Comparison Summary of Current and Proposed Albuquerque-Bernalillo County Air Quality Control Board (Air Board) Regulations for Minor Stationary Source Air Quality Permitting Actions
~~October 30, 2012~~ ~~March 21, 2013~~ April 23, 2013

This summary highlights proposed significant changes to currently effective 20.11.41 NMAC, *Authority To Construct*.

Currently Effective Regulation, 20.11.41 NMAC, *Authority To Construct*	Proposed Regulation "20.11.41 NMAC 1st Amended Public Review Draft for *Stakeholder Review* 7/18/12"	Proposed Regulation "20.11.41 NMAC 1st Amended Public Review Draft 10/30/12" (incorporating Stakeholder comments on 7/18/12 draft)	Proposed Regulation "20.11.41 NMAC 2nd Amended Public Review Draft 4/23/13" (incorporating Stakeholder comments on 10/30/12 draft)	Purpose of Proposed Change or Addition
(1) Does not address when a new owner or operator acquires a source that does not have an air quality permit, but the source requires an air quality permit.	A new owner or operator who operates a source that requires an air quality permit, but does not have a permit will be required to obtain an air quality permit. *See Subparagraph (2) of Subsection A of 20.11.41.2 NMAC.*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	An air quality permit must be obtained when a new owner or operator acquires and operates a source that requires an air quality permit, but an air quality permit has not been issued to the source.
(2) No requirement for a person to apply for and obtain an air quality permit when the source becomes subject to a new federal standard (New Source Performance or National Emission Standards for Hazardous Air Pollutants).	Requires a person to apply for and obtain a new or modified air quality permit when the source becomes subject to a new federal standard (New Source Performance or National Emission Standards for Hazardous Air Pollutants). *See Subsection D of 20.11.41.2 NMAC*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	Informs permittees about the federal standards that apply to their source and enables the Department to more efficiently incorporate the federal standards in the permit as required by federal law.
(3) No exemptions	Provides an exemption from	Provides an exemption from	No change to 10/30/12 draft.	The exemptions are

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	air quality permitting activities, including: • maintenance of grounds, etc. • maintenance of equipment • exhaust emissions from forklifts, etc. • use of firefighting equipment and training • government military activities such as field exercises • use of portable aerospace ground equipment • use of portable construction equipment such as power generation equipment & heaters. • gases used to calibrate plant instrumentation • smaller fuel burning equipment for heating building for personal comfort. *See Subsection F of 20.11.41.2 NMAC*	air quality permitting activities, including: • maintenance of grounds, etc. • maintenance of equipment • exhaust emissions from forklifts, etc. • use of firefighting equipment and training • government military activities such as field exercises • use of portable aerospace ground equipment • use of portable ~~construction~~ support equipment such as power generation equipment & heaters if the equipment is used fewer than 12 consecutive months at the same location and the equipment does not directly support an otherwise regulated portable stationary source • gases used to calibrate plant instrumentation • smaller fuel burning equipment for heating		authorized by federal law and enable the Department and the permittee to focus on the more significant air emissions at a source.

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		building for personal comfort. *See Subsection F of 20.11.41.2 NMAC*		
(4) "Pre-controlled emission rate" is used to determine whether a permit is required. *See Subsection Q of 20.11.41.7 NMAC*	"Potential emission rate" is used to determine whether a permit is required if emission thresholds are triggered. *See Subsection HH .of 20.11.41.7 NMAC*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	Use of "potential emission rate" makes the regulation consistent with both the State of New Mexico Air Quality Control Act's (Air Act) definition of "potential emission rate" and the federal Environmental Protection Agency's (EPA) definition of "potential to emit". *See NMSA 1978 Section 74-2-2.P and 40 CFR §52.21(b)(4).*
(5) No pre-application meeting required	The applicant is required to participate in a pre-application meeting with the Department unless the Department waives the pre-application meeting. *See Subsection A of 20.11.41.13 NMAC*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	The pre-application meeting will allow the applicant to better understand the permitting process and the Department to better understand the proposed project.
(6) No public notice requirements for applicant	The applicant is required to conduct the following public notice before submitting an	The applicant is required to conduct the following public notice before submitting an	No change to 10/30/12 draft.	The applicant providing public notice to the neighborhood associations

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	application for a new permit or permit modification: • Sends a copy of the public notice to the closest neighborhood association and the closest neighborhood coalition • Posts and maintains a weather-proof sign at a visible location at the site or the proposed site until the Department makes a final decision regarding the application. *See Subsection B of 20.11.41.13 NMAC*	application for a new permit or permit modification: • Sends a copy of the public notice to the representatives of the ~~closest~~ neighborhood associations and the ~~closest~~ neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located • Posts and maintains a weather-proof sign at a visible location at the site or the proposed site until the Department makes a final decision regarding the application. *See Subsection B of 20.11.41.13 NMAC*		and the neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located provides early awareness regarding the proposed project in their neighborhood. Posting of the sign provides early awareness to nearby neighbors regarding the proposed project.
(7) Department publishes a public notice in a local newspaper of general circulation and provides the public with at least	Department conducts the following public notice: • Publishes public notice in the newspaper of largest circulation with 30 days for public comments to be submitted	Department conducts the following public notice: • Publishes public notice in the newspaper of largest circulation with 30 days for public comments to be submitted	No change to 10/30/12 draft.	By providing public notice to the representatives of the neighborhood associations and neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is

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45 days to comment. *See Paragraphs (3) and (4) of Subsection A of 20.11.41.14 NMAC*	• Sends a copy of the public notice to the closest neighborhood association and closest neighborhood coalition • Provides notice to all individuals and organizations on the list maintained by the Department *See Subsection B of 20.11.41.14 NMAC*	• Sends a copy of the public notice to the representatives of the ~~closest~~ neighborhood associations and the ~~closest~~ neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located • Provides notice to all individuals and organizations on the list maintained by the Department *See Subsection B of 20.11.41.14 NMAC*		proposed to be located, the Department provides information regarding the proposed project in their neighborhood and how comments can be submitted to the Department. Providing public notice to individuals and organizations on the list maintained by the Department provides addition public notice to the community.
(8) Provides all interested persons at least 45 days to submit written comments, evidence, or to request a public hearing on the application. *See Paragraph (4) of Subsection A of*	Provides the public 30 days to submit written comments and evidence. *See Subparagraph (h) of Paragraph (2) of Subsection B of 20.11.41.14 NMAC*	Provides the public 30 days to submit written comments and evidence or to request a public information hearing regarding the application. *See Subparagraph (g) of Paragraph (2) of Subsection B of 20.11.41.14 NMAC*	No change to 10/30/12 draft.	The proposed changes include early notification of the project by the applicant and posting of a sign prior to the applicant's submittal of the application. The Department provides enhanced notification by providing public notice to representatives of neighborhood associations

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20.11.41.14 NMAC				and neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located. The Air Act requires the Department to make the final decision regarding a pending application within 90 days after the application is determined to be administratively complete (unless extended for an additional 90 days under specific circumstances). The Department must have time to consider and potentially research public comment before the Department makes a final decision. NMSA 1978 §74-2-7(B)(2)(a). Thirty days is sufficient time for the public to submit written comments and evidence <u>or to request a public information hearing regarding the application</u> and is consistent with the federal

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				EPA requirements. *See 40 CFR §51.161(b)(2).*
(9) Provides all interested persons at least 45 days to submit written comments, evidence, or to request a public hearing on the application. *See Paragraph (4) of Subsection A of 20.11.41.14 NMAC*			If a person expresses in writing an interest in the permit application, the Department provides the Department's analysis and allows 30 days after the Department's analysis is available to submit written comments and request a public information hearing. *See Subsection C of 20.11.41.14 NMAC & Subparagraph (f) of Paragraph (2) of Subsection B of 20.11.41.14 NMAC*	Allows a person who has an interest in a permit application to have at least 30 days after the department's analysis is available to review and submit written comments and request a public information hearing.
(10) There is no limit on how many times an application can be ruled administratively incomplete, and there is no mechanism for the Department to deny an air quality	If the Department has ruled an application administratively incomplete three times, the department shall send a letter by certified mail or electronic mail to the applicant stating the permit application is denied. *See Paragraph (2) of Subsection A of 20.11.41.16 NMAC*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	Allows the Department to deny an air quality permit application if the applicant does not submit the required information after three attempts by the applicant to provide the required information.

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permit application if the applicant does not provide the required information.				
(11) Final action on an application must be taken by the Department within 120 days or 180 days if a public hearing has been called from the date the application was ruled complete. *See Subsection C of 20.11.41.15 NMAC*	Final action on an application must be taken by the Department within 90 days after the Department has determined the application is administratively complete unless the Environmental Health Department Director grants an extension for not more than 90 days for good cause, including scheduling a public information hearing. *See Subsection B of 20.11.41.16 NMAC*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	Makes the Air Board's construction permitting regulation consistent with the deadlines imposed by the NM Air Act deadlines. *See NMSA 1978 Section 74-2-7.B(2)(a).*
(12) There is no permit term. The air quality permits do not expire.	Air quality permits will be valid for 10 years and must be renewed. *See Subsection E of 20. 11.41.19.NMAC*	Air quality permits will <u>not</u> have an expiration date and will <u>not</u> be required to be renewed.	No change to 10/30/12 draft.	Based on stakeholder comments and reconsideration by the Department, Construction Permits will <u>not</u> have an expiration date and will <u>not</u> be required to be renewed. The Department first proposed in 20.11.41.30 NMAC in the "20.11.41

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				NMAC 1st Amended Public Review Draft 10/30/12" for the Department to reopen, revise and reissue the air quality permit if, for example, the source becomes subject to additional applicable requirements.
(13) Provides limited criteria for the Department to cancel a permit and the process the Department must follow in order to initiate cancelling a permit. *See 20.11.41.19 NMAC*	Provided the criteria for the Department to suspend or revoke a permit. *See 20.11.41.20 NMAC*	No change to 7/18/12 draft.	Added criteria for the Department to cancel a permit and the process the Department must follow in order to initiate cancelling a permit. *See 20.11.41.20 NMAC*	Per communications with the Environmental Protection Agency Region 6 staff, the criteria for cancelling a permit and the process for initiating cancellation of a permit were added to the proposed regulation.
(14) No time limit established for temporary relocations of portable stationary sources	Establishes a time limit of 365 consecutive days for temporary relocation of a portable stationary source. *See Subsection A of 20.11.41.23 NMAC*	Establishes a time limit of 365 consecutive days for temporary relocation of a portable stationary source. *See Subsection B of 20.11.41.23 NMAC*	No change to 10/30/12 draft.	A time limit (stated as consecutive days) is needed to establish how long a temporary relocation of a portable stationary source can remain at one location.
(15) No public notice and no posting of a sign are required for temporary	Permittee must post and maintain a weather-proof sign at a visible location at the proposed site prior to	Permittee must post and maintain a weather-proof sign at a visible location at the proposed site prior to	No change to 10/30/12 draft.	Posting of the sign prior to the relocation provides notice to nearby neighbors of the proposed relocation site.

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relocation of portable stationary sources.	submitting the application for temporary relocation of a portable stationary source and keep the sign posted until the Department makes a final decision regarding the relocation request. The Department may require the permittee to provide a public notice to the closest neighborhood association and neighborhood coalition. *See Subsection D of 20.11.41.23 NMAC*	submitting the application for temporary relocation of a portable stationary source and keep the sign posted until the Department makes a final decision regarding the relocation request. The Department may require the permittee to provide a public notice to the ~~closest~~ representatives of neighborhood associations and neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located. *See Subsection E of 20.11.41.23 NMAC*		The Department may require the permittee to also provide public notice to the representatives of neighborhood associations and the neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located.

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(16) No public notice is required for Emergency Permits. *See 20.11.41.22 NMAC*	If the Department issues an emergency permit the Department will: • publish public notice in the newspaper with the largest general circulation in Bernalillo County • provide notice to the closest neighborhood association and the closest neighborhood coalition. • provide notice to all individuals and organizations on the list maintained by the Department. *See Subsection C of 20.11.41.24 NMAC*	If the Department issues an emergency permit the Department will: • publish public notice in the newspaper with the largest general circulation in Bernalillo County • provide notice to the ~~closest~~ neighborhood associations and the ~~closest~~ representatives of neighborhood coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located. • provide notice to all individuals and organizations on the list maintained by the Department. *See Subsection C of 20.11.41.24 NMAC*	No change to 10/30/12 draft.	Public notice is required for emergency permits in order to be consistent with EPA requirements for minor new source review permitting programs. *See 40 CFR §51.161(b)(3).*
(17) No provisions for a permittee to request technical permit revisions and no provisions	Technical permit revisions can be requested by the permittee and approved by the Department. *See Subsection B of*	No change to 7/18/12 draft.	In order to make provision consistent with the State of New Mexico Environment Department regulation, added a threshold of one	Technical permit revisions allow for changes to be made to the air quality permit which do not increase emissions and do not reduce

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for the Department to approve technical permit revisions.	*20.11.41.28 NMAC*		pound per hour; added requirement for applicant to send notice to representatives of neighborhood associations; and allows for the Department to conduct a public information hearing if there is significant public interest in the technical permit revision application. *See Subsection B of 20.11.41.28 NMAC*	the enforceability of the permit. The most recent changes makes the proposed regulation consistent with the State of New Mexico Environment Department Regulation.
(18) No provisions for general Authority-to-Construct permits (construction permits).	General construction permits forms can be developed and revised and general permits can be issued by the Department for similar operations, processes, and emissions. Requirements include public notice and an opportunity for public comment and to request a public information hearing. *See 20.11.41.31 NMAC*	The Department made some edits to this section to better clarify the public notice requirements for both the department and the applicant for general construction permits. *See 20.11.41.31 NMAC*	Per communications with the Environmental Protection Agency Region 6 staff, language was added and deleted.	General construction permits will allow the Department to develop a more efficient and consistent permitting process for similar operations, processes, and emissions. The New Mexico Environmental Improvement Board minor permitting regulation provides for general permits, which have been used by the New Mexico Air Quality Bureau for about 13 years. See 20.2.72.220 NMAC, *General Permits*

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(19) No provisions for accelerated review of application.	Accelerated review of application can be used by the Department if the applicant complies with the requirements. *See 20.11.41.32 NMAC*	No change to 7/18/12 draft.	No change to 10/30/12 draft.	The NM Air Act requires the local board (Air Board) to have a regulation that provides a method of accelerated permit processing for construction permit applications. *See NMSA 1978 Section 74-2-7.B(8).*