

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 78 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

20.2.78.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[06/16/95; 20.2.78.1 NMAC - Rn, 20 NMAC 2.78.100 06/23/00]

20.2.78.2 SCOPE: All sources emitting hazardous air pollutants which are subject to the requirements of 40 CFR Part 61, as amended through June 28, 2023.
[06/16/1995, 11/19/1997, 09/08/1999; 20.2.78.2 NMAC - Rn 20 NMAC 2.78.101 & A, 06/23/2000; A, 02/18/2002; A, 06/08/2007; A, 08/17/2009; A, 09/02/2011; A, 1/29/2016; A, 5/30/2017; A, 12/19/2023]

20.2.78.3 STATUTORY AUTHORITY: The environmental improvement board “shall promulgate regulations and standards in...air quality management” (Subsection (A) of Section 74-1-8 NMSA 1978) and “regulations adopted by the environmental improvement board...may...prescribe standards of performance for sources and emissions standards for hazardous air pollutants...” (Subsection (D) of Section 74-2-5 NMSA 1978).
[06/16/1995; 20.2.78.3 NMAC - Rn, 20 NMAC 2.78.102 06/23/2000; A, 12/19/2023]

20.2.78.4 DURATION: Permanent.
[06/16/95; 20.2.78.4 NMAC - Rn, 20 NMAC 2.78.103 06/23/00]

20.2.78.5 EFFECTIVE DATE: June 16, 1995, except where a later date is cited at the end of a section.
[06/16/95, 08/02/96; 20.2.78.5 NMAC - Rn, 20 NMAC 2.78.104 06/23/00]
[The latest effective date of any section in this part is May 30, 2017.]

20.2.78.6 OBJECTIVE: The objective of Part 78 of Chapter 2 is to adopt or establish state authority to implement emission standards for hazardous air pollutants in New Mexico subject to 40 CFR Part 61.
[06/16/95; 20.2.78.6 NMAC - Rn, 20 NMAC 2.78.105 06/23/00]

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

20.2.78.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This part amends and supersedes Air Quality Control Regulation (AQCR) 751, last filed on April 10, 1994. All references to AQCR 751 in any other rule shall be understood as a reference to this part.
[06/16/95; 20.2.78.8 NMAC - Rn, 20 NMAC 2.78.106 06/23/00]

20.2.78.9 ADOPTION OF 40 CFR PART 61: Except as otherwise provided, the national emission standards for hazardous air pollutants as promulgated by the United States environmental protection agency, 40 CFR Part 61, as amended in the Federal Register through June 28, 2023 are hereby incorporated into this part (20.2.78 NMAC).
[06/16/1995, 08/02/1996, 11/19/1997, 09/08/1999; 20.2.78.9 NMAC - Rn 20 NMAC 2.78.107 & A, 06/23/2000; A, 02/18/2002; A, 06/08/2007; A, 08/17/2009; A, 09/02/2011; A, 1/29/2016; A, 5/30/2017; A, 12/19/2023]

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

A. amend 40 CFR Part 61, Section 61.02, 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 or the secretary’s authorized representative.

B. exclude 40 CFR Part 61, Subparts B (National Emission Standards for Radon Emissions from Underground Uranium Mines), H (National Emission Standards for Emissions of Radionuclides Other Than Radon from Department of Energy Facilities), I (National Emission Standards for Radionuclide Emissions from Facilities Licensed by the NRC and Federal Facilities not covered by Subpart H), K (National Emission Standard for Radionuclide Emissions from Elemental Phosphorus Plants), Q (National Emission Standards for Radon Emissions from Department of Energy Facilities), R (National Emission Standards for Radon Emissions from Phosphogypsum

Stacks), T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings), and W (National Emission Standards for Radon Emissions from Operating Mill Tailings).

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

[06/16/95; 20.2.78.9 NMAC - Rn, 20 NMAC 2.78.108 06/23/00; A, 1/29/16]

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

[06/16/95; 20.2.78.11 NMAC - Rn, 20 NMAC 2.78.109 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, Suite 1, Santa Fe NM, 87505]

HISTORY OF 20.2.78 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 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 07/24/84.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 08/18/87.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 07/07/88.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 04/27/89.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 05/29/90.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 04/22/91.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 04/14/92.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 04/21/93.

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants, filed 04/12/94.

History of Repealed Material: [RESERVED]

Other History:

EIB/AQCR 751, Air Quality Control Regulation 751 - Emission Standards For Hazardous Air Pollutants (filed 04/12/94) was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.78, Emission Standards For Hazardous Air Pollutants, effective 06/16/95.

20 NMAC 2.78, Emission Standards For Hazardous Air Pollutants (filed 05/17/95), was **renumbered, reformatted, amended and replaced** by 20.2.78 NMAC, Emission Standards For Hazardous Air Pollutants, effective 06/23/00.