

COPY



STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED REPEAL OF:
20.2.36 NMAC – *Petroleum Refinery - Sulfur*

No. EIB 15-03 (R)

PETITION FOR REGULATORY CHANGE

The Air Quality Bureau in the Environmental Protection Division of the New Mexico Environment Department petitions the Environmental Improvement Board (“Board”), pursuant to 20.1.1 NMAC - *Rulemaking Procedures*, to repeal 20.2.36 NMAC – *Petroleum Refinery - Sulfur*. The Board is authorized to adopt these amendments by the Air Quality Control Act, NMSA 1978, §§ 74-1-8 and 74-2-5. A statement of reasons for the regulatory change is attached, which includes a copy of the currently effective 20.2.36 NMAC proposed for repeal, in *strikeout* format.

The Air Quality Bureau requests that the Board schedule the hearing in this matter at its regular meeting to be held on December 18, 2015. The Air Quality Bureau anticipates that the hearing regarding the proposed amendments will take approximately one half hour.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
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CERTIFICATE OF SERVICE

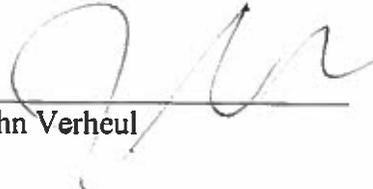
I hereby certify that a copy of the foregoing *Petition for Regulatory Change* was served on the following parties on this the 19th day of June, 2015 via the stated delivery methods below:

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**STATE OF NEW MEXICO
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**IN THE MATTER OF PROPOSED REPEAL OF:
20.2.36 NMAC – *Petroleum Refinery - Sulfur***

No. EIB 15-03 (R)

STATEMENT OF REASONS

The New Mexico Environment Department (“Department”) Air Quality Bureau (“Bureau”) proposes to repeal 20.2.36 NMAC, *Petroleum Refinery – Sulfur* (“Part 36”). Part 36 establishes sulfur limits (sulfur recovery standards) and other requirements for existing (constructed prior to July 1, 1974) and new petroleum refineries.

The federal New Source Performance Standards (NSPS) regulations, 40 CFR Part 60, Subparts J and Ja (NSPS J and Ja) require concentration-based sulfur emission limits that are more directly related to sulfur air emissions than Part 36.

The main difference between Part 36 and Subparts J and Ja is how emission limits are established and to what sources they apply. Part 36 bases the reductions of sulfur recovered on a mass balance (weight in pounds) that occurs during some refining processes; in comparison, NSPS J and Ja require concentration-based emission limits (parts per million by volume, or ppmv) from specific emission release points. Existing information contained in sulfur reporting forms submitted by permitted refineries in NM and regulatory comparisons between Part 36 and NSPS J and Ja submitted by Western Refining Company and Navajo Refining Company show that NSPS J and Ja result in control requirements that are more directly related to sulfur air emissions and their impact on air quality.

Part 36 is outdated; it was adopted in 1974 at a time when Continuous Emissions Monitoring Systems (CEMS) were not widely in use. This leads to enforceability issues due to a lack of monitoring requirements. Also, the regulation is not part of the State Implementation Plan (SIP) under the federal Clean Air Act, and therefore is not federally enforceable by the EPA. In comparison, Subparts J and Ja require continuous monitoring, which provides for more effective enforcement of the emission limits.

With respect to reporting requirements, Part 36 quarterly reporting can be redundant, as subject facilities are also required to submit semi-annual reports required by NSPS J and Ja, and semi-annual reports and annual compliance certifications required by Clean Air Act Title V permits. Calculating mass balance reports required by Part 36 requires the use of engineering resources at refineries, as well as Department resources to review and process the submittals.

The New Mexico Environment Department believes repeal of Part 36 would benefit the state by removing outdated, redundant requirements. Since federal regulations are in place for sulfur

limits for existing and future refineries, a repeal of Part 36 would not negatively affect air quality.

Below is the currently effective rule that the Bureau proposes to repeal, with changes shown in redline strikeout format.

1 ~~[TITLE 20 — ENVIRONMENTAL PROTECTION~~
2 ~~CHAPTER 2 — AIR QUALITY (STATEWIDE)~~
3 ~~PART 36 — PETROLEUM REFINERY — SULFUR~~

4
5 ~~20.2.36.1 — ISSUING AGENCY: Environmental Improvement Board.~~

6 ~~{11/30/95; 20.2.36.1 NMAC — Rn, 20 NMAC 2.36.100 10/31/02}~~

7
8 ~~20.2.36.2 — SCOPE: All geographic areas within the jurisdiction of the Environmental~~
9 ~~Improvement Board.~~

10 ~~{11/30/95; 20.2.36.2 NMAC — Rn, 20 NMAC 2.36.101 10/31/02}~~

11
12 ~~20.2.36.3 — STATUTORY AUTHORITY: Environmental Improvement Act, NMSA~~
13 ~~1978, section 74-1-8(A)(4) and (7), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et~~
14 ~~seq., including specifically, section 74-2-5(A), (B), and (C).~~

15 ~~{11/30/95; 20.2.36.3 NMAC — Rn, 20 NMAC 2.36.102 10/31/02}~~

16
17 ~~20.2.36.4 — DURATION: Permanent.~~

18 ~~{11/30/95; 20.2.36.4 NMAC — Rn, 20 NMAC 2.36.103 10/31/02}~~

19
20 ~~20.2.36.5 — EFFECTIVE DATE: November 30, 1995.~~

21 ~~{11/30/95; 20.2.36.5 NMAC — Rn, 20 NMAC 2.36.104 10/31/02}~~

22 ~~{The latest effective date of any section in this Part is 10/31/02.}~~

23
24 ~~20.2.36.6 — OBJECTIVE: The objective of this Part is to establish sulfur emission~~
25 ~~standards for petroleum refineries.~~

26 ~~{11/30/95; 20.2.36.6 NMAC — Rn, 20 NMAC 2.36.105 10/31/02}~~

27
28 ~~20.2.36.7 — DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC~~

29 ~~(Definitions), as used in this Part:~~

30 ~~—— A. — "Existing petroleum refinery" means a petroleum refinery the fabrication,~~
31 ~~erection or installation of which was commenced prior to July 1, 1974, and includes all vessels,~~
32 ~~boilers, heaters, condensers, cracking units, regeneration units, sour water strippers, wastewater~~
33 ~~separators, storage and loading facilities, sulfur recovery facilities, flares and other facilities~~
34 ~~interconnected in their processing operations and used in the processing of crude oil, condensate,~~
35 ~~pentanes, butanes or similar substances for the purpose of producing gasoline, fuel oil, jet fuel,~~
36 ~~diesel, asphalt or similar substances. Petroleum refinery does not include natural gas processing~~
37 ~~plants.~~

38 ~~—— B. — "New petroleum refinery" means petroleum refinery or part thereof the~~
39 ~~fabrication, erection, installation, or modification of which is commenced on or after July 1,~~
40 ~~1974, and includes all vessels, boilers, heaters, condensers, cracking units, sweetening units,~~

41 regenerating units, sour water strippers, wastewater separators, storage and loading facilities,
42 sulfur recovery facilities, flares and other facilities interconnected in their processing operations
43 and used in the processing of crude oil, condensate, pentanes, butanes or similar substances for
44 the purpose of producing gasoline, fuel oil, jet fuel, diesel, asphalt or similar substances.

45 Petroleum refinery does not include natural gas processing plants.

46 ~~_____ C. "Part" means an air quality control regulation under Title 20, Chapter 2 of~~
47 ~~the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the~~
48 ~~Board.~~

49 ~~_____ D. "Plant processes" includes but is not limited to hydrogenation sweetening~~
50 ~~units, hydrocracking units, fuel burning equipment including flares and incinerators, sweetening~~
51 ~~system regeneration units, sour water strippers, and similar sulfur releasing systems. "Plant~~
52 ~~processes" does not include catalyst cracking regeneration units other than hydrocracking units,~~
53 ~~or boilers and process heaters if the emissions from these processes when totaled contain less~~
54 ~~than 2.5 tons of sulfur per day.~~

55 ~~_____ E. "Sulfur" means elemental sulfur and the sulfur component of any mixture~~
56 ~~or compound.~~

57 ~~_____ F. "Ton" means 2000 pounds.~~

58 ~~[11/30/95; 20.2.36.7 NMAC Rn, 20 NMAC 2.36.107-10/31/02]~~

59
60 ~~**20.2.36.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS:**~~

61 ~~This Part amends and supersedes Air Quality Control Regulation ("AQCR") 622, Petroleum~~
62 ~~Refinery Sulfur last filed July 16, 1986.~~

63 ~~_____ A. All references to AQCR 622 in any other rule shall be construed as a~~
64 ~~reference to this Part.~~

65 ~~_____ B. The amendment and supersession of AQCR 622 shall not affect any~~
66 ~~administrative or judicial enforcement action pending on the effective date of such amendment~~
67 ~~nor the validity of any permit issued pursuant to AQCR 622.~~

68 ~~[11/30/95; 20.2.36.8 NMAC Rn, 20 NMAC 2.36.106-10/31/02]~~

69
70 ~~**20.2.36.9 DOCUMENTS:** Documents cited in this Part may be viewed at the New~~
71 ~~Mexico Environment Department, Air Quality Bureau, Runnels Building, 1190 Saint Francis~~
72 ~~Drive, Santa Fe, NM 87505 [2048 Galisteo St., Santa Fe, NM 87505].~~

73 ~~[11/30/95; 20.2.36.9 NMAC Rn, 20 NMAC 2.36.108-10/31/02]~~

74
75 ~~**20.2.36.10 to 20.2.36.108 [RESERVED]**~~

76
77 ~~**20.2.36.109 EXISTING PETROLEUM REFINERY:** The owner or operator of an~~
78 ~~existing petroleum refinery shall not permit, cause, suffer or allow total sulfur emissions to the~~
79 ~~atmosphere in excess of five tons in any 24 hour period.~~

80 ~~[11/30/95; 20.2.36.109 NMAC Rn, 20 NMAC 2.36.109-10/31/02]~~

81
82 ~~**20.2.36.110 NEW PETROLEUM REFINERY - LESS THAN 30 TONS PER DAY**~~
83 ~~**OF SULFUR:** The owner or operator of a new petroleum refinery that releases an average of~~
84 ~~more than five tons and less than thirty tons a day of sulfur in plant processes shall not permit,~~
85 ~~cause, suffer or allow at any time sulfur emissions to the atmosphere in excess of 10 pounds of~~
86 ~~sulfur for every 100 pounds of sulfur released in plant processes.~~

87 ~~{11/30/95; 20.2.36.110 NMAC Rn, 20 NMAC 2.36.110 10/31/02}~~

88
89 ~~**20.2.36.111 — NEW PETROLEUM REFINERY — MORE THAN 30 TONS PER DAY**~~
90 ~~**OF SULFUR:** The owner or operator of a new petroleum refinery that releases an average of~~
91 ~~thirty tons a day or greater of sulfur in plant processes shall not permit, cause, suffer or allow at~~
92 ~~any time sulfur emissions to the atmosphere in excess of 2 pounds of sulfur for every 100 pounds~~
93 ~~of sulfur released in plant processes.~~

94 ~~{11/30/95; 20.2.36.111 NMAC Rn, 20 NMAC 2.36.111 10/31/02}~~

95
96 ~~**20.2.36.112 — NEW PETROLEUM REFINERY — SULFUR CONTENT OF FUEL**~~
97 ~~**GAS:** The owner or operator of a new petroleum refinery shall not permit, cause, suffer or allow~~
98 ~~at any time the amount of sulfur in the off gas stream from fuel gas burning equipment to exceed~~
99 ~~the quantity that would exist if the sulfur content of the gas used for fuel was 10 grains per 100~~
100 ~~standard cubic feet of fuel gas.~~

101 ~~{11/30/95; 20.2.36.112 NMAC Rn, 20 NMAC 2.36.112 10/31/02}~~

102
103 ~~**20.2.36.113 — REPORTING REQUIREMENTS:**~~

104 ~~_____ A. _____ To aid the department in determining compliance with this Part, the owner or~~
105 ~~operator of a petroleum refinery shall submit to the department quarterly reports for the periods~~
106 ~~January 1 through March 31, April 1 through June 30, July 1 through September 30, and October~~
107 ~~1 through December 31 of each year, each report to be received by the department within 45~~
108 ~~days of the end of the quarterly period.~~

109 ~~_____ (1) _____ The quarterly report shall contain the following:~~

110 ~~_____ (a) _____ The sulfur content of the feedstocks entering the petroleum refinery,~~
111 ~~determined no less frequently than weekly;~~

112 ~~_____ (b) _____ The sulfur content of all fuel burned in the plant and the amount of each~~
113 ~~type of fuel burned, determined no less frequently than weekly;~~

114 ~~_____ (c) _____ The sulfur content of the products produced by the petroleum refinery,~~
115 ~~determined no less frequently than weekly;~~

116 ~~_____ (d) _____ The sulfur content of the inlet and outlet gas stream or streams of the~~
117 ~~sulfur recovery plant determined no less frequently than monthly; and~~

118 ~~_____ (e) _____ The weight of the recovered sulfur, determined no less frequently than~~
119 ~~weekly.~~

120 ~~_____ (2) _____ If it appears necessary, the department may require reports on a more frequent~~
121 ~~basis, but no more frequently than monthly.~~

122 ~~_____ B. _____ When the petroleum refinery has at some time during the quarterly period~~
123 ~~operated under the provisions of 20.2.7 NMAC (Excess Emissions During Malfunction, Startup,~~
124 ~~Shutdown, or Scheduled Maintenance) and complied with the notification requirements of that~~
125 ~~regulation, quantities and time periods involved in the quarterly reports may be modified to~~
126 ~~exclude the time periods and the quantities involved during those time periods if the quantities~~
127 ~~are determined separately for those time periods and submitted in the quarterly report.~~

128 ~~{11/30/95; 20.2.36.113 NMAC Rn, 20 NMAC 2.36.113 10/31/02}~~

129
130 ~~**20.2.36.114 — STACK HEIGHT:** The owner or operator of a petroleum refinery shall not~~
131 ~~permit, cause, suffer or allow sulfur compounds to be emitted to the atmosphere unless the sulfur~~
132 ~~is emitted from a stack of sufficient physical height or controlled by another method approved by~~

133 ~~the department to prevent concentrations of sulfur compounds near ground level equal to or~~
134 ~~greater than any state or federal ambient air standard.~~
135 ~~[11/30/95; 20.2.36.114 NMAC - Rn, 20 NMAC 2.36.114 10/31/02]]~~
136

137 **HISTORY OF 20.2.36 NMAC:**

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

140 AQCR 621-632, Air Quality Control Regulations - 621, 622, 623, 624, 625, 626, 627, 628, 629,
141 630, 631, and 632, 07/15/74.

142 AQCR 622, Air Quality Control Regulation 622 - Petroleum Refinery - Sulfur, 02/08/83

143 EIB/AQCR 622, Air Quality Control Regulation 622 - Petroleum Refinery - Sulfur, 07/16/86
144

145 **History of Repealed Material:** [RESERVED]
146

147 **Other History:**

148 EIB/AQCR 622, Air Quality Control Regulation 622 - Petroleum Refinery - Sulfur, 07/16/86,
149 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.36,
150 Petroleum Refinery - Sulfur, filed 10/30/95.

151 20 NMAC 2.36, Petroleum Refinery - Sulfur, filed 10/30/95 was **renumbered, reformatted and**
152 **replaced** by 20.2.36 NMAC, Petroleum Refinery - Sulfur, effective 10/31/02.

153 20.2.36 NMAC, Petroleum Refinery Sulfur, was repealed effective xx/xx/15.