

**New Mexico State Amendments to Part 72
(20.2.72 NMAC), Construction Permits,
submitted to EPA May 29, 1998.**

**This document contains only the cover letter
and the amendments to New Mexico State
Part 72 (20.2.72 NMAC), Construction Permits,
adopted by the New Mexico State Environment
Department effective January 7, 1998,
February 8, 1998, and April 22, 1998, and
submitted to EPA May 29, 1998.**



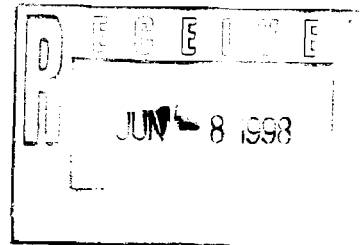
NM-38

OFFICE OF THE GOVERNOR
SANTA FE, NEW MEXICO 87503

GARY E. JOHNSON
GOVERNOR

(505) 827-3000

May 29, 1998



Mr. Gregg A. Cooke
Regional Administrator (6-A)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 2000
Dallas, Texas 75202-2733

Dear Mr. Cooke:

I am pleased to submit to the U.S. Environmental Protection Agency (US EPA) the revised 20 NMAC 2.72 - Construction Permits. The first set of proposed revisions to 20 NMAC 2.72 went to hearing before the Environmental Improvement Board (EIB) on October 17, 1997. These revisions involved changes to Sections: 202, "Exemptions"; 203, "Contents of Applications"; 206, "Public Notice and Participation"; 207, "Permit Decisions and Appeals"; and the addition of a new Section 219, "Permit Revisions".

The New Mexico Environment Department (NMED) again went to hearing for proposed revisions to 20 NMAC 2.72 on March 20, 1998. The regulation was revised to allow NMED to develop and issue general construction permits through the addition of a new Section 220. Section 104 was modified to simply reflect the procedure by which revisions are noted within the regulation.

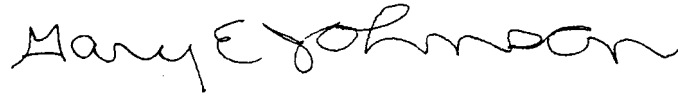
This package contains all the additional elements required by the US EPA for this State Implementation Plan (SIP) submittal. A list of these elements is attached.

The State of New Mexico looks forward to your approval of our changes to this regulation and our continued success in helping to preserve and protect New Mexico's air quality. If there are any

Mr. Cooke
May 29, 1998
Page 2

questions concerning this submittal, please contact Cecilia Williams, Chief, Air Quality Bureau of NMED at (505) 827-0042.

Sincerely,

A handwritten signature in cursive script that reads "Gary E. Johnson".

Gary E. Johnson
Governor of New Mexico

GEJ/EAF(AQB)

Enclosures

cc: Mark E. Weidler, Secretary, Environment Department
Peter Maggiore, Director, Environmental Protection Division

Attachments:
Elements contained within this SIP submittal

October 17, 1997 EIB Hearing on 20 NMAC 2.72

1. New Mexico State Records Center NMAC Transmittal Forms and regulatory changes as filed with the Records Center for 20 NMAC 2.72 on **December 8, 1997** and **January 9, 1998**. (Note: two filing dates were necessary because EIB delayed action on Section 202.C until their January meeting)
2. Notice of public hearing for **October 17, 1997**, for proposed 20 NMAC 2.72.
3. Copies of affidavits of publication from the New Mexico Register and the Albuquerque Journal (newspaper).
4. Notices of intent (NOI) to testify for proposed 20 NMAC 2.72 at the EIB hearing on October 17, 1997 from:
 - i. NMED (includes attached written testimony and exhibits)
 - ii. the New Mexico Environmental Law Center
 - iii. the New Mexico Oil and Gas Association (includes correction to NOI).
5. Post Hearing Comments submitted by:
 - i. NMED
 - ii. the New Mexico Environmental Law Center
 - iii. the New Mexico Oil and Gas Association.
6. Letters from:
 - i. NMED to EIB (dated 1/9/98)
 - ii. NMED to Lynda Taylor (dated 10/8/97)
 - iii. NMED to Dave Searle (dated 10/30/97)
 - iv. Phelps Dodge to EIB (dated 10/15/97) (not read into the hearing record)
 - v. NMED to EPA (dated 9/2/97)
 - vi. EPA to NMED (dated 10/1/97).
7. Copy of the official transcript of the October EIB hearing to consider proposed 20 NMAC 2.70, 2.72, 2.77 and 2.78. (Please note that the Notice of public hearing and the NOIs also mention proposed revisions to 20 NMAC 2.70, 2.77 and 2.78. These revisions were adopted by the EIB on October 17 and were previously submitted as a package to EPA on November 3, 1997.)

March 20, 1998 EIB Hearing on 20 NMAC 2.72

1. New Mexico State Records Center NMAC Transmittal Form and regulatory changes as filed with the Records Center for 20 NMAC 2.72 on **March 23, 1998**.

2. Notice of public hearing for **March 20, 1998**, for proposed 20 NMAC 2.72.
3. Copies of affidavits of publication from the New Mexico Register and the Albuquerque Journal (newspaper).
4. Notices of intent (NOI) to testify for proposed 20 NMAC 2.72 on March 20, 1998, from:
 - i. NMED (includes testimony and exhibits 1-3)
 - ii. the New Mexico Oil and Gas Association.
5. Letters from:
 - i. NMED to EIB to withdraw from consideration proposed revisions to 20 NMAC 2.75 (dated 2/18/98)
 - ii. NMED to EPA, consisting of the draft proposed revisions (dated 1/22/98)
 - iii. EPA to NMED, comments on revisions (dated 2/27/98)
 - iv. NMED to EPA, response to comments (dated 3/10/98).
6. Copy of the official transcript of the March EIB hearing to consider proposed 20 NMAC 2.72 and 2.75 (withdrawn).
7. Amended and complete regulation 20 NMAC 2.72 - Construction Permits, effective April 22, 1998.

Filed December 8, 1997

NMAC TRANSMITTAL FORM

1 NMAC 3.3.10.22

[Sequence No. _____]

1. Agency Name & Mailing Address ENVIRONMENTAL IMPROVEMENT BOARD P.O. BOX 26110/1190 ST. FRANCIS DRIVE SANTA FE, NM 87502	2. Agency Account Code 667
	3. Type of Rule Action New _____ Emergency _____ Amending <u>X</u> Repealing _____

4. NMAC Title Name ENVIRONMENTAL PROTECTION	NMAC Title Number 20
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5. NMAC Chapter Name AIR QUALITY (STATEWIDE)	NMAC Chapter Number 2
--	---------------------------------

6. NMAC Part Name CONSTRUCTION PERMITS	NMAC Part Number 72
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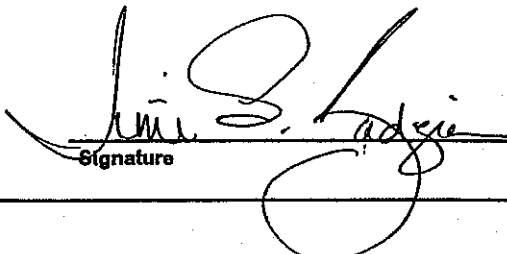
7. Modified NMAC Name CONSTRUCTION PERMITS	Modified NMAC Number 2.72
	Filing Date (if applicable) 10/30/95

8. Are there any materials incorporated by reference?	
No <u>X</u>	Yes ____ Please list attachments: 1. _____ 2. _____ 3. _____

9. If materials are attached, have copyright permissions been received?		
No ____	Yes ____	Public domain ____

10. Total Number of Pages: _____	11. Hearing Date of Rule: <u>10 / 17 / 97</u>
	12. Effective Date of Rule: <u>1 / 7 / 98</u>

13. Contact Person: <u>PHIL WARDWELL</u>
Phone Number: <u>827</u> - <u>1047</u>

14. Signature & Title of Issuing Authority
Name: <u>JIMI GADZIA</u> Title: <u>CHAIR</u>

Signature _____ Date Signed <u>12/01/97</u>

202. EXEMPTIONS: The following exemptions are made to the following requirements of Subpart II of this Part. The exemptions in this Section do not apply to emissions of toxic air pollutants listed under Section 502 of this Part, do not alter the calculation of the potential emissions of toxic air pollutants for applicability under Section 402 of this Part, and do not exempt the Department or the owner or operator of any source from any requirement under Sections 403, 404, or 405 of this Part. [1-7-98]

A. The following sources and activities shall not be reported in the permit application. Emissions from such activities shall not be included in the calculation of facility-wide potential emission rate under Sections 200.A.1 or 200.A.2. Such activities may be commenced or changed without a permit or permit revision under this Subpart:

1. Activities which occur strictly for maintenance of grounds or buildings, including: lawn care, pest control, grinding, cutting, welding, painting, woodworking, sweeping, general repairs, janitorial activities, and building roofing operations;
2. Activities for maintenance of equipment or pollution control equipment, either inside or outside of a building, including cutting, welding, and grinding, but excluding painting;
3. Exhaust emissions from forklifts, courier vehicles, front end loaders, graders, carts, maintenance trucks, and fugitive emissions from fleet vehicle refueling operations, provided such emissions are not subject to any requirements under this Chapter (Air Quality), NSPS or NESHAP;
4. Use of fire fighting equipment and fire fighting training;
5. Government military activities such as field exercises, explosions, weapons testing and demolition to the extent that such activities:
 - a. Do not result in visible emissions entering publicly accessible areas; and
 - b. Are not subject to a NSPS or NESHAP;
6. Office activities, such as photocopying;
7. Test drilling for characterization of underground storage tank and waste disposal sites;
8. Non-anthropogenic wind blown dust;

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9. Residential activities such as use of fireplaces, woodstoves, and barbecue cookers;
10. Gases used to calibrate plant instrumentation, including continuous emission monitoring (CEM) systems;
11. Food service, such as cafeteria activities;
12. Automotive repair shop activities, except painting and use of solvents;
13. Use of portable aerospace ground equipment (such as power generators, compressors, heaters, air conditioners, lighting units) in direct support of aircraft operations and on or in the immediate vicinity of an airfield;
14. Activities which occur strictly for preventive maintenance of highway bridges, displays and water towers, including: grinding, cutting, welding, painting, and general repairs;
15. The act of repositioning or relocating equipment, pipes, ductwork, or conveyors within the plant site, but only when such change in physical configuration does not:
 - a. Reposition or relocate any source of air emissions or the emission points from any such source; or
 - b. Increase the amount of air emissions or the ambient impacts of such emissions. [1-7-98]

B. The presence of the following new or modified sources and activities at the facility shall be reported as provided for in the permit application forms supplied by the Department. Emissions from such sources and activities shall not be included in the calculation of facility-wide potential emission rate under Sections 200.A.1 or 200.A.2 of this Part. Construction of such sources or commencement of such activities after issuance of the permit shall be subject to the administrative permit revision procedures in Section 219 of this Subpart:

1. Fuel burning equipment which is used solely for heating buildings for personal comfort or for producing hot water for personal use and which:
 - a. Uses gaseous fuel and has a design rate less than or equal to five (5) million BTU per hour; or
 - b. Uses distillate oil (not including waste oil) and has a design rate less than or equal to one (1) million BTU per hour;

2. VOC emissions resulting from the handling or storing of any VOC if:
 - a. Such VOC has a vapor pressure of less than two tenths (0.2) PSI at temperatures at which the compound is stored and handled; and
 - b. The owner or operator maintains sufficient record keeping to verify that the requirements of Section 202.B.2.a are met;
3. Standby generators which are:
 - a. Operated only during the unavoidable loss of commercial utility power;
 - b. Operated less than 500 hours per year; and
 - c. Either are:
 - (1) The only source of air emissions at the site; or
 - (2) Accompanied by sufficient record keeping to verify that the standby generator is operated less than 500 hours per year;
4. The act of repositioning or relocating sources of air emissions or emissions points within the plant site, but only when such change in physical configuration does not increase air emissions or the ambient impacts of such emissions;
5. Any emissions unit, operation, or activity that has a potential emission rate of no more than one-half ($\frac{1}{2}$) ton per year of any pollutant for which a National or New Mexico Ambient Air Quality Standard has been set or one-half ($\frac{1}{2}$) ton per year of any VOC. Multiple emissions units, operations, and activities that perform identical or similar functions shall be combined in determining the applicability of this exemption;
6. Surface coating of equipment, including spray painting, roll coating, and painting with aerosol spray cans, if:
 - a. The potential emission rate of VOCs do not exceed ten (10) pounds per hour;
 - b. The facility-wide total VOC content of all coating and clean-up solvent use is less than two (2) tons per year; and
 - c. The owner or operator maintains sufficient record keeping to

verify that the requirements in 202.B.6.a and b above are met;

7. Particulate emissions resulting from abrasive blasting operations, if:

- a. Blasting operations are entirely enclosed in a building; and
- b. No visible particulate emissions are released from the building.

[1-7-98]

C. [RESERVED]

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

1. Such source may relocate without undergoing a permit revision if:

- a. The source is installed in a manner conforming with the initial permit;
- b. The source continues to meet all applicable emission limitations and permit conditions; and
- c. The source meets the applicable requirements in Sections 202.D.2 and 202.D.3 below;

2. For each portable compressor engine which has been issued a streamlined permit in accordance with Section 301.D.1 of this Part, the owner or operator shall complete the appropriate forms provided by the Department and maintain such records on file for at least two (2) years;

3. For all other portable sources, including but not limited to rock crushers and 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;

- c. The Department shall not approve the relocation if it would result in exceedances of any National or New Mexico Ambient Air Quality Standard at the

new location; and

d. The Department shall approve, deny, or approve with conditions, the relocation request within fifteen (15) days of receipt of the notice form. [11-30-95; Rn, 20 NMAC 2.72.202.B, 1-7-98; 1-7-98]

203. CONTENTS OF APPLICATIONS:

B. In addition to requirements in Section 203.A, each application filed with the Department for a permit or technical or significant permit revision shall include documentary proof that the applicant has provided notice of the filing of the application to the public and other affected individuals and entities. The notice shall be:

1. Provided by certified mail, 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 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 ($\frac{1}{2}$) mile 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 subparagraph 203.B.1.a of this subsection;

2. Provided 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;

3. Published 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 either the classified or legal advertisements section of the newspaper and at one other place in the newspaper calculated to give the general public the most effective notice and, when appropriate, shall be printed in both English and Spanish;

4. 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, such as a nearby post office, public library, or city hall; and

5. 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. [11-30-95, 1-7-98]

C. The notice specified in Section 203.B.1 through 4 shall contain the following:

1. The applicant's name and address, together with the names and addresses of all owners or operators of the facility or proposed facility;

2. The actual or estimated date that the application was or will be submitted to the Department;

3. The exact location of the facility or proposed facility;

4. 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;

5. The maximum and standard operating schedules of the facility after completion of proposed construction or permit issuance; and

6. The current address of the Department to which comments and inquiries may be directed. [11-30-95, 1-7-98]

D. The public service announcement request specified in Section 203.B.5 shall contain the following information about the facility or proposed facility:

1. The name, location, and type of business;

2. The name of the principal owner or operator;

3. The type of process or change for which a permit is sought;

4. Locations where the notices required under Section 203.B.4 have been posted; and

5. The address or telephone number at which comments and inquiries may be directed to the Department. [1-7-98]

206. PUBLIC NOTICE AND PARTICIPATION:

A. The Department shall:

1. Make available for public inspection a list of all pending applications for permits or permit revisions;
2. Make available for public inspection the permit application and the Department's preliminary determination. This material shall be available both at the Department's central office and the district or field office nearest to the proposed source. Copies of any permit application, except those portions of which may be determined as confidential in accordance with Part 1 - *General Provisions*, will be supplied upon written request and payment of reasonable costs;
3. Subsequent to the availability for public review of the permit application and preliminary determination, publish a public notice in a newspaper of general circulation in the area closest to the location of the source. The notice shall include: the applicant's name and address, the location and brief description of the source, a summary of estimated emissions and ambient impact, and the Department's preliminary intent to grant or deny the permit. The notice shall identify the location of the permit application and preliminary determination for public review and describe the manner in which comments or evidence may be submitted to the Department;
4. Allow all interested persons forty-five (45) days from the date the public notice is published to submit written comments or evidence on the preliminary determination and application and to request a public hearing;
5. Mail written notice of the action taken on a permit application to those persons who submitted written comments or evidence on the application;
6. Mail a copy of the public notice at the same time it is sent for publication to the appropriate agency in the following locations if the source will locate within fifty kilometers of the boundary of other states, Bernalillo County, or a Class I area. A copy of all public notices shall be sent to US EPA Region VI. [11-30-95, 1-7-98]

207. PERMIT DECISIONS AND APPEALS:

A. The Department shall, within thirty (30) days after its receipt of an application for a permit or significant permit revision, review such application for completeness. If the application is judged complete, a letter to that effect shall be sent by certified mail to the applicant. If the application is judged incomplete a letter shall be sent by certified mail to the applicant stating what additional information or points of clarification are necessary to judge

the application complete. If the application is judged complete but no permit is required, a letter shall be sent by certified mail to the applicant informing the applicant of the determination. [11-30-95, 1-7-98]

B. The Department shall, as soon as practicable after the Department deems the application complete but not to exceed one hundred eighty (180) days or two hundred forty (240) days if the application is subject to Part 74, *Prevention of Significant Deterioration*, either grant, grant subject to conditions or deny the permit or significant permit revision. [11-30-95, 1-7-98]

F. If a timely request for a hearing is made, the board shall hold a hearing within ninety (90) days of receipt of the petition in accordance with Section 74-2-7 of the New Mexico Air Quality Control Act, NMSA 1978. [11-30-95, 1-7-98]

G. Any person adversely affected by an administrative action taken by the board may appeal in accordance with Section 74-2-9 of the New Mexico Air Quality Control Act, NMSA 1978. [11-30-95, 1-7-98]

219. **PERMIT REVISIONS:** [11-30-95; Rn, 20 NMAC 2.72.202, 1-7-98; 1-7-98]

A. Administrative Permit Revisions

1. Administrative permit revision procedures may be used only for those permit revisions that:

- a. Correct typographical errors;
- b. Provide for a minor administrative change at the source, such as a change in ownership or a change in the address or phone number of any person identified in the permit;
- c. Incorporate a change in the permit solely involving the retiring of a source or closing of a facility upon notification of the Department that the permittee has ceased operations of the source or facility;
- d. Incorporate a change in the permit solely involving the deletion from the permit of a source or sources upon notification of the Department that the source or sources have not been and will not be built; or
- e. Incorporate a source or activity at the facility which is exempted under Section 202.B of this Part;

2. The permittee shall apply for an administrative permit revision by filing a certified written notification of the proposed revision with the Department which includes all information required by the Department to review the request. The certification shall be made as required under Section 203.A.10 of this Part;

3. The administrative permit revision is effective upon receipt of the notification by the Department;

4. Administrative permit revisions shall not be subject to public notification requirements under Sections 203.B and 206 of this Part. The Department shall attach the revision to the permit;

5. Administrative permit revisions shall not be subject to filing fees or permit fees under Part 2.75 - *Construction Permit Fees*;

6. The Department is not required to reissue the permit to incorporate an administrative permit revision. [1-7-98]

B. Technical Permit Revisions

1. Technical permit revision procedures may be used only for:

a. Permit revisions that incorporate a change in the permit solely involving a change to monitoring, record keeping, or reporting requirements by the permittee, provided that the Department determines that such change does not reduce the enforceability of the permit;

b. Permit revisions that incorporate a change in the permit solely involving additional equipment with a potential emission rate of no more than one (1) pound per hour for any pollutant for which a National or New Mexico Ambient Air Quality Standard has been set or one (1) pound per hour for any VOC;

c. Permit revisions that incorporate a change in the permit solely involving the placement of permit conditions, including emissions limitations, on sources which existed on August 31, 1972 and which have been regularly operated since that time;

d. Modifications that replace an emissions unit for which the allowable emissions limits have been established in the permit, provided that the new emissions unit:

(1) Is equivalent to the replaced emissions unit, and serves

the same function within the facility and process;

(2) Has the same or lower capacity and potential emission rates;

(3) Has the same or higher control efficiency, and stack parameters which are at least as effective in the dispersion of air pollutants;

(4) Would not result in an increase of the potential emission rate of any other equipment at the facility;

(5) Shall be subject to the same or lower allowable emissions limits under the permit, and to all other permit conditions which have applied to the replaced emissions unit;

(6) Would not, when operated under applicable permit conditions, cause or contribute to a violation of any National or New Mexico Ambient Air Quality Standard; and

(7) Would not, as determined by the Department, require additional permit conditions in order to ensure the enforceability of the permit, such as additional record keeping or reporting to show compliance; or

e. Permit revisions that make adjustments to the emissions limitations based on the result of the initial compliance test(s), provided that:

(1) The test is performed in accordance with permit conditions;

(2) Such adjustment occurs within six (6) months of the compliance test;

(3) No other such adjustment has occurred since the most recent permit issuance or reissuance;

(4) Such adjustment does not: alter any other permit condition; trigger additional requirements under any other Part, including Part 74 - *Prevention of Significant Deterioration*; or result in allowable emissions which could contribute to a violation of any National or New Mexico Ambient Air Quality Standard;

(5) Such request does not increase the permitted allowable emissions of the unit(s) on which the initial compliance test(s) have been performed by more

NEW MEXICO
DEPARTMENT OF
ENVIRONMENT
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than ten (10) percent; and

(6) Where the permit fee calculated under Part 75 - *Construction Permit Fees* would have been greater if it had been based on the potential emission rate as indicated by the compliance test, the balance of the permit fee is submitted as part of the technical permit revision application;

2. A request for a technical permit revision shall be accomplished by filing a certified written notification of the proposed revision with the Department on forms provided by the Department and shall include all information required by the Department to review the request. The certification shall be made as required under Section 203.A.10 of this Part;

3. The Department shall approve or deny the technical permit revision, or inform the applicant that the request must be submitted as a significant permit revision:

- a. Within thirty (30) days of receipt of the complete application; or
- b. If in response to significant public interest the Department holds a public meeting regarding the technical permit revision, within sixty (60) days of receipt of the complete application;

4. The Department may deny an application for a technical permit revision or require that such application be submitted as a significant permit revision if:

- a. Such revision does not meet the criteria of this Section;
- b. In the judgment of the Department the revision would require a decision on a significant or complex issue; or
- c. In the judgment of the Department the permittee has submitted multiple or subsequent applications for technical permit revisions under this Part that segment a larger revision or modification that would not be eligible for a technical permit revision;

5. The technical permit revision shall become effective upon written approval from the Department;

6. Technical permit revisions shall not be subject to public notification requirements under Sections 203.B.1, 4, and 5 and 206 of this Part. The Department shall attach the technical permit revision to the permit. [1-7-98]

C. [RESERVED]

D. Significant Permit Revisions

1. A significant permit revision is required for any modification to a source, and for revisions to any term or condition of such permit, including but not limited to emissions limitation, control technology, operating conditions, and monitoring requirements; that:

a. Do not meet the criteria under the provisions for administrative or technical permit revisions under Sections 219.A or B; or

b. Meet the applicability criteria under Section 402 of this Part regarding toxic air pollutants;

2. Applications for significant permit revisions shall meet all requirements of this Part for permits and shall be processed in accordance with the public notice, review, and hearing procedures set forth in this Part for such permits. [11-30-95; Rn, 20 NMAC 2.72.202.A, 1-7-98; 1-7-98]

220 - 299. [RESERVED]

NMAC TRANSMITTAL FORM

1 NMAC 3.3.10.22

[Sequence No. _____]

1. Agency Name & Mailing Address

ENVIRONMENTAL IMPROVEMENT BOARD
P.O. BOX 26110/1190 ST. FRANCIS DRIVE
SANTA FE, NM 87502

2. Agency Account Code

667

3. Type of Rule Action

New _____ Emergency _____
Amending X Repealing _____

4. NMAC Title Name

ENVIRONMENTAL PROTECTION

NMAC Title Number

20

5. NMAC Chapter Name

AIR QUALITY (STATEWIDE)

NMAC Chapter Number

2

6. NMAC Part Name

CONSTRUCTION PERMITS

NMAC Part Number

72

7. Modified NMAC Name

CONSTRUCTION PERMITS

Modified NMAC Number

20 NMAC 2.72.202.C

Filing Date (if applicable)

12/08/97

8. Are there any materials incorporated by reference?

No X

Yes _____ Please list attachments: 1. _____
2. _____
3. _____

9. If materials are attached, have copyright permissions been received?

No _____

Yes _____

Public domain _____

10. Total Number of Pages: _____

11. Hearing Date of Rule: 10 / 17 / 9712. Effective Date of Rule: 2, 8, 9813. Contact Person: PHIL WARDWELLPhone Number: 827 1047

14. Signature & Title of Issuing Authority

Name: JIMI GADZIATitle: CHAIR

Signature

Date Signed

202. **EXEMPTIONS:** The following exemptions are made to the following requirements of Subpart II of this Part. The exemptions in this Section do not apply to emissions of toxic air pollutants listed under Section 502 of this Part, do not alter the calculation of the potential emissions of toxic air pollutants for applicability under Section 402 of this Part, and do not exempt the Department or the owner or operator of any source from any requirement under Sections 403, 404, or 405 of this Part. [1-7-98]

C. For sources and units subject to 40 CFR Part 60 (NSPS), 40 CFR Part 61 (NESHAP) or other Parts of this Chapter (Air Quality), except 40 CFR Part 60 Subparts I (asphalt plants) and 000 (rock crushers), 40 CFR Part 61 Subpart C (Beryllium), and 40 CFR Part 61 Subpart D (Beryllium Rocket Motor Firing):

1. Such sources and units shall be exempt from the applicability requirements in Section 200.A.3 if such sources or units:

a. Are included in a Notice of Intent filed under Part 73 - *Notice of Intent and Emissions Inventory*; or

b. Have met the notification requirements to which they are subject under NSPS or NESHAP; and

2. Applicability determinations under Sections 200.A.1 and 200.A.2 of this Part shall take into account all federally enforceable emission limits established for such sources or units under NSPS, NESHAP and other Parts of this Chapter. [2-8-98]

Filed March 23, 1998

STATE CENTER

MAR 23 1998

NMAC TRANSMITTAL FORM

1 NMAC 3.3.10.22

[Sequence No. _____]

1. Agency Name & Mailing Address	2. Agency Account Code
ENVIRONMENTAL IMPROVEMENT BOARD P.O. BOX 26110/1190 ST. FRANCIS DRIVE SANTA FE, NM 87502	667
	3. Type of Rule Action
	New _____ Emergency _____ Amending <u>X</u> Repealing _____

4. NMAC Title Name	NMAC Title Number
ENVIRONMENTAL PROTECTION	20

5. NMAC Chapter Name	NMAC Chapter Number
AIR QUALITY (STATEWIDE)	2

6. NMAC Part Name	NMAC Part Number
CONSTRUCTION PERMITS	72

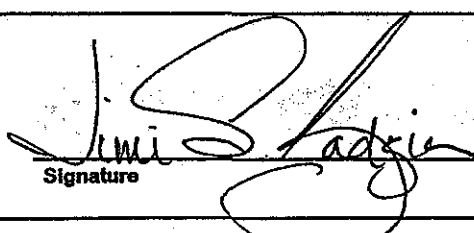
7. Modified NMAC Name	Modified NMAC Number
CONSTRUCTION PERMITS	20NMAC 2.72.104 & 220
	Filing Date (if applicable) 10/30/95

8. Are there any materials incorporated by reference?	
No <u>X</u>	Yes _____ Please list attachments: 1. _____ 2. _____ 3. _____

9. If materials are attached, have copyright permissions been received?		
No _____	Yes _____	Public domain _____

10. Total Number of Pages: _____	11. Hearing Date of Rule: 3 / 20 / 98
	12. Effective Date of Rule: 4 / 22 / 98

13. Contact Person: PHIL WARDWELL
Phone Number: 827 -- 1047

14. Signature & Title of Issuing Authority
Name: JIMI GADZIA
Title: CHAIR
Signature: 
Date Signed: 3/20/98

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104. **EFFECTIVE DATE:** 11-30-95 except where a later date is cited at the end of a section or paragraph. [11-30-95, 4-22-98]

220. **GENERAL PERMITS:**

A. Issuance of General Construction Permits.

1. The Department may, after notice under Section 206.A of this Part and a public hearing with opportunity for public participation under Section 206. B of this Part, issue one or more general construction permits, each covering numerous similar sources. Sources registered for coverage under a general permit shall be generally homogeneous in terms of operations, processes and emissions, subject to the same or substantially similar requirements, and not subject to case-by-case standards or requirements.

2. Each general construction permit shall:

a. Describe which sources may qualify to register under the general construction permit;

b. Specify the contents of a complete application to register under the general construction permit. The Department may, in the general construction permit, provide for applications which deviate from the requirements under Section 203 of this Part (Contents of Application), provided that such applications include:

(1) All information necessary to determine qualification for, and to assure compliance with, the general construction permit; and

(2) Applicant's public notice requirements including, at a minimum, a notice:

(a) Published once in the legal notices section of a newspaper in general circulation in the county or counties in which the property on which the facility is proposed to be constructed or operated is located; and

(b) Posted at the proposed or existing facility entrance in a publicly accessible and conspicuous place on the property on which the facility is, or is proposed to be, located, until the general permit registration is granted or denied;

c. Contain permit terms and conditions which apply to all sources registered under the general construction permit, and which include:

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(1) Sufficient terms and conditions to assure that all sources registered under and operating in accordance with the general construction permit will meet all applicable requirements under the federal Act, the New Mexico Air Quality Control Act and this Chapter (Air Quality), including Parts 74 - *Prevention of Significant Deterioration*, 77 - *New Source Performance Standards*, 78 - *Emission Standards for Hazardous Air Pollutants*, 79 - *Permits - Nonattainment Areas*, and 82 - *Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants*, and will not cause or contribute to air contaminant levels in excess of any National or New Mexico Ambient Air Quality Standard; and

(2) Monitoring, record keeping and reporting requirements appropriate to the source and sufficient to ensure compliance with the general construction permit. At a minimum, the general permit shall specify where the records shall be maintained, how long the records shall be retained and that all records or reports shall be made available upon request by the Department;

(3) As appropriate, terms and conditions to address and report emissions occurring during upsets, startups and maintenance; and

d. Specify that any document, including any application form, report, compliance certification and supporting data, submitted pursuant to this Section (220) shall contain a certification that meets the requirements of Section 203.A.10 of this Part.

[4-22-98]

B. Revisions to a General Construction Permit.

1. The Department may, after notice under Section 206.A and a public hearing with opportunity for public participation under Section 206.B, revise a general construction permit. Notice of the proposed revision shall also be sent to the owner or operator of all sources registered under the general construction permit.

2. Revisions to a general construction permit shall include a reasonable transition schedule for existing registered sources to comply with the revised permit. The Department shall revise the general permit terms and conditions only to the extent necessary to ensure that the requirements of Paragraph A.2.c of this Section (220) are met.

[4-22-98]

C. Registration under a General Construction Permit.

1. The owner or operator of a source required to obtain a permit pursuant to this Part and which qualifies to register under a general construction permit shall either:

a. Apply to the Department to register under the terms of the general construction permit; or

b. Apply for a construction permit under Section 200 of this Part.

2. Within thirty (30) days of receiving an application to register under a general construction permit, the Department shall review the application for completeness and shall grant or deny the registration. The Department shall not grant the registration until at least fifteen (15) days after the date the applicant's public notice was initiated. The Department shall notify the applicant of its determination by certified mail. The Department shall attach a copy of the general construction permit to registration approvals.

3. The Department shall grant registration under a general permit to a source only if:

a. The application is complete and meets the requirements of this Section (220); and

b. The source meets the terms and conditions of the general permit.

4. The Department may grant or deny an application to register under a general construction permit without repeating the public notice and participation procedures required under Section 206 of this Part.

5. Administrative review under §74-2-7.H through L NMSA 1978 shall be available for a determination made by the Department of whether or not a source qualifies to register for coverage under a general construction permit. However, administrative review of a registration for coverage under a general construction permit shall not extend to administrative review of the general permit itself. Administrative review of the general construction permit shall be available under §74-2-7.H through L NMSA 1978 only upon issuance or revision of the general permit as a permitting action.

6. Sources shall be subject to enforcement action for construction without a permit if:

a. Construction of a source is commenced prior to the receipt of the Department's written approval of registration under a general construction permit; or

b. It is determined after construction commences that a source does not qualify for coverage under the general construction permit.

7. A general permit registration may be canceled, consistent with the

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provisions of Section 211 of this Part, for any source which ceases operation for five years or more, or permanently, and for any source for which the construction or modification is not commenced within two years from the date of issuance or, if during the construction or modification, work is suspended for a total of one year. The owner or operator shall notify the Department of the anticipated and actual startup of a source, consistent with the provisions of Section 212 of this Part.

[4-22-98]

D. Modifications to Sources Registered Under a General Construction Permit.

Each general construction permit shall provide that, prior to modification of a source which is registered under a general construction permit, the owner or operator shall:

1. For those modifications for which the facility will continue to meet the conditions of the general construction permit after the modification, notify the Department in writing of such modification; and

2. For those modifications for which the source will not continue to meet the conditions of the general construction permit after such modification, obtain a construction permit from the Department under this Part prior to the modification.

[4-22-98]

221 - 299. **[RESERVED]**