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CABINET SECRETARY

## VIA State Planning Electronic Collaboration System (SPeCS)

August 18, 2025

The Honorable Scott Mason  
Regional Administrator  
U.S. Environmental Protection Agency, Region VI  
1201 Elm Street, Suite 500  
Dallas, Texas 75270

Re: Request to Revise New Mexico's Title V Operating Permit Program

Dear Regional Administrator Mason,

The New Mexico Environment Department (NMED), Air Quality Bureau (AQB) respectfully requests that the U.S. Environmental Protection Agency (EPA) update New Mexico's delegated Title V operating permit program to reflect the removal of affirmative defense provisions pursuant to 40 CFR 70.6(g) and 71.6(g). This letter and attached documents meet the requirements under 40 CFR 70.4 for this update to occur.

On July 21, 2023, EPA revised 40 CFR 70 and 40 CFR 71 to remove emergency affirmative defense provisions from the Title V operating permit program. This requires states or local jurisdictions to remove affirmative defense provisions from their operating permit rules and Title V operating program accordingly.

On July 18, 2025, New Mexico's Environmental Improvement Board adopted amendments to 20.2.70 NMAC, *Operating Permits*, to remove the emergency affirmative defense provisions from that rule, along with other changes. In accordance with state procedure, 20.2.70 NMAC will be repealed and replaced to reflect the adopted amendments, and then published in the New Mexico Register on September 9, 2025. The hearing record for the amended rule is attached and includes: the filed rule; New Mexico Administrative Code Transmittal Form; hearing transcript; exhibits; public notices; affidavits of publication *Notice of Intent* to present technical testimony; and the signed *Final Order and Statement of Reasons*. No public comments were received during the open comment period, which ran from May 6 to July 18, 2025.

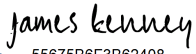
With this change, AQB has begun the process of removing affirmative defense provisions from Title V operating permits and plans to continue that process over the coming years as TV permits come up for renewal.

If you have any questions regarding this submittal, please contact AQB Bureau Chief, Cindy Hollenberg at (505) 699-4608 or [cindy.hollenberg@env.nm.gov](mailto:cindy.hollenberg@env.nm.gov).

Thank you for your assistance.

Sincerely,

DocuSigned by:

  
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James C. Kenney

Cabinet Secretary

cc: Cindy Hollenberg, Bureau Chief, AQB, NMED  
Michelle Miano, Division Director, Environmental Protection Division, NMED  
Jeff Robinson, Permitting Chief, EPA Region VI