

2023 NOV 17 AM 11:14

NMAC**Transmittal Form**NEW MEXICO
State Records Center and Archives
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Your Access to Public InformationVolume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address:

Agency DFA code:

Environmental Improvement Board; c/o New Mexico Environment Department, Air Quality Bureau; P.O. Box 5469; 525 Camino de Los Marquez, Suite 1; Santa Fe, NM 87502

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐

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?

Please list attachments or Internet sites if applicable.

Yes ☒ No ☐

If materials are attached, has copyright permission been received?

Yes ☐No ☐Public domain ☒**Specific statutory or other authority authorizing rulemaking:**

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

**Concise Explanatory Statement For
Rulemaking Adoption:****Findings required for rulemaking adoption:**

2023 NOV 17 AM 11:14

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.

In accordance with the authority vested in Subsection (B)(1) of Section 74-2-5 NMSA 1978 to adopt regulations necessary to carry out the purpose and intent of the Air Quality Control Act, the Environmental Improvement Board (the "Board") held a public hearing during the course of its regularly scheduled meeting on November 17, 2023, to adopt an amended regulation into Title 20, Chapter 2 of the New Mexico Administrative Code for New Source Performance Standards ("Amended Rule"). In 1985, the United States Environmental Protection Agency delegated authority to the Department to implement and enforce the standards directly under Clean Air Act (CAA) Section 111(c); but, still retains primacy to enforce the standards. Periodically, the Department must petition the Board to revise the Amended Rule to update the "through dates" that include the applicable Federal Register final rulings from the last revision. For this reason, the Department petitioned the Board to adopt the Amended Rule for New Source Performance Standards to be in compliance with the CAA and to protect public health and deterioration of the environment. The Board issued an order and statement of reasons for adopting the Amended Rule on November 17, 2023.

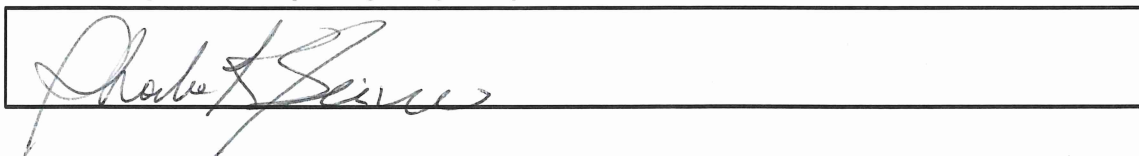
The Board provided notice in English and Spanish in the New Mexico Register and Albuquerque Journal on September 12, 2023.

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

Phoebe Suina

Check if authority has been delegated☐**Title:**

Board Chair

Signature: (BLACK ink only OR Digital Signature)**Date signed:**

11/17/23

This is an amendment to 20.2.77 NMAC Sections 2 and 9, effective 12/19/23

2023 NOV 17 AM 11:14

20.2.77.2 SCOPE: Any stationary source constructing or modifying and which is subject to the requirements of 40 CFR Part 60, as amended through [~~January 15, 2017~~] June 28, 2023.
[06/16/95, 11/19/97, 09/08/99; 20.2.77.2 NMAC - Rn & A, 20 NMAC 2.77.101, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17; A, 12/19/23]

20.2.77.9 ADOPTION OF 40 CFR PART 60: Except as otherwise provided, the new source performance standards as promulgated by the United States environmental protection agency, 40 CFR Part 60, as amended in the Federal Register through [~~January 15, 2017~~] June 28, 2023 are hereby incorporated into this part (20.2.77 NMAC).
[06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.77.9 NMAC - Rn & A, 20 NMAC 2.77.107, 06/02/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17; A, 12/19/23]

NMAC

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Agency DFA code:

Environmental Improvement Board; c/o New Mexico Environment Department, Air Quality Bureau; P.O. Box 5469; 525 Camino de Los Marquez, Suite 1; Santa Fe, NM 87502

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐

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:

Environmental Improvement Act, NMSA 1978, Sections 74-1-1 to 74-1-17, including specifically Subsections (A)(4) and (A)(7) of Section 74-1-8; and,

Air Quality Control Act, NMSA 1978, Sections 74-2-1 to 74-2-17, including specifically Subsections (A), (B) and (D) of Section 74-2-5.

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

2023 NOV 17 AM 11:14

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.

In accordance with the authority vested in Subsections (A),(B)and (D) of Section 74-2-5 NMSA 1978 to adopt regulations necessary to carry out the purpose and intent of the Air Quality Control Act, the Environmental Improvement Board (the "Board") held a public hearing during the course of its regularly scheduled meeting on November 17, 2023, to adopt an amended regulation into Title 20, Chapter 2 of the New Mexico Administrative Code for Emission Standards for Hazardous Air Pollutants ("Amended Rule"). In 1985, the United States Environmental Protection Agency delegated authority to the Department to implement and enforce the standards directly under Clean Air Act (CAA) Sections 111(c) and 112(l); but, still retains primacy to enforce the standards. Periodically, the Department must petition the Board to revise the Amended Rule to update the "through dates" that include the applicable Federal Register final rulings from the last revision. In addition, the statutory authority reference must be revised due to a 2021 legislative statutory amendment. For this reason, the Department petitioned the Board to adopt the Amended Rule for Emission Standards for Hazardous Air Pollutants to be in compliance with the CAA and to protect public health and deterioration of the environment. The Board issued an order and statement of reasons for adopting the Amended Rule on November 17, 2023.

The Board provided notice in English and Spanish in the New Mexico Register and Albuquerque Journal on September 12, 2023.

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

Name:

Phoebe Suina

Check if authority has been delegated

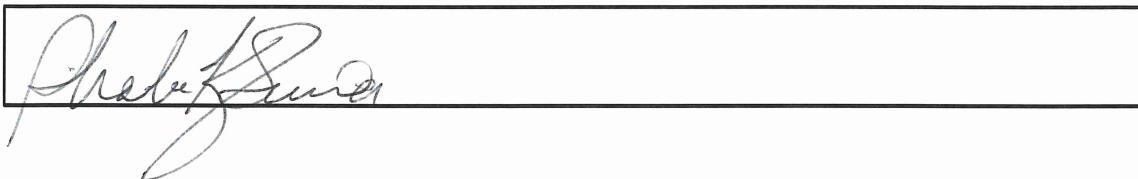
☐

Title:

Board Chair

Signature: (BLACK ink only OR Digital Signature)

Date signed:



11/17/23

2023 NOV 17 AM 11:14

This is an amendment to 20.2.78 NMAC Sections 2, 3 and 9, effective 12/19/23

20.2.78.2 SCOPE: All sources emitting hazardous air pollutants which are subject to the requirements of 40 CFR Part 61, as amended through [~~January 15, 2017~~] June 28, 2023.
[20.212/19/23]

20.2.78.3 STATUTORY AUTHORITY: The environmental improvement board “shall promulgate regulations and standards in...air quality management” (Subsection (A) of Section 74-1-8 [-A] NMSA 1978) and “regulations adopted by the environmental improvement board...may...prescribe standards of performance for sources and emissions standards for hazardous air pollutants...” (Subsection (D) of Section 74-2-5 [-C] NMSA 1978).
[06/16/95; 20.2.78.3 NMAC - Rn, 20 NMAC 2.78.102 06/23/00; A, 12/19/23]

20.2.78.9 ADOPTION OF 40 CFR PART 61: Except as otherwise provided, the national emission standards for hazardous air pollutants as promulgated by the United States environmental protection agency, 40 CFR Part 61, as amended in the Federal Register through [~~January 15, 2017~~] June 28, 2023 are hereby incorporated into this part (20.2.78 NMAC).
[06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.78.9 NMAC - Rn 20 NMAC 2.78.107 & A, 06/23/00; A, 02/18/02; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 1/29/16; A, 5/30/17; A, 12/19/23]

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Your Access to Public InformationVolume: XXXIV Issue: 23 Publication date: 12/19/2023 Number of pages: 1 (ALD Use Only) Sequence No.

Issuing agency name and address:

Agency DFA code:

Environmental Improvement Board; c/o New Mexico Environment Department, Air Quality Bureau; P.O. Box 5469; 525 Camino de Los Marquez, Suite 1; Santa Fe, NM 87502

667

Contact person's name:

Phone number:

E-mail address:

Armando Paz

505-629-3242

armando.paz@env.nm.gov

Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐

Title number:

Title name:

20

Environmental Protection

Chapter number:

Chapter name:

2

Air Quality (Statewide)

Part number:

Part name:

82

Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants

Amendment description (If filing an amendment):

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

Amend three sections

Sections 2, 3 & 8 of 20.2.82 NMAC

Are there any materials incorporated by reference?

Please list attachments or Internet sites if applicable.

Yes ☒ No ☐<https://www.ecfr.gov>
<https://www.govinfo.gov/app/collection/FR/>

If materials are attached, has copyright permission been received?

Yes ☐No ☐Public domain ☒**Specific statutory or other authority authorizing rulemaking:**

Environmental Improvement Act, NMSA 1978, Sections 74-1-1 to 74-1-17, including specifically Subsections (A)(4) and (A)(7) of Section 74-1-8; and,

Air Quality Control Act, NMSA 1978, Sections 74-2-1 to 74-2-17, including specifically Subsections (A), (B) and (D) of Section 74-2-5.

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

9/12/2023

11/17/2023

11/17/2023

12/19/2023

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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.

In accordance with the authority vested in Subsections (A),(B)and (D) of Section 74-2-5 NMSA 1978 to adopt regulations necessary to carry out the purpose and intent of the Air Quality Control Act, the Environmental Improvement Board (the "Board") held a public hearing during the course of its regularly scheduled meeting on November 17, 2023, to adopt an amended regulation into Title 20, Chapter 2 of the New Mexico Administrative Code for Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants ("Amended Rule"). In 1995, the United States Environmental Protection Agency delegated authority to the Department to implement and enforce the standards directly under Clean Air Act (CAA) Sections 111(c) and 112(l); but, still retains primacy to enforce the standards. Periodically, the Department must petition the Board to revise the Amended Rule to update the "through dates" that include the applicable Federal Register final rulings from the last revision. In addition, the statutory authority reference must be revised due to a 2021 legislative statutory amendment. For this reason, the Department petitioned the Board to adopt the Amended Rule for Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants to be in compliance with the CAA and to protect public health and deterioration of the environment. The Board issued an order and statement of reasons for adopting the Amended Rule on November 17, 2023.

The Board provided notice in English and Spanish in the New Mexico Register and Albuquerque Journal on September 12, 2023.

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

Name:

Phoebe Suina

Check if authority has been delegated

☐

Title:

Board Chair

Signature: (BLACK ink only OR Digital Signature)

Date signed:



11/17/23

2023 NOV 17 AM 11: 15

This is an amendment to 20.2.82 NMAC Sections 2, 3 and 8, effective 12/19/23

20.2.82.2 SCOPE: All sources emitting hazardous air pollutants, which are subject to the requirements of 40 CFR Part 63, as amended through ~~[January 15, 2017]~~ June 28, 2023.
[Rn, 20 NMAC 2.82.2, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.2 NMAC - Rn & A, 20 NMAC 2.82.101, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17; A, 12/19/23]

20.2.82.3 STATUTORY AUTHORITY: Environmental Improvement Act, Paragraphs (4) and (7) of Subsection (A) of Section 74-1-8 NMSA 1978, and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., including specifically, Subsections (A), (B) and ~~([C] D)~~ of Section 74-2-5. Subsection ~~([C] D)~~ of Section 74-2-5 provides that “regulations adopted by the environmental improvement board may prescribe standards of performance for sources and emissions standards for hazardous air pollutants...”
[Rn, 20 NMAC 2.82.3, 08/14/98; A, 08/14/98; 20.2.82.3 NMAC - Rn, 20 NMAC 2.82.102, 06/23/00; A, 12/19/23]

20.2.82.8 ADOPTION OF 40 CFR PART 63: Except as otherwise provided in Section 20.2.82.10 NMAC (below), the national emission standards for hazardous air pollutants for source categories as promulgated by the United States environmental protection agency, 40 CFR Part 63, as amended in the Federal Register through ~~[January 15, 2017]~~ June 28, 2023 are hereby incorporated into this part (20.2.82 NMAC).
[Rn, 20 NMAC 2.82.7, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.8 NMAC - Rn & A, 20 NMAC 2.82.106, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17; A, 12/19/23]