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No Permit Required (NPR) – Guidance and FAQ

A NPR determination is a courtesy the Air Quality Bureau provides as a letter stating that based on the information provided, the Bureau agrees that a facility is not required to have a permit or NOI. There is no regulatory requirement or deadline for NMED to issue a NPR determination.

There are three common types of situations under which facilities may request a NPR determination. This document addresses each scenario separately.

Scenario 1

The first and most common situation is when a facility’s potential emission rate does not meet the applicability thresholds of 20.2.72 and 20.2.73.200 NMAC. That is, a facility’s potential emission rate (PER) must be less than 10 pounds per hour (pph) and 10 tons per year (tpy) of any regulated air contaminant and less than 1 ton per year (tpy) of lead.

Potential emission rate is defined in 20.2.73.7.O NMAC as follows:

"Potential emission rate (PER)" means the emission rate of a source at its maximum capacity to emit a regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the department pursuant to the Air Quality Control Act or the federal act.

In most NPR situations, equipment does not have enforceable limitations. Consequently, the potential emission rate is then commonly referred to as “uncontrolled emission rate” and is based on continuous operation (8760 hours per year) at maximum capacity without any controls. In this situation applicants with PERs under the NOI threshold may submit a request for a NPR determination and the request should, at a minimum, include the following documents from the

Universal Application Form located at:

http://www.nmenv.state.nm.us/aqb/permit/app_form.html

1. A Cover Letter describing the NPR request with any additional and relevant information that is not covered in the application.
2. Section 1-A through 1-E
3. Table 2-B: Exempted Equipment OR Insignificant Activities
4. Table 2-D: Maximum Uncontrolled Emissions (under normal operating conditions)
5. Table 2-J: Fuel (if applicable)
6. Section 3: Application Summary

The Department may request additional information it needs to make a complete evaluation. The Department may, on a case-by-case basis, consider inherent limitations to the maximum capacity like design restrictions, inability to operate at night or seasonal limitations and apply them to the potential emission rates without the need for enforceability.

You should be sure that the controlled emissions are only reduced for the limitations that are enforceable. For example, you may not reduce the emissions of other pollutants if the applicable federal regulation only requires NO_x control.

Scenario 2

The second scenario under which a permittee may receive a NPR determination is through [20.2.72.202.A](#) NMAC, which provides an exemption from permitting for activities that meet the requirements of that portion of the rule. Note the exemptions in this section do not apply to emissions of toxic air pollutants listed under 20.2.72.502 NMAC if the uncontrolled quantity emitted is greater than the value listed in that section. Section 202.A has fifteen different activity types that can be reviewed using the link above.

A NPR determination is not requested in this case. Applicants seeking a NPR should submit a cover letter describing the NPR request citing the specific subsection of 20.2.72.202.A and stating that the section 202.A sources are the only emissions sources at the facility.

Emission units that qualify for any of the 20.2.72.202.B NMAC exemption(s) do not need a separate NPR determination but do submit the exemption application found on our website. However, if the facility would like a NPR determination for other emission sources at the facility that do not qualify under 20.2.72.202 NMAC, similar to Scenario 1, the Department will review a NPR determination request.

Scenario 3

The third situation arises when the facility meets the requirements of 20.2.72.202.C. NMAC. Note that facilities applicable to NSPS Subpart I and NSPS OOO (asphalt plants and crushers) **do not qualify** for NPR's (or NOI's) no matter how low the emissions are.

For paragraph 202.C.2, you should be sure that the controlled emissions are only reduced for the limitations that are enforceable. For example, you may not reduce the emissions of other pollutants if the applicable federal regulation only requires NO_x control.

The Department will consider inherent limitations to the maximum capacity such as inability to operate at night or seasonal limitations and apply them to the potential emission rates. Emissions reductions that are the result of control equipment that qualifies as “process equipment” may be used to reduce the facility’s Potential Emission Rate (PER). For example, a vapor recovery unit may be considered a process unit if the cost to purchase and operate the unit and thereby recover the product is less than the value of the recovered product. In the NPR approval letter the permit may identify any approved limitations on emissions and the basis of the approval.

If there are enforceable limitations then you should cite the regulation that results in the enforceable limitation and fill out the following documents:

1. A Cover Letter describing the NPR request with any additional and relevant information that is not covered in the application.
2. Section 1-A through 1-E
3. Table 2-B: Exempted Equipment OR Insignificant Activities
4. Table 2-D: Maximum Uncontrolled Emissions (under normal operating conditions)
and/or Table 2-E: Requested Allowable Emissions (that are enforceable)
5. Table 2-J: Fuel (if applicable)
6. Section 3: Application Summary

If you are a small business with less than fifty employees, you are welcome to call the small business assistance hotline, 505-222-9507 or 800-224-7009. The Small Business Assistance staff will be happy to assist you. The link to small business can be found at <http://www.nmenv.state.nm.us/aqb/sbap/index.html>

For other Air Quality permitting questions refer to our Air Quality Bureau contacts page at <http://www.nmenv.state.nm.us/aqb/permit/index.html>

FAQ’S

Q: How long does it take to receive an NPR determination?

A: Provided there are no problems with the application it is the Bureau’s common practice to reply with in 30 days. Incomplete application, incorrect emission factor use, or unclear assumptions may result in delay.

Q: Is there an application fee for an NPR determination request?

A: No. There is no fee.

Q: What if my NPR determination is denied?

A: The Department will issue a denial letter and may suggest what type of permit application should be filled out. There may be enforcement action if a permit or NOI is not attained and the facility is already operating.

Q: I have emission units such as an emergency generator that appears to fall under one of the NMAC 20.2.272.202.B(3) exemption categories. Can I get an NPR determination for this?

A: No, none is needed. If the unit is the only emission source at the site, simply use the Department's Exemption Application to apply for a 'stand alone' exemption. In this case, the Department's exemption approval letter is equivalent to a NPR determination. If the facility has a 20.2.72 NMAC construction permit, 20.2.72.202.B allows the addition of an exempted unit at the facility. In this case, the facility should request to exempt the unit(s) by submitting an Exemption Application.

Q: With an NPR do I have any permitting requirements?

A: Some New Mexico state regulations are not federally enforceable (e.g. 20.2.35, 20.2.36, 20.2.38 NMAC) and while these regulations can be used for determining the PER and NPR applicability, they cannot be used in determining facility wide potential to emit (PTE) unless included in a federally enforceable permit such as a 20.2.72 NMAC permit. 20.2.72 NMAC or 20.2.73 NMAC may not be applicable but 20.2.70 NMAC and/or 20.2.74 NMAC may still apply.

This document is intended to serve as general guidance and is in no way a formal declaration of Department policy.