

Virginia Regulatory Town Hall

Exempt Agency Final Regulation Agency Background Document

Agency Name:	State Air Pollution Control Board
Regulation Title:	Nonmetallic Mineral Processing General Permit
Primary Action:	9 VAC 5 Chapter 510
Secondary Action(s):	None
Action Title:	Rev. BG
Date:	September 27, 2002

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 2.2-4100 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used by agencies exempt pursuant to § 2.2-4006 A 9 at the final stage. Please refer to the *Virginia Register Form, Style and Procedure Manual* for more information.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation.

The general permit establishes terms and conditions that form the legally enforceable basis for the implementation of all regulatory and statutory requirements applicable to new and existing emissions units in the nonmetallic mineral mining facilities. Application for coverage under the general permit is voluntary; however, for any nonmetallic mineral processing facility to be covered by the general permit, all equipment and emissions units at a stationary source that make up the nonmetallic mineral processing facility shall be covered by the general permit. The general permit requires the owners of existing and new emissions units in the nonmetallic mineral processing industry to construct, modify, relocate and operate within the terms and conditions of the general permit. The terms and conditions of the general permit cover emission standards, emission testing, emission monitoring, recordkeeping, reporting, compliance and enforcement.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency, including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On September 30, 2002, the State Air Pollution Control Board adopted a final regulation entitled "Nonmetallic Mineral Processing General Permit" (9 VAC 5 Chapter 510). The regulation is to be effective on December 1, 2002.

General permits are exempt from certain provisions of the state administrative procedures for the adoption of regulations as provided in 2.2-4006 A 9 of the Code of Virginia.

Substantive Changes Made Since the Proposed Stage

Please briefly and generally summarize any substantive changes made since the proposed action was published. Please provide citations of the sections of the proposed regulation that have been substantively altered since the proposed stage.

Below is a brief summary of the substantive changes the Department is recommending be made to the proposed general permit. These changes are enclosed in [brackets] in the attached draft general permit. Provisions have been added to:

1. Address the issue of granting authorizations to operate under the general permit should the general permit regulation be amended. (9 VAC 5-510-50 G)
2. Allow reauthorizations to operate under the general permit. (9 VAC 5-510-80 A 4)
3. Incorporate the particulate matter emission standard for AQCR 7 (Northern Virginia) which differs from the remainder of the state. (9 VAC 5-510-190 B 1)
4. Require the use of particulate matter in determining compliance with the 99 tons per annual period cap only if particulate matter (PM₁₀) emissions cannot be quantified in a manner acceptable to the department. (9 VAC 5-510-190 D 3)

Legal Authority

Please identify the section number and provide a brief statement relating the content of the statutory authority to the specific regulation adopted. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to adopt the regulation.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate

regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses the statutory authority to promulgate the proposed regulation amendments is available upon request.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

A summary and analysis of the public testimony, along with the basis for the decision of the Board, is attached.

Additional Information

Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, and a copy of any documents to be incorporated by reference are attached.

The text of the regulation is attached.

Family Impact Statement

Please provide an analysis of the impact of the regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; 4) increase or decrease disposable family income.

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

**COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD
NONMETALLIC MINERAL PROCESSING GENERAL PERMIT
(9 VAC 5 CHAPTER 510)**

**SUMMARY AND ANALYSIS OF PUBLIC TESTIMONY FOR
GENERAL PERMIT**

INTRODUCTION

At the September 1999 meeting, the Board authorized the Department to promulgate for public comment a proposed general permit entitled Nonmetallic Mineral Processing General Permit.

A public hearing was advertised accordingly and held in Richmond on March 29, 2000 and the public comment period closed on April 14, 2000. The proposed general permit subject to the hearing is summarized below followed by a summary of the public participation process and an analysis of the public testimony, along with the basis for the decision of the Board.

SUMMARY OF PROPOSED GENERAL PERMIT

The proposed general permit concerns nonmetallic mineral processing. A summary follows:

1. Provides procedures for facility owners to obtain authority to operate under the general permit.
2. Requires the use of the current aggregate processing emission calculation spreadsheet as the primary vehicle to apply for a permit and to update facility and emissions data.
3. Establishes emission standards for new and existing units which are no less stringent than current standards prescribed in 9 VAC 5 Chapter 40, Articles 1 (opacity) and 14 (particulate matter) and 40 CFR Part 60, subpart OOO.
4. Provides for compliance determination and verification by emission testing or monitoring.
5. Provides for recordkeeping and reporting.
6. Provides for compliance and enforcement.

SUMMARY OF PUBLIC PARTICIPATION PROCESS

A public hearing was held in Richmond, Virginia on March 29, 2000. Three persons attended the hearing, with two of those offering testimony; and one additional written comment was received during the public comment period. As required by law, notice of the hearing was given to the public on or about December 20, 1999 in the Virginia Register and in the Richmond Times-Dispatch. In addition, personal notice of this hearing and the opportunity to comment was given by mail to those persons on the Department's list to receive notices of proposed regulation revisions.

Notice of a new hearing date and extension to the comment period was given to the public in the Virginia Register on February 28, 2000. In addition, personal notice of this hearing and the opportunity to comment was given by mail to those persons on the Department's list to receive notices of proposed regulation revisions. Accordingly, a public hearing was held at 10:00 a.m., March 29, 2000, in the Conference Room, Lower Level, Main Street Centre, 600 East Main Street, Richmond, Virginia to receive any public testimony concerning the above proposal. The public comment period closed on April 14, 2000. A list of hearing attendees and the complete text or an account of each person's testimony is included in the hearing report which is on file at the Department.

ANALYSIS OF TESTIMONY

Below is a summary of each person's testimony and the accompanying analysis. Included is a brief statement of the subject, the identification of the commenter, the text of the comment and the Board's response (analysis and action taken). Each issue is discussed in light of all of the comments received that affect that issue. The Board has reviewed the comments and developed a specific response based on its evaluation of the issue raised. The Board's action is based on consideration of the overall goals and objectives of the air quality program and the intended purpose of the general permit.

1. **SUBJECT:** Compliance determination and verification by emission monitoring

COMMENTER: U. S. Environmental Protection Agency

TEXT: Regarding the requirements under Article 4, "Compliance Determination and Verification by Emission Monitoring", this section should either cross reference the requirements contained in the New Source Performance Standard (NSPS) at 40 Code of Federal Regulation (CFR) 60.674, or explicitly state the requirements for all affected facilities using a wet scrubber to control emissions.

RESPONSE: This comment is acceptable and appropriate changes reflecting the intent of the comment have been made to the proposal.

2. **SUBJECT:** General support for the proposal

COMMENTER: Virginia Aggregates Association

TEXT: Approval of the proposal will ensure that the DEQ will be able to administer the regulatory programs for the nonmetallic mineral mining operators in a more efficient and effective manner.

RESPONSE: Support for the proposal is appreciated.

No changes have been made to the proposal based on this comment.

3. **SUBJECT:** General support for the proposal

COMMENTER: Tidewater Quarries, Inc.

TEXT: The general permit will provide the necessary flexibility for highway work and to produce other products, allow changes to equipment in a timely manner without undue burden, and allow the use of the spreadsheet.

RESPONSE: Support for the proposal is appreciated.

No changes have been made to the proposal based on this comment.