

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

**IN THE MATTER OF PROPOSED ADOPTION OF
20.2.51 NMAC – *METHANE ABATEMENT***

No. EIB 26-78 (R)

New Mexico Environment Department,

Petitioner.

**STATEMENT OF REASONS IN SUPPORT OF NEW MEXICO ENVIRONMENT
DEPARTMENT’S PETITION FOR REGULATORY CHANGE TO ADOPT 20.2.51
NMAC, *METHANE ABATEMENT***

The New Mexico Environment Department (“Department”) respectfully submits to the Environmental Improvement Board (“Board”) this Statement of Reasons as **Exhibit A** to the Department’s Petition for Regulatory Change to Adopt 20.2.51 NMAC, *Methane Abatement* (“Petition”), in support of the regulatory change proposed in the Petition for adoption of proposed new rule 20.2.51 NMAC. See Petition, **Exhibit B**.

BACKGROUND AND BASIS FOR METHANE ABATEMENT IN NEW MEXICO

1. The Department proposes to adopt new rule 20.2.51 NMAC, *Methane Abatement*, to implement the New Mexico Climate Action Plan, the State’s roadmap for achieving the greenhouse gas emissions reduction target set by Governor Michelle Lujan Grisham in 2019; fill the regulatory gap created by the delay in implementation of the federal methane super-emitter program so that major methane leaks can be found and repaired more quickly; and to reduce methane emissions from existing sources in the oil and gas sector to, in part, satisfy federal requirements. The proposed new rule also has the co-benefit of decreasing other pollutants associated with natural gas including carbon dioxide and volatile organic compounds such as benzene, toluene, ethylbenzene, and xylene, and prevents waste of natural gas resources.

2. Methane is the main component of natural gas and a potent greenhouse gas. Methane absorbs more energy than carbon dioxide, but methane also has a much shorter lifespan – about a decade – than carbon dioxide, which can persist in the atmosphere for hundreds of years. As a result, methane has a much larger relative climate impact than carbon dioxide over shorter time periods, meaning reducing methane emissions will do more to reduce near-term warming.

3. On January 29, 2019, Governor Lujan Grisham issued Executive Order 2019-003 on Addressing Climate Change and Energy Waste Prevention, establishing an objective to “achieve a statewide reduction in greenhouse gas emissions of at least 45 percent by 2030 as compared to 2005 levels,” and establishing an interagency Climate Change Task Force to “evaluate policies and regulatory strategies to achieve reductions in greenhouse gas pollution” consistent with this target.

4. On May 25, 2021, the New Mexico Energy, Minerals and Natural Resources Department (“EMNRD”) published rules that limit most venting and flaring of natural gas as part of New Mexico’s mission to reduce methane emissions.

5. In June 2022 the Board adopted new rule 20.2.50 NMAC, *Oil and Gas Sector – Ozone Precursor Pollutants*, also known as the Ozone Precursor Rule (“Part 50”). Part 50 requires oil and gas operators to reduce pollutants that contribute to ground-level ozone while also significantly reducing methane emissions. See Exhibit B, Statement of Reasons, ¶ 17.

6. New Mexico will continue to take regulatory action to address methane emissions, as other states are doing.

7. In December 2025, the Department and EMNRD, agency co-chairs of the Climate Change Task Force, released the New Mexico Climate Action Plan outlining some additional regulatory actions to meet the targeted 45 percent reduction in greenhouse gas emissions by 2030.

Climate Action Plan: New Mexico (Dec. 2025), available at <https://service.web.env.nm.gov/urls/dagLwNOz>. The Climate Action Plan includes measures addressing emissions – including methane – from different sectors.

8. The Climate Action Plan also includes the latest inventory data and a short-term “business-as-usual” projection for 2030. Absent significant changes to current state policy, the Plan projects that greenhouse gas emissions will only be 33 percent below 2005 levels in 2030, demonstrating that as of the date of the report, New Mexico needs to do more to meet its goals. *Climate Action Plan: New Mexico* (Dec. 2025), at 24.

9. At the federal level, in March 2024, the U.S. Environmental Protection Agency (“EPA”) promulgated a federal rule to reduce greenhouse gas emissions from new and existing sources in the crude oil and natural gas source category (the “2024 EPA Rule”). The two relevant portions of the 2024 EPA Rule are referred to in shorthand by their subpart names under 40 C.F.R. Part 60, as OOOOb and OOOOc. EPA drew upon New Mexico’s regulatory approach under the Ozone Precursor Rule for EPA’s own framework.

A. Subpart OOOOb sets federal performance standards for methane emissions from new, modified, and reconstructed oil and natural gas sources that begin construction, reconstruction, or modification after December 6, 2022.

B. Subpart OOOOc establishes emission guidelines for states to follow in developing state plans that establish performance standards for methane emissions from existing oil and natural gas sources that commenced construction, reconstruction, or modification on or before December 6, 2022. These emission guidelines establish presumptive standards, in the form of limits on emissions of methane, and compliance schedules for various types of “designated

facilities,” including process controller designated facilities.¹ The presumptive standard for process controller designated facilities requires all such facilities to be designed and operated with zero methane emissions to the atmosphere by January 22, 2030.

C. Subparts OOOOb and OOOOc also contain provisions that apply to super-emitter events and establish a federal methane super-emitter program to be administered by EPA.

10. Methane emissions come from a limited number of source categories. The primary source of methane emissions in New Mexico is the oil and gas sector.² Methane emissions from oil and gas sources make up the second largest source of greenhouse gas emissions in the State, second only to carbon dioxide emissions from the oil and gas sector.

11. The primary source of methane emissions in the oil and gas sector is equipment and process leaks. When these leaks are large (have high emission rates), and especially when they are persistent, they are labeled as super-emitter events. These events preclude New Mexico from reaching its climate goals.

12. Research on methane emissions in New Mexico has quantified the outsized impact of methane super-emitters. For example, a study of methane emissions in the Permian Basin in 2024 suggested emissions from super-emitting sources may have added up to 50 percent of the

¹ The 2024 EPA Rule uses the term process controller designated facility to refer to the collection of natural gas-driven process controllers (*i.e.*, pneumatic controllers) at a well site, centralized production facility, onshore natural gas processing plant, or compressor station.

² The likelihood of non-oil and gas sources being subject to the proposed new rule is small but abatement of methane emissions is impactful, particularly the corresponding financial benefit to those industries following detection and repair of fugitive emission events. Although cattle and dairy operations are a source of methane emissions, they are precluded from being the source of super-emitter events, with the exception of dairies that have methane capture systems of which there are none currently in New Mexico. The same principle applies to landfills, where only landfills with methane capture systems are capable of generating methane super-emitter events. Super-emitter events are possible at coal mines if there is a large methane seam that is exposed during mining.

total methane emissions observed during a 13-day airborne survey campaign. Carbon Mapper, *The Near-Term Mitigation Opportunity of Super-Emitters - A Case Study in the Permian Basin*, <https://carbonmapper.org/articles/the-near-term-mitigation-opportunity-of-super-emitters> (March 10, 2025). Comparing the 2024 results to airborne survey data dating back to 2019, the study noted 18 of the 529 unique facilities responsible for the over 1,380 methane plumes identified in 2024 were ultra-persistent super-emitters, *i.e.*, facilities or equipment that release high volumes of methane for weeks or months at a time. Id.

13. The New Mexico Climate Action Plan includes a number of industry measures intended to reduce methane emissions from these sources.

A. Industry measures I-4 and I-5 of the Climate Action Plan call for increased monitoring and investigation of methane plumes and implementation of a methane super-emitter program to identify and abate large methane leaks at oil and gas facilities in New Mexico. The Climate Action Plan anticipates finalization of a rulemaking for a methane super-emitter program by the end of 2026. *Climate Action Plan: New Mexico* (Dec. 2025), at 43, 48.

B. Industry measure I-5 of the Climate Action Plan also calls for the replacement of all existing natural gas-driven pneumatic controllers at oil and gas facilities with zero-bleed controllers to eliminate all methane emissions from pneumatic controllers. The Climate Action Plan anticipates finalization of a rulemaking for pneumatic controllers by the end of 2028. *Climate Action Plan: New Mexico* (Dec. 2025), at 48.

14. To implement industry measures I-4 and I-5 of the Climate Action Plan, proposed new rule 20.2.51 NMAC establishes a methane super-emitter program to be administered by the Department beginning in 2027, and requires all natural gas-driven pneumatic controllers at oil and gas facilities to emit zero methane by January 1, 2031.

15. At the federal level, given the change in federal administrations, EPA is now reconsidering the 2024 EPA Rule and has delayed implementation of the federal super-emitter program until January 22, 2027. Due to this regulatory gap, there is currently no operational program for identifying and abating large methane leaks at oil and gas facilities in New Mexico. The state-level super-emitter program contained in proposed new rule 20.2.51 NMAC fills this regulatory gap.

16. In addition, the second set of regulatory provisions in proposed new rule 20.2.51 NMAC satisfies, in part, the requirements of the 2024 EPA Rule for process controller designated facilities by requiring zero emissions to the atmosphere from natural gas-driven process controllers in the oil and gas sector (excluding natural gas-driven process controllers used as emergency shutdown devices), thereby abating methane emissions from this equipment source.

17. The purpose of Part 50, which only applies to oil and gas facilities, is to establish emission standards for oxides of nitrogen and volatile organic compounds in order to reduce ambient ozone concentrations in areas of the state that are above 95 percent of the National Ambient Air Quality Standard for ozone. Part 50 already requires, *inter alia*, that all new natural gas-driven pneumatic controllers (aka process controllers) have an emission rate of zero, and further requires owners or operators to retrofit 80 to 98 percent of their existing natural gas-driven pneumatic controllers with non-emitting controllers through a phased-in approach by 2030.³ Proposed new rule 20.2.51 NMAC takes this framework one step further by allowing owners and operators an additional year to phase out their remaining emitting pneumatic controllers once they

³ The schedule for retrofit of existing natural gas-driven pneumatic controllers requires an increasing percentage of an owner or operator's controllers to be non-emitting over time. The percentages vary depending on the facility type and the owner or operator's historical percentage of non-emitting controllers across all affected facilities, and range from 25 to 80 percent by January 1, 2024, 65 to 95 percent by January 1, 2027, and 80 to 98 percent by January 1, 2030.

have complied with 20.2.50 NMAC⁴ allowing facilities to build on rather than supplant Part 50 into the future.

18. While existing Part 50 targets regulation of volatile organic compound emissions from pneumatic controllers to help reduce ozone, it has the existing co-benefit of reducing methane emissions as well. Under the proposed new rule 20.2.51 NMAC, these benefits would be retained, while also making sure that the Department is taking an additional action to ensure that methane emissions are on track under Executive Order 2019-003.

AUTHORITY

19. The Board has authority under the Environmental Improvement Act, NMSA 1978, Sections 74-1-1 to 74-1-18, including specifically Section 74-1-8(A)(4), and the Air Quality Control Act, NMSA 1978, Sections 74-2-1 through 74-2-17 (“AQCA”), to adopt regulations governing methane emissions.

20. Section 74-2-5(A) of the AQCA directs that the Board “shall prevent or abate air pollution.”

21. The AQCA gives effect to this duty by granting the Board broad authority to adopt, amend, and repeal regulations, “including” those necessary “to attain and maintain national ambient air quality standards and to prevent or abate air pollution[.]” NMSA 1978, § 74-2-5(B)(1); see NMSA 1978, § 74-1-8(A)(4). The AQCA also gives effect to this duty by granting the Board broad authority to “adopt a plan for the regulation, control, prevention or abatement of air pollution[.]” NMSA 1978, § 74-2-5(B)(2).

⁴ Part 50 only applies to oil and gas facilities located in Chaves, Dona Ana, Eddy, Lea, Rio Arriba, Sandoval, San Juan, and Valencia Counties. At subject facilities, the percentage of controllers that must be non-emitting by January 1, 2030, varies depending on the facility type and historical percentage of non-emitting controllers at all the owner or operator’s affected facilities.

22. The use of “including” at the beginning of the list in Section 74-2-5(B) indicates that the Legislature intended to identify certain expectations, not to prescribe an exclusive catalogue of duties – a floor rather than a ceiling. See United Rentals Nw., Inc. v. Yearout Mech., Inc., 384 Fed. Appx. 719 (10th Cir. 2010) (the court emphasized that “the word ‘includes’ is usually a term of enlargement, and not of limitation” and “conveys the conclusion that there are other items includable, though not specifically enumerated”); State v. Salazar, 2018-NMCA-030, ¶ 33, 458 P.3d 485 (the court explained that “the use of the word ‘includ[ing]’ to connect a general clause to a list of enumerated examples demonstrates a legislative intent to provide an incomplete list”); see also Matter of Estate of Corwin, 1987-NMCA-100, 106 N.M. 316, ¶ 3, 742 P.2d 528 (the court held that “the word ‘including’ . . . is a word of expansion rather than of limitation,” applying the principle from Sutherland Statutory Construction that the word “includes” “conveys the conclusion that there are other items includable, though not specifically enumerated”); State v. Strauch, 2015-NMSC-009, ¶ 37, 345 P.3d 317 (the New Mexico Legislative Council Service’s Legislative Drafting Manual provides additional guidance, stating that “[t]here is no need to write ‘includes but is not limited to’; the word ‘includes’ implies an incomplete listing”). Additionally, this principle serves important federalism purposes in environmental law by ensuring state regulations meet minimum federal requirements while providing flexibility for more stringent state standards where appropriate. See e.g., NMSA 1978, § 74-2-5(G).

23. Section 74-2-2(B) of the AQCA defines “air pollution” as “the emission, except emission that occurs in nature, into the outdoor atmosphere of one or more **air contaminants** in quantities and of a duration that may with reasonable probability injure human health or animal or plant life or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property[.]” NMSA 1978, § 74-2-2(B) (emphasis added).

24. Section 74-2-2(A) of the AQCA defines an “air contaminant” broadly as “a substance, including any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, microorganisms, radioactive material or any combination thereof[.]”

25. Methane, as a gas, is an air contaminant and the emissions regulated in the proposed new rule are air pollution within the meaning of the AQCA. See Sanders-Reed ex rel. Sanders-Reed v. Martinez, 2015-NMCA-063, ¶ 17, 350 P.3d 1221 (recognizing the Board’s authority to regulate “gas” means greenhouse gases); see e.g., Massachusetts v. Env’tl. Prot. Agency, 549 U.S. 497 (2007) (greenhouse gases are “air pollutants” under the Clean Air Act).

26. Proposed new rule 20.2.51 NMAC prescribes requirements for emissions of methane in accordance with Section 74-2-5(D)(6) of the AQCA.

27. State agencies have considerable discretion in interpreting and implementing their enabling statutes, rules, and regulations. N.M. Mining Ass’n v. N.M. Mining Comm’n, 1996-NMCA-098, ¶ 10, 122 N.M. 332, 924 P.2d 741. The courts accord deference to an agency’s interpretation of its governing statute, and the deference is heightened for “legal questions that ‘implicate special agency expertise or the determination of fundamental policies within the scope of the agency’s statutory function.’” Morningstar Water Users Ass’n v. N.M. Pub. Util. Comm’n, 120 N.M. 579, 583, 904 P.2d 28, 32 (1995) (quoting Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 903 (Alaska 1987)) (citing Stokes v. Morgan, 101 N.M. 195, 202, 680 P.2d 335, 342 (1984) (“The special knowledge and experience of state agencies should be accorded deference.”)).

28. The Department and its Secretary derive their statutory authority partially from the Department of Environment Act, codified at NMSA 1978, Sections 9-7A-1 through 9-7A-15. The Department of Environment Act establishes the Department as a cabinet-level agency within the

executive branch and defines the Secretary's comprehensive powers and duties over environmental management and consumer protection programs throughout the state.

29. The Department and the Secretary serve the people of New Mexico.

30. The Department's mission is to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations. See <https://www.env.nm.gov/>.

31. The Secretary is responsible for establishing bureaus to carry out the work of the Department. NMSA 1978, § 9-7A-9; see NMSA 1978, § 9-7A-6(B)(2)-(3).

32. The Air Quality Bureau resides within the Environmental Protection Division of the Department. The Air Quality Bureau's mission is to protect the public health of New Mexicans and the natural beauty of the state by preventing the deterioration of air quality. See www.env.gov/air-quality.

33. The Secretary has a "duty to manage all operations of the [D]epartment and to administer and enforce the laws with which he or the [D]epartment is charged." NMSA 1978, § 9-7A-6(A).

34. "The [Department] is a state agency charged with the administration of environmental laws and the performance of governmental and regulatory functions associated with the environment." Ram v. New Mexico Dep't of Env't, No. CIV 05-1083 JB/WPL, 2006 WL 4079623, at *1 (D.N.M. Dec. 15, 2006) (citing NMSA 1978, § 9-7A-3); NMSA 1978, § 9-7A-3 ("The purpose of the Department of Environment Act is to establish a single department to administer the laws and exercise the functions relating to the environment formerly administered and exercised by the health and environment department.").

35. "The [De[artment] is statutorily responsible for environmental management, and is

required to maintain, develop, and enforce rules and standards in a variety of areas, including air quality management, as provided in the Air Quality Control Act.” Copar Pumice Co. v. Morris, No. CIV 07-79 JB/ACT, 2007 WL 5685122, at *3 (D.N.M. Sept. 10, 2007); see NMSA 1978, § 74-1-7(A)(4); Espinosa v. Roswell Tower, Inc., 121 N.M. 306, ¶ 9, 910 P.2d 940, 944 (1995) (stating that the Department is responsible for air quality management and is authorized to exercise all powers reasonable and necessary to accomplish statutory duties). Specifically, the New Mexico Legislature charged the Department with developing, maintaining, and enforcing the Board’s rules. See NMSA 1978, § 74-1-7(A)(4) (“the department shall maintain, develop and enforce rules and standards in the following areas . . . air quality management as provided in the Air Quality Control Act”); NMSA 1978, § 74-2-5.1(H) (“develop and present to the environmental improvement board . . . a plan for the regulation, control, prevention or abatement of air pollution”); NMSA 1978, § 9-7A-6(B)(6) (stating that the secretary of the Department shall “conduct research and studies that will improve . . . the provision of services to the citizens of the state”); see also Gila Res. Info. Project v. New Mexico Water Quality Control Comm’n, 2018-NMSC-025, ¶¶ 39-40, 417 P.3d 369, 378 (“The Commission’s collaboration with [the Department] does not cause us to question or doubt the Commission’s order and statement of reasons. . . . so long as the findings are supported by substantial evidence.”). The Environmental Improvement Act explicitly authorizes that “[t]he department shall have power to . . . enforce the rules, regulations and orders promulgated by the board and environmental management and consumer protection laws for which the department is responsible by appropriate action in courts of competent jurisdiction[.]” NMSA 1978, §§ 74-1-6(F); see Gonzalez v. Whitaker, 1982-NMCA-050, ¶ 8, 97 N.M. 710, 712, 643 P.2d 274, 276 (confirming authority in connection with an enforcement action); New Mexico v. Gen. Elec. Co., 322 F. Supp. 2d 1237, 1266 (D.N.M. 2004),

aff'd in part, dismissed in part, New Mexico v. Gen. Elec. Co., 467 F.3d 1223 (10th Cir. 2006) (citing NMSA 1978, § 74-1-6(E), (F) (Repl.2000)) (“The Environmental Improvement Act specifically provides that [the Department] serves as the ‘agent of the State in matters of environmental management’ and has the duty to enforce the regulations relating to environmental management.”).

36. The Legislature empowered the Department with specific authorities, NMSA 1978, § 74-1-6, including specifically with the duties for air quality, NMSA 1978, § 74-2-5.1. However, only giving effect to explicit statutory language fails to give effect to the inherent authority the Department and the Secretary hold for administration of the air quality program, which the Legislature has expressly recognized. See Kennecott Copper Corp., Chino Mines Div. v. Emp. Sec. Comm’n, 1967-NMSC-182, ¶ 18, 78 N.M. 398, 402, 432 P.2d 109, 113 (citing Reese v. Dempsey, 48 N.M. 417, 152 P.2d 157 (1944) and State ex rel. Clancy v. Hall, 1917-NMSC-070, 23 N.M. 422, 168 P. 715) (“It is a fundamental rule of construction that when a power is conferred by statute everything necessary to carry out the power and make it effective and complete will be implied.”); NMSA 1978, § 74-1-6(J) (legislative declaration of inherent authority: “[t]he department shall have power to: . . . have such other powers as may be necessary and appropriate for the exercise of the powers and duties delegated to the department.”); NMSA 1978, § 9-7A-6(B)(5) (“the secretary shall: . . . take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for which administration or execution he is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts”); NMSA 1978, § 9-7A-6(A) (“It is [the Secretary’s] duty to manage all operations of the [D]epartment and to administer and enforce the laws with which he or the department is charged.”).

37. Here, the agency charged with administering the applicable statutory framework is the Department, and the governing statutes include the federal Clean Air Act, its implementing regulations, the Air Quality Control Act, and the Environmental Improvement Act. In carrying out its statutory mandate to implement and maintain the air quality program, the Department develops proposed rules and provides for the Board's consideration technical analysis for factual support and legal analysis regarding their consistency with governing law. The Department's interpretation of the statutes it is charged with administering is entitled to due consideration and weight, particularly where that interpretation reflects its experience implementing the permitting, compliance and enforcement programs at issue. Further, the Board's authorities include adopting the proposed new rule governing methane emissions.

SUMMARY OF THE PROPOSED NEW RULE

38. Proposed new rule 20.2.51 NMAC establishes a state-level methane super-emitter program in New Mexico upon the rule's effective date.

39. The Department's proposed methane super-emitter program is modeled after the EPA methane super-emitter program, established by the 2024 EPA Rule.

40. For purposes of proposed new rule 20.2.51 NMAC, a super-emitter event means any emissions event that is detected using remote detection methods and has a quantified emission rate of 50 kg/hr of methane or greater.

41. Proposed new rule 20.2.51 NMAC allows qualified entities to apply to the Department for certification as a third-party notifier. Once certified, a third-party notifier may submit notifications of super-emitter events detected using approved remote methane sensing technologies to the Department.

42. Proposed new rule 20.2.51 NMAC requires the Department to review a super-

emitter event notification submitted by a third-party notifier for completeness and accuracy and then provide the notification to the owner or operator of any source located within 50 meters of the location of the detected super-emitter event.

43. Proposed new rule 20.2.51 NMAC requires an owner or operator who receives a super-emitter event notification from the Department to conduct an investigation to determine the source of the super-emitter event, repair the responsible methane leak(s), submit a report to the Department, and maintain related records.

44. Proposed new rule 20.2.51 NMAC also requires all process controller designated facilities to emit zero methane to the atmosphere beginning January 1, 2031, either by routing the emissions to a process through a closed vent system or by using self-contained natural gas-driven process controller(s).

45. For purposes of proposed new rule 20.2.51 NMAC, a process controller designated facility means the collection of natural gas-driven process controllers at a gathering and boosting station, natural gas processing plant, tank battery, transmission compressor station, or well site. Natural gas-driven process controllers that function as emergency shutdown devices and process controllers that are not driven by natural gas are exempt from the designated facility.

46. With the objective of reducing methane emissions from the oil and gas sector, proposed new rule 20.2.51 NMAC specifies designs and operating requirements for closed vent systems at process controller designated facilities, including initial inspection requirements and initial and ongoing compliance requirements for closed vent systems and self-contained natural gas-driven process controllers.

47. Proposed new rule 20.2.51 NMAC requires owners or operators to submit annual reports to the Department documenting compliance with the zero methane emissions standard for

process controller designated facilities and to maintain related records.

48. Proposed new rule 20.2.51 NMAC would apply throughout New Mexico, except Albuquerque and Bernalillo County. See NMSA 1978, § 74-2-3(B).

GENERAL PROVISIONS OF THE PROPOSED NEW RULE

49. Proposed new rule 20.2.51 NMAC creates a new Part 51 in Chapter 2 of Title 20 of the New Mexico Administrative Code with the following sections:

A. Mandatory Sections:

i. 20.2.51.1 NMAC (“Issuing Agency”) identifies the Board as the issuing agency.

ii. 20.2.51.2 NMAC (“Scope”) identifies the extent of the proposed new rule’s coverage, *i.e.*, to whom the proposed new rule applies and whom it affects: 1) persons who own or operate a source located within 50 meters of a super-emitter event to whom a super-emitter event notification is provided by the Department; and 2) persons who own or operate a process controller designated facility.

iii. 20.2.51.3 NMAC (“Statutory Authority”) cites the statutes that provide authority for the proposed new rule, which are the Environmental Improvement Act, Sections 74-1-1 to 74-1-18, including specifically Section 74-1-8(A)(4), and the AQCA, Sections 74-2-1 to 74-2-17, including specifically Sections 74-2-5(B) and (D)(6).

iv. 20.2.51.4 NMAC (“Duration”) indicates the proposed new rule will be permanent, at least until the Board amends or repeals the rule.

v. 20.2.51.5 NMAC (“Effective Date”) states the effective date of the proposed new rule will be “Month XX, XXXX,” as the actual effective date will not be known until the adopted rule is filed with the State Records Center and Archives. However, it is intended

to be the earliest date allowed under the law, which, assuming a December 10, 2026, filing date and a New Mexico Register publication date of December 22, 2026, would be an effective date of January 9, 2027. See NMSA 1978, § 14-4-5(D) (“Unless a later date is otherwise provided by law or in the rule, the effective date of a rule shall be the date of publication in the New Mexico register.”); NMSA 1978, § 74-1-9(G) (“No regulation or amendment or repeal thereof adopted by the board shall become effective until thirty days after its filing under the State Rules Act”).

vi. 20.2.51.6 NMAC (“Objective”) states the purpose of the proposed new rule is to establish a methane super-emitter program and methane standards for process controller designated facilities.

vii. 20.2.51.7 NMAC (“Definitions”) provides definitions that apply just to 20.2.51 NMAC.

B. General Sections:

i. 20.2.51.8 NMAC (“Severability”) provides for enforceability of the remainder of the proposed new rule if any provision, or application of any provision to a specific person or circumstance, is held invalid.

ii. 20.2.51.9 NMAC (“Construction”) declares that the proposed new rule shall be liberally construed to carry out its objective.

iii. 20.2.51.10 NMAC (“Savings Clause”) provides that any future repeal or supersession of prior versions of the rule shall not affect administrative or judicial actions initiated under those prior versions.

iv. 20.2.51.11 NMAC (“Compliance with Other Regulations”) declares that compliance with the proposed new rule does not relieve a person from the responsibility to comply with other applicable federal, state, or local laws, rules, or regulations.

v. 20.2.51.12 NMAC (“Documents”) informs the public where it can access documents incorporated and cited in 20.2.51 NMAC. The Department will include these documents in the rulemaking record.

vi. 20.2.51.101 NMAC (“Methane Super-Emitter Program Overview”) provides an overview of the methane super-emitter program, including the third-party notifier certification process, super-emitter event notification requirements, and owner or operator investigation and reporting requirements.

vii. 20.2.51.102 NMAC (“Third-Party Notifier Certification”) describes who may apply for certification as a third-party notifier, the remote methane sensing technologies they may use, application requirements, and recordkeeping requirements once certified. It also describes when recertification is necessary and the circumstances under which certification may be revoked.

viii. 20.2.51.103 NMAC (“Super-Emitter Event Notification Requirements”) describes the information that must be included in a super-emitter event notification submitted to the Department by a certified third-party notifier, and the Department’s responsibility to review the notification for completeness and accuracy, then provide the notification to the owner or operator of any source located within 50 meters of the location of the super-emitter event, and make the notification available on its website.

ix. 20.2.51.104 NMAC (“Owner or Operator Notification and Response”) describes the requirement for an owner or operator who receives a super-emitter event notification from the Department to initiate an investigation to determine the source of the event, the minimum requirements for the investigation, and repair requirements for leaks identified during the investigation.

x. 20.2.51.105 NMAC (“Super-Emitter Event Report”) describes the requirement for an owner or operator who conducts a super-emitter event investigation to submit a report of the investigation to the Department, the information that must be included in the report, the Department’s responsibility to review and approve or disapprove the report, and the requirement for the Department to document the outcome of the investigation on its website.

xi. 20.2.51.106 NMAC (“Super-Emitter Recordkeeping Requirements”) describes the requirement for an owner or operator who conducts a super-emitter event investigation to retain records of the investigation and any repairs for at least five years and to provide such records to the Department upon request.

xii. 20.2.51.201 NMAC (“Methane Standards for Process Controller Designated Facilities”) describes the requirement for an owner or operator of a process controller designated facility to design and operate the facility with zero emissions to the atmosphere beginning January 1, 2031, either by routing the emissions to a process through a closed vent system or by using self-contained natural gas-driven process controller(s).

xiii. 20.2.51.202 NMAC (“Inspection Requirements for Closed Vent Systems and Self-Contained Natural Gas-Driven Process Controllers”) describes initial and ongoing, periodic inspection requirements for closed vent systems and self-contained natural gas-driven process controllers and repair requirements if emissions or a defect is detected, and provides that an owner or operator may comply with inspection requirements through an approved alternative monitoring plan if the owner or operator complies with Part 50 monitoring requirements through the plan.

xiv. 20.2.51.203 NMAC (“Design and Operating Requirements for Closed Vent Systems”) describes the requirement for an owner or operator of a process controller

designated facility to design each closed vent system at their facility to route all gases, vapors and fumes to a process and operate the system with no identifiable emissions. It also describes the requirement for the owner or operator to conduct an assessment of the closed vent system and certify that it is of sufficient capacity to accommodate all emissions from the designated facility.

xv. 20.2.51.204 NMAC (“Demonstrating Initial Compliance with the Methane Standards for Process Controller Designated Facilities”) describes the means by which the owner or operator of a process controller designated facility demonstrates initial compliance with the zero methane emissions standard in 20.2.51.201 NMAC.

xvi. 20.2.51.205 NMAC (“Demonstrating Continuous Compliance with the Methane Standards for Process Controller Designated Facilities”) describes the means by which the owner or operator of a process controller designated facility demonstrates continuous (*i.e.*, ongoing) compliance with the zero methane emissions standard in 20.2.51.201 NMAC.

xvii. 20.2.51.206 NMAC (“Reporting Requirements for Process Controller Designated Facilities”) describes the requirement for an owner or operator of a process controller designated facility to submit annual reports to the Department and the information that must be included in the reports.

xviii. 20.2.51.207 NMAC (“Recordkeeping Requirements for Process Controller Designated Facilities”) describes the requirement for an owner or operator of a process controller designated facility to retain records regarding all closed vent system and self-contained natural gas-driven process controller inspections, deviations and repairs for at least five years.

xix. 20.2.51.301 NMAC (“Noncompliance”) describes the potential penalties for failure to comply with the requirements of 20.2.51 NMAC.

PUBLIC OUTREACH AND STAKEHOLDER ENGAGEMENT

50. The Department has notified the public about the proposed new rule, provided a draft of the proposed new rule, reviewed comments and feedback received, and engaged with interested persons.

51. The Department released a stakeholder review draft of proposed new rule 20.2.51 NMAC on July 16, 2026. The availability of the draft rule for public review and comment, and the Department's willingness to meet one-on-one with individual stakeholders to discuss the draft rule, were announced on the Department's web page and via the Department's ListServ. This information was also provided directly to key stakeholders upon release of the draft rule. The Department accepted public comments on the draft rule through July 29, 2026, via its online public comment portal. The Department received 15 unique comments from individuals, non-governmental organizations, oil and gas companies, trade associations, data providers, and equipment vendors during this initial public comment period.

52. The Department provided an overview of the draft rule at a meeting with environmental non-governmental organizations, at their request, on July 16, 2026, and received feedback and answered questions from attendees.

53. The Department provided an overview of the draft rule at a meeting with the New Mexico Oil and Gas Association, at their request, on July 28, 2026, and received feedback and answered questions from attendees.

54. The Department met with Environmental Defense Fund, at their request, on August 5, 2026, and answered questions and received feedback from attendees.

55. The Department met with the New Mexico Oil and Gas Association for a second time, again at their request, on August 6, 2026, and received additional feedback and answered

additional questions from attendees.

56. The Department met with representatives from Oxy USA, Inc., at their request, on August 6, 2026, and received feedback and answered questions from attendees.

57. Participants in these presentations and meetings were encouraged to submit their comments to the Department in writing for further review and consideration.

58. As of filing the Petition, the Department has received no other requests to meet one-on-one with individual stakeholders to discuss the draft rule.

59. The Department has also had various informal conversations with additional stakeholders about the draft rule.

60. Proposed new rule 20.2.51 NMAC reflects the Department's review and consideration of public comments and stakeholders' feedback received through August 7, 2026.

61. Interested persons can sign up to receive future updates on this rulemaking from the Department at <https://public.govdelivery.com/accounts/NMED/subscriber/new>. After subscribing, users should check the "Air Quality" box to receive updates about all air quality topics, or the "Air Quality Bureau Regulatory and SIP Announcements" box to only receive updates about the Department's rulemaking activities.

COMPLIANCE WITH STATUTORY RULEMAKING REQUIREMENTS

62. Adoption of proposed new rule 20.2.51 NMAC is justified given the character and degree of injury to or interference with health, welfare, visibility, and property. See NMSA 1978, § 74-2-5(F)(1).

63. Adoption of proposed new rule 20.2.51 NMAC is in the public interest, including the social and economic value of the sources and subjects of air contaminants. See NMSA 1978, § 74-2-5(F)(2).

64. Proposed new rule 20.2.51 NMAC is technically practicable and economically reasonable in the methods the rule employs to reduce or eliminate air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved. See NMSA 1978, § 74-2-5(F)(3).

65. Proposed new rule 20.2.51 NMAC is more protective of public health and the environment than the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*, and implementing federal regulations. See NMSA 1978, § 74-2-5(G).

66. Proposed new rule 20.2.51 NMAC is drafted to comply with 1.24.10 NMAC, the uniform drafting rules for regulations in the New Mexico Administrative Code.

67. Therefore, proposed new rule 20.2.51 NMAC complies with the statutory rulemaking requirements.