

NMAC**Transmittal Form**

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:

(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:**

The Air Quality Control Act, Sections 74-2-5 and 74-2-6, NMSA 1978 (1967 as amended through 2021) and the Environmental Improvement Act, Section 74-1-8, NMSA 1978 (2000).

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

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.

FILED WITH
STATE RECORDS DIVISION

2025 AUG 15 AM 9:54

In accordance with the authority vested in it by Section 7 4-2-5(B) NMSA 1978, to adopt regulations necessary to carry out the purpose and intent of the Air Quality Control Act, the Environmental Improvement Board held a public hearing during the course of its regularly scheduled meeting on July 18, 2025, to repeal and replace 20.2.70 NMAC, Operating Permits, and adopt a revision to the New Mexico Title V Operating Permit Program.

In 1990, Congress amended the Clean Air Act (CAA) and established, among other things, Title V of the CAA, which contains a national operating permit program for certain stationary sources of air pollution. It was intended to consolidate into a single comprehensive enforceable document, called the "operating permit", all applicable requirements for "major sources".

20.2.70 NMAC, Operating Permits, was repealed and replaced, to comply with a mandate from "EPA directing the removal of certain affirmative defense provisions from New Mexico's Title V Permit Program at 20.2.70.304 NMAC, Emergency Provision.

EPA commented that one of the elements listed under the definition of "Applicable Requirement" cited at 40 CFR 70.2, Definitions, was missing from the corresponding definition of "Applicable Requirement" at Subsection E of 20.2.70.7 NMAC. To address this deficiency, new text, identical to Paragraph (7) under the definition of "Applicable Requirement" at 40 CFR 70.2, was inserted as a new Paragraph (7) under the definition of "Applicable Requirement" at Subsection E of 20.2.70.7 NMAC.

The Department identified an incongruity between one of the other elements under the definition of "Applicable Requirement" cited at Paragraph (13) of 40 CFR 70.2, Definitions, and the definition of "Applicable Requirement" at Subsection E of 20.2.70.7 NMAC, specifically Paragraphs (11) and (12). To address this error, Paragraphs (11) and (12) were combined.

The definition of "Regulated Air Pollutant" at Subsection AC of 20.2.70.7 NMAC, was amended to remove "total suspended particulate matter" ("TSP") from the current list of regulated air pollutants under this definition, because it is obsolete. The limits for maximum allowable concentrations of TSP in the ambient air previously stipulated by 20.2.3 NMAC, Ambient Air Quality Standards, at 20.2.3.109 NMAC, Total Suspended Particulates, were repealed, effective November 30, 2018.

The regulation was updated to meet current New Mexico Administrative Code requirements at Subsection C of 1.24.11.9 NMAC, Reformatting.

The only changes between the Public Review Draft and the adopted rule, are non substantive typos and formatting changes.

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

Name:

Amanda N. Trujillo

Check if authority has been delegated


☐

Title:

Vice Chair, Environmental Improvement Board

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Signed by:

54E8E053A74C415

8/14/2025

20.2.70 NMAC, Operating Permits, filed 1/7/2013, is hereby repealed and replaced with 20.2.70 NMAC, Operating Permits, effective 9/15/2025. The New Mexico Environmental Improvement Board adopted this change during their 7/18/2025 regular meeting.

FILED WITH
STATE DEPARTMENT OF REVENUE
2025 AUG 15 AM 9:54