

Chapter 164: GENERAL PERMIT FOR CONCRETE BATCH PLANTS

SUMMARY: This Chapter regulates air emissions from Concrete Batch Plants that are subject to State air emissions standards. Owners and operators of Concrete Batch Plants may obtain specific regulatory coverage under this General Permit regulation in lieu of an individual air emission license if their facility qualifies as a minor source of air emissions. A Concrete Batch Plant General Permit Number (GPN) for each unit may be obtained by submitting an application with Notification of Intent to Comply (NOITC) attesting to their formal agreement to abide by all conditions of this Chapter. Generator sets and small boilers and hot water heaters do not require a separate GPN but are subject to the provisions of the General Permit when associated with the operations of a concrete batch plant. If construction, modification or operation of a concrete batch plant would not comply with all conditions of this regulation, the owner must apply for and obtain an air emission license pursuant to 06-096 CMR Ch. Ch. 115 before beginning the actual construction, modification, or operation of the air emissions source.

1. Applicability

- A.** This regulation applies statewide.
- B.** This regulation supersedes *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR Ch. Ch. 2, where applicable.
- C.** This regulation applies to all Concrete Batch Plants (CBP) unless the CBP is or would be required to be covered under a separate state air emission license pursuant to 06-096 CMR Ch. 115.
- D.** This regulation applies to a facility which is considered a minor source of air emissions pursuant to Department regulation 06-096 CMR Ch. 100, *Definitions*; that is not defined as a Part 70 source and is not subject to 06-096 CMR Ch. 137, *Emission Statements*. This regulation does not exempt a minor source from any applicable state or federal requirements including, but not limited to, those pursuant to 06-096 CMR Ch. 143, *New Source Performance Standards* or 06-096 CMR Ch. 144, *National Emission Standards for Hazardous Air Pollutants*.
- E. Exclusions.** A source is not eligible for a Concrete Batch Plant General Permit if:
 - (1) It is determined that the source cannot comply with the terms and conditions of this regulation;
 - (2) The Department has reasonable cause to believe that the application contains fraud or misrepresentation;
 - (3) The person applying for the General Permit 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;

- (4) The owner or operator owes any past due fees or civil penalties to the Department from previous air related licenses, permits or consent agreements;
- (5) The power plant engine has a maximum heat input equal to or greater than 5.0 MMBtu/hr or 700 hp;
- (6) The power plant engine cannot meet the definition of a portable non-road engine. Concrete Batch Plants with a power plant engine(s) subject to *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines*, 40 CFR Part 63, Subpart ZZZZ shall obtain an air emission license pursuant to 06-096 CMR Ch. 115;
- (7) The associated boilers, hot water heaters, and power plant engines have a total maximum heat input capacity equal to or greater than 10.0 MMBtu/hr;
- (8) The aggregate of all stationary fuel burning equipment at a facility, including all concrete batch plants and power plant engines or other equipment under control of the owner or operator, fires more than 65,000 gallons of diesel, #2, #4, or #6 fuel oil, or equivalent natural gas/propane (combined) in a calendar year; 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/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).
- C. Concrete Batch Plant.** “Concrete Batch Plant (CBP)” means a facility manufacturing concrete from any combination of cement, cement supplement, fine aggregate, coarse aggregate and water. The CBP includes associated aggregate bins, weigh hoppers and cement storage silos.
- D. Operator.** “Operator” means any person has direct control or supervision over a regulated source (Concrete Batch Plant and/or power plant engine and/or boiler or hot water heater) and who has a registered agreement to operate such equipment in accordance with the conditions of this regulation. The operator may also be the owner of the equipment.
- E. Owner.** “Owner” means any person who legally owns a regulated source (Concrete Batch Plant, and/or power plant engine and/or boiler or hot water heater) and who receives a General Permit for that regulated source under the terms of this regulation. The owner may also be the operator of the equipment.
- 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 Concrete Batch Plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force.
- I. Power Plant Engine.** “Power Plant Engine” means any internal combustion engine whose function is to power a concrete batch plant including gen-sets, direct drive engines, and engines used to power hydraulic drives.
- J. 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.
- K. Stationary Plant.** “Stationary Plant” means any Concrete Batch Plant that cannot meet the definition of “Portable Plant.”
- L. Temporary Equipment.** “Temporary Equipment” means any pollutant-emitting equipment or devices which are operated at a particular site for less than four (4) consecutive weeks in a calendar year.

3. Terms and Conditions for Concrete Batch Plant (CBP) General Permit Applications

- A. Registration of Owner and Operator.** Prior to the operation of a CBP, 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 and receive a General Permit Number (GPN). 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 (NOTIC) per Section 3(D) of this rule prior to operation of the equipment. The owner and operator may be the same.
- B. Required General Permit (GP) Application Form and Additional Information.** The application for a GP 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 manufacturer, model, date(s) of manufacture and installation and maximum processing rate of the Concrete Batch Plant, whether the Concrete Batch Plant is portable, information on the source of the power supply, and any other equipment on-site;
- (3) A unique identifier, such as a serial number associated with the GPN;
- (4) Any other information that may be necessary to implement and enforce any federal or state air emissions control 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; and
- (6) A certification statement as set forth in Section 3(F).

C. Equipment Identification Label. The Department will assign a unique General Permit Number (GPN) to each Concrete Batch Plant for which an application has been submitted. The Concrete Batch Plant unit associated with the GPN shall be clearly marked (engraved, stenciled, etched, or otherwise permanently affixed) with one of the following:

- (1) The current GPN number; or
- (2) A serial number or other unique equipment number that is also listed in the GPN 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 owner or operator applies for and obtains an air emission license pursuant to 06-096 CMR Ch. 115.

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

- (1) The GPN or manufacturer's serial number that is permanently marked on the unit if the NOITC is submitted separately from the GP application form;
- (2) Identifying information, including the CBP location along with contact information for the operator and plant operator responsible for the unit;

- (3) A statement that the operator intends to comply with and operate the listed equipment according 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; and
- (5) A compliance certification statement as set forth in Subsection 3 (F).

F. Certification. All General Permit applications and NOITC certification 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 pursuant to 06-096 CMR Ch. 100, *Definitions*, 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 for the owner 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. 164, *General Permit for Concrete Batch Plants* and any other applicable state or federal air emission control regulations."

In the event of 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 GP application or NOITC.

H. Fees. The owner/operator shall pay an annual fee to the Department per 38 MRSA §353-A(4). The first year's fee is due with the GP application form. Payment of the annual air emission general permit fee is required for continuous activation of the general permit. A general permit shall be deactivated if the permit fee is not paid within 60 days of the annual fee due date shown on the invoice. If a permit is deactivated, the owner/operator must reapply for and obtain a new general permit before resuming operation of the CBP and associated equipment.

- I. Application Submittal.** An application for a GP shall be filed with the Department of Environmental Protection, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017.
- J. Source obligation.** Neither a GP nor submittal of an 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 used in determining control technology requirements.

4. Concrete Batch Plant General Permit Requirements for Owners

- A.** 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 plant operator, or designee, who 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.
- B.** The owner shall pay the annual air emissions 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 GP.
- C.** The General Permit does not convey any property rights of any sort, or any exclusive privilege.
- D.** 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.
- E.** 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. 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 or regulation.

- F. Upon written request from the Department, the owner shall establish and maintain records, make reports, install, use and maintain monitoring equipment, sample emissions (in accordance with methods, at locations, at 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.

5. Concrete Batch Plant General Permit Requirements for Operators

A. General Conditions

- (1) Employees and authorized representatives of the Department shall be allowed safe access to the 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 property, 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 all 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 to the Department upon request.
- (3) The General Permit 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 an air emission license issued under the authority of 06-096 CMR Ch. 115 shall not stay any condition of this General Permit.
- (7) The operator 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. 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 or regulation.

- (8) The operator shall keep a copy of the NOITC and manufacturer's operating instructions at the site where the facility operates and shall provide the documentation to Department representatives upon request.
- (9) The operator shall train all equipment operator(s) to be thoroughly familiar with the terms and conditions of this general permit.
- (10) ***

B. Concrete Batch Plant Emissions Control and Maintenance Requirements

- (1) 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.
- (2) 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.
- (3) ***
- (4) ***
- (5) The operator shall maintain control equipment for particulate control on the Concrete Batch Plant and associated material handling systems, bag house filtration systems and cement silos and operate them as necessary to limit visible emissions to the applicable opacity standards listed in 06-096 CMR Ch. 101 and in this subsection.
- (6) The operator shall maintain a log detailing the maintenance on particulate matter control equipment. The operator shall perform monthly inspections of control equipment. 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 Concrete Batch Plant location.
- (7) The operator shall maintain a log detailing and quantifying the hours of operation on a daily basis for the Concrete Batch Plant. The operator shall record the date and location of all bag failures as well as all routine maintenance. The operation log shall be kept on-site at the Concrete Batch Plant location.

C. Concrete Batch Plant Record Keeping, Testing and Reporting Requirements

- (1) 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.

- (5) Upon written request from the Department, the operator shall establish and maintain records, make reports, install, use and maintain monitoring equipment, and sample emissions in accordance with prescribed methods, at locations, intervals, and in a manner the Department shall prescribe; and provide other information as the Department may reasonably require in order to make a determination of the permit compliance status.

D. Equipment Relocation

- (1) The operator shall notify the Bureau of Air Quality by a written notification prior to relocation of a portable concrete batch plant. It is preferred for the 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 by mail 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 GPN 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.

E. ***

F. Associated Power Plant Engine GP Eligibility and Emission Control Requirements

- (1) Each power plant engine shall not equal or exceed a maximum heat input of 5.0 MMBtu/hr.
- (2) Power plant engines shall fire only fuel with a sulfur content not to exceed 15 ppm.
- (3) Each power plant engine with a maximum heat input greater than 3.0 MMBtu/hr shall not exceed 0.12 lb/MMBtu of total particulate emissions.
- (4) Fuel used by the facility, including any fuel fired in any stationary units such as power plant engines, boilers, and hot water heaters, shall not exceed 65,000 gallons per calendar year of diesel fuel, #2 fuel oil, #4 fuel oil, #6 fuel oil, and the equivalent amount of natural gas/propane, combined.
- (5) ***
- (6) The operator shall not operate any power plant engine as a dispatchable load generator to provide power to ISO New England or any other electricity system operation.

- (7) 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.
- (8) 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 back pressure limit is approached.

G. Associated Boilers and Hot Water Heaters

- (1) The total maximum heat input capacity of associated boilers and hot water heaters shall not equal or exceed a maximum heat input of 10.0 MMBtu/hr.
- (2) Each boiler and hot water heater with a maximum heat input greater than 3.0 MMBtu/hr shall not exceed 0.12 lb/MMBtu of total particulate emissions.
- (3) Fuel fired in boilers and hot water heaters associated with the Concrete Batch Plant shall be included in the facility fuel use limit of 65,000 gallons per calendar year of diesel fuel, #2 fuel oil, #4 fuel oil, #6 fuel oil, and the equivalent amount of natural gas/propane, combined.
- (4) ***

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

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May 6, 2012 – filing 2012-135

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