

This is an amendment to 20.2.73 NMAC, Sections 6, 7 and 300, effective 01/01/08.

**20.2.73.6 OBJECTIVE:** The objective of this part is to establish requirements for the submission of certain relevant information to ensure that the regulations and standards under the Air Quality Control Act and the federal act will not be violated, and to facilitate the quantification of greenhouse gas emissions in New Mexico. [11/30/95; 20.2.73.6 NMAC - Rn, 20 NMAC 2.73.105 02/18/02; A, 01/01/08]

**20.2.73.7 DEFINITIONS:** In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this part, the following apply.

**A. "Air pollution control equipment"** means any device, equipment, process or combination thereof the operation of which would limit, capture, reduce, confine, or otherwise control air contaminants or convert for the purposes of control any air contaminant to another form, another chemical or another physical state.

**B. "California climate action registry"** means the voluntary registry for greenhouse gas emissions established pursuant to California Health & Safety Code D. 26, Pt. 4, Ch. 6 (West 2007).

**[B] C. "Commencement"** means that an owner or operator has undertaken a continuous program of construction or modification.

**[C] D. "Construction"** means fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources.

**[D] E. "Emission report or inventory"** means a listing, by source, of the amount of air pollutants discharged into the atmosphere of a community.

**F. "Fuel carbon content"** means the mass of carbon per unit of heat content of a fuel.

**[E] G. "Fugitive emissions"** are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

**H. "Greenhouse gas emissions reporting year"** means the calendar year in which greenhouse gas emissions required to be reported under this part occurred.

**[F] I. "Modification"** means any physical change in, or change in the method of operation of, a stationary source which results in an increase in the potential emission rate of any regulated air contaminant emitted by the source or which results in the emission of any regulated air contaminant not previously emitted, but does not include:

- (1) a change in ownership of the source;
- (2) routine maintenance, repair or replacement;
- (3) installation of air pollution control equipment, and all related process equipment and materials necessary for its operation, undertaken for the purpose of complying with regulations adopted by the board or pursuant to the federal Clean Air Act; or
- (4) unless previously limited by enforceable permit conditions:
  - (a) an increase in the production rate, if such increase does not exceed the operating design capacity of the source;
  - (b) an increase in the hours of operation; or
  - (c) use of an alternative fuel or raw material if, prior to January 6, 1975, the source was capable of accommodating such fuel or raw material, or if use of an alternate fuel or raw material is caused by any natural gas curtailment or emergency allocation or any other lack of supply of natural gas.

**[G] J. "Nonattainment area"** means, for any air pollutant, an area which has been designated as a nonattainment area under Section 107 of the federal act.

**[H] K. "Operator"** means the person or persons responsible for the overall operation of a facility.

**[I] L. "Owner"** means the person or persons who own a facility or part of a facility.

**[J] M. "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.

**[K] N. "Portable stationary source"** means a source which can be relocated to another operating site with limited dismantling and reassembly, including for example but not limited to moveable sand and gravel processing operations and asphalt plants.

**[L] O. "Potential emission rate"** means the emission rate of a source at its maximum capacity to emit a regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the department pursuant to the Air Quality Control Act or the federal act.

**[M] P. "Potential to emit"** 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 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 potential to emit for nitrogen dioxide shall be based on total oxides of nitrogen.

**[N] Q. "Regulated air contaminant"** means any air contaminant, the emission or ambient concentration of which is regulated pursuant to the New Mexico Air Quality Control Act or the federal act.

**[O] R. "Shutdown"** means the cessation of operation of any air pollution control equipment, process equipment or process for any purpose, except routine phasing out of batch process units.

**[P] S. "Stationary source" or "source"** means any building, structure, equipment, facility, installation (including temporary installations), operation or portable stationary source which emits or may emit any air contaminant; any research facility may group its sources for the purpose of this part at the discretion of the secretary of the department.

**T. "The climate registry"** means the nonprofit corporation by that name incorporated under the District of Columbia Nonprofit Corporation Act with a purpose of creating and operating a multi-state greenhouse gas emissions registry.

**[Q] U. "WEB source"** means a stationary source that meets the applicability requirements of 20.2.81.101 NMAC.

**[R] V. "Western backstop sulfur dioxide trading program"** means 20.2.81 NMAC, triggered as a backstop in accordance with the provisions in the sulfur dioxide milestones and backstop trading program implementation plan, if necessary, to ensure that regional sulfur dioxide emissions are reduced. [11/30/95, 10/01/97; 20.2.73.7 NMAC - Rn, 20 NMAC 2.73.107 & A, 02/18/02; A, 12/31/03; A, 01/01/08]

#### **20.2.73.300 EMISSION INVENTORY REQUIREMENTS:**

**A. Applicability.** The requirements of 20.2.73.300 NMAC apply to the owner or operator of any stationary source located outside of Bernalillo county which:

- (1) has been issued a permit under 20.2.72 NMAC (Construction Permits) during any period of time, except for toxic air pollutant permits issued under Sections 401 to 499 of 20.2.72 NMAC;
- (2) is required to file a notice of intent under 20.2.73.200 NMAC; or
- (3) emits in excess of 1 ton of lead or 10 tons of total suspended particulate, PM10, PM2.5, sulfur dioxide, nitrogen oxides, carbon monoxide, or volatile organic compounds in any calendar year including and subsequent to 1990.

#### **B. Reporting requirements.**

(1) Any source which emits, or has the potential to emit, 5 tons per year or more of lead or lead compounds, or 100 tons per year or more of PM10, PM2.5, sulfur oxides, nitrogen oxides, carbon monoxide, or volatile organic compounds shall submit an emissions report annually.

(2) Any source defined as a major source of hazardous air pollutants under 20.2.70 NMAC (Operating Permits) shall submit an emissions report annually.

(3) Any source which is located in an ozone nonattainment area and which emits, or has the potential to emit, 25 tons per year or more of nitrogen oxides or volatile organic compounds shall submit an emissions report annually.

(4) Any source which is not required by Paragraph (1), (2), or (3) of Subsection B of this section (20.2.73.300 NMAC) to submit an emission report shall submit an emissions report under this part upon request by the department, but no more frequently than annually.

(5) Except as provided in Paragraph (8) of Subsection B of this section (20.2.73.300 NMAC), the department shall provide to the owner or operator required by this section (20.2.73.300 NMAC) to submit an emissions report a complete copy of the most current emissions report for their stationary source which is on file with the department. The department shall provide this copy to the owner or operator at least 90 days prior to the date when the source is required to submit an emissions report.

(6) The owner or operator shall submit to the department a complete, correct and current emissions report in the format specified by the department which reflects emissions during the previous calendar year.

(7) Except as provided in Paragraph (8) of Subsection B of this section (20.2.73.300 NMAC) the owner or operator shall submit the emission report by April 1 of each year in which the source is required to submit an emission report.

(8) Sources for which a date for submitting an annual emission report is specified in a current operating permit issued under 20.2.70 NMAC (Operating Permits) shall submit such report on that date. The

department shall provide a copy of the previous emissions report upon request by the owner or operator of such source.

(9) Any source that is requested by the department to submit a report of greenhouse gas emissions shall:

(a) submit such report on the schedule and according to the greenhouse gas emissions reporting procedures established by the department, but not more often than annually; or

(b) report greenhouse gas emissions from the source under 20.2.87 NMAC for the greenhouse gas emissions reporting year and the two years following that year; or

(c) provide the department access to the requested information for the greenhouse gas emissions reporting year registered in either the climate registry or the California climate action registry; and

(d) keep records in support of the report for a minimum of five years.

(10) In determining the schedule of greenhouse gas emissions reports and reporting procedures, the department, subject to Paragraph (11) below, shall provide an opportunity for public comment, and shall consider:

(a) public comments regarding the schedule of such reports and greenhouse gas emissions reporting procedures;

(b) emissions quantification standards and best practices approved or recommended by federal and state agencies, by greenhouse gas emissions registries, and by non-governmental bodies having expertise in greenhouse gas emissions quantification;

(c) whether greenhouse gases emissions from a particular source or source type, considering the amount and chemical composition of the emissions, are expected to be minimal relative to emissions from other sources or source types, and

(d) whether emissions of a particular greenhouse gas from a source or source type, considering the amount and chemical composition of the emissions, are expected to be minimal relative to the total greenhouse gas emissions from that source or source type.

(11) The schedule for greenhouse gas emissions reports and reporting procedures pursuant to Paragraphs (9) and (10) of Subsection B of 20.2.73.300 NMAC shall:

(a) subject to the department's selection of best available quantification methodologies, include a requirement that sources within North American industry classification system codes 211111, 211112, 213111, 213112, 486210, 221210, 486110, and 486910 subject to this part and permit requirements pursuant to 20.2.70 NMAC (Operating Permits) report at a minimum emissions of carbon dioxide and methane beginning no later than reporting year 2009 and for subsequent reporting years; and

(b) subject to the department's selection of best available quantification methodologies, include a requirement that sources within North American industry classification system codes 211111, 211112, 213111, 213112, 486210, 221210, 486110, and 486910 subject to this part pursuant to Paragraphs (1) and (2) of Subsection A of 20.2.73.300 NMAC, and not otherwise covered by Subparagraph (a), above, report at a minimum emissions of carbon dioxide and methane no later than reporting year 2010 and for subsequent reporting years as requested by the department.

**C. Content of emissions reports.** Emissions report contents for reports made under Paragraphs (1) through (8) of Subsection B of 20.2.73.300 NMAC shall include:

(1) the name, address, if any, and physical location of the stationary source;

(2) the name and telephone number of the person to contact regarding the emissions report;

(3) a certification signed by the owner, or operator, or a responsible official as defined in 20.2.70 NMAC attesting that the statements and information contained in the emissions report are true and accurate to the best knowledge and belief of the certifying official, and including the full name, title, signature, date of signature, and telephone number of the certifying official; for sources subject to 20.2.70 NMAC, the certification shall be made as required under that part;

(4) smelters shall submit an annual report of sulfur input, in tons/year;

(5) for each emission point, as required by the department:

(a) stack and exhaust gas parameters and location information;

(b) type of control equipment and estimated control efficiency;

(c) schedule of operation;

(d) estimated actual emissions, including fugitive emissions and emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime of total suspended particulate, PM10, PM2.5, ammonia, sulfur oxides, nitrogen oxides, carbon monoxide, volatile organic compounds, and lead, and, if requested by the department, speciated hazardous air pollutants, in tons per year and a description of the methods utilized to make such estimates, including calculations;

- (e) the annual process or fuel combustion rates; and
- (f) the fuel heat, sulfur, and ash content; and
- (6) all information required under the federal act.

**D. Additional content for emissions reports from sources in ozone nonattainment areas.**

Emissions reports from sources located in ozone nonattainment areas shall include, in addition to the contents specified by Subsection C of this section (20.2.73.300 NMAC), the following information:

- (1) typical daily process rate during the peak ozone season, where the peak ozone season is specified by the department; and
- (2) estimated actual emissions of nitrogen oxides and volatile organic compounds, which shall be reported:
  - (a) for each emissions point;
  - (b) for each process and fuel type contributing to emissions from each point;
  - (c) in units of tons per year for annual emissions; and
  - (d) in units of pounds per day for a typical day during the peak ozone season.

**E. Waiver of reporting requirements for insignificant emissions.** The department may waive the requirements of Paragraph (5) of Subsection C of this section (20.2.73.300 NMAC) for emissions which the department determines to be insignificant under 20.2.70 NMAC, except that:

- (1) for sources in nonattainment areas, reporting of emissions of pollutants for which the area is nonattainment shall not be waived; and
- (2) reporting of emissions for which reporting is required under the federal act shall not be waived.

**F. Emission tracking requirements for sulfur dioxide emission inventories.** All stationary sources with actual emissions of one hundred (100) tons per year or more of sulfur dioxide in the year 2000, or in any subsequent year, shall submit an annual inventory of sulfur dioxide emissions, beginning with the 2003 emission inventory. A source that meets these criteria that then emits less than 100 tons per year in a later year shall submit a sulfur dioxide inventory for tracking compliance with the regional sulfur dioxide milestones until the western backstop sulfur dioxide trading program has been fully implemented and emission tracking has occurred under 20.2.81.106 NMAC.

- (1) All WEB sources will be subject to the following federally enforceable provisions:
  - (a) submit an annual inventory of sulfur dioxide emissions;
  - (b) document the emissions monitoring/estimation methodology used, and demonstrate that the selected methodology is acceptable under the inventory program;
  - (c) include emissions from start up, shut down, and upset conditions in the annual total inventory;
  - (d) use 40 CFR Part 75 methodology for reporting emissions for all sources subject to the federal acid rain program;
  - (e) maintain all records used in the calculation of the emissions, including but not limited to the following:
    - (i) amount of fuel consumed;
    - (ii) percent sulfur content of fuel and how the content was determined;
    - (iii) quantity of product monitoring data;
    - (iv) emissions monitoring data;
    - (v) operating data; and
    - (vi) how the emissions are calculated;
  - (f) maintain records of any physical changes to facility operations or equipment, or any other changes that may affect the emissions projections; and
  - (g) retain records for a minimum of ten years from the date of establishment, or if the record was the basis for an adjustment to the milestone, five years after the date of an implementation plan revision, whichever is longer.
- (2) The state shall retain emission inventory records for non-utilities for 1996 and 1998 until the year 2018 to ensure that changes in emissions monitoring techniques can be tracked.

**G. Content of greenhouse gas emissions reports.** Greenhouse gas emissions reports shall contain the following information, as set out in the greenhouse gas emissions reporting procedures established under Subparagraph (a) of Paragraph (9) of Subsection B of 20.2.73.300 NMAC:

- (1) the name, location, and permit or notice of intent number of the stationary source;
- (2) the name and telephone number of the person to contact regarding the greenhouse gas emissions report;

(3) a certification signed by the owner or operator attesting that the statements and information contained in the emissions report are true and accurate to the best knowledge and belief of the certifying official, and including the full name, title, signature, date of signature, and telephone number of the certifying official;

(4) for each emission point as required by the department under the greenhouse gas emissions reporting procedures, the estimated actual emissions of greenhouse gases, including fugitive emissions and emissions occurring during maintenance, start-ups, shutdowns, upsets and downtime; and

(5) if requested by the department, the fuel type, fuel heat content, and fuel carbon content.

[11/30/95, 10/01/97; 2.20.73.300 NMAC - Rn, 20 NMAC 2.73.300 - 304 02/18/02; A, 12/31/03; A, 12/31/04; A, 01/01/08]