

Chapter 149: GENERAL PERMIT REGULATION FOR NONMETALLIC MINERAL PROCESSING PLANTS

SUMMARY: This General Permit regulates stationary and portable nonmetallic mineral processing plants that are subject to *Federal New Source Performance Standards* (NSPS) and those subject to State Regulations. Owners/operators of nonmetallic mineral processing plants may obtain specific regulatory coverage under this General Permit regulation in lieu of an individual air emission license. Such parties shall do so by obtaining a Crusher Identification Number (CIN) for each individual rock crusher and submitting a Notification of Intent to Comply (NOITC) attesting to their formal agreement to abide by all applicable conditions of this Chapter. Generator sets and diesel drives do not require a CIN but are subject to the provisions of the General Permit when associated with the crushing activities. If the construction, modification, or operation of a nonmetallic mineral processing plant by the operator would not comply with all conditions of this regulation, the operator must apply for and obtain an air emission license under 06-096 CMR Ch. 115 before beginning the actual construction, modification, or operation of the source.

1. Applicability

- A. This regulation applies statewide.
- B. This Chapter supersedes *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR Ch. 2, where applicable.
- C. This regulation applies to all nonmetallic mineral processing plants (NMMPP) unless the NMMPP is covered under a separate state air emission license pursuant to 06-096 CMR Ch. 115.
- D. This regulation does not apply to any equipment at a facility which could be considered a major source.
- E. This regulation does not exempt the source from any applicable state or federal requirements including but not limited to 06-096 CMR Ch. 143, *New Source Performance Standards* and 06-096 CMR Ch. 144, *National Emission Standards for Hazardous Air Pollutants*.
- F. Exclusions. A source shall not be issued a CIN and shall instead obtain an air emission license under the authority of 06-096 CMR Ch. 115 if:
 - (1) A control method other than water sprays or carry over from up-stream water sprays is used to control emissions from the crusher;
 - (2) It is determined that the source cannot comply with the terms and conditions of this regulation;
 - (3) The power plant engine cannot meet the definition of a portable non-road engine;
 - (4) The power plant engine has a maximum heat input equal to or greater than 5.0 MMBtu/hr;

- (5) The aggregate of all stationary fuel burning equipment at a facility, under control of the Operator, may fire more than 65,000 gallons of diesel, #2, #4, or #6 fuel oil, or equivalent natural gas/propane (combined) in a calendar year;
- (6) The Department has reasonable cause to believe that the application contains fraud or misrepresentation;
- (7) The person applying for the CIN failed to disclose a material fact required by the application or the regulations of which the applicant had, or should have had knowledge at the time the application was submitted;
- (8) The Owner/Operator owes any past due fees or civil penalties to the Department from previous air related licenses, permits, or consent agreements; or
- (9) The Department has reasonable cause to believe that emissions from the proposed, modified, or relocated source will violate the control strategy or interfere with attainment or maintenance of a national standard in Maine or in a neighboring state.

2. Definitions

The following terms, as used in this Chapter, have the following meanings:

- A. Authorized Official.** “Authorized Official” means any duly authorized person given permission by an owner or operator to conduct business with the Department on their behalf.
- B. Facility.** “Facility” means the aggregate of all the non-temporary pollutant-emitting activities which are located on one or more contiguous or adjacent properties and are under the control of the same person (or persons under common control). A Facility may include multiple rock crushers and/or power plant engines as well as equipment such as asphalt plants.
- C. Nonmetallic Mineral Processing Plant (NMMPP).** “Nonmetallic Mineral Processing Plant (NMMPP)” means a rock crusher with or without a stationary engine functioning as a power source.
- D. Operator.** “Operator” means any person who has direct control or supervision over a regulated source (rock crusher and/or power plant engine) and who has registered agreement to operate such equipment in accordance with the conditions of this regulation. The Operator may also be the Owner.
- E. Owner.** “Owner” means any person who legally owns a regulated source (rock crusher and/or power plant engine) and who receives a Crusher Identification Number for that regulated source under the terms of this regulation. The Owner may also be the Operator.
- F. Performance Test.** “Performance Test” means a certified visible emissions observation performed per EPA Method 9. The duration of the Method 9 observation shall be 30 minutes (five 6-minute averages). Compliance with the applicable fugitive emission limits shall be based on an average of the five 6-minute averages.
- G. Portable Non-Road Engine.** “Portable Non-Road Engine” means an internal combustion engine which is portable or transportable, meaning designed to be and capable of being carried or moved

from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. This definition does NOT include engines which remain or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period.

An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year.

- H. Portable Plant.** “Portable Plant” means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit.
- I. Power Plant Engine.** “Power Plant Engine” means any internal combustion engine whose function is to power a rock crusher including gen-sets, direct drive engines, and engines used to power hydraulic drives.
- J. Rock Crusher or Crusher.** “Rock Crusher” or “Crusher” means a machine used to crush any nonmetallic minerals, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor.
- K. Safe Access.** “Safe Access” means reasonable access to the regulated facility which complies with safety requirements of all local, state, or federal regulating authorities as well as the written safety standard operating procedures for that facility.
- L. Stationary Plant.** “Stationary Plant” means any nonmetallic mineral processing plant that cannot meet the definition of “Portable Plant.”
- M. Temporary Equipment.** “Temporary Equipment” means any pollutant-emitting activities which are operated at a particular site for less than four (4) weeks in a calendar year.

3. General Terms and Conditions of Applications

- A. Registration of Owner and Operator.** Prior to the operation of a NMMPP the Owner shall either obtain an air emission license per the requirements of 06-096 CMR Ch. 115 or register the equipment with the Department under this rule and receive a General Permit Number. If the Owner elects to register the equipment under this rule (instead of obtaining a license under 06-096 CMR Ch. 115), the Operator must also submit the Notice of Intent to Comply (NOITC) per Section 3(D) of this rule prior to operation of the equipment. The Owner and Operator may be the same.
- B. Required CIN Application Form and Additional Information.** The application for a CIN shall include an application form prescribed by the Department and any other additional information

required by the Department, unless otherwise specified by this Chapter. The applicant may not omit information needed to determine the applicability of this rule. The application form and the additional required information shall include, but is not limited to, the following elements:

- (1) Identifying information, including contact information for the Owner;
- (2) The age, type, and maximum processing rate of the crusher to be issued a CIN;
- (3) A unique identifier, such as a serial number, etc. associated with this CIN;
- (4) Any other information that may be necessary to implement and enforce any requirements applicable to the source pursuant to federal or state air emission control regulations;
- (5) If required by the Department, proposed monitoring, testing, record keeping and reporting protocols, and results of previously performed performance tests;
- (6) A certification statement as set forth in Section 3(G).

C. Identification of Equipment. The Department will assign a unique Crusher Identification Number (CIN) to each rock crusher for which an application has been submitted. The rock crusher associated with the CIN shall be clearly marked (engraved, stenciled, etched, or otherwise permanently affixed) with one of the following:

- (1) The current CIN number, or
- (2) A serial number or other unique equipment number that is also listed in the CIN application and which can easily be cross referenced.

D. Notice of Intent to Comply. The operator shall submit, on a form designated by the Department, a Notice of Intent to Comply (NOITC). The NOITC shall be submitted to the Department at least two business days prior to commencing operation of the equipment. A copy of the NOITC shall also be sent to the municipality where the equipment will be relocated, except in the case of an unorganized territory where notification will be made to the respective county commissioners. Once the NOITC is submitted, the operator is bound by the conditions of this regulation and shall comply with all applicable conditions until such time as the operator informs the Department, in writing, that they no longer intend to operate the listed equipment or the operator applies for and obtains an air emission license per 06-096 CMR Ch. 115.

E. Required NOITC form. The NOITC shall be in a form prescribed by the Department. The NOITC form shall include, but is not limited to, the following elements:

- (1) The Crusher Identification Number issued by the Department if the NOITC is submitted separately from the CIN application form;
- (2) Identifying information, including contact information for the Operator;
- (3) A statement that the operator intends to comply with, and operate the listed equipment to, the terms and conditions set forth in this chapter;

- (4) Any other information that may be necessary to implement and enforce all requirements applicable to the source pursuant to federal or state air emission control regulations;
- (5) A certification statement as set forth in Section 3(G).

F. Certification. All CIN applications and NOITC forms submitted to the Department in accordance with this chapter shall contain a certification of truth, accuracy, and completeness with the signature and printed name of either the responsible official (see 06-096 CMR Ch. 100) or an authorized official, as defined in this chapter. Signatures of authorized officials must be accompanied with a signed statement from the responsible official giving them the authority to sign on their behalf. The signatory sheet shall make the following certification:

"I certify under penalty of law that I have personally examined the information submitted in the document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant civil and criminal penalties for submitting false information, including the possibility of fine and imprisonment."

The signatory sheet for the Operator (NOITC form) shall include the certification in the paragraph above in addition to the following certification:

"I certify that the equipment listed in this application shall be operated in compliance with the terms and conditions of 06-096 CMR Ch. 149, *General Permit Regulation for Nonmetallic Mineral Processing Plants* and any other applicable state or federal air emission control regulations."

Upon becoming aware that incorrect information was submitted, the responsible/authorized official must provide the Department with the supplementary facts or corrected information.

G. Public Notice of Intent to File. No application notification is required for the processing of a CIN or NOITC.

H. Fees. The owner shall pay an annual fee to the Department per 38 MRSA, 353-A.10. The first year's fee is due with the CIN application form.

I. Submittal Address. An application for a CIN and NOITC shall be filed with the Bureau of Air Quality, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017.

J. Source obligation. Neither a CIN nor submittal of a NOITC shall relieve any owner or operator of a source from the responsibility to comply fully with any other requirements applicable to the source.

K. Public access to information and confidentiality. All information and data submitted to the Department shall be subject to the provisions of the *Freedom of Access Law*, Title 1 MRSA §401 *et seq.*, as amended. Documents which the applicant believes may not be subject to disclosure under the *Freedom of Access Law* should be clearly marked as "claimed confidential" at the time

of submission. Such a claim of confidentiality does not itself protect the documents from disclosure, but alerts the Department to the applicant's position that the documents may not be subject to disclosure. Public records include, but are not limited to, the following:

- (1) Information concerning the nature and extent of the emissions of any regulated pollutant by a source; and
- (2) Information submitted by the source with respect to the economic, environmental and energy impacts of various control options in the determination of the control technology requirements.

4. General Permit Conditions for Owners

A. General Conditions

- (1) Employees and authorized representatives of the Department shall be allowed safe access to the owner's business premises during business hours, or any time during which any emissions units are in operation, and at such other times as the Department deems necessary for the purpose of performing tests, collecting samples, conducting inspections, or examining and copying records relating to emissions (Title 38 MRSA §347-C). Prior to entrance to the owner's property, the Department shall notify the owner and the operator, or a designee, shall provide safe access that complies with safety requirements of all local, state, and federal regulating authorities as well as all written safety standard operating procedures for that facility.
- (2) The owner shall pay the annual air emission general permit fee to the Department, pursuant to Title 38 M.R.S.A. §353-A, 10. Failure to pay this annual fee within the stated timeframe is sufficient grounds for revocation of the CIN.
- (3) The CIN does not convey any property rights of any sort, or any exclusive privilege.
- (4) The owner shall comply with all applicable terms and conditions of this general permit. The filing of an appeal, the notification of planned changes or anticipated noncompliance, or the filing of an application for an air emission license issued under the authority of 06-096 CMR Ch. 115 shall not stay any condition of this general permit.
- (5) The owner shall not use as a defense in an enforcement action that the disruption, cessation, or reduction of operations would have been necessary in order to maintain compliance with the conditions of the general permit.
- (6) Notwithstanding any other provisions in the State Implementation Plan approved by the EPA or Section 114(a) of the CAA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any statute, regulation, or Part 70 license requirement.
- (7) Upon written request from the Department, the owner shall establish and maintain such records, make such reports, install, use and maintain such monitoring equipment, sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such a manner as the Department shall prescribe), and provide other information as the Department may reasonably require to determine compliance status.

B. Rock Crushers Subject to NSPS. Owners of Stationary plants with maximum capacities greater than 25 ton/hour and portable plants with maximum capacities greater than 150 ton/hour are subject to and shall comply with 40 CFR Part 60, Subpart OOO *Standards of Performance for Nonmetallic Mineral Processing Plants* if they began construction, reconstruction, or modification after August 31, 1983. Compliance includes, but is not limited to:

- (1) The owner shall either have an initial performance test performed on the rock crushers per the applicable sections of 40 CFR Part 60, Subpart OOO, §60.675 or provide documentation to the Department that the initial performance test was previously performed. (Documentation that a successful initial performance test was performed outside of Maine may be accepted.)
- (2) An initial performance test shall be completed within 60 days after achieving the maximum production rate at which the unit will be operated, but no later than 180 days after initial startup of the unit. If the initial performance test for a facility falls within a seasonal shutdown, then with written approval from the Department, the initial performance test may be postponed until no later than 60 calendar days after resuming operation of the affected equipment.
- (3) The owner shall submit a test notice to the regional inspector at least 7 days prior to a performance test.
- (4) For crushers for which construction, reconstruction or modification began after April 22, 2008, the owner is required at the time of the initial performance test to designate which water sprays will be regularly inspected as part of the continuous compliance demonstration.

5. General Permit Conditions for Operators

A. General Conditions

- (1) Employees and authorized representatives of the Department shall be allowed safe access to the operator's business premises during business hours, any time during which any emissions units are in operation, and at such other times as the Department deems necessary for the purpose of performing tests, collecting samples, conducting inspections, or examining and copying records relating to emissions (Title 38 MRSA §347-C). Prior to entrance to the premises, the Department shall notify the operator, and the operator, or a designee, shall provide safe access that complies with safety requirements of all local, state, and federal regulating authorities as well as the written safety standard operating procedures for that facility.
- (2) The operator shall establish and maintain a continuing program of best management practices for suppression of fugitive particulate matter during any period of construction, reconstruction, or operation which may result in fugitive dust, and shall submit a description of the program to the Department upon request.
- (3) The CIN does not convey any property rights of any sort, or any exclusive privilege.
- (4) The operator shall maintain and operate as necessary all emission units and air pollution systems required by the general permit in a manner consistent with good air pollution control practice for minimizing emissions.

- (5) The operator shall maintain sufficient records to accurately document compliance with emission standards and general permit conditions and shall maintain such records for a minimum of six (6) years. The records shall be submitted to the Department upon written request.
- (6) The operator shall comply with all applicable terms and conditions of this general permit. The filing of an appeal, the notification of planned changes or anticipated noncompliance, or the filing of an application for a license issued under the authority of 06-096 CMR Ch. 115 shall not stay any condition of this general permit.
- (7) The operator may not use as a defense in an enforcement action that the disruption, cessation, or reduction of operations would have been necessary in order to maintain compliance with the conditions of the general permit.
- (8) In accordance with the Department's air emission compliance test protocol and 40 CFR Part 60 *** ***, the operator shall:
 - (a) perform testing to demonstrate compliance with the applicable emission standards under circumstances representative of the facility's normal process and operating conditions:
 - (i) within sixty (60) calendar days of receipt of a notification to test from the Department or EPA, if visible emissions, equipment operating parameters, staff inspection, air monitoring or other cause indicate to the Department that equipment may be operating out of compliance with emission standards or license conditions; or
 - (ii) pursuant to any other requirement of this general permit to perform testing.
 - (b) install or make provisions to install test ports that meet the criteria of 40 CFR Part 60, Appendix A, and test platforms, if necessary, and other accommodations necessary to allow emission testing; and
 - (c) submit a written report to the Department within thirty (30) days from date of test completion.
- (9) If the results of a test performed under circumstances representative of the facility's normal process and operating conditions indicate emissions in excess of the applicable standards, then:
 - (a) within thirty (30) days following receipt of such test results, the operator shall re-test the non-complying emission source under circumstances representative of the facility's normal process and operating conditions and in accordance with the Department's air emission compliance test protocol and 40 CFR Part 60 *** ***;
 - (b) the days of violation shall be presumed to include the date of test and each and every day of operation thereafter until compliance is demonstrated under normal and representative process and operating conditions *** ***; and
 - (c) the operator may, upon obtaining an air emission license under the authority of 06-096 CMR Ch. 115 and following the successful demonstration of compliance at alternative load conditions, operate under such alternative load conditions on an interim basis in accordance with the air emission license prior to a demonstration of compliance under normal and representative process and operating conditions.

- (10) Notwithstanding any other provisions in the *State Implementation Plan* approved by the EPA or Section 114(a) of the CAA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any statute, regulation, or Part 70 license requirement.
- (11) The operator shall maintain records of malfunctions, failures, downtime, and any other similar change in operation of air pollution control systems or the emissions unit itself that would affect emissions and that is not consistent with the terms and conditions of this general permit. The operator shall notify the Department within two (2) days or the next state working day, whichever is later, of such occasions where such changes result in an increase of emissions. The operator shall report all excess emissions in the units of the applicable emission limitation.
- (12) Upon written request from the Department, the operator shall establish and maintain such records, make such reports, install, use and maintain such monitoring equipment, sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such a manner as the Department shall prescribe), and provide other information as the Department may reasonably require to determine compliance status.
- (13) The operator shall make a copy of the NOITC available and provide it to Department employees upon request.
- (14) The operator shall have the equipment operator(s) be familiar with the terms and conditions of this general permit.
- (15)***

B. Rock Crushers

- (1) Visible emissions from the rock crusher shall not exceed an opacity of 10% on a six (6) minute block average basis.
- (2) Visible emissions from any transfer point on belt conveyors shall not exceed an opacity of 7% on a six (6) minute block average basis.
- (3) The operator shall maintain spray nozzles or other control equipment for particulate control on the rock crusher and operate them as necessary to limit visible emissions to the opacity standards listed in Sections 5(B)(1) and (2).
- (4) The operator shall maintain a log detailing the maintenance on particulate matter control equipment (including spray nozzles). The operator shall perform monthly inspections of all water sprays to confirm water is flowing to the correct locations and initiate corrective action within 24 hours if water is found to not be flowing properly. Records of the date of each inspection and any corrective action required shall be included in the maintenance log. The maintenance log shall be kept on-site at the rock crushing location.
- (5) The operator shall maintain a log detailing and quantifying the hours of operation on a daily basis for the rock crusher. The operation log shall be kept on-site at the rock crushing location.

C. Power Plant Engines

- (1) Each power plant engine shall not equal or exceed a maximum heat input of 5.0 MMBtu/hr.
- (2) Power plant engines must meet the definition of portable non-road engine as defined in this rule.
- (3) Power plant engines shall fire only fuel with a sulfur content not to exceed 15 ppm.
- (4) Each power plant engine with a maximum heat input greater than 3.0 MMBtu/hr shall not exceed 0.12 lb/MMBtu of particulate emissions.
- (5) Stationary fuel use for the facility, including any power plant engines and asphalt plants, shall not exceed 65,000 gallons per year of diesel fuel, #2 fuel oil, #4 fuel oil, #6 fuel oil, and the equivalent amount of natural gas/propane combined.
- (6) The operator shall keep records documenting the quantity and type of fuel fired at the facility and provide such records to the Department upon request.
- (7) ***
- (8) The operator shall not operate any power plant engine as a dispatchable load generator (i.e. provide power to ISO New England or other electrical system operator).
- (9) Operators shall operate and maintain each power plant engine in accordance with the manufacturer's written instructions. Operators may only change settings as approved by the manufacturer.
- (10) If the power plant engine is equipped with a diesel particulate filter, the operator shall keep records of all corrective action taken after the back pressure monitor has notified the operator that the high backpressure limit is approached.

D. Equipment Relocation

- (1) The operator shall notify the Bureau of Air Quality, by a written notification prior to relocation of any crusher. It is preferred for notice of the relocation to be submitted through the Department's on-line e-notice at:

www.maine.gov/dep/air/compliance/forms/relocation

Written notice may also be sent by fax (207-287-7641) or mail. Notification sent by mail shall be sent to the address below.

Attn: Relocation Notice
Maine DEP
Bureau of Air Quality
17 State House Station
Augusta, ME 04333-0017

The notification shall include the address of the equipment's new location and the CIN pertaining to the relocated equipment.

- (2) Written notification shall also be made to the municipality where the equipment will be relocated, except in the case of an unorganized territory where notification will be made to the respective county commissioners.
- (3) If the Department has reasonable cause to believe that emissions from the relocated source will violate the control strategy or interfere with attainment or maintenance of a national standard in Maine or in a neighboring state, the Department may require the facility to obtain an air emission license under the authority of 06-096 CMR Ch. 115.

E. ***

- 6. Severability.** Each part of this Chapter is severable, and in the event that any part of this Chapter is held to be invalid, the remainder of the Chapter shall continue in full force and effect.

AUTHORITY: 38 M.R.S.A., §585-A

EFFECTIVE DATE:
August 4, 2008, filing 2008-337

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