

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 crusher and submitting a Notification of Intent to Comply (NOITC) which will attest to their formal agreement to abide by all conditions contained herein. Generator sets and diesel drives do not require a CIN but are subject to the provisions of this 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 individual state air emission license 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 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.
- 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 New Source Performance Standards (NSPS) 40 CFR Part 60, Subpart III, *Standards of Performance for Stationary Compression Ignition Internal Combustion Engines* or Subpart OOO *Standards of Performance for Nonmetallic Mineral Processing Plants*.

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 a 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 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 any combination of a rock crusher and stationary engine functioning in conjunction.
- D. Operator.** “Operator” means any person who has direct control or supervision over a regulated source (rock crusher, crusher or power plant engine) and who has registered agreement to operate such equipment in accordance with the conditions of this regulation.
- E. Owner.** “Owner” means any person who legally owns a regulated source (rock crusher, crusher or power plant engine) and who receives a Crusher Identification Number under the terms of this regulation.
- F. Performance Test.** “Performance Test” means a certified visible emissions observation performed per EPA Method 9. The duration of the Method 9 observation must be 30 minutes (five 6-minute averages). Compliance with the applicable fugitive emission limits must be based on an average of the five 6-minute averages.
- G. 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.
- H. Power Plant Engine.** “Power Plant Engine” means any stationary internal combustion engine whose function is to power a rock crusher including gen-sets, direct drive engines, and engines used to power hydraulic drives.
- I. 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.
- J. Safe Access.** “Safe Access” means reasonable access to the regulated facility which complies with safety requirements of any local, state, or federal regulating authority as well as the written safety standard operating procedures for that facility.
- K. Stationary Plant.** “Stationary Plant” means any nonmetallic mineral processing plant that cannot meet the definition of “Portable Plant.”
- L. 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.** Prior to the operation of a NMMPP the owner shall either obtain an air emission license per the requirements of 06-096 CMR 115 or register the equipment with the Department and receive a crusher identification number (CIN) for each crusher to be operated. Once they obtain a CIN, the operator may submit a Notice of Intent to Comply to the Department.
- B. Exclusions.** A source shall not be issued a CIN if:
- (1) It is determined that the source cannot comply with the terms and conditions of this regulation;
 - (2) The power plant engine has a maximum heat input equal to or greater than 5.0 MMBtu/hr;
 - (3) 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;
 - (4) The Department has reasonable cause to believe that the application contains fraud or misrepresentation; or
 - (5) 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.
- C. 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 application 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;
 - (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).
- D. Identification of Equipment.** Once applied for, the Department will assign a unique identifier (CIN) to each rock crusher. 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.

E. Notice of Intent to Comply. The operator shall submit, on a form designated by the Department, a Notice of Intent to Comply (NOITC). 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 must comply with any and 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 a Chapter 115 air emission license.

F. 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;
- (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 any requirements applicable to the source;
- (5) A certification statement as set forth in Section 3(G).

G. 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 Chapter 100 of the Department's Regulations) 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."

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

- H. Public Notice of Intent to File.** No application notification is required for the processing of a CIN or NOITC.
- I. 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.
- J. Submittal Address.** An application for a CIN and NOITC must be filed with the Bureau of Air Quality, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. Applications may be submitted via fax provided the original application is received by the Department within seven calendar days.
- K. 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.
- L. 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 any local, state, or federal regulating authority as well as any 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 in 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 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.
- (5) 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 a Chapter 115 license shall not stay any condition of this general permit.
- (6) The owner 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.
- (7) 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.
- (8) 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. Power Plant Engines Subject to NSPS. Owners must comply with all applicable requirements of 40 CFR Part 60, Subpart IIII for power plant engines purchased after July 11, 2005 and manufactured after April 1, 2006, including, but not limited to:

- (1) Owners must maintain power plant engines in accordance with the manufacturer's written instructions. Owners may only change settings that are approved by the manufacturer.
- (2) Power Plant Engines equipped with a diesel particulate filter must have a backpressure monitor that notifies the operator when the high backpressure limit of the engine is approaching.

C. Rock Crushers Subject to NSPS. Owner 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 must 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 must 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 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 conduct a performance test at least once every five years.
- (4) The owner shall submit a test notice to the regional inspector at least 7 days prior to a performance test.

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, 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 premises, the Department shall notify the operator and the operator, or a designee, shall provide safe access that complies with safety requirements of any local, state, or federal regulating authority 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 Chapter 115 license 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 or other method approved or required by the Department, 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 or other method approved or required by the Department;
 - (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, except to the extent that the facility can prove to the satisfaction of the Department that there were intervening days during which no violation occurred or that the violation was not continuing in nature; and
 - (c) the operator may, upon the approval of the Department following the successful demonstration of compliance at alternative load conditions, operate under such

alternative load conditions on an interim basis 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 operator(s) be familiar with the terms and conditions of this general permit.
- (15) Notwithstanding any part of this regulation, the operator is subject to the applicable parts of 06-096 CMR 101 and shall comply with such.

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 any water sprays to ensure 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 will 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) Prior to October 1, 2010, power plant engines shall fire only fuel with a sulfur content not to exceed 500 ppm.
- (3) Beginning October 1, 2010, 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 them to the Department upon request.
- (7) Visible emissions from each power plant engine shall not exceed 20% opacity on a six (6) minute block average basis, except for no more than two (2) six (6) minute block averages in a continuous 3-hour period.
- (8) Visible emissions from each power plant engine shall not exceed the following on a six (6) minute block average basis:
 - (a) 20% during the acceleration mode;
 - (b) 15% during the lugging mode; and
 - (c) 50% during the peaks in either the acceleration or lugging modes.
- (9) 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).
- (10) Operators must operate and maintain each power plant engine in accordance with the manufacturer's written instructions. Operators may only change settings that are approved by the manufacturer.

- (11) If the power plant engine is equipped with a diesel particulate filter, the operator must keep records of any 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. The notification shall be sent to the address below or to the Department Regional Office responsible for the area of the state where the equipment will be relocated:

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

Equipment relocation notification can also be done on-line with e-notice at www.maine.gov/dep/air/compliance/forms/relocation.

The notification shall include the address of the equipment's new location and the CIN pertaining to the relocated equipment. Written notice may be sent by mail, facsimile (fax), or e-mail.

- (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.

- 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 continues in full force and effect.

AUTHORITY: 38 M.R.S.A., §585-A

EFFECTIVE DATE: August 4, 2008

BASIS STATEMENT

This rule establishes a general permit program for stationary and portable nonmetallic mineral processing plants (NMMPP) that are subject to Federal New Source Performance Standards (NSPS) and those subject to State Regulations. This rule allows most NMMPP to obtain a permit from the Department without going through the licensing process currently required by Chapter 115 Major and Minor Source Air Emission License Regulation. Owner/operators may choose to be licensed under Chapter 149 or Chapter 115, however, facilities emitting pollutants at levels subject to Chapter 137 Emission Statements will not be permitted to utilize Chapter 149 and will require a Chapter 115 license.

This rule provides clear requirements for both the owners and operators of the NMMPP ensuring all rock crushers are in compliance with state and federal regulations.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its response to comments received during the public comment period.