing modeling data is sufficient to support the limited changes in these amendments, a new modeling analysis was not performed.

VI. PUBLIC NOTICE AND COMMENT PERIOD

In accordance with 30 TAC § 116.605, the TCEQ published notice of the proposed amendments to this standard permit in the *Texas Register* and newspapers of the largest general circulation in Austin, Houston, and Dallas. The date for these publications was February 15, 2008. The public comment period will run from the date of publication until March 21, 2008. Any person who may be affected by the emission of air pollutants from facilities that may be authorized under the standard permit is entitled to submit comments regarding the proposed standard permit amendments.

Comments may be mailed to Mr. Blake Stewart, Texas Commission on Environmental Quality, Office of Permitting, Remediation, and Registration, Air Permits Division, MC 163, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1070. All comments should reference the standard permit amendments for temporary rock and concrete crushers. Comments must be received by March 21, 2008. To inquire about the submittal of comments or for further information, contact Mr. Stewart at (512) 239-6931. Si desea información en Español, puede llamar al (800) 687-4040.

VII. PUBLIC MEETING

A public meeting on the proposed amendments will be held on March 18, at 1:30 p.m., at the TCEQ, Building E, Room 254S, 12100 Park 35 Circle, Austin, Texas. The meeting will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion with the audience will not occur during the meeting; however, TCEQ staff will be available to discuss the standard permit amendments 30 minutes prior to the meeting and staff will also answer questions after the meeting.

Persons who have special communication or other accommodation needs who are planning to attend the public meeting should contact the TCEQ at (512) 239-6931. Requests should be made as far in advance as possible.

VIII. STATUTORY AUTHORITY

The amendments to this standard permit are issued under THSC §382.05195, which authorizes the commission to issue and amend standard permits according to the procedures set out in that section; §382.065, which prohibits operation of a concrete crushing facility in certain locations; §382.011, which authorizes the commission to control the quality of the state's air; and §382.051, which authorizes the commission to issue permits, including standard permits for numerous similar sources.

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