

**PROPOSED AMENDMENTS FOR  
20.2.72 NMAC CONSTRUCTION PERMITS  
EXEMPTIONS AND PORTABLE SOURCE RELOCATION**

The New Mexico Environment Department Air Quality Bureau is soliciting comments for proposed amendments to 20.2.72 NMAC Construction Permits. The proposed amendments to 20.2.72 NMAC will consist of allowing 20.2.72.202 exemptions in streamline permit applications and amending the requirements for portable source relocations. Please provide comments in writing by mail or email to Bob Spillers (robert.spillers@state.nm.us) by September 3, 2009. An Open House/Poster Session will be held at the Air Quality Bureau's Santa Fe office on September 17, 2009 at 1:30 PM during which Air Quality staff will be available to answer questions.

The draft rule, in its entirety with proposed amendments, can be found on our website at [http://www.nmenv.state.nm.us/aqb/prop\\_regs.html](http://www.nmenv.state.nm.us/aqb/prop_regs.html). All amended and new language will be underlined.

**PROPOSED AMENDMENTS TO 20.2.72 NMAC CONSTRUCTION PERMITS**

The following is a complete listing of the changes to 20.2.72 NMAC being proposed by the Department, with proposed new language shown as underlined text:

- Section 20.2.72.7 would be amended by adding, in alphabetical order, a new definition for “Area of Operations” to read as follows:

**20.2.72.7      DEFINITIONS:**

\*      \*      \*      \*      \*

**E.**      “Area of Operations” means an area that contains all equipment and activities that may produce air contaminants, all disturbed lands, and all haul roads except the haul road beyond the area that is restricted to the public. Disturbed lands include all active mining areas, active stockpiles, and active overburden removal areas used for operation of the facility.

\*      \*      \*      \*      \*

- Section 20.2.72.202 would be amended by revising the first sentence to read as follows:

**20.2.72.202      EXEMPTIONS:** The following exemptions are made to the following requirements of 20.2.72.200 NMAC - 20.2.72.399 NMAC. The exemptions in this section do not apply to emissions of toxic air pollutants listed under 20.2.72.502 NMAC, do not alter the calculation of the potential emissions of toxic air pollutants for applicability under 20.2.72.402 NMAC, and do not exempt the Department or the owner or operator of any source from any requirement under 20.2.72.403 NMAC, 20.2.72.404 NMAC, or 20.2.72.405 NMAC.

- Section 20.2.72.202 would be amended by revising and adding new language to subsection D paragraphs (3) through paragraph (4) as follows:

**20.2.72.202.D.** Portable Source Relocation. For a portable source which has been issued a permit under this Part:

\* \* \* \* \*

(3) For all other portable sources, including but not limited to rock crushers, sand, gravel or asphalt plants:

(a) The owner or operator shall notify the Department, on the form provided by the Department, at least fifteen (15) days prior to beginning installation at the new location;

(b) Operation at a new location of such source shall not commence until the Department has approved the relocation in writing and at least 15 days have elapsed from the Department's receipt of the notice of relocation.

(c) The Department shall not approve the relocation if any of the following criteria are met:

(i) the source emissions would result in exceedances of any National or New Mexico Ambient Air Quality Standard in areas publicly accessible at the new location;

(ii) the proposed relocation is in an area where any Prevention of Significant Deterioration (PSD) increments, National Ambient Air Quality Standards (NAAQS), or New Mexico Ambient Air Quality Standards (NMAAQs) are or are predicted to be exceeded, if an air quality offset and benefit has not been demonstrated per Subsections B and C of 20.2.72.216 NMAC;

(iii) for rock crushers, sand, gravel or asphalt plants, the perimeter of the source's area of operations would be less than (402.3 meters) one-quarter (1/4) mile from an existing state park, recreation area, school, private residence, office building, or other occupied structure;

(iv) for rock crushers, sand, gravel, or asphalt plants, the perimeter of the source's area of operations would be less than (five (5) kilometers) 3.1 miles from a mandatory federal Class I area;

(v) the relocation fee was not paid;

(vi) public notice requirements were not completed.

(d) The Department may require dispersion modeling for the relocation.

(e) Prior to the notification to the Department required in Sub-paragraph (a) of Paragraph 3 of Subsection D of 20.2.72.202 NMAC the owner or operator shall notify the public of the planned relocation. Notice to the public shall contain the information in Subsection C of 20.2.72.203 NMAC, a legal description of the new location to which the source proposes to relocate and an estimation of how long the source would be at the new location. The applicant's public notice shall meet all of the following requirements.

i) Be posted at a minimum of four (4) places, to include the site of the proposed relocation and three (3) places near the site and frequented by the general public, such

as a local post office, local public library, or city hall. The applicant shall not remove the public notices until the relocation is issued or denied.

ii) Be provided by certified mail to any municipality and county in which the facility is proposed to be relocated and to all municipalities, Indian tribes, and counties within a ten (10) mile radius of the property on which the facility is proposed to be relocated.

(f) The Department shall approve, deny, or approve with conditions, the relocation request in accordance with one of the following:

(i) within fifteen (15) days of receipt of the notice form;

(ii) if the Department requires dispersion modeling, within thirty (30) days of receipt of the notice form or the modeling analysis, whichever is later;

(iii) if the Department determines that there is significant public interest in the relocation and holds a public meeting, within 15 days from the end of the meeting;

(iv) if the Department determines that there is significant public interest in the relocation and holds a public hearing, within 15 days from the Department Secretary's decision.

(4) Any condition approved as part of a relocation of a source shall become enforceable as a condition of the permit issued under this part, but only for the new location subject to the approval.

[11/30/95; A, 01/07/98; A, 02/08/98; A, XX/XX/10]

\* \* \* \* \*

- Section 20.2.72.203 would be amended by adding a second sentence to subsection B to read as follows:

**20.2.72.203 CONTENTS OF APPLICATIONS:**

\* \* \* \* \*

**B.** The applicant's public notice for technical permit revisions shall be as specified in Paragraph 6 of Subsection B of 20.2.72.219 NMAC. The applicant's public notice for a relocation shall be as specified in Sub-paragraph (e) of Paragraph 3 of Subsection D of 20.2.72.202 NMAC. The applicant's public notice for a permit or significant permit revision shall be:

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