

**STATE OF NEW MEXICO  
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED REPEAL AND REPLACEMENT OF  
20.2.71 NMAC – *OPERATING PERMIT EMISSIONS FEES* AND  
20.2.75 NMAC – *CONSTRUCTION PERMIT FEES***

**No. EIB 25-77 (R)**

**New Mexico Environment Department,**

***Petitioner.***

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**NEW MEXICO ENVIRONMENT DEPARTMENT'S  
PETITION FOR REGULATORY CHANGE TO REPEAL AND REPLACE 20.2.71  
NMAC, *OPERATING PERMIT EMISSIONS FEES*, AND 20.2.75 NMAC,  
*CONSTRUCTION PERMIT FEES***

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The New Mexico Environment Department (“Department”), pursuant to 20.1.1.300 NMAC, *Rulemaking Procedures*, respectfully petitions the Environmental Improvement Board (“Board”) to repeal and replace 20.2.71 NMAC, *Operating Permit Emissions Fees*, and 20.2.75 NMAC, *Construction Permit Fees*. As required by 20.1.1.300(B) NMAC, the Department’s Statement of Reasons in Support of this Petition is attached as **Exhibit A** and the text of replacement rules 20.2.71 NMAC and 20.2.75 NMAC are attached as **Exhibits B and C**, respectively. For ease of review, the current rules 20.2.71 NMAC and 20.2.75 NMAC with the proposed changes shown in redline fashion are attached as **Exhibits D and E**, respectively. Additionally, the Department petitions the Board to authorize the Department to submit replacement rule 20.2.71 NMAC to the U.S. Environmental Protection Agency (“EPA”) for approval as a proposed revision to the State of New Mexico’s Title V Permit Program, and to submit replacement rule 20.2.75 NMAC to EPA for incorporation into the State of New Mexico’s

State Implementation Plan (excluding 20.2.75.10(B) NMAC and 20.2.75.11(E) NMAC, which are state-only provisions).

### **HEARING DETAILS**

The Department respectfully requests the Board consider this Petition at its regular meeting on December 19, 2025. See NMSA 1978, § 74-1-9(A) (“The board shall determine whether or not to hold a hearing within sixty days of submission of a proposed regulation”); see also 20.1.1.300(C) NMAC (“The board shall determine, at a public meeting occurring at least 15 days and no later than 60 days, after receipt of the petition, whether or not to hold a public hearing on the proposal.”).<sup>1</sup> The Department respectfully requests approximately 20 minutes for the Department to present this Petition at the meeting, in addition to any time necessary for Board members to ask questions and deliberate.

The Department anticipates the hearing to adopt replacement rules 20.2.71 NMAC and 20.2.75 NMAC will take approximately three business days. The Department respectfully requests the Board schedule the hearing to begin on March 23, 2026,<sup>2</sup> and continue through March 25, 2026, or as long as required to hear all testimony, evidence, and public comment. The Department also requests the Board plan to immediately deliberate and make a decision on the proposed regulatory change on the final day of the hearing.

Due to the complexity of the issues that are likely to arise in this rulemaking, the Department requests the Board appoint an administrative hearing officer to conduct the rulemaking proceeding, which will allow all Board members to devote their full attention to the substantive

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<sup>1</sup> Fifteen days after the filing date of this petition is December 18, 2025.

<sup>2</sup> Due to public notice requirements, the hearing can occur no earlier than March 16, 2026.

testimony and comment, and will help prevent potential procedural challenges to any final regulation adopted by the Board. See NMSA 1978, § 74-1-9(F); see also 20.1.1.107(B) NMAC.

The Department requests the Board decide certain pre-hearing logistics when issuing an order setting a hearing prior to appointing a hearing officer to ensure sufficient notice to the public. See e.g., 20.1.1.301(B)(5) NMAC (information in notice of hearing). Specifically, the Department requests the Board set the filing deadline for notices of intent to present technical testimony and entries of appearance as Friday, February 20, 2026, which is 31 days prior to the hearing instead of the 20 days provided for in 20.1.1.302 NMAC and 20.1.1.303 NMAC.

The Department respectfully requests the Board issue orders pursuant to 20.1.1.300(D) NMAC for a hearing on adoption of replacement rules 20.2.71 NMAC and 20.2.75 NMAC, as discussed at the meeting, by December 26, 2026, to ensure timely publication of the public notice in the New Mexico Register.<sup>3</sup>

### **JURISDICTION**

The Board has the authority to repeal and replace 20.2.71 NMAC and 20.2.75 NMAC pursuant to the Air Quality Control Act, including Sections 74-2-5 and 74-2-6; and the Environmental Improvement Act, Sections 74-1-8(A)(4).

**WHEREFORE**, the Department requests the Board:

A. Include this Petition on the agenda for the Board's next meeting, such as proposed by the Department, and consider this Petition at the meeting, such as on the dates requested by the

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<sup>3</sup> Pursuant to 20.1.1.301(A) NMAC, the Board is required to provide notice to the public at least 60 days prior to a hearing. Notice must be published in the New Mexico Register, which is published by the Commission of Public Records – State Records Center and Archives twice a month. The last publication date that is at least 60 days prior to the proffered March 23, 2026 hearing date is January 13, 2026. The submittal deadline for publication in that edition of the New Mexico Register is January 2, 2026.

Department;

B. Authorize a hearing to consider the merits of this Petition, such as in the manner requested by the Department;

C. Timely issue the necessary and appropriate orders for the hearing on this Petition, such as in the timeframe requested by the Department;

D. Schedule the hearing to begin on a date certain and continue as long as required to hear all testimony, evidence, and public comment, such as in the manner requested by the Department;

E. Set the notice of intent to present technical testimony and entries of appearance filing deadline at least 30 days before the hearing; and

F. Appoint a hearing officer.

Respectfully submitted,

**ROBLES, RAEL & ANAYA, P.C.**

/s/ Kelsea Sona

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## **CERTIFICATION**

I hereby certify that on December 3, 2025, an electronic copy of this Petition for Regulatory Change to Repeal and Replace 20.2.71 NMAC, *Operating Permit Emissions Fees*, and 20.2.75 NMAC, *Construction Permit Fees*, and the Petition's exhibits, were filed with the Environmental Improvement Board via email at:

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By: /s/ Kelsea Sona  
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