

**WildEarth Guardians' Proposed Modifications to NMED's Rulemaking Proposal**  
EIB No. 21-07(R)

WildEarth Guardians offers the following amendments to NMED's rulemaking proposal<sup>1</sup>:

20.2.79.109 APPLICABILITY:

A. Any person constructing any new major stationary source or major modification shall obtain a permit from the department in accordance with the requirements of this part prior to the start of construction or modification if either of the following conditions apply:

(1) the major stationary source or major modification will be located within a nonattainment area so designated pursuant to Section 107 of the federal Clean Air Act and will emit a regulated pollutant for which it is major and which the area is designated nonattainment for; or

(2) the major stationary source or major modification will be located within an area designated as attainment or unclassifiable for any national ambient air quality standard pursuant to Section 107 of the federal Clean Air Act, when it would cause or contribute to a violation of any national ambient air quality standard. A major source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard **other than the ozone standard** when such source or modification would, at a minimum, exceed any of the significance levels in Subsection A of 20.2.79.119 NMAC at any location that does not or would not meet the applicable national standard. (See Subsection D of 20.2.79.109 NMAC). **For any major stationary source or major modification that is major for ozone (as defined in 20.2.74.7.AG NMAC) and will be located within an area designated as attainment or unclassifiable for ozone, a case-by-case determination shall be made to determine whether it would cause or contribute to a violation of the ozone standard.**

B. The requirements of this part apply to each regulated pollutant meeting the criteria of either Paragraph (1) or Paragraph (2) of Subsection A of 20.2.79.109 NMAC.

C. For an area which is nonattainment for ozone, volatile organic compounds and oxides of nitrogen are the regulated pollutants which may make this part applicable under the provisions of Paragraph (1) of Subsection A of 20.2.79.109 NMAC.

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<sup>1</sup> For clarity, these amendments are presented as if the changes proposed by NMED have been adopted. Language to be added to the NMED OCD proposal is underlined and in red, bold type.