

NMAC

Transmittal Form



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2022 JUL -6 PM 3: 27

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use) Recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment):

Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

STATUTORY AUTHORITY: Environmental Improvement Act, Section 74-1-1 to 74-1-16 NMSA 1978, including specifically Paragraph (4) and (7) of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Sections 74-2-1 to 74-2-22 NMSA 1978, including specifically Subsections A, B, C, D, F, and G of Section 74-2-5 NMSA 1978 (as amended through 2021).

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

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Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The New Mexico Air Quality Control Act ("AQCA"), NMSA 1978, Sections 74-2-5(C), requires the Environmental Improvement Board (Board) to plan for ozone mitigation in areas of the state where sources cause or contribute to ozone levels greater than 95% of the national ambient air quality standard (NAAQS) for ozone. Under this statutory provision, the Board is required to "adopt a plan, including rules, to control emissions of oxides of nitrogen and volatile organic compounds to provide for the attainment and maintenance of the standard." In accordance with the AQCA, Part 50 establishes emissions standards for oil and gas emission sources located in areas of the state within the Board's jurisdiction that, as of the effective date of the rule or anytime thereafter, are causing or contributing to ambient ozone concentrations that exceed ninety-five percent of the ozone NAAQS, as measured by a design value calculated and based on data from one or more Department monitors.

Ozone monitoring data for 2018-2020 indicate that areas of the state are approaching or violating the 2015 ozone NAAQS. In particular, Eddy County and sites in southern Doña Ana County are monitoring ozone levels in violation of the NAAQS, while San Juan, Lea, Santa Fe, Sandoval and Valencia Counties are within 95% of the standard. Additionally, oil and gas sources located in Rio Arriba and Chaves Counties contribute to elevated ozone concentrations in the preceding counties.

During their deliberations, the Board found that oil and gas sources located within these affected counties cause or contribute to the rising ozone concentrations in the state. The Board gave weight to all facts and circumstances, including: the character and degree of injury or interference with health, welfare, visibility and property; the public interest including the social and economic value of the sources and subjects of air contaminants; and the technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved. The Board found that these factors weigh in favor of adoption of Part 50, and that the adoption of Part 50 is both technically practicable and economically reasonable in the methods it employs to reduce air pollution from the sources involved.

The Department worked extensively with stakeholders throughout the rulemaking process to incorporate substantive revisions in the proposed rule. The Board also made revisions to the final rule during its deliberations.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Environmental Improvement Board

Check if authority has been delegated

Title:

Chair

Signature: (BLACK ink only OR Digital Signature)

Phoebe K. Suina
 Digitally signed by Phoebe K. Suina
 Date: 2022.06.28 16:19:07 -06'00'

Date signed:

6/28/22