

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 77 NEW SOURCE PERFORMANCE STANDARDS

20.2.77.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[06/16/95; 20.2.77.1 NMAC - Rn, 20 NMAC 2.77.100, 06/23/00]

20.2.77.2 SCOPE: Any stationary source constructing or modifying and which is subject to the requirements of 40 CFR Part 60, as amended through June 28, 2023.
[06/16/1995, 11/19/1997, 09/08/1999; 20.2.77.2 NMAC - Rn & A, 20 NMAC 2.77.101, 06/23/2000; A, 02/18/2002; A, 06/13/2003; A, 06/15/2007; A, 08/17/2009; A, 09/02/2011; A, 12/19/2013; A, 1/29/2016; A, 5/30/2017; A, 12/19/2023]

20.2.77.3 STATUTORY AUTHORITY: The environmental improvement board “shall promulgate regulations and standards in...air quality management” (Section 74-1-8.A NMSA 1978) and “regulations adopted by the environmental improvement board...shall...ensure that regulations and standards under...the federal act will not be violated” (Section 74-2-7.B NMSA 1978).
[06/16/95; 20.2.77.3 NMAC - Rn, 20 NMAC 2.77.102, 06/23/00]

20.2.77.4 DURATION: Permanent.
[06/16/95; 20.2.77.4 NMAC - Rn, 20 NMAC 2.77.103, 06/23/00]

20.2.77.5 EFFECTIVE DATE: June 16, 1995, except where a later date is cited at the end of a section.
[06/16/95, 08/02/96; 20.2.77.5 NMAC - Rn, 20 NMAC 2.77.104, 6/23/00]
[The latest effective date of any section in this part is May 30, 2017.]

20.2.77.6 OBJECTIVE: The objective of Part 77 of Chapter 2 is to adopt or establish state authority to implement new source performance standards for stationary sources in New Mexico subject to 40 CFR Part 60.
[06/16/95; 20.2.77.6 NMAC - Rn, 20 NMAC 2.77.105, 06/23/00]

20.2.77.7 DEFINITIONS: [RESERVED]
[20.2.77.7 NMAC - N, 06/23/00]

20.2.77.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This part amends and supersedes Air Quality Control Regulation (AQCR) 750, last filed on April 10, 1994. All references to AQCR 750 in any other rule shall be understood as a reference to this part.
[06/16/95; 20.2.77.8 NMAC - Rn, 20 NMAC 2.77.106, 06/23/00]

20.2.77.9 ADOPTION OF 40 CFR PART 60: Except as otherwise provided, the new source performance standards as promulgated by the United States environmental protection agency, 40 CFR Part 60, as amended in the Federal Register through June 28, 2023 are hereby incorporated into this part (20.2.77 NMAC).
[06/16/1995, 08/02/1996, 11/19/1997, 09/08/1999; 20.2.77.9 NMAC - Rn & A, 20 NMAC 2.77.107, 06/02/2000; A, 02/18/2002; A, 06/13/2003; A, 06/15/2007; A, 08/17/2009; A, 09/02/2011; A, 12/19/2013; A, 1/29/2016; A, 5/30/2017; A, 12/19/2023]

20.2.77.10 MODIFICATIONS AND EXCEPTIONS: The following modifications or exceptions are made to the incorporated federal standards:

A. Amend 40 CFR Part 60, Section 60.2, Definitions, as follows: For the purposes of delegation of authority which the administrator of the United States environmental protection agency may, at the administrator’s discretion, delegate to the secretary of the New Mexico environment department, “administrator” means the secretary of the department or the secretary’s authorized representative.

B. Exclude 40 CFR - Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters.

C. The federal standards of performance incorporated by this regulation shall not be subject to NMSA 1978, Section 74-2-8 (Variances).

D. Exclude 40 CFR Part 60, Subpart QQQQ – Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.
[06/16/95; 20.2.77.10 NMAC - Rn, 20 NMAC 2.77.108, 06/23/00; A, 06/15/07; A, 1/29/16]

20.2.77.11 DOCUMENTS: Documents incorporated and cited in this part may be viewed at the New Mexico environment department, air quality bureau.
[06/16/95; 20.2.77.11 NMAC - Rn, 20 NMAC 2.77.109, 06/23/00; A, 08/17/09; A, 1/29/16]
[As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Santa Fe NM, 87505]

HISTORY OF 20.2.77 NMAC:

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

EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 07/24/84.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 08/18/87.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 07/07/88.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/27/89.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 05/29/90.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/22/91.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/14/92.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/21/93.
EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, 04/12/94.

History of Repealed Material: [RESERVED]

Other History:

EIB/AQCR 750, Air Quality Control Regulation 750 - New Source Performance Standards, filed 04/12/94 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.77, New Source Performance Standards, filed 05/17/95.

20 NMAC 2.77, New Source Performance Standards, filed 05/17/95, was **renumbered, reformatted, amended and replaced** by 20.2.77 NMAC, New Source Performance Standards, effective 06/23/00.