

**SPECIAL CONDITIONS
GENERAL PERMIT NO. WMGR028**

A. Description.

This general permit authorizes the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, for use as: (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction products, provided the baghouse fines and/or scrubber pond precipitates do not exceed the chemical concentration limits as specified in Table 1, Condition C.4. of this general permit, when applicable, and conforms with the applicable engineering, other professional, or industry practices and procedures as the raw material it is being substituted for.

B. Determination of Applicability Requirements.

A person or municipality that proposes to operate under the terms and conditions of this general permit after the date of permit issuance must obtain a "Determination of Applicability" from the appropriate Department Regional Office (See attached list) prior to commencing authorized activities under this general permit. A completed Form 20 (Application For A Residual Waste General Permit), along with a DOA application fee in the amount identified in Section A (General Information) of the Form 20 must be submitted to the appropriate Department Regional Office. Checks shall be made payable to the "Commonwealth of Pennsylvania".

C. Operating Requirements.

1. Where used as an aggregate in roadway construction, the baghouse fines and/or scrubber pond precipitates must comply with the requirements of the Pennsylvania Department of Transportation (PennDOT) specifications as outlined in their Publication No. 408 (Specifications).
2. Where used as a component or ingredient in the manufacturing of construction products, the baghouse fines and/or scrubber pond precipitates must meet the applicable requirements of the American Society for Testing and Materials (ASTM) Standard under which it is being used; or other national, state, or industry standard for which it is being used.
3. Where used as a soil additive or soil conditioner, the maximum lifetime application rate of baghouse fines and/or scrubber pond precipitates, as a soil additive or a soil conditioner, shall not exceed 500 dry tons per acre at any site.
4.
 - a. The permittee shall select one of the options as indicated in Table 1 of this Condition below. The selected option for the quality of baghouse fines and/or scrubber pond precipitates shall be utilized and applicable for the life of this general permit.
 - b. The permittee shall collect representative samples of baghouse fines and/or scrubber pond precipitates produced and determine its quality before the baghouse fines and/or scrubber pond precipitates may be beneficially used as authorized in Condition A of this general permit.

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- c. The chemical concentration of baghouse fines and/or scrubber pond precipitates, for any constituent, shall not exceed the chemical concentration limits as specified for the option selected in Condition C.4.a. above, and as listed in Table 1 of this Condition below:

Table 1⁽⁷⁾

Chemical Concentration Limits

| Constituents | Option 1 ⁽²⁾ | Option 2 ⁽³⁾ | | Option 3 ⁽⁶⁾ | |
|----------------------------|-------------------------|-------------------------|--------------------------------|-------------------------|--------------------------------|
| | Total (mg/kg) | Total (mg/kg) | Leachate ⁽¹⁾ (mg/L) | Total (mg/kg) | Leachate ⁽¹⁾ (mg/L) |
| Arsenic | 29 | 29 | 0.25 | 29 | 0.05 |
| Barium | 1,000 | 15,000 | 50 | 15,000 | 2 |
| Cadmium | 2.5 | 47 | 0.125 | 47 | 0.005 |
| Chromium (Total) | 50 | 94 | 2.5 | 94 | 0.1 |
| Copper | 1,500 | 1,500 | 25 | 1,500 | 1 |
| Lead | 112.5 | 500 | 0.125 | 500 | 0.005 |
| Mercury | 1 | 66 | 0.05 | 66 | 0.002 |
| Molybdenum | 18 | 18 | 4.375 | 18 | 0.175 |
| Nickel | 50 | 420 | 2.5 | 420 | 0.1 |
| PHC ⁽⁴⁾ (Total) | 500 | 500 | - | See ⁽⁵⁾ | See ⁽⁵⁾ |
| Selenium | 25 | 1,100 | 1 | 1,100 | 0.05 |
| Zinc | 1,000 | 2,800 | 50 | 2,800 | 2 |
| pH (standard units) | > 5.5 | > 5.5 | - | > 5.5 | - |

- (1) = Leachability evaluations shall be conducted using the Toxicity Characteristic Leaching Procedure (EPA method 1311) or the Synthetic Precipitation Leaching Procedure (EPA method 1312).
- (2) = There must be at least four (4) feet of attenuating soil between the lowest area where the baghouse fines and/or scrubber pond precipitates is placed and the seasonal high water table, perched water table or bedrock unless otherwise authorized in writing by the Department.
- (3) = The total and leachate levels must be met. There must be at least four (4) feet attenuating soil between the lowest area where the baghouse fines and/or scrubber pond precipitates is placed and the seasonal high water table, perched water table or bedrock unless otherwise authorized in writing by the Department.
- (4) = Petroleum Hydrocarbons. The EPA methods 3560 and 8440 are recommended.
- (5) = The levels are the same as those in Option 2. The four (4) foot distance from the water table does not apply. The waste must contain a minimum of 0.5% organic carbon excluding the PHC compound in the above table.

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- (6) = The total and leachate levels must be met. Attenuating soil is not required.
- (7) = Options 1 and 2 may be used in combination on a constituent-specific basis.
5. The determinations of compliance with Table 1 may be based on the 90 percent upper confidence level for each metal or the 80 percent confidence interval for pH using the Test Methods for Evaluating Solid Waste (EPA SW-846) as guidance for the statistical treatment of data.
 6. The permittee shall inform all persons or municipalities that propose to beneficially use baghouse fines and/or scrubber pond precipitates authorized under this general permit of the terms, conditions and limitations imposed on the use of baghouse fines and/or scrubber pond precipitates by the Department. This notification shall be by providing a copy of Appendix A (Acceptable Uses & Restrictions) of this general permit. The conditions in Appendix A also apply to the permittee and any person who obtains a DOA to conduct activities authorized by this general permit. The permittee shall record the name and address of each person who is given or purchases the baghouse fines and/or scrubber pond precipitates and shall record its intended use.
 7. Equipment used for the storage and transportation of baghouse fines and/or scrubber pond precipitates shall be maintained in good operating condition to prevent the baghouse fines and/or scrubber pond precipitates from being unintentionally conveyed out of the generation and storage areas. Weekly inspections of each storage area and their surrounding environs are to be conducted to determine compliance of the terms and conditions of this general permit, and for evidence of failure. Storage and transportation of baghouse fines and/or scrubber pond precipitates shall comply with the requirements of 25 PA Code, Chapter 299 (relating to storage and transportation of residual waste).
 8. Upon cessation of operation, the permittee shall remove any remaining baghouse fines and/or scrubber pond precipitates and any other residual wastes or other materials which contain or have been contaminated by the baghouse fines and/or scrubber pond precipitates and shall provide for the processing and disposal of the waste or material in accordance with the Solid Waste Management Act, the environmental protection acts and the regulations promulgated thereunder.
 9. The permittee shall comply with the fugitive emissions regulations under Title 25 Pa. Code, Chapter 123 (Standards for Contaminants) issued under the Air Pollution Control Act, the Act of January 8, 1960, P.L. 2119, 35 P.S. §4005 and shall comply with all the applicable provisions of the Fugitive Emissions §§§123.1, 123.2 and 123.31.
 10. Nothing in this permit shall be construed to supersede, amend, or authorize a violation of any of the provisions of any valid and applicable local law, ordinance, or regulation, providing that said local law, ordinance, or regulation is not preempted by the Solid Waste Management Act, 35 P.S. §6018.101 et seq; and the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, 53 P.S. §4000.101 et seq.

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11. As a condition of this permit and of the permittee's authority to conduct the activities authorized by this permit, the permittee hereby authorizes and consents to allow authorized employees or agents of the Department, without advance notice or search warrant, upon presentation of appropriate credentials and without delay, to have access to and to inspect all areas on which solid waste management activities are being, will be, or have been conducted. This authorization and consent shall include consent to collect samples of waste, soils, water, or gases; take photographs; to perform measurements, surveys, and other tests; inspect any monitoring equipment; to inspect the methods of operation and to inspect and/or copy documents, books, and papers required by the Department to be maintained. This permit condition is referenced in accordance with §§608 and 610(7) of the Solid Waste Management Act, 35 P.S. §§6018.608 and 6018.610(7). This condition in no way limits any other powers granted under the Solid Waste Management Act.
12. The beneficial use of baghouse fines and/or scrubber pond precipitates that is authorized by this general permit shall not harm or present a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.
13. The baghouse fines and/or scrubber pond precipitates that is authorized under this general permit shall not be used as a valley fill material, to fill open pits from coal or non-coal mining or other fills, or to level an area or bring an area to grade unless as stated below:
 - a. Baghouse fines and/or scrubber pond precipitates may be used as embankment material or to level an area or bring an area to grade where a construction activity is completed or will commence within three (3) months after the placement of baghouse fines and/or scrubber pond precipitates.
 - b. In case of a multi-phase construction project (such as development of a commercial/industrial park), all baghouse fines and/or scrubber pond precipitates shall be covered within sixty (60) days of completion of fill placement, unless it is uncovered as a requirement of ongoing active phase construction.
 - c. As authorized for permitted surface mining operations, when approved for use as a part of the reclamation plan as a soil additive or soil conditioner.
14. The staging, and/or storage areas of baghouse fines and/or scrubber pond precipitates, intended for beneficial use activity, shall not cause or allow a point or non-point source discharge of any industrial wastes, wastewater, a combined storm water run-off and leachate, if generated, or run-off from the staging, and/or storage areas of baghouse fines and/or scrubber pond precipitates to the surface waters of the Commonwealth. An NPDES (National Pollutant Discharge Elimination System) permit may be required if a point or non-point source discharge of any industrial wastes, wastewater, a combined storm water run-off and leachate, if generated, or run-off from the staging, and/or storage areas of baghouse fines and/or scrubber pond precipitates to the surface waters of the Commonwealth exists.

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15. Storm water run-on should be diverted away from the staging and storage areas of the baghouse fines and/or scrubber pond precipitates. A copy of the Storm Water Management Control Plan to address on-site run-on and run-off shall be maintained at the sites at all times and shall be provided to the Department upon request. The Storm Water Management Control Plan shall be consistent with the Department's most recent guidelines on the development and implementation of the Preparedness, Prevention and Contingency Plan (PPC) Plan.
16. Unless otherwise approved by the Department in writing, storage of baghouse fines and/or scrubber pond precipitates shall be as follows:
 - a. The baghouse fines and/or scrubber pond precipitates generated or received shall not be accumulated before being beneficially used unless the operator shows that the baghouse fines and/or scrubber pond precipitates received, and/or stored have the potential to be beneficially used and has a feasible means of being beneficially used.
 - b. During the calendar year (commencing on January 1), the baghouse fines and/or scrubber pond precipitates generated or received shall not be stored for more than one (1) year, and at any one time the maximum amount stored may not exceed the total amount of materials as described in the approved application.
 - c. During the calendar year (commencing on January 1), the baghouse fines and/or scrubber pond precipitates generated or received that are beneficially used or transferred to a different site for beneficial use, equals at least 75% by weight or volume of the baghouse fines and/or scrubber pond precipitates received accumulated at the beginning of the period. In calculating the percentage of turnover, the 75% requirement is to be applied to each waste of the same type (i.e., waste material(s)) that is beneficially used in the same way (that is, from which the same material is recovered or that is used in the same way).
17. For each new source of baghouse fines and/or scrubber pond precipitates, the permittee shall notify the appropriate Department Regional Office, in writing, no less than fifteen (15) working days prior to acceptance and beneficial use of the baghouse fines and/or scrubber pond precipitates from a new source as follows:
 - a. The permittee shall submit an analysis of representative samples of baghouse fines and/or scrubber pond precipitates to the Department for the constituents as specified in Table 1, Condition C.4. of this general permit. The chemical analysis required in this Condition shall be based on the proposed beneficial use of baghouse fines and/or scrubber pond precipitates.
 - b. The permittee may beneficially use baghouse fines and/or scrubber pond precipitates from a new source in accordance with the conditions of this general permit after the aforementioned fifteen (15) day period unless otherwise instructed by the Department.

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18. A person or municipality that plans to continue the beneficial use of baghouse fines and/or scrubber pond precipitates authorized under this general permit, after the expiration date indicated on the approval for coverage page, shall file a complete application for permit renewal at least 180 days before the expiration date of this general permit unless permission has been granted by the Department for submission at a later date. The renewal application shall be made using the "Form 20 (Application For A Residual Waste General Permit)".

In the event that a timely and complete application for renewal has been submitted and the Department is unable, through no fault of the permittee, to reissue the general permit or approval for coverage before its current coverage expiration date, the terms and conditions of the approved coverage will automatically continue and will remain fully effective and enforceable pending the issuance or denial of the renewal for permit coverage, provided the permittee is, and has been, operating in compliance with the terms and conditions of the general permit.

D. Sampling and Analysis.

Prior to the beneficial use of baghouse fines and/or scrubber pond precipitates, representative samples of the baghouse fines and/or scrubber pond precipitates produced shall be collected and analyzed for each constituent as specified in Table 1, Condition C.4.

of this general permit, as appropriate. The chemical analysis obtained within one (1) year prior to approval under this general permit may be used to satisfy this requirement, provided all the constituents as listed in Table 1 have been analyzed, as required.

The collected samples must represent the entire amount of baghouse fines and/or scrubber pond precipitates produced for beneficial use authorized in this general permit. Because the chemical concentration limits pertain to the quality of the baghouse fines and/or scrubber pond precipitates beneficially used, all samples of baghouse fines and/or scrubber pond precipitates taken for analysis must be taken from the point of discharge after the last manufacturing or generating process and prior to storage and/or beneficial use.

Should knowledge of the generation of baghouse fines and/or scrubber pond precipitates, visual observations, or analytical results indicate variability in the quality of the baghouse fines and/or scrubber pond precipitates material, more frequent testing shall be conducted.

E. Frequency of Monitoring.

1. The chemical analysis required in Condition C.4. of this general permit shall be performed by a laboratory accredited or registered for accreditation under the Pennsylvania Environmental Laboratory Accreditation Act, Act of 2002, No. 25, and as follows:
2. A "total" and/or "total and leaching" analysis shall be performed on a representative sample of the baghouse fines and/or scrubber pond precipitates annually for all the parameters listed in Table 1 of Condition C. 4. of this permit. After a satisfactory initial analysis has been completed and submitted to the

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Department, in lieu of the annual analysis, an authorized representative of the generator may sign and submit to the Department, an analysis certification for all the parameters in Table 1 that do not exceed 65% of the specified permit limit and the process by which the baghouse fines and/or scrubber pond precipitates was generated has not changed from that specified in the original permit application. However, this analysis certification may only be used for (5) consecutive years, after which the complete analysis required in Table 1 of Condition C. 4. must once again be completed.

3. Upon request by the Department, the permittee shall collect for analysis representative samples of the baghouse fines and/or scrubber pond precipitates generated, as required in Condition C.4. of this general permit, within 48 hours of the request.

F. Recordkeeping.

Upon request, records of all analytical evaluations conducted on the baghouse fines and/or scrubber pond precipitates shall be made available to the Department. Analytical information on the baghouse fines and/or scrubber pond precipitates, as specified in Conditions C and D of this general permit, shall be retained for a minimum of five (5) years and must include the following on each sample: the dates of sampling and testing, sampling procedures, person collecting the sample, the volume or weight of the sample, each parameter tested, the analytical results, the laboratory used, and analytical methodologies.

G. Reporting Requirements.

1. The permittee shall immediately notify the appropriate Department Regional Office (See attached list), in writing, of any changes in: the name, address, owners, operators and/or responsible officials of the company; changes in facility location; changes in land ownership or the right to operate on the land occupied; the physical or chemical characteristics of the baghouse fines and/or scrubber pond precipitates generated or previously disposal stockpiled; the manufacturing process which generates the baghouse fines and/or scrubber pond precipitates; change in fuel type (if appropriate); and the change in status of any permit issued by the Department or federal government under the environmental protection acts.
2. Persons operating under the provisions of this general permit shall submit, within 30 days after the anniversary date of this permit, to the appropriate Department Regional Office, an annual report which contains the information outlined in Conditions C.4., C.17., and D, and summarizes the weight or volume of the baghouse fines and/or scrubber pond precipitates sold, traded or given away during the last 12 months ending on the anniversary date of the general permit. The annual report must also include laboratory reports for "total" and "leachate" levels performed on a representative sample of the baghouse fines and/or scrubber pond precipitates for all the constituents listed in Table 1, Condition C.4. of this general permit. The analysis data submitted in compliance with this requirement must be from samples of the baghouse fines and/or scrubber pond precipitates collected within the past six (6) months.

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The records required in this Condition shall be retained by the permittee for a minimum of five (5) years and made available to the Department, upon request, as specified in Condition F of this general permit.

APPENDIX A

ACCEPTABLE USES AND RESTRICTIONS GENERAL PERMIT NO. WMGR028

The authorization for beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, as: (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction products must comply with the acceptable uses and use restrictions below.

A. ACCEPTABLE USES:

1. The beneficial use of baghouse fines and/or scrubber pond precipitates, as a roadbed material, must comply with the "aggregate" requirements of the Pennsylvania Department of Transportation (PennDOT) as outlined in their Publication 408 (Specifications), Sections:

- | | |
|------------------------------|---------------------------|
| (a) 300 (Base Courses) | (c) 500 (Rigid Pavements) |
| (b) 400 (Flexible Pavements) | (d) 700 (Material) |

The use of baghouse fines and/or scrubber pond precipitates must conform to the applicable engineering, other professional, or industry practices and procedures.

2. The beneficial use of baghouse fines and/or scrubber pond precipitates, as a component or ingredient in the manufacturing of construction materials, must comply with the standards set forth by the American Society of Testing and Materials (ASTM).
3. The maximum lifetime application rate of baghouse fines and/or scrubber pond precipitates, as a soil additive or a soil conditioner, shall not exceed 500 dry tons per acre at any site.

B. USE RESTRICTIONS:

1. Baghouse fines and/or scrubber pond precipitates shall not be placed in direct contact with surface water or groundwater.
2. The baghouse fines and/or scrubber pond precipitates that is authorized under this general permit shall not be used as a valley fill material, to fill open pits from coal or non-coal mining or other fills, or to level an area or bring an area to grade unless as stated below:
 - a. Baghouse fines and/or scrubber pond precipitates may be used as embankment material or to level an area or bring an area to grade where a construction activity is completed or will commence within three (3) months after the placement of baghouse fines and/or scrubber pond precipitates.
 - b. In case of a multi-phase construction project (such as development of a commercial/industrial park), all baghouse fines and/or scrubber pond precipitates shall be covered within sixty (60) days of completion of fill placement, unless it is uncovered as a requirement of ongoing active phase construction.

APPENDIX A (Continued)

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3. Hazardous wastes, municipal waste, special handling waste, and other residual wastes may not be mixed and/or stored or beneficially used with the baghouse fines and/or scrubber pond precipitates.
4. The storage, transportation or beneficial use of the baghouse fines and/or scrubber pond precipitates shall be in a manner which will not create a nuisance or be harmful to the public health, safety or the environment.
5. Persons storing, transporting or beneficially using the baghouse fines and/or scrubber pond precipitates under provisions of the permittee must immediately notify the Department's Emergency Hotline by telephone at (717) 787-4343 and the appropriate Department Regional Office in the event of any accidental spills of 1,000 pounds or more of baghouse fines and/or scrubber pond precipitates and shall take appropriate immediate action to protect the health and safety of the public and the environment.