

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities
(LAC 33:III.317) (AQ321)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.317 (AQ321).

This Rule will provide for a regulatory permit which will authorize air emissions from concrete, rock, and asphalt crushing facilities. The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rationale for this Rule are to establish a regulatory permit to authorize air emissions from concrete, rock, and asphalt crushing facilities. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 26, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Perry Theriot at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ321. Such comments must be received no later than November 2, 2011, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to perry.theriot@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ321. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue,

Proposed/September 20, 2011

AQ321

Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§317. Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of rock, concrete, and asphalt crushing facilities, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection H of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both fixed and portable crushers. Fixed crushers are those attached by a cable, chain, turnbuckle, bolt, or other means to any anchor, slab, or structure, including bedrock.

B. New Source Performance Standards. Each fixed crusher with a capacity of more than 25 tons per hour and each portable crusher with a capacity of more than 150 tons per hour for which construction, modification, or reconstruction commenced after August 31, 1983, shall comply with the applicable provisions of 40 CFR 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. Modification and reconstruction are described in 40 CFR 60.14 and 15, respectively.

C. Control of Fugitive Emissions

1. Emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

2. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensify an existing traffic hazard condition are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following.

a. Open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion.

b. Earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed.

c. In-plant roads, active work areas, material stockpiles, and other surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

4. If dust cannot be controlled by other means, the department may require permanently mounted spray bars to be installed at the inlet and outlet of the crusher, at all shaker screens, and/or at all material transfer points and used as necessary.

5. Best housekeeping and maintenance practices shall be employed to minimize emissions of organic compounds. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-4.

D. Filter Vents (Baghouses)

1. Monitoring and Repair

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected no less than once every six months or more frequently if daily visual checks indicate maintenance may be necessary.

c. Elements shall be changed in accordance with the manufacturer's recommendations or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on-site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph D.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph D.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph D.1.c of this Section.

3. The daily monitoring and recordkeeping requirements in this Subsection shall not apply when the crusher is not operational.

E. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including any used oil, facility byproducts, or other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used as a fuel in ICEs.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. Opacity

a. Limitations

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. Subparagraph E.2.a of this Section shall not apply if the presence of uncombined water is the only reason for failure of an emission to meet the opacity limitations.

b. Monitoring, Recordkeeping, and Reporting

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, within 3 operating days.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity in accordance with Method 9 of 40 CFR 60, Appendix A, the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading shall be repeated in accordance with Method 9. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after the occurrence of any Method 9 readings in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

3. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

4. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

5. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

F. Operating Time. The crusher and associated equipment (excluding stockpiles and storage vessels) shall not operate for more than 4380 hours per calendar year.

1. Operating time shall be monitored by any technically sound means.

2. Operating time of the crusher shall be recorded each month, as well as its operating time for the last 12 months. The records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

G. Monitoring of Capacity. The department may require the crusher to be equipped with a weigh hopper or scale belt to accurately determine the weight of material being crushed.

H. Notification Requirements. Written notification describing the crusher shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification form shall be submitted for each crusher.

I. Relocation. The permittee shall notify the department prior to moving the crusher to a new operating site. The permittee shall obtain approval from the department before commencing operations at a new site.

J. Standby Plan. The permittee shall develop and retain on site a standby plan for the reduction or elimination of emissions during an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency. The plan shall be designed in accordance with the objectives set forth in LAC 33:III.5611.Tables 5, 6, and 7.

1. Activate the pre-planned abatement strategies listed in LAC 33:III.5611.Table 5 when the department declares an Air Pollution Alert.

2. Activate the pre-planned abatement strategies listed in LAC 33:III.5611.Table 6 when the department declares an Air Pollution Warning.

3. Activate the pre-planned abatement strategies listed in LAC 33:III.5611.Table 7 when the department declares an Air Pollution Emergency.

K. Fees. In accordance with LAC 33:III.223, Table 1, the new permit application fee for this regulatory permit shall be \$2,080 (fee number 0870). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$416. If potential emissions from the crusher are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, then fee number 1722 located in LAC 33:III.223, Table 1 shall apply in accordance with LAC 33:III.211.B.13.e.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR:37**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ321

Person

Preparing

Statement:	<u>Bryan D. Johnston</u>	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(225) 219-3450</u>	Office:	<u>Environmental Services</u>

Return

Address:	<u>602 North Fifth Street</u>	Rule Title:	<u>Regulatory Permit for Rock,</u>
	<u>Baton Rouge, LA 70821</u>		<u>Concrete, and Asphalt Crushing</u>
			<u>Facilities (LAC 33:III.317)</u>

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change will create a more efficient process for rock, concrete, and asphalt crushing facilities to apply for air emissions permits. The permit application will be specific to the source category and simplify the administrative process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No increase or decrease in revenues to state or local governmental units will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary... in lieu of submission of a permit application." This fee is equivalent to, and in place of, that which would have been required had a permit been applied for and processed pursuant to LAC 33:III.501 or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the source or activity in question.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." However, this notification form will be specifically tailored to the activity addressed by the regulatory permit (i.e., rock, concrete, and asphalt crushing facilities) and used in place of the traditional, more generic permit application documents. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit should facilitate the department's review of such documents. A final decision on proposed projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment in the public or private sector.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The regulatory permit for rock, concrete, and asphalt crushing facilities to be established by this rule provides for a streamlined means of authorizing air emissions from rock, concrete, and asphalt crushing facilities. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits. A "regulatory permit" is a permit that is incorporated into the regulations (LAC 33:III in the instant case) in the form of a rule. Regulatory permits can be used to authorize construction and operation of certain sources or activities that generate air emissions subject to requirements and limitations set forth in R.S. 30:2054(B)(9)(b) (codified in LAC 33:III.303). The owner or operator of a source or activity not addressed by a regulatory permit must apply for site-specific authorization.

Per R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.).

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, the proposed rule will not result in any increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ___ Yes. If yes, attach documentation.

(b) ___ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

No costs or savings to state agencies are anticipated as a result of this proposed rule.

COSTS	FY 10-11	FY 11-12	FY 12-13
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR. POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This question is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 10-11	FY 11-12	FY 12-13
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funds are required to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No impact on local governmental units is anticipated.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There will be no costs or savings to local governmental units, so no funding sources will be affected.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No increase or decrease in revenues to state and local governmental units will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary... in lieu of submission of a permit application." This fee is equivalent to, and in place of, that which would have been required had a permit been applied for and processed pursuant to LAC 33:III.501 or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the source or activity in question.

REVENUE INCREASE/DECREASE	FY 10-11	FY 11-12	FY 12-13
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

No increase or decrease in revenues will be realized.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action?

For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Owners or operators of rock, concrete, and asphalt crushing facilities will be affected by the proposed action.

With respect to workload adjustments and additional paperwork, R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." However, this notification form will be specifically tailored to the activity addressed by the regulatory permit (i.e., rock, concrete, and asphalt crushing facilities) and used in place of the traditional, more generic permit application documents. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit should facilitate the department's review of such documents. A final decision on proposed

projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impact on receipts or income of the affected persons or non-governmental groups is expected.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no effect on competition or employment in the public or private sector.