

TCEQ, Air Permits Division
Permanent Rock Crusher Stakeholder Group
May 9, 2007
1:30 p.m.
12100 Park 35 Circle
Building C, Room 131E
Austin, Texas

Minutes

I Opening Remarks Richard Hyde

Mr. Hyde welcomed the stakeholders and thanked them for attending the meeting. He gave a brief background of the Air Permits Division's efforts towards development of a standard permit for permanent rock crushers that would replace the current permit by rule (PBR).

II Discussion of the Definition of a Residence Blake Stewart

Mr. Stewart discussed the definition of a residence proposed for both the standard permit for permanent rock crushers and the standard permit for temporary rock crushers. He stated that the definition in the permit conditions would be very general and there would be a more comprehensive discussion in the technical summary about the attributes that distinguish a residence from other types of structures. These attributes would include presence of functional plumbing and electrical systems, location in an area zoned residential or having a specific use permit as a residence, on property tax role as a residence, and so forth. Mr. Stewart requested the suggestion of any additional factors that are representative of residential properties. Mr. Hyde added that it was incumbent on the applicant to make the determination whether there were any residential properties within the setbacks required by the permit. There was a question concerning the use of a waiver to exempt a residence from the setback requirement and a TCEQ attorney agreed to look into it. There was also a question concerning length of occupation and Mr. Hyde said that he did not want to make that a condition for determining a residence.

III Discussion of Changes to Proposed ConditionsMike Gould

Mr. Gould began the discussion with the standard permit for temporary rock crushers. He described changes to the permit, including definition of a residence, an addition to improve clarity in the recycling exemption, and language that provides an exception for storage of a rock crusher. Changes designed to prevent applicants from using the standard permit to site a facility immediately prior to application for a new source review (NSR) permit or from applying for the standard permit immediately after applying for an NSR permit generated considerable discussion. Some attendees felt these conditions were unnecessary and others wanted them strengthened.

There was a question why a Tier II crusher is allowed to locate at a quarry. Mr. Stewart answered that at some small quarries the demand for aggregate was not sufficient to require a permanent rock crusher. One attendee felt that this provided an opportunity for abuse. There

was also a suggestion that the TCEQ charge a fee for temporary rock crushers. Mr. Gould addressed the time exemption for public works projects. An attendee was concerned that this exemption had the potential for allowing abuse by industry. Mr. Gould described the safeguards currently in place to prevent the establishment of a permanent quarry using this exemption. Mr. Stewart suggested a discussion of these safeguards in the technical summary of standard permit. An attendee noted that, while the permit would prevent the same company from siting a new rock crusher on a particular piece of property after the time limit had expired, the permit would not prevent a different company from siting a crusher immediately after the removal of a crusher owned by another company. TCEQ staff discussed the difficulty of attaching conditions to the site due to property rights and takings issues. After additional discussion on this issue TCEQ staff agreed to try to tighten this condition to prevent this situation.

There was considerable discussion regarding the condition that requires a crusher authorized by the standard permit to vacate the site upon applying for a case-by-case NSR permit. Some attendees supported it and others felt that, since two years may be required to obtain an NSR permit, a waiting period prior to application was not necessary. Staff explained that the purpose was to ensure that there was no appearance of circumventing the public notice requirements.

Mr. Gould discussed changes made to the draft standard permit for permanent rock crushers. These changes include a definition of a residence that was discussed earlier. The changes also include edits to the conditions that place restrictions on changing the type of authorization from standard permit to NSR permit, or vice versa. This issue generated additional discussion with some attendees in agreement with the requirements and others feeling that it wasn't necessary. The requirement that records be kept with the crusher was changed to allow the records to be kept on site. One attendee asked if TCEQ could include a provision that would allow the public access to the records. Staff replied that the permit requires the operator to provide records to TCEQ upon request and records in the possession of TCEQ are subject to an open records request. However, there is no statutory authority to give the public the right to go into a site and view records through a condition in a standard permit.

Another change narrowed the PBRs that were not available to facilities authorized by the draft standard permit to the PBRs for aggregate facilities and engines. There is now a condition that states that the PBR for rock crushers will no longer be available after the issuance of this standard permit. Although there were no changes to the public notice requirements in the standard permit, Mr. Gould provided a brief discussion of these requirements. One attendee stated that the 30-day comment period was not long enough because the public is not knowledgeable enough about the public notice process and suggested a 60-day comment period. Another attendee asked that the comment period not be extended.

Mr. Gould discussed the changes to the operational requirements in the permit, including a change to allow multiple crushers on a single site as long as there was a minimum of 550 feet between any two crushers. An attendee suggested that the addition of a sand screw and a log washer to the listed facilities allowed under the standard permit was unnecessary since neither piece of equipment emitted any air contaminants. An attendee suggested using the word total in place of the word aggregate in the condition specifying total operating hours. Staff pointed out that total operating hours applied to the combined operating hours for all crushers on a site. An

attendee asked if this condition excluded driving a loader in a work area after the total operating hours had been reached. Staff agreed to an exclusion from the total operating hour requirement for this activity.

An attendee commented on the cumulative effect of multiple quarries on ambient air quality. This comment resulted in a discussion of attainment for particulate matter and the monitoring used to make the determination of attainment. There was a short discussion on the reason for the requirement that prevents operating after dark. This requirement is not based on modeling, but is intended to prevent nuisance and ensure that the opacity and visible emissions requirements can be enforced. An attendee asked if a pump was subject to operating hour requirements and staff replied that, if it was a diesel pump authorized by the standard permit, it would be subject to these requirements. There was a discussion regarding the requirement to have a weigh belt or scale belt and attendees noted that everything coming out of the crusher would be weighed. An attendee asked if the tons per hour limit was an average and staff replied that it was not.

An attendee asked how this standard permit would affect a facility authorized by a PBR. Staff replied that the requirement to use the standard permit rather than the PBR was not retroactive but, if any modification was made to the facility, future authorizations would be limited to the standard permit or an NSR permit.

IV Closing Remarks/Action Items Blake Stewart

Mr. Stewart thanked the attendees for providing input on this standard permit and requested that any written comments be provided by May 25.