



New Mexico Environment Department Testimony in EIB 21-27 (R)

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Section 20.2.50.2 – Scope
Sections 20.2.50.3 through 6
Sections 20.2.50.8 through 12



20.2.50.1 Issuing Agency

- ❑ This section identifies the agency issuing the proposed regulation
- ❑ The Issuing Agency is the Environmental Improvement Board
- ❑ NMED received no comments on this section



20.2.50.2 Scope

- ❑ This section explains the areas of the State that are subject to, or may become subject to, Part 50
- ❑ Authority for Part 50 is in the NM Air Quality Control Act, which requires the Board to adopt a plan, including regulations, to address ozone concentrations in areas of the state that cause or contribute to ambient ozone concentrations that exceed 95% of the NAAQS



20.2.50.2 Scope

20.2.50.2 SCOPE: This Part applies to sources located within areas of the state under the board's jurisdiction that, as of the effective date of this Part or anytime thereafter, are causing or contributing to ambient ozone concentrations that exceed ninety-five percent of the national ambient air quality standard for ozone, as measured by a design value calculated and based on data from one or more department monitors. As of the effective date, sources located in the following counties of the state are subject to this Part: Chaves, Dona Ana, Eddy, Lea, Rio Arriba, Sandoval, San Juan, and Valencia.

A. If, at any time after the effective date of this Part, any area in the state is determined to be causing or contributing to ambient ozone concentrations that exceed ninety-five percent of the national ambient air quality standard for ozone, as measured by a design value calculated by the U.S. Environmental Protection Agency based on data from one or more department monitors, the department shall petition the Board to amend this Part to incorporate such areas.

(1) The notice of proposed rulemaking shall be published no less than one-hundred and eighty (180) days before sources in the affected areas will become subject to this Part, and shall include, in addition to the requirements of the Board's rulemaking procedures at 20.1.1.301 NMAC:

(a) a list of the areas that the department proposed to incorporate into this Part, and the date upon which the sources in those areas will become subject to this Part; and

(b) proposed implementation dates, consistent with the time provided in the phased implementation schedules provided for throughout this Part, for sources within the areas subject to the proposed rulemaking to come into compliance with the provisions of this Part.

(2) In any rulemaking pursuant to this Section, the Board shall be limited to consideration of only those proposed changes necessary to incorporate other areas of the state into this Part.

B. Once a source becomes subject to this Part based upon its potential to emit, all requirements of this Part that apply to the source are irrevocably effective unless the source obtains a federally enforceable limit on the potential to emit that is below the applicability thresholds established in this Part, or the relevant section contains a threshold below which the requirements no longer apply.

~~This Part applies to sources located within areas of the state under the board's jurisdiction that, as of the effective date of this rule or anytime thereafter, are causing or contributing to ambient ozone concentrations that exceed ninety-five percent of the national ambient air quality standard for ozone, as measured by a design value calculated and based on data from one or more department monitors. Once a source becomes subject to this rule, the requirements of the rule are irrevocably effective unless the source obtains a federally enforceable air permit limiting the potential to emit to below such applicability thresholds established in this Part.~~



20.2.50.2 Scope

- ❑ NMED received comments from several parties requesting to:
 - ❑ clarify the process by which new areas of the state should be incorporated into the rule;
 - ❑ add a process by which areas of the state that fall below 95% of the ozone NAAQS are removed from the rule's jurisdiction;
 - ❑ delete the reference to 95% of the ozone NAAQS;
 - ❑ delete the requirement that applicability is irrevocable unless a source obtain an air permit to limit emissions;
 - ❑ add the actual counties to the scope;
 - ❑ delete the terms cause or contribute from the scope
- ❑ NMED reviewed the requested changes and made substantial edits to address the comments received
- ❑ Current proposal identifies the counties that are subject to Part 50; includes a process and timelines for the department to petition the EIB to incorporate new areas of the state under the scope; clarifies that when source becomes subject to this Part, the source will remain subject unless it obtains an air permit with federally enforceable emission limits to lower its emissions to below the thresholds in the rule or the emissions fall below the threshold in the section



20.2.50.3 Statutory Authority

- ❑ This section identifies the specific statute(s) that provide the authority for Part 50
- ❑ Part 50 cites the relevant provisions from both the Environmental Improvement Act and the Air Quality Control Act
- ❑ NMED received no comments on this section



Rule Duration, Effective Date, and Objective

- ❑ 20.2.50.4 – Duration
 - ❑ Part 50 is a permanent regulation
- ❑ 20.2.50.5 – Effective Date
 - ❑ The effective date is the date published in the NM Register, except where a later date is specified
- ❑ 20.2.50.6 – Objective
 - ❑ The purpose of Part is to establish emission standards for VOC and NOx for oil and gas production, processing, compression, and transmission sources
- ❑ NMED received a proposal to correct the effective date to 2022, which it did
- ❑ NMED received a proposal to clarify “natural gas” transmission in the Objective Subsection. NMED did not accept that edit but does not object to its inclusion
- ❑ NMED received a proposal to add “compression” in the Objective Subsection. NMED made that revision.



Rule Duration, Effective Date, and Objective

20.2.50.4 **DURATION:** Permanent.

[20.2.50.4 NMAC - N, XX/XX/2021]

20.2.50.5 **EFFECTIVE DATE:** Month XX, 2022⁴, except where a later date is specified in another Section.

[20.2.50.5 NMAC - N, XX/XX/2021]

20.2.50.6 **OBJECTIVE:** The objective of this Part is to establish emission standards for volatile organic compounds (VOC) and oxides of nitrogen (NO_x) for oil and gas production, processing, compression, and transmission sources.



Standard Requirements for NM Rules

20.2.50.8 SEVERABILITY: If any provision of this Part, or the application of this provision to any person or circumstance is held invalid, the remainder of this Part, or the application of this provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.

[20.2.50.8 NMAC - N, XX/XX/2021]

20.2.50.9 CONSTRUCTION: This Part shall be liberally construed to carry out its purpose.

[20.2.50.9 NMAC - N, XX/XX/2021]

20.2.50.10 SAVINGS CLAUSE: Repeal or supersession of prior versions of this Part shall not affect administrative or judicial action initiated under those prior versions.

[20.2.50.10 NMAC - N, XX/XX/2021]

20.2.50.11 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this Part does not relieve a person from the responsibility to comply with other applicable federal, state, or local laws, rules or regulations, including more stringent controls.

[20.2.50.11 NMAC - N, XX/XX/2021]

20.2.50.12 DOCUMENTS: Documents incorporated and cited in this Part may be viewed at the New Mexico environment department, air quality bureau.

[20.2.50.12 NMAC - N, XX/XX/2021]

[The Air Quality Bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico 87505.]