

From: [Saikrishnan, Deepika, ENV](#)
To: [Burns, Tasha, ENV](#); [Saikrishnan, Deepika, ENV](#)
Subject: Notification of GCP 3 Relocation RE01 8925
Date: Wednesday, April 6, 2022 10:37:58 AM
Attachments: [Final application \(RE01 8925\).pdf](#)
[GCP-3_permit.pdf](#)
[Approval \(RE01 8925\).pdf](#)

Attachments included this time.

Deepika

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From: Saikrishnan, Deepika, ENV
Sent: Wednesday, April 6, 2022 10:29 AM
To: Burns, Tasha, ENV <Tasha.Burns@state.nm.us>; Saikrishnan, Deepika, ENV <Deepika.Saikrishnan@state.nm.us>
Subject: Notification of GCP 3 Relocation RE01 8925

Thank you for your comments.

This email is in response to the air quality permit application received by the Air Quality Bureau on March 21, 2022, regarding relocation of the Air Quality Permit No. RE01 8925 for the Hot Mix Asphalt facility owned and operated by Perovich Properties, Inc. dba Taos Gravel Products.

The Department has reviewed the relocation application and has identified sources of emissions and quantified the air emissions. Based on this review and the conditions of the air quality permit, the Department finds that the applicable federal and state air quality control regulations will be met and that air emissions from this facility will not cause or contribute to exceedances of ambient air quality standards.

For these reasons, the Department issued Air Quality Permit No. RE01 8925 on April 5, 2022, and this email notification constitutes notice of the Department's final action to issue this relocation application. As explained further below, this notification starts a 30-day period to appeal this final action. The Department's final action to issue this relocation application may be appealed in accordance with 20.2.72.207.F NMAC, which states that:

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 Environmental Improvement 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 division 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.

If a timely request for 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 NMSA 1978.

A copy of the General Construction Permit-3 and the relocation application for RE01 8925 is attached, is available on the website www.env.nm.gov/public-notice/ (Taos County dropdown), is kept on the Department's TEMPO database, and can be accessed at the NMED Air Quality Bureau office located at 525 Camino de los Marquez, Santa Fe, New Mexico for review.

The Department received a significant number of public comments regarding this application and developed responses to those comments below. If you have additional questions, please feel free to contact Deepika Saikrishnan at deepika.saikrishnan@state.nm.us (or) 505-629-3593

How does the Air Quality Bureau ensure the health of citizens is protected from the proposed impacts on the ambient air from a facility?

The NMED evaluates each application to determine compliance with primary and secondary national ambient air quality standards ("NAAQS") as established by the Environmental Protection Agency. Primary standards provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Both primary and secondary NAAQS specify the maximum concentrations of these pollutants that can be present in the ambient air.

The facility will be required to operate in compliance with all conditions of the General Construction Permit -3, for hot mix asphalt plants to ensure that the facility will operate as represented by the company in the application and in compliance with all applicable state and federal regulations and ambient air quality standards.

What are the public notice requirements for a relocation of a General Construction Permit-3?

For RE01 8925, the application certifies that the public notice for relocation RE01 8925 was posted on March 11, 2022. Updates requested during the review identify that the notice was reposted on March 31, 2022 after a public commenter noticed the posting was no longer up on March 29, 2022. Below is detailed information about public notice requirements from AQB's relocation guidance, which is available at the link below.

A Department-approved public notice example for GCPs is available on the AQB Website at: www.env.nm.gov/air-quality/air-quality-relocation-forms/

Note: A public notice published in a newspaper is not required for relocations.

- a. Each time the facility relocates, 15 days prior to submitting a relocation application a public notice is required to be posted at the entrance of the proposed site. A legible notice must remain posted at the facility entrance until the relocation application is either issued or denied. This notice shall be posted such that it is legible to the public from the point of nearest public access to the entrance to the facility and shall be documented with a dated photo from this public access point showing that at least the word "NOTICE" in the posting is legible to the public. Documentary proof of compliance with this requirement shall consist of this photo and the signed certification.
- b. The notice must be posted at a location according to 20.2.72.220.A(2)(b)(ii.b) NMAC, which states "a notice 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 ..."

- c. The posted notice must be posted for at least 15 days and once posted shall remain in place until the relocation is granted or denied. In the event that a revised notice is required as a result of Department review of the application, the corrected notice must be in place for at least 15 days before construction can commence. The Department is required to issue a decision regarding the relocation application within 15 days of receipt (per 20.2.72.202.D(3)(d) NMAC); however, if a revised public notice was posted after receipt, a condition in the relocation approval letter will stipulate the earliest possible installation date.

How can they relocate to that site when they have not been there before and what about the aggregate facility that is already there?

The GCP-3 permit authorizes relocations and co-locations. A facility can be authorized by the GCP-3 permit anywhere in New Mexico that meets the conditions in the permit. Each time a facility is relocated, AQB reviews the application to determine if the permit conditions will be met at the new location at that time.

At the time of the review for RE01 8925, there is not another facility authorized to co-locate with the Hot Mix Asphalt plant. March 16, 2017, relocation of the 500TPH Crusher No1484 (Agency Interest 1821) was approved to the same area. While the equipment is currently stored at the location, the owner confirmed they have ceased operation of that plant. Therefore, it does not currently have an air quality permit to operate at that location. An application for relocation would be required prior to the crusher being allowed to operate at the site.

Can I request a hearing before approval of the relocation application for the GCP 3 RE01 8925 action?

The regulations provide that relocation approvals issued by the Department are final actions that ARE subject to the appeal process before the Environmental Improvement Board. Persons who comment during the public notice period are notified when the Department takes final action on the relocation, so they are aware of the 30-day deadline for appeal to the EIB. The GCP3 Condition VI.D.1 (which references 20.2.72.207.F through H NMAC and 20.2.72.220.C(5) NMAC) provides for the appeal.

How does the AQB regulate issues such as noise, vehicle traffic on public roads, degradation of natural beauty, quality of life for residents, threats to wildlife, threats to historic structures and tourism, water quality, water conservation, and property values?

The Clean Air Act and state regulations are health-based regulations and do not provide the AQB legal authority to regulate impacts that are not specifically related to air quality. Thus, the AQB cannot deny any applicant an air quality permit based on these other issues. Many of these issues, such as noise, odor, nuisance issues, truck traffic, quality of life issues, and property values, fall under the jurisdiction of local ordinances. The AQB does not have the authority to regulate mobile sources (autos, trucks, etc.).

Isn't that area is zoned for agricultural use?

The AQB does not have the authority to enforce zoning restrictions.

This facility is too close to the Rio Grande del Norte National Monument.

The relocation application demonstrates that the siting restrictions required by the permit will be met, including that the perimeter of the Area of Operations must be at least of ¼ mile away from the Rio Grande del Norte National Monument as a recreation area per GCP-3 Permit Condition III.C.1. The nearest occupied structure is also more than ¼ mile away. The nearest Class I Area is Wheeler Peak Wilderness, 16 kilometers away.

Why are there several updates to the original application?

The AQB performs a thorough technical and administrative review of the application and may request additional information, clarification or require the applicant to correct information provided in the original application. In addition, the applicant has the duty to provide correct information and updates of relevance during the application review process, as necessary.

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determination or guidance.

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