

COPY

**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD**



No. EIB 15-01 (R)

**IN THE MATTER OF PROPOSED
AMENDMENTS TO AIR QUALITY REGULATIONS
20.2.77, 20.2.78 AND 20.2.82 NMAC**

**Air Quality Bureau,
Environmental Protection Division of the
New Mexico Environment Department,
Petitioner.**

**PETITION TO AMEND 20.2.77, 20.2.78 AND 20.2.82 NMAC
OF THE AIR QUALITY REGULATIONS AND REQUEST FOR HEARING**

Pursuant to 20.1.1 NMAC, the Air Quality Bureau (“Bureau”) in the Environmental Protection Division of the New Mexico Environment Department hereby petitions the Environmental Improvement Board (“Board”) to amend 20.2.77, 20.2.78 and 20.2.82 NMAC of the *Air Quality (Statewide) Regulations*, and requests that a hearing be scheduled before the Board on this matter. The proposed amendments to existing rules are necessary to incorporate newly promulgated federal standards within programs for which authority has been delegated to New Mexico by the U.S. Environmental Protection Agency. A statement of reasons for the regulatory change is attached to this Petition, along with the proposed amendments to 20.2.77, 20.2.78 and 20.2.82 NMAC. The Board is authorized to adopt these amendments by the Environmental Improvement Act, NMSA 1978, Section 74-1-8 (2000) and the Air Quality Control Act, NMSA 1978, Section 74-2-5 (2007). The Bureau requests a hearing on this matter on October 16, 2015, during the Board’s regular meeting. The Bureau anticipates that a hearing on this matter will take approximately one hour.

Respectfully submitted,

AIR QUALITY BUREAU
NEW MEXICO ENVIRONMENT DEPARTMENT

A handwritten signature in black ink, appearing to read 'K. Bonza', written over a horizontal line.

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

**IN THE MATTER OF PROPOSED
AMENDMENTS TO AIR QUALITY REGULATIONS
20.2.77, 20.2.78 AND 20.2.82 NMAC**

No. EIB 15-01 (R)

**Air Quality Bureau,
Environmental Protection Division of the
New Mexico Environment Department,
Petitioner.**

STATEMENT OF REASONS

The Air Quality Bureau (“Bureau”) in the Environmental Protection Division of the New Mexico Environment Department (“Department”) proposes to incorporate by reference new rules, corrections, revisions, and amendments to the federal New Source Performance Standards (“NSPS”), National Emission Standards for Hazardous Air Pollutants (“NESHAP”), and Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants (“MACT”), which were promulgated by the U.S. Environmental Protection Agency (“EPA”). The proposed amendments to 20.2.77, 20.2.78 and 20.2.82 NMAC incorporate NSPS rules published in the Federal Register from September 24, 2013, to September 15, 2015; NESHAP rules published in the Federal Register from January 1, 2011, to September 15, 2015; and MACT rules published in the Federal Register from August 30, 2013, to September 15, 2015. The sections of Parts 77, 78, and 82 of 20.2 NMAC affected by the proposed changes are shown below. The entirety of Parts 77, 78, and 82 of 20.2 NMAC with the proposed changes included are attached hereto as Attachments A, B, and C, respectively.

A table listing EPA’s revisions to the NSPS, NESHAP, and MACT standards to date is attached as Attachment D. The table will be updated if additional revisions are made before September 15, 2015.

The Department proposes the following changes to 20.2.77 NMAC:

1. **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 [~~September 23, 2013~~] September 15, 2015. [06/16/95, 11/19/97, 09/08/99; 20.2.77.2 NMAC - Rn, 20 NMAC 2.77.101 & A, 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, XX/XX/15~~]
2. **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 [~~September 23, 2013~~] September 15, 2015 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, 20 NMAC 2.77.107 & A, 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, XX/XX/15]

The above proposed revisions adopt the language of 40 CFR § 60 as amended through September 15, 2015.

3. **20.2.77.10 MODIFICATIONS AND EXCEPTIONS:** The following modifications or exceptions are made to the incorporated federal standards[-:];
- A. Amend 40 CFR Part 60, Section 60.2, Definitions, as follows: For the purposes of delegation of authority which the administrator of the United States environmental protection agency may, [~~in his~~] at the administrator's discretion, delegate to the secretary of the New Mexico environment department, "administrator" means the secretary of the department or [~~his~~] the secretary's authorized representative.
 - B. Exclude 40 CFR - Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters.
 - C. The federal standards of performance incorporated by this regulation shall not be subject to NMSA 1978, Section 74-2-8 (Variances).
 - D. [~~Exclude 40 CFR Part 60, Subpart HHHH, Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units.~~] Exclude 40 CFR Part 60, Subpart QQQQ – Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.
- [06/16/95; 20.2.77.10 NMAC - Rn, 20 NMAC 2.77.108 06/23/00; A, 06/15/07; A, XX/XX/15]

The above proposed revisions eliminate the gender-specific language describing the EPA Administrator and Secretary of the Environment Department, and replace it with gender-neutral language.

The proposed amendment to delete the exclusion pertaining to Subpart HHHH of 40 CFR Part 60 is made because Subpart HHHH, the Clean Air Mercury Rule, was invalidated and vacated by the U.S. Court of Appeals for the D.C. Circuit in 2008. The EPA removed and reserved Subpart HHHH on February 16, 2012. Therefore, the exclusion of Subpart HHHH in Part 77 is no longer necessary.

The proposed amendment to exclude Subpart QQQQ of 40 CFR Part 60 is made because Subpart QQQQ prescribes standards for new residential hydronic heaters and forced-air furnaces. The Bureau does not regulate residential applications of air quality standards and states are not required to accept delegation of this federal rule.

4. **20.2.77.11 DOCUMENTS:** Documents incorporated and cited in this Part may be viewed at the New Mexico environment department, air quality bureau [~~-1301 Siler Road, Building B, Santa Fe NM, 87507~~]. [06/16/95; 20.2.77.11 NMAC - Rn, 20 NMAC 2.77.109 06/23/00; A, 08/17/09; A, XX/XX/15]
[As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe NM, 87505]

The above proposed revision deletes reference to the former location of the Air Quality Bureau. The new location of the Air Quality Bureau is reflected in the brackets attached to this Section.

The Department proposes the following changes to 20.2.78 NMAC:

1. **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 [~~December 31, 2010~~]September 15, 2015. [06/16/95, 11/19/97, 09/08/99; 20.2.78.2 NMAC - Rn 20 NMAC 2.78.101 & A, 06/23/00; A, 02/18/02; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, XX/XX/15]

2. **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 [~~December 31, 2010~~September 15, 2015] 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, XX/XX/15]

The above proposed revisions adopt the language of 40 CFR § 61 as amended through September 15, 2015.

3. **20.2.78.10 MODIFICATIONS AND EXCEPTIONS:** The following modifications or exceptions are made to the incorporated federal standards:
- A. amend 40 CFR Part 61, Section 61.02, Definitions, as follows: For the purposes of delegation of authority which the Administrator of the United States environmental protection agency may, [~~in his~~at the administrator's discretion, delegate to the secretary of the New Mexico environment department, "administrator" means the secretary or [~~his~~the secretary's authorized representative.
- B. exclude 40 CFR Part 61, Subparts B (National Emission Standards for Radon Emissions from Underground Uranium Mines), H (National Emission Standards for Emissions of Radionuclides Other Than Radon from Department of Energy Facilities), I (National Emission Standards for Radionuclide Emissions from Facilities Licensed by the NRC and Federal Facilities not covered by Subpart H), K (National Emission Standard for Radionuclide Emissions from Elemental Phosphorus Plants), Q (National Emission Standards for Radon Emissions from Department of Energy Facilities), R (National Emission Standards for Radon Emissions from Phosphogypsum Stacks), T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings), and W (National Emission Standards for Radon Emissions from Operating Mill Tailings).
- C. the federal emission standards incorporated by this regulation shall not be subject to NMSA 1978, Section 74-2-8 [Variances]
[06/16/95; 20.2.78.9 NMAC - Rn, 20 NMAC 2.78.108 06/23/00; A, XX/XX/15]

The above proposed revisions eliminate the gender-specific language describing the EPA Administrator and Secretary of the Environment Department, and replace it with gender-neutral language.

4. **20.2.78.11 DOCUMENTS:** Documents incorporated and cited in this part may be viewed at the New Mexico environment department, air quality bureau [~~1301 Siler Road, Building B, Santa Fe NM, 87507~~].
[06/16/95; 20.2.78.11 NMAC - Rn, 20 NMAC 2.78.109 06/23/00; A, 08/17/09; A, XX/XX/15]
[As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe NM, 87505]

The above proposed revision deletes reference to the former location of the Air Quality Bureau. The new location of the Air Quality Bureau is reflected in the brackets attached to this Section.

The Department proposes the following changes to 20.2.82 NMAC:

1. **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 [~~August 29, 2013~~September 15, 2015].
[Rn, 20 NMAC 2.82.2, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.2 NMAC - Rn, 20 NMAC 2.82.101 & A, 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, XX/XX/15]
2. **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 [~~US EPA~~United States environmental protection agency, 40 CFR Part 63, as amended in the Federal Register through [~~August 29, 2013~~September 15, 2015] 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, 20 NMAC 2.82.106 & A, 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, XX/XX/15]

The above proposed revisions adopt the language of 40 CFR § 63 as amended through September 15, 2015. Additionally, the United States Environmental Protection Agency is spelled out to conform to the formatting of other Parts of the Air Quality regulations.

3. **20.2.82.6 OBJECTIVE:** The objective of this part is to adopt or establish state authority to implement emission standards for hazardous air pollutants for the source categories in New Mexico subject to federal standards. The [~~US EPA~~ United States environmental protection agency requires New Mexico to adopt such standards in order to implement requirements in Section 112 of the Clean Air Act. [Rn, 20 NMAC 2.82.6, 08/14/98; A, 08/14/98; 20.2.82.6 NMAC - Rn, 20 NMAC 2.82.105, 06/23/00; A, XX/XX/15]

The above proposed revision spells out United States Environmental Protection Agency to conform to the formatting of other Parts of the Air Quality regulations.

4. **20.2.82.10 MODIFICATIONS AND EXCEPTIONS:** The following modifications or exceptions are made to the incorporated federal standards:
- A. general provisions: Amend 40 CFR Part 63, Subpart A - General Provisions, Section 63.2, Definitions, as follows: For the purposes of delegation of authority which the Administrator of the [~~US EPA~~ United States environmental protection agency may, [~~in his or her~~ at the administrator's discretion, delegate to the secretary of the New Mexico environment department, "administrator" means the secretary or [~~his/her~~ the secretary's authorized representative.
- B. variances: The federal emission standards incorporated by this Part shall not be subject to NMSA 1978, Section 74-2-8 (Variances).
- C. constructed and reconstructed major sources: The effective date for incorporation of 40 CFR 63.40 - 63.44 of Subpart B under 20.2.82.8 NMAC shall be June 29, 1999. [Rn, 20 NMAC 2.82.8, 08/14/98; A, 08/14/98; 20.2.82.10 NMAC - Rn, 20 NMAC 2.82.109, 06/23/00; A, XX/XX/15]

The above proposed revisions eliminate the gender-specific language describing the EPA Administrator and Secretary of the Environment Department, and replace it with gender-neutral language. In addition, the United States Environmental Protection Agency is spelled out to conform to the formatting of other Parts of the Air Quality regulations.

5. **20.2.82.11 DOCUMENTS:** Documents incorporated and cited in this part may be viewed at the New Mexico environment department, air quality bureau [~~-1301 Siler Road, Building B, Santa Fe NM, 87507~~]. [08/14/98; 20.2.82.11 NMAC - Rn, 20 NMAC 2.82.110 06/23/00; A, 08/17/09; A, XX/XX/15]
[As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe NM, 87505]

The above proposed revision deletes reference to the former location of the Air Quality Bureau. The new location of the Air Quality Bureau is reflected in the brackets attached to this Section.

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1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 2 AIR QUALITY (STATEWIDE)**
3 **PART 77 NEW SOURCE PERFORMANCE STANDARDS**
4

5 **20.2.77.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board.
6 [06/16/95; 20.2.77.1 NMAC - Rn, 20 NMAC 2.77.100 06/23/00]
7

8 **20.2.77.2 SCOPE:** Any stationary source constructing or modifying and which is subject to the
9 requirements of 40 CFR Part 60, as amended through [~~September 23, 2013~~] September 15, 2015.
10 [06/16/95, 11/19/97, 09/08/99; 20.2.77.2 NMAC - Rn, 20 NMAC 2.77.101 & A, 06/23/00; A, 02/18/02; A,
11 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, XX/XX/15]
12

13 **20.2.77.3 STATUTORY AUTHORITY:** The environmental improvement board “shall promulgate
14 regulations and standards in...air quality management” (NMSA 1978, Section 74-1-8.A) and “regulations adopted
15 by the environmental improvement board...shall...ensure that regulations and standards under...the federal act will
16 not be violated.” (NMSA 1978, Section 74-2-7.B).
17 [06/16/95; 20.2.77.3 NMAC - Rn, 20 NMAC 2.77.102 06/23/00]
18

19 **20.2.77.4 DURATION:** Permanent.
20 [06/16/95; 20.2.77.4 NMAC - Rn, 20 NMAC 2.77.103 06/23/00]
21

22 **20.2.77.5 EFFECTIVE DATE:** June 16, 1995, except where a later date is cited at the end of a section or
23 paragraph.
24 [06/16/95, 08/02/96; 20.2.77.5 NMAC - Rn, 20 NMAC 2.77.104 6/23/00]
25 [The latest effective date of any section in this part is XX/XX/15]
26

27 **20.2.77.6 OBJECTIVE:** The objective of Part 77 of Chapter 2 is to adopt or establish state authority to
28 implement new source performance standards for stationary sources in New Mexico subject to 40 CFR Part 60.
29 [06/16/95; 20.2.77.6 NMAC - Rn, 20 NMAC 2.77.105 06/23/00]
30

31 **20.2.77.7 DEFINITIONS:** [RESERVED]
32 [20.2.77.7 NMAC - N, 06/23/00]
33

34 **20.2.77.8 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This part amends and
35 supersedes Air Quality Control Regulation (AQCR) 750, last filed on April 10, 1994. All references to AQCR 750
36 in any other rule shall be understood as a reference to this part.
37 [06/16/95; 20.2.77.8 NMAC - Rn, 20 NMAC 2.77.106 06/23/00]
38

39 **20.2.77.9 ADOPTION OF 40 CFR PART 60:** Except as otherwise provided, the new source performance
40 standards as promulgated by the United States environmental protection agency, 40 CFR Part 60, as amended in the
41 Federal Register through [~~September 23, 2013~~] September 15, 2015 are hereby incorporated into this part [20.2.77
42 NMAC].
43 [06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.77.9 NMAC - Rn, 20 NMAC 2.77.107 & A, 06/02/00; A, 02/18/02;
44 A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, XX/XX/15]
45

46 **20.2.77.10 MODIFICATIONS AND EXCEPTIONS:** The following modifications or exceptions are made
47 to the incorporated federal standards[-]:

48 A. Amend 40 CFR Part 60, Section 60.2, Definitions, as follows: For the purposes of delegation of
49 authority which the administrator of the United States environmental protection agency may, [~~in his~~] at the
50 administrator’s discretion, delegate to the secretary of the New Mexico environment department, “administrator”
51 means the secretary of the department or [~~his~~] the secretary’s authorized representative.

52 B. Exclude 40 CFR - Part 60, Subpart AAA - Standards of Performance for New Residential Wood
53 Heaters.

54 C. The federal standards of performance incorporated by this regulation shall not be subject to
55 NMSA 1978, Section 74-2-8 (Variances).

1 D. [~~Exclude 40 CFR Part 60, Subpart HHHH, Emission Guidelines and Compliance Times for Coal-~~
2 ~~Fired Electric Steam Generating Units.~~] Exclude 40 CFR Part 60, Subpart QQQQ – Standards of Performance for
3 New Residential Hydronic Heaters and Forced-Air Furnaces.
4 [06/16/95; 20.2.77.10 NMAC - Rn, 20 NMAC 2.77.108 06/23/00; A, 06/15/07; A, XX/XX/15]
5

6 **20.2.77.11 DOCUMENTS:** Documents incorporated and cited in this Part may be viewed at the New
7 Mexico environment department, air quality bureau [~~1301 Siler Road, Building B, Santa Fe NM, 87507~~].
8 [06/16/95; 20.2.77.11 NMAC - Rn, 20 NMAC 2.77.109 06/23/00; A, 08/17/09; A, XX/XX/15]
9 [As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe NM, 87505]
10

11 **HISTORY OF 20.2.77 NMAC:**

12 **Pre-NMAC History:** The material in this part was derived from that previously filed with the Commission of
13 Public Records-State Records Center and Archives.

- 14 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 07/24/84.
- 15 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 08/18/87.
- 16 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 07/07/88.
- 17 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/27/89.
- 18 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 05/29/90.
- 19 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/22/91.
- 20 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/14/92.
- 21 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/21/93.
- 22 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/12/94.

23
24 **History of Repealed Material:** [RESERVED]
25

26 **Other History:**

27 EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, filed 04/12/94 was
28 **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.77, New Source
29 Performance Standards, filed 05/17/95.
30 20 NMAC 2.77, New Source Performance Standards, filed 05/17/95, was **renumbered, reformatted, amended**
31 **and replaced** by 20.2.77 NMAC, New Source Performance Standards, effective 06/23/00.

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1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 2 AIR QUALITY (STATEWIDE)**
3 **PART 78 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**
4

5 **20.2.78.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board.
6 [06/16/95; 20.2.78.1 NMAC - Rn, 20 NMAC 2.78.100 06/23/00]
7

8 **20.2.78.2 SCOPE:** All sources emitting hazardous air pollutants which are subject to the requirements of
9 40 CFR Part 61, as amended through [~~December 31, 2010~~September 15, 2015].
10 [06/16/95, 11/19/97, 09/08/99; 20.2.78.2 NMAC - Rn 20 NMAC 2.78.101 & A, 06/23/00; A, 02/18/02; A, 06/08/07;
11 A, 08/17/09; A, 09/02/11; A, XX/XX/15]
12

13 **20.2.78.3 STATUTORY AUTHORITY:** The environmental improvement board “shall promulgate
14 regulations and standards in...air quality management” (NMSA 1978, Section 74-1-8.A) and “regulations adopted
15 by the environmental improvement board...may...prescribe standards of performance for sources and emissions
16 standards for hazardous air pollutants...” (NMSA 1978, Section 74-2-5.C).
17 [06/16/95; 20.2.78.3 NMAC - Rn, 20 NMAC 2.78.102 06/23/00]
18

19 **20.2.78.4 DURATION:** Permanent.
20 [06/16/95; 20.2.78.4 NMAC - Rn, 20 NMAC 2.78.103 06/23/00]
21

22 **20.2.78.5 EFFECTIVE DATE:** June 16, 1995, except where a later date is cited at the end of a section or
23 paragraph.
24 [06/16/95, 08/02/96; 20.2.78.5 NMAC - Rn, 20 NMAC 2.78.104 06/23/00]
25 [The latest effective date of any section in this part is XX/XX/15]
26

27 **20.2.78.6 OBJECTIVE:** The objective of Part 78 of Chapter 2 is to adopt or establish state authority to
28 implement emission standards for hazardous air pollutants in New Mexico subject to 40 CFR Part 61.
29 [06/16/95; 20.2.78.6 NMAC - Rn, 20 NMAC 2.78.105 06/23/00]
30

31 **20.2.78.7 DEFINITIONS:** [RESERVED]
32 [20.2.78.7 NMAC - N, 06/23/00]
33

34 **20.2.78.8 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This part amends and
35 supersedes Air Quality Control Regulation (AQCR) 751, last filed on April 10, 1994. All references to AQCR 751
36 in any other rule shall be understood as a reference to this part.
37 [06/16/95; 20.2.78.8 NMAC - Rn, 20 NMAC 2.78.106 06/23/00]
38

39 **20.2.78.9 ADOPTION OF 40 CFR PART 61:** Except as otherwise provided, the national emission
40 standards for hazardous air pollutants as promulgated by the United States environmental protection agency, 40 CFR
41 Part 61, as amended in the Federal Register through [~~December 31, 2010~~September 15, 2015] are hereby
42 incorporated into this part [20.2.78 NMAC].
43 [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,
44 06/08/07; A, 08/17/09; A, 09/02/11; A, XX/XX/15]
45

46 **20.2.78.10 MODIFICATIONS AND EXCEPTIONS:** The following modifications or exceptions are made
47 to the incorporated federal standards:

48 **A.** amend 40 CFR Part 61, Section 61.02, Definitions, as follows: For the purposes of delegation of
49 authority which the Administrator of the United States environmental protection agency may, [~~in his~~at the
50 administrator’s discretion, delegate to the secretary of the New Mexico environment department, “administrator”
51 means the secretary or [~~his~~the secretary’s authorized representative.

52 **B.** exclude 40 CFR Part 61, Subparts B (National Emission Standards for Radon Emissions from
53 Underground Uranium Mines), H (National Emission Standards for Emissions of Radionuclides Other Than Radon
54 from Department of Energy Facilities), I (National Emission Standards for Radionuclide Emissions from Facilities
55 Licensed by the NRC and Federal Facilities not covered by Subpart H), K (National Emission Standard for
56 Radionuclide Emissions from Elemental Phosphorus Plants), Q (National Emission Standards for Radon Emissions

1 from Department of Energy Facilities), R (National Emission Standards for Radon Emissions from Phosphogypsum
2 Stacks), T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings), and W
3 (National Emission Standards for Radon Emissions from Operating Mill Tailings).

4 C. the federal emission standards incorporated by this regulation shall not be subject to NMSA 1978,
5 Section 74-2-8 [Variances]
6 [06/16/95; 20.2.78.9 NMAC - Rn, 20 NMAC 2.78.108 06/23/00; A, XX/XX/15]
7

8 **20.2.78.11 DOCUMENTS:** Documents incorporated and cited in this part may be viewed at the New
9 Mexico environment department, air quality bureau, ~~[1301 Siler Road, Building B, Santa Fe NM, 87507].~~
10 [06/16/95; 20.2.78.11 NMAC - Rn, 20 NMAC 2.78.109 06/23/00; A, 08/17/09; A, XX/XX/15]
11 [As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe NM, 87505]
12

13 **HISTORY OF 20.2.78 NMAC:**

14 **Pre-NMAC History:** The material in this part was derived from that previously filed with the commission of
15 public records-state records center and archives.

16 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
17 07/24/84.

18 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
19 08/18/87.

20 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
21 07/07/88.

22 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
23 04/27/89.

24 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
25 05/29/90.

26 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
27 04/22/91.

28 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
29 04/14/92.

30 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
31 04/21/93.

32 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed
33 04/12/94.

34
35 **History of Repealed Material:** [RESERVED]
36

37 **Other History:**

38 EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants (filed
39 04/12/94) was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.78, Emission
40 Standards For Hazardous Air Pollutants, effective 06/16/95.

41 20 NMAC 2.78, Emission Standards For Hazardous Air Pollutants (filed 05/17/95), was **renumbered, reformatted,**
42 **amended and replaced** by 20.2.78 NMAC, Emission Standards For Hazardous Air Pollutants, effective 06/23/00.
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1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 2 AIR QUALITY (STATEWIDE)**
3 **PART 82 MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY STANDARDS FOR SOURCE**
4 **CATEGORIES OF HAZARDOUS AIR POLLUTANTS**
5

6 **20.2.82.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board
7 [Rn, 20 NMAC 2.82.1, 08/14/98; 20.2.82.1 NMAC - Rn, 20 NMAC 2.82.100, 06/23/00]
8

9 **20.2.82.2 SCOPE:** All sources emitting hazardous air pollutants, which are subject to the requirements of
10 40 CFR Part 63, as amended through [~~August 29, 2013~~September 15, 2015].
11 [Rn, 20 NMAC 2.82.2, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.2 NMAC - Rn, 20 NMAC 2.82.101 & A,
12 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, XX/XX/15]
13

14 **20.2.82.3 STATUTORY AUTHORITY:** Environmental Improvement Act, NMSA 1978, Section 74-1-8
15 (A) (4) and (7), and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., including specifically, Section
16 74-2-5 (A), (B) and (C). Section 74-2-5 (C) provides that “regulations adopted by the environmental improvement
17 board may prescribe standards of performance for sources and emissions standards for hazardous air pollutants...”
18 [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]
19

20 **20.2.82.4 DURATION:** Permanent.
21 [Rn, 20 NMAC 2.82.4, 08/14/98; 20.2.82.4 NMAC - Rn, 20 NMAC 2.82.103, 06/23/00]
22

23 **20.2.82.5 EFFECTIVE DATE:** November 27, 1994, except where a later date is cited at the end of a
24 section or paragraph.
25 [Rn, 20 NMAC 2.82.5, 08/14/98; A, 08/14/98; 20.2.82.5 NMAC - Rn, 20 NMAC 2.82.104, 06/23/00]
26 [The latest effective date of any section in this part is XX/XX/15]
27

28 **20.2.82.6 OBJECTIVE:** The objective of this part is to adopt or establish state authority to implement
29 emission standards for hazardous air pollutants for the source categories in New Mexico subject to federal standards.
30 The [~~US EPA~~]United States environmental protection agency requires New Mexico to adopt such standards in
31 order to implement requirements in Section 112 of the Clean Air Act.
32 [Rn, 20 NMAC 2.82.6, 08/14/98; A, 08/14/98; 20.2.82.6 NMAC - Rn, 20 NMAC 2.82.105, 06/23/00; A,
33 XX/XX/15]
34

35 **20.2.82.7 DEFINITIONS:** [Reserved]
36 [20.2.82.7 NMAC - Rn, 20 NMAC 2.82.107 06/23/00]
37

38 **20.2.82.8 ADOPTION OF 40 CFR PART 63:** Except as otherwise provided in section 20.2.82.10 NMAC
39 (below), the national emission standards for hazardous air pollutants for source categories as promulgated by the
40 [~~US EPA~~]United States environmental protection agency, 40 CFR Part 63, as amended in the Federal Register
41 through [~~August 29, 2013~~September 15, 2015] are hereby incorporated into this part (20.2.82 NMAC).
42 [Rn, 20 NMAC 2.82.7, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.8 NMAC - Rn, 20 NMAC 2.82.106 & A,
43 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, XX/XX/15]
44

45 **20.2.82.9 SOURCES SUBJECT TO 40 CFR 63.40 - 63.44 OF SUBPART B (Constructed and**
46 **Reconstructed Major Sources of Hazardous Air Pollutants):** The owner or operator of a source subject to these
47 provisions, that will be constructing or reconstructing after June 29, 1999, shall not construct or reconstruct unless:
48 A. the source has received a maximum achievable control technology (MACT) determination and
49 approval from the department under this part; and
50 B. the MACT determination and approval has been incorporated into a permit under 20.2.72 NMAC
51 - Construction Permits or 20.2.70 NMAC - Operating Permits.
52 [08/14/98; 20.2.82.9 NMAC - Rn, 20 NMAC 2.82.108, 06/23/00]
53

54 **20.2.82.10 MODIFICATIONS AND EXCEPTIONS:** The following modifications or exceptions are made
55 to the incorporated federal standards:

1 A. general provisions: Amend 40 CFR Part 63, Subpart A - General Provisions, Section 63.2,
2 Definitions, as follows: For the purposes of delegation of authority which the Administrator of the [US EPA]United
3 States environmental protection agency may, [~~in his or her~~]at the administrator's discretion, delegate to the secretary
4 of the New Mexico environment department, "administrator" means the secretary or [~~his/her~~]the secretary's
5 authorized representative.

6 B. variances: The federal emission standards incorporated by this Part shall not be subject to NMSA
7 1978, Section 74-2-8 (Variances).

8 C. constructed and reconstructed major sources: The effective date for incorporation of 40 CFR
9 63.40 - 63.44 of Subpart B under 20.2.82.8 NMAC shall be June 29, 1999.
10 [Rn, 20 NMAC 2.82.8, 08/14/98; A, 08/14/98; 20.2.82.10 NMAC - Rn, 20 NMAC 2.82.109, 06/23/00; A,
11 XX/XX/15]

12
13 **20.2.82.11 DOCUMENTS:** Documents incorporated and cited in this part may be viewed at the New
14 Mexico environment department, air quality bureau[, ~~1301 Silver Road, Building B, Santa Fe NM, 87507~~].
15 [08/14/98; 20.2.82.11 NMAC - Rn, 20 NMAC 2.82.110 06/23/00; A, 08/17/09; A, XX/XX/15]
16 [As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe NM, 87505]

17
18 **HISTORY OF 20.2.82 NMAC:**

19 **Pre-NMAC History:** None.

20
21 **History of Repealed Material:** [RESERVED]

22
23 **Other History:**

24 20 NMAC 2.82, Maximum Achievable Control Technology Standards For Source Categories Of Hazardous Air
25 Pollutants, effective 11/27/94.

26 20 NMAC 2.82, Maximum Achievable Control Technology Standards For Source Categories Of Hazardous Air
27 Pollutants (filed 10/28/94) was **renumbered, reformatted, amended and replaced** by 20.2.82 NMAC, Maximum
28 Achievable Control Technology Standards For Source Categories Of Hazardous Air Pollutants, effective 06/23/00.
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List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from last date of incorporation to April 21, 2015

PDF name	Date of Federal Register	40 CFR Part (Subpart)	Title	Summary of Changes	# pages
2013-29731	12/19/2013	60 (Ja)	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced after May 14, 2007	Amends definition of "delayed coking unit"	4
2013-31267	1/3/2014	63 (X)	National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting	Clarifies compliance dates; amends provisions related to negative pressure in total enclosures; corrects toxic equivalency factors	6
2014-02704	2/27/2014	60 (A, Db, Ec, H, O, BB, GG, KK, LL, UU, NNN, IIII, JJJ, Appendices A-1 through A-8, B, F), 61 (A, C, D, E, N, Appendix B), 63 (A, G, N, O, Y, GG, GGG, RRR, CCCC, UUUU, ZZZZ, Appendix A)	Revisions to Test Methods and Testing Regulations	Corrections for Source testing of emissions and operations (numerous - see separate table)	68
2014-04305	3/27/2014	63 (JJ, MMM, PPP)	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins; Pesticide Active Ingredient Production; and Polyether Polyols Production	Finalizes residual risk and technology review for 9 source categories: removes exemption for emissions during startup, shutdown and malfunction; promulgates standards for previously unregulated organic HAPs sources; requires monitoring of pressure relief devices; and requires electronic reporting of performance test results	44

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from last date of incorporation to April 21, 2015

PDF name	Date of Federal Register	40 CFR Part (Subpart)	Title	Summary of Changes	# pages
2014-06719	4/4/2014	60 (BB)	Kraft Pulp Mills NSPS Review	Revised standards for kraft pulp mills, including particulate matter emission limits for recovery furnaces, smelt dissolving tanks and lime kilns, and opacity limits for recovery furnaces and lime kilns with electrostatic precipitators. For units constructed or modified after 5/23/13. Removes exemption for SSM. Includes revisions to testing, monitoring, recordkeeping and reporting.	22
C1-2012-19691	5/6/2014	60 (Ga)	New Source Performance Standards Review for Nitric Acid Plants	Correction of Equation 1 (incorrect equation in 2012-19691 published 8/14/2012)	2
2014-11226	5/16/2014	60 (Appendix F)	Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources	QA/QC procedures (Procedure 3) for continuous opacity monitoring systems (Appendix F of 40 CFR part 60): instrument zeroing; upscale drift checks; daily status indicator checks; performance audits; annual zero alignments; and corrective action for malfunctions	6
2014-18734	8/15/2014	63 (III)	National Emission Standards for Hazardous Air Pollutants Residual Risk and Technology Review for Flexible Polyurethane Foam Production	Revisions to provisions for emissions during SSM; addition of electronic reporting requirements; prohibition of HAP or HAP-based products as auxiliary blow agents for slabstock; clarifications to leak detection methods allowed for diisocyanate storage vessels; schedule for delay of leak repairs	18
2014-23099	10/8/2014	63 (OOO)	National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino-Phenolic Resins	Finalizes residual risk and technology review for Acrylic and Modacrylic Fibers Production, Amino/Phenolic Resins Production and Polycarbonate Production source categories. Addresses emissions during SSM. Adds standards for previously unregulated HAP emissions for certain emission points. Clarifies provisions for open-ended valves and lines. Adds requirements for electronic reporting of test results.	39

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from last date of incorporation to April 21, 2015

PDF name	Date of Federal Register	40 CFR Part (Subpart)	Title	Summary of Changes	# pages
2014-27125	11/19/2014	60 (Da), 63 (UUUUU)	Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional,	Finalizes work practice standards during startup periods and shutdown periods in the 2/16/2012 MATS and Utility NSPS. For the Utility NSPS, the provisions are related to particulate matter.	19
2014-27126	11/19/2014	63 (UUUUU)	National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units	Amends reporting requirements in MATS rule: temporarily requires sources to submit required emissions and compliance reports to EPA through Emissions Collection and Monitoring Plan System (ECMPS) Client Tool; temporarily suspends requirement for some reporting using the Electronic Reporting Tool and the Compliance and Emissions Data Reporting Interface (CEDRI)	5

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from last date of incorporation to April 21, 2015

PDF name	Date of Federal Register	40 CFR Part (Subpart)	Title	Summary of Changes	# pages
2014-30630	12/31/2014	60 (0000)	Oil and Natural Gas Sector: Reconsideration of Additional Provisions of New Source Performance Standards	Amends final (August 2012) NSPS for oil and natural gas sector: (1) Provide clarity for handling of gas and liquids during well completion operations; (2) Finalize definition of "low pressure gas well;" (3) Clarify storage vessel provisions related to PTE; (4) Allow additional closed vent systems mechanisms (other than weighted lid thief hatches); (5) Clarify notification requirements for storage vessels removed from service; (6) Clarify that storage vessels removed from service are no longer affected facilities; (7) Allow routing emissions from rod packing on reciprocating compressors through a negative pressure collection system; (8) Correct inadvertent omission for exemption from routine leak detection; (9) Amend definition of "equipment," (10) Change "responsible official" to "certifying official" to avoid confusion with Title V permitting terms; (11) Provide for delegation of authority from certain facilities; and (12) Remove affirmative defense provision.	25
2015-01922	2/4/2015	63 (DDDDD)	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources Wastewater Limit Withdrawal	Withdraw the total non-vinyl chloride organic hazardous air pollutant process wastewater emission standards for new and existing polyvinyl chloride and copolymers area sources	4
2015-03733	3/16/2015	60 (AAA, QQQQ-new)	Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces	Updates emission limits for new residential wood heaters, eliminates various exemptions for several residential wood combustion devices, strengthens test methods and streamlines the certification process.	83

PDF name	Date of Federal Register	40 CFR Part (Subpart)	Title	Summary of Changes	# pages
2015-05463	3/18/2015	63(DD)	National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations	Finalizes risk and technology reviews; corrects provisions related to SSM emissions; adds requirements for testing and electronic reporting; clarifies provisions for open-ended valves; adds monitoring requirements for pressure relief devices; clarifies certain test methods and procedures; and makes other minor clarifications.	37
2015-06152	3/24/2015	63 (UUUUU)	National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units	Replaces existing reporting requirements from 11/19/2014 final rule. (See above) Temporarily requires owners/operators to submit compliance reports through Emissions Collection and Monitoring Plan System Client Tool, rather than Compliance and Emissions Data Reporting Interface.	6
2015-09232	4/21/2015	63 (N)	National Emission Standards for Hazardous Air Pollutants for Source Categories	Corrects compliance provisions for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	1

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	Ec	Hospital/Medical/Infectious Waste Incinerators
	H	Sulfuric Acid Plants
	O	Sewage Treatment Plants
	BB	Kraft Pulp Mills
	GG	Stationary Gas Turbines
	KK	Lead-Acid Battery Manufacturing Plants
	LL	Metallic Mineral Processing Plants
	UU	Asphalt Processing and Asphalt Roofing Manufacture
	NNN	Volatile Organic Chemical (VOC) Emissions from Synthetic Organic Compound Manufacturing Industry (SOCMI) Distillation Operations
	IIII	Stationary Compression Ignition Internal Combustion Engines
	JJJJ	Stationary Spark Ignition Internal Combustion Engines
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	O	Ethylene Oxide Emissions Standards for Sterilization Facilities
	Y	Marine Tank Vessel Loading
	GG	Aerospace Manufacturing and Rework Facilities
	GGG	Pharmaceuticals Production
	RRR	Secondary Aluminum Production
	CCCC	Manufacturing of Nutritional Yeast
	UUUU	Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
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