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

Guidelines should be used for

New Source Review New Permits, Significant Permit Revisions, and Technical Permit Revisions

The New Mexico Administrative Codes (NMAC) 20.2.72.203.B., C. and D. for Construction Permits requires that the applicant's public notice for a new permit or a significant permit revision include notifications to property owners, municipalities, counties, and tribal governments; published notices in general circulation newspapers; public notice postings; and a public service announcement. Technical permit revisions require notices to municipalities, counties, and tribal governments; and published notices in general circulation newspapers. 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 GCPs are located in their individual instruction documents, which are found under the permits link on the Air Quality Bureau web site.

It is the applicant's responsibility to ensure that the minimum regulatory public notice requirements in 20.2.72.203.B, C. and D. are met. This document, written in plain language, and public notice examples are for guidance only and may not cover every possible scenario that may occur for a facility. If, after reading 20.2.72.203 NMAC and this guidance document, there are still questions regarding public notice please contact the NSR permitting section for assistance.

Documentary proof of **all** required public notices **must be included with the initial application submittal**. Do not submit the application until all of the required documentary proof has been obtained.

Please Note: The most current permit application may include additional requirements for documentary proof of public notice. Please also refer to the application for public notice requirements.

(1) <u>Notifications: Property Owners</u>

The regulation requires that all property owners on record† with the county assessor's office where the property is located receive written notice by certified mail. The two scenarios for this requirement are as follows:

> (a) If the facility is or will be **located in a Class A or Class H county** or in a municipality*** with a population of more than 2500 people**, public notice must be sent to the property owners that are **within 100 feet** from the property boundary on which the property is or will be located.
>
> **or**
>
> (b) If the facility is or will be **located in any other county or municipality not listed above**, public notice must be sent to the property owners that are **within one-half (1/2) mile** from the property boundary on which the property is or will be located.
>
> Attachment 4 provides an example letter for notification to property owners.

† Names and addresses of the property owners on record 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.

** Up to date county classifications can be found at:
NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, FINANCIAL BUREAU
http://fmb.nmdfa.state.nm.us
505 827 4950
Click on "Property Taxes and Annual Reports", then on "County Classifications 200X",

County classifications are based upon two factors: population and assessed property valuation. The New Mexico Department of Finance and Administration, Financial Bureau makes this determination every even-numbered year on or before April 30 (or April 29 in leap year). (Biennial Classification of Counties NMSA 1978 § 4-44-2)

*** A list of municipalities and populations can be found at:
New Mexico Municipal Lague
http://www.nmml.org/
505 984 1392 or 800 432 2036
Click on "About NMML", then "Munis, Mayors, and Populations" , then "New Mexico Mayors and Populations (3-09)"

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

The regulation requires that notices be sent to all municipalities and counties in which the facility is or will be located and all municipalities, counties, and Indian tribes that are within a 10 mile radius from the boundary of the property on which the facility is or will be located.

Attachment 4 provides an example letter for notification to municipalities, counties, and Indian tribes.

† Names and addresses of county officials can be obtained from the
New Mexico Association of Counties
http://www.nmcounties.org/
800 333 6438
505 983 2101

A current list of **Tribal Government contacts can be obtained from the NSR permitting section. Information may also be obtained from the **New Mexico Indian Affairs Department**
http://www.iad.state.nm.us/index.html
505 476 1600

Please Note: *The applicant is not required to notify municipalities, Indian tribes and counties within a ten (10) mile radius of the property* ***if the municipality, Indian tribes and counties are located outside the state boundaries of New Mexico.***

Documentary proof of compliance with notifications to property owners, municipalities, counties, and Indian tribes must include:

(a) copies of the post marked certified mail receipts (PS Form 3800 post marked by the United States Postal Service),

or

(b) a **United States Postal Service (USPS) document** providing proof of delivery confirmation. Tracking numbers without an accompanying USPS document identifying delivery are not acceptable proof. Copies of either USPS web-based delivery records associated with certified mail tracking numbers or return receipt post cards are acceptable as proof of delivery.

(3) Notifications: Newspaper

A public notice must be published in a newspaper of general circulation in each county in which the property is or will be located. This notice must 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.

When appropriate, both of these ads shall be printed in both English and Spanish.

Attachment 5 provides an example of a newspaper public notice,

Documentary proof of compliance with the newspaper advertisements must include:

(a) Application submittal of 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

Public notice must be posted in at least 4 publicly accessible and conspicuous places[†], including:

(a) The proposed or existing facility entrance of the property on which the facility is or will be located. A legible notice must remain posted at the facility entrance 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 facility, such as a public library, city hall, or public bulletin board.

[†] Examples of "publicly accessible and conspicuous places" in proximity to the facility 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 the posted notices must include:

Submittal of a copy of the notice and the certification document "*General Posting of Notices – Certification*" **(Attachment 1)** that indentifies the locations of all postings. The applicant or authorized representative must sign the certification. 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 notices required by 20.2.72.203.B. NMAC (certified mailings to property owners, municipalities, counties, and Tribal governments; newspaper advertisements; and posted notices) must contain the following:

(a) The applicant's name and address and the names and addresses of all other owners and/or operators of the facility or proposed facility.
(b) The estimated date that the application will be submitted to the Department.
(c) The exact location of the facility or proposed facility and a location description.
(d) A description of the facility process, change to the process, and/or a description of the modification for which a permit is sought.
(e) An estimate of the maximum controlled emission rate for the entire facility in pounds per hour and tons per year for each regulated pollutant that the facility will emit once the construction or the modification is complete. The change in maximum controlled emission rates resulting from the modification may also be included in a separate table, but is not required. The applicant should include fugitives and add a small safety factor for all pollutants that will allow for potential increases during the permit process.
(f) The maximum operating schedule requested in the application and the standard operating schedule for the facility after the construction or modification is complete. Include the hours per day, days per week, and weeks per year.
(g) The current contact information for the Air Quality Bureau (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
(505) 476-4300

(5) Notifications: Submittal of Public Service Announcement

The public service announcement required for new permits or significant permit revisions must be submitted to at least one radio or television station, which serves the municipality, or county in which the facility is or will be located.

Documentary proof of compliance with the PSA announcement (5) must include:

(a) A submittal of the certification document *Submittal of Public Service Announcement – Certification* **(Attachment 2)** 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.

Specific Content of the Public Service Announcement

The public service announcement request must contain the following information about the facility or proposed facility (20.2.72.203.D. NMAC).

(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 have been posted; and
(e) the Department's address or telephone number to which comments may be directed..

Please Note: The information required for the public service announcement is different than what is required for the certified letters, postings, and news paper advertisements.

Attachment 1 [delete this text]

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 **{COUNTY NAME}** 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}

Attachment 2 [delete this text]

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 NAME}** County**,** 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 [delete this text]

EXAMPLE for Posted Notices (20.2.72.203.C NMAC)
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/other]** facility. 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 of facility]**, is/will be at **[use the address of the facility location. If there is no address, use lat and long coordinates as follows]** latitude xx deg**,** xx min, xx sec **[deg., min., sec.]** and longitude -xxx deg**,** xx min, xx sec **[deg., min., sec.] [Also include directions to the facility as follows]** The approximate location of this facility 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 estimated maximum quantities of any regulated air contaminants will be: **[*List pounds per hour and tons per year of regulated contaminants (include sources of fugitives). 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. Applicant may choose to add a small "safety factor" if values may increase during permitting process.] [You may delete any regulated air contaminants that will not be emitted from your facility]*** These emission estimates could change slightly during the course of the Department's review of the application.

Pollutant:	Pounds per hour	Tons per year
Total Suspended Particulates (TSP)	pph	tpy
PM_{10}	pph	tpy
$PM_{2.5}$	pph	tpy
Sulfur Dioxide (SO_2)	pph	tpy
Nitrogen Oxides (NO_x)	pph	tpy
Carbon Monoxide (CO)	pph	tpy
Volatile Organic Compounds (VOC)	pph	tpy
Total sum of all Hazardous Air Pollutants (HAPs)	pph	tpy
Total sum of all Toxic Air Pollutants (TAPs)	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 maximum operating schedule will be from . a.m. to __ p.m. ___days a week and a maximum of __ weeks per year. **[If truck traffic exceeds normal or maximum hours of operation it should be explained here with clarification of what those hours are.]**

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

If you have any comments about the construction or operation of the above facility, and you want your comments to be made as 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

Revised: June 14, 2010

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. Please include a mailing legible mailing address with your comments. Once the Department has performed a preliminary review of the application and its air quality impacts, the Departments notice will be published in the legal section of a newspaper circulated near the facility location. (505) 476-4300 or 1 800 224-7009 Fax: (505) 476-4375

Attachment 4

EXAMPLE for Notice to Neighbors, Indian Tribes, Counties, and/or Municipalities(20.2.72.203.C NMAC)

Delete this line and everything above.

_____[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/other]** facility. The expected date of application submittal to the Air Quality Bureau is **[date].**

The exact location for the proposed facility known as, _____**[name of facility]**, is/will be at **[use the address of the facility location. If there is no address, use lat and long coordinates as follows]** latitude xx deg**,** xx min, xx sec **[deg., min., sec.]** and longitude -xxx deg**,** xx min, xx sec **[deg., min., sec.] [Also include directions to the facility as follows]** The approximate location of this facility 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 estimated maximum quantities of any regulated air contaminant will be: **[*List pounds per hour and tons per year of regulated contaminants (include fugitives). 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. Applicant may choose to add a small "safety factor" if values may increase during permitting process.] [You may delete any regulated air contaminants that will not be emitted from your facility]*** These emission estimates could change slightly during the course of the Department's review of the application.

Pollutant:	Pounds per hour	Tons per year
Total Suspended Particulates (TSP)	pph	tpy
PM_{10}	pph	tpy
$PM_{2.5}$	pph	tpy
Sulfur Dioxide (SO_2)	pph	tpy
Nitrogen Oxides (NO_x)	pph	tpy
Carbon Monoxide (CO)	pph	tpy
Volatile Organic Compounds (VOC)	pph	tpy
Total sum of all Hazardous Air Pollutants (HAPs)	pph	tpy
Total sum of all Toxic Air Pollutants (TAPs)	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 maximum operating schedule will be from a.m. to __ p.m. ___days a week and a maximum of __ weeks per year. **[If truck traffic exceeds normal or maximum hours of operation it should be explained here with clarification of what those hours are.]**

Owners and operators of the facility include **[list names and addresses that are different from the signature at the end of this letter]**.

If you have any comments about the construction or operation of the above facility, and you want your comments to be made as 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. Please include a mailing legible mailing address with your comments. Once the Department has performed a preliminary review of the application and its air

quality impacts, the Departments notice will be published in the legal section of a newspaper circulated near the facility location.

Sincerely,
[**permit applicant**]
[**permit applicant address**]

Attachment 5

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/other]** facility. 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 of facility]**, is/will be at **[use the address of the facility location. If there is no address, use lat and long coordinates as follows]** latitude xx deg**,** xx min, xx sec **[deg., min., sec.]** and longitude -xxx deg**,** xx min, xx sec **[deg., min., sec.] [Also include directions to the facility as follows]** The approximate location of this facility 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 estimated maximum quantities of any regulated air contaminant will be: **[*List pounds per hour and tons per year of regulated contaminants (include fugitives). 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. Applicant may choose to add a small "safety factor" if values may increase during permitting process.] [You may delete any regulated air contaminants that will not be emitted from your facility]*** These emission estimates could change slightly during the course of the Department's review of the application.

Pollutant:	Pounds per hour	Tons per year
Total Suspended Particulates (TSP)	pph	tpy
PM_{10}	pph	tpy
$PM_{2.5}$	pph	tpy
Sulfur Dioxide (SO_2)	pph	tpy
Nitrogen Oxides (NO_x)	pph	tpy
Carbon Monoxide (CO)	pph	tpy
Volatile Organic Compounds (VOC)	pph	tpy
Total sum of all Hazardous Air Pollutants (HAPs)	pph	tpy
Total sum of all Toxic Air Pollutants (TAPs)	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 maximum operating schedule will be from . a.m. to __ p.m. ___days a week and a maximum of __ weeks per year. **[If truck traffic exceeds normal or maximum hours of operation it should be explained here with clarification of what those hours are.]**

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

If you have any comments about the construction or operation of the above facility, and you want your comments to be made as 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. Please include a mailing legible mailing address with your comments. Once the Department has performed a preliminary review of the application and its air

quality impacts, the Departments notice will be published in the legal section of a newspaper circulated near the facility location.