

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 80 STACK HEIGHTS

20.2.80.1 ISSUING AGENCY: Environmental Improvement Board.
[11/30/95; 20.2.80.1 NMAC - Rn, 20 NMAC 2.80.100 10/31/02]

20.2.80.2 SCOPE: All persons who own or operate a source or who intend to construct or modify a source.
[11/30/95; 20.2.80.2 NMAC - Rn, 20 NMAC 2.80.101 10/31/02]

20.2.80.3 STATUTORY AUTHORITY: Environmental Improvement Act, NMSA 1978, section 74-1-8(A)(4), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-7.
[11/30/95; 20.2.80.3 NMAC - Rn, 20 NMAC 2.80.102 10/31/02]

20.2.80.4 DURATION: Permanent.
[11/30/95; 20.2.80.4 NMAC - Rn, 20 NMAC 2.80.103 10/31/02]

20.2.80.5 EFFECTIVE DATE: November 30, 1995.
[11/30/95; 20.2.80.5 NMAC - Rn, 20 NMAC 2.80.104 10/31/02]
[The latest effective date of any section in this Part is 10/31/02.]

20.2.80.6 OBJECTIVE: The objective of this Part is to establish requirements for the evaluation of stack heights and other dispersion techniques in permitting decisions.
[11/30/95; 20.2.80.6 NMAC - Rn, 20 NMAC 2.80.105 10/31/02]

20.2.80.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions), the definitions in 40 CFR Sections 51.100(z) and (ff)-(kk) (1987) are hereby incorporated as state regulations and, as used in this Part: "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.
[11/30/95; 20.2.80.7 NMAC - Rn, 20 NMAC 2.80.107 10/31/02]

20.2.80.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulation ("AQCR") 710, -- Stack Height Requirements, last filed March 15, 1988, as amended.

A. All references to AQCR 710 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 710 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 710.

[11/30/95; 20.2.80.8 NMAC - Rn, 20 NMAC 2.80.106 10/31/02]

20.2.80.9 DOCUMENTS: Documents cited in this Part may be viewed at the New Mexico Environment Department, Air Quality Bureau, Harold Runnels Building, 1190 Saint Francis Drive, Santa Fe, NM 87505 [2048 Galisteo St., Santa Fe, NM 87505].
[11/30/95; 20.2.80.9 NMAC - Rn, 20 NMAC 2.80.108 10/31/02]

20.2.80.10 to 20.2.80.108 [RESERVED]

20.2.80.109 NEW SOURCES OR MODIFIED EXISTING SOURCES: Except as otherwise provided, in evaluating air quality impacts for a proposed new source or modification of an existing source requiring a permit pursuant to 20.2.72 NMAC (Construction Permits); 20.2.74 NMAC (Prevention of Significant Deterioration (PSD)); or 20.2.79 NMAC (Permits - Nonattainment Areas), the Department shall give no credit for reductions in emissions due to the length of a source's stack height that exceeds good engineering practice or due to any other dispersion technique.

[11/30/95; 20.2.80.109 NMAC - Rn, 20 NMAC 2.80.109 10/31/02]

20.2.80.110 EXISTING STACKS: The provisions of 20.2.80.109 NMAC shall not apply to:

A. Stack heights in existence or dispersion techniques implemented on or before December 31, 1970, except where air contaminants are being emitted from such stacks or using such dispersion techniques by sources, as defined in section 111(a)(3) of the Federal Act, which were constructed, or reconstructed, or for which major modifications, as defined in 40 CFR Sections 51.165(a)(1)(v)(A), 51.166(b)(2)(i) and 52.21(b)(2)(i), were carried out after December 31, 1970; or

B. Coal-fired steam electric generating units subject to the provisions of section 118 of the Federal Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a contract awarded before February 8, 1974.

[11/30/95; 20.2.80.110 NMAC - Rn, 20 NMAC 2.80.110 10/31/02]

20.2.80.111 DEMONSTRATION STUDY:

A. Notification: Before the Department issues a permit, pursuant to 20.2.72 NMAC, 20.2.74 NMAC, or 20.2.79 NMAC, which contains a new or revised emission limitation that is based on a good engineering stack height that exceeds the height allowed by 40 CFR Part 51 Section 51.100(ii) (1) or (2) (1987), the Department shall notify the public of the availability of the demonstration study. Such notice shall be given in the manner specified in the applicable regulation for the permit application. Interested parties shall have thirty (30) days from the date of the notice to submit comments on the demonstration and to request a public hearing.

B. Public Hearing: If the Secretary determines there is significant public interest, he shall hold a public hearing. If a public hearing is held, the Department shall give notice of the time, date, and place of the hearing. The hearing shall be held within forty-five (45) days of the notice. The hearing may be combined with any other public hearing to be held on the permit application.

C. Final Determination: After the hearing, the Department shall make its final decision on the new or revised emission limitation.

[11/30/95; 20.2.80.111 NMAC - Rn, 20 NMAC 2.80.111 10/31/02]

20.2.80.112 VARIANCES: Because sources subject to the federal stack height regulation cannot be granted variances from that requirement, the requirements of this Part shall not be subject to section 74-2-8 NMSA 1978.

[11/30/95; 20.2.80.111 NMAC - Rn, 20 NMAC 2.80.112 10/31/02]

HISTORY OF 20.2.80 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records-state records center and archives:

EIB/AQCR 710, Air Quality Control Regulation 710 - Stack Height Requirements, 07/15/86;

EIB/AQCR 710, Air Quality Control Regulation 710 - Stack Height Requirements, 03/15/88.

History of Repealed Material: [RESERVED]

Other History:

EIB/AQCR 710, Air Quality Control Regulation 710 - Stack Height Requirements, 03/15/88 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.80, Stack Heights, filed 10/30/95.

20 NMAC 2.80, Stack Heights, filed 10/30/95 was **renumbered, reformatted and replaced** by 20.2.80 NMAC, Stack Heights, effective 10/31/02.