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TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 72 CONSTRUCTION PERMITS

20.2.72.1 ISSUING AGENCY: Environmental Improvement Board.
[11/30/95; 20.2.72.1 NMAC - Rn, 20 NMAC 2.72.100 02/02/01]

20.2.72.2 SCOPE: All persons who intend to construct or modify a source, except as otherwise provided by this Part.
[11/30/95; 20.2.72.2 NMAC - Rn, 20 NMAC 2.72.101 02/02/01]

20.2.72.3 STATUTORY AUTHORITY: Environmental Improvement Act, NMSA 1978, Section 74-1-8(A)(4) and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., including specifically, Section 74-2-7(A)(1), (B), (C) and (D).
[11/30/95; 20.2.72.3 NMAC - Rn, 20 NMAC 2.72.102 02/02/01]

20.2.72.4 DURATION: Permanent. Notwithstanding the applicability provisions of 20.2.72.402 NMAC, the Department is stayed from enforcing requirements relating to asphalt fumes as a toxic air pollutant for new or modified sources until September 1, 1997.
[11/30/95; A, 08/02/96; 20.2.72.4 NMAC - Rn, 20 NMAC 2.72.103 02/02/01]

20.2.72.5 EFFECTIVE DATE: November 30, 1995 except where a later date is cited at the end of a section or paragraph.
[The latest effective date of any section in this Part is 9/6/06.]
[11/30/95; A, 04/22/98; 20.2.72.5 NMAC - Rn, 20 NMAC 2.72.104 02/02/01]

20.2.72.6 OBJECTIVE: The objective of this Part is to establish the requirements for obtaining a construction permit.
[11/30/95; 20.2.72.6 NMAC - Rn, 20 NMAC 2.72.105 02/02/01]

20.2.72.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions) as used in this Part:

A. **"Accelerated review"** means an optional process of permit application review that allows the Department to utilize a qualified outside firm to assist in review of a construction permit application.

B. **"Affiliate,"** for the purposes of accelerated review, means a person that directly or indirectly, through one or more intermediaries, controls or is under common control with another person. Control includes the possession of the power to direct or cause the direction of management and policies of a person, whether directly or indirectly through the ownership, control or holding with the power to vote ten percent or more of the person's voting securities.

C. **"Air pollution control equipment"** means any device, equipment, process or combination thereof the operation of which would limit, capture, reduce, confine, or otherwise control air contaminants or convert for the purposes of control any air contaminant to another form, another chemical or another physical state.

D. **"Ambient air"** means the outdoor atmosphere, but does not include the area entirely within the boundaries of the industrial or manufacturing property within which the air contaminants are or may be emitted and public access is restricted within such boundaries.

E. **"Coal mining operation"** means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the areas upon which such activities occur. This definition does not include coal preparation plants.

F. **"Coal preparation plant"** means any facility which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.

G. **"Commencement"** means that an owner or operator has undertaken a continuous program of construction or modification.

H. **"Conflict of interest,"** for the purposes of accelerated review, means any direct or indirect relationship between the qualified outside firm and the applicant or other interested person that would cause a reasonable person with knowledge of the relevant facts to question the integrity or impartiality of the qualified outside firm in review of the application. A conflict of interest does not include any gifts, gratuities, financial or contractual relationship of less than one hundred dollars ($100) in value for the twelve month period preceding Department receipt of the application. A conflict of interest includes but is not limited to the following examples:

(1) Gifts or gratuities of value have been exchanged between the qualified outside firm and the applicant.

(2) The qualified outside firm has provided goods or services to the applicant within one year prior to the start, or during the term, of the accelerated review process.

(3) An express or implied contractual relationship exists between the qualified outside firm and the applicant and the qualified outside firm has provided goods or services to the applicant through that relationship within five years prior

to the start of the accelerated review process.

(4) There is a current financial relationship between the qualified outside firm and the applicant. Current financial relationships include, but are not limited to:

(a) The qualified outside firm owes anything of value to, or is owed anything of value by the applicant.

(b) The qualified outside firm has provided goods or services to the applicant and has issued a warranty or guarantee for the work that is still in effect during the time the contracted work for accelerated review is being performed.

(5) A director, officer, or employee of the qualified outside firm, who will perform services under a contract pursuant to this section (20.2.72.221 NMAC), has one or more personal, business, or financial interests or relationships with the applicant or any director, officer or employee of the applicant which would cause a reasonable person with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting under a contract.

(6) A director, officer or employee of the qualified outside firm was a director, officer or employee of the applicant within one year prior to the start of the accelerated review process.

(7) Except where allowed by the Department, communication has been made between the qualified outside firm and the applicant regarding the substance of the application before a qualified outside firm has been selected to perform accelerated review of an application. Direct communication between the qualified outside firm and the applicant may take place once the qualified outside firm has been selected by the Department.

(8) Any affiliate of the applicant has any of the above identified relationships with the qualified outside firm.

(9) Any affiliate of the qualified outside firm has any of the above identified relationships with the applicant.

(10) Any affiliate of the applicant has any of the above identified relationships with any affiliate of the qualified outside firm.

I. **"Construction"** means fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources.

J. **"Emergency"** means unforeseen circumstances resulting in an imminent and substantial endangerment to health, safety, or welfare which requires immediate action.

K. **"Federally enforceable"** means all limitations and conditions which are enforceable by the administrator of the US EPA, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR 51.166.

L. **"Fugitive emissions"** means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

M. **"Hazardous air pollutant"** means an air contaminant which has been classified as a "hazardous air pollutant" by the administrator of the US EPA and is subject to a NESHAP.

N. **"Interested person,"** as used in the definition of conflict of interest, means any person, other than the Department, that is reasonably expected to provide or has provided substantive comment or technical evidence on the permit application.

O. **"Malfunction"** means any sudden and unavoidable failure of air pollution control equipment, process equipment, or process to operate in an expected manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable equipment breakdown shall not be considered a malfunction.

P. **"Modification"** means any physical change in, or change in the method of operation of, a stationary source which results in an increase in the potential emission rate of any regulated air contaminant emitted by the source or which results in the emission of any regulated air contaminant not previously emitted, but does not include:

(1) a change in ownership of the source;

(2) routine maintenance, repair or replacement;

(3) installation of air pollution control equipment, and all related process equipment and materials necessary for its operation, undertaken for the purpose of complying with regulations adopted by the board or pursuant to the Federal Act; or

(4) unless previously limited by enforceable permit conditions:

(a) an increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) an increase in the hours of operation; or

(c) use of an alternative fuel or raw material if, prior to January 6, 1975, the source was capable of accommodating such fuel or raw material, or if use of an alternate fuel or raw material is caused by any natural gas curtailment or emergency allocation or any other lack of supply of natural gas.

Q. **"National Ambient Air Quality Standard"** means, unless otherwise modified, the primary (health-related) and secondary (welfare-based) federal ambient air quality standards promulgated by the US EPA pursuant to Section 109 of the Federal Act.

R. **"National Emission Standards for Hazardous Air Pollutants"** or **"NESHAP"** mean the regulatory requirements, guidelines and emission limitations promulgated by the US EPA pursuant to Section 112 of the Federal Act.

S. **"New Source Performance Standard"** or **"NSPS"** means the regulatory requirements, guidelines and emission limitations promulgated by the US EPA pursuant to Section 111 of the Federal Act.

T. **"Nonattainment area"** means for any air contaminant an area which is shown by monitored data or

which is calculated by air quality modeling (or other methods determined by the administrator to be reliable) to exceed any national or New Mexico ambient air quality standard for such contaminant. Such term includes any areas identified under Sub-paragraphs (A) through (C) of Section 107 (d)(1) of the Federal Act.

U. **"Operator"** means the person or persons responsible for the overall operation of a facility.

V. **"Owner"** means the person or persons who own a facility or part of a facility.

W. **"Part"** means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.

X. **"Portable stationary source"** means a source which can be relocated to another operating site with limited dismantling and reassembly, including for example but not limited to moveable sand and gravel processing operations and asphalt plants.

Y. **"Potential emission rate"** 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.

Z. **"Qualified outside firm"** means any person who has entered into a contract with the Department to provide assistance in the accelerated review of construction permit applications.

AA. **"Regulated air contaminant"** means, any air contaminant, the emission or ambient concentration of which is regulated pursuant to the New Mexico Air Quality Control Act or the Federal Act.

BB. **"Shutdown"** means the cessation of operation of any air pollution control equipment, process equipment or process for any purpose, except routine phasing out of batch process units.

CC. **"Standard Industrial Classification"** or **"SIC"** means the code from the classification manual created by the Executive Office of the President-Office of Management and Budget, which categorizes industrial, manufacturing and commercial facilities, as listed in the Standard Industrial Code Manual published by the U.S. Government Printing Office, Washington D.C. 1972.

DD. **"Startup"** means the setting into operation of any air pollution control equipment, process equipment or process for any purpose, except routine phasing in of batch process units.

EE. **"Stationary source"** or **"source"** means any building, structure, equipment, facility, installation (including temporary installations), operation or portable stationary source which emits or may emit any air contaminant. Any research facility may group its sources for the purpose of this Part at the discretion of the Secretary.

[11/30/95; 20.2.72.7 NMAC - Rn, 20 NMAC 2.72.107 02/02/01; A, 03/30/01; A, 02/18/02]

20.2.72.8 **AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS:** This Part amends and supersedes Air Quality Control Regulation ("AQCR") 702 - Permits, filed May 29, 1990, as amended ("AQCR 702").

A. All references to AQCR 702 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 702 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 702.

[11/30/95; 20.2.72.8 NMAC - Rn, 20 NMAC 2.72.106 02/02/01]

20.2.72.9 **DOCUMENTS:** Documents incorporated and cited in this Part may be viewed at the New Mexico Environment Department, Air Quality Bureau, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, NM 87505.

[11/30/95; 20.2.72.9 NMAC - Rn, 20 NMAC 2.72.108 02/02/01]

20.2.72.10 - 20.2.72.199 [RESERVED]

20.2.72.200 **APPLICATION FOR CONSTRUCTION, MODIFICATION, NSPS, AND NESHAP - PERMITS AND REVISIONS:**

A. Permits must be obtained from the Department by:

(1) Any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review. Within this subsection, the potential emission rate for nitrogen dioxide shall be based on total oxides of nitrogen;

(2) Any person modifying a stationary source when all of the pollutant emitting activities at the entire facility, either prior to or following the modification, emit a regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard with a potential emission rate greater than 10 pounds per hour or 25 tons per year and the regulated air contaminant is emitted as a result of the modification. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted by the modification are subject to permit review. Within this subsection, the potential emission rate for

nitrogen dioxide shall be based on total oxides of nitrogen;

(3) Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC (New Source Performance Standards), 20.2.78 NMAC (Emission Standards for Hazardous Air Pollutants), or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant;

(4) For toxic air pollutants, see 20.2.72.400 NMAC - 20.2.72.499 NMAC;

(5) Any person constructing a stationary source which has a potential emission rate for lead greater than 5 tons per year or modifying a stationary source which either prior to or following the modification has a potential emission rate for lead greater than 5 tons per year; or

(6) Sources which are major sources of hazardous air pollutants by the definitions in 20.2.83 NMAC (Construction or Modification of Major Sources of Hazardous Air Pollutants).

B. Fugitive dust emissions from a coal mining operation shall not be subject to the requirements of Paragraph 1 of Subsection A of 20.2.72.200 NMAC. Note: New coal mining operations are required to have an approved air pollution control plan for fugitive dust emissions by the New Mexico Surface Coal Mining Commission.

C. Any source or modification meeting the applicability requirements of this Part, but which is a major stationary source or a major modification as defined in 20.2.74 NMAC, shall in addition be subject to 20.2.74 NMAC (Prevention of Significant Deterioration).

D. Any source or modification meeting the applicability requirements of this Part but which is a major stationary source or a major modification as defined in 20.2.79 NMAC, shall in addition be subject to 20.2.79 NMAC (Permits - Nonattainment Areas).

E. For all sources subject to this Part, applications for permits shall be filed prior to the commencement of the construction, modification or installation. Regardless of the anticipated commencement date, no construction, modification or installation shall begin prior to issuance of the permit.

F. Temporary installations and portable stationary sources are subject to this Part.

G. If a source consists of more than one unit, a separate permit may be required for each unit which is not substantially interrelated with another unit. A common connection leading to ductwork, pollution control equipment or a single stack shall not, by itself, constitute a substantial interrelationship.

H. Any source which previously did not require a permit because it was in existence before August 31, 1972 shall be subject to the requirements of this Part if operations cease for a period of five years or more and the source has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard.

I. Any source meeting the applicability requirements of this Part, but which is a major source of hazardous air pollutants, shall in addition be subject to 20.2.83 NMAC (Construction or Modification of Major Sources of Hazardous Air Pollutants).

[11/30/95]

20.2.72.201 NEW SOURCE REVIEW COORDINATION: In cases where the new source review requirements of either 20.2.74 NMAC, 20.2.77 NMAC, 20.2.78 NMAC, 20.2.79 NMAC, or 20.2.83 NMAC (Construction or Modifications of Major Sources of Hazardous Air Pollutants) apply to a new stationary source or modification in addition to this Part, the following provisions apply:

A. Only one permit application shall be submitted. The applicant shall submit a sufficient number of copies to meet the requirement of the applicable Part which requires the most copies;

B. The application shall be ruled administratively complete when information required by all applicable Parts has been submitted;

C. Definitions and requirements of each applicable Part are applied separately and do not supersede each other; and

D. After the requirements of all applicable Parts are met, only one permit shall be issued.

[11/30/95; A, 01/01/00]

20.2.72.202 EXEMPTIONS: The following exemptions are made to the following requirements of 20.2.72.200 NMAC - 20.2.72.299 NMAC. The exemptions in this section do not apply to emissions of toxic air pollutants listed under 20.2.72.502 NMAC, do not alter the calculation of the potential emissions of toxic air pollutants for applicability under 20.2.72.402 NMAC, and do not exempt the Department or the owner or operator of any source from any requirement under 20.2.72.403 NMAC, 20.2.72.404 NMAC, or 20.2.72.405 NMAC.

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 Paragraphs 1 or 2 of Subsection A of 20.2.72.200 NMAC. Such activities may be commenced or changed without a permit or permit revision under 20.2.72.200 NMAC - 20.2.72.299 NMAC:

(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;

(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.

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 Paragraphs 1 or 2 of Subsection A of 20.2.72.200 NMAC. Construction of such sources or commencement of such activities after issuance of the permit shall be subject to the administrative permit revision procedures in 20.2.219 NMAC.

(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 Sub-paragraph (a) of this paragraph 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:

i. The only source of air emissions at the site; or

ii. 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 (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 (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 Sub-paragraphs (a) and (b) of this paragraph 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.

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 OOO (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 Paragraph 3 of Subsection A of 20.2.72.200 NMAC if such sources or units:

(a) Are included in a Notice of Intent filed under 20.2.73 NMAC (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 Paragraphs 1 and 2 of Subsection A of 20.2.72.200 NMAC shall take into account all federally enforceable emission limits established for such sources or units under NSPS, NESHAP and other Parts of this Chapter.

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 Paragraphs 2 and 3 of Subsection D of 20.2.72.202 NMAC below;

(2) For each portable compressor engine which has been issued a streamlined permit in accordance with Paragraph 1 of Subsection D of 20.2.72.301 NMAC, 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; A, 01/07/98; A, 02/08/98]

20.2.72.203 CONTENTS OF APPLICATIONS:

A. Any person seeking a permit under Subsection A of 20.2.72.200 NMAC shall do so by filing a written application with the Department. The applicant shall submit the number of copies of the permit application specified in the applicable application form. The items of this section, if requested on the applicable application form, are required before the Department may deem an application administratively complete. The items may be modified by the Department, as appropriate, for emergency permits processed under 20.2.72.215 NMAC. All applications shall, as required by the Department:

(1) Be filled out on the form(s) furnished by the Department;

(2) State the applicant's name and address, together with the names and addresses of all owners or operators of the source, and the applicant's state of incorporation or principal registration to do business;

(3) Provide all information, including all calculations and computations, to describe the specific chemical and physical nature and to estimate the maximum quantities of any regulated air contaminants the source will emit through routine operations after construction, modification or installation is completed, and estimate maximum potential emissions during malfunction, startup, shutdown. With respect to a toxic air pollutant as defined by Subsection H of 20.2.72.401 NMAC this requirement only applies when the toxic air pollutant is emitted in such a manner that a permit is required under the provisions of 20.2.72.400 NMAC - 20.2.72.499 NMAC;

(4) Contain a regulatory compliance discussion demonstrating compliance with each applicable air quality regulation, ambient air quality standard, prevention of significant deterioration increment, and provision of 20.2.72.400 NMAC - 20.2.72.499 NMAC. The discussion must include an analysis, which may require use of US EPA-approved air dispersion model(s), to (1) demonstrate that emissions from routine operations will not violate any New Mexico or National Ambient Air Quality Standard or prevention of significant deterioration increment, and (2) if required by 20.2.72.400 NMAC - 20.2.72.499 NMAC, estimate ambient concentrations of toxic air pollutants.

(5) Provide a preliminary operational plan defining the measures to be taken to mitigate source emissions during malfunction, startup or shutdown;

(6) Include a topographical map, at least as detailed as the 7.5 minute Topographic Quadrangle map published by the United States Geological Survey, showing the exact location and geographical coordinates of the proposed construction, modification or installation of the source;

(7) Include a process flow sheet, including a material balance, and a site diagram of all components and locations of emissions to the atmosphere of the facility which would be involved in routine operations and emissions;

(8) Include a full description, including all calculations of controlled and uncontrolled emissions and the basis for all control efficiencies presented, of the equipment to be used for air pollution control, including a process flow sheet, or, if the Department so requires, layout and assembly drawings;

(9) Include a description of the equipment or methods proposed by the applicant to be used for emission measurement;

(10) State the maximum and standard operating schedules of the source after completion of construction, modification or installation or after permit revision in terms of which and how many hours per day, days per week, days per month and days per year;

(11) Contain such other specifically identified relevant information as the Department may reasonably require;

(12) Be notarized and signed under oath or affirmation by the operator, the owner or an authorized representative, certifying, to the best of his or her knowledge, the truth of all information in the application and addenda, if any;

(13) Contain payment of any fees which are specified in 20.2.75 NMAC (Construction Permit Fees) as payable at the time the application is submitted;

(14) Contain documentary proof of applicant's public notice, if applicable, as specified in Subsection B of 20.2.72.203 NMAC; and

(15) At the sole discretion of the applicant, contain a request for accelerated review of the application.

B. The applicant's public notice for technical permit revisions shall be as specified in Paragraph 6 of Subsection B of 20.2.72.219 NMAC. The applicant's public notice for a permit or significant permit revision 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 (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 Sub-paragraph (a) of Paragraph 1 of Subsection B of 20.2.72.203 NMAC;

(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.

C. The notice specified in Paragraphs 1 through 4 of Subsection B of 20.2.72.203 NMAC 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.

D. 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:

(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 Paragraph 4 of Subsection B of 20.2.72.203 NMAC have been posted; and

(5) The address or telephone number at which comments and inquires may be directed to the Department.

E. Changing, Supplementing or Correcting Applications:

(1) Prior to a final decision on an application, the applicant shall have a duty to promptly supplement and correct information submitted in the application. The duty to supplement shall include relevant information thereafter acquired or otherwise determined to be relevant.

(2) If, while processing an application, regardless of whether it has been determined to be administratively complete, the Department determines that additional information is necessary to evaluate or take final action on that application, it may request such information. The request shall be in writing, identify the additional information requested and the need for the additional information, and set a reasonable deadline for a response. The applicant shall submit the requested information in writing on or before the deadline set by the Department.
[11/30/95; A, 01/07/98; A, 01/01/00; 20.2.72.203 NMAC - A, 03/30/01]

20.2.72.204 CONFIDENTIAL INFORMATION PROTECTION: All confidentiality claims made regarding material submitted to the Department under this Part shall be reviewed under the provisions of 20.2.1 NMAC (General Provisions).
[11/30/95]

20.2.72.205 CONSTRUCTION, MODIFICATION AND PERMIT REVISION IN BERNALILLO COUNTY: For the construction or modifications of sources within Bernalillo County, the applicant shall make such applications to the air quality control staff of the joint Albuquerque-Bernalillo County Air Quality Control Board, unless that board loses, rejects or fails to exercise authority for the administration and enforcement of the Air Quality Control Act, at which time this Part shall apply in full in Bernalillo County.
[11/30/95]

20.2.72.206 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 20.2.1 NMAC (General Provisions), will be supplied upon written request and payment of reasonable costs;

(3) Subsequent to an affirmative administrative completeness 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 issue the permit if the construction or modification requested in the application will comply with air quality requirements, including ambient standards. The notice shall identify the location of the permit application and Department's Analysis (when available) for public review and describe the manner in which comments or evidence may be submitted to the Department, including that persons must inform the Department in writing of their interest in the permit application in order to have a 30 day period to review and comment on the analysis under Subsection B of 20.2.72.206 NMAC below. The notice shall clearly state that any person who does not express such interest in writing prior to the end of the initial 30 day comment period will not receive notification of the availability of the analysis and thus forewarn such person of the need to express interest in writing if they desire to review and comment on the analysis;

(4) Provide the notice under Paragraph 3 of Subsection A of 20.2.72.206 NMAC above by mail, which may include electronic mail, to all individuals and organizations identified on a list maintained by the Department of those who have indicated in writing a desire to receive notices of all applications under this Part;

(5) Allow all interested persons thirty (30) days from the date the public notice is published to express an interest in writing in the permit application;

(6) Mail written notice of the action taken on a permit application to any person who expresses an interest in writing in the application; and

(7) 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. Copies of all public notices shall be sent to US EPA Region VI, if requested by US EPA.

B. In the event that any person expresses an interest in writing in the permit application, the Department shall also:

(1) Notify each person who expressed an interest in writing in the permit application of the date and the location that the Department's Analysis was or will be available for review; and

(2) Not issue the permit until at least thirty (30) days after the Department's Analysis is available for review. During this thirty (30) day period, any person may submit written public comments or request a public hearing.

C. The Department shall hold a public hearing if the Secretary determines that there is a significant public interest. Public hearings shall be held in the geographic area likely to be impacted by the source. The time, date, and place of the hearing shall be determined by the Department. The Department shall give notice of the hearing to the applicant and the public. The Secretary may appoint a hearing officer. A transcript of the hearing shall be made at the request of either the

Department or the applicant and at the expense of the person requesting the transcript. At the hearing, all interested persons shall be given a reasonable chance to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing.
[11/30/95; 20.2.72.206 NMAC - A, 02/02/01]

20.2.72.207 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 and determine whether it is administratively complete. If the application is deemed:

(1) administratively complete, a letter to that effect shall be sent by certified mail to the applicant.

(2) administratively incomplete, a letter shall be sent by certified mail to the applicant stating what additional information or points of clarification are necessary to deem the application administratively complete. Upon receipt of the additional information or clarification, the Department shall promptly review such information and determine whether the application is administratively complete.

(3) administratively complete but no permit is required, a letter shall be sent by certified mail to the applicant informing the applicant of the determination.

B. The Department shall either grant, grant subject to conditions or deny the permit or significant permit revision:

(1) within ninety (90) days after the Department deems the application administratively complete, if the application is not subject to the requirements of 20.2.74 NMAC (Prevention of Significant Deterioration); or

(2) within one hundred eighty (180) days after the Department deems the application administratively complete, if the application is subject to the requirements of 20.2.74 NMAC (Prevention of Significant Deterioration).

C. If the Department fails to take action on the application within the deadlines specified in Subsection B of 20.2.72.207 NMAC, the Department shall notify the applicant by certified mail that an extension of time is necessary to process the application and shall specify, in detail, the grounds for the extension. The Secretary may grant an extension, not to exceed ninety (90) days, to the deadlines specified in Subsection B of 20.2.72.207 NMAC, if the Secretary determines that good cause exists for the extension. The Secretary shall notify the applicant by certified mail of the decision on the extension. If the Secretary grants the extension, the notification shall include the length of the extension and the reasons therefore. The authority under this paragraph may be delegated by the Secretary only to the Deputy Secretary or a Division Director. Examples of good cause for extension include, but are not limited to:

(1) the need to have public hearings;

(2) a health assessment is required under 20.2.72.400 NMAC - 20.2.72.499 NMAC;

(3) the permit application is subject to the requirements of 20.2.79 NMAC (Permits - Nonattainment Areas);

(4) additional time is needed to complete the requirements for federal review specified in 20.2.74.403 NMAC;

(5) the permit application requires review of unusually complex technical and regulatory issues; or

(6) the Department is unable to complete review of information submitted, because of the timing and scope of the submittal.

D. The Department shall grant the permit, grant the permit subject to conditions, or deny the permit based on information contained in the Department's administrative record. The administrative record shall consist of the application, any other evidence submitted by the applicant, any evidence or written comments submitted by interested persons, any other evidence considered by the Department, a statement of matters officially noticed, and if a public hearing is held, the evidence submitted at the hearing. The applicant has the burden of demonstrating that a permit or permit revision should be approved.

E. Any person who participated in a permitting action before the Department shall be notified by the Department of the action taken and the reasons for the action. Notification of the applicant shall be by certified mail.

F. Any person who participated in a permitting action before the Department and who is adversely affected by such permitting action may file a petition for hearing before the board. The petition shall be made in writing to the board within thirty (30) days from the date notice is given of the Department's action and shall specify the portions of the permitting action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered as required by this paragraph, and attach a copy of the permitting action for which review is sought. Unless a timely request for hearing is made, the decision of the Department shall be final. The petition shall be copied simultaneously to the Department upon receipt of the appeal notice. If the petitioner is not the applicant or permittee, the petitioner shall mail or hand-deliver a copy of the petition to the applicant or permittee. The Department shall certify the administrative record to the board.

G. If a timely request for a hearing is made, the board shall hold a hearing within sixty (60) days of receipt of the petition in accordance with Section 74-2-7 of the New Mexico Air Quality Control Act, NMSA 1978.

H. 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; A, 01/07/98; A, 01/01/00]

20.2.72.208 BASIS FOR DENIAL OF PERMIT: The Department shall deny any application for a permit or permit revision if considering emissions after controls:

A. It appears that the construction, modification or permit revision will not meet applicable regulations adopted pursuant to the Air Quality Control Act;

B. The source will emit a hazardous air pollutant or an air contaminant in excess of any applicable New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants or a regulation of the board;

C. For toxic air pollutants, see 20.2.72.400 NMAC - 20.2.72.499 NMAC;

D. The construction, modification, or permit revision will cause or contribute to air contaminant levels in excess of any National Ambient Air Quality Standard or New Mexico Ambient Air Quality Standard unless the ambient air impact is offset by meeting the requirements of either 20.2.79 NMAC or 20.2.72.216 NMAC, whichever is applicable;

E. The construction, modification, or permit revision would cause or contribute to ambient concentrations in excess of a Prevention of Significant Deterioration (PSD) increment;

F. Any provision of the Air Quality Control Act will be violated;

G. It appears that the construction of the new source will not be completed within a reasonable time; or

H. The Department chooses to deny the application due to a conflict of interest in accelerated review as provided for under Subsection C of 20.2.72.221 NMAC.

[11/30/95; A, 01/01/00; 20.2.72.208 NMAC - A, 03/30/01]

20.2.72.209 ADDITIONAL LEGAL RESPONSIBILITIES ON APPLICANTS: The issuance of a permit does not relieve any person from civil or criminal liability for failure to comply with the provisions of the Air Quality Control Act, the Federal Act, federal regulations thereunder, any applicable regulations of the board, and any other applicable law or regulation.

[11/30/95]

20.2.72.210 PERMIT CONDITIONS:

A. The contents of the application specifically identified by the Department shall become terms and conditions of the permit or permit revision.

B. The Department shall, as appropriate, specify conditions upon a permit, including:

(1) Placement of individual emission limits determined on a case-by-case basis on the source for which the permit is issued, but such individual emission limits shall be only as restrictive as the more stringent of the following:

(a) The extent necessary to meet the requirements of the Air Quality Control Act and the Federal Act; or

(b) The emission rate specified in the permit application;

(2) A requirement that such source install and operate control technology, determined on a case-by-case basis, sufficient to meet the requirements of the Air Quality Control Act and the Federal Act and regulations promulgated under either;

(3) Compliance with applicable NSPS and NESHAP;

(4) Imposition of reasonable restrictions and limitations other than restrictions and limitations relating to emission limits or emission rates; or

(5) Any combination of the above;

(6) In the case of a modification, the requirements of Subsection B of 20.2.72.210 NMAC apply only to the facility or facilities involved in such modification.

C. The Department may impose such other reasonable conditions upon a permit, including a schedule of construction, a condition requiring timely revision of permit terms or conditions in order to meet new requirements, if any, under any federally required and approved State Implementation Plan revision, and conditions requiring the source to be provided with or to undertake:

(1) Sampling ports of a size, number and location as the Department may require;

(2) Safe access to each port;

(3) Instrumentation to monitor and record emission data including continuous emission monitoring, if appropriate;

(4) Any other reasonable sampling, testing and ambient monitoring and meteorological facilities and protocols; and

(5) Periodic testing pursuant to 20.2.72.213 NMAC.

D. Any term or condition imposed by the Department on a permit or permit revision is enforceable to the same extent as a regulation of the board.

E. The Department will as a condition of each permit require the permittee to establish and maintain such records of the nature and amount of emissions and to make such periodic reports to the Department regarding the nature and amounts of emissions and the performance of air pollution control equipment, as are necessary to carry out the purpose of the Air Quality Control Act.

F. **[RESERVED]**

[11/30/95; A, 11/14/98]

20.2.72.211 PERMIT CANCELLATIONS:

A. The Department shall automatically cancel any permit for any source which ceases operation for five years or more, or permanently. Reactivation of any source after the five year period shall require a new permit.

B. The Department may cancel a permit if 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, such cancellation shall be subject to the following procedures:

(1) At least thirty days prior to the cancellation of a permit, the Department shall notify the permittee by certified mail of the impending cancellation. The Department shall notify the permittee by certified mail of the cancellation of his permit and the reasons therefor. Construction, modification and, if required, interim operation shall cease upon the effective date of cancellation contained in the notice of cancellation. A permittee who has received notice that a permit is or will be cancelled may request a hearing before the board. The request must be made in writing to the board within thirty days after notice of the Department's action has been received by the permittee. Unless a timely request for hearing is made, the decision of the Department shall be final; and

(2) If a timely request for hearing is made, the board shall hold a hearing within thirty days after receipt of the request. The Department shall notify the permittee by certified mail of the date, time and place of the hearing. In the hearing the burden of proof shall be upon the permittee. The board may designate a hearing officer to take evidence in the hearing. Based upon the evidence presented at the hearing, the board shall sustain, modify or reverse the action of the Department.
[11/30/95]

20.2.72.212 PERMITTEE'S NOTIFICATION REQUIREMENTS TO DEPARTMENT: Any owner or operator subject to this Part shall notify the Department in writing of or provide the Department with:

A. Anticipated date of initial startup of a source not less than thirty (30) days prior to the date;

B. Actual date of initial startup of a source within fifteen (15) days after the startup date;

C. Any change of operators within fifteen (15) days of such change;

D. Any necessary update or correction no more than sixty (60) days after the operator knows or should have known of the condition necessitating the update or correction of the permit.
[11/30/95]

20.2.72.213 STARTUP AND FOLLOWUP TESTING: Within sixty (60) days after achieving the maximum production rate at which the source will be operated but not later than one hundred eighty (180) days after initial startup of the source, the owner or operator of the source may be required to conduct a performance test. The test method utilized shall be approved by the Department. Whenever the requirements of 40 CFR 60 or 61 apply, test methods must be utilized as specified in those regulations. The owner or operator shall notify the Department at least thirty (30) days prior to the test date and allow a representative of the Department to be present at the test. A written report of the results of the test shall be submitted to the Department by the owner or operator within thirty (30) days from the test date. This requirement may be reimposed on a source as necessary if inspections of the source indicate noncompliance with permit conditions subject to such testing, or the previous test showed noncompliance or was technically unsatisfactory. In such cases, the test requirement may be reimposed as frequently as necessary until compliance is achieved and testing is performed in a technically satisfactory manner. This testing requirement may be waived if the source is a member of a class subject to an exemption from this requirement pursuant to 20.2.72.214 NMAC, and has agreed to comply with, and its permit contains, enforceable design, operational and locational protocols set by the Department for the class of sources to which the source belongs.
[11/30/95]

20.2.72.214 SOURCE CLASS EXEMPTION PROCESS (PERMIT STREAMLINING):

A. Upon application by any person or group of persons, or upon the initiative of the Department, the board may exempt any source or class of sources, from any procedural requirement of this Part except the requirement to obtain a permit prior to commencement of construction if the board finds that the conditions set forth below in this section have been met. When possible, comprehensive exemptions shall be established for source classes in order to conduct expedited, streamlined permit processing for any applicant whose source is a member of such class. Exemptions may be granted only after a public hearing of the board, at which time the basis for such exemption shall be presented and any interested person allowed to comment and to question any witness. The board's decision that an exemption under this section is justified shall be based at a minimum on each of the following findings:

(1) The Department has substantial actual experience with or knowledge of the specific class of sources proposed for exemption, that such experience or knowledge is material to the application for exemption, and that such experience or knowledge includes modeling and analysis of a representative sample of such sources. Such knowledge may be acquired through, but not limited to, direct Department experience with such sources, or the review of other regulatory agencies' experience, records, documentation and formal actions, or through publications of professional organizations and societies upon which engineers and scientists would conventionally rely in formulating a professional judgment;

(2) The sources possess sufficiently common characteristics of operation, process technology, emissions, emission control technology and impact on air quality that with respect to the specific requirements proposed to be exempted, protocols have been developed which, if applied to all members of that class, will ensure that air quality is protected at least as well as would be accomplished by the full permit review process; and

(3) Under such an exemption, compliance with all federal and state air quality laws, regulations, standards and emissions limitations will be assured.

B. Exemptions may apply statewide or regionally and may be revoked by the board only after a public hearing following at least sixty days public notice.

C. As may be required under federal law, all protocols established hereunder shall be submitted to the US EPA for review and approval as revisions to the State Implementation Plan. Such protocols shall be established contingent upon approval by the US EPA.

D. There shall be no exemptions under this section from the requirements of 20.2.74 NMAC, 20.2.77 NMAC, 20.2.78 NMAC, or 20.2.79 NMAC.

[11/30/95]

20.2.72.215 EMERGENCY PERMIT PROCESS:

A. The Department may issue an emergency permit when the Secretary determines an emergency exists which threatens the public health, safety or welfare, and which requires the rapid construction or modification of, or installation of equipment in, a facility subject to this Part in order to mitigate, prevent or remedy such emergency.

B. Department personnel shall verify that the source, operating in accordance with the permit issued, can and will meet all applicable standards, emissions limitations and conditions before authorizing start-up in order to ensure that the public emergency is not worsened by excess or improperly controlled air pollution.

C. An emergency caused by any negligent or unlawful action or operation of the facility or the facility owner or operator, including but not limited to failure to apply timely for a permit or revision, shall not constitute an emergency for the purposes of this section.

D. The requirements of Paragraphs 5 and 6 of Subsection A of 20.2.72.206 NMAC, Subsection C of 20.2.72.206 NMAC, and Subsections A and B of 20.2.72.207 NMAC shall not apply to emergency permits processed under this section.

E. Construction shall not commence until the emergency permit is issued.

[11/30/95; 20.2.72.215 NMAC - A, 02/02/01]

20.2.72.216 NONATTAINMENT AREA REQUIREMENTS:

A. The requirements of this section apply to:

(1) a new source or modification of an existing source that will emit a regulated air contaminant such that the ambient impact of the contaminant would exceed the significant ambient concentration in 20.2.72.500 NMAC, table 1, at any location that does not meet the New Mexico ambient air quality standard for the contaminant;

(2) a new source or modification of an existing source that is not a major stationary source or major modification as defined in 20.2.79 NMAC and that will emit a regulated air contaminant such that the ambient impact of the contaminant would exceed the significant ambient concentration in table 1 at any location that does not meet the national ambient air quality standard for the contaminant ; or

(3) an existing source that does not propose an increase in emissions and that will emit a regulated air contaminant such that the ambient impact of the contaminant would exceed the significant ambient concentration in 20.2.72.500 NMAC (table 1) at any location that does not meet the national or New Mexico ambient air quality standard for the contaminant.

B. A new source or modification of an existing source subject to this section shall offset the ambient impact of its emissions by:

(1) obtaining emission offsets for proposed emissions in an amount greater than one-to-one such that a net air quality benefit will occur; and

(2) ensuring emission offsets are quantifiable, enforceable, and permanent by meeting the following sections of 20.2.79 NMAC:

(a) 20.2.79.114 NMAC (emission offset baseline);

(b) 20.2.79.115 NMAC (emission offsets); and

(c) 20.2.79.117 NMAC (air quality benefit).

C. An existing source that is subject to this section shall demonstrate a net air quality benefit of at least a 20 percent reduction in ambient impact for each applicable contaminant. The 20 percent reduction shall be calculated as the projected source impact subtracted from the existing source impact divided by the existing source impact. The net air quality benefit must also meet the requirements of 20.2.79.117 NMAC (air quality benefit).

[11/30/95; 20.2.72.216 NMAC - Rn, 20 NMAC 20.2.72.II.216, 2/2/01; A, 9/6/06]

20.2.72.217 COMPLIANCE CERTIFICATIONS:

A. Notwithstanding any other provision in the New Mexico State Implementation Plan approved by the Administrator, for the purpose of determining compliance, an owner or operator is not prohibited from using monitoring as required under 20.2.70 NMAC and incorporated into an operating permit in addition to any specified compliance methods.

B. The requirements of this section are only applicable to those sources which, in addition to being subject to this Part are either: defined as a major source under 20.2.70 NMAC (Operating Permits), or; subject to 20.2.82 NMAC (Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants).

[11/30/95]

20.2.72.218 ENFORCEMENT: Notwithstanding any other provision in the New Mexico State Implementation Plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of the terms or conditions of a permit issued pursuant to this Part, including permits for sources meeting the applicability requirements 20.2.74 NMAC (Prevention of Significant Deterioration), or 20.2.79 NMAC (Permits - Nonattainment Areas).

A. Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(1) A monitoring or information gathering method approved for the source pursuant to 20.2.70 NMAC and incorporated in an operating permit; or

(2) Compliance methods specified in the New Mexico State Implementation Plan.

B. The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

(1) Any federally enforceable monitoring or testing methods, including those in 40 CFR, parts 51, 60, 61 and 75; and

(2) Other testing, monitoring or information gathering methods that produce information comparable to that produced by any method in Subsection A of 20.2.72.218 NMAC or Paragraph 1 of Subsection B of 20.2.72.218 NMAC, above.

C. The requirements of this section are only applicable to those sources which, in addition to being subject to this Part, are either: defined as a major source under 20.2.70 NMAC (Operating Permits), or; subject to 20.2.82 NMAC (Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants).
[11/30/95]

20.2.72.219 PERMIT REVISIONS:

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 Subsection B of 20.2.72.202 NMAC;

(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 Paragraph 12 of Subsection A of 20.2.72.203 NMAC;

(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 Subsection B of 20.2.72.203 NMAC and 20.2.72.206 NMAC. The Department shall attach the revision to the permit;

(5) Administrative permit revisions shall not be subject to filing fees or permit fees under 20.2.75 NMAC (Construction Permit Fees);

(6) The Department is not required to reissue the permit to incorporate an administrative permit revision.

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:

(i) Is equivalent to the replaced emissions unit, and serves the same function within the facility and process;

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

(iii) Has the same or higher control efficiency, and stack parameters which are at least as effective

in the dispersion of air pollutants;

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

(v) 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;

(vi) 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

(vii) 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;

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

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

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

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

(iv) Such adjustment does not: alter any other permit condition; trigger additional requirements under any other Part, including 20.2.74 NMAC (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;

(v) 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 than ten (10) percent; and

(vi) Where the permit fee calculated under 20.2.75 NMAC (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;

(f) Permit revisions that incorporate a change in the permit solely involving the addition of air pollution control equipment or the substitution of a different type of air pollution control equipment to existing equipment provided that such addition or substitution shall not result in an increase in the potential emission rate of 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 total VOCs; or

(g) Permit revisions that incorporate terms and conditions in the permit, such as a cap on hours of operation, limitations on throughput of a specific product or products, or limitations on equipment capacity, for the purpose of reducing the potential emission rate of a unit or source.

(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 Paragraph 12 of Subsection A of 20.2.72.203 NMAC;

(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 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 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 Paragraphs 1, 4 and 5 of Subsection B of 20.2.72.203 NMAC, and 20.2.72.206 NMAC. The Department shall attach the technical permit revision to the permit.

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 Subsections A or B of 20.2.72.219 NMAC; or

(b) Meet the applicability criteria under 20.2.72.402 NMAC 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, 01/07/98; A, 01/07/98; A, 01/01/00; 20.2.72.219 NMAC - Rn, 20 NMAC 2.72.219, 02/02/01; A, 08/27/03]

20.2.72.220 GENERAL PERMITS:

A. Issuance of General Construction Permits:

(1) The Department may, after notice under Subsections A and B of 20.2.72.206 NMAC and a public hearing with opportunity for public participation under Subsection C of 20.2.72.206 NMAC 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 20.2.72.203 NMAC, provided that such applications include:

i. All information necessary to determine qualification for, and to assure compliance with, the general construction permit; and

ii. 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:

i. 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 20.2.74 NMAC (Prevention of Significant Deterioration), 20.2.77 NMAC (New Source Performance Standards), 20.2.78 NMAC (Emission Standards for Hazardous Air Pollutants), 20.2.79 NMAC (Permits - Nonattainment Areas), and 20.2.82 NMAC (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

ii. 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;

iii. 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 (20.2.72.220 NMAC) shall contain a certification that meets the requirements of Paragraph 10 of Subsection A of 20.2.72.203 NMAC.

B. Revisions to a General Construction Permit:

(1) The Department may, after notice under Subsections A and B of 20.2.72.206 NMAC and a public hearing with opportunity for public participation under Subsection C of 20.2.72.206 NMAC, 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 Sub-paragraph (c) of Paragraph 2 of Subsection A of 20.2.72.220 NMAC are met.

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 20.2.72.200 NMAC.

(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 (20.2.72.220 NMAC); 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 20.2.72.206 NMAC.

(5) Administrative review under Sections 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 Sections 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 provisions of 20.2.72.211 NMAC, 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 20.2.72.212 NMAC.

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.

[N, 04/22/98; 20.2.72.220 NMAC - A, 02/02/01]

20.2.72.221 ACCELERATED REVIEW:

A. Qualified Outside Firms:

(1) The Department shall request proposals from persons interested in providing assistance as a qualified outside firm in the accelerated review of construction permit applications under this Part.

(2) The Department shall evaluate the proposal submitted by the person. To be eligible to contract with the Department as a qualified outside firm a person must:

(a) Be legally qualified to contract with the Department; and

(b) Be qualified to assist the Department in review of permit applications, as determined by the Department in the Department's sole discretion.

(3) Persons who are selected as qualified outside firms shall be under contract with the Department for accelerated review of construction permit applications under this section.

B. Requests for Accelerated Review:

(1) At the sole discretion of the applicant, a construction permit applicant under this Part may request accelerated permit review of the application by a qualified outside firm. Applications for accelerated review shall be preceded by a pre-application meeting between the applicant and the Department. Requests for accelerated review shall not be granted unless there is at least one qualified outside firm under contract with the Department pursuant to Paragraph 3 of Subsection A of 20.2.72.221 NMAC. If there are no firms under contract to provide accelerated review, the Department shall review the application in accordance with 20.2.72.207 NMAC.

(2) Such request for accelerated permit review shall be submitted with the construction permit application along with a corporate check or money order for the amount of the accelerated review filing fee as specified in 20.2.75 NMAC. The Department shall notify the applicant of the names and addresses of the qualified outside firms. The applicant shall deliver a copy of the application, by mail or hand delivery, to each qualified outside firm identified by the Department, unless the applicant is aware of a conflict of interest.

(3) Participation in the accelerated permit review process shall not relieve the applicant of any responsibilities specified in this chapter.

(4) Applicants who have opted for accelerated review under this section shall be subject to supplementary fees pursuant to 20.2.75 NMAC which shall be assessed in addition to all other applicable fees levied under 20.2.75 NMAC.

(5) Qualified outside firms under contract which are interested in performing the accelerated review on a specific application shall submit to the Department:

(a) A statement of interest;

(b) A statement of qualifications for that specific application;

(c) An estimate of the cost and schedule for the review; and

(d) A notarized affidavit attesting that no conflict of interest exists on the specific permit application.

(6) If no qualified outside firm submits the four items required by Paragraph 5 of Subsection B of 20.2.72.221 NMAC, the Department shall apply the accelerated review filing fee to the permit fee in accordance with 20.2.75 NMAC and review the application without the assistance of a qualified outside firm and in accordance with 20.2.72.207 NMAC.

(7) The Department shall review the submittals and determine, in the Department's sole discretion, which firms qualify for any specific application.

(8) Prior to determining any application administratively complete for which accelerated review has been requested as allowed under 20.2.72.203 NMAC, the Department shall provide the applicant a written summary of the qualified submittals showing the costs to the applicant of the accelerated review and the anticipated schedule for application review, permit development and permit issuance.

(9) Applicant's Responsibilities for Response to Submittal Summary:

(a) Within five (5) working days of receipt of the Department's bid summary the applicant shall either: (i) submit to the Department a written recommendation to accept one of the accelerated review bids, or a prioritized list of more than one of the accelerated review bids, including a brief justification for the recommendation(s) along with a corporate check or money order payable to the Department for the amount of the accelerated review bid and a notarized affidavit attesting that no conflict of interest exists on the specific permit application; or (ii) submit to the Department a written withdrawal of the request for accelerated review.

(b) The request for accelerated review is deemed withdrawn if the applicant fails to submit a written recommendation or withdrawal within five (5) working days of receipt of the Department's bid summary unless the Department has granted an extension.

(10) Department's Selection of Qualified Outside Firm

(a) If the request for accelerated review is withdrawn, the Department shall retain the accelerated review filing fee in accordance with 20.2.75 NMAC and shall review the application without the assistance of a qualified outside firm and in accordance with 20.2.72.207 NMAC.

(b) If the applicant recommends a qualified submittal, the Department shall determine whether to accept the recommended submittal. If the Department accepts the recommended submittal it shall instruct the qualified outside firm to begin review of the application. If the Department rejects the recommended submittal, it shall inform the applicant and allow the applicant to recommend an alternate submittal pursuant to Paragraph 9 of Subsection B of 20.2.72.221 NMAC or, if there are no other qualified submittals, the Department shall retain the accelerated review filing fee in accordance with 20.2.75 NMAC and review the application without the assistance of a qualified outside firm and in accordance with 20.2.72.207 NMAC.

C. Disclosure of Conflicts During Accelerated Review:

(1) The applicant and the qualified outside firm have a continuing obligation to investigate potential conflicts of interest and to immediately disclose, in writing, any conflict of interest to the Department. If a conflict of interest was not disclosed pursuant to Subparagraph d of Paragraph 5 of 20.2.72.221 NMAC or Subparagraph a of Paragraph 9 of Subsection B of 20.2.72.221 NMAC, and is later disclosed or discovered, the Department may:

(a) Deny the application pursuant to 20.2.72.208 NMAC;

(b) Terminate accelerated review and review the application pursuant to 20.2.72.207 NMAC; or

(c) Allow accelerated review to continue after elimination of the conflict.

(2) In choosing between these options the Department shall consider whether the conflict of interest was disclosed or discovered, the timing of the disclosure or discovery, diligence in investigating potential conflicts of interest, any indication of intentional or willful failure to disclose, significance of the conflict of interest, and ability to eliminate the conflict of interest in a timely manner.

D. Issuance of a Permit After Accelerated Review:

(1) Upon completion of the review, the qualified outside firm shall provide the Department with all documentation, including but not limited to all communications, notes, and drafts, pertaining to the permit application. At any time during the review, the qualified outside firm shall provide all documentation pertaining to a specific application to the Department upon request. Such documentation shall be subject to the Inspection of Public Records Act, Chapter 14, Article 2 NMSA 1978, and the Confidential Information Section of the Air Quality Control Act, Section 74-2-11 NMSA 1978.

(2) The Department shall review the analysis prepared by the qualified outside firm and shall issue a permit or deny the permit application in accordance with this Part. The qualified outside firm's analysis is not binding on the Department. The Department retains final authority to accept or reject the qualified outside firm's analysis regarding the permit application.

(3) The Department shall not issue the permit until both the accelerated review processing fee and any fees due pursuant to 20.2.75 NMAC have been paid.

[20.2.72.221 NMAC - N, 03/30/01]

20.2.72.222 - 20.2.72.299 [RESERVED]

20.2.72.300 DEFINITIONS: In addition to the definitions in 20.2.72.7 NMAC, the following definitions apply to

20.2.72.300 NMAC - 20.2.72.399 NMAC:

A. **"Compressor station"** means a facility whose primary function is the extraction of crude oil, natural gas, or water from the earth with compressors, or movement of any fluid, including crude oil or natural gas, or products refined from these substances through pipelines or the injection of natural gas or CO2 back into the earth using compressors. A compressor station may include engines to generate power in conjunction with the other functions of extraction, injection or transmission and may contain emergency flares. A compressor station may have auxiliary equipment which emits small quantities of regulated air contaminants, including but not limited to, separators, de-hydration units, heaters, treaters and storage tanks, provided the equipment is located within the same property boundaries as the compressor engine.

B. **"Good engineering practice stack height"** means HsubGEP = H + 1.5L, where H equals the height of any building or obstruction within 5L of the stack, and L equals the lesser of the height or maximum projected width of the building or obstruction.

C. **"Impact area"** means the circular area with a radius extending from the source to the most distant point where the total potential emissions from the facility will cause a significant ambient impact (i.e., equal or exceed the applicable significant ambient impact level in 20.2.72.500 NMAC.

D. **"Maximum projected width"** means the largest crosswind building or obstruction dimension.

E. **"Potential to emit"** or **"potential emissions"** means the maximum capacity of a stationary source to emit a regulated air contaminant under its physical and operational design. 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 design if the limitations or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

F. **"Secondary emissions"** means emissions of an air contaminant which occur as a result of the construction or operation of a stationary source or modification, but do not come from the stationary source or modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source or modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

G. **"SUM"** means the sum of the potential emissions for oxides of nitrogen from all adjacent sources.

H. **"SUM15"** means the sum of the potential emissions for oxides of nitrogen from all adjacent sources within 15 km of the NO2 impact area.

I. **"SUM25"** means the sum of the potential emissions for oxides of nitrogen from all adjacent sources within 25 km of the NO2 impact area.

J. **"Sweet natural gas"** means natural gas containing no more than 0.25 grains of hydrogen sulfide per 100 standard cubic feet of gas.

[11/30/95; A, 11/14/98]

20.2.72.301 APPLICABILITY:

A. Any owner or operator intending to construct or modify a source which requires a permit under the provisions of 20.2.72.200 NMAC may elect to obtain a permit under 20.2.72.300 NMAC - 20.2.72.399 NMAC if the source category is listed in 20.2.72.501 NMAC.

B. 20.2.72.300 NMAC - 20.2.72.399 NMAC shall not apply to:

(1) Any "major stationary source" as defined in 20.2.74 NMAC;

(2) Any facility, either before or after construction or modification, with a total potential to emit of any regulated air contaminant greater than 200 tons per year (tpy);

(3) Any source subject to the requirements of 20.2.78 NMAC or 20.2.72.400 NMAC - 20.2.72.499 NMAC;

(4) Any reciprocating internal combustion (IC) engines and/or turbines located at petroleum refineries, chemical manufacturing plants, bulk gasoline terminals, natural gas processing plants, or at any facility containing sources in addition to IC engines and/or turbines for which an air quality permit is required through state or federal air quality regulations;

(5) Any source which emits or proposes to emit those contaminants for which the impact area from the facility intersects an area, or for which the area itself is: 1) designated nonattainment for federal ambient air quality standards; or 2) nonattainment for federal PSD increments or state ambient air quality standards according to ambient data or air quality modeling; or 3) shown by air quality data or dispersion or other air quality modeling that air contaminants have consumed more than 80% of state or federal ambient air quality standards or PSD increments for those areas where the baseline has been triggered for the specific PSD increments;

(6) Any source with the nearest property boundary located less than:

(a) 1 kilometer (km) from a school, residence, office building, or occupied structure. Buildings and structures within the immediate industrial complex of the source are not included.

(b) 3 km from the property boundary of any state park, Class II wilderness area, Class II national wildlife refuge, national historic park, state recreation area, or community with a population of more than twenty-thousand

people.

(c) 10 km from the boundary of any community with a population of more than forty-thousand people, or

(d) 30 km from the boundary of any Class I area;

(7) Any source located in Bernalillo County or within 15 km of the Bernalillo County line.

C. The following sections and subsections of 20.2.72.200 NMAC - 20.2.72.299 NMAC apply to permit applications submitted pursuant to 20.2.72.300 NMAC - 20.2.72.399 NMAC: Subsections A, B and E through H of 20.2.72.200 NMAC, 20.2.72.202 NMAC, 20.2.72.204 NMAC, 20.2.72.205 NMAC, Subsection C of 20.2.72.206 NMAC, Subsections D through G of 20.2.72.207 NMAC, 20.2.72.208 NMAC, 20.2.72.209 NMAC, 20.2.72.210 NMAC, 20.2.72.211 NMAC, 20.2.72.212 NMAC, 20.2.72.214 NMAC and 20.2.72.215 NMAC. The remainder of 20.2.72.200 NMAC - 20.2.72.299 NMAC does not apply to applications submitted pursuant to 20.2.72.300 NMAC - 20.2.72.399 NMAC.

D. Any source, including compressor stations, consisting of IC engines and/or turbines must comply with one of the following three criteria, Paragraph 1, 2, or 3 of Subsection D of 20.2.72.301 NMAC, in order to qualify for source class permit streamlining under 20.2.72.300 NMAC - 20.2.72.399 NMAC (In demonstrating compliance with Subsection D of 20.2.72.301 NMAC, the Department shall give no credit for modeled reductions in ambient air concentrations due to so much of a source's stack which exceeds good engineering stack height, or fifty (50) feet in situations where there are not obstructions or buildings associated with the source):

(1) The total potential to emit of each regulated contaminant from all sources at the facility shall be less than 40 tpy. The potential to emit for nitrogen dioxide shall be based on total oxides of nitrogen; or

(2) The total potential to emit of each regulated contaminant from all emission sources at the facility shall be less than 100 tons per year (tpy) and the impact on ambient air from all sources at the facility shall be less than the ambient significance levels in 20.2.72.500 NMAC, Table 1. The potential to emit for nitrogen dioxide shall be based on total oxides of nitrogen expressed as nitrogen dioxide; or

(3) The maximum modeled ambient impact from the total potential emissions at the facility shall be less than 50 percent of each applicable PSD increment, for those areas where the baseline has been triggered for the specific PSD increments, and state and federal ambient air quality standards; and

(a) There shall be no adjacent sources emitting the same regulated air contaminant(s) as the source within 2.5 km of the modeled nitrogen dioxide (NO2) impact area; and

(b) The "sum of the potential emissions for oxides of nitrogen from all adjacent sources" (SUM) within 15 km of the NO2 impact area (SUM15) shall be less than 740 tpy; and

(c) The SUM25 within 25 km from the NO2 impact area shall be less than 1540 tpy.

(4) Modifications to the auxiliary emission generating equipment at a facility qualifying and electing source class permit streamlining may commence without obtaining a permit for such modification as long as the total potential to emit of all auxiliary equipment remains at or below 1.0 lb/hr for any one regulated air contaminant and as long as the total potential to emit of each regulated air contaminant from the compressor station meets the requirements of Paragraphs 1 or 2 of Subsection D of 20.2.72.301 NMAC or previously qualified under Paragraph 3 of Subsection D of 20.2.72.301 NMAC. The applicant shall provide, in writing, the nature of all changes to the Department no later than 15 days prior to the expected change.

[11/30/95; A, 01/01/00; 20.2.72.301 NMAC - A, 02/02/01]

20.2.72.302 CONTENTS OF APPLICATION:

A. Any person seeking a permit under 20.2.72.300 NMAC - 20.2.72.399 NMAC shall do so by filing a written application with the Department. For those applications not qualifying under Subsection A of 20.2.72.303 NMAC, the applicant shall also:

(1) Provide by certified mail a complete copy of the application and public notice to the Department's field or district office nearest the source; and

(2) Provide by certified mail a copy of the public notice to the appropriate federal land manager if the source will locate within 50 km of the boundary of a Class I area.

B. The items of this section, if requested on the applicable application form, are required before the Department may deem an application administratively complete. The applicant shall submit the number of copies of the permit application specified in the applicable application form. All applications shall be filed on the forms furnished by the Department and shall include:

(1) The applicant's name and address, the person to contact regarding the application, and the name and address of the new source or modification;

(2) A description of the new facility or modification including all operations effecting air emissions;

(3) The anticipated operating schedule;

(4) A topographical map, at least as detailed as a 7.5 minute United States Geological Survey Topographic Quadrangle, showing the exact location and geographical coordinates of the stationary source;

(5) The Universal Transverse Mercator (UTM) horizontal and vertical coordinates for the facility;

(6) A plot plan showing the location of emission units with respect to the plant's property boundaries and the dimensions of any buildings, terrain, or obstructions which may cause emissions to be downwashed;

(7) A detailed description of any air pollution control device or method to be utilized, including the basis for the estimated control efficiency;

(8) The stack and exhaust gas parameters for all emission points, including calculations and manufacturer's or supplier's data which documents the emission rates and exhaust gas parameters;

(9) A comprehensive regulatory compliance review, including all pertinent data and calculations, for each applicable new source performance standard, such as 40 CFR 60, Subpart GG - Standards of Performance for Stationary Gas Turbines;

(10) Documentation of the manufacturer's or supplier's recommended maintenance schedules and procedures for all air pollution control equipment;

(11) A compliance demonstration based on US EPA approved modeling or analysis, including all pertinent calculations and computations, for all applicable requirements of 20.2.72.300 NMAC - 20.2.72.399 NMAC for any facility electing to obtain a permit under 20.2.72.300 NMAC - 20.2.72.399 NMAC;

(12) Documentary proof that the requirements of Paragraphs 1 and 2 of Subsection A of 20.2.72.302 NMAC have been satisfied;

(13) The notarized signature under oath or affirmation by the operator, the owner, or an authorized representative, certifying to the best of his or her knowledge the truth of all information submitted;

(14) Payment of any fees which are specified in 20.2.75 NMAC (Construction Permit Fees) as payable at the time the application is submitted; and

(15) Any other specifically identified relevant information as the Department may reasonably require.
[11/30/95; A, 01/01/00]

20.2.72.303 PUBLIC NOTICE AND PARTICIPATION:

A. Applications qualifying under the following paragraphs of 20.2.72.300 NMAC - 20.2.72.399 NMAC are not subject to Subsection B of 20.2.72.303 NMAC and Paragraph 2 of Subsection C of 20.2.72.303 NMAC: Paragraphs 1 and 2 of Subsection D of 20.2.72.301 NMAC.

B. The applicant shall:

(1) Publish notice once in a newspaper of general circulation in the area closest to the location of the source. This notice shall appear in either the classified or legal advertisements section of the newspaper. Notice shall be published in accordance with Department guidance documents and must include:

(a) The applicant's name and address;

(b) The address and phone number of the Department's Air Quality Bureau in Santa Fe, and the address of the field or district office where a copy of the application will be sent as required in Subsection A of 20.2.72.302 NMAC;

(c) The location and a brief description of the source;

(d) A summary of estimated emissions and ambient impact for each regulated contaminant for the entire facility;

(e) Where required in 20.2.72.300 NMAC - 20.2.72.399 NMAC, the applicant's public notice shall contain the following statement: "Any comments submitted on this permit application should address the relevant requirements of state and federal air quality regulations and the Federal Clean Air Act and the state Air Quality Control Act. The comments shall be submitted to the Department's Air Quality Bureau in Santa Fe within thirty (30) days following the date of publication";

(f) Any other information required by the Department; and

(2) Post the notice at the proposed or existing facility entrance on the property on which the facility is, or is proposed to be located prior to submittal of the application and remaining posted until the Department takes final action on the permit.

C. The Department shall:

(1) Make available for public inspection the permit application. Copies of any permit application, except those portions of which may be determined as confidential in accordance with 20.2.1 NMAC (General Provisions), will be supplied upon written request and payment of reasonable costs.

(2) Allow all interested persons thirty (30) days from the date of publication of the applicant's public notice in a newspaper of general circulation, to submit written comments or evidence on the application.
[11/30/95]

20.2.72.304 PERMIT DECISIONS:

A. The Department shall within thirty (30) days after its receipt of an application for a permit or permit revision review such application and determine whether it is administratively complete.

(1) If the application is deemed administratively complete, a certified letter to that effect shall be sent to the applicant.

(2) If the application is deemed administratively incomplete, a certified letter shall be sent to the applicant stating what additional information or points of clarification are necessary to deem the application administratively complete. Upon receipt of such information, the Department shall promptly review such information and determine whether the application is administratively complete.

(3) If the application is deemed administratively complete but no permit is required, a certified letter shall be sent to the applicant informing the applicant of the determination.

B. The Department shall either grant, grant subject to conditions, or deny the permit or permit revision as soon as practicable after the Department deems the application administratively complete but not to exceed the times specified below:

(1) For applications qualifying under the Paragraphs 1 and 2 of Subsection D of 20.2.72.301 NMAC, within thirty (30) days;

(2) For all other applications, within sixty (60) days, or ninety (90) days if there is a hearing under 20.2.72.206 NMAC.

[11/30/95; A, 01/01/00]

20.2.72.305 GENERAL REQUIREMENTS: All sources permitted pursuant to 20.2.72.300 NMAC - 20.2.72.399 NMAC shall operate in compliance with the following conditions:

A. A copy of the most recent permit issued by the Department shall be made available to Department personnel for inspection upon request. If the permit is not kept at the plant location, a notice at the plant site shall be located in a conspicuous place stating the facility name and ownership, air quality permit number, and the address and phone number of the Department in Santa Fe;

B. The source shall operate in compliance with all applicable state and federal regulations, including federal new source performance standards incorporated by 20.2.77 NMAC and permit conditions;

C. The owner or operator of the source shall be required to conduct such performance tests as specified by the Department to determine compliance with emission limitations or technology requirements as specified in an applicable regulation or permit condition. Specific schedules and requirements will be listed in 20.2.72.306 NMAC for each source class and/or in the permit. Performance test requirements may be reimposed on a source as necessary if inspections of the source or other information available to the Department, indicate noncompliance, or the previous test showed noncompliance or was technically unsatisfactory. In such cases, the Department may reimpose such tests as frequently as necessary until compliance is achieved and testing is performed in a manner technically satisfactory to the Department. The owner or operator shall:

(1) Arrange a pretest meeting with the Department at least two weeks prior to the anticipated test date for all tests;

(2) Notify the Department at least thirty (30) days prior to the date and time of performance testing, and provide the Department an opportunity to have an observer present during testing;

(3) Conduct performance tests in accordance with methods and procedures specified by the Department. Whenever the requirements of 40 CFR 60 apply, test methods must be utilized as specified in those regulations;

(4) Submit a written report to the Department of the results of the test within thirty (30) days from the test date; and

D. The owner or operator using a catalytic converter to meet the requirements of 20.2.72.300 NMAC - 20.2.72.399 NMAC shall satisfactorily test the reduction efficiency across the catalyst bed and report the results of the test to the Department according to the permit conditions, within ninety (90) days following initial start-up and on a quarterly basis thereafter, unless an alternative testing schedule is specified by the Department. The tests shall be conducted in accordance with the requirements of Subsection C of 20.2.72.305 NMAC and as required in the permit, except that the requirements of Paragraphs 1 and 2 of Subsection C of 20.2.72.305 NMAC shall be waived unless the Department specifically requests a pretest meeting or notification of the next test date.

[11/30/95]

20.2.72.306 SOURCE CLASS REQUIREMENTS:

A. In addition to the general conditions of 20.2.72.305 NMAC, each permitted source listed in 20.2.72.501 NMAC (Table 2) shall also comply with the applicable source class requirements below:

(1) Requirements for source class category 1 - reciprocating internal combustion (IC) engines:

(a) Gas fuel shall be produced natural gas, sweet natural gas, liquid petroleum gas, or fuel gas. No gas fuel shall contain more than 0.1 grain of total sulfur per dry standard cubic foot. Liquid fuel shall be first run refinery grade diesel or No. 2 fuel oil that is not a blend containing waste oils or solvents and contains less than 0.3% by weight sulfur;

(b) Within ninety (90) days after initial start-up of the source, the owner or operator shall conduct NOx and carbon monoxide (CO) performance tests on one or more engines (turbines) at the facility to ensure the facility is in compliance with 20.2.72.300 NMAC - 20.2.72.399 NMAC and permit requirements, including emission limits and any applicable pollution control device reduction efficiency requirements for NOx. The Department shall specifically identify in the permit each engine or turbine subject to initial performance testing requirements. Tests shall be conducted in accordance with the requirements of Subsection C of 20.2.72.305 NMAC;

(c) Any engine which operates with a non-selective catalytic converter shall comply with the following requirements:

i. Any spark ignited gas-fired or any compression ignited dual fuel-fired engine shall be equipped and operated with an automatic air-fuel ratio (AFR) controller which maintains AFR in the range required to minimize NOx

emissions, as recommended by the manufacturer; and

ii. The owner or operator shall make and maintain records to demonstrate that the manufacturer's or supplier's recommended maintenance is performed, including replacement of the oxygen sensor as necessary for oxygen-based AFR controllers, and cleaning, regeneration, and/or replacement of catalyst(s) as necessary to maintain at least the NOx reduction efficiencies across the catalyst bed that are specified in the permit.

B. Requirements for source class category 2 - turbines: The source must comply with Paragraphs 1 and 2 of Subsection A of 20.2.72.306 NMAC.
[11/30/95]

20.2.72.307 - 20.2.72.399 [RESERVED]

20.2.72.400 PREAMBLE: The Board is concerned about the increasingly common presence of toxic air pollutants in the ambient air. The Board believes that the best approach to regulating sources of toxic air pollutants over the long term is to set ambient standards for each pollutant of concern. However, because of financial constraints, the unavailability of sufficient information to establish such ambient standards, the time necessary to establish such standards for the contaminants identified as toxic air pollutants and because the Board wishes to implement a toxic air pollutant permitting program as soon as possible, the Board has adopted a source-by-source permit-based approach for the present. Under this permit-based approach, the Board has given limited authority to the Department to use factors of the OELs (occupational exposure limits) in evaluating permit applications. The Board recognizes that the use of OELs, or factors of them, as ambient air standards would be inappropriate; therefore, the Board has authorized their use for screening purposes only. This authorization is not intended to represent, and should not be interpreted as, a finding by the Board that these factors are suitable for determining safe or unsafe ambient air concentrations. Various respected groups, such as the American Conference of Governmental Industrial Hygienists (ACGIH), may develop ambient air exposure guidelines in the future. Development of ambient air guidelines by groups such as this could be the basis for developing toxic air pollutant ambient air standards. The Board also notes that the Department currently is developing an emissions inventory of toxic air pollutants. An emissions inventory may identify toxic air pollutants that are of particular concern in New Mexico. The Board believes that efforts like these may facilitate the development of toxic air pollutant ambient air standards. For these reasons, the Board requests the Department to prepare and present a report to the Board within five years of the effective date of the toxic air pollutant permitting requirements. The report shall review and evaluate the implementation of the toxic air pollutant permitting program, summarize the results of the toxic air pollutant inventory gathered pursuant to AQCR 752, and review scientific and technical progress made in the area of toxic air pollutants that might facilitate the development of toxic air pollutant ambient air standards. The Board shall schedule a discussion of this report at a regular monthly meeting within three months of the publication of this report.
[11/30/95]

20.2.72.401 DEFINITIONS: In addition to the definitions in 20.2.72.7 NMAC, the following definitions apply to 20.2.72.400 NMAC - 20.2.72.499 NMAC:

A. **"Best available control technology"** means an emission limitation based on the maximum degree of reduction in emissions of each contaminant subject to this Part which the Secretary (or the Board), on a case-by-case basis, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts resulting from the use of such technology, determines is achievable for the source, through application of measures, processes, methods, systems, or techniques including, but not limited to, measures which:

(1) Reduce the volume of such pollutants through process changes, substitutions of materials, or other modifications, or

(2) Enclose systems or processes to eliminate emissions, or

(3) Collect, capture or treat such pollutants when released from a process, stack, storage, or fugitive emission point.

B. **"Existing source"** means any source, the construction or modification of which was commenced on or before December 31, 1988.

C. **"Fixed capital costs"** means that capital needed to provide all the depreciable components.

D. **"New source"** means any source, the construction of which is commenced after December 31, 1988. The term does not include any new source which is integrally related with and integrally connected to the process of an existing source. The term includes the reconstruction of an existing source.

E. **"Occupational Exposure Limit"** or **"OEL"** means the eight-hour time weighted average concentration specified for workroom air in "Threshold Limit Values and Biological Exposure Indices for 1986-1987" as adopted by the American Conference of Governmental Industrial Hygienists, or for compounds not assigned an OEL in that document, the minimum detection limit specified in the National Institute for Occupational Safety and Health "Manual of Analytical Methods", Third Edition.

F. **"Oil and gas production facilities"** means facilities for the exploration, development, production, treatment, separation, storage, transport, and sale of unrefined hydrocarbons, natural gas liquids, and CO2 (e.g., major SIC group 13, oil and gas extraction, SIC industry group no. 4612, crude, petroleum, pipeline and SIC industry no. 4922, natural

gas transmission). Natural gas processing plants and refineries are not included for purposes of this definition.

G. **"Reconstruction"** means a modification which results in the replacement of the components or addition of integrally related equipment to an existing source to such an extent that the fixed capital cost of the new components or equipment exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility.

H. **"Toxic air pollutant"** means any air contaminant in 20.2.72.502 NMAC.

[11/30/95]

20.2.72.402 APPLICABILITY:

A. All the requirements of 20.2.72.400 NMAC - 20.2.72.499 NMAC for toxic air pollutants shall supplement other provisions of this Part (20.2.72 NMAC).

B. A permit must be obtained from the Department by any person prior to the construction or modification of a new source which has total potential emissions of a toxic air pollutant into the ambient air that exceed the emission level in pounds per hour specified in 20.2.72.502 NMAC, and one or more of the following conditions are met:

(1) The toxic air pollutant is listed under applicable primary and secondary SIC codes appropriate for the source in the US EPA SIC/Pollutant Index (Appendix C of EPA-450/4-86-010); or

(2) The toxic air pollutant is known by the owner or operator to be emitted into the ambient air because of:

(a) Information from material safety data sheets and hazard labelling required under the OSHA Hazard Communications Standard 29 CFR 1910.1200, or

(b) Information from reports required under the Federal Emergency Planning and Community Right-to-Know Act of 1986, P.L. 99-499, Title III, Sections 300-330, or

(c) Other information reasonably available to the owner or operator based on the source's obligations under other regulatory programs; or

(3) The toxic air pollutant is identified by the Department on or before the date the application is determined to be complete, as likely to be emitted from a source. The Department shall also provide the owner or operator a reasonable basis to support the belief that the source will emit such toxic air pollutant.

C. The following classes of sources are exempt from the permitting requirements for toxic air pollutants:

(1) Gasoline Service Stations - SIC No. 5441

(2) Automotive Repair Shops - SIC No. 753

(3) Laundry, Cleaning, and Garment Services - SIC No. 721

(4) Domestic Woodstoves and Fireplaces

(5) Oil and Gas Production Facilities

(6) Agricultural Production – Crops, SIC No. 01

(7) Agricultural Production – Livestock, SIC No. 02

(8) Agricultural Services - SIC No. 07

(9) Containers, such as tanks, barrels, drums, cans and buckets, unless equipped with a vent that emits or may emit any toxic air pollutant, which are used in connection with the operation, maintenance or repair of a stationary source.

(10) Non-process fugitive emissions of toxic air pollutants from stationary sources, such as construction sites, unpaved roads, coal piles, tailings piles, waste piles, and fuel and ash handling operations.

D. An exemption or exclusion from the permitting requirements for toxic air pollutants does not relieve a source from any other requirements in this Part (20.2.72 NMAC).

[11/30/95]

20.2.72.403 CONTENTS OF APPLICATION:

A. For the Department to deem administratively complete a permit application for the emission of a toxic air pollutant, the application shall contain, in addition to the requirements of 20.2.72.203 NMAC, the following items:

(1) Identification of all toxic air pollutants that may be emitted in excess of the screening level (specified in pounds per hour) in 20.2.72.502 NMAC;

(2) Air quality modeling, in accordance with methods approved by the US EPA or the Department, that estimates ambient concentrations that would be caused by the proposed emissions. The modeling for the toxic air pollutants will include available emissions supplied by the Department from registration and permitting information from all registered or permitted sources in the area of the source being permitted.

B. If the modeling shows that the eight-hour average ambient concentration of the toxic air pollutant exceeds one-one hundredth of the OEL and the toxic air pollutant is not identified as a known or suspected human carcinogen in 20.2.72.502 NMAC, Table B, the permit application shall also include, as a requirement for administrative completeness, a health assessment for the toxic air pollutant under consideration. The assessment shall include consideration of the following:

(1) Source to potential receptor data and modeling;

(2) Relevant environmental pathway and effects data;

(3) Available health effects data such as:

(a) Functional diseases;

(b) Mutagenicity data as an index of genotoxic effects including heritable diseases;

(c) Reproductive effects data;

(d) Other diseases; and

(4) An integrated assessment of the human health effects for projected exposures from the applicant's facility. The assessment should use existing relevant data obtained from epidemiological studies, controlled human exposure studies, laboratory animal studies, and studies using tissues and cells.

C. If the toxic air pollutant is identified as a known or suspected human carcinogen in 20.2.72.502 NMAC and air quality modeling shows that the eight-hour average concentration of the toxic air pollutant exceeds one one-hundredth of the OEL or the minimum detection level in 20.2.72.502 NMAC, the permit application shall include, as a requirement for administrative completeness, information necessary to demonstrate the source will install the best available control technology to control that pollutant.
[11/30/95; A, 01/01/00]

20.2.72.404 PUBLIC NOTICE AND PARTICIPATION: In addition to the requirements of 20.2.72.206 NMAC:

A. The Department shall meet with the applicant during the permit application process, prior to deeming the application administratively complete, to discuss the need for additional data and information not initially submitted by the applicant; and

B. The Department shall promptly advise the applicant of all medical or other scientific evidence the Department uses to evaluate the health effects of the toxic air pollutant emissions and make available to the applicant in a timely manner all information, including all previous decisions on the toxic air pollutant in question.
[11/30/95; A, 01/01/00]

20.2.72.405 PERMIT DECISIONS: In making its decisions, the Department shall consider emissions after control.

A. Ambient concentrations not exceeding one one-hundredth of the OEL or the minimum detection level for compounds without an OEL: If the Department finds that the eight-hour average concentration of the toxic air pollutant in the ambient air does not exceed one one-hundredth of the OEL, or for compounds without an OEL, the minimum detection levels as shown in 20.2.72.502 NMAC, the Department shall grant the permit. The administrative screening level of one one-hundredth the OEL and the OEL shall not be a basis for denying a permit and shall not constitute an ambient air quality standard.

B. Ambient concentrations exceeding one one-hundredth of the OEL or the minimum detection level for compounds without an OEL for substances identified as known or suspected human carcinogens in 20.2.72.502 NMAC: If the toxic air pollutant being considered is identified as a known or suspected carcinogen in 20.2.72.502 NMAC, Table B, and the Department finds the eight-hour concentration of the toxic air pollutant in the ambient air exceeds one one-hundredth of the OEL, or for compounds without an OEL, the minimum detection level, the Department shall grant the permit if the applicant implements the best available control technology to control that pollutant.

C. Ambient concentrations exceeding one one-hundredth of the OEL for substances not identified as carcinogens in 20.2.72.502 NMAC:

(1) If the applicant has been required to prepare a health assessment under Subsection B of 20.2.72.403 NMAC, the Department shall prepare a Summary Review Statement (SRS) which indicates the Department's opinion of the adequacy of the applicant's health assessment. The SRS will include a summary recommendation on whether the issuance of a permit will or will not with reasonable probability injure human health.

(2) If the applicant does not agree with the recommendation contained in the SRS, the applicant's assessment and the SRS will be provided to the Air Toxics Scientific Advisory Committee (ATSAC). The ATSAC will be composed of five members appointed by the Secretary. They will include physicians, toxicologists, industrial hygienists, or others knowledgeable of the potential health and environmental effects of air pollution. The committee will include at least one member nominated by the applicant. The ATSAC will review the applicant's assessment and the SRS in a public meeting. The ATSAC shall provide a letter to the Secretary stating: (1) whether the submitted documents provide a scientifically adequate basis to determine whether the proposed source will with reasonable probability injure human health and (2), if the documents do provide an adequate basis, whether the proposed source will with reasonable probability injure human health. If the documents are scientifically inadequate, the ATSAC shall return them to the Department and indicate their inadequacies.

(3) The Department will make a final decision on the issuance of the permit after consideration of the following factors:

(a) The nature of the toxic air pollutant and the size, susceptibility, and proximity of the human population;

(b) The pathways of human exposure (e.g., ingestion, inhalation, skin absorption);

(c) The short term and long term health effects associated with the toxic air pollutant at levels of exposure commensurate with the anticipated exposure level;

(d) Existing epidemiological data on health effects associated with the anticipated levels of exposure;

(e) The character of the land use of the predicted area of impact (e.g., residential, industrial, and recreational); and

(f) The scientific adequacy of the health and environmental assessment submitted by the applicant and

the recommendation of the ATSAC. The Department shall not rely on the OEL or on the administrative screening level of one one-hundredth the OEL, and it shall not be bound by prior permit decisions when considering pending applications.

(4) The Department shall deny any application for a permit evaluated under Subsection C of 20.2.72.405 NMAC if the source will emit a toxic air pollutant in such quantities and duration as may with reasonable probability injure human health.

D. The Department shall document, in the administrative record, all processes, facts, and reasoning relied on in making the permit decision, including citations to the relevant technical data, publications, and expert opinions considered.

(1) The final deliberations of the ATSAC shall be open to the public. Except for requests by members of the ATSAC for input from the applicant or Department, no other comments from the applicant, Department, or audience shall be allowed during final deliberations.

(2) Prior to a final decision, the ATSAC members may communicate among themselves in order to facilitate the evaluation process. However, all ATSAC members shall be apprised of such communications.

(3) Prior to a final decision, the ATSAC members may also communicate with the Department and applicant in order to clarify information or secure additional information concerning the applicant's health assessment or the Department's SRS. The Department, applicant, and all ATSAC members shall be apprised of such communication. [11/30/95; A, 11/14/98]

20.2.72.406 - 20.2.72.499 [RESERVED]

20.2.72.500 TABLE 1 - SIGNIFICANT AMBIENT CONCENTRATIONS

Pollutant		Averaging Time
Total Suspended Particulate	1.0 ug/m3	(Annual)
	5.0 ug/m3	(24-hour)
PM10	1.0 ug/m3	(Annual)
	5.0 ug/m3	(24-hour)
Sulfur Dioxide	1.0 ug/m3	(Annual)
	5.0 ug/m3	(24-hour)
	25.0 ug/m3	(3-hour)
Hydrogen Sulfide	1.0 ug/m3	(1-hour)
	5.0 ug/m3	(1/2-hour)
Carbon Monoxide	0.5 mg/m3	(8-hour)
	2.0 mg/m3	(1-hour)
Nitrogen Dioxide	1.0 ug/m3	(Annual)
	5.0 ug/m3	(24-hour)
Non-Methane Hydrocarbons	5.0 ug/m3	(3-hour)

[11/30/95]

20.2.72.501 TABLE 2 - PERMIT STREAMLINING SOURCE CLASS CATEGORIES

1. Reciprocating internal combustion engines including portable or temporary engines

2. Turbines

[11/30/95]

20.2.72.502 TOXIC AIR POLLUTANTS AND EMISSIONS

Table A- Noncarcinogens

SUBSTANCE	OEL	Emissions in pounds
mg/m3	per hour	

Acetic acid	25.0	1.67
Acetic anhydride	20.0	1.33
Acetylene dichloride, See 1,2-Dichloroethylene		
Acetylene tetrabromide	15.0	1.00
Acetylsalicylic acid	5.00	0.333
Aldrin	0.25	0.0167
Allyl alcohol	5.00	0.333
Allyl glycidol ether	22.0	1.47
Allyl propyl disulfide	12.0	0.800
Aluminum		
metal & oxide	10.0	0.667
pyro powders	5.00	0.333
welding fumes	5.00	0.333
soluble salts	2.00	0.133
alkyls not otherwise classified	2.00	0.133
2-Aminoethanol, See Ethanolamine		
2-Aminopyridine	2.00	0.133
3-Amino 1, 2, 4-triazole, See Amitrole		
Amitrole	0.200	0.0133
Ammonia	18.0	1.20
Ammonium chloride fume	10.0	0.667
Ammonium sulfamate	10.0	0.667
n-Amyl acetate	530	35.3
Sec-Amyl acetate	665	44.3
Aniline homologues	10.0	0.667
Anisidine (p-isomer)	0.500	0.0333
Antimony as Sb	0.500	0.0333
ANTU	0.300	0.0200
Asphalt (petroleum) fumes	5.00	0.333
Atrazine	5.00	0.333
Azinphos-methyl	0.200	0.0133
Barium, soluble compounds, as Ba	0.500	0.0333
Benomyl	10.00	0.667
Benzoyl peroxide	5.00	0.333
Bismuth telluride	10.0	0.667
Se-doped	5.00	0.333
Borates, tetra, sodium salts		
anhydrous	1.00	0.0667
decahydrate	5.00	0.333
pentahydrate	1.00	0.0667
Boron oxide	10.0	0.667
Boron tribromide	10.0	0.667
Boron trifluoride	3.00	0.200
Bromacil	10.0	0.667
Bromine	0.700	0.0467
Bromine pentafluoride	0.700	0.0467
Bromochloromethane, see Chlorobromomethane		
Butanethiol, see Butyl mercaptan		
2-Butoxyethanol	120	8.00
n-Butyl acetate	710	47.3
sec-Butyl acetate	950	63.3
tert-Butyl acetate	950	63.3
Butyl acrylate	55.0	3.67
n-Butyl alcohol	150	10.0
Sec-Butyl alcohol	305	20.3
tert-Butyl alcohol	300	20.0
Butylamine	15.0	1.00
tert-Butyl chromate, as CrO3	0.100	0.00667
n-Butyl glycidol ether (BGE)	135	9.00
n-Butyl lactate		25.0

Butyl mercaptan	1.50	0.10
o-sec-Butylphenol	30.0	2.00
p-tert-Butyltoluene	60	4.00
Cadmium Dusts as Cd	0.0500	0.00333
fume as Cd	0.0500	0.00333
Calcium hydroxide	5.00	0.333
Calcium oxide	2.00	0.133
Camphor, synthetic	12.0	0.800
Captafol	0.100	0.00667
Carbofuran	0.100	0.00667
Carbon black	3.50	0.233
Carbon tetrabromide	1.40	0.0933
Carbonyl fluoride	5.00	0.333
Cesium hydroxide	2.00	0.133
Chlorinated diphenyl oxide	0.500	0.0333
Chlorine dioxide	0.300	0.0200
Chlorine trifluoride	0.400	0.0267
Chloroacetaldehyde	3.00	0.200
a-Chloroacetophenone	0.300	0.0200
Chloroacetyl chloride	0.200	0.0133
O-Chlorobenzylidene malononitrile	0.400	0.0267
Chlorobromomethane	1050	70.0
2-Chloro-1,3-butadiene, see B-Chloroprene		
Chlorodiphenyl (42% chlorine)	1.00	0.0667
Chlorodiphenyl (54% chlorine)	0.500	0.033
2-Chloroethanol, see Ethylene chlorohydrin		
1-Chloro-1-nitropropane	10.0	0.667
Chloropicrin	0.700	0.0467
o-Chlorostyrene	285	19.0
o-Chlorotoluene	250	16.7
2-Chloro-6-(trichloromethyl)pyridine, see Nitrapyrin		
Chlorpyrifos	0.200	0.0133
Chromium metal	0.500	0.0333
Clopidol	10.0	0.667
Cobalt as Co	0.100	0.00667
metal, dust & fume	0.100	0.00667
Copper		
fume	0.200	0.0133
dusts & mists, as Cu	1.00	0.0667
Cotton dust, raw	0.200	0.0133
Crotonaldehyde	6.00	0.400
Crufomate	5.00	0.333
Cyanamide	2.00	0.133
Cyanogen	20.0	1.33
Cyanogen chloride	0.600	0.0400
Cyclohexane	1050	70.0
Cyclohexanol	200	13.3
Cyclohexanone	100	6.67
Cyclohexene	1015	67.7
Cyclohexylamine	40.0	2.67
Cyclonite	1.50	0.100
Cyclopentadiene	200	13.3
Cyhexatin	5.00	0.333
DDT (Dichlorodiphenyl trichloroethane)	1.00	0.0667
Decaborane	0.300	0.0200
Demeton	0.100	0.00667
Diacetone alcohol	240	16.0
1,2-Diaminoethane See Ethylenediamine		
Diazinon	0.100	0.00667
Diborane	0.100	0.00667
2-N-Dibutylaminoethanol	14.0	0.933

Dibutyl phosphate	5.00	0.333
Dichloroacetylene	0.400	0.0267
o-Dichlorobenzene	300	20.0
1,3-Dichloro-5,5-dimethyl hydantoin	0.200	0.0133
1,2-Dichloroethylene	790	52.7
Dichlorofluoromethane	40.0	2.67
1,1-Dichloro-1-nitroethane	10.0	0.667
2,2-Dichloropropionic acid	6.00	0.400
Dicrotophos	0.250	0.0167
Dicyclopentadiene	30.0	2.00
Dicyclopentadienyl iron	10.0	0.667
Dieldrin		