

## Summary of Modifications to EPA Reporting Rule Subparts Incorporated in 20.2.300 NMAC

20.2.300 NMAC Section	40 CFR 98 Reference	Modification of EPA Rule	Rationale
<b>Subpart A—General Provisions</b>			
102.A	98.1(a) and elsewhere	Deleted fossil fuel suppliers and industrial GHG suppliers from applicability.	Cap and trade program covers only direct emissions from combustion or from use of industrial GHGs.
7.D & K (definitions)	98.1	Added new (c) substituting NMED and NMED Secretary for EPA and EPA administrator throughout rule.	Clarifies who is responsible for administering the incorporated-by-reference version of the EPA rule. Since the EPA rule does not provide delegation, EPA will remain responsible for administering the original 40 CFR Part 98 requirements.
7.O	98.1 and elsewhere	Added new (d) providing for identification of data that will be reported for informational purposes only, will not be subject to cap and trade and will not be counted towards the threshold for verification. Added “reporting only” label to certain EPA subparts and specific quantification methods.	Not all quantification methods specified by Part 300 are suitable for a cap-and-trade system. The “reporting only” label indicates which emissions should not be subject to the cap-and-trade program.
13	98.1	Added new (e) to authorize NMED to allow submission of a report to EPA to meet the requirements of Part 300.	NMED and other WCI jurisdictions are working with EPA to allow reporting entities to use EPA’s system to meet the requirements of both the EPA rule and the NMED and other jurisdictional rules.
101.A and elsewhere	98.2 and elsewhere	Changed threshold for reporting from 25,000 metric tons to 10,000 metric tons.	Consistent with WCI design recommendation for reporting. EPA has indicated that it may be able to accommodate reports by facilities with emissions below the EPA rule threshold.
102.E	98.2(a)(3)(iii)	Changed heat input applicability threshold for fuel combustion units from 30 mmBtu/hr to 12 mmBtu/hr.	The 30 mmBtu/hr threshold is designed to provide facilities whose only regulated GHG source is fuel combustion an easy method for determining whether they are above the 25,000 metric tons emission threshold. For Part 300’s 10,000 metric tons threshold, the equivalent heat input threshold is 12 mmBtu/hr.
102.I	98.2(b)(2)	Added exclusions from the applicability determination for certain emissions from the combustion of biomass.	Consistent with WCI Design Recommendations and guidelines for reporting.

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102.K	98.2(i)	Modified to change threshold for off-ramp to 10,000, rather than 25,000, metric tons per year and to establish additional off-ramp for facilities required to report to NMED but not EPA (i.e. emissions between 10,000 and 25,000 metric tons per year) that subsequently fall below 10,000- metric-tons-per-year threshold.	For consistency with modification in reporting threshold. Also provides for phase-out of verification when emissions drop below the verification threshold.
102.O	98.3(c)(9)	Modified to require certification by 1) EPA-recognized Designated Representative for facilities subject to the EPA rule, or 2) owner or operator if subject only to Part 300	Clarifies certification requirement for facilities reporting under NMED rule but not subject to the Designated Representative requirements of the EPA rule.
102.P	98.3(c)	Added new paragraph (10) to require the additional information needed for implementation of Part 350	Production information is required for allowance allocations in Part 350.
102.Q	98.3(d)	Replaced special provisions for reporting year 2010 with provisions allowing abbreviated reporting for non-cap facilities with combustion as only GHG source category.	EPA provisions now obsolete. Abbreviated reporting will reduce burden for non-cap facilities.
102.R	98.3(f)	Modified verification provisions to refer to 20.2.301 NMAC.	20.2.301 NMAC verification is third-party, not same as EPA
102.S	98.3(g), 98.3(g)(5)(iv) )	Added requirement to submit records within 20 days of a request from a WCI jurisdiction.	Failure of EPA rule to specify a time period for responding may make enforcement difficult.
102.T	98.3(h)	Added a new (2) requiring facilities subject to Part 300 but not EPA reporting requirements to submit correction only if cumulative errors exceed 5 % of total CO <sub>2</sub> e emissions.	Lowers burden of reporting errors for non-EPA reporters. This change cannot be applied to facilities subject to the EPA rule, since EPA requires the correction of <u>any</u> errors.
102.U(3)	98.3(i)(6)	Modified to require NMED approval for postponements of initial calibration of measurement devices.	Provides for NMED review of circumstances prohibiting initial calibration by the deadline.
102.V(1)-(4)	98.3	Added a method for calculating weighted averages as new (j).	In some cases, Part 300 requires more frequent sampling than the EPA rule. This subsection provides a method for reducing the data obtained from the additional samples to fit the EPA reporting system, and produces more accurate emissions estimates.
102.V(5)	98.3	Added new (k) requiring NMED approval before a facility may switch from a CEMS to a mass- or fuel-based monitoring method or vice versa.	This provision is designed to prevent facilities from using changes in monitoring methods to create an artificial reduction in GHG emissions.

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102.V(6)	98.3	Added a de minimis provision as new (l). Allows the use of any method permitted by the (unmodified) EPA rule for up to 3% of the aggregate facility emissions.	The EPA rule does not include a de minimis provision. Allowing facilities to employ methods that are not specified by the EPA rule therefore would be inconsistent with harmonization. In some cases, however, Part 300 requires the use of a higher tier than would otherwise be required by the EPA rule. In these cases, it is consistent with harmonization to allow the use of any lower tier allowed by EPA, for emissions determined to be de minimis.
102.(V)(7)	98.3	Added new (m) to make it clear the missing data procedures included in the EPA rule (and therefore Part 300) do not excuse facilities from possible enforcement action for failure to conduct the monitoring required by the rule.	The EPA rule sets no limits on the use of missing data provisions. NMED would follow standard enforcement practice and consider the circumstances in determining there was a violation.
102.W	98.4	EPA rule section on authorization and responsibilities of designated representative is deleted.	NMED will not duplicate procedures in this section for authorization of a designated representative by EPA.
100 (Subparts adopted)	Tables A-3, A-4, and A-5	Source categories not adopted in Part 300 are deleted from these tables.	Deleted source categories are outside the scope of Part 300.
<b>Subpart C—General Stationary Combustion</b>			
103.A, 103.B(14)- (16)	98.32(b), 98.33(f)	Added requirement to report fugitive HFC emissions from cooling units.	Consistent with WCI recommendation to include these emissions as reporting-only.
103.B(1)	98.33(a) (2)(iii)	Limit availability of Equation C-2c (ratio of heat input to steam method) to municipal solid waste and solid biomass, rather than allowing its use for any other solid fuel listed in Table C-1.	Other methods are feasible and more accurate for combustion of other solid fuels listed in Table C-1.
103.B(2)	98.33(a)(4)(iv) )	Require CEMS installed after beginning of first reporting year subject to rule to include a CO2 monitor, rather than an oxygen monitor.	Although it may make sense not to require the retrofit of grandfathered CEMS with a CO2 monitor, there is no reason for newly installed CEMS not to include such a monitor.
103.B(3)	98.33(b)(1)	Limit use of Tier 1 (default emission factors and HHV) to units that are both (1) below both EPA's 250 mmBtu/hr heat input threshold and (2) located at facilities that are not subject to verification (i.e., emissions < 25,000 metric tons/yr), unless the fuel is listed in new Table C-1a.	Fuels listed in new Table C-1a (a subset of the fuels in Table C-1) are relatively uniform in composition and therefore Tier 1 (use of default HHV and emissions factors) is sufficiently accurate. For other more variable fuels, Tier 1 is more likely to result in significant error, which should be avoided for cap facilities.

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103.B(7)	98.33(b)(2)	Limit use of Tier 2 (default emission factors and measured HHV) to units that are below both EPA's 250 mmBtu/hr heat input threshold and (2) units that burn pipeline quality natural gas or fuels listed in Table C-1a.	Tier 2 is sufficiently accurate for relatively uniform fuels in Table C-1a. For other fuels listed in Table C-1, the relationship between heat content and emissions is too variable for good accuracy of Tier 2.
103.B(10)	98.33(b)(3)	Require Tier 3 for the combustion of all fuels that are not listed in Table C-1, not just for unlisted fuels that provide 10% or more of a unit's annual heat input.	Exempting unlisted fuels that provide less than 10 % of a unit's heat input from reporting could result in a significant gap in a facility's reported emissions.
103.B(11)	98.33(c)	Add new (6) to allow an operator use a source-specific emission factor to calculate CH4 and N2O emissions.	Since this is optional, it does not conflict with harmonization principle 1.
103.B(13)	98.33(e)(2)	Require the use of 98.33(e)(3) for the combustion of any fossil fuel/biomass mixture containing an undeterminable quantity of fossil fuels, not just MSW.	The method specified in 98.33(e)(2) assumes that the amount of fossil fuel in a fossil fuel/biomass mixture can be determined and that a mass balance approach is therefore possible. Its use therefore must be limited to fuels where the amount of fossil fuel in a mixture can in fact be determined. Other mixtures must as a practical matter be subject to 98.33(e)(3).
103.C(1)	98.34(b) (3)(ii)(E)	Require installation of equipment necessary to perform daily sampling and analysis of carbon content and molecular weight for refinery fuel gas by Jan. 1, 2012.	Allows one year from effective date of rule for installation of required equipment.
103.D	98.36(b), (d)	Added provisions requiring reporting of nameplate capacity and net power generated for EGUs and cogeneration data, as well as certain fuel data if not reported under 40 CFR Part 75.	Allows better tracking of electricity production.
103.E	98.38	Added definitions of terms related to cogeneration.	Terms are used in modified 98.36(b), (d)
103.E	98.38	Added definitions of "pipeline quality natural gas" and "liquefied petroleum gases (LPG)"	EPA rules uses these terms but lacks definitions. For pipeline quality natural gas limits on heat content and composition are needed in definition to ensure accuracy if Tier 1 and Tier 2 methodologies are used. LPG definition is needed for clarification to distinguish the product sold commercially as "propane" from the pure chemical species.
<b>Subpart D—Electricity Generation</b>			
104.A	98.46	Corrected cross-reference.	Clarification.

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<b>Subpart H—Cement Production</b>			
No change.			
<b>Subpart P—Hydrogen Production</b>			
105.A(1)	98.160(a)	Changed to apply subpart to production of hydrogen for use on site as well as hydrogen sold as a product.	This change may require facilities not subject to the EPA rule to report but should not result in a facility subject to both the WCI and EPA programs being subject to inconsistent reporting obligations.
105.A(2)-(4), 105.B, 105.C(1), (2)	98.163(b), 98.164(b) (2)-(4)	Require daily, rather than monthly or weekly, analysis of carbon feedstocks other than natural gas.	Higher frequency sampling required to ensure accuracy adequate for a cap-and-trade program.
105.C(3)	98.166(b)	Added (7) requiring reporting of carbon in unconverted feedstock for which GHG emissions are calculated and reported by the facility using other methods.	In order to avoid possible double counting of emissions: EPA's equations P-1, P-2 and P-3 do not allow for subtraction of carbon "accounted for elsewhere" from the amount of feedstock, before calculation of the mass balance. The equations themselves cannot be modified in Pt. 300, because that would require reporting different emissions to EPA and NMED. Part 300 therefore provides for the reporting of carbon accounted for elsewhere in bulk, which can then be subtracted from a facility's total emissions by NMED.
<b>Subpart R—Lead Production</b>			
No change.			
<b>Subpart S—Lime Production</b>			
No change.			
<b>Subpart V—Nitric Acid Production</b>			
No change.			
<b>Subpart X—Petrochemical Production</b>			
No change.			
<b>Subpart Y—Petroleum Refineries</b>			
106.A(1)	98.253(b)(1)(i) ii) 98.256(e)(8)	Amended to allow use of alternative equation Y-3 for flare emissions only during periods of startup, shutdown or malfunction.	The more accurate methods specified in equations Y-1 and Y-2 should be used for periods of normal operations.
106.A(2), (3)	98.253(c)(2) 98.256(f)(9)	Require calculation of emissions from catalytic cracking units that do not use CEMS and have rated capacities less than 10,000 barrels per stream day using this method (no less than hourly monitoring of O <sub>2</sub> , CO <sub>2</sub> and CO), rather than 98.173(c)(3), which is deleted.	The EPA Technical Support Document for this sector states that the method specified in 98.173(c)(3) for units that do not have the necessary monitors is highly uncertain.

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7.O	98.253(h), (l), (m), (n)	Identified as reporting only.	NMED does not believe the methods specified in these sections are sufficiently accurate to support a cap-and-trade program, and has not identified a feasible and accurate alternative.
106.A(4)	98.253(i)	Rather than allowing the use of default factors in Equation Y-18 for CO <sub>2</sub> emissions from delayed coking units, require (1) the volumetric void fraction of the coking vessel prior to steaming to be based on engineering calculations and (2) the mole fraction of methane in coking vessel gas to be based on two samples per year.	Greater accuracy required for cap-and-trade.
106.A(5)	98.253(k) 98.256(m)	Require the use the same method for process vents (paragraph (j)) and uncontrolled blowdown systems.	To achieve necessary accuracy.
106.B	98.254	New (m) added to require installation of equipment needed for daily sampling of carbon content and molecular weight of gaseous fuels (other than natural gas and biogas) by no later than first reporting year of harmonized ERs.	Needed to ensure Tier 3 calculations of emissions from refinery gas are sufficiently accurate for cap-and-trade.
106.D	98.257(m)	New (b) added to require retention of records of the method used to demonstrate that the thresholds in §98.253(j) are not exceeded.	Needed for third-party verification.
<b>Subpart GG—Zinc Production</b>			
No change.			