

Guidelines for Public Notification
for
Air Quality Permit Applications
20.2.72.203.B NMAC (Construction Permits)

Guidelines should be used for
New Permits, Significant Permit Revisions, and Technical Permit Revisions

Title 20, Chapter 2, Part 72 of the New Mexico Administrative Code, (20.2.72.203 NMAC – CONSTRUCTION PERMITS, Subsection B) requires the applicant's public notice for a permit or significant permit revision shall include notifications to property owners, municipalities, counties, and tribal governments; published notices in general circulation newspapers; general postings of notices; and public service announcements. This document provides guidance to applicants for complying with these requirements for all public notices except public notices for General Construction Permits (GCP). Public notice instructions for these permits can be found in their individual instruction documents, which are also posted on the Air Quality Bureau web site.

(1) Notifications: Property Owners

Provided written notice by **certified mail** using the attached sample letter (**Attachment 4**), to the owners of record[†], as shown in the most recent property tax schedule, of all properties:

(a) **Within one hundred (100) feet of the boundary of the property** on which the facility is located or proposed to be located, if the facility is or is proposed to be located in a Class A or Class H county**, or a municipality with a population of more than two thousand five hundred (2500) persons;

or

(b) **Within one-half (1/2) mile of the boundary of the property** on which the facility is located or is proposed to be located if the facility is or will be in a county or municipality other than those specified in (a) above;

[†] Names and addresses of the owners of record of property surrounding the property on which the facility is or is proposed to be located can be obtained through the county Assessor's Office of the appropriate county. For purposes of 20.2.72 NMAC – Construction Permits, "owners of record... of all properties" means only the owners of the fee simple surface estate. Notification of all such owners discovered after a reasonable and diligent search of county records is sufficient to meet the requirements.

** Biennial Classification of Counties (NMSA 1978 § 4-44-2)

As of the date of this document the Class A counties are Bernalillo, Dona Ana, San Juan, Santa Fe and the only Class H county is Los Alamos.

The classification is based upon two factors: population and assessed property valuation. It is made every even-numbered year on or before April 30 (or April 29 in leap year).

It is the applicant's responsibility to obtain the most current classification of counties.

The current classification can be obtained from the New Mexico Department of Finance and Administration (DFA), Finance Bureau (<http://fmb.nmdfa.state.nm.us>).

(2) Notifications: Municipalities, Counties[†], and Indian Tribes**

Provided written notice by **certified mail** to all municipalities and counties in which the facility is or will be located **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 constructed or operated, using the attached sample letter (**Attachment 4**);

[†] Names and addresses of county officials can be obtained from the New Mexico Association of Counties (1-800-333-6438) or at <http://www.nmcounties.org/>.

**** The applicant is not required to notify municipalities, Indian tribes and counties within a ten (10) mile radius of the property on which the facility is proposed to be constructed or operated, if the municipality, Indian tribes and counties are located outside the state boundaries of New Mexico.**

Documentary proof of compliance with (1) and (2) above shall be determined by:

(a) the submittal of copies of the certified mail receipts (PS Form 3800 post marked by the USPS) submitted with the application,

or

(b) a **USPS document** providing proof of delivery confirmation. Tracking numbers without an accompanying USPS document identifying delivery is not acceptable proof.

(3) Notifications: Newspaper

Using the attached "PUBLIC NOTICE EXAMPLE for Newspaper Ads" (Attachment 5), publish once in a newspaper of general circulation in each county in which the property on which the facility is proposed to be constructed or operated is located. This notice shall appear in two (2) sections of the newspaper:

(a) As an advertisement in the classified or legal section of the newspaper;

and

(b) As a display advertisement, calculated to give the general public the most effective notice and, when appropriate, both of these ads shall be printed in both English and Spanish.

Documentary proof of compliance with (3) shall be determined by:

(a) A submittal with the application, originals or copies of the actual advertisements. The originals or copies of the advertisement must include the header showing the date and newspaper or publication title.

or

(b) An affidavit from the newspaper or publication stating the date of publication of the advertisements, and a copy of the advertisement.

(4) Notifications: General Postings

Posted in at least four (4) publicly accessible and conspicuous places[†], including:

- (a) The proposed or existing facility entrance on the property on which the facility is, or is proposed to be, located, until the permit or significant permit revision is issued or denied.

and

- (b) Three (3) locations commonly frequented by the general public in proximity to the source, such as a public library, city hall, or public bulletin board.

[†] Examples of "publicly accessible and conspicuous places" in proximity to the source include, grocery stores, public libraries, town, village or city halls, public bulletin boards and "the proposed or existing facility entrance to the property on which the facility is, or is proposed to be located".

Documentary proof of compliance with (4) shall be determined by submittal of a copy of the notice and the certification document "General Posting of Notices – Certification" (Attachment 1) by the party responsible for posting the notices (applicant or authorized representative), that the notices were posted and identifying all posting locations. The size of posted notices shall be at least as large (both page & font size) as the public notice posting example "PUBLIC NOTICE EXAMPLE for Posted Notices" (Attachment 3).

Content Requirements of Public Notices

Pertaining to requirements in paragraphs (1) through (4) above:

The notice specified in Paragraphs (1) through (4) of Subsection B of 20.2.72.203 NMAC shall contain the following:

- (a) The applicant's name and address, together with the names and addresses of all owners or operators of the facility or proposed facility;
- (b) The actual or estimated date that the application was or will be submitted to the Department;
- (c) The exact location of the facility or proposed facility;
- (d) A description of the process or change for which a permit is sought, including an estimate of the maximum quantities of any regulated air contaminant the source will emit after proposed construction is complete or permit is issued;
- (e) An estimate of the maximum controlled emission rate for the entire facility in pounds per hour and tons per year for each pollutant, or in the case of a modification to an existing facility, the maximum controlled emission rates for entire facility after the modification, and if desired, the change in maximum controlled emission rates resulting from the modification may also be included in a separate table,
- (f) The maximum and standard operating schedules expected at the facility after completion of construction (hrs/day, days/wk, wks/yr),
- (g) The current address of the Department to which comments and inquiries may be directed:

New Mexico Environment Department
Air Quality Bureau – Permitting Section
1301 Siler Road, Building B, Santa Fe, New Mexico 87507-3113

(5) Notifications: Submittal of Public Service Announcement

Submitted as a public service announcement to at least one radio or television station, which serves the municipality, or county in which the source is or is proposed to be located.

Documentary proof of compliance with (5) shall be determined by the following:

(a) A submittal of the certification document *Submittal of Public Service Announcement – Certification* by the party responsible for the submittal, stating that the submittal was done, the date of the submittal, and identification of the radio or television station to which the public service announcement was submitted.

or

(b) A copy of the written response (mailed letter, email or fax) from the radio or television station acknowledging the receipt of the request to read the public service announcement. Proof that the public service announcement was aired or read is not required.

The required *Submittal of Public Service Announcement – Certification* document is attached (Attachment 2).

Specific Content of the Public Service Announcement

The public service announcement request specified in Paragraph 5 of Subsection B of 20.2.72.203 NMAC shall contain the following information about the facility or proposed facility:

- (a) The name, location, and type of business;
- (b) The name of the principal owner or operator;
- (c) The type of process or change for which a permit is sought;
- (d) Locations where the notices required under Paragraph 4 of Subsection B of 20.2.72.203 NMAC have been posted; and
- (e) The address or telephone number at which comments may be directed to the Department.

Guidelines for
Documentary Proof of applicant's Public Notice

20.2.72.203.A.14 NMAC

Unless otherwise allowed elsewhere in this document, the following items document proof of the applicant's Public Notification. Please include this page in your proof of public notice submittal with checkmarks indicating which documents are being submitted with the application.

New Permit and **Significant Permit Revision** public notices must include all items in this list.

Technical Revision public notices require only the items in **bold** text.

<input type="checkbox"/> A copy of the certified letter receipts with post marks (20.2.72.203.B NMAC)	<input type="checkbox"/> A list of the places where the public notice has been posted in at least four publicly accessible and conspicuous places, including the proposed or existing facility entrance. (e.g: post office, library, grocery, etc.)
<input type="checkbox"/> A copy of the property tax record (20.2.72.203.B NMAC).	
<input type="checkbox"/> A sample of the letters sent to the owners of record.	<input type="checkbox"/> A sample of the public notice posted and a verification of the local postings.
<input type="checkbox"/> A sample of the letters sent to counties, municipalities, and Indian tribes.	
<input type="checkbox"/> A table of the noticed citizens, counties, municipalities and tribes and to whom the notices were sent in each group.	<input type="checkbox"/> A copy of the public service announcement (PSA) sent to a local radio station and documentary proof of submittal.
<input type="checkbox"/> A copy of the <u>classified or legal</u> ad including the page header (date and newspaper title) or its affidavit of publication stating the ad date, and a copy of the ad. When appropriate, this ad shall be printed in both English and Spanish.	<input type="checkbox"/> A copy of the <u>display</u> ad including the page header (date and newspaper title) or its affidavit of publication stating the ad date, and a copy of the ad. When appropriate, this ad shall be printed in both English and Spanish.
<input type="checkbox"/> A map to scale with graphic scale showing the facility boundary and the surrounding area in which owners of record were notified by mail.	

General Posting of Notices – Certification

I, _____, the undersigned, certify that on **{DATE}**, I posted a true and correct copy of the attached Public Notice in the following publicly accessible and conspicuous places in the City\Town\Village of **{CITY\TOWN\VILLAGE}**, County, State of New Mexico on the following dates:

1. Facility entrance {DATE}
2. {Location 2} {DATE}
3. {Location 3} {DATE}
4. {Location 4} {DATE}

Signed this _____ day of _____, _____,

Signature

Date

Printed Name

Title {APPLICANT OR RELATIONSHIP TO APPLICANT}

Submittal of Public Service Announcement – Certification

I, _____, the undersigned, certify that on {**DATE**}, I submitted a public service announcement to {**RADIO\TV STATION NAME**} that serves the City\Town\Village of {**PLACE NAME**}, {**COUNTY**}, State of New Mexico, in which the source is or is proposed to be located and that {**RADIO\TV STATION NAME**} {**DID NOT RESPOND\RESPONDED THAT IT WOULD NOT AIR THE ANNOUNCEMENT\RESPONDED THAT IT WOULD AIR THE ANNOUNCEMENT**}.

Signed this ____ day of _____, _____.

Signature

Date

Printed Name

Title {**APPLICANT OR RELATIONSHIP TO APPLICANT**}

Attachment 3

PUBLIC NOTICE EXAMPLE for Posted Notices

20.2.72 NMAC – *Construction Permits, Section 203.B*

Delete this line and everything above.

NOTICE

[Name of Facility] announces its intent to apply to the New Mexico Environment Department for an air quality permit for the [construction/modification] of its [hot mix asphalt/sand/gravel/rock crushing/concrete] plant. The expected date of application submittal to the Air Quality Bureau is [date]. This notice is a requirement according to New Mexico air quality regulations.

The exact location for the proposed facility known as, _____ [name], is/will be [street address OR UTM Zone 12/13, UTM Easting XXX, UTM Northing XXX if no street address is available]. [If the street address is not provided, include directions similar to the following: The approximate location of this site is XX.X miles [direction] of [a reasonably close, well known point, such as the intersection of two roads, a landmark, or road mile marker] in [name] county].

The proposed modification/construction consists of the following _____.

This facility estimates its maximum quantities of any regulated air contaminant to be: *[List pounds per hour and tons per year of regulated contaminants. Contaminants less than one-half (1/2) pound per hour and one-half (1/2) ton per year do not need to be listed below.]*

Pollutant:	Pounds per hour	Tons per year
1. Total Suspended Particulates	pph	tpy
2. Sulfur Dioxide (SO ₂)	pph	tpy
3. Nitrogen Oxides (NO _x)	pph	tpy
4. Carbon Monoxide (CO)	pph	tpy
5. Volatile Organic Compounds (VOC)	pph	tpy
6. Total sum of all Hazardous Air Pollutants (HAPs)	pph	tpy

The standard operating schedule of the plant will be from ____ a.m. to __ p.m. ____ days a week and a maximum of __ weeks per year.

The owner and/or operator of the Plant is:

_____ [name]
_____ [company]
_____ [street address]
_____ [city, state, zip code]

Questions and comments regarding this notice may be directed to:

Program Manager, Permit Section
New Mexico Environment Department
Air Quality Bureau
1301 Siler Road, Building B
Santa Fe, New Mexico 87507-3113
Phone: (505) 476-4300 or 1 800 224-7009

Fax: (505) 476-4375

Attachment 4

**PUBLIC NOTICE EXAMPLE
for Notice to Neighbors, Indian Tribes, Counties, and/or Municipalities**

_____ [date]

CERTIFIED MAIL XXXX XXXX XXXX XXXX
RETURN RECEIPT REQUESTED

Dear [Neighbor/Environmental Director/county or municipal official]

According to New Mexico air quality regulations, [Name of Facility] must announce its intent to apply to the New Mexico Environment Department for an air quality permit for the [construction/modification] of its [hot mix asphalt/sand/gravel/rock/crushing concrete] plant. The expected date of application submittal to the Air Quality Bureau is [date].

The exact location for the proposed facility known as, _____ [name], is/will be [street address OR UTM Zone 12/13, UTM Easting XXX, UTM Northing XXX if no street address is available]. [If the street address is not provided, include directions similar to the following: The approximate location of this site is XX.X miles [direction] of [a reasonably close, well known point, such as the intersection of two roads, a landmark, or road mile marker] in [name] county].

The proposed modification/construction consists of the following _____.

This facility estimates its maximum quantities of any regulated air contaminant to be: *[List pounds per hour and tons per year of regulated contaminants. Contaminants less than one-half (1/2) pound per hour and one-half (1/2) ton per year do not need to be listed below.]*

Pollutant:	Pounds per hour	Tons per year
5. Total Suspended Particulates	pph	tpy
6. Sulfur Dioxide (SO ₂)	pph	tpy
7. Nitrogen Oxides (NO _x)	pph	tpy
8. Carbon Monoxide (CO)	pph	tpy
5. Volatile Organic Compounds (VOC)	pph	tpy
6 Total sum of all Hazardous Air Pollutants (HAPs)	pph	tpy

The standard operating schedule of the plant will be from ____ a.m. to _____ p.m. ____ days a week and a maximum of _____ weeks per year. Owners and operators of the facility include [list names and addresses if different from the applicant below].

If you have any comments about the construction or operation of the above facility, and want your comments to be made as a part of the permit review process, you must submit your comments in writing to the address below:

Program Manager, New Source Review
New Mexico Environment Department
Air Quality Bureau
1301 Siler Road, Building B
Santa Fe, New Mexico 87507-3113
(505) 476-4300

Other comments and questions may be submitted verbally.

Please refer to the company name and site name, as used in this notice or send a copy of this notice along with your comments, since the Department may not have received the permit application at the time of this notice. Once the Department has performed a preliminary review of the application and its air quality impacts, another notice will be published in the legal section of the newspaper.

Sincerely,

[permit applicant]

[permit applicant address]

PUBLIC NOTICE EXAMPLE

for Newspaper Ads

20.2.72 NMAC – *Construction Permits, Section 203.B*

Delete this line and everything above.

NOTICE OF AIR QUALITY PERMIT APPLICATION

[Name of Facility] announces its intent to apply to the New Mexico Environment Department for an air quality permit for the [construction/modification] of its [hot mix/asphalt/sand/gravel/ rock crushing/concrete] plant. The expected date of application submittal to the Air Quality Bureau is [date]. This notice is a requirement according to New Mexico air quality regulations.

The exact location for the proposed facility known as, _____ [name], is/will be [street address OR UTM Zone 12/13, UTM Easting XXX, UTM Northing XXX if no street address is available]. [If the street address is not provided, include directions similar to the following: The approximate location of this site is **XX.X** miles [direction] of **[a reasonably close, well known point, such as the intersection of two roads, a landmark, or road mile marker]** in [name] county].

The proposed modification/construction consists of the following _____.

This facility estimates its maximum quantities of any regulated air contaminant to be: **[List pounds per hour and tons per year of regulated contaminants. Contaminants less than one-half (1/2) pound per hour and one-half (1/2) ton per year do not need to be listed below.]**

Pollutant:	Pounds per hour	Tons per year
9. Total Suspended Particulates	pph	tpy
10. Sulfur Dioxide (SO ₂)	pph	tpy
11. Nitrogen Oxides (NO _x)	pph	tpy
12. Carbon Monoxide (CO)	pph	tpy
5. Volatile Organic Compounds (VOC)	pph	tpy
6 Total sum of all Hazardous Air Pollutants (HAPs)	pph	tpy

The standard operating schedule of the plant will be from ____ a.m. to __ p.m. ____days a week and a maximum of __ weeks per year.

The owner and/or operator of the Plant is:
[name, company, street address, city, state, zip code]

If you have any questions or comments about construction or operation of above facility, and want your comments to be made as a part of the permit review process, you must submit your comments in writing to the address below:

Program Manager, New Source Review
New Mexico Environment Department
Air Quality Bureau
1301 Siler Road, Building B
Santa Fe, New Mexico 87507-3113
(505) 476-4300

- Other comments and questions may be submitted verbally.
- Please refer to the company name and site name, as used in this notice or send a copy of this notice along with your comments to help identify the facility being commented on, since the Department may not have received the permit application at the time of this notice.
- Once the Department has performed a preliminary review of the application and its air quality impacts, another notice from the Department will be published in the legal section of a newspaper of general circulation in the area closest to the location to this facility.