

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

**IN THE MATTER OF PROPOSED REPEAL OF:  
20.2.37 NMAC – *Petroleum Processing Facilities***

**No. EIB 16-02 (R)**



**NEW MEXICO ENVIRONMENT DEPARTMENT'S  
NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY**

Pursuant to 20.1.1.302.A NMAC, the New Mexico Environment Department ("NMED" or "Department") hereby submits its Notice of Intent to present technical testimony in this proceeding.

**1. The person for whom the witnesses will testify.**

The New Mexico Environment Department, Environmental Protection Division, Air Quality Bureau.

**2. The name and qualifications of each technical witness.**

Mark Jones. Mr. Jones is an Environmental Analyst in the Control Strategies Section of the New Mexico Environment Department Air Quality Bureau. He has worked in the Air Quality Bureau since January, 2006, in the Farmington, New Mexico Field Office. Mr. Jones helps to coordinate projects in the Four Corners area including the Four Corners Air Quality Group. He has developed technical knowledge and experience in emissions and emission control technology in the oil and gas industry from working in the San Juan Basin. He has also evaluated and conducted outreach on emerging federal oil and gas regulations. Mr. Jones holds a B.S. degree in Environmental Engineering from the University of California, Riverside. His resume is attached as NMED Exhibit 1.

Rita Bates. Rita Bates is the Chief of the Planning Section of the Air Quality Bureau. She has 25 years of experience in the environmental field, including 17 years with the Department. In

addition to her work for the Air Quality Bureau, Ms. Bates has worked in industry as an environmental coordinator and in environmental consulting as a project manager. Ms. Bates holds a B.S. degree in Biology from Humboldt State University. Her resume is attached as NMED Exhibit 2.

3. **A Copy of the Direct Testimony of Each Witness in Narrative Form**

A copy of the written direct testimony of Mr. Jones is attached as NMED Exhibit 3. Mr. Jones will present testimony regarding the proposed repeal of 20.2.37 NMAC, *Petroleum Processing Facilities*. The Department does not intend to present direct testimony from Ms. Bates, but may present her as a rebuttal witness, and will make her available to assist in answering questions that may go beyond the expertise of Mr. Jones.

4. **Text of Recommended Modifications to the Proposed Regulatory Change**

The Department recommends that the Board adopt the proposed amendments to 20.2.37 NMAC as shown in the *Petition For Regulatory Change*, filed February 15, 2016, and as attached (without further revision) as NMED Exhibit 4.

5. **List and Description of Exhibits**

The Department submits the following exhibits:

<b><u>Exhibit Number</u></b>	<b><u>Title of Exhibit</u></b>
NMED 1	Resume of Mark Jones
NMED 2	Resume of Rita Bates
NMED 3	Written testimony of Mark Jones
NMED 4	Petition For Regulatory Change, No. EIB 16-02 (R), including Proposed Amendments to 20.2.36 NMAC, <i>Petroleum Processing Facilities</i>
NMED 5	Comparison table of 20.2.37 NMAC with Federal Rules
NMED 6	Stakeholder letters and public comments received

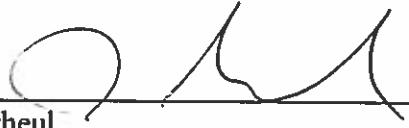
NMED 7a	Hearing Notice EIB 16-02 (R)
NMED 7b	Affidavit of Publication (New Mexico Register)
NMED 7c	Affidavit of Publication (Albuquerque Journal, English)
NMED 7d	Affidavit of Publication (Albuquerque Journal, Spanish)
NMED 8	Notice of Compliance with Small Business Regulatory Relief Act, filed April 12, 2016
NMED 9	Proposed Order and Statement of Reasons

7. **Reservation of Rights**

This *Notice of Intent* to present technical testimony is based on the Department's Petition. The Department reserves the right to call any person to testify and to present any exhibit in response to another *Notice of Intent* or public comment filed in this matter or to any testimony or exhibit offered at the public hearing. The Department also reserves the right to call any person as a rebuttal witness and to present any exhibit in support thereof.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT  
OFFICE OF GENERAL COUNSEL



John Verheul  
Assistant General Counsel  
New Mexico Environment Department  
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Albuquerque, New Mexico 87102  
[John.Verheul@state.nm.us](mailto:John.Verheul@state.nm.us)  
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Notice of Intent to Present Technical Testimony* was served on the following parties on this the 21 day of July, 2016 via the stated delivery methods below:


*Hand delivery:*

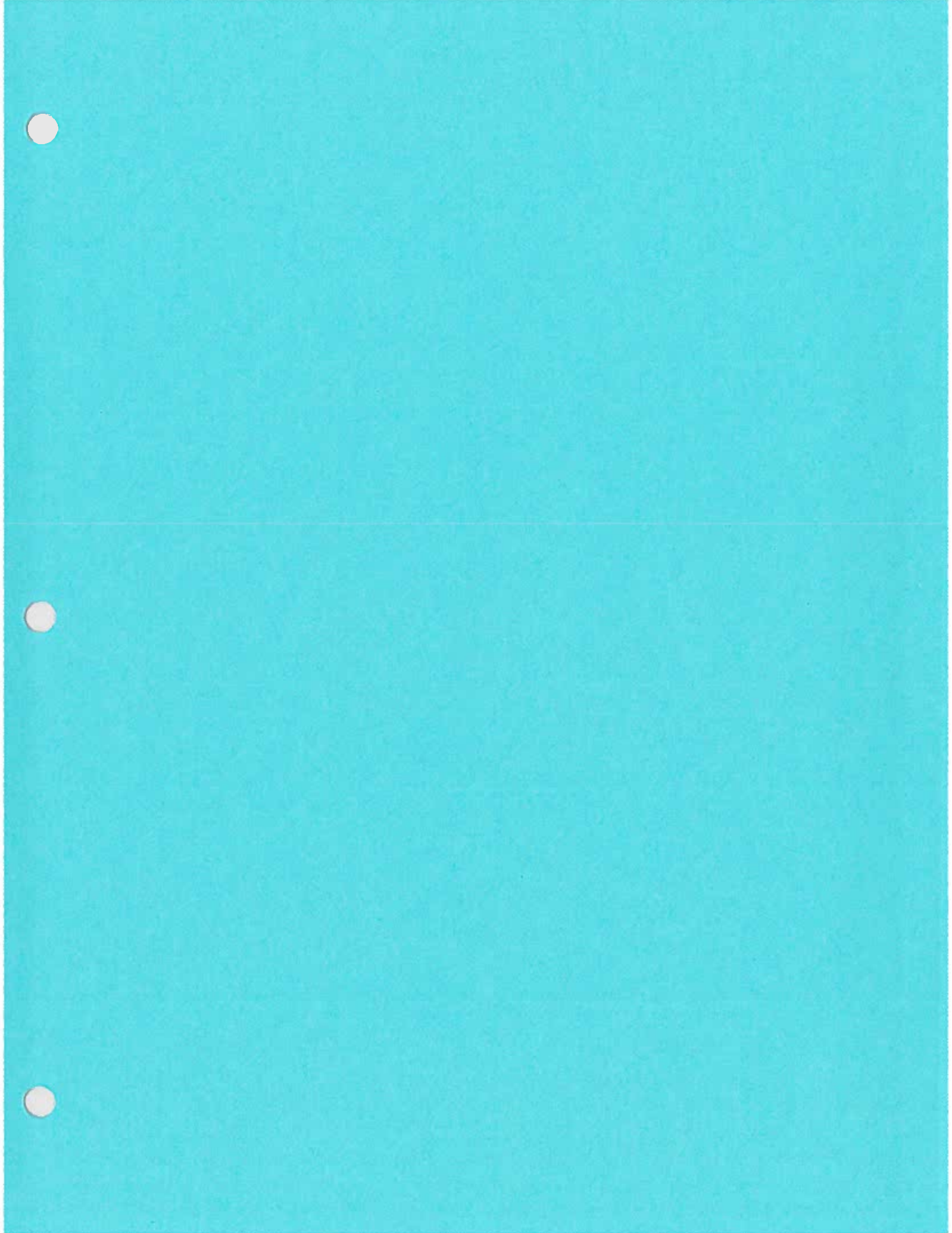
Ms. Pam Castañeda, Administrator  
Environmental Improvement Board  
Room S-2102, Runnels Building  
1190 St. Francis Dr.  
Santa Fe, New Mexico 87505

*Email:*

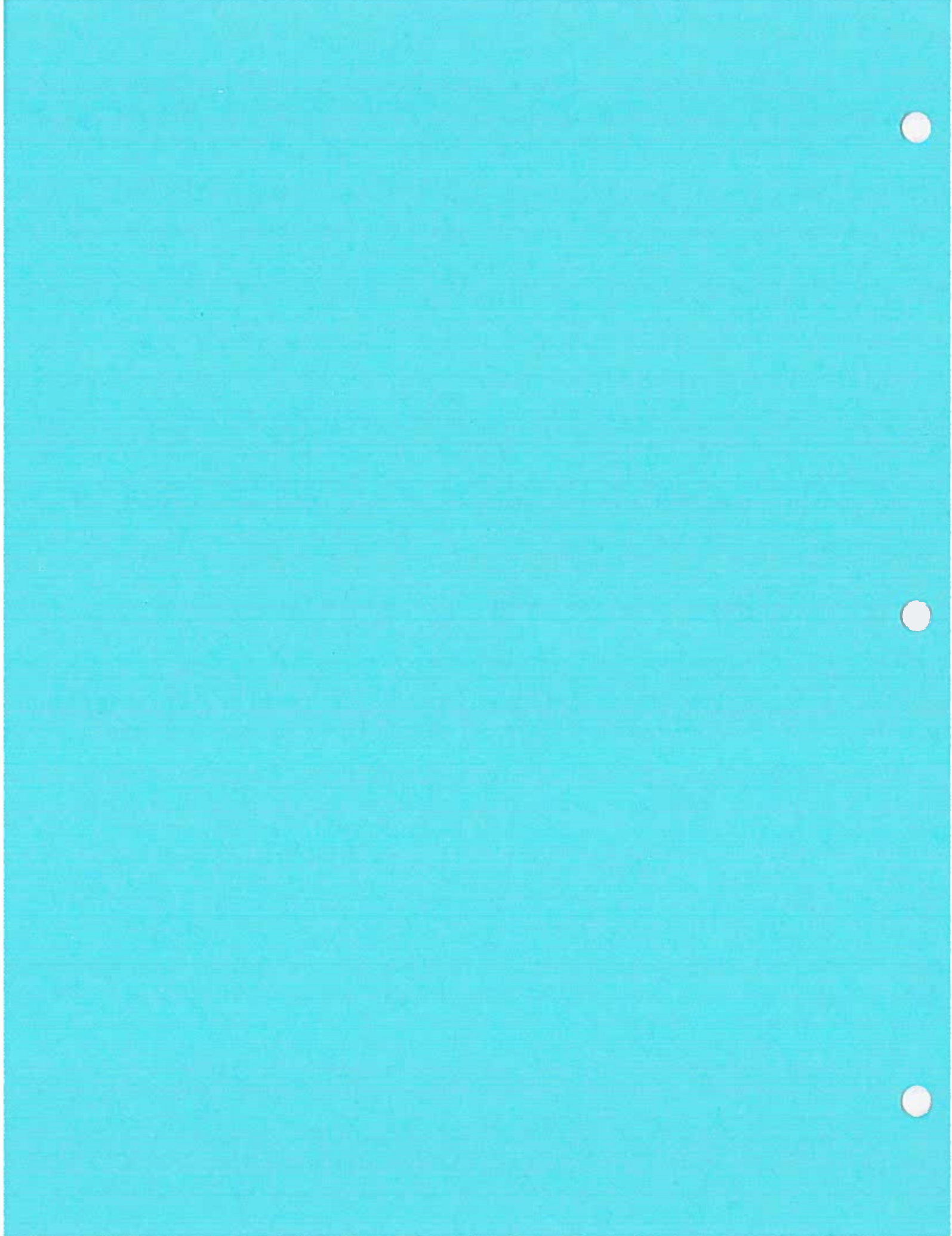
Jennie Lusk  
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*Counsel for Environmental Improvement Board*

  
\_\_\_\_\_  
John Verheul







## **MARK C. JONES**

### **Education:**

**Environmental Engineering, B.S., minor in Chinese Languages, University of California-Riverside, 2000 - GPA 3.02**

**Renewable Energy - Photovoltaic System Design and Installation, AAS, San Juan College, 2010 - GPA 3.92**

### **Work History:**

**Environmental Scientist & Specialist  
Planning and Policy Section – Control Strategies  
New Mexico Environment Department (NMED)**

**January 2006-Present  
Farmington, New Mexico**

### **Tasks: Led Four Corners Air Quality Initiatives**

- Addressed federal ozone standards and Coordinated Four Corners Air Quality Group
  - Worked with stakeholders to develop options and control strategies
  - Led multi-agency Policy Oversight Group
  - Reviewed ozone monitoring data for compliance with the national standards
- Evaluation of NM rules Part 36 and Part 37 on refineries and gas plants
- Prepared and presented analysis, testimony and comments for Environmental Impact Statements & PSD Permit applications
- Participated in NM Clean Power Plan team towards the development of an initial state plan
- Cross-trained and assisted with Compliance/Enforcement on inspections in Northwest NM compressor stations and power plants

**Research Engineer  
Energy Resource Institute**

**January 2001-January 2002  
Riverside, California**

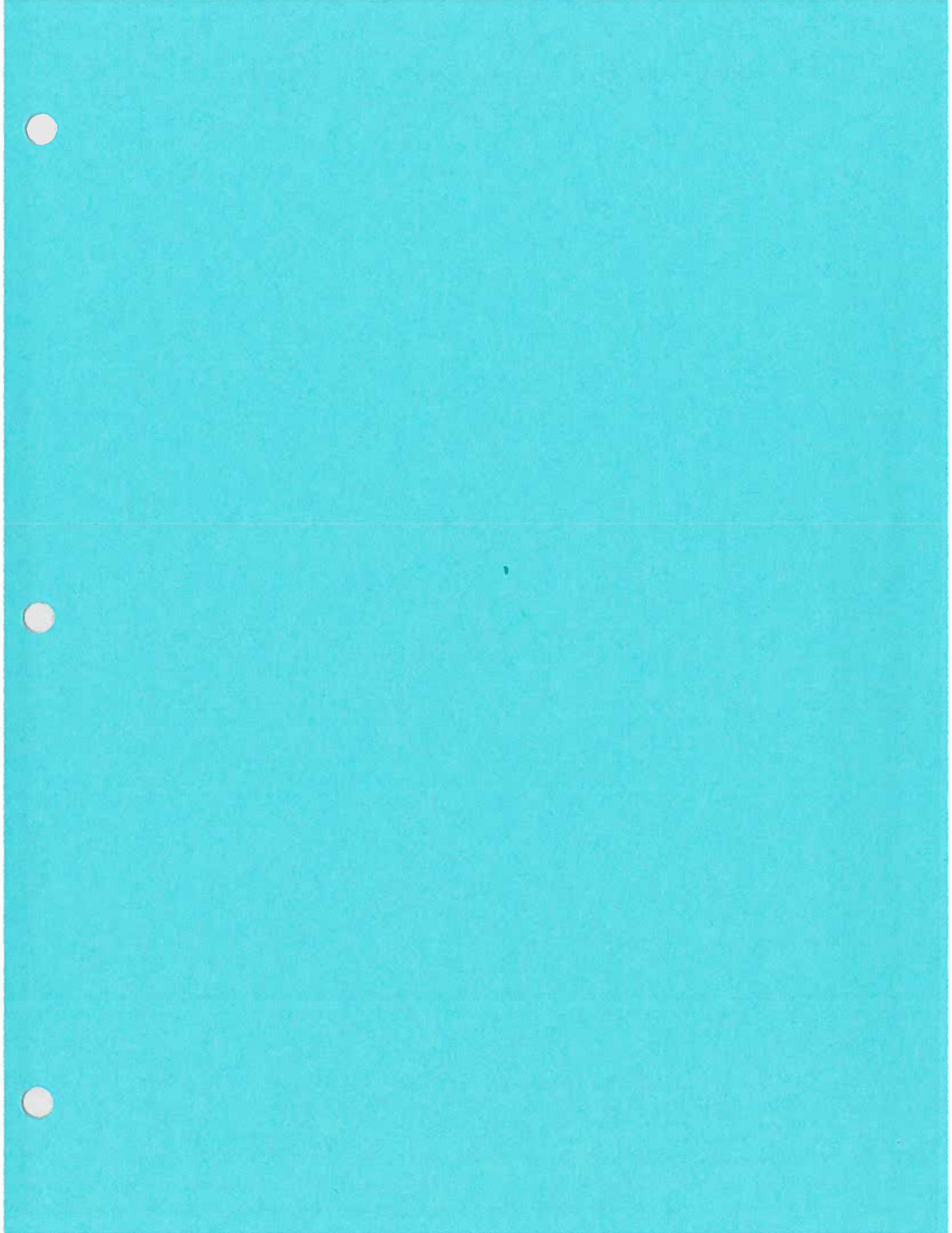
- Served as project coordinator for Ford diesohol/gasohol vehicle demonstration program in Thailand
- Conducted an energy, economic, and environmental life cycle analysis of Ethanol fuel in Thailand
- Represented Ford at 1999 Ethanol Bio-Fuels Conference and 2001 Clean Air World Bank Conference

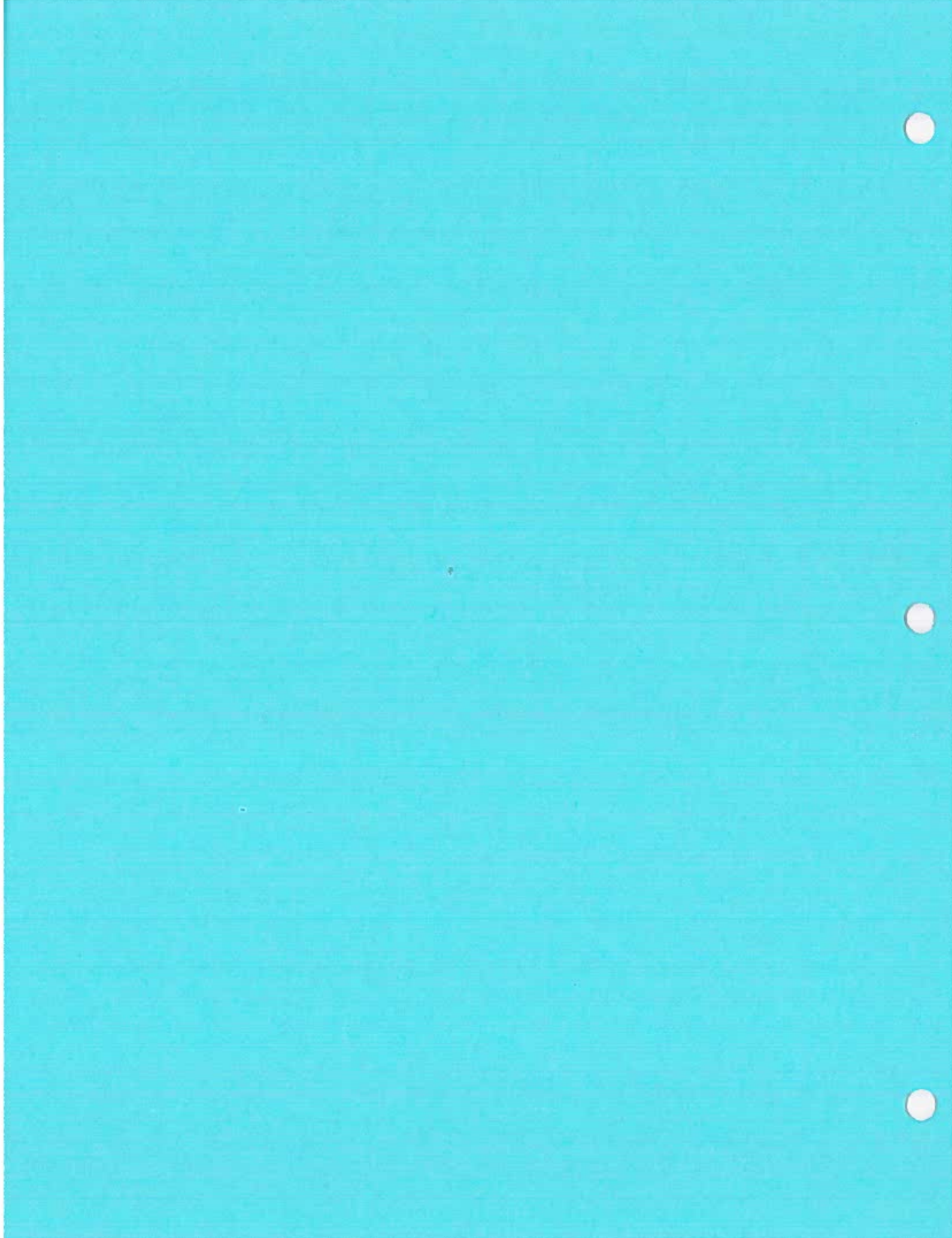
### **Technical Publications:**

1. A Systems Evaluation on the Effectiveness of a Catalyst Retrofit Program in China. Jones, M.; Wilson, R.; Norbeck, J. M.; Han, W.; Hurley, R.; Schuetzle, D.; Environmental Science & Technology (2001)
2. Reduction of Vehicular Emissions with Catalyst Retrofit, Other Documents and Presentations. Wilson, R.; Durbin, T.; Jones, M.; Schuetzle, D.; Norbeck, J.M.; 10th CRC On-Road Vehicle Emissions Workshop, San Diego, CA, March, 2000.
3. Development of a Low-Emission, Dedicated Ethanol-Fuel Vehicle With Cold-Start Distillation System  
Jones, M.; Jehlik, F., Shepard, P.; Society of Automotive Engineering (1999)









# RITA BATES

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## EDUCATION

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HUMBOLDT STATE UNIVERSITY, ARCATA, CALIFORNIA  
*B.S., Biology, 1990. Minor in Botany, emphasis in Ecology.*

## EXPERIENCE

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STATE OF NEW MEXICO, ENVIRONMENT DEPARTMENT  
AIR QUALITY BUREAU, PLANNING & POLICY SECTION

*Section Chief, March 2005 – present*  
*Program Manager (Natural Sciences Manager-2), March 2000 – March 2005*  
*Environmental Specialist, December 1998 – March 2000*  
*Environmental Scientist, August 1998 – December 1998*

The Planning & Policy section of the Air Quality Bureau is responsible for the control strategy, dispersion modeling, emission inventory and small business assistance programs in the Air Quality Bureau. The control strategy section of the Air Quality Bureau is responsible for preparing state implementation plans, policies, and regulations for air quality. The modeling section ensures that all air dispersion modeling analyses submitted to our agency are accurate and complete. The Small Business Assistance Program assists small businesses in meeting air quality regulatory requirements.

EMPIRE GROUP, LLC  
Empire, Nevada

*Environmental Coordinator, June 1996 – July 1998*

Empire Group, LLC is the parent company for several entities which own and operate a geothermal power plant, an onion and garlic dehydration plant, several ranches, and a garlic seed operation. In my position as environmental coordinator, I was responsible for permitting at all facilities.

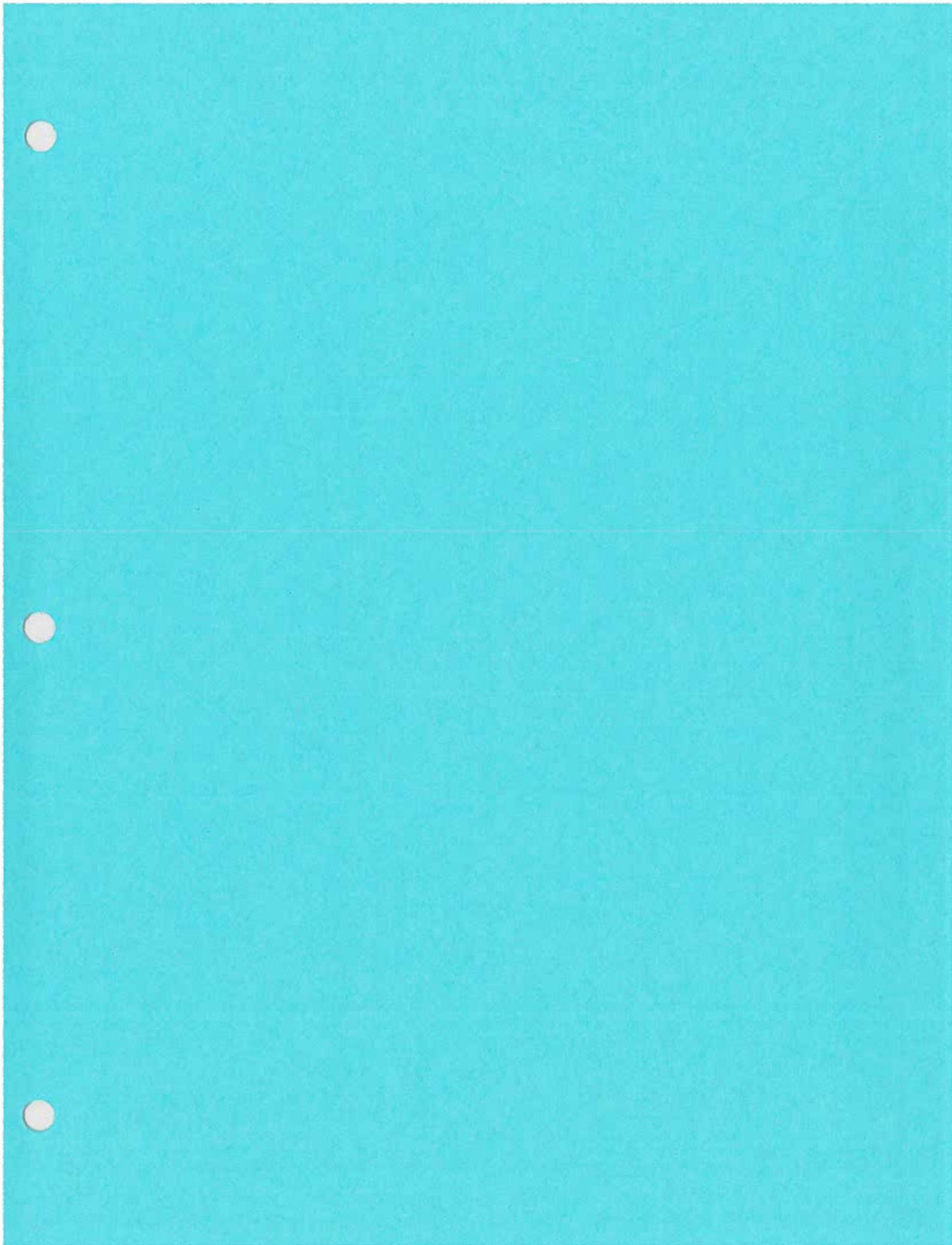
JBR ENVIRONMENTAL CONSULTANTS, INC.  
Reno, Nevada

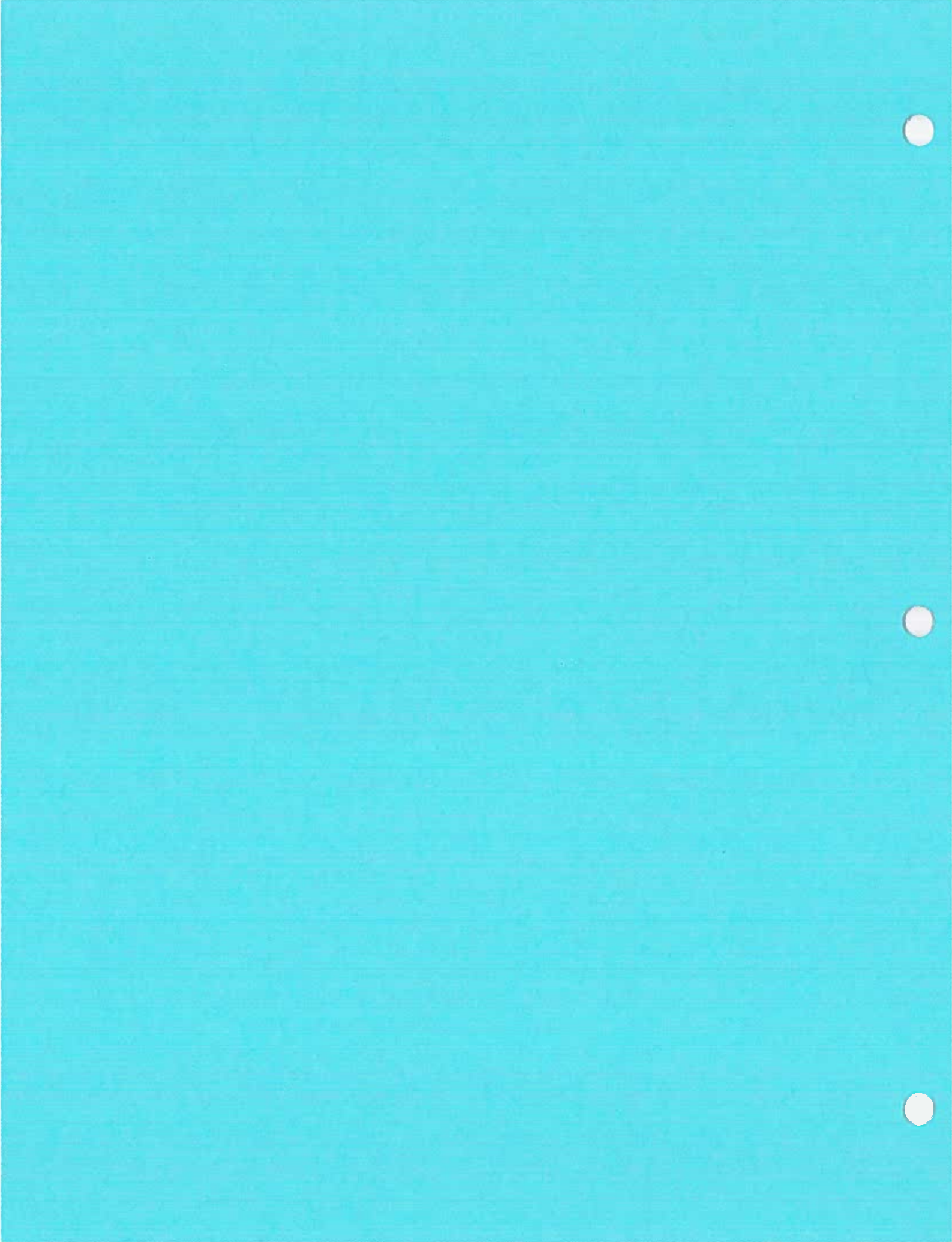
*Environmental Analyst IV, Reno Office Coordinator/Manager, July 1994 – July 1996*  
*Environmental Analyst III, July 1993 – July 1994*  
*Environmental Analyst I, June 1990 – July 1993*

As the manager of the Reno office, I supervised seven technical staff and one administrative employee. During my employment with JBR, I worked on and managed numerous NEPA, environmental permitting and baseline projects.











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**IN THE MATTER OF PROPOSED REPEAL OF:  
20.2.37 NMAC – *Petroleum Processing Facilities***

**EIB 16-02 (R)**

**WRITTEN TESTIMONY OF MARK JONES**

**Witness Qualifications:**

Mark Jones is an Environmental Analyst in the Control Strategies Section of the New Mexico Environment Department (“NMED” or “Department”) Air Quality Bureau. He has worked in the Air Quality Bureau since January, 2006 in the Farmington, New Mexico Field Office. Mr. Jones helps to coordinate projects in the Four Corners area including the Four Corners Air Quality Group. He has developed technical knowledge and experience in emissions and emission control technology in the oil and gas industry from working in the San Juan Basin. He has also evaluated and conducted outreach on emerging federal oil and gas regulations. Mr. Jones holds a B.S. degree in Environmental Engineering from the University of California, Riverside. His resume is attached as NMED Exhibit 1.

**I. INTRODUCTION**

NMED Exhibit 4 reflects the Department’s proposed repeal in current New Mexico Administrative Code (“NMAC”) format, with deleted material designated in strikethrough format. In this testimony, 20.2.37 NMAC will be referred to as “Part 37.”

The Department is proposing repeal of Part 37 to remove certain emissions limits and operating requirements for petroleum refineries and natural gas processing facilities. Repeal of Part 37 would benefit the state by removing outdated, mostly redundant requirements since federal regulations are in place for the majority of requirements. The requirements not covered by corresponding federal rules are not expected to be significant. A repeal of Part 37 is not expected to relax emissions controls or negatively affect air quality.

The *Improving Environmental Permitting Report* (NMED, 11/14/12) recommended the repeal of this rule, stating it is outdated. This initiated an analysis of the rule beginning in 2013. A thorough analysis and stakeholder process were conducted which reinforced this recommendation.

**II. REGULATORY BACKGROUND**

**A. New Mexico’s Petroleum Processing Facilities Rule**

Part 37 was first adopted on July 15, 1974 (effective August 14, 1974) as the following Air Quality Control Regulations (AQCR):

1 AQCR 623 — Petroleum Processing Facilities – Mercaptan;  
2 AQCR 624 — Petroleum Processing Facilities - Carbon Monoxide;  
3 AQCR 625 — Petroleum Processing Facilities - Particulate Matter;  
4 AQCR 626 — Petroleum Processing Facilities – Ammonia;  
5 AQCR 627 — Petroleum Processing Facilities - Sulfur Recovery Plant - Hydrogen Sulfide;  
6 AQCR 628 — Petroleum Processing Facilities - Sulfur Recovery Plant - Hydrogen Sulfide  
7 Alarm System;  
8 AQCR 629 — Petroleum Processing Facilities - Hydrocarbon Separation Facility;  
9 AQCR 630 — Petroleum Processing Facilities - Storage - Handling - Pumping - Blowdown  
10 System.

11  
12 The AQCRs set established emissions limits and other operating requirements for existing  
13 (constructed prior to July 1, 1974) and new petroleum refineries and natural gas processing  
14 facilities. Part 37 regulates the following pollutants and processes: mercaptan and hydrogen  
15 sulfide (H<sub>2</sub>S); volatile organic compounds (VOC); carbon monoxide (CO); particulate matter  
16 (PM); ammonia; hydrocarbon separation facilities; and other petroleum processing operations  
17 (storage, handling, pumping, and blowdown systems). The regulation is not part of the federal  
18 Clean Air Act State Implementation Plan (“SIP”) and, therefore, is not federally enforceable by  
19 the U.S. Environmental Protection Agency (“EPA”). It was amended on May 5, 1981, to reduce  
20 the stringency of the Fluid Catalytic Cracking Unit (FCCU) particulate matter standard to match  
21 the federal FCCU requirement in 40 CFR Part 60 Subpart J – *Standards of Performance for*  
22 *Petroleum Refineries*. It was reformatted as 20 NMAC 2.37 in 1995 without substantive changes,  
23 and renumbered as 20.2.37 NMAC in 2002 in accordance with State Record Center regulations.

24 Part 37 applies to refineries and natural gas plants. New Mexico has 22 natural gas processing  
25 plants and three refineries.

## 26 **B. Comparison of Part 37 to Federal Rules**

27  
28 NMED Exhibit 5 is a comparison table of Part 37 with federal regulations. Part 37 overlaps with  
29 several federal regulations and most of the requirements in Part 37 are covered by corresponding  
30 federal requirements that are at least as stringent; however, there are four sections of the rule that  
31 pertain to H<sub>2</sub>S and mercaptan, VOC, PM and ammonia emissions that are discussed in this  
32 analysis that do not have equivalent federal requirements. The Department’s analysis of potential  
33 effects of repealing these requirements in these areas is provided herein.

## 34 **C. Mercaptan and Hydrogen Sulfide**

35  
36 20.2.37.200 NMAC – *Mercaptan and Hydrogen Sulfide* (Section 200) limits mercaptan  
37 emissions to not more than one-quarter (¼) lb./hr. or combustion of the mercaptan-containing  
38 gas stream from petroleum processing facilities, and no more than 10 parts per million (ppm)  
39 H<sub>2</sub>S in the effluent gas stream or oxidation of the gas stream to convert the H<sub>2</sub>S to sulfur dioxide.  
40 In addition, 40 CFR Part 63 Subpart CC - *National Emission Standards for Hazardous Air*  
41 *Pollutants from Petroleum Refineries* requires continuous operation of flares which should  
42 oxidize most (93% to 98%) mercaptan and H<sub>2</sub>S emissions equivalent to the control level in  
43 Section 200. This makes the Section 200 requirement redundant for Claus-type sulfur recovery  
44

1 systems. The Holly Corporation's Gallup refinery uses a different sulfur recovery system, a sour  
2 water to ammonium thiosulfate solution (SWAATS) recovery process that is exempt from 40  
3 CFR Part 63. The SWAATS has the potential to vent residual H<sub>2</sub>S emissions to the atmosphere  
4 from a still vent located downstream of a wet scrubber. The Gallup refinery submits H<sub>2</sub>S  
5 quarterly reports based on Draeger tube measurements to show that they comply with the 10 ppm  
6 limit in 20.2.37.200.B(1) NMAC. Quarterly reports for 2013 - 2015 show that no H<sub>2</sub>S was  
7 vented during the majority of the quarterly tests and no levels were above the Part 37 limit. If  
8 any H<sub>2</sub>S emissions are vented, they are expected to be very minimal and well below Section 200  
9 limits. The wet scrubber is integral to the operation of the SWAATS unit and is required for the  
10 chemical conversion process, so it is not expected that there would be any relaxation of sulfur  
11 recovery or increased emissions with the repeal of Part 37.

#### 12 13 **D. Particulate Matter**

14  
15 20.2.37.202 NMAC – *Particulate Matter* (Section 202) restricts particulate matter emissions to  
16 the atmosphere in excess of 0.05 grains per dry standard cubic foot of exit gas exclusive of  
17 emissions from catalyst cracking recirculation and regeneration units and tube carbon removal.  
18 The requirements in 20.2.61.109 NMAC *Smoke and Visible Emissions: Stationary Combustion*  
19 *Equipment* limit opacity emissions to 20 percent in combustion equipment. 20.2.61.109 NMAC  
20 is considered at least as stringent as the requirement in Section 202.

#### 21 22 **E. Ammonia**

23  
24 20.2.37.203 NMAC – *Ammonia* (Section 203) restricts ammonia emissions to no more than 25  
25 ppm by volume in the gas streams. Facilities employ a flare to control pollutant emissions in  
26 effluent gasses. However, at the Gallup refinery, the SWAATS process controls potential  
27 emissions using a wet scrubber. The scrubber has the potential to vent residual ammonia to the  
28 atmosphere. The Gallup refinery completes quarterly reports on ammonia emissions in  
29 accordance with the facility's permit conditions. The ammonia emissions reported in the 2013-  
30 2015 quarterly reports averaged 1 ppm. The highest reported quarterly level was 4 ppm and the  
31 lowest was 0 ppm. The limit in Section 203 is no more than 25 ppm. The actual amount of  
32 ammonia emitted from the Gallup refinery SWAATS is not be expected to change with the  
33 repeal of Part 37. In addition, ammonia is classified as a toxic air pollutant in New Mexico. If the  
34 ammonia emission rate from a facility exceeds the threshold in 20.2.72.502 NMAC – *Toxic Air*  
35 *Pollutants and Emissions*, the minor source construction permit rule requires that an applicant  
36 conduct air quality modeling, and depending on the results, a health assessment of the human  
37 health effects for the projected exposures from the facility may also be required.

#### 38 39 **F. Petroleum Processing Facilities - Storage - Handling - Pumping - Blowdown** 40 **Systems**

41  
42 20.2.37.205 NMAC - *Facilities – Storage – Handling – Pumping – Blowdown Systems* (Section  
43 205) sets control requirements to reduce VOCs and hazardous air pollutants (HAP) from a  
44 variety of storage devices as well as loading facilities, pumps and compressors, and blowdown  
45 systems. Federal regulations are more stringent and require flaring of emissions from most of  
46 these operations. 40 CFR Part 63 Subpart CC regulates VOC and HAP emissions from tanks

1 with a storage capacity equal to or greater than 46,758 gallons and contents with a true vapor  
2 pressure (TVP) greater than 1.5. Section 205 includes a control requirement not present in  
3 federal regulations for tanks with organic compounds, including VOC, with storage capacity  $\geq$   
4 65,000 gallons and a TVP  $< 1.5$ . These tanks are required to have conservation vents or other  
5 devices at least as efficient to minimize vapor or gas loss to the atmosphere per Paragraph  
6 205.B.(4). Organic liquids with a TVP  $< 1.5$  have minimal evaporative emissions. Moreover,  
7 most tanks in New Mexico have controls as stringent as or more stringent than conservation  
8 vents. Conservation vents are also in place to save product and minimize loss of product so there  
9 is an incentive to use them. It is not expected that petroleum storage tanks would have any less  
10 effective control than conservation vents and these tanks with TVP  $< 1.5$  should not have  
11 significant VOC emissions.

### 12 **III. PROPOSED REPEAL OF PART 37**

13 Part 37 was adopted in 1974 at a time when Continuous Emissions Monitoring Systems  
14 ("CEMS") were not widely in use. CEMS provide real-time pollutant-specific emissions data  
15 that are used to determine compliance with emissions limits. In addition, the Department has not  
16 amended the rule over time to include appropriate monitoring and reporting requirements, which  
17 has resulted in enforceability issues. For those federal requirements that are at least as (or more)  
18 stringent than Part 37, the federal regulations require more robust monitoring and recordkeeping  
19 requirements than Part 37 and thus are more effectively enforceable. As previously stated, the  
20 rule is not part of the State Implementation Plan under the federal Clean Air Act, and therefore is  
21 not federally enforceable by the EPA.

22  
23 Repeal of Part 37 would benefit the state by removing outdated, mostly redundant requirements  
24 since federal regulations are in place for the majority of requirements. The requirements not  
25 covered by corresponding federal rules are not expected to be significant. A repeal of Part 37 is  
26 not expected to relax emissions controls or negatively affect air quality.

27  
28 In accordance with NMSA 1978, Section 74-2-5.E, the proposed repeal will result in no  
29 increases of emissions of air pollutants which would interfere with health, welfare, visibility or  
30 property; no increase in regulatory burden on facilities or harm to the public interest; and no  
31 increase in economic hardship. This proposed repeal will have no effect on small businesses.

### 32 **IV. OUTREACH**

33 Initial outreach commenced on April 1, 2014, with a stakeholder letter to industry and  
34 environmental groups announcing the evaluation of Part 37 and soliciting comments. A copy of  
35 that letter and comments received are shown as NMED Exhibit 6.

36 Additional outreach was conducted for the proposed repeal of Part 37 in the form of public  
37 notices (NMED Exhibits 7a-7d) and an open house. The public notice was published in the New  
38 Mexico Register and in the Albuquerque Journal, in English and Spanish, on May 31, 2016. At  
39 the request of a stakeholder, the Department held an open house on June 14, 2016, at the Roswell  
40 public library. There was no one in attendance at the open house.

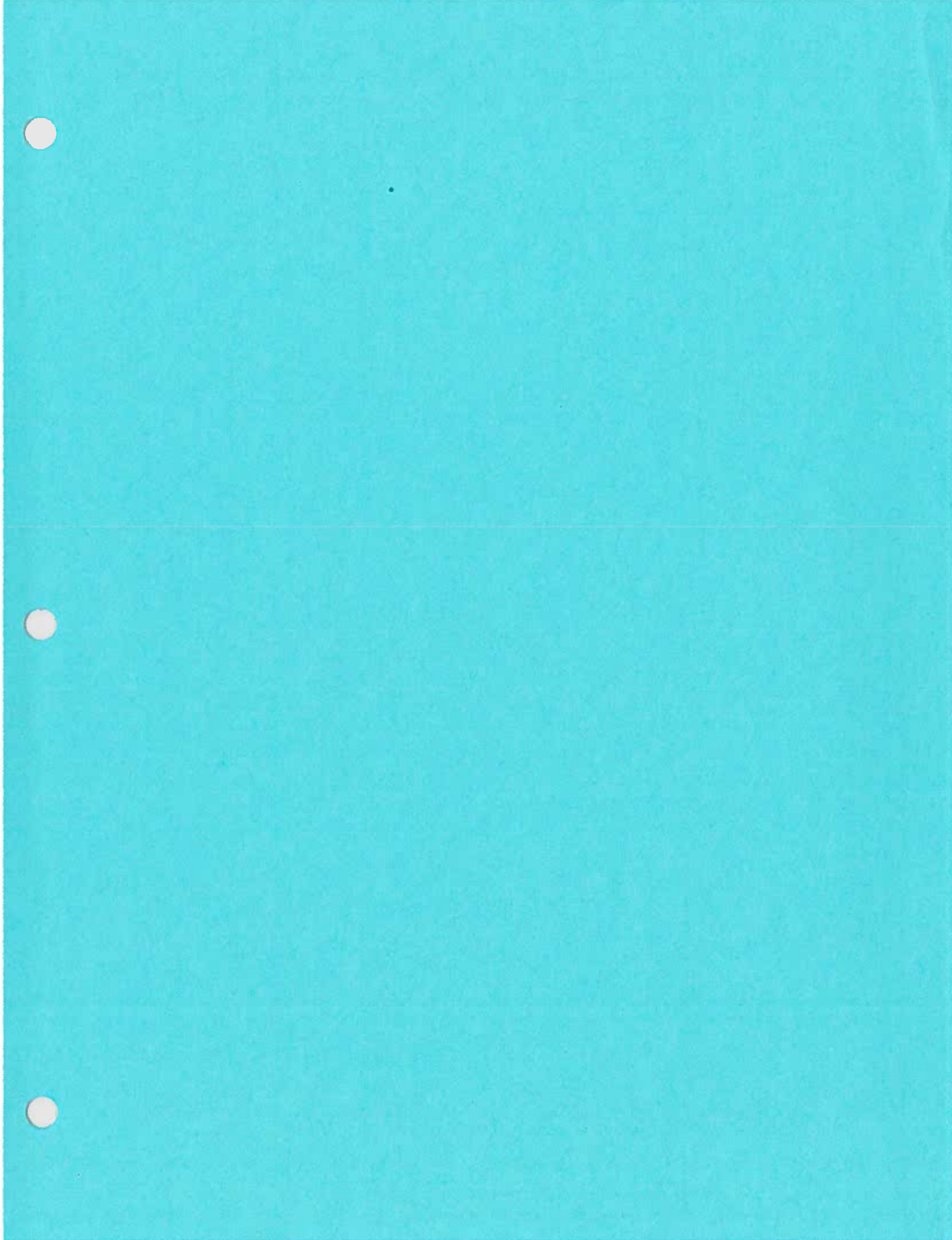
1 The Department also complied with the Small Business Regulatory Relief Act (NMED Exhibit  
2 8). This Act establishes a review process, not a standard or outcome. The Department must  
3 consider the effect of the proposed rule repeal on small businesses; if the Department identifies  
4 an adverse effect, it must consider the available methods to reduce the effect, but even if there  
5 are no such methods, the Board may approve the proposed rule repeal to accomplish the  
6 objectives of the applicable law. The Department does not foresee that the proposed repeal of  
7 Part 37 will have an adverse impact on the citizens or businesses of New Mexico.

#### 8 **V. CONCLUSION**

9 This concludes my testimony to the Board on our proposed repeal of Part 37. I respectfully  
10 request that the Board adopt this rule repeal at the conclusion of this hearing.









COPY



STATE OF NEW MEXICO  
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED REPEAL OF:  
20.2.37 NMAC – *Petroleum Processing Facilities*

No. EIB 16-02 (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 20.2.37 NMAC – *Petroleum Processing Facilities*. 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 20.2.37 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 August 12, 2016. The Air Quality Bureau anticipates that the hearing regarding the proposed amendments will take approximately one half hour.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT  
OFFICE OF GENERAL COUNSEL

/s/ John Verheul

John Verheul  
Assistant General Counsel  
1190 S. St. Francis Drive, Suite N-4050  
Santa Fe, New Mexico 87505  
505.383.2063  
[john.verheul@state.nm.us](mailto:john.verheul@state.nm.us)

## 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 15th day of February, 2016, via the stated delivery methods below:

*Hand delivery:*

Ms. Pam Castaneda, Administrator  
Environmental Improvement Board  
Room S-2102, Runnels Building  
1190 St. Francis Dr.  
Santa Fe, New Mexico 87505

*Email:*

Joseph M. Dworak  
Assistant Attorney General  
Office of the New Mexico Attorney General  
P.O. Drawer 1508  
Santa Fe, New Mexico 87504  
*Counsel for Environmental Improvement Board*  
jdworak@nmag.gov

/s/ John Verheul

John Verheul

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20.2.37 NMAC – *Petroleum Processing Facilities***

**No. EIB 16-02 (R)**

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**STATEMENT OF REASONS**

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The New Mexico Environment Department ("Department") proposes to repeal 20.2.37 NMAC, *Petroleum Processing Facilities* ("Part 37"). Part 37 specifies emissions limits and other operating requirements for existing (constructed prior to July 1, 1974) and new petroleum refineries and natural gas processing facilities.

Part 37 regulates a wide range of pollutant species and processes, including: mercaptan and hydrogen sulfide (H<sub>2</sub>S); carbon monoxide (CO); particulate matter (PM); ammonia; hydrocarbon separation facilities; and petroleum processing facilities (storage, handling, pumping, and blowdown systems). Most of the requirements in Part 37 are covered by corresponding state permit regulations under 20.2.72 NMAC or federal requirements that are at least as stringent as Part 37; however, there are three sections/subsections of the rule that pertain to H<sub>2</sub>S and mercaptan, volatile organic compounds (VOC), and ammonia emissions that do not have duplicative federal standards. An evaluation was conducted for these exceptions which showed that Part 37 could still be repealed without an adverse effect on air quality.

Part 37 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, federal regulations require more robust monitoring and recordkeeping, which provides for more effective enforcement of the emission limits.

The Department believes repeal of Part 37 would benefit the state by removing outdated, mostly redundant requirements since federal regulations are in place for the majority of requirements. The requirements not covered by corresponding federal rules are in many cases covered by other requirements or are not significant. A repeal of Part 37 is not expected to relax emissions controls or negatively affect air quality.

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



1 **TITLE 20 — ENVIRONMENTAL PROTECTION**

2 **CHAPTER 2 — AIR QUALITY (STATEWIDE)**

3 **PART 37 — PETROLEUM PROCESSING FACILITIES**

4  
5  
6 **20.2.37.1 — ISSUING AGENCY:** Environmental Improvement Board.

7 ~~[11/30/95; 20.2.37.1 NMAC — Rn, 20 NMAC 2.37.100 10/31/02]~~

8  
9 **20.2.37.2 — SCOPE:** All geographic areas within the jurisdiction of the Environmental Improvement  
10 Board.

11 ~~[11/30/95; 20.2.37.2 NMAC — Rn, 20 NMAC 2.37.101 10/31/02]~~

12  
13 **20.2.37.3 — STATUTORY AUTHORITY:** Environmental Improvement Act, NMSA 1978, section  
14 74-1-8(A)(4) and (7), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including  
15 specifically, section 74-2-5(A), (B), and (C).

16 ~~[11/30/95; 20.2.37.3 NMAC — Rn, 20 NMAC 2.37.102 10/31/02]~~

17  
18 **20.2.37.4 — DURATION:** Permanent.

19 ~~[11/30/95; 20.2.37.4 NMAC — Rn, 20 NMAC 2.37.103 10/31/02]~~

20  
21 **20.2.37.5 — EFFECTIVE DATE:** November 30, 1995.

22 ~~[11/30/95; 20.2.37.5 NMAC — Rn, 20 NMAC 2.37.104 10/31/02]~~

23 ~~[The latest effective date of any section in this Part is 10/31/02.]~~

24  
25 **20.2.37.6 — OBJECTIVE:** The objective of this Part is to minimize emissions from petroleum or  
26 natural gas processing facilities.

27 ~~[11/30/95; 20.2.37.6 NMAC — Rn, 20 NMAC 2.37.105 10/31/02]~~

28  
29 **20.2.37.7 — DEFINITIONS:** In addition to the terms defined in 20.2.2 NMAC (Definitions), as used  
30 in this Part:

31 **A. "Catalytic cracking"** means a process which converts, at temperatures above 500  
32 degrees Fahrenheit, petroleum type hydrocarbons, which are liquids at normal temperatures and



pressures, to lower molecular weight products in the absence of hydrogen and with a continuously regenerated catalyst.

~~B. "Existing petroleum processing facility" means any petroleum refinery or natural gas processing plant the fabrication, erection, or installation of which was commenced prior to July 1, 1974. It does not include tank batteries, separators, heater treaters or field compressors.~~

~~C. "New petroleum processing facility" means any petroleum refinery, natural gas processing plant, or part thereof, the fabrication, installation, or modification of which is commenced on or after July 1, 1974. It does not include tank batteries, separators, heater treaters or field compressors.~~

~~D. "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; 20.2.37.7 NMAC Rn, 20 NMAC 2.37.107 10/31/02}~~

~~20.2.37.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS:~~

~~A. This Part amends and supersedes Air Quality Control Regulations ("AQCRs"):~~

~~(1) 623 Petroleum Processing Facilities Mercaptan last filed February 8, 1983;~~

~~(2) 624 Petroleum Processing Facilities Carbon Monoxide last filed February 8, 1983;~~

~~(3) 625 Petroleum Processing Facilities Particulate Matter last filed July 24, 1984;~~

~~(4) 626 Petroleum Processing Facilities Ammonia last filed February 8, 1983;~~

~~(5) 627 Petroleum Processing Facilities Sulfur Recovery Plant Hydrogen Sulfide last filed February 8, 1983;~~

~~(6) 628 Petroleum Processing Facilities Sulfur Recovery Plant Hydrogen Sulfide Alarm System last filed February 8, 1983;~~

~~(7) 629 Petroleum Processing Facilities Hydrocarbon Separation Facility last filed July 24, 1984; and~~

~~(8) 630 Petroleum Processing Facilities Storage Handling Pumping Blowdown System last filed July 24, 1984.~~

~~B. All references to these AQCRs in any other rule shall be construed as a reference to this Part.~~

~~C. The amendment and supersession of AQCRs 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 these AQCRs.~~

~~{11/30/95; 20.2.37.8 NMAC Rn, 20 NMAC 2.37.106 10/31/02}~~

~~20.2.37.9 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; 20.2.37.9 NMAC Rn, 20 NMAC 2.37.108 10/31/02]~~

~~20.2.37.10 to 20.2.37.199 [RESERVED]~~

~~20.2.37.200 MERCAPTAN AND HYDROGEN SULFIDE:~~

~~A. Mercaptan: The owner or operator of a petroleum processing facility shall not permit, cause, suffer or allow mercaptan emissions to the atmosphere unless:~~

~~(1) the total mercaptan emissions do not exceed 0.25 pounds per hour; or~~

~~(2) the gas stream containing mercaptan has passed through a steam condenser (if necessary to achieve combustion) and combustion device which is well maintained and designed to achieve complete combustion or any other device which is at least as efficient to prevent mercaptan emissions to the atmosphere.~~

~~B. Sulfur recovery plant: Hydrogen sulfide: The owner or operator of a petroleum or processing facility, sulfur recovery plant, the feedstock of which is in whole or in part a product of petroleum processing shall not permit, cause, suffer or allow hydrogen sulfide emissions to the atmosphere unless:~~

~~(1) the stack emissions do not exceed 10 ppm by volume in the undiluted effluent gas stream or streams; or~~

~~(2) the effluent gas stream containing hydrogen sulfide is passed through a device capable of oxidizing the hydrogen sulfide to sulfur dioxide.~~

~~C. Sulfur recovery plant: Hydrogen sulfide alarm system: The owner or operator of a petroleum processing facility or sulfur recovery plant commencing operation after January 1, 1975, shall not flare gas containing more than 10 ppm of hydrogen sulfide without maintaining in good working order an alarm system connected to the flare which will signal non combustion of the gas.~~

~~[11/30/95; 20.2.37.200 NMAC Rn, 20 NMAC 2.37.200 10/31/02]~~

~~20.2.37.201 CARBON MONOXIDE:~~

~~A. Existing facility: The owner or operator of an existing petroleum processing facility shall not permit, cause, suffer or allow carbon monoxide emissions to the atmosphere from a catalyst craking recirculation or regeneration unit in excess of 20,000 ppm by volume in the undiluted effluent gas stream or streams.~~

~~B. New facility: The owner or operator of a new petroleum processing facility shall not permit, cause, suffer or allow carbon monoxide emissions to the atmosphere in excess of 500 ppm by volume in the undiluted effluent gas stream or streams.~~

~~[11/30/95; 20.2.37.201 NMAG Rn, 20 NMAG 2.37.201-10/31/02]~~

~~20.2.37.201~~ **PARTICULATE MATTER:**

~~A. Petroleum processing facility: general: The owner or operator of a petroleum processing facility shall not permit, cause, suffer or allow particulate matter emission to the atmosphere in excess of 0.05 grains per dry standard cubic foot of exit gas exclusive of emissions from catalyst cracking recirculation and regeneration units and tube carbon removal.~~

~~B. Existing catalyst cracking regeneration unit: The owner or operator of an existing (the fabrication, erection or installation of which was commenced prior to August 14, 1974) catalyst cracking recirculation or regeneration unit or tube carbon removal process operated in conjunction with a petroleum processing facility shall not permit, cause, suffer or allow emissions during regeneration or cleaning to:~~

~~(1) equal or exceed an opacity of 40% except for a period not to exceed five minutes during which the opacity is not to exceed 60%. The five minute period during which the opacity exceeds 40%, but may not exceed 60%, may not occur more frequently than three times per day; or~~

~~(2) consist of one hundred pounds or more of particulate matter per hour.~~

~~C. New facility: catalyst cracking regeneration unit:~~

~~(1) The owner or operator of a new petroleum processing facility shall not permit, cause, suffer or allow particulate matter emissions to the atmosphere from the catalytic cracking regenerator vessel in excess of 1.0 Kg/1000 Kg (1.0 lb/1000 lb) of coke burnoff or visible emissions of thirty percent (30%) opacity or greater except for one six minute average opacity reading in any one hour period:~~

~~(2) Where the gases discharged by the catalytic cracking regenerator vessel pass through an incinerator or waste heat boiler in which auxiliary or supplemental liquid or solid fossil fuel is burned, particulate matter in excess of the 1.0 Kg/1000 Kg (1.0 lb/1000 lb) coke burnoff emission rate may be emitted to the atmosphere, except that the incremental rate of particulate matter emissions shall not exceed 43.0 g/MJ (0.10 lb/million Btu) of heat input attributed to such liquid or solid fossil fuel;~~

~~D. Determination methods:~~

~~(1) Opacity: Opacity of visible emissions from a catalytic cracking regenerator vessel shall be determined consistent with the method set forth by the US EPA in 40 CFR Part 60, Appendix A, Method 9, or any other equivalent method receiving prior approval from the Department. The time period for taking opacity readings shall be for a minimum of six minutes;~~

~~(2) Compliance: Compliance with the particulate emission limitation set forth in this Part shall be determined consistent with the methods and procedures set forth by the US EPA in 40 CFR, Part 60, Subpart J, Section 60.106, or any other equivalent methods or procedures receiving prior approval from the Department. A test method shall consist of three runs, each run consisting of a sample of 30 dry standard cubic feet (68 degrees Fahrenheit, 29.92 inches of Hg). Test results from the three runs shall be averaged in the determination of the emission limit. Upon the request of the Department, the owner or operator shall perform stack testing according to the method stated above. The owner or operator shall report the results of such tests in the format and time period specified by the Department. The owner or~~

operator shall inform the Department of the dates and time of such testing so that the Department may have the opportunity to have an observer present during testing.

~~(3) Emission limitations: Particulate matter emission limitations established by this Part shall be determined by a method consistent with the method set forth by the US EPA in 36 Federal Register 24888-24890 or any other method that the Department has determined to be of equal or greater accuracy.~~

~~{11/30/95; 20.2.37.202 NMAC Rn, 20 NMAC 2.37.202 10/31/02}~~

~~20.2.37.203 AMMONIA: The owner or operator of a petroleum processing facility shall not permit, cause, suffer or allow ammonia emissions to the atmosphere in excess of 25 ppm by volume in the undiluted effluent gas stream or streams.~~

~~{11/30/95; 20.2.37.203 NMAC Rn, 20 NMAC 2.37.203 10/31/02}~~

~~20.2.37.204 HYDROCARBON SEPARATION FACILITY:~~

~~A. The owner or operator of an existing petroleum processing facility that processes ten thousand b.s.d. (barrel stream day) or more of crude oil or condensate feedstock or produces waste liquor containing six hundred gallons a day or more of hydrocarbons shall not permit, cause, suffer or allow discharge of any waste liquor containing hydrocarbons without first having treated the liquor in:~~

~~(1) a hydrocarbon separation facility that is maintained in good working order; or~~

~~(2) any other device which is at least as efficient to prevent hydrocarbon discharge to the atmosphere.~~

~~B. The owner or operator of a new petroleum processing facility that produces waste liquor containing 600 gallons a day or more of hydrocarbons or processes ten thousand b.s.d. (barrel stream day) or more of crude oil or condensate feedstock, shall not permit, cause, suffer or allow discharge of any waste liquor containing hydrocarbons without first having treated the liquor in:~~

~~(1) a hydrocarbon separation facility that is maintained in good working order and equipped with a complete roof cover enclosing the liquid contents; or~~

~~(2) any other device is at least as efficient to prevent hydrocarbon discharge to the atmosphere.~~

~~{11/30/95; 20.2.37.204 NMAC Rn, 20 NMAC 2.37.204 10/31/02}~~

~~20.2.37.205 FACILITIES STORAGE HANDLING PUMPING BLOWDOWN SYSTEM:~~

~~A. Existing facility tanks: The owner or operator of an existing petroleum processing facility shall not place, store, or hold in a stationary tank or other container having a storage capacity equal to or greater than 250,000 gallons:~~

~~\_\_\_\_\_ (1) any organic compound having a true vapor pressure greater than 11.0 pounds per square inch under maximum actual storage pressure conditions, unless the tank or other container is:~~

~~\_\_\_\_\_ (a) a pressure vessel capable of maintaining working pressures sufficient at all times to minimize vapor or gas loss to the atmosphere; or~~

~~\_\_\_\_\_ (b) equipped with any other system which is at least as efficient at all times to minimize vapor or gas loss to the atmosphere; or~~

~~\_\_\_\_\_ (2) any organic compounds having a true vapor pressure of 2.0 through 11.0 pounds per square inch under maximum actual storage pressure conditions, unless the tank or other container is designed, equipped and maintained with:~~

~~\_\_\_\_\_ (a) a floating roof, consisting of an external floating roof, internal floating cover, or covered floating roof, which is equipped with a closure seal or seals maintained in good repair to close the space between the roof or cover edge and tank wall;~~

~~\_\_\_\_\_ (b) a well maintained vapor recovery system consisting of: (1) a vapor gathering system capable of collecting the organic compound vapors and gases discharged; and (2) a vapor disposal system capable of processing the organic vapors and gases so as to minimize their emission to the atmosphere; or~~

~~\_\_\_\_\_ (c) any other device which is at least as efficient at all times to minimize vapor or gas loss to the atmosphere.~~

~~B. New facility tanks: The owner or operator of a new petroleum processing facility shall not place, store or hold in a stationary tank or other container having a storage capacity equal to or greater than 65,000 gallons:~~

~~\_\_\_\_\_ (1) any organic compound having a true vapor pressure greater than 11.0 pounds per square inch under maximum actual storage pressure conditions, unless the tank or other container is:~~

~~\_\_\_\_\_ (a) a pressure vessel capable of maintaining working pressures sufficient at all times to minimize vapor or gas loss to the atmosphere; or~~

~~\_\_\_\_\_ (b) equipped with any other system which is at least as efficient at all times to minimize vapor or gas loss to the atmosphere;~~

~~\_\_\_\_\_ (2) any organic compound having a true vapor pressure of 1.5 through 11.0 pounds per square inch under maximum actual storage pressure conditions, unless the tank or other container is designed, equipped and maintained with:~~

~~\_\_\_\_\_ (a) a floating roof, consisting of an external floating roof, internal floating cover, or covered floating roof, which is equipped with a closure seal or seals maintained in good repair to close the space between the roof or cover edge and tank wall;~~

~~\_\_\_\_\_ (b) a well maintained vapor recovery system consisting of:~~

~~\_\_\_\_\_ (i) a vapor gathering system capable of collecting organic compound vapors and gases discharged; and~~

~~\_\_\_\_\_ (ii) a vapor disposal system capable of processing the organic vapor and gases so as to minimize their emissions to the atmosphere; or~~

~~215 (e) any other device which is at least as efficient at all times to minimize vapor or~~  
~~216 gas loss to the atmosphere;~~

~~217 (3) any organic compound having a true vapor pressure of 1.5 pounds per square inch or~~  
~~218 greater under maximum actual storage pressure conditions without the tank or other container being~~  
~~219 equipped with gauging and sampling devices which are gas tight except when gauging or sampling is~~  
~~220 taking place; or~~

~~221 (4) any organic liquid having a true vapor pressure less than 1.5 pounds per square inch~~  
~~222 under maximum actual storage pressure conditions without the tank or other container being equipped~~  
~~223 with a conservation vent or other device is at least as efficient to minimize vapor or gas loss to the~~  
~~224 atmosphere.~~

~~225 C. New facility loading facility: The owner or operator of a new petroleum processing~~  
~~226 facility shall not permit, cause, suffer or allow the loading or unloading into any tank, truck, trailer or tank~~  
~~227 car any organic compound having a Reid vapor pressure of 1.5 pounds per square inch or greater, unless:~~

~~228 (1) the loading facility is equipped with:~~

~~229 (a) a loading arm having a vapor collection adapter that forces a vapor tight seal~~  
~~230 between the adapter and the hatch and having a means of collecting the vented vapors to minimize their~~  
~~231 emission to the atmosphere that is maintained in good repair; or~~

~~232 (b) any other device which is at least as efficient to prevent vapor or gas loss to the~~  
~~233 atmosphere; and~~

~~234 (2) a means is provided to prevent organic compound drainage from the loading device~~  
~~235 when it is removed from the hatch of any tank, truck, trailer, or tank car or to accomplish complete~~  
~~236 drainage before its removal.~~

~~237 D. New facility pumps and compressors: The owner or operator of a new petroleum~~  
~~238 processing facility shall not permit, cause, suffer or allow the use of a rotating pump or compressor which~~  
~~239 handles any organic compound having a Reid vapor pressure of 1.5 pounds per square inch or greater,~~  
~~240 unless the pump or compressor is equipped to prevent mechanical seals or other devices of equal or~~  
~~241 greater efficiency to prevent liquid or vapor losses.~~

~~242 E. New facility blowdown system: The owner or operator of a new petroleum processing~~  
~~243 facility shall not permit, cause, suffer or allow the operation of a blowdown system without disposing of~~  
~~244 the gases in a manner which will minimize hydrocarbon emission to the atmosphere. If combustion is the~~  
~~245 means of disposal, it shall be by:~~

~~246 (1) smokeless flare; or~~

~~247 (2) any other method that is equally effective to achieve complete combustion.~~

~~248 F. Monitoring and reporting: To aid the Department in determining compliance with this~~  
~~249 section, the Department may require the owner or operator of a hydrocarbon storage facility to~~  
~~250 periodically monitor and report to the Department the temperatures of any hydrocarbon liquid stored in~~  
~~251 any tank or container governed by this section.~~



252 ~~G. "True vapor pressure" as used in this section, shall be determined in accordance with~~  
253 ~~methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss from Floating Roof~~  
254 ~~Tanks.~~

255 ~~[11/30/95; 20.2.37.205 NMAC - Re, 20 NMAC 2.37.205 10/31/02]~~

256

257 **HISTORY OF 20.2.37 NMAC:**

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

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

262 AQCR 623, Air Quality Control Regulation 623 - Petroleum Processing Facilities - Mercaptan, 02/08/83

263 AQCR 624, Air Quality Control Regulation 624 - Petroleum Processing Facilities - Carbon Monoxide,  
264 02/08/83

265 AQCR 625, Air Quality Control Regulation 625 - Petroleum Processing Facilities - Particulate Matter,  
266 08/26/81

267 AQCR 625, Air Quality Control Regulation 625 - Petroleum Processing Facilities - Particulate Matter,  
268 02/08/83

269 AQCR 625, Air Quality Control Regulation 625 - Petroleum Processing Facilities - Particulate Matter,  
270 07/24/84

271 AQCR 626, Air Quality Control Regulation 626 - Petroleum Processing Facilities - Ammonia, 02/08/83

272 AQCR 627, Air Quality Control Regulation 627 - Petroleum Processing Facilities - Sulfur Recovery Plant  
273 - Hydrogen Sulfide, 02/08/83

274 AQCR 628, Air Quality Control Regulation 628 - Petroleum Processing Facility - Sulfur Recovery Plant -  
275 Hydrogen Sulfide Alarm System, 02/08/83

276 AQCR 629, Air Quality Control Regulation 629 - Petroleum Processing Facilities - Hydrocarbon  
277 Separation Facility, 02/08/83

278 EIB/AQCR 629, Air Quality Control Regulation 629 - Petroleum Processing Facilities - Hydrocarbon  
279 Separation Facility, 07/24/84

280 AQCR 630, Air Quality Control Regulation 630 - Petroleum Processing Facilities - Storage - Handling -  
281 Pumping - Blowdown System, 02/08/83

282 EIB/AQCR 630, Air Quality Control Regulation 630 - Petroleum Processing Facilities - Storage -  
283 Handling - Pumping - Blowdown System, 07/24/84

284

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

286

287    **Other History:**

288    AQCR 623, Air Quality Control Regulation 623 - Petroleum Processing Facilities - Mercaptan, filed  
289    02/08/83;

290    AQCR 624, Air Quality Control Regulation 624 - Petroleum Processing Facilities - Carbon Monoxide,  
291    filed 02/08/83;

292    AQCR 625, Air Quality Control Regulation 625 - Petroleum Processing Facilities - Particulate Matter,  
293    filed 07/24/84

294    AQCR 626, Air Quality Control Regulation 626 - Petroleum Processing Facilities - Ammonia, filed  
295    02/08/83,

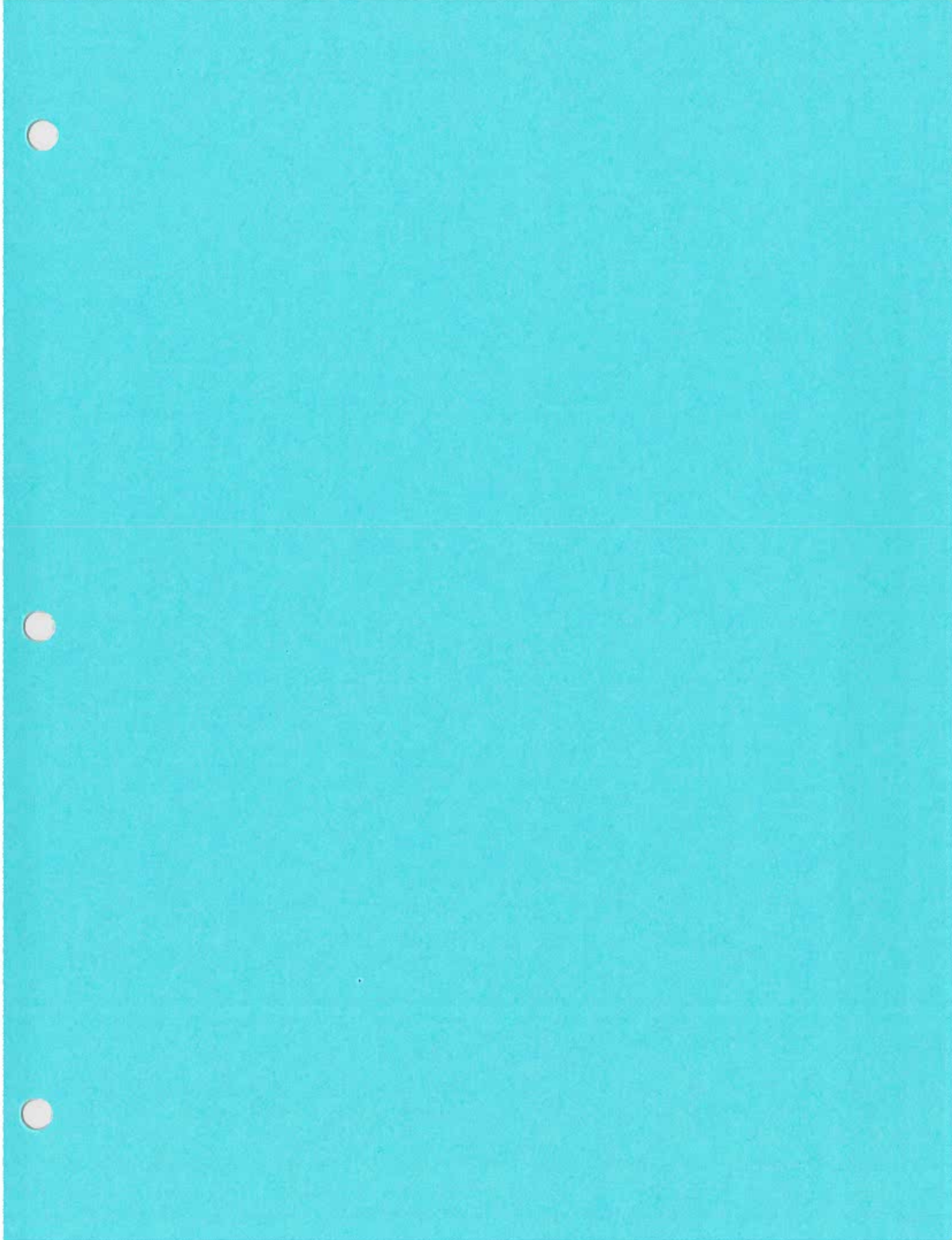
296    AQCR 627, Air Quality Control Regulation 627 - Petroleum Processing Facilities - Sulfur Recovery Plant  
297    - Hydrogen Sulfide, filed 02/08/83

298    AQCR 628, Air Quality Control Regulation 628 - Petroleum Processing Facility - Sulfur Recovery Plant -  
299    Hydrogen Sulfide Alarm System, filed 02/08/83

300    EIB/AQCR 629, Air Quality Control Regulation 629 - Petroleum Processing Facilities - Hydrocarbon  
301    Separation Facility, 07/24/84

302    EIB/AQCR 630, Air Quality Control Regulation 630 - Petroleum Processing Facilities - Storage -  
303    Handling - Pumping - Blowdown System, 07/24/84 were renumbered into first version of the New  
304    Mexico Administrative Code as 20 NMAC 2.37, Petroleum Processing Facilities, filed 10/30/95.

305    20 NMAC 2.37, Petroleum Processing Facilities, filed 10/30/95 was renumbered, reformatted and  
306    replaced by 20.2.37 NMAC, Petroleum Processing Facilities, effective 10/31/02.



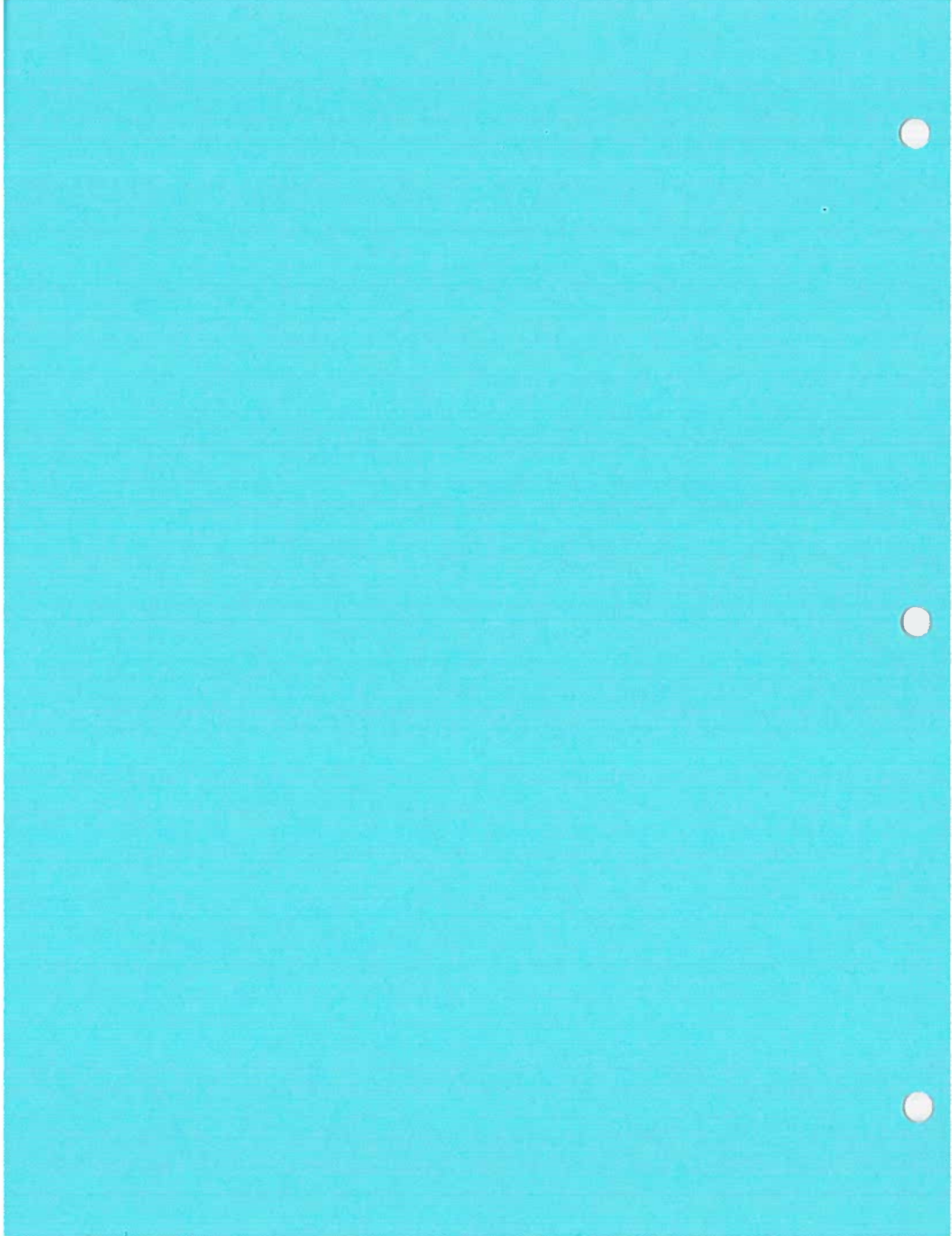


TABLE 1

## Comparison of 20.2.37 NMAC with Federal Rules

Part 37 Sections and Applicability	Part 37 Requirements (paraphrased from the regulation)	Federal Requirements
200 - Mercaptan and Hydrogen Sulfide	A. Owner/operator of a petroleum processing facility. Mercaptan: (1) total mercaptan emissions not > 0.25 lbs/hr; or (2) gas stream containing mercaptan has passed through a steam condenser ... and combustion device ... designed to achieve complete combustion or any other equivalent device ...	40 CFR 63 Subpart CC - National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries requires flares to be operated with a flame present at all times.
	B. Owner/operator of a petroleum or processing facility, sulfur recovery plant, feedstock which is a product of petroleum processing. Sulfur recovery plant: H <sub>2</sub> S: (1) ... the stack emissions not > 10 ppmv ... ; or (2) ... gas stream containing H <sub>2</sub> S passed through device capable of oxidizing the H <sub>2</sub> S to SO <sub>2</sub> .	40 CFR 63 Subpart CC requires flares to be operated with a flame present at all times.
	C. Owner/operator of a petroleum processing facility or sulfur recovery plant commencing operation after 1/1/1975. Sulfur recovery plant: H <sub>2</sub> S alarm system: ... shall not flare gas containing >10 ppm H <sub>2</sub> S without maintaining ... an alarm system ... which will signal non-combustion of the gas.	No equivalent federal requirement; however, H <sub>2</sub> S monitors are present at facilities as a safety measure.
201 - Carbon Monoxide	A. Existing facility (before July 1, 1974): ... owner/operator of an existing petroleum processing facility shall not ... allow CO emissions to the atmosphere from a catalyst cracking recirculation or regeneration unit > 20,000 ppmv ...	Equivalent stringency (40 CFR 60 Subpart A - General Provisions and 40 CFR 63 Subpart UUU - Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur-Recovery Units).
	B. New facility (after July 1, 1974): owner/operator of a new petroleum processing facility shall not ... allow CO emissions to the atmosphere > 500 ppmv ...	Equivalent stringency (40 CFR 60 Subpart J - Standards of Performance for Petroleum Refineries).
202- Particulate Matter	A. Petroleum processing facility: general: ... owner/operator of a petroleum processing facility shall not ... allow particulate matter emission to the atmosphere > 0.05 gr/dscf ... exclusive of emissions from catalyst cracking ... units ...	No equivalent federal requirement; however, 20.2.61 NMAC is considered equivalent to 20.2.37.202.A NMAC.



Part 37 Sections and Applicability	Part 37 Requirements (paraphrased from the regulation)	Federal Requirements
	<p>B. Existing catalyst cracking regeneration unit: ...owner/operator of existing...unit (before August 14, 1974)... at a petroleum processing facility shall not...;</p> <p>(1) equal or exceed an opacity of 40% except for a period not to exceed 5 minutes... during which the opacity ... may not exceed 60%... more frequently than 3 times per day; or</p> <p>(2) consist of 100 lb/hr or more of particulate matter per hour.</p>	No equivalent federal requirement; however, all NM refineries have more stringent opacity requirements in permits.
	<p>C. New facility: catalyst cracking regeneration unit:</p> <p>(1)The owner/operator of a new petroleum processing facility shall not ... allow particulate matter emissions to the atmosphere &gt; 1.0 Kg/1000 Kg (1.0 lb/1000 lb) coke burnoff or visible emissions ≥ 30% opacity ... except for one six-minute average opacity reading in any one-hour period.</p> <p>(2) ... gases discharged by the catalytic cracking ... pass through an incinerator or waste heat boiler ... , particulate matter &gt; 1.0 Kg/1000 Kg (1.0 lb/1000 lb) coke burnoff emission rate may be emitted ... , except ... incremental rate of particulate matter emissions ≤ 43.0 g/MJ (0.10 lb/million Btu) of heat input ...;</p>	No equivalent federal requirement; however, all NM refineries have more stringent particulate matter emissions standards in permits.
	<p>D. Determination methods:</p> <p>(1) Opacity: Opacity of visible emissions... shall be determined consistent with ... 40 CFR Part 60, Appendix A, Method 9, or any other equivalent method. The time period for taking opacity readings shall be for a minimum of six minutes.</p> <p>(2) Compliance: Compliance with particulate emission limitation ... in this Part shall be determined ... 40 CFR, Part 60, Subpart J, Section 60.106, or any other equivalent methods...</p>	Equivalent stringency (40 CFR 60 Subpart J).
	<p>(1) Opacity: Opacity of visible emissions... shall be determined consistent with ... 40 CFR Part 60, Appendix A, Method 9, or any other equivalent method. The time period for taking opacity readings shall be for a minimum of six minutes.</p> <p>(2) Compliance: Compliance with particulate emission limitation ... in this Part shall be determined ... 40 CFR, Part 60, Subpart J, Section 60.106, or any other equivalent methods...</p>	Equivalent stringency (40 CFR 60 Subpart J).
203 – Ammonia	<p>... owner/operator of a petroleum processing facility. ...shall not ... allow ammonia emissions to the atmosphere &gt; 25 ppmv ...</p>	Equivalent stringency (40 CFR 60 Subpart J).  No equivalent federal regulation. 20.2.72 NMAC may require dispersion modeling and health assessment.

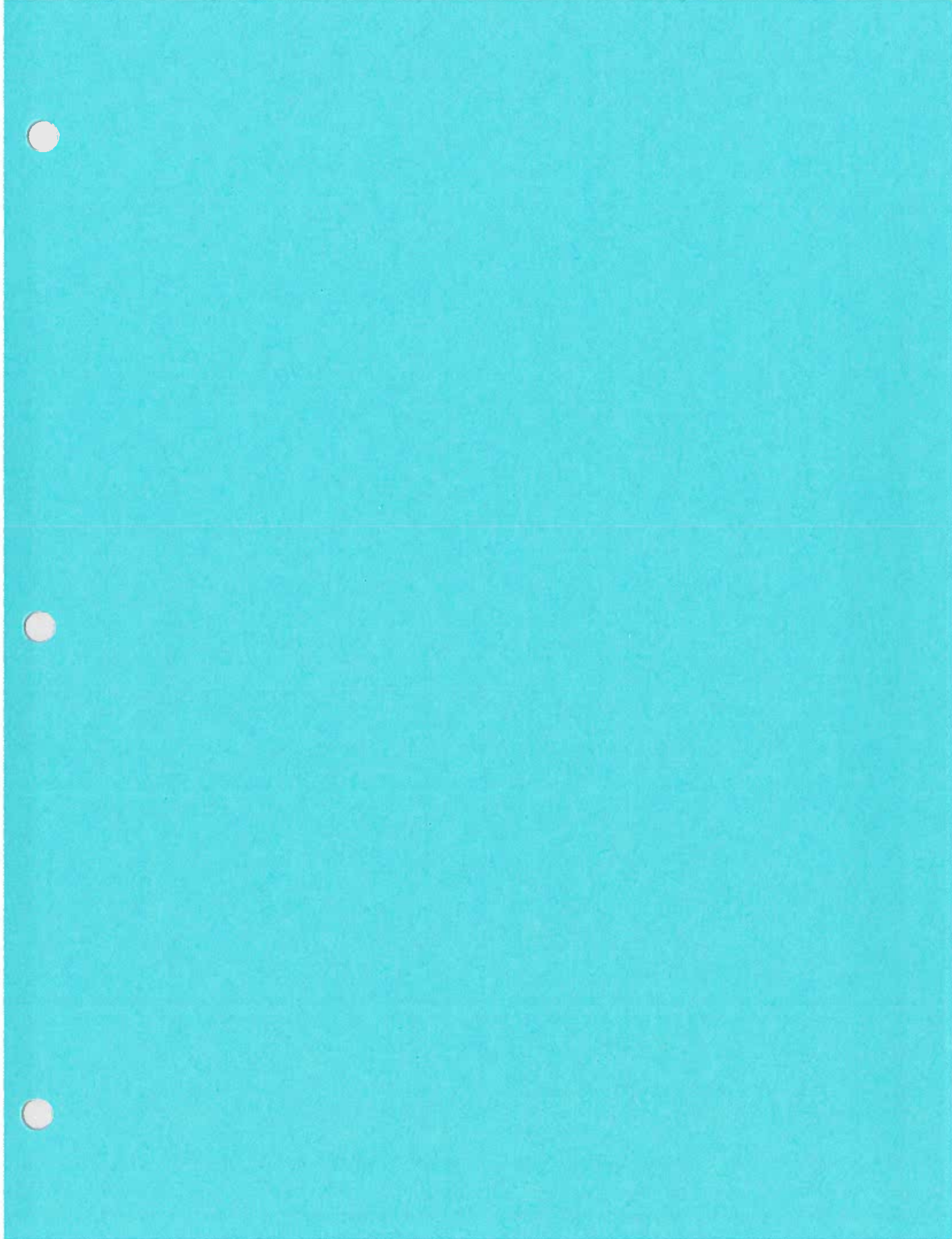
Part 37 Sections and Applicability	Part 37 Requirements (paraphrased from the regulation)	Federal Requirements
204 - Hydrocarbon Separation Facility	<p>A. ... owner/operator of an existing petroleum processing facility (before July 1, 1974) that processes ten thousand b.s.d. (barrel stream day) or more of crude oil or condensate feedstock or produces waste liquor containing six hundred gallons a day or more of hydrocarbons. ...shall not ... allow discharge of any waste liquor containing hydrocarbons without first having treated the liquor in:</p> <p>(1) a hydrocarbon separation facility that is maintained in good working order; or (2) any other equivalent device ...</p>	40 CFR 63 Subpart CC is more stringent.
	<p>B. ...owner/operator of a new petroleum processing facility (after July 1, 1974) that produces waste liquor containing 600 gallons a day or more of hydrocarbons or processes ten thousand b.s.d. (barrel stream day) or more of crude oil or condensate feedstock. ...shall not ... allow discharge of any waste liquor containing hydrocarbons without first having treated the liquor in:</p> <p>(1) a hydrocarbon separation facility that is maintained in good working order and equipped with a complete roof cover enclosing the liquid contents; or (2) any other equivalent device ...</p>	40 CFR 60 Subpart QQQ - Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems is more stringent.
205 - Facilities - Storage - Handling - Pumping - Blowdown System	<p>A. Existing facility - tanks (before July 1, 1974): ...owner/operator of an existing petroleum processing facility shall not ... in a stationary tank or other container having a storage capacity <math>\geq 250,000</math> gallons:</p> <p>(1) any organic compound having a tvp <math>&gt; 11.0</math> psi:</p> <p>(a) a pressure vessel ...</p> <p>(b) ...equivalent system to prevent emissions ...</p> <p>(2) any organic compounds having a tvp <math>3.0 \leq 11.0</math> pounds per square inch ... :</p> <p>(a) a floating roof, consisting of an external floating roof, internal floating cover, or covered floating roof, which is equipped with a closure seal or seals ...</p> <p>(b) a well-maintained vapor-recovery system ...</p> <p>(c) or equivalent ...</p>	40 CFR 63 Subpart CC is more stringent.
		40 CFR Part 63 Subpart CC is more stringent.

Part 37 Sections and Applicability	Part 37 Requirements (paraphrased from the regulation)	Federal Requirements
	<p>B. New facility - tanks (after July 1, 1974): ...owner/operator of a new petroleum processing facility shall not ... in a stationary tank ... storage capacity <math>\geq 65,000</math> gallons:</p> <p>(1) any organic compound having a tvp <math>&gt; 11.0</math> psi:</p> <p>(a) a pressure vessel ...</p> <p>(b) ...equivalent system to prevent emissions ...</p>	40 CFR 63 Subpart CC is more stringent.
	<p>(2) any organic compounds having a tvp <math>1.5 \leq 11.0</math> pounds per square inch ...:</p> <p>(a) a floating roof, consisting of an external floating roof, internal floating cover, or covered floating roof, which is equipped with a closure seal or seals ...</p> <p>(b) a well-maintained vapor-recovery system ...</p> <p>(c) or equivalent ...</p>	40 CFR 63 Subpart CC is more stringent.
	<p>(3) any organic compound having a tvp <math>\geq 1.5</math> psi ... without the tank ... being equipped with gauging and sampling devices which are gas tight ...</p>	40 CFR 63 Subpart CC is more stringent.
	<p>(4) any organic liquid having a tvp <math>&lt; 1.5</math> psi ... without the tank ... equipped with a conservation vent or equivalent ...</p>	No equivalent federal requirement.
	<p>C. New facility - loading facility: ...owner/operator of a new petroleum processing facility (after July 1, 1974) shall not ... allow the loading or unloading into any tank, truck, trailer or tank car any organic compound having a Rvp <math>\geq 1.5</math>psi unless:</p> <p>(1) the loading facility is equipped with:</p> <p>(a) a loading arm having a vapor collection adapter ...; or</p> <p>(b) any other device which is at least as efficient ...; and</p> <p>(2) ... prevent organic compound drainage from the loading device when it is removed ...</p>	40 CFR 63 Subpart EEEE National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) has equal stringency.

Part 37 Sections and Applicability	Part 37 Requirements (paraphrased from the regulation)	Federal Requirements
	<p>D. New facility - pumps and compressors: The owner or operator of a new petroleum processing facility shall not permit, cause, suffer or allow the use of a rotating pump or compressor which handles any organic compound having a Reid vapor pressure of 1.5 pounds per square inch or greater, unless the pump or compressor is equipped to prevent mechanical seals or other devices of equal or greater efficiency to prevent liquid or vapor losses.</p>	<p>Equivalent or greater stringency in Leak Detection and Repair (LDAR) requirements of 40 CFR 63 Subpart CC; and 40 CFR 60 Subparts GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after January 4, 1983, and on or Before November 7, 2006; GGGa - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006; KKK - Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011; &amp; OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.</p>
	<p>E. New facility - blowdown system: The owner or operator of a new petroleum processing facility shall not permit, cause, suffer or allow the operation of a blowdown system without disposing of the gases in a manner which will minimize hydrocarbon emission to the atmosphere. If combustion is the means of disposal, it shall be by:</p> <ul style="list-style-type: none"> <li>(1) smokeless flare; or</li> <li>(2) any other method that is equally effective to achieve complete combustion.</li> </ul>	<p>40 CFR 63 Subpart CC is more stringent.</p>











NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Air Quality Bureau*

SUSANA MARTINEZ  
Governor  
JOHN A. SANCHEZ  
Lieutenant Governor

525 Camino de los Marquez, Suite 1  
Santa Fe, New Mexico, 87505  
Phone (505) 476-4300 Fax (505) 476-4375  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RYAN FLYNN  
Cabinet Secretary  
BUTCH TONGATE  
Deputy Secretary

April 1, 2014

Dear Air Quality Stakeholder,

The New Mexico Environment Department, Air Quality Bureau is currently reviewing and evaluating state rule 20.2.37 NMAC – Petroleum Processing Facilities (Part 37). This regulation can be found on the New Mexico website here:

<http://www.nmcpr.state.nm.us/nmac/title20/T20C002.htm>. Part 37 establishes emissions limits and other operating requirements for existing (constructed prior to July 1, 1974) and new petroleum refineries and natural gas processing facilities. The rule was identified in the November 2012 Improving Environmental Permitting Report as a rule for potential revision or repeal. The Improving Environmental Permitting Report is on our website at <http://www.nmenv.state.nm.us/aqb/permit/index.html>.

This letter briefly discusses the regulatory options and includes a list of questions for the regulated industry, environmental groups, and other stakeholders. Please provide written responses to the questions by April 30, 2014. We would also like to invite you to participate in a work group to further analyze the rule.

**Regulatory Option 1: Repeal 20.2.37 NMAC**

One option would be to repeal Part 37 in its entirety. Enforcement of Part 37 may be problematic due to an absence of monitoring and recordkeeping requirements. In contrast, the U.S. Environmental Protection Agency's (EPA) New Source Performance Standards (NSPS) for Petroleum Refineries contained in 40 CFR Part 60 Subparts J and Ja require emissions reductions from several types of refinery processes equipment. Subparts J and Ja require continuous monitoring which makes enforcement more effective. (Other subparts, including K, Ka, Kb, KKK, and QQQ, that restrict emissions from natural gas processing facilities and some petroleum refineries, have reporting requirements.) Prior to recommending repeal of this rule, we must also evaluate whether the repeal of this rule would negatively affect air quality. The information requested below would help in this evaluation.

**Regulatory Option 2: Revise 20.2.37 NMAC**

A second option would be to revise Part 37. Revisions would have to take into consideration statutory limitations on stringency. Standards of performance adopted by the State for petroleum refineries must be as stringent, but no more stringent, than the federal regulations at Subparts J and Ja. See NMSA 1978, § 74-2-5 (C)(2).

### Regulatory Option 3: No Action

The final option would be to take no action. The result would be that an outdated and confusing rule remains in the NMAC. The issues identified in Option 1 would persist.

### Questions to Stakeholders about the Rule

1. Is your facility subject to Part 37? If so, are you an existing or new facility under Part 37?
2. Are there any federal regulations or other requirements limiting mercaptan, hydrogen sulfide, carbon monoxide, particulate matter, or ammonia emissions with which you are also required to comply? Are these requirements more, equally, or less stringent than Part 37 (20.2.37.200-205 NMAC)? Please explain.
3. Is your facility subject to any federal regulations or other requirements for hydrocarbon separation or blowdown systems? Are these requirements more, equally, or less stringent than Part 37 (20.2.37.206-207 NMAC)? Please explain.
4. In general, what are your recordkeeping and reporting practices for Part 37?
5. Do you have preferences on whether the rule is revised, repealed or no action is taken? Please explain.
6. Would you be interested in participating in a work group for further analysis of the rule?

After consideration of stakeholder input, we plan to recommend one of the three options. If you would like to make comments, or be added to (or removed from) the list of persons who will be notified of activities related to this regulatory action, please contact Mark Jones at (505) 566-9746 or [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

For information sharing purposes, we are also soliciting input from industry, various environmental groups and the general public.

Thank you for your interest in New Mexico's air quality.

Regards,



Mark Jones  
Environmental Analyst  
505-566-9746  
[Mark.jones@state.nm.us](mailto:Mark.jones@state.nm.us)





NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Air Quality Bureau*

SUSANA MARTINEZ  
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Cabinet Secretary  
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April 1, 2014

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**Regulatory Option 2: Revise 20.2.37 NMAC**

A second option would be to revise Part 37. Revisions would have to take into consideration statutory limitations on stringency. Standards of performance adopted by the State for petroleum refineries must be as stringent, but no more stringent, than the federal regulations at Subparts J and Ja. See NMSA 1978, § 74-2-5 (C)(2).



### **Regulatory Option 3: No Action**

The final option would be to take no action. The result would be that an outdated and confusing rule remains in the NMAC. The issues identified in Option 1 would persist.

### **Questions to Stakeholders about the Rule**

1. Do you have preferences on whether the rule is revised, repealed or no action is taken? Please explain.
2. Would you be interested in participating in a work group for further analysis of the rule?

After consideration of stakeholder input, we plan to recommend one of the three options.

If you would like to make comments, or be added to (or removed from) the list of persons who will be notified of activities related to this regulatory action, please contact Mark Jones at (505) 566-9746 or [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

For information sharing purposes, we are also soliciting input from industry, various environmental groups and the general public.

Thank you for your interest in New Mexico's air quality.

Regards,



Mark Jones  
Environmental Analyst  
505-566-9746  
[Mark.jones@state.nm.us](mailto:Mark.jones@state.nm.us)

Part 36 and Part 37 Feedback  
12-May-14

Last name	First name	Category	Date	Comments
Aaron	Daily	City of Farmington	2-Apr	For parts 36 and 37 of 20.2 NMAC, I would vote that they be repealed, using the logic that is included in Regulatory option 1 of the attached letters requesting written responses. The federal regulations cover down on this already with their own set of recordkeeping and reporting requirements that would be incorporated into an applicable facility's air quality permit. Repealing the state regulations would potentially eliminate some additional paperwork and checklists for NMED inspectors while conducting their compliance evaluations, yet the inspectors would achieve the same result while going through the federal regulation.
Ted	Schooley	NMED-AQB	13-Apr	<p>Question #1: Yes, Part 36 should be repealed (Option 1) because it is less stringent than NSPS Subparts J and Ja. There is no point in revising it (Option 2), because our stationary limitations on stringency will not allow us to be more stringent than J and Ja. This being the case, what is the point of updating Part 36 with a set of requirements that are a subset of the requirements in J and Ja? Part 36 has outlived its usefulness and needlessly causes confusion and added effort on both industry and regulators. Against these negatives, it offers no benefits to justify keeping it.</p> <p>Question #2: Yes, I am interested in participating in a work group for further analysis of this rule.</p>
Shirley	McNall	public	21-Apr	Question 1: In both cases, Rule 20.2.36 NMAC Petroleum Refinery Sulfur Part 36 and Rule 20.2.37 Petroleum Processing Facilities Part 37, I prefer regulatory option #2 - Revise. For the health and safety of the people of New Mexico, these rules need to be revised to allow enforcement by requiring stringent monitoring and recordkeeping!
Wendy	Alexander	TRC	22-Apr	<she called asking for more info and extent of comments requested. She asked for a word version of part 36, 37, 38>

John	Bartlit	New Mexico Citizens for Clean Air & Water	27-Apr-14	Thank you for your emails of April 1 regarding petroleum rules, parts 36 and 37. The information that was provided implies that the existing legal constraints on rule changes offer little room for significant improvement from anyone's perspective. Your emails explain that rules are constrained by federal law to be at least as stringent as federal regulations and constrained by state law to be no more stringent than the fed's. These legal bounds say that changes made must leave the state's rules no more and no less stringent than the fed's, which makes the possibilities for change very narrow. In view of these tight restrictions, our environmental organization, New Mexico Citizens for Clean Air & Water, cannot give significant time and energy to this project. We remain interested in receiving updates on the work's progress. Thank you for keeping us informed.
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Don	Shepard	National Park Service	30-Apr	see attached
Brian	Stone	Navajo Refining Company (Artesia & Lovington)	30-Apr	see attached
Ed	Ridge	Western Refining (Gallup)	30-Apr	see attached



RECEIVED

MAY 5 2014

Air Quality Bureau

April 30, 2014

Mark Jones  
Air Quality Bureau, NMED  
525 Camino de Los Marquez, Suite 1  
Santa Fe, NM 87505

**Re: Stakeholder Comments on NMAC Part 36 and Part 37 Proposed Revisions**

Dear Mr. Jones,

In response to your letters requesting stakeholder comments on proposed revisions to 20.2.36 NMAC Part 36 and 20.2.37 NMAC Part 37, I am submitting the following comments on behalf of Navajo Refining Company L. L. C. Navajo operates petroleum refineries in Artesia, NM, and Lovington, NM.

Part 36

*1. Is your facility subject to Part 36? Yes.*

*If so, are you subject to the section for existing sources (20.2.36.109) or new refinery standards (20.2.36.110 NMAC)? Existing sources.*

*2. Are there any federal regulations or other requirements limiting sulfur emissions with which you are also required to comply? Yes, NSPS subparts J and Ja.*

*Are these requirements more, equally, or less stringent than Part 36? Please explain. The sulfur content determination and quarterly reporting requirements in 20.2.36.113 are more burdensome than those in NSPS subparts J and Ja, while being less restrictive.*

*3. In general, what are your recordkeeping and reporting practices for Part 36 and for other federal sulfur emissions requirements? NSPS subparts J and Ja require semi-annual reports. 20.2.36.113 requires quarterly reports. Additionally, 20.2.36.113 requires sulfur determinations on feedstocks, fuels, products, inlets and outlets to SRUs, and weights of recovered sulfur to be determined on weekly and monthly frequencies. Navajo complies with this requirement by laboratory testing, and in the cases testing is not feasible or sampling creates unacceptable safety risk, by mass balance. Proposed revision options would, assumedly, relieve Navajo of this burden.*

*4. Do you have preferences on whether the rule is revised, repealed or no action is taken? Please explain. Either revising the rule to incorporate NSPS J and Ja or repealing the rule is preferred by Navajo.*

Navajo Refining Company, L.L.C.  
501 East Main • Artesia, NM 88210  
(575) 748-3311 • <http://www.hollyfrontier.com>

Mr. Larry Hewitt  
October 5, 2007  
Page 2

5. *Would you be interested in participating in a work group for further analysis of the rule?*  
Yes. Please contact me at the address listed below.

Part 37

1. *Is your facility subject to Part 37? Yes.*

*If so, are you an existing or new facility under Part 37?* Existing sources.

2. *Are there any federal regulations or other requirements limiting mercaptan, hydrogen sulfide, carbon monoxide, particulate matter, or ammonia emissions with which you are also required to comply?* Federal regulations cover hydrogen sulfide, carbon monoxide, and particulate matter.

*Are these requirements more, equally, or less stringent than Part 37 (20.37.200-205 NMAC)? Please explain.* Federal regulations do not cover mercaptan or ammonia. In general, Part 37 requirements are more stringent than federal regulations since Part 37 limits cover the entire facility.

3. *Is your facility subject to any federal regulations or other requirements for hydrocarbon separation or blowdown systems?* No.

4. *In general, what are your recordkeeping and reporting practices for Part 37?* Semiannual reporting and annual certification.

5. *Do you have preferences on whether the rule is revised, repealed or no action taken? Please explain.* Part 37 rules cover pollutants and facilities that are not covered by federal rules. Repealing Part 37, or revising Part 37 to be no more stringent than NSPS J and Ja would result in fewer petroleum processing facilities and fewer pollutant being regulated. Navajo favors retaining Part 37 as written.

6. *Would you be interested in participating in a work group for further analysis of the rule?*  
Yes. Please contact at the address listed below.

If you have any questions or concerns, please contact me by email  
[brian.stone@hollyfrontier.com](mailto:brian.stone@hollyfrontier.com) or by telephone at (575) 308-1511.

Sincerely,



Brian Stone, P.E  
Environmental Specialist



Mr. Larry Hewitt  
October 5, 2007  
Page 2

## Enclosure

Electronic cc (w/enc): NMED: Mark Jones  
Navajo: M. Holder, D. Crawford, B. Stone, G. Combs, R. Smalls, C. Hernandez  
Environmental File: NMAC Parts 36 and 37 2014-4-30 Comments on Parts 36 and 37 rule changes

May 23, 2014

Via email: [Mark.jones@state.nm.us](mailto:Mark.jones@state.nm.us)

Mr. Mark Jones  
Environmental Analyst  
New Mexico Environment Department  
525 Camino de los Marquez, Suite 1  
Santa Fe, NM 87505

Mr. Jones,

On April 1, 2014, the New Mexico Environment Department (NMED) sent a letter to stakeholders regarding review of 20.2.36 NMAC for sulfur emissions from petroleum refineries in New Mexico. In the letter, NMED requests comments from potentially affected facilities regarding the stringency and necessity of the regulation. The Gallup Refinery, owned and operated by Western Refining Southwest, Inc. (Western), appreciates the opportunity to participate in the rule review process. This letter provides Western's initial response to NMED's request for comments.

Questions to Stakeholders about the Rule:

**1. *Do you have preferences on whether the rule is revised, repealed or no action is taken?***

Western prefers that Part 36 **be repealed in its entirety** for the following reasons.

- As stated in the NMED letter dated April 1, 2014, the established federal New Source Performance Standards (NSPS), 40 CFR 60, Subparts J and Ja include detailed emission limits, continuous monitoring, recordkeeping, and reporting requirements for sulfur emissions from petroleum refinery units. In comparison to Part 36, NSPS Subparts J and Ja are more robust and comprehensive in enforcement of the same standards.
- The rule definition for existing and new facilities is ambiguous and confusing. The Gallup Refinery was constructed prior to July 1, 1974 as an "Existing Facility" per the Part 36 definition. Therefore, the Gallup Refinery is not subject to the "New Facility" requirements under Part 36. However, Gallup is complying with the new facility requirements due to NSPS applicability.
- With respect to reporting requirements, Gallup agrees with the statement in the NMED letter, "*Part 36 quarterly reporting can be redundant as subject facilities are required to submit semi-annual reports required by Subparts J and Ja, and semi-annual and annual compliance reports required by Title V permits.*"
- The Gallup Refinery has been in compliance with the reporting requirements specified under 20.2.36.113A NMAC. The quarterly report focus on the facility-wide

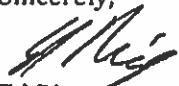
sulfur balance that does not provide needed information for air quality impact evaluations. The sulfur dioxide (SO<sub>2</sub>) emissions are reported in the annual emissions inventory, which can be used to demonstrate compliance with emissions limits. The annual emissions inventory data is also used by Federal and State agencies for ambient air quality analysis in the rulemaking process. The Part 36 reporting requirement does not add value for compliance demonstrations nor for air quality improvement.

**2. *Would you be interested in participating in a work group for further analysis of the rule?***

Western is interested in participating in this work group.

Thank you for the opportunity to provide the comments in this letter. Western would be happy to participate in the upcoming work group for the rule. In the meantime, feel free to call me at to further discuss the contents of this letter.

Sincerely,



Ed Riege

Environmental Manager, Gallup Refinery  
Western Refining Southwest, Inc.

# United States Department of the Interior

## NATIONAL PARK SERVICE

Air Resources Division

P.O. Box 25287

Denver, CO 80225-0287

TRANSMITTED VIA ELECTRONIC MAIL - NO HARDCOPY TO FOLLOW

N3615 (2350)

April 30, 2014

Mark Jones  
Environmental Analyst  
Air Quality Bureau  
New Mexico Environment Department  
525 Camino de los Marquez, Suite 1  
Santa Fe, New Mexico, 87505

Dear Mr. Jones: 

The New Mexico Environment Department (NMED), Air Quality Bureau is currently reviewing and evaluating two existing state rules:

- 20.2.36 NMAC – Petroleum Refinery - Sulfur (Part 36), which establishes sulfur limits (sulfur recovery standards) and other requirements for existing (constructed prior to July 1, 1974) and new petroleum refineries. According to NMED, "Part 36 has enforceability issues due to a lack of monitoring and recordkeeping requirements."
- 20.2.37 NMAC – Petroleum Processing Facilities (Part 37), which establishes emissions limits and other operating requirements for existing (constructed prior to July 1, 1974) and new petroleum refineries and natural gas processing facilities. According to NMED, "Enforcement of Part 37 may be problematic due to an absence of monitoring and recordkeeping requirements."

These rules were identified in New Mexico's November 2012 Improving Environmental Permitting Report as rules for potential revision or repeal.


We have the following concerns about NMED's potential actions to repeal these rules:

- While the November 2012 Improving Environmental Permitting Report identifies both parts 36 and 37 as "Potential Air Quality Rules to Repeal or Revise," it provides no explanation or justification for these recommendations.
- Part 36 contains absolute limits on sulfur emissions that are not provided by the New Source Performance Standards (NSPS) Subparts J and Ja. Part 37 appears to be more comprehensive (covering more/different emission units and pollutants) than the NSPS.

NMED should discuss the rationale behind the original adoption of parts 36 and 37, as well as revisions that could be adopted to resolve the "enforceability issues" cited in your letter.

We are pleased that NMED has committed to "... evaluat(ing) whether the repeal of this rule would negatively affect air quality." In the absence of such an evaluation, our initial preference is that NMED revise these rules to address the issues noted by NMED. We would also like to accept your invitation to participate in a work group to further analyze the rule. If you have questions, please contact Don Shepherd at (303) 969-2075.

Sincerely,

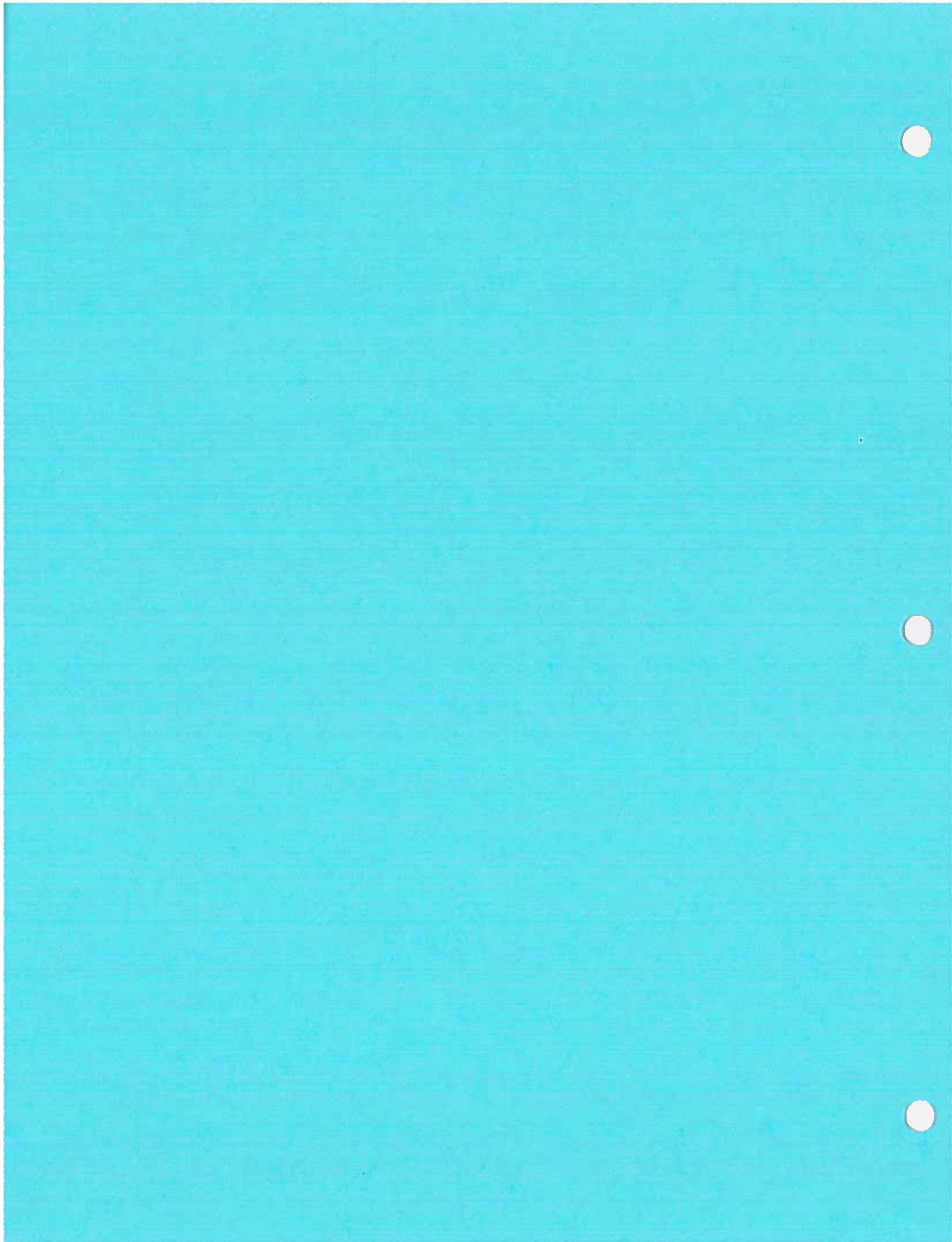
A handwritten signature in black ink, appearing to be 'SJ' with a stylized flourish extending to the right.

Susan Johnson  
Chief, Policy, Planning, and Permit Review Branch









NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD  
NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on August 12, 2016, at 9:00 am, in room 307 of the New Mexico State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The purpose of the hearing is to consider the matter of EIB 16-02 (R), a proposed repeal of 20.2.37 NMAC – Petroleum Processing Facilities.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from the NMED to repeal 20.2.37 NMAC. The purpose of the proposed repeal of 20.2.37 NMAC is to remove outdated, mostly redundant requirements. The rule was identified in the November 2012 *Improving Environmental Permitting Report* for potential revision or repeal. The Air Quality Bureau has conducted a thorough analysis of the rule as well as other similar federal rules that apply to this industry, and has concluded that the rule can be repealed without a relaxation of emissions controls or an adverse effect on air quality.

The NMED will host an informational open house on the proposed repeal of 20.2.37 NMAC at the Roswell Public Library, 301 North Pennsylvania Ave., Roswell, NM 88201 from 1:00 pm to 3:00 pm on Tuesday, June 14. For questions regarding the open house, please contact Mark Jones at 505-566-9746 or [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

Full text of NMED's proposed repealed regulation is available on NMED's web site at [www.env.nm.gov/aqb](http://www.env.nm.gov/aqb) or by contacting Mark Jones at 505-566-9746 or [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us). The proposed repealed regulation may also be examined during office hours at the NMED Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico.

The hearing will be conducted in accordance with 20.1.1 NMAC (*Rulemaking Procedures – Environmental Improvement Board*), the *Environmental Improvement Act*, NMSA 1978, Section 74-1-9, the *Air Quality Control Act*, NMSA 1978, Section 74-2-6, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form;
- (4) include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent for the hearing must be received in the Office of the Board not later than 5:00 pm on July 22, 2016, and should reference the docket number, EIB 16-02 (R), and the date of the hearing. Notices of Intent to present technical testimony should be submitted to:

Pam Castañeda, Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2818

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with his testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help in being a part of this hearing process should contact Pam Castaneda, Board Administrator by July 22, 2016 at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). TDY users please access his number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed revised regulation at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

## DIRECCIÓN DE MEJORAS MEDIO-AMBIENTALES DE NUEVO MÉXICO

### AVISO DE AUDIENCIA SOBRE REGLAMENTACIÓN

La Dirección de Mejoras Medio-ambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 12 de agosto del 2016, a las 9:00 a.m., en el salón 307 del edificio del Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail, Santa Fe, Nuevo México. El propósito de la audiencia es considerar el asunto de la EIB 16-02 (R), una propuesta anulación de la 20.2.37 NMAC – Instalaciones de Procesamiento del Petróleo.

El que propone esta enmienda normativa es el Departamento del Medio Ambiente de Nuevo México ("NMED", por sus siglas en inglés).

El propósito de esta audiencia pública es considerar y tomar una posible acción sobre una petición del NMED para anular la 20.2.37 NMAC. El propósito de la propuesta anulación de la 20.2.37 NMAC es eliminar requisitos obsoletos, mayormente redundantes. La norma se identificó en el informe para permitir mejoras ambientales de noviembre del 2012 para posible revisión o anulación. La Oficina de Control de la Calidad del Aire ha llevado a cabo un análisis completo de la norma así como de otras normas federales similares que son aplicables a esta industria y ha llegado a la conclusión de que la norma se puede eliminar sin una relajación de los controles de emisiones o un efecto adverso en la calidad del aire.

El NMED tendrá una reunión pública sobre la propuesta anulación de la 20.2.37 NMAC en la biblioteca pública de Roswell, situada en 301 North Pennsylvania Ave., Roswell, NM 88201 de la 1:00 a las 3:00 p.m., el martes 14 de junio. Para preguntas sobre esta reunión, por favor comuníquese con Mark Jones en el 505-566-9746 o [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

El texto completo de la propuesta del NMED de la anulación de esta norma está disponible en el sitio en la web del NMED: [www.env.nm.gov/aqb](http://www.env.nm.gov/aqb) o comunicándose con Mark Jones en el 505-566-9746 o [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us). La propuesta anulación de la norma también se puede examinar durante horas hábiles en la oficina de Control de la Calidad del Aire del NMED, 525 Camino de los Marquez, Suite 1, Santa Fe, Nuevo México.

La audiencia se llevará a cabo de acuerdo con la 20.1.1 NMAC (Procedimientos de Reglamentación – Dirección de Mejoras Medio-ambientales), Ley de Mejoras Medio-ambientales, NMSA 1978, Sección 74-1-9, la Ley de Control de la Calidad del Aire, NMSA 1978, Sección 74-2-6, y otros procedimientos que sean aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, en forma oral o escrita, para someter pruebas e interrogar a testigos. Las personas que deseen dar testimonio técnico deben presentar un aviso por escrito a la Dirección indicando su intención de hacerlo. El aviso de intención debe:

- (1) identificar a la persona por quien el testigo (los testigos) dará(n) testimonio.
- (2) identificar a cada testigo técnico que la persona presentará e indicar la capacidad del testigo, incluso una descripción de su educación y antecedentes profesionales;
- (3) incluir una copia de las declaraciones directas en forma de narración de cada testigo técnico;
- (4) incluir el texto de cualquier modificación recomendada al propuesto cambio normativo.
- (5) listar y adjuntar todas las pruebas que esa persona presentará en la audiencia, incluso cualquier propuesta declaración de las razones para adoptar las normas.



Los avisos de intención para la audiencia deben recibirse en la oficina de la Dirección a más tardar para las 5:00 p.m. del 22 de julio del 2016 y deben hacer referencia al número del caso, EIB 16-02 (R), y la fecha de la audiencia. Los avisos de intención para presentar testimonios técnicos deben presentarse a:

Pam Castañeda, Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2818

Cualquier miembro del público en general puede dar declaraciones en la audiencia. No es necesario avisar previamente para dar declaraciones que no sean técnicas en la audiencia. También, cualquier persona puede ofrecer pruebas con relación a su testimonio, siempre y cuando dichas pruebas no sean exageradamente repetitivas del testimonio.

Un miembro del público en general que en lugar de hacer declaraciones orales en la audiencia desee presentar una declaración por escrito para que conste en el acta, deberá registrar la declaración por escrito antes de la audiencia o la puede entregar en la audiencia.

Las personas con discapacidades y que necesiten ayuda para participar en esta audiencia deben comunicarse con Pam Castaneda, Board Administrator para el 22 de Julio, 2016 en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, Nuevo México, 87502, o por teléfono en el 505-827-2425 o en [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). Los usuarios de TDY pueden acceder a su número vía New Mexico Relay Network en el 1-800-659-8331.

La Dirección puede tomar una decisión sobre la propuesta revisión de la norma al concluir la audiencia o puede convocar a una reunión en una fecha posterior para considerar la acción sobre la propuesta.



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**NEW MEXICO ENVIRONMENTAL  
 IMPROVEMENT BOARD  
 NOTICE OF RULEMAKING  
 HEARING**

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on August 12, 2016, at 9:00 am, in room 307 of the New Mexico State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The purpose of the hearing is to consider the matter of EIB 16-02 (R), a proposed repeal of 20.2.37 NMAC - Petroleum Processing Facilities.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from the NMED to repeal 20.2.37 NMAC. The purpose of the proposed repeal of 20.2.37 NMAC is to remove outdated, mostly redundant requirements. The rule was identified in the November 2015 report.

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**NEW MEXICO ENVIRONMENTAL  
 IMPROVEMENT BOARD  
 NOTICE OF RULEMAKING  
 HEARING**

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on August 12, 2016, at 9:00 am, in room 307 of the New Mexico State Capitol Building, 450 Old Santa Fe Trail, Santa Fe, New Mexico. The purpose of the hearing is to consider the matter of EIB 16-02 (R), a proposed repeal of 20.2.37 NMAC - Petroleum Processing Facilities.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from the NMED to repeal 20.2.37 NMAC. The purpose of the proposed repeal of 20.2.37 NMAC is to remove outdated, mostly redundant requirements. The rule was identified in the November 2012 Improving Environmental Permitting Report for potential revision or repeal. The Air Quality Bureau has conducted a thorough analysis of the rule as well as other similar federal rules that apply to this industry, and has concluded that the rule can be repealed without a relaxation of emissions controls or an adverse effect on air quality.

The NMED will host an informational open house on the proposed repeal of 20.2.37 NMAC at the Roswell Public Library, 301 North Pennsylvania Ave., Roswell, NM 88201 from 1:00 pm to 3:00 pm on Tuesday, June 14. For questions regarding the open house, please contact Mark Jones at 505-666-9746 or mark.jones@state.nm.us.

Full text of NMED's proposed repealed regulation is available on NMED's web site at [www.env.nm.gov/aqb](http://www.env.nm.gov/aqb) or by contacting Mark Jones at 505-666-9746 or mark.jones@state.nm.us. The proposed repealed regulation may also be examined during office hours at the NMED Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures - Environmental Improvement Board), the Environmental Improvement Act, NMSA 1978, Section 74-1-9, the Air Quality Control Act, NMSA 1978, Section 74-2-6, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file

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with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form;
- (4) include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent for the hearing must be received in the Office of the Board not later than 5:00 pm on July 22, 2016, and should reference the docket number, EIB 16-02 (R), and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2813

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with his testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help in being a part of this hearing process should contact Pam Castaneda, Board Administrator by July 22, 2016 at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). TDY users please access his number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed revised regulation at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

Journal: May 31, 2016

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**DIRECCIÓN DE MEJORAS  
 MEDIO-AMBIENTALES DE  
 NUEVO MÉXICO  
 AVISO DE AUDIENCIA SOBRE  
 REGLAMENTACIÓN**

La Dirección de Mejoras Medio-ambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 12 de agosto del 2016, a las 9:00 a.m., en el salón 307 del edificio del Capitolio del Estado de Nuevo México, 493 Cid Santa Fe Trail, Santa Fe, Nuevo México. El propósito de la audiencia es considerar el asunto de la EIB 10-02 (R), una propuesta arulación de la 202.37 NMAC - Instalaciones de Procesamiento del Petróleo.

El que propone esta enmienda normativa es el Departamento del Medio Ambiente de Nuevo México ("NMED", por sus siglas en inglés).

El propósito de esta audiencia pública es considerar y tomar una posible acción sobre una petición del ASSETT para cambiar la 202.37

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**DIRECCIÓN DE MEJORAS  
MEDIO-AMBIENTALES DE  
NUEVO MÉXICO  
AVISO DE AUDIENCIA SOBRE  
REGLAMENTACIÓN**

La Dirección de Mejoras Medio-ambientales de Nuevo México ('Dirección') tendrá una audiencia pública el 12 de agosto del 2016, a las 9:00 a.m., en el salón 307 del edificio del Capitolio del Estado de Nuevo México, 493 Cde Santa Fe Trail, Santa Fe, Nuevo México. El propósito de la audiencia es considerar el asunto de la EIO 18-02 (R), una propuesta anulación de la 20.2.37 NMAC - Instalaciones de Procesamiento del Petróleo.

El que propone esta enmienda normativa es el Departamento del Medio Ambiente de Nuevo México ('NMED', por sus siglas en inglés).

El propósito de esta audiencia pública es considerar y tomar una posible acción sobre una petición del NMED para anular la 20.2.37 NMAC. El propósito de la propuesta anulación de la 20.2.37 NMAC es eliminar requisitos obsoletos, mayormente redundantes. La norma se identificó en el informe para permitir mejoras ambientales de noviembre del 2012 para posible revisión o anulación. La Oficina de Control de la Calidad del Aire ha llevado a cabo un análisis completo de la norma así como de otras normas federales similares que son aplicables a esta industria y ha llegado a la conclusión de que la norma se puede eliminar sin una relajación de los controles de emisores o un efecto adverso en la calidad del aire.

El NMED tendrá una reunión pública sobre la propuesta anulación de la 20.2.37 NMAC en la biblioteca pública de Roswell, situada en 301 North Pennsylvania Ave., Roswell, NM 88201 de la 1:00 a las 3:00 p.m., el martes 14 de junio. Para preguntas sobre esta reunión, por favor comuníquese con Mark Jones en el 505-566-9746 o mark.jones@state.nm.us.

El texto completo de la propuesta del NMED de la anulación de esta norma está disponible en el sitio en la web del NMED: [www.env.nm.gov/aqo](http://www.env.nm.gov/aqo) o comunicándose con Mark Jones en el 505-566-9746 o mark.jones@state.nm.us. La propuesta anulación de la norma también se puede examinar durante horas hábiles en la oficina de Control de la Calidad del Aire del NMED, 525 Camino de los Marquez, Suite 1, Santa Fe, Nuevo México.

La audiencia se llevará a cabo de acuerdo con la 20.1.1 NMAC (Procedimientos de Reglamentación - Dirección de

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Mejoras Medio-ambientales, Ley de Mejoras Medio-ambientales, NMSA 1978, Sección 74-1-9, la Ley de Control de la Calidad del Aire, NMSA 1976, Sección 74-2-6, y otros procedimientos que sean aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, en forma oral o escrita, para someter pruebas e interrogar a testigos. Las personas que deseen dar testimonio técnico deben presentar un aviso por escrito a la Dirección indicando su intención de hacerlo. El aviso de intención debe:

- (1) Identificar a la persona por quien el testigo (los testigos) darán testimonio;
- (2) Identificar a cada testigo técnico que la persona presentará e indicar la capacidad del testigo, incluso una descripción de su educación y antecedentes profesionales;
- (3) Incluir una copia de las declaraciones directas en forma de narración de cada testigo técnico;
- (4) Incluir el texto de cualquier modificación recomendada al propuesto cambio normativo;
- (5) Listar y adjuntar todas las pruebas que esa persona presentará en la audiencia, incluso cualquier propuesta declaración de las razones para aceptar las normas.

Los avisos de intención para la audiencia deben recibirse en la oficina de la Dirección a más tardar para las 5:00 p.m. del 22 de julio del 2016 y deben hacer referencia al número del caso, EIB-16-02 (R), y la fecha de la audiencia. Los avisos de intención para presentar testimonios técnicos deben presentarse a:

Pam Castañeda,  
Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2818

Cualquier miembro del público en general puede dar declaraciones en la audiencia. No es necesario avisar previamente para dar declaraciones que no sean técnicas en la audiencia. También, cualquier persona puede ofrecer pruebas con relación a su testimonio, siempre y cuando dichas pruebas no sean exageradamente repetitivas del testimonio.

Un miembro del público en general que en lugar de hacer declaraciones orales en la audiencia desee presentar una declaración por escrito para que conste en el acta, deberá registrar la declaración por escrito antes de la audiencia o la puede entregar en la audiencia.

Las personas con discapacidades y que necesiten ayuda para participar en esta audiencia deben comunicarse con Pam Castañeda, Board Administrator para el 22 de Julio, 2016 en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, Nuevo México, 87502, o por teléfono en el 505-827-2425 o en [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). Los usuarios de TDY pueden acceder a su número vía New Mexico Relay Network en el 1-800-859-8331. La Dirección puede tomar una decisión sobre la propuesta revisión de la norma al concluir la audiencia o puede convocar a una



reunión en una fecha posterior  
para considerar la acción sobre la  
propuesta.  
Journal: May 31, 2016



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Environment Dept. - Air Quality  
525 Camino de los Marquez  
Santa Fe, NM 87505

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ISSUE	PUBLICATION	P.O. NUMBER
10	5/31/2016	66700-0000024960

DATE	ACTIVITY	QTY	RATE	AMOUNT
05/31/2016	N.M. Register - 431902 - Columnar Inch - Vol. XXVII, Notice Notice of Rulemaking Hearing on 8/12/2016.	21	2.50	52.50
05/31/2016	N.M. Register - 431902 - Columnar Inch - Vol. XXVII, Notice Aviso de Audiencia Sobre Reglamentacion on 8/12/2016.	23	2.50	57.50

I, Matt Ortiz, certify that the agency noted above has published legal notices or rules in the NEW MEXICO REGISTER, VOL. XXVI, and that payment has been assessed for said legal notice or publication, which appears on the publication date and issue number noted above.

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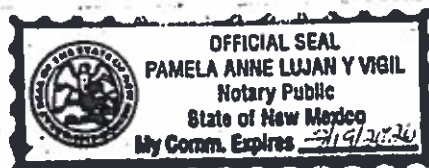
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Subscribed, sworn and acknowledged before me this 18 day of June, 2016.

Notary Public

My Commission Expires: 7/19/2020



New Mexico Register / Volume XXVII, Issue 10 / May 31, 2016

### NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on August 12, 2016, at 9:00 am, in room 307 of the New Mexico State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The purpose of the hearing is to consider the matter of EIB 16-02 (R), a proposed repeal of 20.2.37 NMAC – Petroleum Processing Facilities.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from the NMED to repeal 20.2.37 NMAC. The purpose of the proposed repeal of 20.2.37 NMAC is to remove outdated, mostly redundant requirements. The rule was identified in the November 2012 *Improving Environmental Permitting Report* for potential revision or repeal. The Air Quality Bureau has conducted a thorough analysis of the rule as well as other similar federal rules that apply to this industry, and has concluded that the rule can be repealed without a relaxation of emissions controls or an adverse effect on air quality.

The NMED will host an informational open house on the proposed repeal of 20.2.37 NMAC at the Roswell Public Library, 301 North Pennsylvania Ave., Roswell, NM 88201 from 1:00 pm to 3:00 pm on Tuesday, June 14. For questions regarding the open house, please contact Mark Jones at 505-566-9746 or [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

Full text of NMED's proposed repealed regulation is available on NMED's web site at [www.env.nm.gov/aqb](http://www.env.nm.gov/aqb) or by contacting Mark Jones at 505-566-9746 or [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us). The proposed repealed regulation may also be examined during office hours at the NMED Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico.

The hearing will be conducted in accordance with 20.1.1 NMAC (*Rulemaking Procedures – Environmental Improvement Board*), the *Environmental Improvement Act*, NMSA 1978, Section 74-1-9, the *Air Quality Control Act*, NMSA 1978, Section 74-2-6, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form;
- (4) include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent for the hearing must be received in the Office of the Board not later than 5:00 pm on July 22, 2016, and should reference the docket number, EIB 16-02 (R), and the date of the hearing. Notices of Intent to present technical testimony should be submitted to:

Pam Castañeda, Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2818

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with his testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help in being a part of this hearing process should contact Pam Castaneda, Board Administrator by July 22, 2016 at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). TDY users please access his number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed revised regulation at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

New Mexico Register / Volume XXVII, Issue 10 / May 31, 2016

### AVISO DE AUDIENCIA SOBRE REGLAMENTACIÓN

La Dirección de Mejoras Medio-ambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 12 de agosto del 2016, a las 9:00 a.m., en el salón 307 del edificio del Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail, Santa Fe, Nuevo México. El propósito de la audiencia es considerar el asunto de la EIB 16-02 (R), una propuesta anulación de la 20.2.37 NMAC – Instalaciones de Procesamiento del Petróleo.

El que propone esta enmienda normativa es el Departamento del Medio Ambiente de Nuevo México ("NMED", por sus siglas en inglés).

El propósito de esta audiencia pública es considerar y tomar una posible acción sobre una petición del NMED para anular la 20.2.37 NMAC. El propósito de la propuesta anulación de la 20.2.37 NMAC es eliminar requisitos obsoletos, mayormente redundantes. La norma se identificó en el informe para permitir mejoras ambientales de noviembre del 2012 para posible revisión o anulación. La Oficina de Control de la Calidad del Aire ha llevado a cabo un análisis completo de la norma así como de otras normas federales similares que son aplicables a esta industria y ha llegado a la conclusión de que la norma se puede eliminar sin una relajación de los controles de emisiones o un efecto adverso en la calidad del aire.

El NMED tendrá una reunión pública sobre la propuesta anulación de la 20.2.37 NMAC en la biblioteca pública de Roswell, situada en 301 North Pennsylvania Ave., Roswell, NM 88201 de la 1:00 a las 3:00 p.m., el martes 14 de junio. Para preguntas sobre esta reunión, por favor comuníquese con Mark Jones en el 505-566-9746 o [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

El texto completo de la propuesta del NMED de la anulación de esta norma está disponible en el sitio en la web del NMED: [www.env.nm.gov/aqb](http://www.env.nm.gov/aqb) o comunicándose con Mark Jones en el 505-566-9746 o [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us). La propuesta anulación de la norma también se puede examinar durante horas hábiles en la oficina de Control de la Calidad del Aire del NMED, 525 Camino de los Marquez, Suite 1, Santa Fe, Nuevo México.

La audiencia se llevará a cabo de acuerdo con la 20.1.1 NMAC (Procedimientos de Reglamentación – Dirección de Mejoras Medio-ambientales), Ley de Mejoras Medio-ambientales, NMSA 1978, Sección 74-1-9, la Ley de Control de la Calidad del Aire, NMSA 1978, Sección 74-2-6, y otros procedimientos que sean aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, en forma oral o escrita, para someter pruebas e interrogar a testigos. Las personas que deseen dar testimonio técnico deben presentar un aviso por escrito a la Dirección indicando su intención de hacerlo. El aviso de intención debe:

- (1) identificar a la persona por quien el testigo (los testigos) dará(n) testimonio;
- (2) identificar a cada testigo técnico que la persona presentará e indicar la capacidad del testigo, incluso una descripción de su educación y antecedentes profesionales;
- (3) incluir una copia de las declaraciones directas en forma de narración de cada testigo técnico;
- (4) incluir el texto de cualquier modificación recomendada al propuesto cambio normativo;
- (5) listar y adjuntar todas las pruebas que esa persona presentará en la audiencia, incluso cualquier propuesta declaración de las razones para adoptar las normas.

Los avisos de intención para la audiencia deben recibirse en la oficina de la Dirección a más tardar para las 5:00 p.m. del 22 de julio del 2016 y deben hacer referencia al número del caso, EIB 16-02 (R), y la fecha de la audiencia. Los avisos de intención para presentar testimonios técnicos deben presentarse a:

Pam Castañeda, Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2818

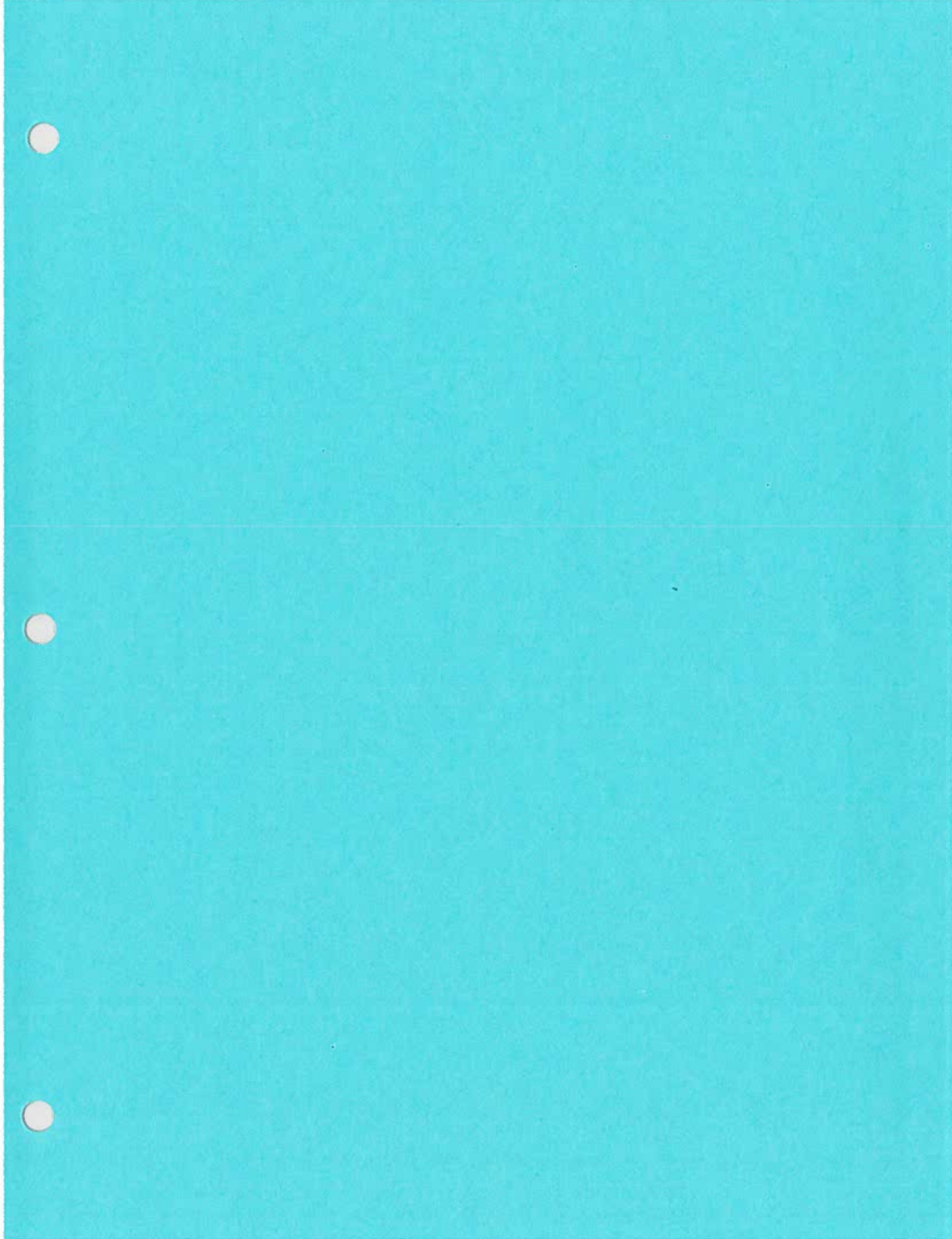
Cualquier miembro del público en general puede dar declaraciones en la audiencia. No es necesario avisar previamente para dar declaraciones que no sean técnicas en la audiencia. También, cualquier persona puede ofrecer pruebas con relación a su testimonio, siempre y cuando dichas pruebas no sean exageradamente repetitivas del testimonio.

Un miembro del público en general que en lugar de hacer declaraciones orales en la audiencia desee presentar una declaración por escrito para que conste en el acta, deberá registrar la declaración por escrito antes de la audiencia o la puede entregar en la audiencia.

Las personas con discapacidades y que necesiten ayuda para participar en esta audiencia deben comunicarse con Pam Castaneda, Board Administrator para el 22 de Julio, 2016 en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, Nuevo México, 87502, o por teléfono en el 505-827-2425 o en [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). Los usuarios de TDY pueden acceder a su número vía New Mexico Relay Network en el 1-800-659-8331.

La Dirección puede tomar una decisión sobre la propuesta revisión de la norma al concluir la audiencia o puede convocar a una reunión en una fecha posterior para considerar la acción sobre la propuesta.









STATE OF NEW MEXICO  
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED REPEAL OF:  
20.2.37 NMAC – *Petroleum Processing Facilities*

No. EIB 86-02 (R)

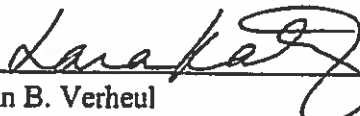
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NEW MEXICO ENVIRONMENT DEPARTMENT'S  
NOTICE OF COMPLIANCE WITH  
SMALL BUSINESS REGULATORY RELIEF ACT

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The New Mexico Environment Department gives notice that it has filed in the record of this proceeding a letter dated April 11, 2016, to the Small Business Regulatory Advisory Commission, a copy of which is attached hereto, as required by NMSA 1978, Section 14-4A-4 of the Small Business Regulatory Relief Act.

Respectfully submitted,

  
for John B. Verheul  
Assistant General Counsel  
121 Tijeras Avenue NE, Ste 1000  
Albuquerque, NM 87102  
(505) 383-2063  
John.Verheul@state.nm.us

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Notice of Compliance* was served on the following parties on this the 2<sup>nd</sup> day of April, 2016 via the stated delivery methods below:

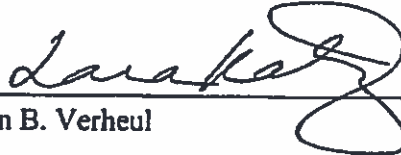
*Hand delivery:*

Ms. Pam Castaneda, Administrator  
Environmental Improvement Board  
Room S-2102, Runnels Building  
1190 St. Francis Dr.  
Santa Fe, New Mexico 87505

*Email:*

Jennie Lusk  
Assistant Attorney General  
Office of the New Mexico Attorney General  
P.O. Drawer 1508  
Santa Fe, New Mexico 87504  
Counsel for Environmental Improvement Board  
jlusk@nmag.gov

for John B. Verheul

A handwritten signature in dark ink, appearing to read "John B. Verheul", is written over a horizontal line. The signature is stylized with a large, looping flourish at the end.



SUSANA MARTINEZ  
Governor  
JOHN A. SANCHEZ  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Office of General Counsel***

Harold Runnels Building  
1190 Saint Francis Drive (87505)  
PO Box 5469, Santa Fe, NM 87502-5469  
Phone (505) 827-2990 Fax (505) 827-1628  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RYAN FLYNN  
Cabinet Secretary  
BUTCH TONGATE  
Deputy Secretary

Via Electronic Mail: [Antoinette.Patnode@state.nm.us](mailto:Antoinette.Patnode@state.nm.us)

April 11, 2016

Small Business Regulatory Advisory Commission  
c/o Ms. Antoinette Patnode  
New Mexico Economic Development Department  
1100 St. Francis Drive  
Santa Fe, New Mexico 87501

**Re: Proposed Repeal of 20.2.37 NMAC -- *Petroleum Processing Facilities***

Dear Ms. Patnode,

The New Mexico Environment Department ("Department") hereby provides notice to the Small Business Regulatory Advisory Commission, pursuant to the Small Business Regulatory Relief Act ("Act"), NMSA 1978, Sections 14-4A-1 to -5 (2005), that the Environmental Protection Division, Air Quality Bureau ("Bureau") has submitted a petition to the Environmental Improvement Board (EIB) for the repeal of 20.2.37 NMAC ("Part 37").

The purpose of the proposed repeal is to remove outdated, redundant requirements. Most of the requirements in Part 37 are covered by corresponding state permit regulations under 20.2.72 NMAC or federal requirements that are at least as stringent as Part 37. There are three sections/subsections of the rule that do not have duplicative federal or state standards. An evaluation was conducted for these exceptions which showed that Part 37 could be repealed without an adverse effect on air quality.

At present, there are three petroleum refineries and twenty natural gas processing plants in New Mexico. A stakeholder letter was distributed in April 2014 to the refineries and gas plants, informing them that Part 37 was being reviewed, and asking for comments and input to the rule evaluation. Stakeholder comments have been considered in proposing the repeal. These are the only businesses which will be affected by the proposed repeal of 20.2.37 NMAC, and none of them are small businesses as defined in the Act.

The EIB will hold a hearing on the proposed regulatory amendments (Docket No. EIB 16-02 (R)) currently scheduled for Friday, August 12, 2016. For details regarding the time and location of the hearing please check the EIB website at: <http://www.env.nm.gov/eib/>.

Pursuant to Section 14-4A-4 of the Act, the Department does not anticipate that the proposed regulatory amendments will have any adverse effect on small businesses. If you require further information about these proposed regulatory amendments, please call me at (505) 383-2063 or email me at [john.verheul@state.nm.us](mailto:john.verheul@state.nm.us).

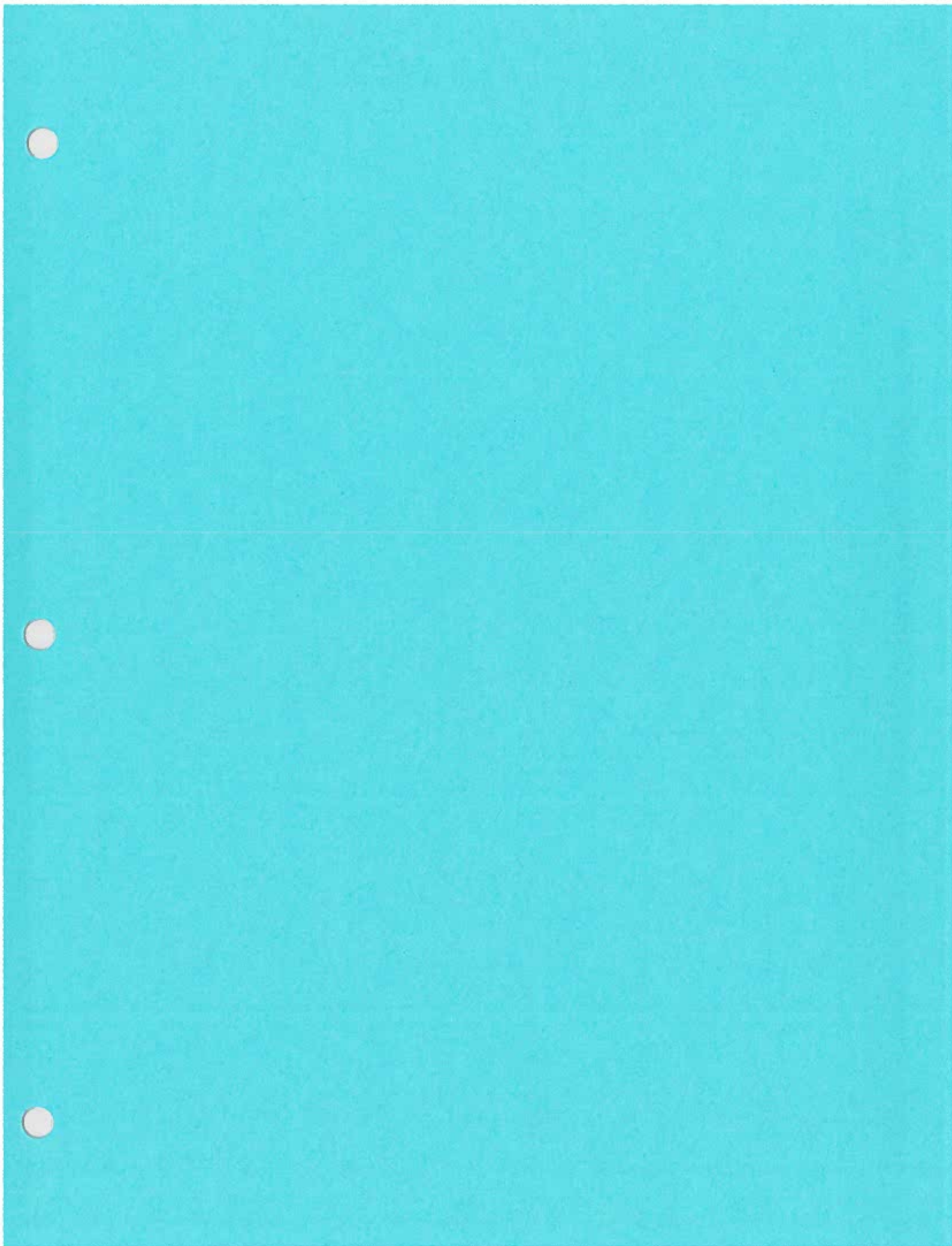
Sincerely,

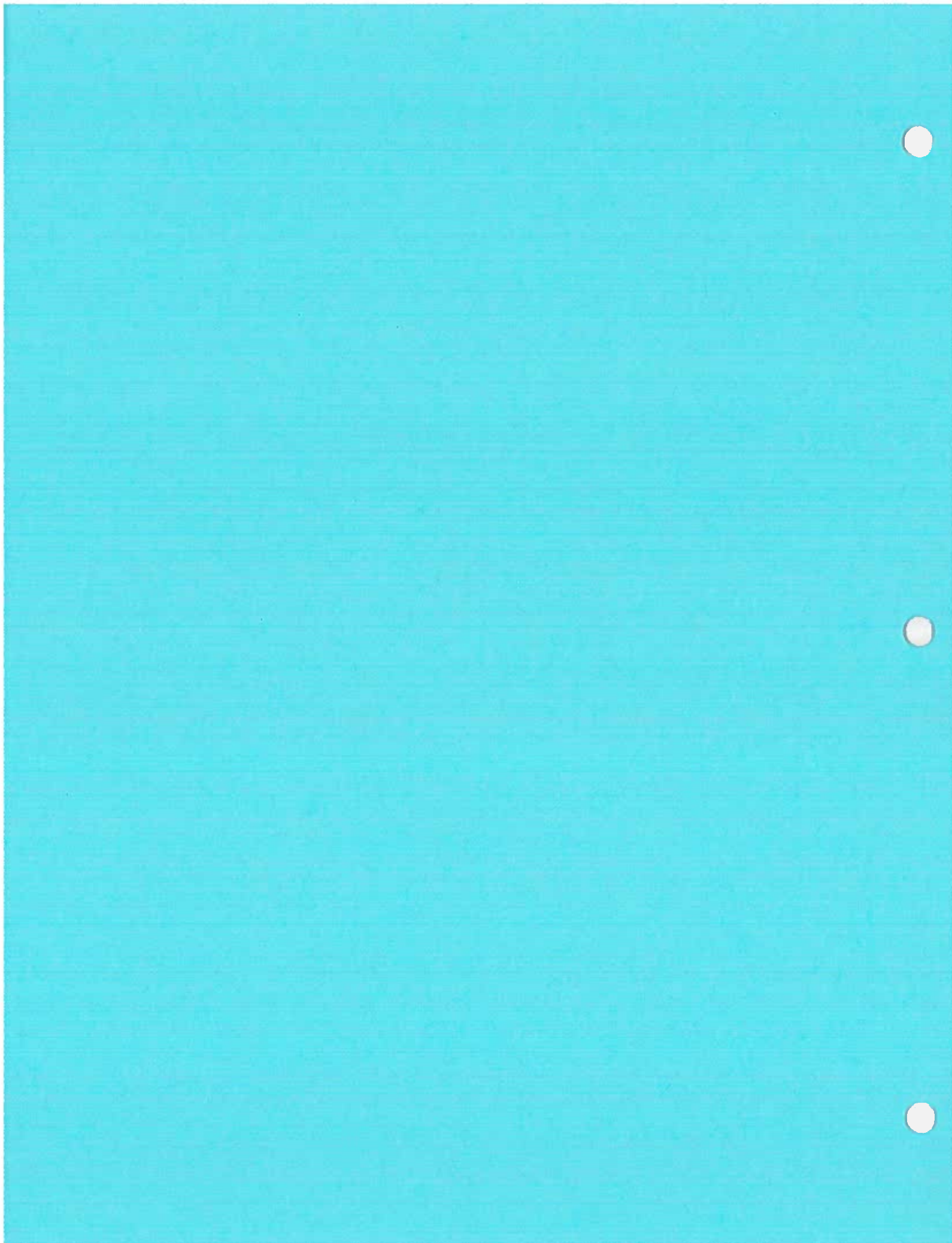


John B. Verheul  
Assistant General Counsel  
New Mexico Environment Department

cc: Kerwin Singleton, Air Quality Bureau, via email  
Mark Jones, Air Quality Bureau, via email







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

**IN THE MATTER OF PROPOSED REPEAL OF:**  
**20.2.37 NMAC – *Petroleum Processing facilities***

**No. EIB 16-02 (R)**

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**ORDER AND STATEMENT OF REASONS  
FOR REPEAL OF 20.2.37 NMAC**

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This matter comes before the New Mexico Environmental Improvement Board (“Board”) upon a petition filed by the New Mexico Environment Department (“NMED” or “Department”), proposing amendments to New Mexico’s Air Quality Regulations, in order to repeal 20.2.37 NMAC – *Petroleum Processing Facilities*. A public hearing was held in Santa Fe, New Mexico on August 12, 2016, with a quorum of the Board present during the hearing. The Board heard technical testimony from the Department and admitted exhibits into the record. On August 12, 2016, the Board deliberated and voted to adopt the proposed repeal for the reasons that follow:

**I. STATEMENT OF REASONS**

1. 20.2.37 NMAC, *Petroleum Processing Facilities* (“Part 37”) specifies emissions limits and other operating requirements for existing (constructed prior to July 1, 1974) and new petroleum refineries and natural gas processing facilities.
2. Part 37 regulates a wide range of pollutant species and processes: mercaptan and hydrogen sulfide (H<sub>2</sub>S); volatile organic compounds (VOC); carbon monoxide (CO); particulate matter (PM); ammonia; hydrocarbon separation facilities; and petroleum processing facilities (storage, handling, pumping, and blowdown systems).
3. Most of the requirements in Part 37 are covered by corresponding state permit regulations under 20.2.72 NMAC or federal requirements that are at least as stringent as Part 37;

however, there are four sections/subsections of the rule that pertain to H<sub>2</sub>S and mercaptan, volatile organic compounds (VOC), particulate matter (PM) and ammonia emissions that do not have duplicative federal standards. An evaluation was conducted by the Department for these exceptions which showed that Part 37 could still be repealed without an adverse effect on air quality.

4. Part 37 was adopted in 1974 at a time when Continuous Emissions Monitoring Systems (CEMS) were not widely in use. This results in enforceability issues due to a lack of monitoring requirements.
5. Part 37 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, federal regulations require more robust monitoring and recordkeeping, which provides for more effective enforcement of the emission limits.
6. Repeal of Part 37 would benefit the state by removing outdated, mostly redundant requirements since federal regulations are in place for the majority of requirements. The requirements not covered by corresponding federal rules are in many cases covered by other requirements or are not significant. The repeal of Part 37 is not expected to relax emissions controls or negatively affect air quality.
7. Pursuant to 20.1.1.300.A NMAC, any person may petition the Board for amendment of regulations within the jurisdiction of the Board.
8. On February 15, 2016, NMED filed a petition with the Board for a public hearing in this matter. The petition proposed that Part 37 be repealed.

9. On April 8, 2016, at a meeting conducted in compliance with the Open Meetings Act and other applicable requirements, the Board granted the Department's request for a hearing and scheduled the hearing for August 12, 2016.
10. Public notice of the hearing was published on the NMED Air Quality Bureau (AQB) website on May 26, 2016, on the NMED AQB electronic mail list on May 26, 2016, in the Albuquerque Journal (in English and Spanish) on May 31, 2016, and in the New Mexico Register on May 31, 2016. The notice stated that the Board may make a decision on the proposed amendments at the conclusion of the hearing, or may convene at a later date to consider action on the proposal.
11. NMED filed a Notice of Intent to Present Technical Testimony (NOI) on July 21, 2016, in accordance with 20.1.1.302 NMAC.
12. No other parties filed NOIs.
13. A hearing in this matter was held in Santa Fe, New Mexico on August 12, 2016, at which a reasonable opportunity for all persons to be heard was provided.
14. The Board has the authority to adopt the proposed amendments pursuant to NMSA 1978, Sections 74-2-5.B & C.
15. In considering the proposed amendments, the Board is required by the Air Quality Control Act, NMSA 1978, Section 74-2-5.E, to give weight it deems appropriate to all facts and circumstances, including but not limited to (1) character and degree of injury to or interference with health, welfare, visibility and property; (2) the public interest, including the social and economic value of the sources and subjects of air contaminants; and (3) technical practicability and economic reasonableness of reducing or eliminating



air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved.

16. The proposed amendments do not cause injury or interfere with health, welfare, visibility and property, in accordance with NMSA 1978, Section 74-2-5.E(1); nor do they relate to the technical practicability and economic reasonableness of reducing or eliminating air contaminants, in accordance with NMSA 1978, Section 74-2-5.E(3).
17. In addition, in accordance with NMSA 1978, Section 74-2-5.E(2), the Board concludes that the public interest will be served by the repeal of Part 37. Specifically, repeal of Part 37 would benefit the state by removing outdated, redundant requirements. Since federal regulations or permit limits are in place for the majority of Part 37's requirements, a repeal of Part 37 would not negatively affect air quality.
18. The Board concludes that the factors specified by NMSA 1978, Section 74-2-5.E all weigh in favor of adopting the proposed amendments.
19. The notice and hearing requirements of NMSA 1978 Section 74-2-6 and 20.1.1 NMAC were satisfied in this rulemaking process.
20. The proposed amendments are adopted for any or all of the reasons stated above.

## **II. ORDER**

By majority vote of a quorum of the Board members, the proposed revisions to New Mexico's Air Quality Regulations, to repeal 20.2.37 NMAC— *Petroleum Processing Facilities*, as contained in NMED's February 15, 2016 petition and request for hearing, were approved by the Board on August 12, 2016.

Dated: \_\_\_\_\_

\_\_\_\_\_  
On Behalf of the Board



