

NEW MEXICO 
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New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

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The New Mexico Register

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Notices of Rulemaking and Proposed Rules

AGRICULTURE, DEPARTMENT OF NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE and amend 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE.

PURPOSE AND SUMMARY OF THE PROPOSED RULES:

The proposed repeal and replace of 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE creates a definition section; updates the list of Texas pecan weevil quarantined counties to correspond with those identified in Texas law; clarifies disposition of non-compliant regulated articles; adds an additional cold storage treatment that provides for treatment of regulated articles at 12.2°F for a period of fourteen days as also provided in California Code of Regulations (CCR) 3273 “Walnut and Pecan Pests”; adds a Liability Disclaimer that relinquishes the board and the department from liability for costs incurred related to inspection, expulsion or disposition of non-compliant regulated articles, or compliance with other provisions of the exterior quarantine rule; and creates additional sections which state that all regulated articles are further subject to the provisions of any other laws, regulations, or regulatory order of the state of New Mexico or the United States Department of Agriculture.

The proposed amendments to 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE include: changing the duration of the rule to permanent; moving the definition for non-compliant to the definitions section; changing treatment certificate documentation requirements to

include treatment dates, destination contact information, and other information as deemed relevant by the department; adding an additional cold storage treatment for regulated articles at 12.2°F for a period of fourteen days to align with cold treatments allowed under California Code of Regulations (CCR) 3273 “Walnut and Pecan Pests”; and updating formatting to comply with state requirements. Amending the Disposition of Violations section to clarify authorities related to the expulsion of non-compliant regulated articles for the purpose of addressing specific instances of non-compliance, and adding terms for reimbursement for costs incurred by the department for disposition of non-compliant regulated articles to ensure the state is not held responsible for those costs including non or delinquent payments. Adding Otero County to quarantined counties due to the detection of additional pecan weevil infested areas in the county in an effort to slow the spread of pecan weevil to uninfested pecan growing areas of the state.

STATUTORY AUTHORITY:

Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9, NMSA 1978 Compilation and the Pecan Act, Chapter 76, Article 16, Sections 1 through 9, NMSA 1978 compilation.

Copies of the Notice of Proposed Rulemaking and proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (<https://www.nmda.nmsu.edu>) and at agency district and field offices.

Friday, August 26, 2022, at 3:00 pm NMDA will host a public video/ telephonic and in person hearing at the New Mexico Department of Agriculture, at 3190 S. Espina, Las Cruces, NM, on the corner of Espina and Gregg.

Join via Video for Friday, August 26, 2022, 3:00 pm hearing:
Meeting URL: <https://nmsu.zoom.us/j/95032243174>

Meeting ID: 950 3224 3174
Passcode: 538839

or

Join via Phone for Friday, August 26, 2022, 3:00 pm hearing:
+1 669 900 6833 or +1 253 215 8782
Meeting ID: 950 3224 3174
Passcode: 538839

Monday, August 29, 2022, at 4:00 pm NMDA will host a public hearing at the Artesia Public Schools Board Room, Admin Building located at 1106 W. Quay in Artesia, New Mexico.

The hearing for proposed amendment of 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE will immediately follow the hearing for the proposed repeal and replace of 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE. Oral comments will be accepted at the hearing from members of the public and any interested parties. Written comments will be accepted through 5:00 pm on August 30, 2022. Comments may be submitted via email to comments@nmda.nmsu.edu or may be filed by sending original copies to:

New Mexico Department of Agriculture, Office of Director MSC 3189, PO Box 30005, 3190 S. Espina, Las Cruces, NM 88003-8005
Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, NMDA reserves the right to require that original signatures be provided to verify the electronic or facsimile signature.

SPECIAL NEEDS: If you are an individual with a disability who needs a reader, amplifier, qualified sign

language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact NMDA at (575) 646-3702 at least one week prior to the meeting or as soon as possible.

The Director will consider all oral comments and will review all timely submitted written comments and responses.

PUBLIC RECORDS, COMMISSION OF

NOTICE OF REGULAR MEETING AND OF RULEMAKING

The New Mexico Commission of Public Records (CPR) has scheduled a regular meeting and rule hearing for Tuesday, August 30, 2022, at 10:00 A.M. at the New Mexico State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Amanda Griego at 476-7913 by August 26, 2022, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.

The Commission of Public Records ("CPR") may consider the following items of rulemaking at the meeting:

Amend:

1.13.5 NMAC, New Mexico Historical Records Grant Program Guidelines (CPR Rule).

Synopsis:

The proposed amendment of 1.31.5 NMAC consists of the following modifications:

Section 7 - Deleting language from Subsection M defining a non-profit as falling within a category such as 501(c)(3).

Section 8 - Adding or public school, public college or public university to Subparagraph (f) of Paragraph (1) of Subsection A.

Adding unless the board member affiliated with the organization or employer recuses themselves from the review process to Subsection D.

Section 9 - Adding or permission to use to Paragraph (1) of Subsection A.

Section 12 - Deleting (25%).

Section 9 - Deleting Paragraph (2) and renumbering Paragraph (3) through (4) and deleting Paragraph (6).

Section 13 - Adding An applicant shall follow all instructions specified in the application which can be found at the commission's website.

Deleting Subsections B through E.

Section 14 - Adding or incomplete to Subsection A.

Amend:

1.13.9.11 NMAC, NMHRAB Appointment and Composition (CPR Rule).

Synopsis:

The proposed amendment of

1.13.9.11 consists of the following modification:

Deleting The NMHRAB shall consist of six members appointed by the commission and the coordinator and substituting The NMHRAB shall, including the coordinator who chairs the board, consist of at least seven but not more than 12 members appointed by the commission and the coordinator.

A summary of the proposed revisions and copies of the full text of the proposed rules may be accessed at the Commission's website (www.nmcpr.state.nm.us), or by contacting Rick Hendricks at Rick.Hendricks@state.nm.us, or via regular mail at 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7955.

At the hearing the CPR will take oral and written comments related to the rulemaking actions listed below

and during the meeting consider approving these rulemaking actions. The Commission may vote on the proposed rules during the meeting on August 30, 2022.

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rmd.cpr@state.nm.us. Written comments must be received no later than 5 p.m. on August 26, 2022. If submitting written comments by email, please indicate in the subject line the number of each rule(s) for which you are providing comments. Persons offering written comments at the hearing must have eight (8) copies for the Commission to review. Oral comments will also be accepted at the rule hearing, subject to time limitations. All written comments will be posted on the agency's website within three days of receipt.

A copy of the agenda for the combined regular meeting and rule hearing is also available on the Commission website and at the office of the State Records Administrator located at the State Records Center and Archives at 1205 Camino Carlos Rey, Santa Fe, NM. The agenda is subject to change up to 72 hours prior to the meeting. Legal authority for this rulemaking can be found in the Public Records Act, Section 14-3-1, et seq. and in the State Rules Act, Section 14-4-1, et seq. NMSA 1978.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT, DEPARTMENT OF STATE FIRE MARSHAL

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the State Fire Marshal ("Fire Marshal"), pursuant to the New Mexico Insurance Code, NMSA 1978, Section 59A-52-1.1, proposes to adopt a new rule, 10. 25.5 NMAC, Fire Prevention and Public Occupancy

PURPOSE OF THE PROPOSED NEW RULE IS: Adopt the 2021 International Fire Code as the New Mexico Fire Code.

STATUTORY AUTHORITY: NMSA 1978, Section 59A-52-15.

Copies of the Notice of Proposed Rulemaking and proposed rule are available by electronic download from the State Fire Marshal's Office website [State Fire Marshal | NM Department of Homeland Security & Emergency \(nmdhsem.org\)](http://StateFireMarshal|NMDepartmentofHomelandSecurity&Emergency.nmdhsem.org) or the New Mexico Sunshine Portal.

The State Fire Marshal's Office will hold a public video/telephonic hearing on the proposed rule on September 9, 2022 at 10:00 a.m.

Join via Video: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODBhMDY4YjgtYTlkOS00NTljLWJhMWYtN2Q1NGY4MWM5ZTZi%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%2282a20906-2ea9-4bb2-8e9c-8aee38adbfc6%22%7d

Join via telephone: 1-505-312-4308 Meeting ID: 254 182 961 706 Passcode: 7grvvp

The Fire Marshal designates Bureau Chief John Kondratick to act as the hearing officer for this rulemaking. Oral comments will be accepted at the video/telephonic hearing from members of the public and any interested parties.

Written comments and proposals will be accepted through 4:00 pm on September 6, 2022. Responses to written comments or oral comments will be accepted through 4:00 pm on September 7, 2022. Comments may be submitted via email to john.kondratick@state.nm.us or may be filed by sending original copies to:

New Mexico Fire Marshal's Office, New Mexico Department of Homeland Security
13 Bataan Blvd., PO Box 27111,
Santa Fe, NM. 87502

Only signed statements, proposals, or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, the Fire Marshal reserves the right to require that original signatures be provided to verify the electronic signature. All filings must be received between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. Any filings after 4:00 will be filed to the docket the next business day.

SPECIAL NEEDS: Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other auxiliary aid or service to attend or participate in the hearing should contact Danielle Gonzales at 505-476-0874 ten (10) business days prior to the hearing.

The Fire Marshal will consider all oral comments and will review all timely submitted written comments and responses.

ISSUED this 14th day of July 2022
/S/Chief John Kondratick

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules *8.302.1 NMAC, Medicaid General Provider Policies, General Provider Policies and 8.310.3 NMAC, Health Care Professional Services, Professional Providers, Services and Reimbursement.*

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations

that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: July 26, 2022

Hearing Date: August 26, 2022

Adoption Date: Proposed as January 1, 2023

Technical Citations: American Rescue Plan 2021 Section 9812

The Department is proposing to amend the rules as follows: **Background**

The Department issued final register 06 volume 45 dated April 5, 2022, that implemented the 12-month postpartum rules located at 8.291.400.14 NMAC. Per 8.291.400.14 NMAC, the Department provides full Medicaid coverage through the last day of the month in which the 12-month postpartum period ends. Upon review of program rules the Department identified 8.302.1 and 8.310.3 NMAC that contain language limiting eligibility to pregnancy-related services rather than the required full Medicaid coverage. MAD is updating these two rules by deleting the limited pregnancy-related services language. Both rules are being repealed and replaced with the latest NMAC formatting as these rules have not been revised in several years and use outdated NMAC formatting.

Changes were made to clarify that midwife services are furnished by a certified nurse midwife or licensed midwife, that coverage is provided for laboratory and diagnostic imaging services related to a normal pregnancy, what midwife services are not covered, and to describe the Birthing Options Program.

8.302.1 NMAC

Section 12 is revised to remove the language that benefits may be limited to pregnancy-related benefits.

Other sections in 8.302.1 were revised to remove or replace outdated terms and add the current mission statement consistent with other recent NMAC

rule changes promulgated by the Department.

8.310.3 NMAC

Section 9

Subsection A Paragraph 1 was updated to add licensed chiropractor and licensed naturopathic doctor to the list of medical practitioners.

Section 11

Paragraph 2 of Subsection C of Section 11 was updated to clarify that for midwife services reimbursement is for a certified nurse midwife or a licensed midwife.

Paragraph 3 of Subsection I of Section 11 has been deleted to remove the language that services may be limited to pregnancy-related services. Subsection I was renumbered after deleting the language from Paragraph 3.

A new Paragraph 9 of Subsection I of Section 11 was added to clarify that Medicaid covers laboratory and diagnostic imaging services to an essentially normal pregnancy.

A new Paragraph 10 of Subsection I of Section 11 was added to clarify what services are not covered under midwife services.

A new Paragraph 11 of Subsection I of Section 11 was added to describe the Birthing Options Program.

Other sections in 8.310.3 were revised to remove or replace outdated terms and add the current mission statement consistent with other recent NMAC rule changes promulgated by the Department.

The register for these proposed amendments to these rules will be available July 26, 2022 on the HSD web site at <https://www.hsd.state.nm.us/lookingforinformation/registers/> or at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes->

[and-opportunities-to-comment/comment-period-open/](#). If you do not have Internet access, a copy of the proposed rule may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective January 1, 2023. A public hearing to receive testimony on these proposed rules will be held **via conference call on Friday, August 26, 2022, at 10 a.m. Mountain Time (MT).** **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on August 26, 2022. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide

requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing

The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing for the proposed repeal and replace of **6.63.11 NMAC, Licensure in Rehabilitation Counseling, Grades Pre K-12**, on Tuesday, August 30, 2022, from 9 a.m. to 11 a.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501. The location of the public hearing is subject to change due to concerns surrounding COVID-19. Continuous updates on hearing changes will be provided on the PED website. The PED will give a verbal summary statement, on record, at the hearing.

The purpose of the public hearing is to receive public input on the proposed rulemaking. Attendees who wish to provide public comment on record will be given three minutes to make a statement concerning the proposed rulemaking. Written comment will also be accepted at the hearing.

Explanation of Purpose of Text

The purpose of the proposed repeal and replace of **6.63.11 NMAC, Licensure in Rehabilitation Counseling, Grades Pre K-12**, is to align the state's requirements for individuals seeking licensure in rehabilitation counseling with

the Rehabilitation Act of 1973, as amended. The proposed rulemaking would also create a pathway for individuals seeking such licensure to attain competency in rehabilitation counseling under an employer's supervision.

Summary of Text

The proposed repeal and replace of **6.63.11 NMAC, Licensure in Rehabilitation Counseling, Grades Pre K-12**, aligns the state's requirements for licensure in rehabilitation counseling with Rehabilitation Act of 1973, as amended. This federal provision requires vocational rehabilitation personnel to attain the following combination of education and experience:

- (1) attainment of a baccalaureate degree in a field of study reasonably related to vocational rehabilitation to prepare individuals to work with consumers and employers, and one year of paid or unpaid experience working with individuals with disabilities or working as an employer or other human resources or recruitment experience; or
- (2) attainment of a master's or doctoral degree in a field of study such as vocational rehabilitation counseling or in another field that reasonably provides competency in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields.

In addition, the proposed rulemaking would allow individuals to obtain state licensure by holding a valid certificate issued by the Commission on Rehabilitation Counselor Certification.

The proposed rulemaking would create an ancillary provider certificate. An ancillary provider certificate is a temporary one-year, non-renewable certificate issued to a candidate who does not yet meet the requirements for a level 1 license in rehabilitation

counseling, but who holds a baccalaureate degree in a field of study reasonably related to vocational rehabilitation and who is working toward a level 1 license under a one-year individualized mentorship plan approved by the PED. An ancillary provider certificate would allow an individual with the requisite education to gain the necessary experience to attain competency in vocational rehabilitation counseling under an employer's supervision.

Statutory Authorizations

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-17 NMSA 1978.

No technical information served as a basis for this proposed rule change.

Public Comment

Interested parties may provide comment at the public hearing or may submit written comments by mail, e-mail, or fax.

Mailing Address

Gregory Frostad
Policy and Legislative Affairs
Division
New Mexico Public Education
Department
300 Don Gaspar Avenue, Room 121
Santa Fe, New Mexico 87501

E-Mail Address

Rule.Feedback@state.nm.us

Fax Number

(505) 827-6520

Written comments must be received no later than 5 p.m. (MDT) on Tuesday, August 30, 2022. The PED encourages the early submission of written comments.

Public Comment Period

The public comment period is from Tuesday, July 26, 2022, to Tuesday, August 30, 2022, at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication

regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rules may be obtained from Gregory Frostad at (505) 470-5752 during regular business hours or may be accessed through the PED Policy and Legislative Affairs webpage titled, "Proposed Rules," at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>,

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Gregory Frostad at (505) 470-5752 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

AGING AND LONG TERM SERVICES DEPARTMENT

The Aging and Long-Term Services Department reviewed at its 05/19/2022 hearing, to repeal its rule 9.2.24 NMAC, Age - Rate and Fee Increases by Continuing Care Communities (filed 01/09/2006) and replace it with 9.2.24 NMAC, Age - The Administration of the Continuing Care Act, adopted 7/12/2022 and effective 07/26/2022.

AGING AND LONG TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 24 THE
ADMINISTRATION OF THE
CONTINUING CARE ACT

9.2.24.1 ISSUING
AGENCY: Aging and Long-Term Services Department.
[9.2.24.1 NMAC - Rp, 9.2.24.1 NMAC, 07/26/2022]

9.2.24.2 SCOPE: This rule applies to for-profit and nonprofit continuing care communities, and the general public.
[9.2.24.2 NMAC - Rp, 9.2.24.2 NMAC, 07/26/2022]

9.2.24.3 STATUTORY
AUTHORITY: This rule is adopted by authority of the secretary pursuant to Subsection E of Section 9-23-6 NMSA 1978, by authority of the Continuing Care Act, Sections 24-17-1 through 24-17-18 NMSA 1978, and by authority of the department pursuant to Subsection B of Section 28-4-6 NMSA 1978.

[9.2.24.3 NMAC - Rp, 9.2.24.3 NMAC, 07/26/2022]

9.2.24.4 DURATION:
Permanent.
[9.2.24.4 NMAC - Rp, 9.2.24.4 NMAC, 07/26/2022]

9.2.24.5 EFFECTIVE
DATE: July 26, 2022, unless a later date is cited in the history note at the end of a section.
[9.2.24.5 NMAC - Rp, 9.2.24.5 NMAC, 07/26/2022]

9.2.24.6 OBJECTIVE:
This rule is promulgated for the purpose of administering certain provisions of the Continuing Care Act, Sections 24-17-1 through 24-17-18 NMSA 1978, and for establishing the terms and conditions under which continuing care communities may increase the rates and fees they charge residents pursuant to Paragraph (11) of Subsection B of Section 24-17-5 NMSA 1978.
[9.2.24.6 NMAC - Rp, 9.2.24.6 NMAC, 07/26/2022]

9.2.24.7 DEFINITIONS:
The following terms are used in this rule:

- A. “affiliate”** means a person (which is defined by the Continuing Care Act as an individual, corporation, partnership, trust, association or other legal entity) having a five percent or greater interest in a provider;
- B. “ALTSD”** means the aging and long-term services department;
- C. “community”** means a retirement home, retirement community, home for the aged or other place that undertakes to provide continuing care, such as a life plan community;

D. “continuing care” means furnishing, pursuant to a contract that requires entrance or advance fees and service or periodic fees, independent-living and health or health-related services. Entrance or advanced fees do not include security or damage deposit fees that amount to less than three months’ service or periodic fees. These services may be provided in the community, in the resident’s independent living unit or in another setting, designated by the continuing care contract, to an individual not related by consanguinity or affinity to the provider furnishing the care. The services include, at a minimum, priority access to a nursing facility or hospital either on site or at a site designated by the continuing care contract;

E. “cost of care” means the direct cost of providing medical care or health-related supportive services to residents;

F. “cost of operating the continuing care community” means the indirect cost of providing care to residents; it includes administrative costs, depreciation expenses, recurring and nonrecurring costs, ordinary and extraordinary costs, capital improvement and replacement costs, and all other costs associated with running a continuing care community, other than cost of care;

G. “economic necessity” means insolvency or circumstances where funds are lacking to maintain a reasonable level of service and care for residents, including the inability to meet loan or bond requirements, or having insufficient funds to comply with master trust indenture or a future service obligation, where, under GAAP accounting, the expenses are greater than future revenue;

H. “expenses” mean cost of care plus cost of operating the continuing care community;

I. “fees” or “assessments” mean entrance fees, deposits, monthly service fees and any other sum of money which a resident must pay to a provider;

J. “GAAP” means generally accepted accounting principles; it refers to a set of widely accepted accounting standards, set by the financial accounting standards board, and used to standardize financial accounting of public companies;

K. “gift income” means income from any gift or grant, or portion thereof, that is used to pay for or offset an expense;

L. “income” means all income received by a continuing care community during a reporting period; income includes operating income, investment income, gift income, and all other forms of income;

M. “investment income” means income received by a continuing care community on investments. Investment income does not include income on resident trust accounts;

N. “liquid reserves” means cash or other assets that are available within 60 days to satisfy a community’s expenses and that do not include real property or interests in real property;

O. “net income” means income minus expenses;

P. “net operating expenses” means the total costs of operating a community, including taxes and insurance but not including amortization, depreciation or long-term debt service;

Q. “person” means an individual, corporation, partnership, trust, association or other legal entity;

R. “policy” is a deliberate system of guidelines to guide decisions and achieve rational outcomes. It is a statement of intent and is implemented as a procedure or protocol;

S. “provider” means the owner or manager of a community that provides, or offers to provide, continuing care;

T. “reserves” means capital set aside for future expenses and includes liquid reserves and other reserves;

U. “resident” means an actual or prospective purchaser of, nominee of or subscriber to a continuing care contract;

V. “return on investment” for a for-profit corporation means net income divided by the sum of common stock equity, preferred stock equity and long-term debt; for any other form of business enterprise, it means a ratio that is statistically equivalent to the return on investment for a for-profit corporation;

W. “type A agreement” means, as defined in Subsection K of Section 24-17-3 NMSA 1978, an extensive entrance-fee contract that includes housing, residential services, amenities and unlimited specific health-related services with little or no substantial increase in monthly payments, except to cover normal operating costs and inflation adjustments; and

X. “type B agreement” means, as defined in Subsection L of Section 24-17-3 NMSA 1978, a modified entrance-fee contract that includes housing, residential services, amenities and a specific amount of health care with no substantial increase in monthly payments, except to cover normal operating costs and inflation adjustments. After the specified amount of health care is used, persons served pay either a discounted rate or the full per diem rates for required health care services.

[9.2.24.7 NMAC - Rp, 9.2.24.7 NMAC, 07/26/2022]

9.2.24.8 RATE AND FEE INCREASES:

A. A continuing care contract shall state, in clear and understandable language, when rates and fees will be subject to periodic increases and what the policy for increases will be. The contract shall include the policy for increases and shall clearly indicate which of the four factors referenced in Subsection

C of 9.2.24.8 NMAC it will utilize for rate and fee increases.

B. A continuing care community shall give residents at least 30 days advance written notice of any rate or fee increase.

C. A continuing care community shall base rate and fee increases on one or more of the following four factors referenced in its contract and policy, and no others:

(1) economic necessity as defined in Subsection G of 9.2.24.7 NMAC;

(2) the reasonable cost of operating the continuing care community as referenced in 9.2.24.9 NMAC;

(3) the cost of care as referenced in 9.2.24.10 NMAC; and

(4) a reasonable return on investment as referenced in 9.2.24.12 NMAC.

D. Any publicly available documentation used by a continuing care community to support a rate or fee increase shall conform to applicable GAAP standards and shall be included in the notice provided to residents referenced in Subsection B of 9.2.24.8 NMAC. Additionally, the community shall supply the mathematical calculations used to support a rate or fee increase to at least two decimal places. Any non-public documentation shall be aggregated into summarized budgets or pro forma financials.

E. A continuing care community may contractually base rate and fee increases on published federal economic data used for the purpose of cost of living and inflation adjustments provided that such increases do not exceed what would otherwise be allowable under this rule.

[9.2.24.8 NMAC - Rp, 9.2.24.8 NMAC, 07/26/2022]

9.2.24.9 COST OF OPERATING THE CONTINUING CARE COMMUNITY:

A. A continuing care community shall identify with reasonable specificity all costs of operating the continuing care

community, including any fees paid to affiliated persons or entities.

B. Any unreasonable cost of operating the continuing care community shall be charged against the common stock equity of a for-profit corporation, or against a comparable measure of the assets less liabilities for any other type of business enterprise.

[9.2.24.9 NMAC - Rp, 9.2.24.9 NMAC, 07/26/2022]

9.2.24.10 COST OF CARE INCREASES:

A. Rate and fee increases based on cost of care increases for providing medical care or health-related supportive services to an individual resident shall be governed by any applicable terms of the continuing care contract. If there are no applicable terms, such rate and fee increases shall be considered general cost of care increases.

B. General cost of care increases shall be treated as an expense item by a continuing care community.

[9.2.24.10 NMAC - Rp, 9.2.24.10 NMAC, 07/26/2022]

9.2.24.11 HISTORICAL AND CURRENT DATA:

A. A continuing care community shall base rate or fee increases on four years of historical data plus current fiscal year projections. However, the community may consider a deviation from historical data when exigent circumstances exist making the historical data inapplicable to the circumstances surrounding the need for the present increase.

B. A continuing care community that has been in operation for less than four years shall base rate or fee increases on historical data for the entire period it has been in operation plus current fiscal year projections.

C. A continuing care community shall make available to residents copies of any publicly available data used to support a rate or fee increase. Non-public data will be aggregated when permissible. The

data shall be made available at the time the continuing care community gives notice of a rate or fee increase, and it shall be made available at no cost to the residents.

[9.2.24.11 NMAC - Rp, 9.2.24.12 NMAC, 07/26/2022]

9.2.24.12 REASONABLE RETURN ON INVESTMENT AS IT PERTAINS TO RATE AND FEE INCREASES:

A. A reasonable return on investment shall be determined by comparing the continuing care community's historical and current return on investment data to secondary market interest rate data published by the federal reserve board for 90-day United States treasury bills.

B. A return on investment consistently greater than six percentage points higher than the annual average secondary market interest rate on 90-day United States treasury bills shall be presumed to be unreasonable. The presumption is rebuttable.

[9.2.24.12 NMAC - Rp, 9.2.24.13 NMAC, 07/26/2022]

9.2.24.13 ACCOUNTING DATA FOR RATE AND FEE INCREASES SHALL BE SPECIFIC TO THE CONTINUING CARE COMMUNITY:

A continuing care community shall base rate or fee increases on accounting data that is specific to the community. A continuing care community shall not base rate or fee increases on companywide data, statewide data, nationwide data, or any other accounting data that is not community specific.

[9.2.24.13 NMAC - Rp, 9.2.24.14 NMAC, 07/26/2022]

9.2.24.14 EXISTING CONTRACTUAL PROVISIONS NOT ABROGATED:

This rule shall not abrogate any provision relating to rate and fee increases in a continuing care contract that is entered into prior to the effective date of this rule.

[9.2.24.14 NMAC - Rp, 9.2.24.15 NMAC, 07/26/2022]

9.2.24.15 FINANCIAL RESERVES:

A. Liquid Reserves:
(1) A

community must maintain liquid reserves and the provider must disclose this information to ALTSD, and actual and prospective residents in its annual disclosure statement.

(2) The liquid

reserves shall be sufficient to assure payment of debt obligations and an ongoing ability to provide services to residents.

(3) A

community that provides a type A agreement shall, at all times, maintain liquid reserves equal to the principal and interest payments due for a 12-month period on all accounts of any mortgage loan and other long-term debt, as well as three months' worth of net operating expenses.

B. Other Reserves:

(1) Deposits or

entrance fees paid by or for a resident constitute reserves which shall be held in trust for the benefit of the resident in a federally insured New Mexico bank, separate from the community's operating accounts, until:

(a)

the resident has occupied the resident's unit; or

(b)

the resident's contract cancellation period has ended, whichever occurs later.

(2) A

community that provides type B agreements shall calculate required reserves on a prorated basis for residents who fall under type B agreements.

C. Certification of Compliance Regarding Financial Reserves:

(1) A provider

shall make available to the certified public accountant who is responsible for the community's annual audited financial statement and audit report, a copy of this rule and a copy of the Continuing Care Act, specifically the requirements for financial reserves referenced in Section 24-17-6 NMSA 1978.

(2) The certified public accountant shall certify whether, based upon the audit, the community meets the financial reserve requirements delineated in this rule and in the Continuing Care Act. If the certified public accountant finds that the community does not meet the financial reserve requirements delineated in this rule and in the Continuing Care Act, then the certified public accountant shall state the reason(s) for the community's deficiencies.

D. Corrective

Action Plan: If the certified public accountant is unable to attest that the community meets the financial reserve requirements delineated in this rule and in the Continuing Care Act, then the provider shall submit a proposed Corrective Action Plan to ALTSD.

[9.2.24.15 NMAC - N, 07/26/2022]

9.2.24.16 DISCLOSURE STATEMENT AND PROVIDER CERTIFICATION:

A. Annual Disclosure Statement to ALTSD:

(1) No later than July 1, 2022, and each year thereafter, within 180 days after the end of a community's fiscal year, a provider shall submit a disclosure statement, any amendments to that statement, and any proposed corrective action plan to ALTSD. The annual disclosure statement shall include, at a minimum, all information delineated in Subsection B of Section 24-17-4 NMSA 1978 and the information delineated in Paragraphs (2) and (3) of Subsection A of 9.2.24.16 NMAC. Submittal is completed electronically to ALTSD by emailing ALTSD.CCRC@state.nm.us. In the event a fillable template is created by ALTSD for submission of disclosure statements, providers shall use the ALTSD template.

ALTSD shall notify providers when a template is available for use and provide instructions for accessing it.

(2) The disclosure statement shall include the extent of any guarantee or cross collateralization if a provider

guarantees the debt of another legal entity or otherwise cross collateralizes its assets for the benefit of another legal entity.

(3) Pursuant to Paragraph (13) of Subsection B of Section 24-17-4 NMSA 1978, the disclosure statement shall include a sample copy of the contract used by the provider. The sample contract shall include all the minimum requirements of a continuing care contract as prescribed by Subsection B of Section 24-17-5 NMSA 1978.

B. Provider Certification of Compliance with the Continuing Care Act:

(1) Pursuant to Section 24-17-17 NMSA 1978, in conjunction with its submission of the annual disclosure statement, the provider shall certify to ALTSD:

(a) that the disclosure was provided to each actual resident or the residents' association within 180 days after the end of the community's fiscal year;

(b) that the disclosure statement was provided to each prospective resident at least seven days before the provider entered into a continuing care contract with the prospective resident, or prior to the prospective resident's first payment, whichever occurred first;

(c) that the disclosure includes all the information delineated in Subsection B of Section 24-17-4 NMSA 1978;

(d) whether it is a community that provides type A or type B agreements;

(e) that it adopted and follows a written policy establishing the procedure and criteria that are applicable when deciding to transfer residents from one level of care to another as required by Section 24-17-12 NMSA 1978; and

(f) that it has taken appropriate steps to encourage and facilitate the establishment of a resident association in each facility, and that the provider complies with all of the requirements of Section 24-17-13 NMSA 1978.

(2) The provider shall further certify whether in the past five years:

(a) it has been issued a notice of violation by ALTSD, pursuant to Section 24-17-16 NMSA 1978;

(b) the attorney general filed an action against the provider in a court of competent jurisdiction pursuant to Section 24-17-18 NMSA 1978;

(c) the attorney general has brought a legal action in district court against the provider in order to restrain or prevent violations of the Continuing Care Act or these regulations pursuant to Section 24-17-10 NMSA 1978; and

(d) if the attorney general has filed an action against the provider pursuant to Subparagraph (b) or (c) of Paragraph (2) of Subsection B of 9.2.24.16 NMAC. If a legal action was filed then the provider shall indicate the status of that matter, as well as whether any civil penalties or injunctive relief were imposed upon the provider. Specifically, if civil penalties or injunctive relief were imposed then the provider shall indicate the amount of the penalty, or the nature of the temporary or permanent injunctive relief. However, no confidential information that is subject to a settlement agreement with the attorney general shall be disclosed.

[9.2.24.16 NMAC - N, 07/26/2022]

9.2.24.17 ACTUARIAL STUDIES:

A. Continuing care communities that provide type A or type B agreements shall include in their annual disclosure to ALTSD, as well as to actual and prospective residents, a summary of a comprehensive actuarial analysis within the last five years and an annual future-service obligation calculation by an actuary who is a member of the American academy of actuaries and who is experienced in analyzing continuing care communities.

B. The provider shall include with the actuarial analysis and annual future-service obligation calculation, as required by Subsection A of 9.2.24.17 NMAC and the Continuing Care Act, a certification signed by the actuary that they are a member of the American academy of actuaries and that they are experienced in analyzing continuing care communities.

C. A provider shall make available to the actuary, who is responsible for the comprehensive actuarial analysis and future service obligation, a copy of this rule and a copy of the Continuing Care Act, specifically Paragraph (11) of Subsection B of Section 24-17-4 NMSA 1978.

[9.2.24.17 NMAC - N, 07/26/2022]

9.2.24.18 NOTICE OF VIOLATIONS:

A. ALTSD shall review disclosure statements and corrective action plans filed pursuant to the Continuing Care Act for compliance with the Act and with these rules. After its initial review, if ALTSD has any questions regarding the submissions, then it may contact the provider to gather clarification and informally discuss its questions.

B. If ALTSD determines that a person or an organization has engaged in, or is about to engage in, an act or practice constituting a violation of the Continuing Care Act or any rule adopted pursuant to the Act, then ALTSD shall issue a notice of violation in writing to that person or organization and send copies to the resident association of any facility affected by the notice.

C. The notice of violation shall state the following:

(1) a description of the violation at issue;

(2) the action that, in the judgment of ALTSD, the provider should take to conform to the law or the assurances that ALTSD requires to establish that no violation is about to occur;

(3) the compliance date by which the

provider shall correct any violation or submit assurances;

(4) the requirements for filing a report of compliance; and

(5) the applicable sanctions for failure to correct the violation or failure to file the report of compliance according to the terms of the notice of violation.

D. At any time after receipt of a notice of violation, the person or organization to which the notice is addressed, or ALTSD, may request a conference. ALTSD shall schedule a conference within 30 days of ALTSD’s receipt of a request for a conference. Requests for a conference may be submitted to ALTSD via email at ALTSD.CCRC@state.nm.us.

E. The purpose of the conference is to discuss the contents of the notice of violation and to assist the provider in complying with the requirements of the Continuing Care Act. In certain situations, if both the provider and ALTSD concur, then ALTSD may request that the provider undergo special audit procedures by a certified public accountant to help resolve the alleged violation. A representative of the resident association at any facility affected by the notice shall have a right to attend the conference.

F. A person receiving a notice of violation shall submit a signed report of compliance as provided by the notice. ALTSD shall send a copy to the resident association of any facility affected by the notice.

G. Upon receipt of the report of compliance, ALTSD may take steps to determine that compliance has been achieved.

H. Any time after ALTSD issues a notice of violation, it may send the attorney general a written report alleging a possible violation of the Continuing Care Act or any rule adopted pursuant to the Act.

[9.2.24.18 NMAC - N, 07/26/2022]

History of 9.2.24 NMAC:
[RESERVED]

History of Repealed Material:

9.2.24 NMAC, Rate and Fee Increases by Continuing Care Communities (filed 01/09/2006) Repealed effective 07/26/2022.

Other: 9.2.24 NMAC, Rate and Fee Increases by Continuing Care Communities (filed 01/09/2006) Replaced by 9.2.24 NMAC, The Administration of the Continuing Care Act, effective 07/26/2022.

EDUCATIONAL RETIREMENT BOARD

This is an amendment to 2.82.5 NMAC, Sections 11, 18, 19, 20, 21 and 22, effective 07/26/2022.

2.82.5.11 EFFECTIVE DATE OF BENEFIT:

A. Whenever a retiring member completes the academic year for which [he] the member has been contracted or employed, [his] the member’s effective date of retirement shall be July 1, provided that application is made as stipulated in Subsection B of 2.82.5.11 NMAC. Whenever a retiring member terminates at a time other than at the end of the academic year for which the retiring member has been contracted or employed, the effective date may be the first day of the month following termination, provided that application must be as stipulated in Subsection B of 2.82.5.11 NMAC.

B. The effective date of benefits cannot in any case be earlier than the first day of the month following receipt of the completed application forms (as provided by the director) from the member or the member’s employer, except as provided in Subsection D of 2.82.5.11 NMAC.

C. Section 22-11-28 NMSA 1978 shall be construed to mean that the effective date of benefits shall be in accordance with [Section] Subsection D of [~~this Rule~~] 2.82.5.11 NMAC, and further that on concurrence of the local administrative unit for retirement on a date other than July 1 has been given when the local administrative unit

certifies the member's termination on the application form.

D. If a member's application for benefits is received after the effective date desired by the member, and such desired effective date would otherwise be in accordance with the law and rules of the board, the director may commence the member's benefit as of such date, only if the delay in filing was due to delay in processing by the local administrative unit, and not due to any fault or wish of the member. The director shall also consider an application to have been duly filed in this office on the date postmarked if the application is mailed.
[6/30/1999; 2.82.5.11 NMAC - Rn, 2 NMAC 82.5.11, 11/30/2001; A, 10/17/2017; A, 11/12/2019; A, 07/26/2022]

2.82.5.18 RETURN TO WORK 36 MONTHS:

A. A retired member may return to employment pursuant to Subsection I of Section 22-11-25.1 NMSA 1978 without affecting the retired member's retirement benefit provided that:

(1) the retired member has not rendered service to a local administrative unit for at least 90 consecutive days after the date of retirement;

(2) the retired member returns to employment for a period of no more than 36 consecutive or nonconsecutive months; and

(3) the retired member submits a return to work application and is approved by ERB prior to commencing employment.

B. If a retired member returns to employment for more than 36 consecutive or nonconsecutive months pursuant to Subsection I of Section 22-11-25.1 NMSA 1978, the retired member's retirement benefit shall be suspended for the period of employment which exceeds 36 consecutive or nonconsecutive months and the retired member shall be returned to active status effective the first day of the month following the month in which the retired member's employment exceeded

36 consecutive or nonconsecutive months. The retired member shall pay the educational retirement fund a sum equal to all retirement payments the retired member received while ineligible plus interest at a rate set by the board.

[2.82.5.18 NMAC - N, 07/26/2022]

~~[2.82.5.18]~~ 2.82.5.19 TERMINATION OF PLAN; ACCRUED RIGHTS OF

MEMBERS: The rights of members to benefits accrued, to the extent funded, will become vested to the extent required by and upon the events set forth in Treas. Reg. Section 1.401-6(a)(1). See 26 CFR 1.401-6.
[2.82.5.19 NMAC - Rn, 2.82.5.18 NMAC, 07/26/2022]

~~[2.82.5.19]~~ 2.82.5.20 INTERNAL REVENUE CODE

SELECTION: The Educational Retirement Act of New Mexico is intended to satisfy Section 401(a) of the Internal Revenue Code and to be a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code.
[2.82.5.20 NMAC - Rn, 2.82.5.19 NMAC, 07/26/2022]

~~[2.82.5.20]~~ 2.82.5.21 ROLLOVER DISTRIBUTIONS FOR NON-SPOUSE

BENEFICIARIES: The Educational Retirement Act shall allow direct rollovers to non-spouse beneficiaries for lump sum distributions only, and such distributions must be requested before the end of the year after the year of the member's death. No partial rollovers shall be permitted. A direct rollover by a non-spouse beneficiary must be made into a traditional or Roth IRA established on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account (IRA) pursuant to the provisions of Section 402(c) (11) of the Internal Revenue Code. The distribution must also otherwise satisfy the definition of an "eligible rollover distribution" under Section 401(a) (31) of the Internal Revenue Code. All other current rules applicable to rollover distributions

under the Educational Retirement Act, or adopted by the board pursuant to the Educational Retirement Act, must be followed. The non-spouse beneficiary shall be notified that he or she is responsible for following the applicable minimum required distribution rules under Section 401(a) (9) of the Internal Revenue Code.

[2.82.5.21 NMAC - Rn, 2.82.5.20 NMAC, 07/26/2022]

~~[2.82.5.21]~~ 2.82.5.22 DEATH BENEFITS WHILE PERFORMING MILITARY

SERVICE: In the case of a death or disability occurring on or after January 1, 2007, if a member dies while performing qualified military service (as defined in section 414(u)), the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service not otherwise credited under the terms of the Educational Retirement Act) provided under the plan as if the member had resumed and terminated employment on account of death.
[2.82.5.22 NMAC - Rn, 2.82.5.21 NMAC, 07/26/2022]

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION

CHAPTER 2 AIR QUALITY (STATEWIDE)

PART 50 OIL AND GAS SECTOR – OZONE PRECURSOR POLLUTANTS

20.2.50.1 ISSUING

AGENCY: Environmental Improvement Board.
[20.2.50.1 NMAC – N, 08/05/2022]

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, sources in any other area(s) of the state not previously specified are 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 the sources in those areas.

(1) The notice of proposed rulemaking shall be published no less than 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.

[20.2.50.2 NMAC – N, 08/05/2022]

20.2.50.3 STATUTORY AUTHORITY: Environmental Improvement Act, Section 74-1-1 to 74-1-16 NMSA 1978, including specifically Paragraph (4) and (7) of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Sections 74-2-1 to 74-2-22 NMSA 1978, including specifically Subsections A, B, C, D, F, and G of Section 74-2-5 NMSA 1978 (as amended through 2021).

[20.2.50.3 NMAC - N, 08/05/2022]

20.2.50.4 DURATION: Permanent.

[20.2.50.4 NMAC - N, 08/05/2022]

20.2.50.5 EFFECTIVE DATE: August 05, 2022, except where a later date is specified in another section.

[20.2.50.5 NMAC - N, 08/05/2022]

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.

[20.2.50.6 NMAC - N, 08/05/2022]

20.2.50.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC - Definitions, as used in this Part, the following definitions apply.

A. Definitions beginning with the letter "A":
"Auto-igniter" means a device that automatically attempts to relight the pilot flame of a control device in order to combust VOC emissions, or a device that will automatically attempt to combust the VOC emission stream.

B. Definitions beginning with the letter "B":

"Bleed rate" means the rate in standard cubic feet per hour at which gas is continuously vented from a pneumatic controller.

C. Definitions beginning with the letter "C":

(1) **"Calendar year"** means a year beginning January 1 and ending December 31.

(2) **"Centrifugal compressor"** means a machine used for raising the pressure of natural gas by drawing in low-pressure natural gas and discharging significantly higher-pressure natural gas by means of a mechanical rotating vane or impeller. A screw, sliding vane, and liquid ring compressor is not a centrifugal compressor.

(3) **"Closed vent system"** means a system that is designed, operated, and maintained to route the VOC emissions from a source or process to a process stream or control device with no loss of VOC emissions to the atmosphere during operation.

(4) **"Commencement of operation"** means for an oil and natural gas well site, the date any permanent production equipment is in use and product is consistently flowing to a sales line, gathering line or storage vessel from the first producing well at the stationary source, but no later than the end of well completion operation.

(5) **"Component"** means a pump seal, flange, pressure relief device (including thief hatch or other opening on a storage vessel), connector or valve that contains or contacts a process stream with hydrocarbons, except for components where process streams consist solely of glycol, amine, produced water, or methanol.

(6) **"Connector"** means flanged, screwed, or other joined fittings used to connect pipeline segments, tubing, pipe components (such as elbows, reducers, "T's" or valves) to each other; or a pipeline to a piece of equipment; or an instrument to a pipe, tube, or piece of equipment. A common connector is a flange. Joined

fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this Part.

(7)

“Construction” means fabrication, erection, or installation of a stationary source, including but not limited to temporary installations and portable stationary sources, but does not include relocations or like-kind replacements of existing equipment.

(8) **“Control**

device” means air pollution control equipment or emission reduction technologies that thermally combust, chemically convert, or otherwise destroy or recover air contaminants. Examples of control devices may include but are not limited to open flares, enclosed combustion devices (ECDs), thermal oxidizers (TOs), vapor recovery units (VRUs), fuel cells, condensers, catalytic converters (oxidative, selective, and non-selective), or other emission reduction equipment. A control device may also include any other air pollution control equipment or emission reduction technologies approved by the department to comply with emission standards in this Part. A VRU or other equipment used primarily as process equipment is not considered a control device.

D. Definitions**beginning with the letter “D”:**

(1)

“Department” means the New Mexico environment department.

(2) **“Design**

value” means the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration.

(3)

“Downtime” means the period of time when equipment is not in operation.

(4) **“Drilling”**

or “drilled” means the process to bore a hole to create a well for oil and/or natural gas production.

(5) **“Drill-**

out” means the process of removing the plugs placed during hydraulic fracturing or refracturing. Drill-out ends after the removal of all stage

plugs and the initial wellbore cleanup.

E. Definitions**beginning with the letter “E”:**(1) **“Enclosed**

combustion device” means a combustion device where waste gas is combusted in an enclosed chamber solely for the purpose of destruction. This may include, but is not limited to, an enclosed flare or combustor.

(2) **“Existing”**

means constructed or reconstructed before the effective date of this Part.

F. Definitions**beginning with the letter “F”:**

(1)

“Flowback” means the process of allowing fluids and entrained solids to flow from a well following stimulation, either in preparation for a subsequent phase of treatment or in preparation for cleanup and placing the well into production. The term flowback also means the fluids and entrained solids flowing from a well after drilling or hydraulic fracturing or refracturing. Flowback ends when all temporary flowback equipment is removed from service. Flowback does not include drill-out.

(2)

“Flowback vessel” means a vessel that contains flowback.

G. Definitions**beginning with the letter “G”.****[RESERVED]**

(1)

“Gathering and boosting station” means a facility, including all equipment and compressors, located downstream of a well site that collects or moves natural gas prior to the inlet of a natural gas processing plant; or prior to a natural gas transmission pipeline or transmission compressor station if no gas processing is performed; or collects, moves, or stabilizes crude oil or condensate prior to an oil transmission pipeline or other form of transportation. Gathering and boosting stations may include equipment for liquids separation, natural gas dehydration, and tanks for the storage of water and hydrocarbon liquids.

(2) **“Glycol**

dehydrator” means a device in which a liquid glycol absorbent, including

ethylene glycol, diethylene glycol, or triethylene glycol, directly contacts a natural gas stream and absorbs water.

H. Definitions**beginning with the letter “H”:**(1) **“High-****bleed pneumatic controller”**

means a continuous bleed pneumatic controller that is designed to have a continuous bleed rate that emits in excess of 6 standard cubic feet per hour (scfh) of natural gas to the atmosphere.

(2)

“Hydraulic fracturing” means the process of directing pressurized fluids containing any combination of water, proppant, and any added chemicals to penetrate tight formations, such as shale, coal, and tight sand formations, that subsequently requires flowback to expel fracture fluids and solids.

(3)

“Hydraulic refracturing” means conducting a subsequent hydraulic fracturing operation at a well that has previously undergone a hydraulic fracturing operation.

(4)

“Hydrocarbon liquid” means any naturally occurring, unrefined petroleum liquid and can include oil, condensate, and intermediate hydrocarbons. Hydrocarbon liquid does not include produced water.

I. Definitions**beginning with the letter “I”:**(1) **“Inactive**

well site” means a well site where the well is not being used for beneficial purposes, such as production or monitoring, and is not being drilled, completed, repaired or worked over.

(2) **“Injection**

well site” means a well site where the well is used for the injection of air, gas, water or other fluids into an underground stratum.

(3)

“Intermittent pneumatic controller” means a pneumatic controller that is not designed to have a continuous bleed rate but is designed to only release natural gas above de minimis amounts to the atmosphere as part of the actuation cycle.

J. Definitions
beginning with the letter “J”.
[RESERVED]

K. Definitions
beginning with the letter “K”.
[RESERVED]

L. Definitions
beginning with the letter “L”:

(1) **“Liquid unloading”** means the removal of accumulated liquid from the wellbore that reduces or stops natural gas production.

(2) **“Liquid transfer”** means the unloading of a hydrocarbon liquid from a storage vessel to a tanker truck or tanker rail car for transport.

(3) **“Local distribution company custody transfer station”** means a metering station where the local distribution company receives a natural gas supply from an upstream supplier, which may be an interstate transmission pipeline or a local natural gas producer, for delivery to customers through the local distribution company’s intrastate transmission or distribution lines.

(4) **“Low-bleed pneumatic controller”** means a continuous bleed pneumatic controller that is designed to have a continuous bleed rate that emits less than or equal to 6 scfh of natural gas to the atmosphere.

M. Definitions
beginning with the letter “M”.
[RESERVED]

N. Definitions
beginning with the letter “N”.
“non-porous” means multi-use items such as metal, glass and plastic;

(1) **“Natural gas-fired heater”** means an enclosed device using a controlled flame and with a primary purpose to transfer heat directly to a process material or to a heat transfer material for use in a process.

(2) **“Natural gas processing plant”** means the processing equipment engaged in the extraction of natural gas liquid from natural gas or fractionation of mixed natural gas liquid to a natural gas product, or both. A Joule-Thompson valve, a dew point depression valve,

or an isolated or standalone Joule-Thompson skid is not a natural gas processing plant.

(3) **“New”** means constructed or reconstructed on or after the effective date of this Part.

(4) **“Non-emitting controller”** means a device that monitors a process parameter such as liquid level, pressure, or temperature and sends a signal to a control valve in order to control the process parameter and does not emit natural gas to the atmosphere. Examples of non-emitting controllers include but are not limited to instrument air or inert gas pneumatic controllers, electric controllers, mechanical controllers and Routed Pneumatic Controllers.

O. Definitions
beginning with the letter “O”:

(1) **“Occupied area”** means the following:

(a) a building or structure used as a place of residence by a person, family, or families, and includes manufactured, mobile, and modular homes, except to the extent that such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes;

(b) indoor or outdoor spaces associated with a school that students use commonly as part of their curriculum or extracurricular activities;

(c) five-thousand (5,000) or more square feet of building floor area in commercial facilities that are operating and normally occupied during working hours; and

(d) an outdoor venue or recreation area, such as a playground, permanent sports field, amphitheater, or similar place of outdoor public assembly.

(2) **“Operator”** means the person or persons responsible for the overall operation of a stationary source.

(3) **“Optical gas imaging (OGI)”** means an imaging technology that utilizes a high-sensitivity infrared camera designed for and capable of detecting hydrocarbons.

(4) **“Owner”** means the person or persons who own a stationary source or part of a stationary source.

P. Definitions
beginning with the letter “P”:

(1) **“Permanent pit or pond”** means a pit or pond used for collection, retention, or storage of produced water or brine and is installed for longer than one year.

(2) **“Pneumatic controller”** means a device that monitors a process parameter such as liquid level, pressure, or temperature and uses pressurized gas (which may be released to the atmosphere during normal operation) and sends a signal to a control valve in order to control the process parameter. Controllers that do not utilize pressurized gas are not pneumatic controllers.

(3) **“Pneumatic diaphragm pump”** means a positive displacement pump powered by pressurized gas that uses the reciprocating action of flexible diaphragms in conjunction with check valves to pump a fluid. A pump in which a fluid is displaced by a piston driven by a diaphragm is not considered a diaphragm pump. A lean glycol circulation pump that relies on energy exchange with the rich glycol from the contactor is not considered a diaphragm pump.

(4) **“Potential to emit (PTE)”** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is federally enforceable. The PTE for nitrogen dioxide shall be based on total oxides of nitrogen.

(5) **“Pre-production operations”** means the drilling through the hydrocarbon bearing zones, hydraulic fracturing or

refracting, drill-out, and flowback of an oil and/or natural gas well.

(6) **“Produced water”** means a liquid that is an incidental byproduct from well completion and the production of oil and gas.

(7) **“Produced water management unit”** means a recycling facility or a permanent pit or pond that is a natural topographical depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to accumulate produced water and has a design storage capacity equal to or greater than 50,000 barrels.

Q. Definitions beginning with the letter “Q”.

“Qualified Professional Engineer” means an individual who is licensed by a state as a professional engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge, and experience to make the specific technical certifications required under this Part.

R. Definitions beginning with the letter “R”:

(1) **“Reciprocating compressor”** means a piece of equipment that increases the pressure of process gas by positive displacement, employing linear movement of a piston rod.

(2) **“Reconstruction”** means a modification that results in the replacement of the components or addition of integrally related equipment to an existing source, to such an extent that the fixed capital cost of the new components or equipment exceeds fifty percent of the fixed capital cost that would be required to construct a comparable entirely new facility.

(3) **“Recycling facility”** means a stationary or portable facility used exclusively for the treatment, re-use, or recycling of produced water and does not include oilfield equipment such as separators, heater treaters, and

scrubbers in which produced water may be used.

(4) **“Responsible official”** means one of the following:

(a) for a corporation: president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative.

(b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(5) **“Routed pneumatic controller”** means a pneumatic controller of any type that releases natural gas to a process, sales line, or to a combustion device instead of directly to the atmosphere.

S. Definitions beginning with the letter “S”:

(1) **“Small business facility”** means, for the purposes of this Part, a source that is independently owned or operated by a company that is not a subsidiary or a division of another business, that employs no more than 10 employees at any time during the calendar year, and that has a gross annual revenue of less than \$250,000. Employees include part-time, temporary, or limited-service workers.

(2) **“Stabilized”** means, when used to refer to stored condensate, that the condensate has reached substantial equilibrium with the atmosphere and that any emissions that occur are those commonly referred to within the industry as “working and breathing losses.”

(3) **“Standalone tank battery”** means a tank battery that is not designated as associated with a well site, gathering and boosting station, natural gas processing plant, or transmission compressor station.

(4) **“Startup”** means the setting into operation of air pollution control equipment or process equipment.

(5) **“Stationary source”** or **“source”** means any building, structure, equipment, facility, installation (including temporary installations), operation, process, or portable stationary source that emits or may emit any air contaminant. Portable stationary source means a source that can be relocated to another operating site with limited dismantling and reassembly.

(6) **“Storage vessel”** means a single tank or other vessel that is designed to contain an accumulation of hydrocarbon liquid or produced water and is constructed primarily of non-earthen material including wood, concrete, steel, fiberglass, or plastic, which provide structural support. A well completion vessel that receives recovered liquid from a well after commencement of operation for a period that exceeds 60 days is considered a storage vessel. A storage vessel does not include

a vessel that is skid-mounted or permanently attached to a mobile source and located at the site for less than 180 consecutive days, such as a truck or railcar; a process vessel such as a surge control vessel, bottom receiver, or knockout vessel; a pressure vessel designed to operate in excess of 204.9 kilopascals (29.72 psi) without emissions to the atmosphere; or a floating roof tank complying with 40 CFR Part 60, Subpart Kb.

T. Definitions beginning with the letter “T”:

(1) **“Tank battery”** means a storage vessel or group of storage vessels that receive or store crude oil, condensate, or produced water from a well or wells for storage. The owner or operator shall designate whether a tank battery is a standalone tank battery or is associated with a well site, gathering and boosting station, natural gas processing plant, or transmission compressor station. The owner or operator shall maintain records of this designation and make them available to the department upon request. A tank battery associated with a well site, gathering or boosting

station, natural gas processing plant, or transmission compressor station is subject to the requirements in this Part for those facilities, as applicable. Tank battery does not include storage vessels at saltwater disposal facilities or produced water management units.

(2)

“Temporarily abandoned well site” means an inactive well site where the well’s completion interval has been isolated. The completion interval is the reservoir interval that is open to the borehole and is isolated when tubing and artificial equipment has been removed and a bottom plug has been set.

(3)

“Transmission compressor station” means a facility, including all equipment and compressors, that moves pipeline quality natural gas at increased pressure from a well site or natural gas processing plant through a transmission pipeline for ultimate delivery to the local distribution company custody transfer station, underground storage, or to other industrial end users. Transmission compressor stations may include equipment for liquids separation, natural gas dehydration, and tanks for the storage of water and hydrocarbon liquids.

U. Definitions beginning with the letter “U”.
[RESERVED]

V. Definitions beginning with the letter “V”:
“Vessel measurement system” means equipment and methods used to determine the quantity of the liquids inside a vessel (including a flowback vessel) without requiring direct access through the vessel thief hatch or other opening.

W. Definitions beginning with the letter “W”:

(1) **“Wellhead only facility”** means a well site that does not contain any production or processing equipment other than artificial lift natural gas driven pneumatic controllers and emergency shutdown device natural gas driven pneumatic controllers.

(2) **“Well workover”** means the repair or

stimulation of an existing production well for the purpose of restoring, prolonging, or enhancing the production of hydrocarbons.

(3) **“Well site”** means the equipment under the operator’s control directly associated with one or more oil wells or natural gas wells upstream of the natural gas processing plant or gathering and boosting station, if any. A well site may include equipment used for extraction, collection, routing, storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and product piping. A well site does not include an injection well site.

[20.2.50.7 NMAC - N, 08/05/2022]

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, 08/05/2022]

20.2.50.9

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

[20.2.50.9 NMAC - N, 08/05/2022]

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, 08/05/2022]

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, 08/05/2022]

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, 08/05/2022]

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

20.2.50.13-20.2.50.110

[RESERVED]

20.2.50.111 APPLICABILITY:

A. This Part applies to certain crude oil and natural gas production and processing equipment associated with operations that extract, collect, separate, dehydrate, store, process, transport, transmit, or handle hydrocarbon liquids or produced water in the areas specified in 20.2.50.2 NMAC and are located at well sites, tank batteries, gathering and boosting stations, natural gas processing plants, and transmission compressor stations, up to the point of the local distribution company custody transfer station.

B. In determining if any source is subject to this Part, including a small business facility as defined in this Part, the owner or operator shall calculate the Potential to Emit (PTE) of such source and shall have the PTE calculation certified by a qualified professional engineer or an inhouse engineer with expertise in the operation of oil and gas equipment, vapor control systems, and pressurized liquid samples. The emission standards and requirements of this Part may not be considered in the PTE calculation required in this Section or in determining if any source is subject to this Part. The calculation shall be kept on file for a minimum of five years and shall be provided to the department upon request. This certified calculation shall be completed before startup for new sources, and within two years of the effective date of this Part for existing sources.

C. An owner or operator of a small business facility as defined in this Part shall comply with the requirements of this Part as specified in 20.2.50.125 NMAC.

D. Oil transmission pipelines, oil refineries, natural

gas transmission pipelines (except transmission compressor stations), and saltwater disposal facilities are not subject to this Part.
[20.2.50.111 NMAC - N, 08/05/2022]

20.2.50.112 GENERAL PROVISIONS:

A. General requirements:

(1) Sources subject to emissions standards and requirements under this Part shall be operated and maintained consistent with manufacturer specifications, or good engineering and maintenance practices. When used in this Part, the term manufacturer specifications means either the original equipment manufacturer (or successor) emissions-related design specifications, maintenance practices and schedules, or an alternative set of specifications, maintenance practices and schedules sufficient to operate and maintain such sources in good working order, which have been approved by qualified maintenance personnel based on engineering principles and field experience. The owner or operator shall keep manufacturer specifications on file when available, as well as any alternative specifications that are being followed, and make them available upon request by the department. The terms of Paragraph (1) of Subsection A of 20.2.50.112 NMAC apply any time reference to manufacturer specifications occurs in this Part.

(2) Sources, including associated air pollution control equipment and monitoring equipment, subject to emission standards or requirements under this Part shall at all times, including periods of startup, shutdown, and malfunction, be operated and maintained in a manner consistent with safety and good air pollution control practices for minimizing emissions of VOC and NO_x. During a period of startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce

emissions from the affected source to the greatest extent consistent with safety and good air pollution control practices. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions beyond levels required by the applicable standard under this Part. The terms of Paragraph (2) of Subsection A of 20.2.50.112 NMAC apply any time reference to minimizing emissions occurs in this Part.

(3) Within two years of the effective date of this Part, owners and operators of a source requiring equipment monitoring, testing, or inspection shall develop and implement a data system(s) capable of storing information for each source in a manner consistent with this Section. The owner or operator shall maintain information regarding each source requiring equipment monitoring, testing, or inspection in a data system(s), including the following information in addition to the required information specified in an applicable section of this Part:

- (a) unique identification number;
- (b) location (latitude and longitude) of the source;
- (c) type of source (e.g., tank, VRU, dehydrator, pneumatic controller, etc.);
- (d) for each source, the controlled VOC (and NO_x, if applicable) emissions in lbs./hr. and tpy;
- (e) make, model, and serial number; and
- (f) a link to the manufacturer maintenance schedule or repair recommendations, or company-specific operational and maintenance practices.

(4) The data system(s) shall be maintained by the owner or operator of the facility.

(5) The owner or operator shall manage the source's record of data in the data system(s). The owner or operator shall generate

a Compliance Database Report (CDR) from the information in the data system. The CDR is an electronic report maintained by the owner or operator and that can be submitted to the department upon request.

(6) The CDR is a report distinct from the owner or operator's data system(s). The department does not require access to the owner or operator's data system(s), only the CDR.

(7) The owner or operator's authorized representative must be able to access and input data in the data system(s) record for that source. That access is not required to be at any time from any location.

(8) The owner or operator shall contemporaneously track each monitoring event, and shall comply with the following:

(a) data gathered during each monitoring or testing event shall be uploaded into the data system as soon as practicable, but no later than three business days of each compliance event, and when the final reports are received;

(b) certain sections of this Part require a date and time stamp, including a GPS display of the location, for certain monitoring events. No later than one year from the effective date of this Part, the department shall finalize a list of approved technologies to comply with date and time stamp requirements, and shall post the approved list on its website. Owners and operators shall comply with this requirement using an approved technology no later than two years from the effective date of this Part. Prior to such time, owners and operators may comply with this requirement by making a written or electronic record of the date and time of any affected monitoring event; and

(c) data required by this Part shall be maintained in the data system(s) for at least five years.

(9) The department for good cause may request that an owner or operator retain a third party at their own

expense to verify any data or information collected, reported, or recorded pursuant to this Part, and make recommendations to correct or improve the collection of data or information. Such requests may be made no more than once per year. The owner or operator shall submit a report of the verification and any recommendations made by the third party to the department by a date specified and implement the recommendations in the manner approved by the department. The owner or operator may request a hearing on whether good cause was demonstrated or whether the recommendations approved by the department must be implemented.

(10) Where Part 50 refers to applicable federal standards or requirements, the references are to the applicable federal standards or requirements that were in effect at the time of the effective date of this Part, unless the applicable federal standards or requirements have been superseded by more stringent federal standards or requirements.

(11) Prior to modifying an existing source, including but not limited to increasing a source's throughput or emissions, the owner or operator shall determine the applicability of this Part in accordance with 20.2.50.111.B NMAC.

B. Monitoring requirements: In addition to any monitoring requirements specified in the applicable sections of this Part, owners and operators shall comply with the following:

(1) Unless otherwise specified, the term monitoring as used in this Part includes, but is not limited to, monitoring, testing, or inspection requirements.

(2) If equipment is shut down at the time of periodic testing, monitoring, or inspection required under this Part, the owner or operator shall not be required to restart the unit for the sole purpose of performing the testing, monitoring, or inspection, but shall

note the shut down in the records kept for that equipment for that monitoring event.

C. Recordkeeping requirements: In addition to any recordkeeping requirements specified in the applicable sections of this Part, owners and operators shall comply with the following:

(1) Within three business days of a monitoring event and when final reports are received, an electronic record shall be made of the monitoring event and shall include the information required by the applicable sections of this Part.

(2) The owner or operator shall keep an electronic record required by this Part for five years.

(3) By July 1 of each calendar year starting in 2024, the owner or operator shall generate a Compliance Database Report (CDR) on all assets under its control that are subject to the CDR requirements of this Part at the time the CDR is prepared and keep this report on file for five years.

D. Reporting requirements: In addition to any reporting requirements specified in the applicable sections in this Part, the owner or operator shall respond within three business days to a request for information by the department under this Part. The response shall provide the requested information for each source subject to the request by electronically submitting a CDR to the department's Secure Extranet Portal (SEP), or by other means and formats specified by the department in its request. If the department requests a CDR from multiple facilities, additional time will be given as appropriate.

[20.2.50.112 NMAC - N, 08/05/2022]

20.2.50.113 ENGINES AND TURBINES:

A. Applicability: Portable and stationary natural gas-fired spark ignition engines, compression ignition engines, and natural gas-fired combustion turbines located at well sites, tank batteries, gathering and boosting stations,

natural gas processing plants, and transmission compressor stations, with a rated horsepower greater than the horsepower ratings of table 1, 2, and 3 of 20.2.50.113 NMAC are subject to the requirements of 20.2.50.113 NMAC. Non-road engines as defined in 40 C.F.R. §§ 1068.30 are not subject to 20.2.50.113 NMAC.

B. Emission standards:

(1) The owner or operator of a portable or stationary natural gas-fired spark ignition engine, compression ignition engine, or natural gas-fired combustion turbine shall ensure compliance with the emission standards by the dates specified in Subsection B of 20.2.50.113 NMAC, except as otherwise specified under an Alternative Compliance Plan approved pursuant to Paragraph (10) of Subsection B of 20.2.50.113 NMAC or alternative emissions standards approved pursuant to Paragraph (11) of Subsection B of 20.2.50.113 NMAC.

(2) The owner or operator of an existing natural gas-fired spark ignition engine shall complete an inventory of all existing engines subject to this Part by January 1, 2023, and shall prepare a schedule to ensure that each existing engine does not exceed the emission standards in table 1 of Paragraph (2) of Subsection B of 20.2.50.113 NMAC as follows, except as otherwise specified under an Alternative Compliance Plan (ACP) approved pursuant to Paragraph (10) of Subsection B of 20.2.50.113 NMAC or alternative emissions standards approved pursuant to Paragraph (11) of Subsection B of 20.2.50.113 NMAC:

(a) by January 1, 2025, the owner or operator shall ensure at least thirty percent of the company's existing engines meet the emission standards.

(b) by January 1, 2027, the owner or operator shall ensure at least an additional thirty-five percent of the company's existing engines meet the emission standards.

(c) by January 1, 2029, the owner or operator shall ensure that the remaining thirty-five percent of the company’s existing engines meet the emission standards.

(d) in lieu of meeting the emission standards for an existing natural gas-fired spark ignition engine, an owner or operator may reduce the annual hours of operation of an engine such that the annual PTE of NO_x and VOC emissions are reduced to achieve an equivalent allowable ton per year emission reduction as set forth in table 1 of Paragraph (2) of Subsection B of 20.2.50.113 NMAC, or by at least ninety-five percent per year.

Table 1 - EMISSION STANDARDS FOR EXISTING NATURAL GAS-FIRED SPARK IGNITION ENGINES

Engine Type	Rated bhp	NO _x	CO	NMNEHC (as propane)
2 Stroke Lean Burn	>1,000	3.0 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr
4-Stroke Lean Burn	>1,000 bhp and <1,775 bhp	2.0 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr
4-Stroke Lean Burn	≥1,775 bhp	0.5 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr
Rich Burn	>1,000 bhp	0.5 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr

(3) The owner or operator of a new natural gas-fired spark ignition engine shall ensure the engine does not exceed the emission standards in table 2 of Paragraph (3) of Subsection B of 20.2.50.113 NMAC upon startup.

Table 2 - EMISSION STANDARDS FOR NEW NATURAL GAS-FIRED SPARK IGNITION ENGINES

Engine Type	Rated bhp	NO _x	CO	NMNEHC (as propane)
Lean-burn	> 500 and < 1875	0.50 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr
Lean-burn	≥ 1875	0.30 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr
Rich-burn	>500	0.50 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr

(4) The owner or operator of a natural gas-fired spark ignition engine with NO_x emission control technology that uses ammonia or urea as a reagent shall ensure that the exhaust ammonia slip is limited to 10 ppmvd or less, corrected to fifteen percent oxygen.

(5) The owner or operator of a compression ignition engine shall ensure compliance with the following emission standards:

(a) a new portable or stationary compression ignition engine with a maximum design power output equal to or greater than 500 horsepower that is not subject to the emission standards under Subparagraph (b) of Paragraph (5) of Subsection B of 20.2.50.113 NMAC shall limit NO_x emissions to not more than nine g/bhp-hr upon startup.

(b) a stationary compression ignition engine that is subject to and complying with Subpart IIII of 40 CFR Part 60, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, is not subject to the requirements of Subparagraph (a) of Paragraph (5) of Subsection B of 20.2.50.113 NMAC.

(6) The owner or operator of a portable or stationary compression ignition engine with NO_x emission control technology that uses ammonia or urea as a reagent shall ensure that the exhaust ammonia slip is limited to 10 ppmvd or less, corrected to fifteen percent oxygen.

(7) The owner or operator of a stationary natural gas-fired combustion turbine with a maximum design rating equal to or greater than 1,000 bhp shall comply with the applicable emission standards for an existing, new, or reconstructed turbine listed in table 3 of Paragraph (7) of Subsection B of 20.2.50.113 NMAC: The owner or operator of an existing stationary natural gas-fired combustion turbine shall complete an inventory of all existing turbines subject to Part 50 by July 1, 2023, and shall prepare a schedule to ensure that each subject existing turbine does not exceed the emission standards in table 3 of Paragraph (7) of Subsection B of 20.2.50.113 NMAC as follows, except as otherwise specified under an Alternative Compliance Plan approved pursuant to Paragraph (10) of Subsection B of 20.2.50.113 NMAC or alternative emissions standards approved pursuant to Paragraph (11) of Subsection B of 20.2.50.113 NMAC:

(a) by January 1, 2024, the owner or operator shall ensure at least thirty percent of the company’s existing turbines meet the emission standards.

(b) by January 1, 2026, the owner or operator shall ensure at least an additional thirty-five percent of the company’s existing turbines meet the emission standards.

(c) by January 1, 2028, the owner or operator shall ensure that the remaining thirty-five percent of the company’s existing turbines meet the emission standards.

(d) in lieu of meeting the emission standards for an existing stationary natural gas-fired combustion turbine, an owner or operator may reduce the annual hours of operation of a turbine such that the annual PTE of NO_x and VOC emissions are reduced to achieve an equivalent allowable ton per year emission reduction as set forth in table 3 of Paragraph (7) of Subsection B of 20.2.50.113 NMAC, or by at least ninety-five percent per year.

Table 3 - EMISSION STANDARDS FOR STATIONARY COMBUSTION TURBINES

For each applicable existing natural gas-fired combustion turbine, the owner or operator shall ensure the turbine does not exceed the following emission standards no later than the schedule set forth in Paragraph (7)(a) of Subsection B of 20.2.50.113 NMAC:			
Turbine Rating (bhp)	NO _x (ppmvd @15% O ₂)	CO (ppmvd @ 15% O ₂)	NMNEHC (as propane, ppmvd @15% O ₂)
≥1,000 and <4,100	150	50	9
≥4,100 and <15,000	50	50	9
≥15,000	50	50 or 93% reduction	5 or 50% reduction
For each applicable new natural gas-fired combustion turbine, the owner or operator shall ensure the turbine does not exceed the following emission standards upon startup:			
Turbine Rating (bhp)	NO _x (ppmvd @15% O ₂)	CO (ppmvd @ 15% O ₂)	NMNEHC (as propane, ppmvd @15% O ₂)
≥1,000 and <4,000	100	25	9
≥4,000 and <15,900	15	10	9
≥15,900	9.0 Uncontrolled or 2.0 with Control	10 Uncontrolled or 1.8 with Control	5

(8) The owner or operator of a stationary natural gas-fired combustion turbine with NO_x emission control technology that uses ammonia or urea as a reagent shall ensure that the exhaust ammonia slip is limited to 10 ppmvd or less, corrected to fifteen percent oxygen.

(9) The owner or operator of an emergency use engine as defined by 40 C.F.R. §§ 60.4211, 60.4243, or 63.6675 is not subject to the emissions standards in this Part but shall be equipped with a non-resettable hour meter to monitor and record any hours of operation.

(10) In lieu of complying with the emission standards for individual engines and turbines established in Subsection B of 20.2.50.113 NMAC, an owner or operator may elect to comply with the emission standards through an Alternative Compliance Plan (ACP) approved by the department. An ACP must include the list of engines or turbines subject to the ACP, and a demonstration that the total allowable emissions for the engines or turbines subject to the ACP will not exceed the total allowable emissions under the emission standards of this Part. Prior to submitting a proposed ACP to the Department, the owner or operator shall comply with the following requirements in the order listed:

(a) The owner or operator shall contract with an independent third-party engineering or consulting firm to conduct a technical and regulatory review of the ACP proposal. The selected firm shall review the proposal to determine if it meets the requirements of this Part, and shall prepare and certify an evaluation of the proposed ACP indicating whether the ACP proposal adheres to the requirements of this Part.

(b) Following the independent third-party review, the owner or operator shall provide the ACP, along with the third-party evaluation and findings, to the department for posting on the department’s website. The department shall post the ACP and the third-party review within 15 days of receipt.

(c) Following posting by the department, the owner or operator shall publish a notice in a newspaper of general circulation announcing the ACP proposal, the dates it will be available for review and comment by the public, and information on how and where to submit comments. The dates specified in the public notice must provide for a thirty-day comment period.

(d) Following the close of the thirty-day notice and comment period, the department shall send the comments submitted on the ACP proposal and findings to the owner or operator. The owner or operator shall provide written responses to all comments to the department.

(e)

Following receipt of the owner or operator's responses to comments received during the thirty-day comment period, the department shall make a determination whether to approve or deny the ACP proposal within 90 days. The department shall approve an ACP that meets the requirements of this Part, unless the department determines that the total allowable emissions under the ACP exceed the total allowable emissions under the emission standards of 20.2.50.113 NMAC. If approved by the department, the emission reductions and associated emission limits for the affected engines or turbines shall become enforceable terms under this Part.

(11) The owner

or operator may submit a request for alternative emission standards for a specific engine or turbine based on technical impracticability or economic infeasibility. The owner or operator is not required to submit an ACP proposal under Paragraph (10) of Subsection B of 20.2.50.113 NMAC prior to submission of a request for alternative emissions standards under this Paragraph (11), provided that the owner or operator satisfies Subparagraph (b) of Paragraph (11) of Subsection B of 20.2.50.113 NMAC, below. To qualify for an alternative emission standard, an owner or operator must comply with the following requirements:

(a)

Prepare a reasonable demonstration detailing why it is not technically practicable or economically feasible for the individual engine or turbine to achieve the emissions standards in table 1 of Paragraph (2) of Subsection B of 20.2.50.113 NMAC or table 3 of Paragraph (7) of Subsection B of 20.2.50.113 NMAC, as applicable;

(b)

Prepare a demonstration detailing why emissions from the individual engine or turbine cannot be addressed through an ACP in a technically practicable or economically feasible manner;

(c)

Prepare a technical analysis for the affected engine or turbine specifying the emission reductions that can be achieved through other means, such as combustion modifications or capacity limitations. The technical analysis shall include an analysis of any previous modifications of the source and a determination whether such modifications meet the definition of a reconstructed source, such that the source should be considered a new source under federal regulations. The analysis shall include a certification that the modifications to the source are not in violation of any state or federal air quality regulation; and

(d)

Fulfill the requirements of Subparagraphs (a) through (c) of Paragraph (10) of Subsection B of 20.2.50.113 NMAC.

(e)

Following the close of the thirty-day notice and comment period, the department shall send the comments submitted on the alternative emission standards and findings to the owner or operator. The owner or operator shall provide written responses to all comments to the department.

(f)

Following receipt of the owner or operator's responses to comments received during the thirty-day comment period, the department shall make a determination whether to approve or deny the alternative emission standards within 90 days. If approved by the department, the emission reductions and alternative emission standards for the affected engine or turbine shall become enforceable terms under this Part.

(g)

If approved by the department, the emissions reductions and alternative standards for the affected engine or turbine shall become enforceable terms under this Part.

(12) A short-

term replacement engine may be substituted for any engine subject to Section 20.2.50.113 NMAC consistent with any applicable air quality permit containing allowances for short term replacement engines,

including but not limited to New Source Review and General Construction Permits issued under 20.2.72 NMAC. A short-term replacement engine is not considered a "new" engine for purposes of this Part unless the engine it replaces is a "new" engine within the meaning of this Part. The reinstallation of the existing engine following removal of the short-term replacement engine is not considered a "new" engine under this Part unless the engine was "new" prior to the temporary replacement.

C. Monitoring requirements:

(1)

Maintenance and repair for a spark ignition engine, compression ignition engine, and stationary combustion turbine shall meet the manufacturer recommended maintenance schedule as defined in 20.2.50.112 NMAC.

(2)

Maintenance conducted consistent with an applicable NSPS or NESHAP requirement shall be deemed to be in compliance with Paragraph (1) of Subsection (C) of 20.2.50.113 NMAC.

(3)

Catalytic converters (oxidative, selective, and non-selective) and AFR controllers shall be inspected and maintained according to manufacturer specifications as defined in 20.2.50.112 NMAC, and shall include replacement of oxygen sensors as necessary for oxygen-based controllers. During periods of catalytic converter or AFR controller maintenance, the owner or operator shall shut down the engine or turbine until the catalytic converter or AFR controller can be replaced with a functionally equivalent spare to allow the engine or turbine to return to operation.

(4) For

equipment operated for 500 hours per year or more, compliance with the emission standards in Subsection B of 20.2.50.113 NMAC shall be demonstrated within 180 days of the effective date applicable to the source as defined by Paragraphs (2) and (7) of Subsection B of this Section or, if installed more than 180 days after

the effective date, within 60 days after achieving the maximum production rate at which the source will be operated, but not later than 180 days after initial startup of such source. Compliance with the applicable emission standards shall be demonstrated by performing an initial emission test for NOx and VOC, as defined in 40 CFR 51.100(s) using U.S. EPA reference methods or ASTM D6348. Periodic monitoring shall be conducted annually to demonstrate compliance with the allowable emission standards and may be demonstrated utilizing a portable analyzer or EPA reference methods. For units with g/hp-hr emission standards, the engine load shall be calculated using the following equations:

$$\text{Load (Hp)} = \frac{\text{Fuel consumption (scf/hr)} \times \text{Measured fuel heating value (LHV btu/scf)}}{\text{Manufacturer's rated BSFC (btu/bhp-hr) at 100\% load or best efficiency}}$$

$$\text{Load (Hp)} = \frac{\text{Fuel consumption (gal/hr)} \times \text{Measured fuel heating value (LHV btu/gal)}}{\text{Manufacturer's rated BSFC (btu/bhp-hr) at 100\% load or best efficiency}}$$

Where: LVH = lower heating value, btu/scf, or btu/gal, as appropriate; and
BSFC = brake specific fuel consumption

If the manufacturer's rated BSFC is not available, an operator may use an alternative load calculation methodology based on available data.

(a) emissions testing shall be conducted within 10 percent of 100 percent peak (or the highest achievable) load. The load and the parameters used to calculate it shall be recorded to document operating conditions at the time of testing and shall be included with the test report.

(b) emissions testing utilizing a portable analyzer shall be conducted in accordance with the requirements of the current version of ASTM D6522. If a portable analyzer has met a previously approved department criterion, the analyzer may be operated in accordance with that criterion until it is replaced.

(c) the default time period for a test run shall be at least 20 minutes.

(d) an emissions test shall consist of three separate runs, with the arithmetic mean of the results from the three runs used to determine compliance with the applicable emission standard.

(e) during emissions tests, pollutant and diluent concentration shall be monitored and recorded. Fuel flow rate shall be monitored and recorded if stack gas flow rate is determined utilizing U.S. EPA reference method 19. This information shall be included with the periodic test report.

(f) stack gas flow rate shall be calculated in accordance with U.S. EPA reference method 19 utilizing fuel flow rate (scf) determined by a dedicated fuel flow meter and fuel heating value (Btu/scf). The owner or operator shall provide a contemporaneous fuel gas analysis (preferably on the day of the test, but no earlier than three months before the test date) and a recent fuel flow meter calibration certificate (within the most recent quarter) with the final test report. Alternatively, stack gas flow rate may be determined by using U.S. EPA reference methods 1 through 4 or through the use of manufacturer provided fuel consumption rates.

(g) upon request by the department, an owner or operator shall submit a notification and protocol for an initial or annual emissions test.

(h) emissions testing shall be conducted at least once per calendar year. Emission testing required by Subparts GG, IIII, JJJJ, or KKKK of 40 CFR 60, or Subpart ZZZZ of 40 CFR 63, may be used to satisfy the emissions testing requirements if it meets the requirements of 20.2.50.113 NMAC and is completed at least once per calendar year.

(i) The results of emissions testing demonstrating compliance with the emission standard for CO may be used as a surrogate to demonstrate compliance with the emission standard for NMNEHC.

(5) The owner or operator of equipment operated less than 500 hours per year shall monitor the hours of operation using a non-resettable hour meter and shall test the unit at least once per 8760 hours of operation in accordance with the emissions testing requirements in Paragraph (4) of Subsection C of 20.2.50.113 NMAC.

(6) An owner or operator of an emergency use engine as defined by 40 C.F.R. §§ 60.4211, 60.4243, or 63.6675 shall monitor the hours of operation by a non-resettable hour meter.

(7) An owner or operator limiting the annual operating hours of an engine or turbine to meet the requirements of Paragraph (2) or (7) of Subsection B of 20.2.50.113 NMAC shall monitor the hours of operation by a non-resettable hour meter.

(8) Prior to any monitoring, testing, inspection, or maintenance of an engine or turbine, the owner or operator shall date and time stamp the event, and the monitoring data entry shall be made in accordance with the requirements of 20.2.50.112 and 113 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator of a spark ignition engine, compression ignition engine, or stationary combustion turbine shall maintain a record in accordance with 20.2.50.112 NMAC for the engine or turbine. The record shall include:

(a) the make, model, serial number, and unique identification number for the engine or turbine;

(b) location of the source (latitude and longitude);

(c) a copy of the engine, turbine, or control device manufacturer recommended maintenance and repair schedule as defined in 20.2.50.112 NMAC; and

(d) all inspection, maintenance, or repair activity on the engine, turbine, and control device, including:

(i) the date and time stamp(s), including GPS of the location, of an inspection, maintenance, or repair;

(ii) the date a subsequent analysis was performed (if applicable);

(iii) the name of the person(s) conducting the inspection, maintenance or repair;

(iv) a description of the physical condition of the equipment as found during the inspection;

(v) a description of maintenance or repair conducted; and

(vi) the results of the inspection and any required corrective actions.

(2) The owner or operator of a spark ignition engine, compression ignition engine, or stationary combustion turbine shall maintain records of initial and annual emissions testing for the engine or turbine for a period of five years. The records shall include:

(a) make, model, and serial number for the tested engine or turbine;

(b) the date and time stamp(s), including GPS of the location, of any monitoring event, including sampling or measurements;

(c) date analyses were performed;

(d) name of the person(s) and the qualified entity that performed the analyses;

(e) analytical or test methods used;

(f) results of analyses or tests;

(g) calculated emissions of NOx and VOC in lb/hr and tpy; and

(h) operating conditions at the time of sampling or measurement.

(3) The owner or operator of an emergency use engine as defined by 40 C.F.R. §§ 60.4211, 60.4243, or 63.6675 shall record the total annual hours of operation as recorded by the non-resettable hour meter.

(4) The owner or operator limiting the annual operating hours of an engine or turbine to meet the requirements of Paragraph (2) or (7) of Subsection B of 20.2.50.113 NMAC shall record the hours of operation by a non-resettable hour meter. The owner or operator shall calculate and record the annual NOx and VOC emission calculation, based on the engine or turbine's actual hours of operation, to demonstrate that an equivalent allowable ton per year emission reduction as set forth in table 1 or table 3 of Paragraph (2) or (7) of Subsection B of 20.2.50.113 NMAC, or the ninety-five percent emission reduction requirement is met.

E. Reporting

requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.
[20.2.50.113 NM-C - N, 08/05/2022]

20.2.50.114 COMPRESSOR SEALS:

A. Applicability:

(1) Centrifugal compressors using wet seals and located at tank batteries, gathering and boosting stations, and natural gas processing plants are subject to the requirements of 20.2.50.114 NMAC. Centrifugal compressors located at well sites and transmission compressor stations are not subject to the requirements of 20.2.50.114 NMAC.

(2) Reciprocating compressors located at tank batteries, gathering and boosting stations, and natural gas processing plants are subject to the requirements of 20.2.50.114 NMAC. Reciprocating compressors located at well sites and transmission compressor stations are not subject to the requirements of 20.2.50.114 NMAC.

B. Emission standards:

(1) The owner or operator of an existing centrifugal compressor with wet seals shall control VOC emissions from a centrifugal compressor wet seal fluid degassing system by at least ninety-five percent within two years of the effective date of this Part. Emissions shall be captured and routed via a closed vent system to a control device, recovery system, fuel cell, or a process stream.

(2) The owner or operator of an existing reciprocating compressor shall, either:

(a) replace the reciprocating compressor rod packing after every 26,000 hours of compressor operation or every 36 months, whichever is reached later. The owner or operator shall begin counting the hours of compressor operation toward the first replacement of the rod packing upon the effective date of this Part; or

(b) beginning no later than two years from the effective date of this Part, collect emissions from the rod packing, and route them via a closed vent system to a control device, recovery system, fuel cell, or a process stream.

(3) The owner or operator of a new centrifugal compressor with wet seals shall control VOC emissions from the centrifugal compressor wet seal fluid degassing system by at least ninety-five percent upon startup. Emissions shall be captured and routed via a closed vent system to a control device, recovery system, fuel cell, or process stream.

(4) The owner or operator of a new reciprocating compressor shall, upon startup, either:

(a) replace the reciprocating compressor rod packing after every 26,000 hours of compressor operation, or every 36 months, whichever is reached later; or

(b) collect emissions from the rod packing and route them via a closed vent system to a control device, a recovery system, fuel cell, or a process stream.

(5) The owner or operator complying with the emission standards in Subsection B of 20.2.50.114 NMAC through use of a control device shall comply with the control device requirements in 20.2.50.115 NMAC.

C. Monitoring requirements:

(1) The owner or operator of a reciprocating compressor complying with Subparagraph (a) of Paragraph (2) or Subparagraph (a) of Paragraph (4) of Subsection B of 20.2.50.114 NMAC shall continuously monitor the hours of operation with a non-resettable hour meter and track the number of hours since initial startup or since the previous reciprocating compressor rod packing replacement.

(2) The owner or operator of a reciprocating compressor complying with Subparagraph (b) of Paragraph (2) or Subparagraph (b) of Paragraph (4) of Subsection B of 20.2.50.114 NMAC shall monitor the rod packing emissions collection system semiannually to ensure that it operates as designed and routes emissions through a closed vent system to a control device, recovery system, fuel cell, or process stream.

(3) The owner or operator of a centrifugal or reciprocating compressor complying with the requirements in Subsection B of 20.2.50.114 NMAC through use of a closed vent system or control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(4) The owner or operator of a centrifugal or reciprocating compressor shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator of a centrifugal compressor using a wet seal fluid degassing system shall maintain a record of the following:

- (a) the location (latitude and longitude) of the centrifugal compressor;
- (b) the date of construction or reconstruction of the centrifugal compressor;
- (c) the monitoring required in Subsection C of 20.2.50.114 NMAC, including the time and date of the monitoring, the person(s) conducting the monitoring, a description of any problem observed during the monitoring, and a description of any corrective action taken; and
- (d) the type, make, model, and unique identification number or equivalent identifier of a control device used to comply with the control requirements in Subsection B of 20.2.50.114 NMAC.

(2) The owner or operator of a reciprocating compressor shall maintain a record of the following:

- (a) the location (latitude and longitude) of the reciprocating compressor;
- (b) the date of construction or reconstruction of the reciprocating compressor; and
- (c) the monitoring required in Subsection C of 20.2.50.114 NMAC, including:
 - (i) the number of hours of operation since the effective date, initial startup after the effective date, or the last rod packing replacement, as applicable;
 - (ii) data showing the effectiveness of the rod packing emissions collection system, as applicable; and
 - (iii) the time and date of the inspection, the person(s) conducting the inspection, a description of any

problems observed during the inspection, and a description of corrective actions taken.

(3) The owner or operator of a centrifugal or reciprocating compressor complying with the requirements in Subsection B of 20.2.50.114 NMAC through use of a control device or closed vent system shall comply with the recordkeeping requirements in 20.2.50.115 NMAC.

(4) The owner or operator of a centrifugal or reciprocating compressor shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator of a centrifugal or reciprocating compressor shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.114 NMAC - N, 08/05/2022]

20.2.50.115 CONTROL DEVICES AND CLOSED VENT SYSTEMS:

A. Applicability: These requirements apply to control devices and closed vent systems as defined in 20.2.50.7 NMAC and used to comply with the emission standards and emission reduction requirements in this Part.

B. General requirements:

(1) Control devices used to demonstrate compliance with this Part shall be installed, operated, and maintained consistent with manufacturer specifications, and good engineering and maintenance practices.

(2) Control devices shall be adequately designed and sized to achieve the control efficiency rates required by this Part and to handle the reasonably expected range of inlet VOC or NOx concentrations or volumes.

(3) The owner or operator shall inspect control devices visually or consistent with applicable federally approved inspection methods at least monthly to identify defects, leaks, and releases, and to ensure proper operation. Prior to an inspection or monitoring event,

the owner or operator shall date and time stamp the event, and the required monitoring data entry shall be made in accordance with this Part.

(4) The owner or operator shall ensure that a control device used to comply with emission standards in this Part operates as a closed vent system that captures and routes VOC emissions to the control device, in order to minimize venting of unburnt gas to the atmosphere.

(5) The owner or operator of a permanent closed vent system for a centrifugal compressor wet seal fluid degassing system, reciprocating compressor, natural gas driven pneumatic pump, or storage vessel using a control device or routing emissions to a process shall:

(a) ensure the control device or process is of sufficient design and capacity to accommodate the expected range of emissions from the affected sources;

(b) conduct an assessment to confirm that the closed vent system is of sufficient design and capacity to ensure that emissions from the affected equipment are routed to the control device or process; and

(c) have the assessment certified by a qualified professional engineer or an in-house engineer with expertise regarding the design and operation of closed vent system(s) in accordance with Items (i) and (ii) of Subparagraph (c) of this section.

(i) The assessment of the closed vent system shall be prepared under the direction or supervision of a qualified professional engineer or an in-house engineer who signs the certification in Item (ii) of Subparagraph (c) of this section.

(ii) The owner or operator shall provide the following certification, signed and dated by a qualified professional engineer or an in-house engineer: "I certify that the closed vent system assessment was prepared under my direction or supervision. I further certify that the closed vent system assessment was conducted, and this

report was prepared, pursuant to the requirements of this Part. Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete."

(d) An owner or operator of an existing closed vent system shall comply with the requirements of Paragraph (5) of Subsection B of 20.2.50.115 NMAC within three years of the effective date of this Part and within 90 days of startup for a new closed vent system.

(6) The owner or operator shall keep manufacturer specifications for all control devices on file. The information shall include the unique identification number, type of unit, manufacturer name, make, model, capacity, and destruction or reduction efficiency data.

C. Requirements for open flares:

(1) Emission standards:

(a) the flare shall be properly sized and designed to ensure proper combustion efficiency to combust the gas sent to the flare, and combustion shall be maintained for the duration of time that gas is sent to the flare. The owner or operator shall not send gas to the flare in excess of the manufacturer maximum rated capacity.

(b) The owner or operator shall equip each new and existing flare (except those flares required to meet the requirements of Subparagraph (c) of this Subsection) with a continuous pilot flame, an operational auto-igniter, or require manual ignition, and shall comply with the following no later than one year after the effective date of this part, unless otherwise specified:

(i) a flare with a continuous pilot flame or an auto-igniter shall be equipped with a system to ensure the flare is operated with a flame present at all times when gas is being sent to the flare.

(ii) The owner or operator of a flare

with manual ignition shall inspect and ensure a flame is present upon initiating a flaring event.

(iii) A new flare controlling a continuous gas stream shall be equipped with a continuous pilot flame upon startup.

(iv) An existing flare controlling a continuous gas stream shall be equipped with a continuous pilot.

(c) An existing flare located at a site with an annual average daily production of equal to or less than 10 barrels of oil per day or an average daily production of 60,000 standard cubic feet of natural gas shall be equipped with an auto-igniter, continuous pilot, or technology (e.g. alarm) that alerts the owner or operator of a flare malfunction, if replaced or reconstructed after the effective date of this Part.

(d) The owner or operator shall operate a flare with no visible emissions, except for periods not to exceed a total of 30 seconds during any 15 consecutive minutes. The flare shall be designed so that an observer can, by means of visual observation from the outside of the flare or by other means such as a continuous monitoring device, determine whether it is operating properly. The observation may be terminated if visible emissions are observed and recorded and action is taken to address the visible emissions.

(e) The owner or operator shall repair the flare within three business days of any thermocouple or other flame detection device alarm activation.

(2) Monitoring requirements:

(a) the owner or operator of a flare with a continuous pilot or auto-igniter shall continuously monitor the presence of a pilot flame, or presence of flame during flaring if using an auto-igniter, using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame. An alternative equivalent technology alerting the owner or operator of failure of ignition of the gas stream

may be used in lieu of a continuous recorder and alarm, if approved by the department;

(b) the owner or operator of a manually ignited flare shall monitor the presence of a flame using continuous visual observation during a flaring event;

(c) the owner or operator shall, at least quarterly, and upon observing visible emissions, perform a U.S. EPA method 22 observation while the flare pilot or auto-igniter flame is present to certify compliance with visible emission requirements. The observation period shall be a minimum of 15 consecutive minutes. The observation may be terminated if visible emissions are observed and recorded and action is taken to address the visible emissions;

(d) prior to an inspection or monitoring event, the owner or operator shall date and time stamp the event, and the required monitoring data entry shall be made in accordance with this Part; and

(e) the owner or operator shall monitor the technology that alerts the owner or operator of a flare malfunction and any instances of technology or alarm activation.

(3) Recordkeeping requirements: The owner or operator of an open flare shall keep a record of the following:

(a) any instance of thermocouple, other approved technology, or flame detection device alarm activation, including the date and cause of alarm activation, action taken to bring the flare into a normal operating condition, the name of the person(s) conducting the inspection, and any maintenance activity performed;

(b) the results of the U.S. EPA method 22 observations;

(c) the monitoring of the presence of a flame on a manual flare during a flaring event as required under

Subparagraph (b) of Paragraph (2) of Subsection C of 20.2.50.115 NMAC;

(d) the results of the most recent gas analysis for the gas being flared, including VOC content and heating value; and

(e) the date and time stamp(s), including GPS of the location, of any monitoring event.

(4) Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

D. Requirements for enclosed combustion devices (ECD) and thermal oxidizers (TO):

(1) Emission standards:

(a) the ECD/TO shall be properly sized and designed to ensure proper combustion efficiency to combust the gas sent to the ECD/TO. The owner or operator shall not send gas to the ECD/TO in excess of the manufacturer maximum rated capacity.

(b) The owner or operator shall equip each new ECD/TO with a continuous pilot flame or an auto-igniter upon startup. Existing ECD/TO shall be equipped with a continuous pilot flame or an auto-igniter no later than two years after the effective date of this Part.

(c) ECD/TO with a continuous pilot flame or an auto-igniter shall be equipped with a system to ensure that the ECD/TO is operated with a flame present at all times when gas is sent to the ECD/TO. Combustion shall be maintained for the duration of time that gas is sent to the ECD/TO. New ECD/TOs shall comply with this requirement upon startup, and existing ECD/TOs shall comply with this requirement within 2 years of the effective date of this Part.

(d) The owner or operator shall operate an ECD/TO with no visible emissions, except for periods not to exceed a total of 30 seconds during any 15 consecutive minutes. The ECD/TO

shall be designed so that an observer can, by means of visual observation from the outside of the ECD/TO or by other means such as a continuous monitoring device, determine whether it is operating properly. The observation may be terminated if visible emissions are observed and recorded and action is taken to address the visible emissions.

(2) Monitoring requirements:

(a) the owner or operator of an ECD/TO with a continuous pilot or an auto-igniter shall continuously monitor the presence of a pilot flame, or of a flame during combustion if using an auto-igniter, using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame. An alternative equivalent technology alerting the owner or operator of failure of ignition of the gas stream may be used in lieu of a continuous recorder and alarm, if approved by the department.

(b) The owner or operator shall, at least quarterly, and upon observing visible emissions, perform a U.S. EPA method 22 observation while the ECD/TO pilot flame or auto-igniter flame is present to certify compliance with the visible emission requirements. The period of observation shall be a minimum of 15 consecutive minutes. The observation may be terminated if visible emissions are observed and recorded and action is taken to address the visible emissions.

(c) Prior to an inspection or monitoring event, the owner or operator shall date and time stamp the event, and the required monitoring data entry shall be made in accordance with the monitoring requirements of this Part.

(3) Recordkeeping requirements: The owner or operator of an ECD/TO shall keep records of the following:

(a) any instance of thermocouple, other approved technology, or flame detection device alarm activation,

including the date and cause of the activation, any action taken to bring the ECD/TO into normal operating condition, the name of the person(s) conducting the inspection, and any maintenance activities performed;

(b)

the results of the U.S. EPA method 22 observations;

(c)

the date and time stamp(s), including GPS of the location, of any monitoring event; and

(d)

the results of the most recent gas analysis for the gas being combusted, including VOC content and heating value.

(4) Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

E. Requirements for vapor recovery units (VRU):

(1) Emission standards:

(a)

the owner or operator shall operate the VRU as a closed vent system that captures and routes all VOC emissions directly back to the process or to a sales pipeline and does not vent to the atmosphere.

(b)

The owner or operator shall control VOC emissions during startup, shutdown, maintenance, or other VRU downtime with a backup control device (e.g. flare, ECD, TO) or redundant VRU during the period of VRU downtime, unless otherwise approved in an air permit issued prior to the effective date of this Part. Alternatively, the owner or operator may shut down and isolate the source being controlled by the VRU. For sites that already have a VRU installed as of the effective date of this Part, the owner or operator shall install backup control devices or redundant VRUs within three years of the effective date of this Part.

(2) Monitoring

Requirements:

(a)

the owner or operator shall comply with the standards for equipment leaks in 20.2.50.116 NMAC, or

alternatively, shall implement a program that meets the requirements of Subpart OOOOa of 40 CFR 60.

(b)

Prior to a VRU inspection or monitoring event, the owner or operator shall date and time stamp the event, and the required monitoring data entry shall be made in accordance with the requirements of this Part.

(3)

Recordkeeping requirements: For a VRU inspection or monitoring event, the owner or operator shall record the result of the event, including the name of the person(s) conducting the inspection, any maintenance or repair activities required, and the date and time stamp(s), including GPS of the location, of any monitoring event. The owner or operator shall record the type of redundant control device used during VRU downtime, or keep records of the source shut down and isolated and the time period during which it was shut down, or records of compliance with an air permit issued prior to the effective date of this Part.

(4) Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

F. Recordkeeping requirements: In addition to the general recordkeeping requirements of 20.2.50.112 NMAC, the owner or operator of a control device or closed vent system shall maintain a record of the following:

(1) the certification of the closed vent system assessment, where applicable, and as required by this Part; and

(2) the information required in Paragraph (6) of Subsection B of 20.2.50.115 NMAC.

G. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.115 NMAC - N, 08/05/2022]

20.2.50.116 EQUIPMENT LEAKS AND FUGITIVE EMISSIONS:

A. Applicability:

Well sites, tank batteries, gathering and boosting stations, natural gas processing plants, transmission compressor stations, and associated piping and components are subject to the requirements of 20.2.50.116 NMAC. Components in water or air service are not subject to the requirements of 20.2.50.116 NMAC. The requirements of this Part may be considered in the facility-wide PTE and in determining the monitoring frequency requirements of this section.

B. Emission

standards: The owner or operator of oil and gas production and processing equipment located at well sites, tank batteries, gathering and boosting stations, natural gas processing plants, or transmission compressor stations shall demonstrate compliance with this Part by performing the monitoring, recordkeeping, and reporting requirements specified in 20.2.50.116 NMAC. Tank batteries supporting multiple facilities are subject to the requirements for the most stringently regulated facility of which they are a part.

C. Default monitoring requirements: Owners and operators shall comply with the following monitoring requirements:

(1) The owner or operator of a facility with an annual average daily production or average daily throughput of greater than 10 barrels of oil per day or an average daily production of greater than 60,000 standard cubic feet per day of natural gas shall, at least weekly, conduct an external audio, visual, and olfactory (AVO) inspection of thief hatches, closed vent systems, pumps, compressors, pressure relief devices, open-ended valves or lines, valves, flanges, connectors, piping, and associated equipment to identify defects and leaking components as follows:

(a) conduct an external visual inspection for defects, which may include cracks, holes, or gaps in piping or covers; loose connections; liquid leaks; broken or missing caps; broken,

cracked or otherwise damaged seals or gaskets; broken or missing hatches; or broken or open access covers or other closure or bypass devices;

(b)

conduct an audio inspection for pressure leaks and liquid leaks;

(c)

conduct an olfactory inspection for unusual or strong odors; and

(d)

any positive detection during the AVO inspection shall be repaired in accordance with Subsection E if not repaired at the time of discovery.

(2) The owner

or operator of a facility with an annual average daily production or average daily throughput of equal to or less than 10 barrels of oil per day or an average daily production of equal to or less than 60,000 standard cubic feet per day of natural gas shall, at least monthly, conduct an external audio, visual, and olfactory (AVO) inspection of thief hatches, closed vent systems, pumps, compressors, pressure relief devices, open-ended valves or lines, valves, flanges, connectors, piping, and associated equipment to identify defects and leaking components as specified in Subparagraphs (a) through (d) of Paragraph (1) of Subsection C of 20.2.50.116 NMAC; except that an owner or operator of a well site within 1,000 feet (as measured from the center of the well site to the applicable structure or area of public assembly) of an occupied area shall conduct the AVO inspection at least weekly.

(3) The

owner or operator of the following facilities shall conduct an inspection using U.S. EPA method 21 or optical gas imaging (OGI) of thief hatches, closed vent systems, pumps, compressors, pressure relief devices, open-ended valves or lines, valves, flanges, connectors, piping, and associated equipment to identify leaking components at a frequency determined according to the following schedules, and upon request by the department for good cause shown:

(a)

for existing well sites and standalone tank batteries, the owner or operator

shall comply with these requirements no later than two years from the effective date of this Part.

(b)

for well sites and standalone tank batteries:

(i)

annually at facilities with a PTE less than two tpy VOC;

(ii)

semi-annually at facilities with a PTE equal to or greater than two tpy and less than five tpy VOC; and

(iii)

quarterly at facilities with a PTE equal to or greater than five tpy VOC.

(c)

for gathering and boosting stations and natural gas processing plants:

(i)

quarterly at facilities with a PTE less than 25 tpy VOC; and

(ii)

monthly at facilities with a PTE equal to or greater than 25 tpy VOC.

(d)

For transmission compressor stations, quarterly or in compliance with the federal equipment leak and fugitive emissions monitoring requirements of New Source Performance Standards, 40 C.F.R. Part 60, as may be revised, so long as the federal equipment leak and fugitive emissions monitoring requirements are at least as stringent as the New Source Performance Standards OOOOa, 40 CFR Part 60, in existence as of the effective date of this Part.

(e)

Quarterly at well sites within 1,000 feet of an occupied area.

(f)

For existing wellhead only facilities, annual inspections shall be completed on the following schedule: thirty percent by January 1, 2024; sixty-five percent by January 1, 2025; and one-hundred percent by January 1, 2026.

(g)

for inactive well sites:

(i)

for well sites that are inactive on or before the effective date of this Part, annually beginning within six months of the effective date of this Part;

(ii)

for well sites that become inactive after the effective date of this part,

annually beginning 30 days after the site becomes an inactive well site.

(4) Inspections

using U.S. EPA method 21 shall meet the following requirements:

(a)

the instrument shall be calibrated before each day of use by the procedures specified in U.S. EPA method 21 and the instrument manufacturer; and

(b)

a leak is detected if the instrument records a measurement of 500 ppm or greater of hydrocarbons, and the measurement is not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

(5) Inspections

using OGI shall meet the following requirements:

(a)

the instrument shall comply with the specifications, daily instrument checks, and leak survey requirements set forth in Subparagraphs (1) through (3) of Paragraph (i) of 40 CFR 60.18; and

(b) a

leak is detected if the emission images recorded by the OGI instrument are not associated with normal equipment operation, such as pneumatic device actuation or crank case ventilation.

(6)

Components that are difficult, unsafe, or inaccessible to monitor, as determined by the following conditions, are not required to be inspected until it becomes feasible to do so:

(a)

difficult to monitor components are those that require elevating the monitoring personnel more than two meters above a supported surface;

(b)

unsafe to monitor components are those that cannot be monitored without exposing monitoring personnel to an immediate danger as a consequence of completing the monitoring; and

(c)

inaccessible to monitor components are those that are buried, insulated, or obstructed by equipment or piping that prevents access to the

components by monitoring personnel.

(7) Owners and operators of well sites must conduct an evaluation to determine applicability of Subparagraph (e) of Paragraph (3) of Subsection C of Section 20.2.50.116 NMAC within 30 days of constructing a new well site, and within 90 days of the effective date of this Part for existing well sites.

(8) An owner or operator conducting an evaluation pursuant to Paragraph (7) of Subsection C of Section 20.2.50.116 NMAC shall measure the distance from the latitude and longitude of each well at a well site to the following points for each type of occupied area:

(a) the property line for indoor or outdoor spaces associated with a school that students use commonly as part of their curriculum or extracurricular activities and outdoor venues or recreation areas;

(b) the property line for outdoor venues or recreation areas, such as a playground, permanent sports field, amphitheater, or other similar place of outdoor public assembly;

(c) the location of a building or structure used as a place of residency by a person, a family, or families; and

(d) the location of a commercial facility with five-thousand (5,000) or more square feet of building floor area that is operating and normally occupied during working hours.

(9) Injection well sites and temporarily abandoned well sites are not subject to the leak survey requirements of Paragraphs (3) through (6) of Subsection C of 20.2.50.116 NMAC.

(10) Prior to any monitoring event, the owner or operator shall date and time stamp the monitoring event.

D. Alternative equipment leak monitoring plans: An owner or operator may comply with the equipment leak requirements of Subsection C of 20.2.50.116 NMAC through an equally effective

and enforceable alternative monitoring plan, which may include the use of alternative monitoring methods and technologies, as follows:

(1) An owner or operator may comply with an individual alternative monitoring plan, subject to the following requirements:

(a) the proposed alternative monitoring plan shall be submitted to the department on an application form provided by the department. Within 90 days of receipt, the department shall issue a letter approving or denying the requested alternative monitoring plan. An owner or operator shall comply with the default monitoring requirements of Section 20.2.50.116 NMAC and may not operate under an alternative monitoring plan until it has been approved by the department.

(b) the department may terminate an approved alternative monitoring plan if the department finds that the owner or operator failed to comply with a provision of the plan and failed to correct and disclose the violation to the department within 15 calendar days of identifying the violation.

(c) upon department denial or termination of an approved alternative monitoring plan, the owner or operator shall comply with the default monitoring requirements of Subsection C of 20.2.50.116 NMAC within 15 days.

(2) An owner or operator may comply with a pre-approved alternative monitoring plan maintained by the department, subject to the following requirements:

(a) the owner or operator shall notify the department in writing of the intent to conduct monitoring under a pre-approved alternative monitoring plan, and identify which pre-approved plan will be used, at least 15 days prior to conducting the first monitoring under that plan.

(b) the department may terminate the use of a pre-approved alternative monitoring plan by the owner or

operator if the department finds that the owner or operator failed to comply with a provision of the plan and failed to correct and disclose the violation to the department within 15 calendar days of identifying the violation.

(c) upon department denial or termination of a pre-approved alternative monitoring plan, the owner or operator shall comply with the default monitoring requirements of Subsection C of 20.2.50.116 NMAC within 15 days.

E. Repair requirements: For a leak detected pursuant to monitoring conducted under 20.2.50.116 NMAC:

(1) the owner or operator shall place a visible tag on the leaking component not otherwise repaired at the time of discovery until the component has been repaired;

(2) leaks shall be repaired as soon as practicable but no later than 30 days from discovery;

(3) the equipment must be re-monitored no later than 15 days after the repair of the leak to demonstrate that it has been repaired;

(4) if the leak cannot be repaired within 30 days of discovery without a process unit shutdown, the leak may be designated "Repair delayed," the date of the next scheduled process unit shutdown must be identified, and the leak must be repaired before the end of the scheduled process unit shutdown or within 2 years, whichever is earlier; and

(5) if the leak cannot be repaired within 30 days of discovery due to shortage of parts, the leak may be designated "Repair delayed," and must be repaired within 15 days of resolution of such shortage.

F. Recordkeeping requirements:

(1) The owner or operator shall keep a record of the following for all AVO, RM 21, OGI, or alternative equipment leak monitoring inspections conducted as required under 20.2.50.116 NMAC,

and shall provide the record to the department upon request:

- (a) facility location (latitude and longitude);
 - (b) time and date stamp, including GPS of the location, of any monitoring;
 - (c) monitoring method (e.g. AVO, RM 21, OGI, approved alternative method);
 - (d) name of the person(s) performing the inspection;
 - (e) a description of any leak requiring repair or a note that no leak was found; and
 - (f) whether a visible tag was placed on the leak.
- (2) The owner or operator shall keep the following record for any leak that is detected:
- (a) the date the leak is detected;
 - (b) the date of attempt to repair;
 - (c) for a leak with a designation of "repair delayed" the following shall be recorded:
 - (i) reason for delay if a leak is not repaired within the required number of days after discovery. If a delay is due to a parts shortage, a record documenting the attempt to order the parts and the unavailability due to a shortage is required;
 - (ii) the date of next scheduled process unit shutdown by which the repair will be completed; and
 - (iii) name of the person(s) who determined that the repair could not be implemented without a process unit shutdown.
 - (d) date of successful leak repair;
 - (e) date the leak was monitored after repair and the results of the monitoring; and
 - (f) a description of the component

that is designated as difficult, unsafe, or inaccessible to monitor, an explanation stating why the component was so designated, and the schedule for repairing and monitoring the component.

(3) For a leak detected using OGI, the owner or operator shall keep records of the specifications, the daily instrument check, and the leak survey requirements specified at 40 CFR 60.18(i)(1)-(3).

(4) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

G. Reporting requirements:

(1) The owner or operator shall certify the use of an alternative equipment leak monitoring plan under Subsection D of 20.2.50.116 NMAC to the department annually, if used.

(2) The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.116 NMAC - N, 08/05/2022]

20.2.50.117 NATURAL GAS WELL LIQUID UNLOADING:

A. Applicability:
 Liquid unloading operations resulting in the venting of natural gas at natural gas wells are subject to the requirements of 20.2.50.117 NMAC. Liquid unloading operations that do not result in the venting of any natural gas are not subject to this Part. Owners and operators of a natural gas well subject to this Part must comply with the standards set forth in Paragraph (1) of Subsection B of 20.2.50.117 NMAC within two years of the effective date of this Part.

B. Emission standards:

(1) The owner or operator of a natural gas well shall implement at least one of the following best management practices during the life of the well to avoid the need for venting of natural gas associated with liquid unloading:

- (a) use of a plunger lift;

- (b) use of artificial lift;
- (c) use of a control device;
- (d) use of an automated control system; or
- (e) other practices if approved by the department.

(2) The owner or operator of a natural gas well shall implement the following best management practices during venting associated with liquid unloading to minimize emissions, consistent with well site conditions and good engineering practices:

- (a) reduce wellhead pressure before blowdown or venting to atmosphere;
- (b) monitor manual venting associated with liquid unloading in close proximity to the well or via remote telemetry; and
- (c) close vents to the atmosphere and return the well to normal production operation as soon as practicable.

C. Monitoring requirements:

(1) The owner or operator shall monitor the following parameters during venting associated with liquid unloading:

- (a) wellhead pressure;
- (b) flow rate of the vented natural gas (to the extent feasible); and
- (c) duration of venting to the storage vessel, tank battery, or atmosphere.

(2) The owner or operator shall calculate the volume and mass of VOC emitted during a venting event associated with a liquid unloading event.

(3) The owner or operator shall comply with the monitoring requirements of 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall keep the following records for liquid unloading:

(a) unique identification number and location (latitude and longitude) of the well;

(b) date of the unloading event;

(c) wellhead pressure;

(d) flow rate of the vented natural gas (to the extent feasible. If not feasible, the owner or operator shall use the estimated flow rate in the emission calculation);

(e) duration of venting to the storage vessel, tank battery, or atmosphere;

(f) a description of the best management practices used to minimize venting of VOC emissions during the life of the well and before and during the liquid unloading; and

(g) a calculation of the VOC emissions vented during a liquid unloading event based on the duration, calculated volume, and composition of the produced gas.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.117 NMAC - N, 08/05/2022]

20.2.50.118 GLYCOL DEHYDRATORS:

A. Applicability: Glycol dehydrators with a PTE equal to or greater than two tpy of VOC and located at well sites, tank batteries, gathering and boosting stations, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.118 NMAC.

B. Emission standards:

(1) Existing glycol dehydrators with a PTE equal to or greater than two tpy of VOC shall achieve a minimum combined capture and control efficiency of

ninety-five percent of VOC emissions from the still vent and flash tank (if present) no later than two years after the effective date of this Part. If a combustion control device is used, the combustion control device shall have a minimum design combustion efficiency of ninety-eight percent.

(2) New glycol dehydrators with a PTE equal to or greater than two tpy of VOC shall achieve a minimum combined capture and control efficiency of ninety-five percent of VOC emissions from the still vent and flash tank (if present) upon startup. If a combustion control device is used, the combustion control device shall have a minimum design combustion efficiency of ninety-eight percent.

(3) The owner or operator of a glycol dehydrator shall comply with the following requirements:

(a) the still vent and flash tank emissions shall be routed at all times to the reboiler firebox, condenser, combustion control device, fuel cell, to a process point that either recycles or recompresses the VOC emissions or uses the emissions as fuel, or to a VRU that reinjects the VOC emissions back into the process stream or natural gas pipeline;

(b) if a VRU is used, it shall consist of a closed loop system of seals, ducts, and a compressor that reinjects the vapor into the process or the natural gas pipeline. The VRU shall be operational at least ninety-five percent of the time the facility is in operation, resulting in a minimum combined capture and control efficiency of ninety-five percent, which shall supersede any inconsistent requirements in 20.2.50.115 NMAC. The VRU shall be installed, operated, and maintained according to the manufacturer's specifications; and

(c) the still vent and flash tank emissions shall not be vented directly to the atmosphere during normal operation.

(4) An owner or operator complying with the requirements in Subsection B of 20.2.50.118 NMAC through use of a

control device shall comply with the requirements in 20.2.50.115 NMAC.

(5) The requirements of Subsection B of 20.2.50.118 NMAC cease to apply when the actual annual VOC emissions from a new or existing glycol dehydrator are less than two tpy of VOC.

C. Monitoring requirements:

(1) The owner or operator of a glycol dehydrator shall conduct an annual extended gas analysis on the dehydrator inlet gas and calculate the uncontrolled and controlled VOC emissions in tpy.

(2) The owner or operator of a glycol dehydrator shall inspect the glycol dehydrator, including the reboiler and regenerator, and the control device or process the emissions are being routed, semi-annually to ensure it is operating as initially designed and in accordance with the manufacturer recommended operation and maintenance schedule.

(3) Prior to any monitoring event, the owner or operator shall date and time stamp the event, and the monitoring data entry shall be made in accordance with the requirements of this Part.

(4) An owner or operator complying with the requirements in Subsection B of 20.2.50.118 NMAC through the use of a control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(5) Owners and operators shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator of a glycol dehydrator shall maintain a record of the following:

(a) unique identification number and dehydrator location (latitude and longitude);

(b) glycol circulation rate, monthly natural gas throughput, and the date of the most recent throughput measurement;

- (c) data and methodology used to estimate the PTE of VOC (must be a department approved calculation methodology);
- (d) controlled and uncontrolled VOC emissions in tpy;
- (e) type, make, model, and unique identification number of the control device or process the emissions are being routed;
- (f) time and date stamp, including GPS of the location, of any monitoring;
- (g) results of any equipment inspection, including maintenance or repair activities required to bring the glycol dehydrator into compliance; and
- (h) a copy of the glycol dehydrator manufacturer specifications.

(2) An owner or operator complying with the requirements in Paragraph (1) or (2) of Subsection B of 20.2.50.118 NMAC through use of a control device as defined in this Part shall comply with the recordkeeping requirements in 20.2.50.115 NMAC.

(3) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.118 NMAC - N, 08/05/2022]

20.2.50.119 HEATERS:

A. Applicability: Natural gas-fired heaters with a rated heat input equal to or greater than 20 MMBtu/hour including heater treaters, heated flash separators, evaporator units, fractionation column heaters, and glycol dehydrator reboilers in use at well sites, tank batteries, gathering and boosting stations, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.119 NMAC.

B. Emission standards:

(1) Natural gas-fired heaters shall comply with the emission limits in table 1 of 20.2.50.119 NMAC.

Table 1 - EMISSION STANDARDS FOR NO_x AND CO

Date of Construction:	NO _x (ppmvd @ 3% O ₂)	CO (ppmvd @ 3% O ₂)
Constructed or reconstructed before the effective date of 20.2.50 NMAC	30	400
Constructed or reconstructed on or after the effective date of 20.2.50 NMAC	30	400

(2) Existing natural gas-fired heaters shall comply with the requirements of 20.2.50.119 NMAC no later than three years after the effective date of this Part.

(3) New natural gas-fired heaters shall comply with the requirements of 20.2.50.119 NMAC upon startup.

C. Monitoring requirements:

- (1) The owner or operator shall:
 - (a) conduct emission testing for NO_x and CO within 180 days of the compliance date specified in Paragraph (2) or (3) of Subsection B of 20.2.50.119 NMAC and at least every two years thereafter.
 - (b) inspect, maintain, and repair the heater in accordance with the manufacturer specifications at least once every two years following the applicable compliance date specified in 20.2.50.119 NMAC. The inspection, maintenance, and repair shall include the following:
 - (i) inspecting the burner and cleaning or replacing components of the burner as necessary;
 - (ii) inspecting the flame pattern and adjusting the burner as necessary to optimize the flame pattern consistent with the manufacturer specifications;
 - (iii) inspecting the AFR controller and ensuring it is calibrated and functioning properly, if present;
 - (iv) optimizing total emissions of CO consistent with the NO_x requirement and manufacturer specifications, and good combustion practices; and
 - (v) measuring the concentrations in the effluent stream of CO in ppmvd and O₂ in volume percent before and after adjustments are made in accordance with Subparagraph (c) of Paragraph (2) of Subsection C of 20.2.50.119 NMAC.

(2) The owner or operator shall comply with the following periodic testing requirements:

(a) conduct three test runs of at least 20-minutes duration within ten percent of one-hundred percent peak, or the highest achievable, load;

(b) determine NO_x and CO emissions and O₂ concentrations in the exhaust with a portable analyzer used and maintained in accordance with the manufacturer specifications and following the procedures specified in the current version of ASTM D6522;

(c) if the measured NO_x or CO emissions concentrations are exceeding the emissions limits of table 1 of 20.2.50.119 NMAC, the owner or operator shall repeat the inspection and tune-up in Subparagraph (b) of Paragraph (1) of Subsection C of 20.2.50.119 NMAC within 30 days of the periodic testing; and

(d) if at any time the heater is operated in excess of the highest achievable load in a prior test plus ten percent, the owner or operator shall perform the testing specified in Subparagraph (a) of Paragraph (2) of Subsection C of 20.2.50.119 NMAC within 60 days from the anomalous operation.

(3) When conducting periodic testing of a heater, the owner or operator shall follow the procedures in Paragraph (2) of Subsection C of 20.2.50.119 NMAC. An owner or operator may deviate from those procedures by submitting a written request to use an alternative procedure to the department at least 60 days before performing the periodic testing. In the alternative procedure request, the owner or operator must demonstrate the alternative procedure's equivalence to the standard procedure. The owner or operator must receive written approval from the department prior to conducting the periodic testing using an alternative procedure.

(4) Prior to a monitoring event, the owner or operator shall date and time

stamp the event, and the required monitoring data entry shall be made in accordance with this Part.

(5) The owner or operator shall comply with the monitoring requirements of 20.2.50.112 NMAC.

D. Recordkeeping requirements: The owner or operator shall maintain a record of the following:

(1) unique identification number and location (latitude and longitude) of the heater;

(2) summary of the complete test report and the results of periodic testing;

(3) inspections, testing, maintenance, and repairs, which shall include at a minimum:

(a) the date and time stamp, including GPS of the location, of the inspection, testing, maintenance, or repair conducted;

(b) name of the person(s) conducting the inspection, testing, maintenance, or repair;

(c) concentrations in the effluent stream of CO in ppmv and O₂ in volume percent; and

(d) the results of the inspections and any the corrective action taken.

(4) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.119 NMAC - N, 08/05/2022]

20.2.50.120 HYDROCARBON LIQUID TRANSFERS:

A. Applicability: Hydrocarbon liquid transfers located at existing well sites, standalone tank batteries, gathering and boosting stations with one or more controlled storage vessels, natural gas processing plants, or transmission compressor stations are subject to the

requirements of 20.2.50.120 NMAC within two years of the effective date of this Part. Hydrocarbon liquid transfers at existing gathering and boosting stations (including associated tank batteries) without any controlled storage vessels are subject to the requirements of 20.2.50.120 NMAC on the schedule specified in Paragraph 1 of Subsection B of 20.2.50.123 NMAC. Hydrocarbon liquid transfers located at new well sites, standalone tank batteries, gathering and boosting stations, natural gas processing plants, or transmission compressor stations are subject to the requirements of 20.2.50.120 NMAC upon startup. The following facilities and operations are not subject to the requirements of this Section:

(1) Any facility connected to an oil sales pipeline that is routinely used for hydrocarbon liquid transfers;

(2) Well sites, standalone tank batteries, gathering and boosting stations, natural gas processing plants, or transmission compressor stations not connected to an oil sales pipeline that load out hydrocarbon liquids to trucks fewer than thirteen (13) times in a calendar year; and

(3) Transfers of hydrocarbon liquid from a transfer vessel to a storage vessel subject to the emission standards in 20.2.50.123 NMAC.

B. Emission standards:

(1) The owner or operator of a hydrocarbon liquid transfer operation shall use vapor balance, vapor recovery, or a control device to control VOC emissions by at least ninety-five percent, when transferring hydrocarbon liquid from a storage vessel to a tanker truck or tanker railcar for transport. If a combustion control device is used, the combustion device shall have a minimum design combustion efficiency of ninety-eight percent.

(2) An owner, operator, or personnel conducting the hydrocarbon liquid transfer using vapor balance shall:

(a) transfer the vapor displaced from the transfer truck or railcar being loaded back to the storage vessel being emptied via a pipe or hose connected before the start of the transfer operation. If multiple storage vessels are manifolded together in a tank battery, the vapor may be routed back to any storage vessel in the tank battery;

(b) ensure that the transfer does not begin until the vapor collection and return system is properly connected;

(c) inspect connector pipes, hoses, couplers, valves, and pressure relief devices for leaks;

(d) check the hydrocarbon liquid and vapor line connections for proper connections before commencing the transfer operation; and

(e) operate transfer equipment at a pressure that is less than the pressure relief valve setting of the receiving transport vehicle or storage vessel.

(3) Connector pipes and couplers shall be inspected and maintained to ensure there are no liquid leaks.

(4) Connections of hoses and pipes used during hydrocarbon liquid transfers shall be supported on drip trays that collect any leaks, and the materials collected shall be returned to the process or disposed of in a manner compliant with state law.

(5) Liquid leaks that occur shall be cleaned and disposed of in a manner that minimizes emissions to the atmosphere, and the material collected shall be returned to the process or disposed of in a manner compliant with state law.

(6) An owner or operator complying with Paragraph (1) of Subsection B of 20.2.50.120 NMAC through use of a control device shall comply with the control device requirements in 20.2.50.115 NMAC.

C. Monitoring requirements:

(1) The owner, operator, or their designated representative shall visually inspect the hydrocarbon liquid transfer equipment monthly at staffed locations and semi-annually at unstaffed locations to ensure that hydrocarbon liquid transfer lines, hoses, couplings, valves, and pipes are not dripping or leaking. At least once per calendar year, the inspection shall occur during a transfer operation. Leaking components shall be repaired to prevent dripping or leaking before the next transfer operation, or measures must be implemented to mitigate leaks until the necessary repairs are completed.

(2) The owner or operator of a hydrocarbon liquid transfer operation controlled by a control device must follow manufacturer specifications for the device.

(3) Owners and operators complying with Paragraph (1) of Subsection B of 20.2.50.120 NMAC through use of a control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(4) Prior to any monitoring event, the owner or operator shall date and time stamp the event, and the monitoring data entry shall be made in accordance with the requirements of this Part.

(5) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall maintain a record of the following:

(a) the location of the facility;

(b) if using a control device, the type, make, and model of the control device;

(c) the date and time stamp, including GPS of the location, of any inspection;

(d) the name of the person(s) conducting the inspection;

(e) a description of any problem observed during the inspection; and

(f) the results of the inspection and a description of any repair or corrective action taken.

(2) The owner or operator shall maintain a record for each site of the annual total hydrocarbon liquid transferred and annual total VOC emissions. Each calendar year, the owner or operator shall create a company-wide record summarizing the annual total hydrocarbon liquid transferred and the annual total calculated VOC emissions.

(3) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.120 NMAC - N, 08/05/2022]

20.2.50.121 PIG LAUNCHING AND RECEIVING:

A. Applicability: Individual pipeline pig launcher and receiver operations with a PTE equal to or greater than one tpy VOC located within the property boundary of, and under common ownership or control with, well sites, tank batteries, gathering and boosting stations, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.121 NMAC.

B. Emission standards:

(1) Owners and operators of affected pipeline pig launcher and receiver operations shall capture and reduce VOC emissions from pigging operations by at least ninety-five percent within two years of the effective date of this Part. If a combustion control device is used, the combustion device shall have a minimum design combustion efficiency of ninety-eight percent.

(2) The owner or operator conducting an affected

pig launching and receiving operation shall:

(a) employ best management practices to minimize the liquid present in the pig receiver chamber and to minimize emissions from the pig receiver chamber to the atmosphere after receiving the pig in the receiving chamber and before opening the receiving chamber to the atmosphere;

(b) employ a method to minimize emissions, such as installing a liquid ramp or drain, routing a high-pressure chamber to a low-pressure line or vessel, using a ball valve type chamber, or using multiple pig chambers;

(c) recover and dispose of receiver liquid in a manner that minimizes emissions to the atmosphere to the extent practicable; and

(d) ensure that the material collected is returned to the process or disposed of in a manner compliant with state law.

(3) The emission standards in Paragraphs (1) and (2) of Subsection B of 20.2.50.121 NMAC cease to apply to an individual pipeline pig launching and receiving operation if the actual annual VOC emissions of the launcher or receiver operation are less than one tpy of VOC.

(4) An owner or operator complying with Paragraphs (1) or (2) of Subsection B of 20.2.50.121 NMAC through use of a control device shall comply with the control device requirements in 20.2.50.115 NMAC.

C. Monitoring requirements:

(1) The owner or operator of an affected pig launching and receiving site shall inspect the equipment for leaks using AVO, RM 21, or OGI on either:

(a) a monthly basis if pigging operations at a site occur on a monthly basis or more frequently; or

(b) prior to the commencement and after the conclusion of the pig launching or receiving operation, if less frequent.

(2) The monitoring shall be performed using the methodologies outlined in Subsection C of 20.2.50.116 NMAC as applicable and at the frequency required in Paragraph (1) of Subsection C of 20.2.50.121 NMAC. The monitoring shall be performed when the pig trap is under pressure.

(3) An owner or operator complying with Paragraphs (1) or (2) of Subsection B of 20.2.50.121 NMAC through use of a control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(4) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements: In addition to complying with the recordkeeping requirements in 20.2.50.112 NMAC, the owner or operator of an affected pig launching and receiving site shall maintain a record of the following:

(1) the pigging operation, including the location, date, and time of the pigging operation;

(2) the data and methodology used to estimate the actual emissions to the atmosphere and used to estimate the PTE;

(3) date and time of any monitoring and the results of the monitoring; and

(4) the type of control device and its make and model.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.121 NMAC - N, 08/05/2022]

20.2.50.122 PNEUMATIC CONTROLLERS AND PUMPS:

A. Applicability: Natural gas-driven pneumatic controllers and pumps located at well sites, tank batteries, gathering and boosting stations, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.122 NMAC.

B. Emission standards:

(1) A new natural gas-driven pneumatic controller or pump shall comply with the requirements of 20.2.50.122 NMAC upon startup.

(2) An existing natural gas-driven pneumatic pump shall comply with the requirements of 20.2.50.122 NMAC within three years of the effective date of this Part.

(3) An owner or operator shall ensure that its existing natural gas-driven pneumatic controllers comply with the requirements of 20.2.50.122 NMAC according to the following schedule:

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Table 1 – WELL SITES, STANDALONE TANK BATTERIES, GATHERING AND BOOSTING STATIONS

Total Historic Percentage of Non-Emitting Controllers	Total Required Percentage of Non-Emitting Controllers by January 1, 2024	Total Required Percentage of Non-Emitting Controllers by January 1, 2027	Total Required Percentage of Non-Emitting Controllers by January 1, 2030
> 75%	80%	85%	90%
> 60-75%	80%	85%	90%
> 40-60%	65%	70%	80%
> 20-40%	45%	70%	80%
0-20%	25%	65%	80%

Table 2 – TRANSMISSION COMPRESSOR STATIONS AND GAS PROCESSING PLANTS

Total Historic Percentage of Non-Emitting Controllers	Total Required Percentage of Non-Emitting Controllers by January 1, 2024	Total Required Percentage of Non-Emitting Controllers by January 1, 2027	Total Required Percentage of Non-Emitting Controllers by January 1, 2030
> 75%	80%	95%	98%
> 60-75%	80%	95%	98%
> 40-60%	65%	95%	98%
> 20-40%	50%	95%	98%
0-20%	35%	95%	98%

(4) Standards for natural gas-driven pneumatic controllers:

(a) new pneumatic controllers shall have an emission rate of zero. A natural gas driven pneumatic controller replacing an existing natural gas driven pneumatic controller at an existing facility is an existing pneumatic controller for purposes of Section 20.2.50.122 NMAC.

(b) owners and operators of existing pneumatic controllers shall meet the required percentage of non-emitting controllers within the deadlines in tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC, and shall comply with the following:

(i) by July 1, 2023, the owner or operator shall determine the total controller count for all controllers subject to each table separately at all of the owner or operator’s affected facilities that commenced construction before the effective date of this Part. The total controller count for each table must include all emitting pneumatic controllers and all non-emitting pneumatic controllers, except that pneumatic controllers necessary for a safety or process purpose that cannot otherwise be met without emitting natural gas shall not be included in the total controller count. This final number is the total historic controller count. Controllers identified as required for a safety or process purpose after July 1, 2023, shall not affect the total historic controller count.

(ii) determine which controllers in the total controller count for each table are non-emitting and sum the total number of non-emitting controllers and designate those as total historic non-emitting controllers.

(iii) determine the total historic non-emitting percent of controllers for each table by dividing the total historic non-emitting controller count by the total historic controller count and multiplying by 100.

(iv) based on the percent calculated in (iii) above for each table, the owner or operator shall determine which provisions of tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC apply and the replacement schedule the owner or operator must meet.

(v) if an owner or operator meets at least seventy-five percent total non-emitting controllers using the calculation methodology in Subparagraph (b) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC by January 1, 2025, for either or both table 1 or table 2, the owner or operator is not thereafter subject to the requirements of tables 1 and/or 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC.

(vi) if after January 1, 2027, an owner or operator’s remaining pneumatic controllers are not cost-effective to retrofit, the owner or operator may submit a cost analysis of retrofitting those remaining units to the department. The department shall review the cost analysis and determine whether those units qualify for a waiver from meeting additional retrofit requirements.

(c) owners and operators of existing natural gas driven pneumatic controllers shall demonstrate compliance with tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC, on January 1, 2024, January 1, 2027, and January 1, 2030, as follows:

(i) determine which controllers are emitting (excluding pneumatic controllers necessary for safety or process reasons pursuant to Subparagraph (d) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC) and sum the total number of emitting controllers for table 1 and table 2 facilities separately.

(ii) determine the percentage of non-emitting controllers by using the following equation for table 1 and table 2 facilities separately:

$$\text{Total Percentage of Non-Emitting Controllers} = 100 - ((\text{total emitting controllers} / \text{total historic controller count}) \times 100)$$

(iii) compliance is demonstrated if the Total Percentage of Non-Emitting Controllers calculated pursuant to Subparagraph (c) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC is less than or equal to the value for that year in the Total Historic Percentage of Non-Emitting Controllers row (as calculated pursuant to Subparagraph (b)(i)-(iv) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC) in table 1 or table 2, as applicable, of Paragraph (3) of Subsection B of 20.2.50.122 NMAC.

(d) No later than January 1, 2024, a pneumatic controller with a bleed rate greater than six standard cubic feet per hour is permitted when the owner or operator has demonstrated that a higher bleed rate is required based on functional needs, including response time, safety, and positive actuation. An owner or operator that seeks to maintain operation of an emitting pneumatic controller as excepted for process or safety reasons under Subparagraph (a)(i) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC must prepare and document the justification for the safety or process purpose prior to the installation of a new emitting controller or the retrofit of an existing controller. The justification shall be certified by a qualified professional or inhouse engineer.

(e) Temporary pneumatic controllers that emit natural gas and are used for well abandonment activities or used prior to or through the end of flowback, and pneumatic controllers used as emergency shutdown devices located at a well site, are not subject to the requirements of Subsection B of 20.2.50.122 NMAC.

(f) Temporary or portable pneumatic controllers that emit natural gas and are on-site for less than 90 days are not subject to the requirements of Subsection B of 20.2.50.122 NMAC.

(5) Standards for natural gas-driven pneumatic diaphragm pumps:

(a) new pneumatic diaphragm pumps located at natural gas processing plants shall have an emission rate of zero.

(b) new pneumatic diaphragm pumps located at well sites, tank batteries, gathering and boosting stations, or transmission compressor stations with access to commercial line electrical power shall have an emission rate of zero.

(c) existing pneumatic diaphragm pumps located at well sites, tank batteries, gathering and boosting stations, natural gas processing plants, or transmission compressor stations with access to commercial line electrical power shall have an emission rate of zero within two years of the effective date of this Part.

(d) owners and operators of pneumatic diaphragm pumps located at well sites, tank batteries, gathering and boosting stations, or transmission compressor stations without access to commercial line electrical power shall reduce VOC emissions from the pneumatic diaphragm pumps by ninety-five percent if it is technically feasible to route emissions to a control device, fuel cell, or process. If there is a control device available onsite but it is unable to achieve a ninety-five percent emission reduction, and it is not technically feasible to route the pneumatic diaphragm pump emissions

to a fuel cell or process, the owner or operator shall route the pneumatic diaphragm pump emissions to the control device within two years of the effective date of this Part.

C. Monitoring requirements:

(1) Pneumatic controllers or diaphragm pumps not using natural gas or other hydrocarbon gas as a motive force are not subject to the monitoring requirements in Subsection C of 20.2.50.122 NMAC.

(2) No later than January 1, 2023, the owner or operator of a facility with one or more natural gas-driven pneumatic controllers subject to the deadlines set forth in tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC shall monitor the compliance status of each subject pneumatic controller at each facility.

(3) The owner or operator of a natural gas-driven pneumatic controller shall, on a monthly basis, conduct an AVO or OGI inspection, and shall also inspect the pneumatic controller, perform necessary maintenance (such as cleaning, tuning, and repairing a leaking gasket, tubing fitting and seal; tuning to operate over a broader range of proportional band; eliminating an unnecessary valve positioner), and maintain the pneumatic controller according to manufacturer specifications to ensure that the VOC emissions are minimized.

(4) Within two years of the effective date of this Part, the owner or operator's data systems shall contain the following for each in-service natural gas-driven pneumatic controller:

(a) natural gas-driven pneumatic controller unique identification number;

(b) type of controller (continuous or intermittent);

(c) if continuous, design continuous bleed rate in standard cubic feet per hour;

(d) if intermittent, bleed volume per intermittent bleed in standard cubic feet; and

(e) if continuous, design annual bleed rate in standard cubic feet per year.

(5) Upon the effective date specified for the facility in 20.2.50.116 NMAC, the owner or operator of a natural gas-driven pneumatic diaphragm pump shall, on a monthly basis, conduct an AVO or OGI inspection and shall also inspect the pneumatic pump and perform necessary maintenance, and maintain the pneumatic pump according to manufacturer specifications to ensure that the VOC emissions are minimized.

(6) The owner or operator of a natural gas-driven pneumatic controller shall comply with the requirements in Paragraph (3) of Subsection C or Subsection D of 20.2.50.116 NMAC applicable to the facility type at which the pneumatic controller is installed on the effective date specified in 20.2.50.116 NMAC. During instrument inspections, operators shall use RM 21, OGI, or alternative instruments used under Subsection D of 20.2.50.116 NMAC to verify that intermittent controllers are not emitting when not actuating. Any intermittent controller emitting when not actuating shall be repaired consistent with Subsection E of 20.2.50.116 NMAC.

(7) Prior to any monitoring event, the owner or operator shall date and time stamp the event, and the monitoring data entry shall be made in accordance with the requirements of this Part.

(8) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) Non-emitting pneumatic controllers and diaphragm pumps are not subject to the recordkeeping requirements in Subsection D of 20.2.50.122 NMAC.

(2) The owner or operator shall maintain a record of the total controller count for all controllers at all of the owner or operator’s affected facilities that commenced operation before the effective date of this Part. The total controller count must include all emitting and non-emitting pneumatic controllers.

(3) The owner or operator shall maintain a record of the total count of natural gas-driven pneumatic controllers necessary for a safety or process purpose that cannot otherwise be met without emitting VOC.

(4) The owner or operator of a natural gas-driven pneumatic controller subject to the requirements in tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC shall generate a schedule for meeting the compliance deadlines for each pneumatic controller. The owner or operator shall keep a record of the compliance status of each subject controller. On or before January 1, 2024, January 1, 2027 and January 1, 2030, the owner or operator shall make and retain the compliance demonstration set forth in Subparagraph (c) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC.

(5) The owner or operator shall maintain an electronic record for each natural gas-driven pneumatic controller. The record shall include the following:

(a) pneumatic controller unique identification number;

(b) time and date stamp, including GPS of the location, of any monitoring;

(c) name of the person(s) conducting the inspection;

(d) AVO or OGI inspection result;

(e) AVO or OGI level discrepancy in continuous or intermittent bleed rate;

(f) record of the controller type, bleed rate, or bleed volume required in Subparagraphs (b), (c), (d), and (e) of Paragraph (4) of Subsection C of 20.2.50.122 NMAC.

(g) maintenance date and maintenance activity; and

(h) a record of the justification and certification required in Subparagraph (c) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC.

(6) The owner or operator of a natural gas-driven pneumatic controller with a bleed rate greater than six standard cubic feet per hour shall maintain a record documenting why a bleed rate greater than six scf/hr is necessary, as required in Subsection B of 20.2.50.122 NMAC. This demonstration shall be completed by July 1, 2023 for controllers with a bleed rate greater than six scf/hr and as necessary for controllers with a bleed rate less than or equal to six scf/hr.

(7) The owner or operator shall maintain a record for a natural gas-driven pneumatic pump with an emission rate greater than zero and the associated pump number at the facility. The record shall include:

(a) for a natural gas-driven pneumatic diaphragm pump in operation less than 90 days per calendar year, a record for each day of operation during the calendar year.

(b) a record of any control device designed to achieve at least ninety-five percent emission reduction, including an evaluation or manufacturer specifications indicating the percentage reduction the control device is designed to achieve.

(c) records of the engineering assessment and certification by a qualified professional or inhouse engineer that routing pneumatic pump emissions to a control device, fuel cell, or process is technically infeasible.

(8) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.122 NMAC - N, 08/05/2022]

20.2.50.123 STORAGE VESSELS

A. Applicability: New storage vessels with a PTE equal to or greater than two tpy of VOC, existing storage vessels with a PTE equal to or greater than three tpy of VOC in multi-tank batteries, and existing storage vessels with a PTE equal to or greater than four tpy of VOC in single tank batteries are subject to the requirements of 20.2.50.123 NMAC. Storage vessels in multi-tank batteries manifolded together such that all vapors are shared between the headspace of the storage vessels and are routed to a common outlet or endpoint may determine an individual storage vessel PTE by averaging the emissions across the total number of storage vessels. Storage vessels associated with produced water management units are required to comply with this Section to the extent specified in Subsection B of Section 20.2.50.126 NMAC.

B. Emission standards:

(1) An existing storage vessel subject to this Section shall have a combined capture and control of VOC emissions of at least ninety-five percent according to the following schedule. If a combustion control device is used, the combustion device shall have a minimum design combustion efficiency of ninety-eight percent.

(a) By January 1, 2025, an owner or operator shall ensure at least thirty percent of the company's existing storage vessels are controlled;

(b) By January 1, 2027, an owner or operator shall ensure at least an

additional thirty-five percent of the company's existing storage vessels are controlled; and

(c) By January 1, 2029, an owner or operator shall ensure the company's remaining existing storage vessels are controlled.

(2) A new storage vessel subject to this Section shall have a combined capture and control of VOC emissions of at least ninety-five percent upon startup. If a combustion control device is used, the combustion device shall have a minimum design combustion efficiency of ninety-eight percent.

(3) The emission standards in Subsection B of 20.2.50.123 NMAC cease to apply to a storage vessel if the actual annual VOC emissions decrease to less than two tpy.

(4) If a control device is not installed by the date specified in Paragraphs (1) and (2) of Subsection B of 20.2.50.123 NMAC, an owner or operator may comply with Subsection B of 20.2.50.123 NMAC by shutting in the well supplying the storage vessel by the applicable date, and not resuming production from the well until the control device is installed and operational.

(5) The owner or operator of a new or existing storage vessel with a thief hatch shall ensure that the thief hatch is capable of opening sufficiently to relieve overpressure in the vessel and to automatically close once the vessel overpressure is relieved. Any pressure relief device installed must automatically close once the vessel overpressure is relieved.

(6) An owner or operator complying with Paragraphs (1) and (2) of Subsection B of 20.2.50.123 NMAC through use of a control device shall comply with the control device operational requirements in 20.2.50.115 NMAC.

C. Storage vessel measurement requirements:

Owners and operators of new storage vessels required to be controlled pursuant to this Part at well sites,

tank batteries, gathering and boosting stations, or natural gas processing plants shall use a storage vessel measurement system to determine the quantity of liquids in the storage vessel(s). New tank batteries receiving an annual average of 200 bbls oil/day or more with available grid power shall be outfitted with a lease automated custody transfer (LACT) unit(s).

(1) The owner or operator shall keep thief hatches (or other access points to the vessel) and pressure relief devices on storage vessels closed and latched during activities to determine the quantity of liquids in the storage vessel(s), except as necessary for custody transfer. Tank batteries equipped with LACT units shall use the LACT unit measurements in lieu of field testing of quantity and quality except in case of malfunction. Nothing in this paragraph shall be construed to prohibit the opening of thief hatches, pressure relief devices, or any other openings or access points to perform maintenance or similar activities designed to ensure the safety or proper operation of the storage vessel(s) or related equipment or processes. Where opening a thief hatch is necessary, owners and operators of new and existing storage vessels shall minimize the time the thief hatch is open.

(2) The owner or operator may inspect, test, and calibrate the storage vessel measurement system either semiannually, or as directed by the Bureau of Land Management (see 43 C.F.R. Section 374.6(b)(5)(ii) (B) (November 17, 2016)) or system manufacturer. Opening a thief hatch if required to inspect, test, or calibrate the vessel measurement system is not a violation of Paragraph (1) of this Subsection.

(3) The owner or operator shall install signage at or near the storage vessel that indicates which equipment and method(s) are used and the appropriate and necessary operating procedures for that system.

(4) The owner or operator shall develop and implement an annual training program for employees and third parties conducting activities subject to this Subsection that includes, at a minimum, operating procedures for each type of system.

(5) The owner or operator must make and retain the following records for at least two years and make such records available to the department upon request:

(a) date of construction of the storage vessel or facility;

(b) description of the storage vessel measurement system used to comply with this Subsection;

(c) date(s) of storage vessel measurement system inspections, testing, and calibrations that require opening the thief hatch pursuant to Paragraph (1) of this Subsection;

(d) manufacturer specifications regarding storage vessel measurement system inspections and/or calibrations, if followed pursuant to Paragraph (2) of this Subsection; and

(e) records of the annual training program, including the date and names of persons trained.

D. Monitoring requirements: No later than January 1, 2023, the owner or operator of a storage vessel shall:

(1) on a monthly basis, monitor, calculate, or estimate, the total monthly liquid throughput (in barrels) and the upstream separator pressure (in psig) if the storage vessel is directly downstream of a separator. When a storage vessel is unloaded less frequently than monthly, the throughput and separator pressure monitoring shall be conducted before the storage vessel is unloaded;

(2) conduct an AVO inspection on a weekly basis. If the storage vessel is unloaded less frequently than weekly, the AVO inspection shall be conducted before the storage vessel is unloaded;

(3) inspect the storage vessel monthly to ensure compliance with the requirements of 20.2.50.123 NMAC. The inspection shall include a check to ensure the vessel does not have a leak;

(4) prior to any monitoring event, date and time stamp the event and enter the monitoring data in accordance with the requirements of this Part;

(5) comply with the monitoring requirements in 20.2.50.115 NMAC if using a control device to comply with the requirements in Paragraphs (1) and (2) of Subsection B of 20.2.50.123 NMAC; and

(6) comply with the monitoring requirements of 20.2.50.112 NMAC.

E. Recordkeeping requirements: No later than January 1, 2023, the owner or operator of a storage vessel shall comply with the following requirements:

(1) Monthly, maintain a record for each storage vessel of the following:

(a) unique identification number and location (latitude and longitude);

(b) monitored, calculated, or estimated monthly liquid throughput;

(c) the upstream separator pressure, if a separator is present;

(d) the data and methodology used to calculate the actual emissions of VOC (tpy);

(e) the controlled and uncontrolled VOC emissions (tpy); and

(f) the type, make, model, and identification number of any control device.

(2) Verify each record of liquid throughput by dated liquid level measurements, a dated delivery receipt from the purchaser of the hydrocarbon liquid, the metered volume of hydrocarbon liquid sent downstream, or other proof of transfer.

(3) Make a record of the inspections required in

Subsections C and D of 20.2.50.123 NMAC, including:

(a) the date and time stamp, including GPS of the location, of the inspection;

(b) the person(s) conducting the inspection;

(c) a description of any problem observed during the inspection; and

(d) a description and date of any corrective action taken.

(4) Comply with the recordkeeping requirements in 20.2.50.115 NMAC if complying with the requirements in Paragraphs (1) and (2) of Subsection B of 20.2.50.123 NMAC through use of a control device.

(5) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

F. Reporting requirements:

(1) An owner or operator complying with the requirements in Paragraphs (1) and (2) of Subsection B of 20.2.50.123 NMAC through use of a control device shall comply with the reporting requirements in 20.2.50.115 NMAC.

(2) The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.123 NMAC - N, 08/05/2022]

20.2.50.124 WELL WORKOVERS

A. Applicability: Workovers performed at oil and natural gas wells are subject to the requirements of 20.2.50.124 NMAC as of the effective date of this Part.

B. Emission standards: The owner or operator of an oil or natural gas well shall use the following best management practices during a workover to minimize emissions, consistent with the well site condition and good engineering or operational practices:

(1) reduce wellhead pressure before blowdown to minimize the volume of natural gas vented;

(2) monitor manual venting at the well until the venting is complete; and

(3) route natural gas to the sales line, if possible.

C. Monitoring requirements:

(1) The owner or operator shall monitor the following parameters during a workover:

- (a) wellhead pressure;
- (b) flow rate of the vented natural gas (to the extent feasible); and
- (c) duration of venting to the atmosphere.

(2) The owner or operator shall calculate the estimated volume and mass of VOC vented during a workover.

(3) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall keep the following record for a workover:

(a) unique identification number and location (latitude and longitude) of the well;

(b) date the workover was performed;

(c) wellhead pressure;

(d) flow rate of the vented natural gas to the extent feasible, and if measurement of the flow rate is not feasible, the owner or operator shall use the maximum potential flow rate in the emission calculation;

(e) duration of venting to the atmosphere;

(f) description of the best management practices used to minimize release of VOC emissions before and during the workover;

(g) calculation of the estimated VOC emissions vented during the workover

based on the duration, volume, and gas composition; and

(h) the method of notification to the public and proof that notification was made to the affected public.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements:

(1) The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

(2) If it is not feasible to prevent VOC emissions from being emitted to the atmosphere from a workover event, the owner or operator shall notify by certified mail, or by other effective means of notice so long as the notification can be documented, all residents located within one-quarter mile of the well of the planned workover at least three calendar days before the workover event.

(3) If the workover is needed for routine or emergency downhole maintenance to restore production lost due to upsets or equipment malfunction, the owner or operator shall notify all residents located within one-quarter mile of the well of the planned workover at least 24 hours before the workover event. [20.2.50.124 NMAC - N, 08/05/2022]

20.2.50.125 SMALL BUSINESS FACILITIES

A. Applicability: Small business facilities as defined in this Part are subject to Sections 20.2.50.125 NMAC and 20.2.50.127 NMAC of this Part. Small business facilities are not subject to any other requirements of this Part unless specifically identified in 20.2.50.125 NMAC.

B. General requirements:

(1) The owner or operator shall ensure that all equipment is operated and maintained consistent with manufacturer specifications, and good engineering and maintenance practices. The owner

or operator shall keep manufacturer specifications and maintenance practices on file and make them available to the department upon request.

(2) The owner or operator shall calculate the VOC and NO_x emissions from the facility on an annual basis. The calculation shall be based on the actual production or processing rates of the facility.

(3) The owner or operator shall maintain a database of company-wide VOC and NO_x emission calculations for all subject facilities and associated equipment and shall update the database annually.

(4) The owner or operator shall comply with Paragraph (9) of Subsection A of 20.2.50.112 NMAC if requested by the department.

C. Monitoring requirements: The owner or operator shall comply with the requirements in Subsections C or D of 20.2.50.116 NMAC. The owner or operator shall comply with Subsection B of 20.2.50.111 NMAC in determining applicability of the requirements in 20.2.50.116 NMAC.

D. Repair requirements: The owner or operator shall comply with the requirements of Subsection E of 20.2.50.116 NMAC.

E. Recordkeeping requirements: The owner or operator shall maintain the following electronic records for each facility:

(1) annual certification that the small business facility meets the definition in this Part;

(2) calculated annual VOC and NO_x emissions from each facility and the company-wide annual VOC and NO_x emissions for all subject facilities; and

(3) records as required under Subsection F of 20.2.50.116 NMAC.

F. Reporting requirements: The owner or operator shall submit to the department an initial small business

certification within sixty days of the effective date of this Part, and by March 1 of each calendar year thereafter. The certification shall be made on a form provided by the department. The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

G. Failure to comply with 20.2.50.125 NMAC: Notwithstanding the provisions of Section 20.2.50.125 NMAC, a source that meets the definition of a small business facility can be required to comply with the other Sections of 20.2.50 NMAC if the Secretary finds based on credible evidence that the source (1) presents an imminent and substantial endangerment to the public health or welfare or to the environment; (2) is not being operated or maintained in a manner that minimizes emissions of air contaminants; or (3) has violated any other requirement of 20.2.50.125 NMAC.

[20.2.50.125 NMAC - N, 08/05/2022]

20.2.50.126 PRODUCED WATER MANAGEMENT UNITS

A. Applicability: Produced water management units as defined in this Part and their associated storage vessels are subject to 20.2.50.126 NMAC and shall comply with these requirements no later than 180 days after the effective date of this Part.

B. Emission standards:

(1) The owner or operator shall use good operational or engineering practices to minimize emissions of VOC from produced water management units (PWMU) and their associated storage vessels.

(2) The owner or operator shall not allow any transfer of untreated produced water to a PWMU without first processing and treating the produced water in a separator and/or storage vessel to minimize entrained hydrocarbons.

(3) Within two years of the effective date of this Part for storage vessels associated with existing PWMUs, or upon startup for storage vessels associated with new

PWMUs, the owner or operator shall either:

(a) control such storage vessels in accordance with the requirements of Section 20.2.50.123 NMAC that are applicable to tank batteries; or

(b) submit a VOC minimization plan to the department demonstrating that controlling VOC emissions from storage vessels associated with the PWMU in accordance with the requirements of Section 20.2.50.123 NMAC is technically infeasible without supplemental fuel. The plan shall state the good operational or engineering practices used to minimize VOC emissions. The plan shall be enforceable by the department upon submission. The department may require revisions to the plan, and must approve any proposed revisions to the plan.

C. Monitoring requirements: The owner or operator shall:

(1) develop a protocol to calculate the VOC emissions from each PWMU. The protocol shall include at a minimum: produced water throughput monitoring, semi-annual sampling and analysis of the liquid composition, hydrocarbon measurement method(s), representative sample size, and sample chain of custody requirements.

(2) calculate the monthly total VOC emissions in tons from each unit with the first month of emission calculations beginning within 180 days of the effective date of this Part;

(3) monthly, monitor the best management and good operational or engineering practices implemented to reduce emissions at each unit to ensure and demonstrate their effectiveness;

(4) upon written request by the department, sample the PWMU to determine the VOC content of the liquid; and

(5) comply with the monitoring requirements of 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall maintain the following electronic records for each PWMU:

(a) unique identification number and UTM coordinates of the PWMU;

(b) the good operational or engineering practices used to minimize emissions of VOC from the PWMU;

(c) the VOC emissions calculation protocol required in Subsection C of 20.2.50.126 NMAC, including the results of the sampling conducted in accordance with the protocol; and

(d) the annual total VOC emissions from each PWMU.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.126 NMAC - N, 08/05/2022]

20.2.50.127 FLOWBACK VESSELS AND PREPRODUCTION OPERATIONS

A. Applicability: Wells undergoing recompletions and new wells being completed at an existing wellhead site are subject to the requirements of 20.2.50.127 NMAC one year after the effective date of this Part. New wells constructed at a new wellhead site that commence completion or recompletion on or after the effective date of this Part are subject to the requirements of 20.2.50.127 NMAC.

B. Emissions standards:

(1) The owner or operator of a well that begins flowback on or after the effective date of this Part must collect and control emissions from each flowback vessel on and after the date flowback is routed to the flowback vessel by routing emissions to an operating control device that achieves a

hydrocarbon control efficiency of at least ninety-five percent. If a TO or ECD is used, it must have a design destruction efficiency of at least ninety-eight percent for hydrocarbons.

(2) The owner or operator shall ensure that a control device used to comply with the emission standards in 20.2.50.127 NMAC operates as a closed vent system that captures and routes VOC emissions to the control device, and that unburnt gas is not directly vented to the atmosphere.

(3) Flowback vessels shall be inspected, tested, and refurbished where necessary to ensure the flowback vessel is in compliance with Paragraph (2) of Subsection B of 20.2.50.127 NMAC prior to receiving flowback.

(4) The owner or operator shall use a vessel measurement system to determine the quantity of liquids in the flowback vessel(s).

(5) Thief hatches or other access points to the flowback vessel(s) must remain closed and latched during activities to determine the quantity of liquids in the flowback.

(6) Opening the thief hatch or other access point if required to inspect, test, or calibrate the vessel measurement system, or to add biocides or chemicals, is not a violation of Paragraph 2 of Subsection B of 20.2.50.127 NMAC.

C. Monitoring requirements: The owner or operator of a well with flowback that begins on or after the effective date of this Part shall conduct daily visual inspections of the flowback vessel and any associated equipment. Such inspections shall include:

(1) visual inspection of any thief hatch, pressure relief valve, or other access point to ensure that they are closed and properly seated;

(2) visual inspection or monitoring of the control device to ensure that it is operating; and

(3) visual inspection of the control device to

ensure that the valves for the piping from the flowback vessel to the control device are open.

D. Recordkeeping requirements:

(1) The owner or operator of each flowback vessel subject to the emissions standards in Subsection B of 20.2.50.127 NMAC shall maintain the following records:

(a) the API number of the well and the associated facility location, including latitude and longitude coordinates;

(b) the date and time of the onset of flowback;

(c) the date and time that the flowback vessels were permanently disconnected, if applicable;

(d) the date and duration of any period where the control device was not operating; and

(e) records of the inspections required in Subsection C of 20.2.50.127 NMAC, including the following:

(i) time and date of each inspection;

(ii) a description of any problems observed;

(iii) a description of any corrective action(s) taken; and

(iv) the name and position of the person performing the corrective action(s).

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC. [20.2.50.127 NMAC - N, 08/05/2022]

20.2.50.128 PROHIBITED ACTIVITY AND CREDIBLE EVIDENCE

A. Failure to comply with the emissions standards, monitoring, recordkeeping, reporting or other requirements of this Part within the timeframes specified shall

constitute a violation of this Part subject to enforcement action under Section 74-2-12 NMSA 1978.

B. If credible evidence or information obtained by the department or provided to the department by a third party indicates that a source is not in compliance with the provisions of this Part that evidence or information may be used by the department for purposes of establishing whether a person has violated or is in violation of this Part. [20.2.50.128 NMAC - N, 08/05/2022]

HISTORY OF 20.2.50 NMAC:
[RESERVED]

End of Adopted Rules

Other Material Related to Administrative Law

**HEALTH, DEPARTMENT
OF****PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT
OF HEALTH
ACTING SECRETARY DAVID
R. SCRASE, M.D.**

July 15, 2022

**Public Health Emergency Order
Clarifying that Current Guidance
Documents, Advisories, and
Emergency Public Health Orders
Remain
in Effect; and Amending Prior
Public Health Emergency Orders
to
Impose Certain Public Health
Measures****PREFACE**

The purpose of this amended Public Health Emergency Order is to amend restrictions on mass gatherings and business operations, which were implemented in response to the spread of the Novel Coronavirus Disease 2019 (“COVID-19”). While vaccines are the most effective method to prevent the spread of COVID-19, masks, social distancing and self-isolation measures continue to be necessary to protect New Mexicans who are ineligible to receive a COVID-19 vaccine or who choose not to receive a vaccine. All New Mexicans should continue to adhere to social distancing protocols when required to protect our State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage New Mexicans continue social distancing measures.

It is hereby **ORDERED** that

1. All current guidance documents and advisories issued by the Department of Health remain in effect.

2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:

A. December 15, 2020 Amended Public Health Emergency Order Implementing Additional Contact Tracing Information Requirements for All Laboratories and Submitters Submitting Notifiable Condition COVID- 19 Test Results to the New Mexico Epidemiology and Response Division;

B. January 8, 2021 Emergency Order Implementing Administration and Reporting Requirements for All COVID-19 Vaccine Providers;

C. April 5, 2021 Amended Public Health Emergency Order Temporarily Limiting Long-Term Care Facilities Visitation Due to COVID-19;

D. February 26, 2021 Public Health Emergency Order Implementing Administration Requirements for all COVID-19 Vaccine Providers and Requiring Accurate Information be Provided by Individuals Registering to Receive the COVID-19 Vaccine; and

E. December 2, 2021 Amended Public Health Emergency Order Requiring All School Workers Comply with Certain Health Requirements and Requiring Congregate Care Facility Workers, Hospital Workers, and Employees of the Office of the Governor Be Fully Vaccinated and Receive Booster Vaccines.

3. The June 15, 2022 Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose Certain Public Health Measures is hereby amended as follows:

ORDER

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through July 29, 2022;

WHEREAS, confirmed cases in the United States have risen to more than 88.7 million and confirmed COVID-19 infections in New Mexico have risen to over 575,000;

WHEREAS, COVID-19 is a deadly virus and has taken the lives of over 1,017,000 Americans and over 8,000 New Mexicans;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

WHEREAS, vaccination, social distancing and the consistent and proper use of face coverings in public spaces are the most effective ways New Mexicans can minimize the spread of COVID-19 and mitigate the potentially devastating impact of this pandemic in New Mexico; and

WHEREAS, the New Mexico Department of Health

possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

NOW, THEREFORE,
I, David R. Scrase, M.D.,
 Acting Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of her emergency powers under the All Hazard Emergency Management Act, do hereby declare the current outbreak of COVID-19 a condition of public health importance, as defined in NMSA 1978, Section 24-1-2(A) as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

I HEREBY DIRECT AS FOLLOWS:

(1) Unless a healthcare provider instructs otherwise, all individuals ages 2 years and older shall wear a mask or multilayer cloth face covering in all public hospitals, profit or nonprofit private hospitals, general hospitals, special hospitals, nursing homes, assisted living facilities, adult day cares, hospice facilities, rehabilitation facilities, residential treatment centers, the New Mexico State Veterans' Home, and community homes except when eating or drinking. Nothing in this Order

shall be construed as prohibiting any business, house of worship, non-profit entity, or other entity from imposing more stringent requirements.

(2) Any business, establishment, or non-profit (other than those which are a healthcare operation, utility, or indigent care services) which members of the public regularly visit must report to the New Mexico Environment Department when there is an occurrence of a rapid response. The New Mexico Environment Department shall monitor when an entity has four (4) or more rapid responses within a fourteen (14) day period. For purposes of this directive, rapid responses will be counted on a rolling basis. Businesses, establishments, or non-profits with four or more rapid responses shall not be required to cease operations. However, the rapid responses must be reported to the Environment Department so that the public may be made aware of the positive cases.

(3) All businesses, establishments, and non-profit entities must adhere to the pertinent COVID-Safe Practices

(4) Public and private educational institutions serving children and young adults from pre-Kindergarten through 12th Grade, including homeschools serving children who are not household members, shall continue to adhere to the face covering requirements contained in the New Mexico Public Education Department's "COVID-19 Response Toolkit for New Mexico's Public Schools", available at <https://webnew.ped.state.nm.us/reentry-district-and-school-guidance/>, until the school district, governing local education agency, or private educational institution elects otherwise. Public and private educational institutions shall adhere to the other COVID-Safe Practices requirements for in-person instruction contained in the COVID-19 Response Toolkit for New Mexico's Public Schools and may operate up to maximum

capacity. Public and private educational institutions shall follow the reporting, testing, and closure requirements set forth by the Public Education Department in the COVID-19 Response Toolkit for New Mexico's Public Schools.

I FURTHER DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the Public Health Act.

(3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.

(4) This Order shall take effect immediately and remain in effect through August 14, 2022.

(5) The New Mexico Department of Health, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(6) Any and all State officials authorized by the Department of Health may enforce this Public Health Order by issuing a citation of violation, which may result in civil administrative penalties of up to \$5,000 for each violation under NMSA 1978, Section 12-10A-19.

ATTEST:
DONE AT THE EXECUTIVE OFFICE

THIS 15TH DAY OF JULY 2022
WITNESS MY HAND AND THE GREAT SEAL OF THE STATE OF NEW MEXICO

/ S /

**MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE**

/ S /

**DAVID R. SCRASE, M.D.
ACTING SECRETARY OF THE
NEW MEXICO DEPARTMENT
OF HEALTH**

**End of Other Material
Related to Administrative
Law**

2022 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXIII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 11
Issue 2	January 13	January 25
Issue 3	January 27	February 8
Issue 4	February 10	February 22
Issue 5	February 24	March 8
Issue 6	March 10	March 22
Issue 7	March 24	April 5
Issue 8	April 7	April 19
Issue 9	April 21	May 3
Issue 10	May 5	May 24
Issue 11	May 26	June 7
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Issue 19	September 29	October 11
Issue 20	October 13	October 25
Issue 21	October 27	November 8
Issue 22	November 17	November 29
Issue 23	December 1	December 13
Issue 24	December 15	December 27

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