

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 61 SMOKE AND VISIBLE EMISSIONS

20.2.61.1 ISSUING AGENCY: Environmental Improvement Board.
[11/30/95; 20.2.61.1 NMAC - Rn, 20 NMAC 2.61.100 10/31/02]

20.2.61.2 SCOPE: All geographic areas within the jurisdiction of the Environmental Improvement Board.
[11/30/95; 20.2.61.2 NMAC - Rn, 20 NMAC 2.61.101 10/31/02]

20.2.61.3 STATUTORY AUTHORITY: Environmental Improvement Act, NMSA 1978, section 74-1-8(A)(4) and (7), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-5(A), (B), and (C).
[11/30/95; 20.2.61.3 NMAC - Rn, 20 NMAC 2.61.102 10/31/02]

20.2.61.4 DURATION: Permanent.
[11/30/95; 20.2.61.4 NMAC - Rn, 20 NMAC 2.61.103 10/31/02]

20.2.61.5 EFFECTIVE DATE: November 30, 1995.
[11/30/95; 20.2.61.5 NMAC - Rn, 20 NMAC 2.61.104 10/31/02]
[The latest effective date of any section in this Part is 10/31/02.]

20.2.61.6 OBJECTIVE: The objective of this Part is to establish controls on smoke and visible emissions from certain sources. This Part is not intended to preempt any more stringent controls on smoke and visible emissions provided in any other air quality control regulation or in any local ordinance or regulation.
[11/30/95; 20.2.61.6 NMAC - Rn, 20 NMAC 2.61.105 10/31/02]

20.2.61.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this Part:

A. "Air curtain destructor" means a combustion device or system designed to achieve controlled combustion of woodwaste and slash materials in an earthen trench or refractory-lined pit or bin through means of a fan-generated air curtain.

B. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

C. "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.

D. "Stationary combustion equipment" means any stationary device or system used to oxidize solid, liquid, or gaseous materials, including fuels or wastes, and includes but is not limited to incinerators, wood-fired boilers, air curtain destructors, and stationary oil burning equipment.

E. "Visible emissions" means particulate or gaseous matter which can be detected by the human eye.
[11/30/95; 20.2.61.7 NMAC - Rn, 20 NMAC 2.61.107 10/31/02]

20.2.61.8 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulation ("AQCR") 401 -- Regulation to Control Smoke and Visible Emissions last filed July 15, 1986.

A. All references to AQCR 401 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 401 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 401.

[11/30/95; 20.2.61.8 NMAC - Rn, 20 NMAC 2.61.106 10/31/02]

20.2.61.9 DOCUMENTS: Documents cited in this Part may be viewed at the New Mexico Environment Department, Air Quality Bureau, Runnels Building, 1190 Saint Francis Drive, Santa Fe, NM 87505 [2048 Galisteo St., Santa Fe, NM 87505].

[11/30/95; 20.2.61.9 NMAC - Rn, 20 NMAC 2.61.108 10/31/02]

20.2.61.10 to 20.2.61.108 [RESERVED]

20.2.61.109 STATIONARY COMBUSTION EQUIPMENT: The owner or operator of stationary combustion equipment shall not permit, cause, suffer or allow visible emissions from the stationary combustion equipment to equal or exceed an opacity of 20 percent; provided, however, stationary combustion equipment which is regulated by Parts 20.2.10 NMAC through 20.2.18 NMAC, 20.2.37 NMAC, and 20.2.42 NMAC, and any other Part of Chapter 2 which specifically limits particulate emissions is exempted from this Part.

[11/30/95; 20.2.61.109 NMAC - Rn, 20 NMAC 2.61.109 10/31/02]

20.2.61.110 DIESEL-POWERED VEHICLE:

A. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having an opacity greater than thirty percent for any period greater than ten seconds from any diesel-powered vehicle operating below 8,000 feet (mean sea level).

B. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having an opacity greater than forty percent for any period greater than ten seconds from any diesel-powered vehicle operating above 8,000 feet (mean sea level).

[11/30/95; 20.2.61.110 NMAC - Rn, 20 NMAC 2.61.110 10/31/02]

20.2.61.111 EXCLUSIONS: This Part does not apply to:

A. emissions from diesel-powered vehicles if the emissions are a direct result of a cold engine start-up;

B. off-highway, diesel-powered vehicles operating in non-urban areas; and

C. oil well drilling rigs and oil well servicing rigs.

D. for sources subject to the provisions of 20.2.70 NMAC (Operating Permits), emissions which result from insignificant activities as defined in 20.2.70 NMAC.

[11/30/95; 01/10/96; 20.2.61.111 NMAC - Rn, 20 NMAC 2.61.111 10/31/02]

20.2.61.112 DIESEL-POWERED LOCOMOTIVES:

A. No person shall permit, cause, suffer or allow the emissions into the open air of any smoke having an opacity greater than twenty percent for any period greater than ten seconds from any diesel-powered locomotive operating below 8,000 feet (mean sea level).

B. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having an opacity greater than forty percent for any period greater than ten seconds from any diesel-powered locomotive:

(1) operating above 8,000 feet (mean sea level); or

(2) involved in switching and railroad yard use.

C. This Part does not apply to emissions for diesel-powered locomotives if the emissions are a direct result of a cold engine start-up.

[11/30/95; 20.2.61.112 NMAC - Rn, 20 NMAC 2.61.112 10/31/02]

20.2.61.113 AIR CURTAIN DESTRUCTORS: An exemption to this Part may be granted by the Department for start-up and burn-down periods of operation of air curtain destructors, if the owner or operator has demonstrated to the satisfaction of the Department that such an exemption is necessary and takes all actions necessary to minimize emissions during such periods.

[11/30/95; 20.2.61.113 NMAC - Rn, 20 NMAC 2.61.113 10/31/02]

20.2.61.114 OPACITY DETERMINATIONS: Opacity of emissions from equipment subject to 20.2.61.109 NMAC shall be determined consistent with the method set forth by the US EPA in 40 CFR, Part 60 Appendix A, Method 9, or any other method receiving prior approval from the Department. The minimum time period for taking opacity readings shall be ten minutes.

[11/30/95; 20.2.61.114 NMAC - Rn, 20 NMAC 2.61.114 10/31/02]

HISTORY OF 20.2.61 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:

HSSD 70-1, Ambient Air Quality Standards And Air Quality Control Regulations, 01/27/70;
EIB/AQCR 401, Air Quality Control Regulation 401 - Regulation To Control Smoke And Visible Emissions,
07/15/86.

History of Repealed Material: [RESERVED]

Other History:

EIB/AQCR 401, Air Quality Control Regulation 401 - Regulation To Control Smoke And Visible Emissions, filed 07/15/86 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.61, Smoke And Visible Emissions, filed 10/30/95.

20 NMAC 2.61, Smoke And Visible Emissions, filed 10/30/95 was **renumbered, reformatted and replaced** by 20.2.61 NMAC, Smoke And Visible Emissions, effective 10/31/02.