

**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 2 AIR QUALITY (STATEWIDE)**  
**PART 7 EXCESS EMISSIONS DURING MALFUNCTION, STARTUP, SHUTDOWN, OR SCHEDULED MAINTENANCE**

**20.2.7.1 ISSUING AGENCY:** Environmental Improvement Board.  
[11/30/95; 20.2.7.1 NMAC - Rn, 20 NMAC 2.7.100 10/31/02]

**20.2.7.2 SCOPE:** All geographic areas within the jurisdiction of the Environmental Improvement Board.  
[11/30/95; 20.2.7.2 NMAC - Rn, 20 NMAC 2.7.101 10/31/02]

**20.2.7.3 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; 20.2.7.3 NMAC - Rn, 20 NMAC 2.7.102 10/31/02]

**20.2.7.4 DURATION:** Permanent.  
[11/30/95; 20.2.7.4 NMAC - Rn, 20 NMAC 2.7.103 10/31/02]

**20.2.7.5 EFFECTIVE DATE:** November 30, 1995.  
[11/30/95; 20.2.7.5 NMAC - Rn, 20 NMAC 2.7.104 10/31/02]  
[The latest effective date of any section in this Part is 10/31/02.]

**20.2.7.6 OBJECTIVE:** The objective of this Part is to allow excess emissions during certain activities in accordance with the requirements of this Part.  
[11/30/95; 20.2.7.6 NMAC - Rn, 20 NMAC 2.7.105 10/31/02]

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

**A. "Air pollution control equipment"** includes acid plants, afterburners, baghouses, cyclones, electrostatic precipitators, flares, incinerators, particulate or gaseous scrubbers, and any other apparatus utilized to control or monitor emissions of regulated air contaminants, including fugitive emissions, which would be emitted to the atmosphere.

**B. "Air quality control regulation"** means any regulation adopted by the Board or permit condition for the prevention and abatement of air pollution except regulations which contain specific provisions relating to periods of malfunction, startup or shutdown and which state that the provisions of 20.2.7 NMAC do not apply.

**C. "Excess emissions"** means the emission of air contaminants in excess of an applicable emission limitation or requirement, including requirements for control of fugitive emissions as prescribed by the Board in its Air Quality Control Regulations.

**D. "Malfunction"** means any sudden and unavoidable failure of air pollution control equipment, process equipment or process to operate in an expected manner. Failures that are caused entirely or in part by poor maintenance, careless operation or any other preventable equipment breakdown shall not be considered a malfunction.

**E. "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.

**F. "Shutdown"** means the cessation of operation of any pollution control equipment, process equipment or process for any purpose, except routine phasing out of process units.

**G. "Startup"** means the setting into operation of any air pollution control equipment, process equipment or process for any purpose, except routine phasing in of process units.

[11/30/95; 20.2.7.7 NMAC - Rn, 20 NMAC 2.7.107 10/31/02]

**20.2.7.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS:** This Part amends and supersedes Air Quality Control Regulation ("AQCR") 801 -- Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance last filed April 29, 1981.  
[11/30/95; 20.2.7.8 NMAC - Rn, 20 NMAC 2.7.106 10/31/02]

**20.2.7.9 DOCUMENTS:** Documents cited in this Part may be viewed at the New Mexico Environment Department, Air Quality Bureau, Harold Runnels Building, 1190 Saint Francis Drive, Santa Fe, NM 87505 [2048 Galisteo St., Santa Fe, NM 87505].  
[11/30/95; 20.2.7.9 NMAC - Rn, 20 NMAC 2.7.108 10/31/02]

**20.2.7.10 to 20.2.7.108 [RESERVED]**

**20.2.7.109 OPERATIONS IN VIOLATION:** Operation of any process equipment or air pollution control equipment in a manner inconsistent with any Air Quality Control Regulation which is a result of malfunction, startup, shutdown or scheduled maintenance is a violation of an applicable Air Quality Control Regulation unless the owner or operator of the facility has complied with the notification requirements of 20.2.7.110 NMAC in a timely manner and has demonstrated to the Department's satisfaction that:

**A.** The inconsistency with any air quality control regulation results from a malfunction or damage to process or air pollution control equipment, result from unavoidable conditions during startup or shutdown, or result from scheduled maintenance;

**B.** Repairs to the equipment causing the excess emissions are made with maximum reasonable effort, including the use of off-shift and overtime labor as needed;

**C.** The emission of air contaminants is minimized as much as practicable during the period of excess emissions;

**D.** Excess emissions do not occur with such frequency that careless, marginal or unsafe operation is indicated; and

**E.** Upon the request of the Department, the air contaminant is not of a nature or quantity which would endanger public health or safety.

[11/30/95; 20.2.7.109 NMAC - Rn, 20 NMAC 2.7.109 10/31/02]

**20.2.7.110 NOTIFICATION:**

**A.** The owner or operator of the facility experiencing the malfunction, startup or shutdown, shall notify the Department verbally as soon as possible, but no later than 24 hours after the start of the next regular business day, and shall submit written notification within the next regular business day, and shall submit written notification within 10 days after the start of the next regular business day following the initial occurrence of the excess emissions. In the case of scheduled maintenance, the owner or operator of the facility shall notify the Department verbally no later than 24 hours prior to the initial occurrence of the excess emissions and shall submit written notification within 10 days after the start of the next regular business day. The notification shall include:

(1) The name of the firm experiencing the malfunction, startup, shutdown or scheduled maintenance and the name and title of the person reporting;

(2) The location of the facility at which the malfunction, startup, shutdown or scheduled maintenance occurred or is occurring;

(3) Identification of the equipment involved and the emission point or points (including bypass) from which the excess emissions occurred or are occurring;

(4) The approximate, or if available, the specific time period that the facility was or will be experiencing excess emissions;

(5) Identification of the air contaminant or contaminants and an estimate of the magnitude of excess emissions expressed in the units of the applicable emission limit for the air contaminant or contaminants of excess emission;

(6) The cause and nature of the malfunction condition or shutdown and the reasons why excess emissions occurred or are occurring; and

(7) The efforts taken to minimize emissions and efforts to repair or otherwise bring the facility into compliance with the applicable emission limits or other requirement.

**B.** If the period of excess emissions extends beyond the submittal of the written notification, the owner or operator of the facility shall also notify the Department in writing of the exact time period when the excess emissions no longer occurred.

[11/30/95; 20.2.7.110 NMAC - Rn, 20 NMAC 2.7.110 10/31/02]

**20.2.7.111 FREQUENT STARTUPS/SHUTDOWNS:** Facilities which startup or shutdown frequently as part of their routine operations shall take maximum effort to reduce excess emissions during such startup or

shutdown. These facilities are exempt from the notification of 20.2.7.110 NMAC as they relate to routine startup or shutdown, but the owner or operator of such a facility shall submit a written report to the Department which addresses each of the criteria within 20.2.7.109 NMAC and includes the operating schedule and expected frequency of operation of the facility in the startup or shutdown mode. Any changes to the operating schedule shall also be submitted to the Department.

[11/30/95; 20.2.7.111 NMAC - Rn, 20 NMAC 2.7.111 10/31/02]

**20.2.7.112 VIOLATION DETERMINATION:** On the basis of the information submitted within the notification required under 20.2.7.110 NMAC and by any other means which the Department deems necessary, including, but not limited to, physical inspection of the facility by Department personnel and review of documentation pertaining to the maintenance and operation of process and air pollution control equipment, the Department shall determine whether a violation of any applicable Air Quality Control Regulation or permit condition has occurred.

[11/30/95; 20.2.7.112 NMAC - Rn, 20 NMAC 2.7.112 10/31/02]

**20.2.7.113 WAIVER OF NOTIFICATION:** Facilities which are found to be in compliance with emissions standards established by the State of New Mexico on six successive inspections by the Department, over a period not to exceed eighteen months, and which have a record of faithfully complying with the notification requirement of 20.2.7.110 NMAC during the same period of time, shall be entitled to a waiver of written notification. The waiver will be available from the Department upon written application by the owner or operator of the facility, subject only to the qualifications set forth above. The waiver shall remain in effect until revoked by the Department for noncompliance. Noncompliance in this case is deemed to be two successive emissions tests by the Department that show the facility in question is operating outside prescribed limits of the law, or by a record of poor reporting and/or correcting of upset conditions by the owner or operator of the facility. While the waiver is in effect, the owner or operator shall continue to report verbally as required in 20.2.7.110 NMAC, and submit any changes in the normal operating schedule as required in 20.2.7.111 NMAC.

[11/30/95; 20.2.7.113 NMAC - Rn, 20 NMAC 2.7.113 10/31/02]

#### **HISTORY OF 20.2.7 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.

ACQR 801, Air Quality Control 801 - Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance, 04/29/81.

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

#### **Other History:**

ACQR 801, Air Quality Control 801 - Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance, filed 04/29/81 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.7, Air Quality (Statewide) - Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance, filed 10/30/95.

20 NMAC 2.7, Air Quality (Statewide) - Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance, filed 10/30/95 was **renumbered, reformatted and replaced** by 20.2.7 NMAC, Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance, effective 10/31/02.