

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 60 OPEN BURNING

20.2.60.1 ISSUING AGENCY: Environmental Improvement Board.
[11/30/95; 20.2.60.1 NMAC - Rn, 20 NMAC 2.60.100 10/31/02]

20.2.60.2 SCOPE: All geographic areas within the jurisdiction of the Environmental Improvement Board.
[11/30/95; 20.2.60.2 NMAC - Rn, 20 NMAC 2.60.101 10/31/02]

20.2.60.3 STATUTORY AUTHORITY: Environmental Improvement Act, NMSA 1978, section 74-1-8(A) (4) and (7), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-5(A), (B) and (C).
[11/30/95; 20.2.60.3 NMAC - Rn, 20 NMAC 2.60.102 10/31/02]

20.2.60.4 DURATION: Permanent.
[11/30/95; 20.2.60.4 NMAC - Rn, 20 NMAC 2.60.103 10/31/02]

20.2.60.5 EFFECTIVE DATE: November 30, 1995.
[11/30/95; 20.2.60.5 NMAC - Rn, 20 NMAC 2.60.104 10/31/02]
[The latest effective date of any section in this Part is 10/31/02.]

20.2.60.6 OBJECTIVE: The objective of this Part is to establish controls on the use of open burning. This Part is not intended to preempt any more stringent controls on open burning provided in the Board's Solid Waste Management Regulations (20.9.1 NMAC) or in any local ordinance or regulation.
[11/30/95; 20.2.60.6 NMAC - Rn, 20 NMAC 2.60.105 10/31/02]

20.2.60.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this Part:

A. "Open burning" means any manner of burning not in a device or chamber designed to achieve combustion, where the products of combustion are emitted, directly or indirectly, into the open air.

B. "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.
[11/30/95; 20.2.60.7 NMAC - Rn, 20 NMAC 2.60.107 10/31/02]

20.2.60.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulation ("AQCR") 301 - Regulation to Control Open Burning last filed July 24, 1984.

A. All references to AQCR 301 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 301 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 301.

[11/30/95; 20.2.60.8 NMAC - Rn, 20 NMAC 2.60.106 10/31/02]

20.2.60.9 to 20.2.60.107 [RESERVED]

20.2.60.108 RESTRICTIONS ON OPEN BURNING: Except as otherwise provided in this Part, no person shall permit, cause, suffer or allow open burning.
[11/30/95; 20.2.60.108 NMAC - Rn, 20 NMAC 2.60.108 10/31/02]

20.2.60.109 UNRESTRICTED OPEN BURNING:

A. Open burning is permitted for recreational and ceremonial purposes, for barbecuing, for heating purposes in fireplaces, for the noncommercial cooking of food for human consumption and for warming by small wood fires at construction sites.

B. Open burning of natural gas is permitted at gasoline plant and compressor stations and when used or produced in drilling, completion and workover operations on oil and gas wells when necessary to avoid serious hazard to safety.

C. Open burning of explosive materials is permitted where the transportation of such materials to other facilities could be dangerous.

[11/30/95; 20.2.60.109 NMAC - Rn, 20 NMAC 2.60.109 10/31/02]

20.2.60.110 RESTRICTED OPEN BURNING OF REFUSE:

A. Subject to the conditions contained in 20.2.60.112 NMAC, open burning of refuse is permitted in communities having:

- (1) a population of less than 3000; and
- (2) no public refuse collection service or the economic means of obtaining or establishing one.

B. 20.2.60.110 NMAC does not apply to any kind of salvage operation or to any person to whom a collection service is available.

[11/30/95; 20.2.60.110 NMAC - Rn, 20 NMAC 2.60.110 10/31/02]

20.2.60.111 OTHER RESTRICTED OPEN BURNING: Subject to the conditions contained in 20.2.60.112 NMAC, open burning is permitted for the following purposes:

A. disposal of fully dried tumbleweeds; and

B. agricultural management, excluding timber, directly related to the growing or harvesting of crops.

[11/30/95; 20.2.60.111 NMAC - Rn, 20 NMAC 2.60.111 10/31/02]

20.2.60.112 CONDITIONS FOR RESTRICTED OPEN BURNING: Any open burning permitted under 20.2.60.110 NMAC and 20.2.60.111 NMAC must be maintained under the following conditions:

A. the emission of smoke shall not be allowed to pass onto or across a public road or landing strip such that a hazard is created by impairment of visibility;

B. no natural or synthetic rubber or petroleum products may be burned. For the purpose of frost control in agricultural operations, natural petroleum products may be burned;

C. care must be taken to minimize the amount of dirt on the material being burned;

D. all burning, except agricultural burning, must take place between the hours of 10:00 a.m. and 4:00 p.m.;

E. the material to be burned must be as dry as possible; and

F. the wind direction at the site of agricultural burning must be such that the smoke will generally be carried away from areas of human habitation.

[11/30/95; 20.2.60.112 NMAC - Rn, 20 NMAC 2.60.112 10/31/02]

20.2.60.113 OPEN BURNING FOR WHICH PERMITS MUST BE OBTAINED: Subject to whatever conditions the Department may impose, open burning is permitted for the following purposes when a permit is obtained from the Department: weed abatement; prevention of fire hazards; disposal of dangerous materials; instruction and training of bona fide fire-fighting and fire-rescue personnel; civil defense; conservation; game management; disease and pest control; land clearance for highway construction; forestry management; control of vegetation in irrigation ditches and canals; clearance and maintenance of watercourses and flood control channels to eliminate flood hazards; disposal of hydrocarbons spilled or lost from pipeline breaks or other transport failure; and other special circumstances.

[11/30/95; 20.2.60.113 NMAC - Rn, 20 NMAC 2.60.113 10/31/02]

20.2.60.114 REQUEST FOR PERMIT: Any person seeking a permit to open burn shall do so by submitting a request to the Department. The Department may require the requestor to submit his request in writing and any or all of the following information:

A. the requestor's name, address and telephone number;

B. the location where the burning is to be conducted;

C. the type and quantity of material to be burned;

D. the date when the burning is to be conducted;

E. the methods that will be followed to ignite, maintain and control the burning;

F. reasons why the requestor believes the burning is necessary; and

G. the alternatives to burning and the reasons why the requestor believes them not to be feasible.

[11/30/95; 20.2.60.114 NMAC - Rn, 20 NMAC 2.60.115 10/31/02]

- 20.2.60.115 PERMIT DENIAL:** A permit to burn shall not be issued if the Department determines that:
- A.** a practical alternative to burning exists;
 - B.** the health or welfare of any other person may be detrimentally affected; or
 - C.** ambient air quality of other property may be detrimentally affected.

[11/30/95; 20.2.60.115 NMAC - Rn, 20 NMAC 2.60.116 10/31/02]

HISTORY OF 20.2.60 NMAC:

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

HSSD 70-1, Ambient Air Quality Standards And Air Quality Control Regulations, 01/27/70;

AQCR 301, Air Quality Control Regulation 301 - Regulation To Control Open Burning, 02/07/83;

EIB/AQCR 301, Air Quality Control Regulation 301 - Regulation To Control Open Burning, 07/24/84.

History of Repealed Material: [RESERVED]

Other History:

EIB/AQCR 301, Air Quality Control Regulation 301 - Regulation To Control Open Burning, filed 07/24/84 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.60, Open Burning, filed 10/30/95.

20 NMAC 2.60, Open Burning, filed 10/30/95 was **renumbered, reformatted and replaced** by 20.2.60 NMAC, Open Burning, effective 10/31/02.