

ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

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IN THE MATTER OF THE PETITION TO
AMEND 20.11.2 NMAC, FEES, AND
INCORPORATE PORTIONS OF AMENDED 20.11.2 NMAC
INTO THE NEW MEXICO STATE IMPLEMENTATION
PLAN FOR AIR QUALITY

AQCB Petition No. 2008- 3-A

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

**First Amended Petition
to Amend 20.11.2 NMAC, Fees, Incorporate Portions of Amended 20.11.2 NMAC, into the
New Mexico State Implementation Plan for Air Quality
and for a Combined Hearing**

1. Petition. Pursuant to Section 18 of 20.11.82 NMAC, *Rulemaking Procedures - - Air Quality Control Board*, the Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division (Division), asks the Albuquerque-Bernalillo County Air Quality Control Board (Board) to amend 20.11.2 NMAC, *Fees* (Part 2), as shown in the attached exhibit AQD #2, which is the First Amended Public Review Draft, and to incorporate portions amended Part 2 into the New Mexico State Implementation Plan (SIP) for Air Quality . The Division also asks the Board to authorize a combined rulemaking hearing at which the Board will hear both the Division's request to amend Part 2 and the Division's request to incorporate portions of amended Part 2 into the SIP. The Division also asks the Board to authorize and direct the Board Liaison to arrange for a court reporter and hearing officer for the combined hearing.

2. Relevant statutes. The New Mexico Air Quality Control Act, NMSA 1978, Sections 74-2-4 and 74-2-5(B)(1) (1967 as amended through 2007) (Air Act) authorizes and requires the Board to adopt, amend and replace regulations regarding air pollution. The Air Act also authorizes and requires the Board to adopt air quality plans, which are also known as SIPs. NMSA 1978, §74-2-5(B)(2). When the Board adopts a new, amended or replaced regulation, the changes are incorporated in the SIP. Air Act Section 74-2-7 authorizes and requires the Board to adopt

regulations that include permit fees and emission fees and establishes the purposes for which permit and emission fees can be used. Air Act Section 74-2-16 lists the purposes for which permit fees can be used and requires the fees to be deposited in an air quality permit fund.

3. Reasons for proposed regulatory change. The AQD is petitioning the Board to amend Part 2 and incorporate portions of amended Part 2 in the SIP for the following reasons:

- NMSA 74-2-7 requires the Board to include in its regulations:

a schedule of emission fees consistent with the provisions of Section 502(b)(3) (which includes section 502(b)(3)(a) and Section 507) of the 1990 amendments to the federal (Clean Air) act (Title V). NMSA 74-2-7(B)(7).
- NMSA 74-2-7, *Permits ...*, requires the Board to include in its regulations:

a schedule of construction permit fees sufficient to cover the reasonable costs of:
a) reviewing and acting upon any application for such (construction) permit; and (b) implementing and enforcing the terms and conditions of the permit, excluding any court costs or other costs associated with an enforcement action. NMSA § 74-2-7(B)(6).
- The currently-effective version of Part 2 imposes fees that are not sufficient to sustain the cost of the air quality programs. If the Board approves the Part 2 hearing, the Division will provide testimony and exhibits at the hearing to support the Division's request for increased fees.
- The proposed amendments to Part 2 include Consumer Price Index adjustments to keep pace with changes in the economy and to make it unnecessary to request frequent amendments to Part 2.

The Division did extensive research and reviewed internal drafts before releasing the stakeholder draft. The Division then held two stakeholder meetings that were attended by representatives of interested stakeholders. The Division also received, reviewed and considered written comments regarding the stakeholder draft. As a result of the meetings and written comments, the Division adjusted some of the proposed amendments. The result was the October 28, 2008 Public Review Draft (PRD) that was attached to the October 28, 2008 Petition.

Thereafter, changes were made to the October 28, 2008 PRD to accommodate additional stakeholder comments and make clarifications. The additional changes are incorporated in the First Amended Public Review Draft dated November 5, 2008, which is attached to this First Amended Petition.

4. The Division anticipates the hearing will take approximately two hours.

5. A copy of 20.11.2 NMAC, *Fees*, with the AQD-proposed amendments shown in legislative-edit format, is attached to this Petition as the First Amended Public Review Draft dated November 5, 2008.

THEREFORE, the Division asks the Board to approve a combined public hearing, direct the Board Liaison to arrange for a hearing officer and court reporter, and adopt the amendments as proposed by the Division at the hearing.

Respectfully submitted,



Isreal Tavarez, Environmental Health Engineering Mgr.
Air Quality Division
City of Albuquerque, Environmental Health Department
11850 Sunset Gardens
Albuquerque, New Mexico 87121
(505) 768-1965

CERTIFICATION

I hereby certify that on November 5, 2008, an original and nine copies of this First Amended Petition, with a copy of the First Amended Public Review Draft attached to each Petition, were delivered for filing to:

Janice Amend
Air Quality Control Board Liaison
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

and that on November 5, 2008, a copy of the First Amended Petition, with a copy of the First Amended Public Review Draft attached, was sent to the Board attorney at the following email address:

Bill Grantham, Attorney for the Board
bill.grantham@state.nm.us.



Isreal Tavarez, Env. Health Engineering Manager
Air Quality Division

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL**
3 **BOARD**
4 **PART 2 FEES**

5
6 **20.11.2.1 ISSUING AGENCY:** Albuquerque - Bernalillo County Air Quality Control Board, c/o
7 Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) [768-
8 2600] 768-2601.
9 [20.11.2.1 NMAC - Rp, 20 NMAC.11.02.I.1, 7/1/2001]

10
11 **20.11.2.2 SCOPE:**

12 **A. Applicability:**

- 13 (1) any person required to obtain a permit pursuant to 20.11.42 NMAC;
14 (2) any person required to obtain a permit pursuant to 20.11.41 NMAC;
15 (3) any person with a valid registration or permit issued pursuant to 20.11.40 NMAC,
16 20.11.41 NMAC, or 20.11.42 NMAC;
17 (4) any person required to obtain a fugitive dust control permit pursuant to 20.11.20 NMAC,
18 *Fugitive Dust Control*;
19 (5) any person required to provide notification regarding removing regulated asbestos
20 containing material pursuant to 20.11.64 NMAC, *Emission Standards for Hazardous Air Pollutants for*
21 *Stationary Sources*;
22 (6) any person requesting professional or administrative services or copies of public records;
23 [and]
24 (7) any person who requests a variance or a hearing before the board;
25 (8) any person required to obtain a permit pursuant to 20.11.60 NMAC, 20.11.61 NMAC, or
26 20.11.62 NMAC;
27 (9) any person required to obtain a demolition/renovation inspection;
28 (10) any person required to obtain an air quality impact analysis pursuant to Revised
29 Ordinances of Albuquerque 1994, Section 14-16-3-14, *Air Quality Impact Regulations*; and
30 (11) any person required to obtain any other air quality applications.

31 **B. Exempt:** 20.11.2 NMAC does not apply to sources within Bernalillo county that are
32 located on Indian lands over which the Albuquerque - Bernalillo county air quality control board lacks
33 jurisdiction.

34 **C. Variance:** Any person may request a timely variance from the requirements of 20.11.2
35 NMAC in accordance with *Variance Procedures*, 20.11.7 NMAC, if allowed by federal, state or local laws
36 and regulations.
37 [20.11.2.2 NMAC - Rp, 20 NMAC 11.02.I.2 & 20 NMAC 11.02.I.8, 7/1/2001; A, 3/1/04]

38
39 **20.11.2.3 STATUTORY AUTHORITY:** 20.11.2 NMAC is adopted pursuant to the authority
40 provided in the New Mexico Air Quality Act, NMSA 1978 Sections 74-2-4, 74-2-5; the Joint Air Quality
41 Control Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3 and 4; and the Joint Air Quality
42 Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-3 and Section 9-5-1-4.
43 [20.11.2.3 NMAC - Rp, 20 NMAC 11.02.I.3, 7/1/2001; A, 3/1/04]

44
45 **20.11.2.4 DURATION:** Permanent.
46 [20.11.2.4 - Rp, 20 NMAC 11.02.I.4, 7/1/2001]

47
48 **20.11.2.5 EFFECTIVE DATE:** July 1, 2001, unless a later date is cited at the end of a section or
49 paragraph.
50 [20.11.2.5 NMAC - Rp, 20 NMAC 11.02.I.5, 7/1/2001]

51
52 **20.11.2.6 OBJECTIVE:**

53 **A.** To implement the requirements of 74-2-7, 74-2-5 and 74-2-16 NMSA by establishing
54 reasonable fees for the purpose of paying costs of:

- 55 (1) [reasonable fees to cover the cost of reviewing and acting on any permit application
56 received by the Department] appealing, reviewing and acting upon any application for a permit;

- 1 (2) ~~[reasonable fees to cover the cost of]~~ implementing and enforcing the terms and
 2 conditions of ~~[any permit] permits, but [issued by the department; and]~~ not including any court costs or
 3 other costs associated with any enforcement action;
 4 (3) ~~[a schedule of operating permit fees consistent with Section 502(b)(3) of the Clean Air~~
 5 ~~Act and the joint air quality control board ordinances.] modeling, analysis and demonstrations;~~
 6 (4) ~~preparing inventories and tracking emissions;~~
 7 (5) ~~preparing generally applicable regulations or guidance; and~~
 8 (6) ~~emissions monitoring and ambient air monitoring.~~

9 **B.** To establish reasonable fees to partially offset the administrative cost of variance
 10 procedures and permit related administrative hearings before the board;

11 **C.** To implement the requirements of Section 507 of the federal Clean Air Act by
 12 establishing adequate funding for a small business stationary source technical and environmental
 13 compliance assistance program; and

14 **D.** To establish reasonable fees to cover the administrative, technical and other related
 15 expenses incurred by the department in implementing and enforcing the provisions of the New Mexico Air
 16 Quality Control Act, federal Clean Air Act, the joint air quality control board ordinances, and the
 17 Albuquerque-Bernalillo county air quality control board regulations; ~~[and~~

18 ~~_____ E. _____ 20.11.2 NMAC is permanent. A financial audit of the division shall be performed for~~
 19 ~~city of Albuquerque fiscal year 2005 (July 1, 2004 through June 30, 2005). The results of the audit shall be~~
 20 ~~reported to the air board during city fiscal year 2006.]~~

21 [20.11.2.6 NMAC - Rp, 20 NMAC 11.02.I.6, 7/1/2001; A, 3/1/04; A, 12/16/06]

22
 23 **20.11.2.7 DEFINITIONS:** ~~[Throughout 20.11.2 NMAC, the terms defined shall have the~~
 24 ~~following meanings. For the purpose of 20.11.2 NMAC, if there is any apparent conflict between the~~
 25 ~~meaning of a definition in 20.11.2 NMAC and a definition in another part, the definition in 20.11.2 NMAC~~
 26 ~~shall prevail and apply.] In addition to the definitions in 20.11.2.7 NMAC, the definitions in 20.11.1~~
 27 ~~NMAC apply unless there is a conflict, between definitions, in which case the definition in 20.11.2.7~~
 28 ~~NMAC shall govern.~~

29 **A.** **“Allowable emission rate”** means the most stringent emission limit that has been
 30 established by a permit issued by the department or the source’s ~~[potential to emit]~~ potential emission rate
 31 whichever is less.

32 **B.** **“Consumer price index all urban consumers” or “CPI-U”** means a measure of the
 33 average change over time in the prices paid by urban consumers for a market basket of consumer goods and
 34 services as reported by the U.S. Department of Labor Bureau of Labor Statistics.

35 ~~[B.]~~ **C.** **“Efficiency control factor”** means a factor used in conjunction with a fugitive dust
 36 source classification to determine the annual fee per acre to be paid for a programmatic permit issued
 37 pursuant to 20.11.20 NMAC. The four fugitive dust source classifications pertaining to programmatic
 38 permits are “no impact source”, “low impact source”, “moderate impact source” and “high impact source”
 39 which are defined in 20.11.2.7 NMAC.

40 ~~[C.]~~ **D.** **“Emissions unit”** means any part or activity of a stationary or portable source that emits
 41 or has the potential ~~[to emit]~~ emission rate for any fee pollutant.

42 ~~[D.]~~ **E.** **“Fee pollutant”** means:

- 43 (1) sulfur dioxide (SO₂);
 44 (2) nitrogen dioxide based on total oxides of nitrogen (NO_x);
 45 (3) carbon monoxide (CO);
 46 (4) particulate matter with an aerodynamic diameter less than or equal to 30 micrometers
 47 (TSP) or an aerodynamic diameter less than or equal to 10 micrometers (PM₁₀) or an aerodynamic diameter
 48 less than or equal to 2.5 micrometers (PM_{2.5});
 49 (5) any volatile organic compound as defined in 40 CFR 51.100(s), as amended;
 50 (6) any hazardous air pollutant listed pursuant to Section 112(b) of the federal Clean Air
 51 Act;
 52 (7) any regulated substance listed pursuant to Section 112(r) of the federal Clean Air Act;
 53 and
 54 (8) any other pollutant determined by the board after public hearing.

55 ~~[E.]~~ **F.** **“Fugitive emissions”** means emissions that cannot reasonably pass through a stack,
 56 chimney, vent, or other functionally equivalent opening.

1 [F]. G. “High impact source” means a fugitive dust source to which a control strategy or
2 combination of strategies has been applied, which strategies, when applied to an entire source or a portion
3 of a source, can reasonably be expected to reduce fugitive dust leaving the source by approximately 10
4 percent compared to the level of fugitive dust leaving the source that would be expected if no control
5 strategy or strategies were in place. The department shall determine the classification of fugitive dust
6 source as a high impact source based on professional judgment, sound technical information, or scientific
7 evidence. The department shall provide a written explanation of the basis for making the determination of
8 the classification if requested by the programmatic permit applicant. The purpose of classifying a fugitive
9 dust source as a high impact source is so the programmatic permit fees can be calculated for a
10 programmatic permit issued pursuant to 20.11.20 NMAC. For a high impact source, the applicable
11 efficiency control factor for calculating fees shall be 0.9.

12 [G]. H. “Low impact source” means a fugitive dust source to which a control strategy or
13 combination of strategies has been applied, which strategies, when applied to an entire source or a portion
14 of a source, can reasonably be expected to reduce fugitive dust leaving the source by approximately 90
15 percent compared to the level of fugitive dust leaving the source that would be expected if no control
16 strategy or strategies were in place. The department shall determine the classification of fugitive dust
17 source as a low impact source based on professional judgment, sound technical information, or scientific
18 evidence. The department shall provide a written explanation of the basis for making the determination of
19 the classification if requested by the programmatic permit applicant. The purpose of classifying a fugitive
20 dust source as a low impact source is so the programmatic permit fees can be calculated for a programmatic
21 permit issued pursuant to 20.11.20 NMAC. For a low impact source, the applicable efficiency control
22 factor for calculating fees shall be 0.1.

23 [H]. I. “Major source” shall have the meaning defined in 40 CFR 71.2.

24 [I]. J. “Moderate impact source” means a fugitive dust source to which a control strategy or
25 combination of strategies has been applied, which strategies, when applied to an entire source or a portion
26 of a source, can reasonably be expected to reduce fugitive dust leaving the source by approximately 50
27 percent compared to the level of fugitive dust leaving the source that would be expected if no control
28 strategy or strategies were in place. The department shall determine the classification of fugitive dust
29 source as a moderate impact source based on professional judgment, sound technical information, or
30 scientific evidence. The department shall provide a written explanation of the basis for making the
31 determination of the classification if requested by the programmatic permit applicant. The purpose of
32 classifying a fugitive dust source as a moderate impact source is so the programmatic permit fees can be
33 calculated for a programmatic permit issued pursuant to 20.11.20 NMAC. For a moderate impact source,
34 the applicable efficiency control factor for calculating fees shall be 0.5.

35 [J]. K. “No impact source” means a fugitive dust source to which a control strategy or
36 combination of strategies has been applied, which strategies, when applied to an entire source or a portion
37 of a source, can reasonably be expected to reduce fugitive dust leaving the source by approximately 100
38 percent compared to the level of fugitive dust leaving the source that would be expected if no control
39 strategy or strategies were in place. The department shall determine the classification of fugitive dust
40 source as a no impact source based on professional judgment, sound technical information, or scientific
41 evidence. The department shall provide a written explanation of the basis for making the determination of
42 the classification if requested by the programmatic permit applicant. Land that is classified as a no impact
43 source is not required to obtain a programmatic permit issued under 20.11.20 NMAC and is not required to
44 pay a programmatic permit fee for land classified as a no impact source.

45 L. “Potential emission rate” or “PER” means the emission rate of a source at its
46 maximum capacity to emit a regulated air contaminant under its physical and operational design, provided
47 any physical or operational limitation on the capacity of the source to emit a regulated air contaminant,
48 including air pollution control equipment and restrictions on hours of operation or on the type or amount of
49 material combusted, stored or processed, shall be treated as part of its physical and operational design only
50 if the limitation or the effect it would have on emissions is enforceable by the department or the board
51 pursuant to the Air Quality Control Act or the federal Clean Air Act.

52 [K]. M. “Potential to emit” or “PTE” means the maximum capacity of a stationary source to
53 emit any air pollutant under its physical and operational design. Any physical or operational limitation on
54 the capacity of source to emit an air pollutant, including air pollution control equipment, restrictions on
55 hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as
56 part of its design if integral to the process or the limitation is federally enforceable through permit or

1 regulation. Any limitation on emissions due to process design must be unchanging and unavoidable
2 physical constraints. The potential to emit for nitrogen oxide shall be based on total oxides of nitrogen.

3 ~~[E]~~**N. “Qualified small business”** means:

- 4 (1) a business that has 100 or fewer employees;
5 (2) a small business concern as defined by the federal Small Business Act;
6 (3) a source that ~~[does not emit more than]~~ emits fewer than 50 tons per year of any
7 regulated air pollutant, or fewer than 75 tons per year of all regulated air pollutants; and
8 (4) a facility that is not a major stationary source ~~[of hazardous air pollutants].~~

9 **[M]O. “Regulated air pollutant”** means the following:

- 10 (1) nitrogen oxides, total suspended particulate matter, or any volatile organic compounds;
11 (2) any pollutant for which a national, state or local ambient air quality standard has been
12 promulgated;

13 (3) any pollutant that is subject to any standard established in Section 111 of the federal
14 Clean Air Act;

15 (4) any Class I or II substance subject to any standard established in Title VI of the federal
16 Clean Air Act; or

17 (5) any pollutant subject to a standards or requirements established in Section 112 of the
18 federal Clean Air Act, including:

19 (a) any pollutant subject to requirements under Section 112(j) of the federal Clean Air
20 Act; and

21 (b) any pollutant for which the requirements of Section 112(g)(2) of the federal Clean
22 Air Act have been met, but only with respect to the individual source subject to the requirements.

23 ~~[—] N. “State air toxic review” means a case by case permit application review of the potential~~
24 ~~emissions of toxic air pollutants listed in 20.2.72 NMAC, Construction Permits, Section 20.2.72.502~~
25 ~~NMAC, Toxic Air Pollutants and Emissions.]~~

26 ~~[O. “Stationary source with de minimis emissions” means a source as defined in 20.11.41~~
27 ~~NMAC.]~~

28 [20.11.2.7 NMAC - Rp, 20 NMAC 11.02.I.7, 7/1/2001; A, 3/1/04]

29
30 **20.11.2.8 SAVINGS CLAUSE:** Any amendment to 20.11.2 NMAC that is filed with the state
31 records center shall not affect actions pending for violation of a federal or state statute or regulation, a city
32 or county ordinance, or any board regulation. Prosecution for a violation under prior regulation wording
33 shall be governed and prosecuted under the statute, ordinance, part or regulation section in effect at the time
34 the violation was committed.

35 [20.11.2.8 NMAC - Rp, 20 NMAC 11.02.I.9, 7/1/2001]

36
37 **20.11.2.9 SEVERABILITY:** If any section, paragraph, sentence, clause or word of 20.11.2
38 NMAC or federal, state or local standard incorporated herein is for any reason held to be unconstitutional
39 or otherwise invalid by any court, the decision shall not affect the validity of the remaining provisions of
40 20.11.2 NMAC.

41 [20.11.2.9 NMAC - Rp, 20 NMAC 11.02.I.10, 7/1/2001; A, 3/1/04]

42
43 **20.11.2.10 DOCUMENTS:** Documents cited and incorporated in 20.11.2 NMAC may be viewed at
44 the Albuquerque Environmental Health Department, One Civic Plaza NW, 3rd Floor, Room 3023,
45 Albuquerque, NM 87102.

46 [20.11.2.10 NMAC - Rp, 20 NMAC 11.02.I.11, 7/1/2001; A, 3/1/04]

47
48 **20.11.2.11 GENERAL PROVISIONS:**

49 **A.** At the time of application, any person, including a federal, state or local governmental
50 agency, who files an application pursuant to 20.11.41 NMAC, for an initial air quality application review
51 and authority to proceed with construction or any person requesting to modify an existing air quality permit
52 shall pay the permit fee required by 20.11.2 NMAC.

53 **B.** Any new or existing stationary source that meets the applicability requirements of
54 20.11.2 NMAC shall pay an annual emission fee based on the source’s ~~[potential to emit]~~ potential
55 emission rate. Sources wishing to reduce their ~~[potential to emit]~~ potential emission rate may do so at any
56 time through the provisions of 20.11.41 NMAC.

1 C. At the time of submittal, any person filing an application for a fugitive dust control
2 permit with the department pursuant to 20.11.20 NMAC, *Fugitive Dust Control*, shall pay the applicable
3 fee required by 20.11.2 NMAC.

4 D. At the time of notification, any person notifying the department pursuant to 20.11.64
5 NMAC, *Emission Standards for Hazardous Air Pollutants for Stationary [Source] Sources*, of the removal
6 of regulated asbestos containing material shall pay the applicable fee required by 20.11.2 NMAC.

7 E. No application will be reviewed or permit issued unless the owner/operator provides
8 documentary proof satisfactory to the department that either all applicable fees have been paid as required
9 by 20.11.2 NMAC, or the owner/operator has been granted a variance in accordance with 20.11.7 NMAC,
10 *Variance Procedures*.

11 F. All permit fees required to be paid at the time of application shall be paid by check or
12 money order payable to the "city of Albuquerque, permits program (Fund 242)" and either be delivered in
13 person to the environmental health department, finance section, 3rd floor, room 3023, Albuquerque -
14 Bernalillo county government center (city hall), One Civic Plaza NW, Albuquerque, NM, or mailed to
15 Attn: Finance Section, Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103. The
16 finance section then shall send a receipt to the applicant. The applicant shall attach a copy of the receipt
17 issued by the finance section to the application as proof of payment. The air quality division cannot accept
18 direct payments.

19 G. No person required to pay an annual emission fee pursuant to 20.11.2 NMAC shall be in
20 compliance with their permit unless all applicable fees are paid as required by 20.11.2 NMAC.

21 H. No fee required by 20.11.2 NMAC shall be refunded without the written approval of the
22 director. When determining the amount of the refund, the director may deduct a reasonable professional
23 service fee to cover the costs of staff time involved in processing a permit or request.
24 [20.11.2.11 NMAC - N, 7/1/2001; A, 3/1/04]

25
26 **20.11.2.12 20.11.41 NMAC, AIR QUALITY PERMIT FEES; FEE CALCULATIONS AND**
27 **PROCEDURES**

28 A. **Air quality permits for minor and area sources:** sources applying for an air quality
29 permit pursuant to 20.11.41 NMAC, shall pay the applicable fee found in Section 20.11.2.18 NMAC.

30 B. **Case-by-case air quality review prior to the construction of a stationary source:**

31 (1) Case-by-case air quality application review fees shall be calculated based on the
32 proposed source's ~~[potential to emit]~~ allowable emission rate fee pollutants. Federally approved state
33 implementation plan limitations may be used to determine a source's ~~[potential to emit]~~ allowable emission
34 rate.

35 (2) Fugitive emissions shall be included in the source's ~~[potential to emit]~~ potential
36 emission rate.

37 (3) Emissions from operations determined by the department to be insignificant activities
38 shall not be included in the calculation.

39 (4) For each fee pollutant, calculate the ~~[potential to emit]~~ allowable emission rate for each
40 proposed emission unit to the nearest tenth of a ton. Total each of the fee pollutants from each emission
41 unit and express the value in tons per calendar year as a whole number. When rounding, if the number
42 after the decimal point is less than 5, the whole number remains unchanged. If the number after the
43 decimal point is 5 or greater, the whole number shall be rounded up to next whole number.

44 (5) The application review fee shall be determined by comparing the source's calculated
45 ~~[potential to emit]~~ allowable emission rate for the single highest fee pollutant in tons per year with the fee
46 schedule ~~[found]~~ provided in Section 20.11.2.18 NMAC.

47 (6) In addition to the application review fees, a source proposing to construct any emission
48 unit or units that must comply with the provisions of 20.11.60 NMAC, *Permitting in Non-attainment Areas*,
49 20.11.61 NMAC, *Prevention of Significant Deterioration*, 20.11.62 NMAC, *Acid Rain*, 20.11.63 NMAC,
50 *New Source Performance Standards for Stationary Sources*, or 20.11.64 NMAC, *Emission Standards for*
51 *Hazardous Air Pollutants for Stationary Sources*, also shall pay the applicable federal program review fees
52 ~~[listed]~~ provided in Section 20.11.2.18 NMAC.

53 (7) Example: A company proposes to build a facility with a NSPS boiler with an ~~[potential-~~
54 ~~to emit]~~ allowable emission rate of greater than 100 tons per year of NOx. From the fee schedule found in
55 Section 20.11.2.18 NMAC, the company will be required to pay an initial air quality review fee of
56 ~~[\$5,000.00]~~ \$10,000 with an ~~[addition]~~ additional federal program review fee of \$1,000.00 for the NSPS

1 boiler, for a total fee of [~~\$6,000~~] \$11,000.00. The review fee shall be submitted at the time of application
2 in accordance with the procedures [~~found~~] provided in Subsections E and F of 20.11.2.11 NMAC.

3 (8) Sources submitting an application for the removal of regulated asbestos containing
4 material pursuant to 20.11.64 NMAC shall comply with the provisions of 20.11.2.14 NMAC.

5 **C. Permit modifications:**

6 (1) At the time of application, any source proposing to modify an existing air quality permit
7 shall pay the applicable fee [~~found~~] provided in Section 20.11.2.18 NMAC.

8 (2) Any proposed modifications to an existing air quality permit that must comply with the
9 provisions of 20.11.60 NMAC, *Permitting in Non-Attainment Areas*, 20.11.61 NMAC, *Prevention of*
10 *Significant Deterioration*, 20.11.62 NMAC, *Acid Rain*, 20.11.63 NMAC, *New Source Performance*
11 *Standards for Stationary Sources*, or 20.11.64 NMAC, *Emission Standards for Hazardous Air Pollutants*
12 *for Stationary Sources*, also requires the applicant to pay the applicable federal program review fee, but
13 only with respect to the individual emission unit subject to the requirement.

14 **D.** Qualified small businesses shall pay one-half of the [~~calculated case-by-case~~] total air
15 quality review fees [~~prior to adding any federal program review~~] including federal program review fees. [~~or~~
16 ~~state toxic review fees~~].
17 [20.11.2.12 NMAC - Rp, 20 NMAC 11.02.II.1, 7/1/2001; A, 3/1/04]
18

19 **20.11.2.13 ANNUAL EMISSION FEES; FEE CALCULATIONS AND PROCEDURES**

20 **A.** By June 1 of each year, the department shall send each owner/operator a letter stating the
21 fee amount owed. The owner/operator has 45 days from receipt of the letter to contact the department to
22 request a correction to the records or submit a complete application within 45 days of receipt of the letter to
23 modify an existing permit reducing the source's allowable emission rate.

24 **B.** Starting August 1 of each year, each owner/operator shall be sent an official invoice by
25 the city of Albuquerque stating the annual emission fee due, which the owner/operator shall pay consistent
26 with the directions stated in the invoice. If the department does not send the owner/operator an annual
27 letter or invoice stating the annual emission fee that is due, the owner/operator is not authorized to continue
28 operating the source without having first paid the applicable annual emission fee.

29 **C.** As required by 74-2-16 NMSA, all monies received pursuant to Section 20.11.2.13
30 NMAC shall be deposited in the city of Albuquerque, permits program (Fund 242).

31 **D. Calculating annual emission fees:**

32 (1) For each source, the [~~potential to emit~~] potential emission rate for each fee pollutant
33 shall be totaled and expressed in tons per calendar year as a whole number. When rounding, if the number
34 after the decimal point is less than five, the whole number remains unchanged. If the number after the
35 decimal point is five or greater, the whole number shall be rounded up to next whole number.

36 (2) The sum of each fee pollutant shall be multiplied by the appropriate annual emission fee
37 [~~listed~~] provided in Section 20.11.2.18 NMAC, then totaled to determine the annual emission fee due.

38 (3) The source shall pay either the minimum annual emission fee or the calculated emission
39 fee whichever is greater.

40 **E.** Sources wishing to reduce their [~~potential to emit~~] potential emission rate may apply for
41 a permit or modify their existing permit consistent with the provisions of 20.11.41 NMAC.

42 **F.** The annual emission fees required by Subsection A of 20.11.2.18 NMAC, shall be
43 effective [INSERT EFFECTIVE DATE].

44 **G.** Beginning January 1, 2010, and every January 1 thereafter, the annual emission fees
45 required in Subsection A of 20.11.2.18 NMAC shall be increased by an amount equal to the increase in the
46 consumer price index for the immediately-preceding year. The applicable consumer price index is the all-
47 urban [~~consumers~~] consumer price index published by the United States department of labor. Annual
48 emission fee adjustments equal to or greater than fifty cents (\$0.50) shall be rounded to the next highest
49 whole dollar.

50 [20.11.2.13 NMAC - Rp, 20 NMAC 11.02.II.2, 7/1/2001; A, 3/1/04]
51

52 **20.11.2.14 FILING AND INSPECTION FEES FOR THE REMOVAL OF REGULATED**
53 **ASBESTOS CONTAINING MATERIAL; FEE CALCULATIONS AND PROCEDURES**

54 **A.** At the time of notification, a filing and inspection fee of \$21 per asbestos unit, adjusted as
55 required by Subsection D of 20.11.2.14 NMAC, shall be paid by the owner/operator removing regulated

1 asbestos containing material pursuant to 20.11.64 NMAC, *Emission Standards for Hazardous Air*
2 *Pollutants for Stationary Sources*, and the federal regulations incorporated therein.

3 **B.** The filing and inspection fee shall be calculated by multiplying the asbestos unit (AU) by
4 the applicable AU fee in ~~[20.11.2.18 NMAC]~~ Subsection A of 20.11.2.14 NMAC. Equation 1 at Paragraph
5 (1) of Subsection B of 20.11.2.14 NMAC shall be used to calculate the total asbestos units (AU) and
6 amount due:

7 (1) Total Due = [(SF / 160) + (LF / 260) + (CF / 35)] x AU fee (Equation 1)

8 (2) Where: SF = square feet of asbestos containing material to be removed; LF = linear feet
9 of asbestos containing material to be removed; CF = cubic feet of asbestos containing material to be
10 removed; and AU = asbestos unit.

11 (3) Example: A contractor proposes to remove 320 square feet (SF), 260 linear feet (LF)
12 and 70 cubic feet (CF) of regulated asbestos containing material.

13 (4) From the example above: SF=320; LF=260; CF=70; and AU= \$21.00 ~~[(from Section~~
14 ~~20.11.2.18 NMAC)]~~.

15 (5) From Equation 1: [(SF / 160) + (LF / 260) + (CF / 35)] x AU = [(320 / 160) + (260 / 260)
16 + (70 / 35)] x \$21.00 = (2 + 1 + 2) x \$21.00 = 5 x \$21.00 = \$105.00

17 (6) Result: The contractor must pay \$105.00 at the time of notification.

18 **C.** All fees due pursuant to Section 20.11.2.14 NMAC shall be paid in accordance with the
19 procedures found in Subsections D, E and F of 20.11.2.11 NMAC.

20 **D.** Beginning January 1, 2010, and every January 1 thereafter, the asbestos unit fee required
21 in Subsection A of 20.11.2.14 NMAC shall be increased by an amount equal to the increase in the
22 consumer price index for the immediately-preceding year. The applicable consumer price index is the all-
23 urban ~~consumers~~ consumer price index published by the United States department of labor. Asbestos unit
24 fee adjustments equal to or greater than fifty cents (\$0.50) shall be rounded to the next highest whole
25 dollar.

26 [20.11.2.14 NMAC - Rp, 20 NMAC 11.02.II.2, 7/1/2001; A, 3/1/04]

27 28 **20.11.2.15 FEES FOR FUGITIVE DUST CONTROL PERMITS; FEE CALCULATIONS** 29 **AND PROCEDURES**

30 **A.** Each source required by 20.11.20 NMAC to obtain a fugitive dust control permit shall
31 pay the total fee due at the time the permit application is submitted to the department.

32 **B.** The filing and review fee for a non-programmatic fugitive dust control permit:

33 (1) for projects that are less than 2 acres is \$250.00;

34 (2) for projects that are at least 2 acres but less than 5 acres is \$350.00;

35 (3) for projects that are at least 5 acres but less than 15 acres is \$450.00;

36 (4) for projects that are at least 15 acres or more is \$550.00.

37 **C.** To calculate the non-programmatic dust control permit inspection fee, which is in
38 addition to the above non-programmatic permit filing and review fee, multiply the acreage on which active
39 operations or disturbance will occur by ~~[\$100.00]~~ \$116.00 per acre. The number of acres must be
40 expressed as a whole number. When rounding, if the number after the decimal point is less than five, the
41 whole number remains unchanged. If the number after the decimal point is five or greater, the whole
42 number shall be rounded up to the next whole number. Rounding of acres shall occur before the fees are
43 calculated.

44 **D.** To calculate the programmatic fugitive dust control permit fee, multiply the acreage upon
45 which routine maintenance or routine ongoing active operations will occur by the applicable emission
46 control factor for a low impact source, moderate impact source, or high impact source as defined in Section
47 20.11.2.7 NMAC and then multiply by ~~[\$140.00]~~ \$116.00. The air quality division (division) has a "source
48 classification guidebook" that includes nonbinding examples of how to classify a no impact source, low
49 impact source, a moderate impact source, and a high impact source. The number of acres must be
50 expressed as a whole number. When rounding, if the number after the decimal point is less than five, the
51 whole number remains unchanged. If the number after the decimal point is five or greater, the whole
52 number shall be rounded up to the next whole number. Rounding of acres shall occur before the fees are
53 calculated using the applicable emission control factor in Section 20.11.2.7 NMAC. No filing and review
54 fee is required for a programmatic permit. The total programmatic permit fee is:

55 (1) the fee calculated for any low impact source acres; plus

56 (2) the fee calculated for any moderate impact source acres; plus

1 (3) the fee calculated for any high impact source acres. However, the maximum combined
2 fee shall not exceed \$10,000.00.

3 E. No fee shall be paid for "no impact source" acreage.

4 F. Example: the application for a programmatic permit includes a total of 20 acres, of
5 which 2 acres are no impact source acres, 8 acres are low impact source acres, 5 acres are moderate impact
6 source acres, and 5 acres are high impact source acres. To calculate the programmatic permit fee: 2 no
7 impact source acres x 0 = 0 acres. 8 low impact source acres x 0.1 = 0.8 acre. 5 moderate impact acres x
8 0.5 = 2.5 acres. 5 high impact source acres x 0.9 = 4.5 acres. 0 acres, plus 0.8 acre, plus 2.5 acres, plus 4.5
9 acres = a total of 7.8 acres. 7.8 acres x ~~[\$110]~~ \$116.00 per acre = a total programmatic permit fee of
10 ~~[\$858.00]~~ \$904.80.

11 G. ~~[The division will begin work on the programmatic permit program immediately after the~~
12 ~~adoption of 20.11.20 NMAC. All applicants shall obtain a programmatic permit by July 1, 2004, which is~~
13 ~~the date upon which all programmatic permits shall become effective during the first annual permit cycle.~~
14 ~~After June 30, 2005, the term of each programmatic permit will be from July 1 through the following June~~
15 ~~30, and annual programmatic permit fees shall be paid for each annual term.]~~ When a programmatic permit
16 application is submitted, the applicant may either ask the division to determine the fee to be paid by the
17 applicant or the applicant may submit a proposed fee calculation. No later than eight working days after
18 the division has received the programmatic permit application and the proposed fee calculation, the division
19 shall notify the applicant in writing of the total fees due. The applicant and the department may agree in
20 writing to extend the deadline for the department to issue the programmatic permit in order to attempt to
21 resolve any pending issues, including any dispute over the source classification or fee calculation. The
22 total fees due must be paid to the department before the department will issue a programmatic permit. A
23 permit applicant may challenge the department's determination of source classification or fee calculation
24 for a fugitive dust control permit by following the procedures established by Section 20.11.20.25 NMAC.

25 H. All fees due pursuant to Section 20.11.2.15 NMAC shall be paid in accordance with the
26 procedures found in Subsections C, E, and F of Section 20.11.2.11 NMAC.

27 I. Beginning January 1, 2010, and every January 1 thereafter, the fugitive dust fee required
28 in Subsections C and D of 20.11.2.15 NMAC shall be increased by an amount equal to the increase in the
29 consumer price index for the immediately-preceding year. The applicable consumer price index is the all-
30 urban ~~consumers~~ consumer price index published by the United States department of labor. Fugitive dust
31 fee adjustments equal to or greater than fifty cents (\$0.50) shall be rounded to the next highest whole
32 dollar.

33 **J. Demolition and renovation activities - fugitive dust control construction permit fee:**
34 **Pursuant to 20.11.20.22 NMAC, no person shall demolish any building containing over 75,000 cubic feet**
35 **of space without first delivering to the department a fugitive dust control construction permit application**
36 **and fugitive dust control plan accompanied by a requisite fee of \$300.00.**

37 [20.11.2.15 NMAC - N, 7/1/2001; A, 3/1/04]

38 20.11.2.16 FEE ERRORS, CORRECTIONS AND REFUNDS

39 A. For permits other than fugitive dust control permits, within 30 days of receiving an
40 invoice from the city, any person who does not agree with the amount due may request a review by the
41 director to correct any errors or challenge the basis upon which the fee was computed. If the director has
42 not received a written request or challenge within 30 days after the payor receives the invoice, the invoice
43 shall be final.

44 B. If fees are due at the time of application, the payor must pay the required fee, and then
45 request a review within 30 days of payment.

46 C. All written requests for review shall be sent to: ~~[Division]~~ Environmental Engineering
47 Manager, Air Quality Division, Environmental Health Department, [Air Quality Division,] P.O. Box 1293,
48 Albuquerque, NM 87103

49 D. The request for review must include:

- 50 (1) the name of the owner/operator, address and telephone number;
51 (2) the dollar amount of the alleged error; and
52 (3) a description of the alleged error and any other information the payor believes may
53 support the claim.
54

55 E. Within 30 days of receiving the request for review, the director shall audit the account
56 and, either:

- 1 (1) amend the invoice or bill and refund any money due the payor; or
 2 (2) state the invoice or bill is correct.
 3 **F.** The director may confer with the payor to obtain additional information during the audit
 4 period.
 5 **G.** Within 10 working days of the completion of the director's ~~[decision concerning the]~~
 6 review, the ~~[decision]~~ results of the review shall be sent by certified mail to address provided by the payor.
 7 **H.** If a refund is due, the department shall refund any money due consistent with the policies
 8 and procedures of the city of Albuquerque.
 9 **I.** The result of the director's ~~[decision]~~ review may be appealed to the board.
 10 [20.11.2.16 NMAC - N, 7/1/2001; A, 3/1/04]

11
 12 **20.11.2.17 ~~[FAILURE TO PAY] LATE FEE~~**

13 **A.** ~~[It shall be a violation of 20.11.2 NMAC to fail to pay any fee required by 20.11.2~~
 14 ~~NMAC, a director's decision, or a board regulation.] If an annual emission fee required the by Subsection
 15 A of 20.11.2.18 NMAC is not paid within 30 days after the invoice date, the permittee shall also pay 10
 16 percent of the annual emission fee due as a late fee to partially offset the additional related costs of
 17 collection.~~

18 **B.** If an application review fee is not paid as required by 20.11.2.14 NMAC or 20.11.2.15
 19 NMAC, the applicant shall also pay a \$250.00 late fee to partially offset the additional related costs of
 20 collection.

21 ~~[B.]~~ **C.** Stating an invoice is in error shall not [be a defense to violation of Section 20.11.2.17
 22 NMAC] extend the deadline for paying an annual emissions fee.

23 ~~[C.]~~ In addition to paying past due fees, the payor shall pay a penalty. A late fee will be
 24 assessed in the amount of 50 percent of the fee amount, plus interest on the fee amount computed in
 25 accordance with the section of the Internal Revenue Code relating to computation of interest on
 26 underpayment of federal taxes.]

27 [20.11.2.17 NMAC - Rp, 20 NMAC 11.02.II.2, 7/1/2001; A, 3/1/04]
 28

29 **20.11.2.18 FEE SCHEDULE**

30 **A. Annual emission fees:** Sources issued a registration or permit pursuant to 20.11.40
 31 NMAC, 20.11.41 NMAC, 20.11.42 NMAC, 20.11.60 NMAC, or 20.11.61 NMAC shall pay a minimum
 32 annual emission fee of ~~[\$150.00]~~ \$300.00 or the annual emission fee calculated consistent with Section
 33 20.11.2.13 NMAC, which ever is greater. The following fee pollutant rates shall be used in calculating the
 34 annual emission fee, unless otherwise listed:

- 35 (1) non-hazardous fee pollutants: ~~[\$31.00]~~ \$40.00 per ton;
 36 (2) hazardous fee pollutants (non-major sources): ~~[\$31.00]~~ \$40.00 per ton;
 37 (3) hazardous fee pollutants (major sources): ~~[\$250.00]~~ \$500.00 per ton; and
 38 (4) annual emission fees for specific source categories:
 39 (a) auto body repair and painting: ~~[\$150.00]~~ \$300.00;
 40 (b) chromium electroplating: ~~[\$150.00]~~ \$300.00;
 41 (c) degreasers using organic solvents:
 42 (i) non-halogenated solvents using less than 2,200 gallons of any one solvent-
 43 containing material or 5,400 gallons or more of any combination of solvent-containing materials:
 44 ~~[\$150.00]~~ \$300.00; and
 45 (ii) halogenated solvents using less than 1,200 gallons of any one solvent-
 46 containing material or 2,900 gallons or more of any combination of solvent-containing materials:
 47 ~~[\$150.00]~~ \$300.00;
 48 (d) dry cleaners (non-major): ~~[\$150.00]~~ \$300.00;
 49 (e) emergency generators: ~~[\$150.00]~~ \$300.00 or ~~[\$31.00]~~ \$40.00 per ton, whichever
 50 is greater;
 51 (f) gasoline service and fleet stations: ~~[\$250.00]~~ \$500.00 or ~~[\$31.00]~~ \$40.00 per ton,
 52 which ever is greater;
 53 (g) stand alone natural gas or distillate fueled fired boilers less than 10 million BTU
 54 used exclusively for residential, commercial or institutional heating and hot water: no charge;
 55 (h) printing, publishing and packaging operations:

- (i) sheetfed (nonheatset) offset lithography using less than 7,125 gallons of clean solvent and fountain solution additives per year: ~~[\$150.00]~~ \$300.00;
- (ii) nonheatset web offset lithography using less than 7,125 gallons of solvent and fountain solution additive per year: ~~[\$150.00]~~ \$300.00;
- (iii) heatset web offset lithography using less than 50,000 pounds of ink, cleaning solvent, and fountain solution additives: ~~[\$150.00]~~ \$300.00;
- (iv) screen printing using less than 7,125 gallons of total solvent used including solvent-based inks, cleaning solvents, adhesives and coatings: ~~[\$150.00]~~ \$300.00;
- (v) flexography (water-based or UV-cured inks, coating and adhesives) using less than 200,000 pounds total of inks, coatings and adhesives: ~~[\$150.00]~~ \$300.00;
- (i) soil and/or water remediation operations: ~~[\$150.00]~~ \$300.00; and
- ~~[(j) stationary sources with de minimis emissions: no charge.]~~

B. Air quality application review fees for sources requiring permits pursuant to 20.11.40 NMAC or 20.11.41 NMAC:

- (1) auto body repair and painting: ~~[\$500.00]~~ \$1,000.00;
- (2) dry cleaners: ~~[\$500.00]~~ \$1,000.00;
- (3) emergency generators: ~~[\$500.00]~~ \$1,000.00;
- (4) generic coating and abrasive operations: ~~[\$500.00]~~ \$1,000.00;
- (5) other fueling facilities receiving fuel by truck or rail (non-NSPS): ~~[\$1000.00]~~ \$2000.00;
- (6) non-NSPS boilers (greater than 10 million BTU): ~~[\$500.00]~~ \$1,000.00;
- (7) printing and packaging operations: ~~[\$500.00]~~ \$1,000.00;
- (8) retail and fleet gasoline service stations: ~~[\$500.00]~~ \$1,000.00; and
- (9) soil/water remediation systems: ~~[\$1000.00]~~ \$2,000.00.

C. Case-by-case air quality application review fees for sources ~~[requiring permits pursuant]~~ subject to 20.11.40 NMAC or 20.11.41 NMAC (based on a source's ~~[potential-to-emit] allowable emission rate for the single highest pollutant) which do not apply to 20.11.60 NMAC and 20.11.61 NMAC:~~

- (1) proposed sources with ~~[a potential to emit]~~ an allowable emission rate equal to or greater than one ton per year and less than five tons per year: ~~[\$500.00]~~ \$1,000.00;
- (2) proposed sources with ~~[a potential to emit]~~ an allowable emission rate equal to or greater than 5 tons per year and less than 25 tons per year: ~~[\$1,000.00]~~ \$2,000.00;
- (3) proposed sources with ~~[a potential to emit]~~ an allowable emission rate equal to or greater than 25 tons per year and less than 50 tons per year: ~~[\$2,000.00]~~ \$4,000.00;
- (4) proposed sources with ~~[a potential to emit]~~ an allowable emission rate equal to or greater than 50 tons per year and less than 75 tons per year: ~~[\$3,000.00]~~ \$6,000.00;
- (5) proposed sources with ~~[a potential to emit]~~ an allowable emission rate equal to or greater than 75 tons per year and less than 100 tons per year: ~~[\$4,000.00]~~ \$8,000.00; and
- (6) proposed sources with ~~[a potential to emit]~~ an allowable emission rate equal to or greater than 100 tons per year: ~~[\$5,000.00]~~ \$10,000.00.

D. Modeling Review Fee (based on source's allowable emission rate for the single highest pollutant):

- (1) proposed sources with an allowable emission rate less than or equal to 25 tons per year: \$1,000;
- (2) proposed sources with an allowable emission rate of ~~[26 to 75]~~ greater than 25 tons per year and less than or equal to 75 tons per year: \$2,000.00;
- (3) proposed sources with an allowable emission rate of ~~[76 up to 100]~~ greater than 75 tons per year and less than or equal to 100 tons per year: \$3000.00;
- (4) proposed sources with an allowable emission rate of greater than 100 tons per year: \$5000.00;

~~[D]E. Federal program [and state toxic air pollutant] application review fees in addition to the air quality application review fees:~~

- (1) per each 40 CFR 60 [standards] standard: \$1,000.00;
- (2) per each 40 CFR 61 [standards] standard: \$1,000.00;
- (3) per each 40 CFR 63 [standards] standard:
 - (a) promulgated standards: \$2,000.00;
 - (b) case-by-case MACT review: \$10,000.00;

- 1 (4) PSD/non-attainment review: [~~\$5,000.00~~] \$10,000.00; and
 2 (5) acid rain review: \$5,000.00. [~~and~~
 3 ~~state toxic air pollutant review: \$500.00.~~]
 4 **[E]F. Permit [~~modifications~~] revisions:**
 5 (1) [~~P2 modifications: no charge~~] administrative revisions: \$250.00; and;
 6 (2) [~~minor/flexible permit modifications~~] technical revisions: \$1,000.00; and
 7 ~~major modifications: \$5,000.00;~~
 8 **[F]G. Portable source relocation [fee] fees:** [~~\$250.00~~] \$500.00;
 9 **[G.] [Administrative modifications to existing permit: \$100.00];**
 10 **[H. Asbestos unit (AU): \$21.00;]**
 11 **H. Permit modifications fees:**
 12 (1) potential emission rate less than or equal to 50 tons per year: \$1,000.00;
 13 (2) potential emission rate greater than 50 tons per year and less than or equal to 75 tons per
 14 year: \$2,500.00;
 15 (3) potential emission rate greater than 75 tons per year and less than or equal to 100 tons
 16 per year: \$5,000.00;
 17 (4) potential emission rate greater than 100 tons per year: \$7,500.
 18 **I. Administrative fees:**
 19 (1) Professional services fee: [~~\$75.00~~] \$85.00 per staff hour.
 20 (2) Photocopying and other copies of public records: as provided by the New Mexico
 21 Inspection of Public Records Act and by the applicable city of Albuquerque ordinance and administrative
 22 instruction number 1-7.
 23 (3) [~~Regulation compilation: \$20.00;~~
 24 ~~Public records research fee: \$50.00 per staff hour. However, the charge for copying~~
 25 ~~public records shall not include a separate charge for staff time for locating and copying the documents.~~
 26 (4) Air quality impact analysis fee: \$1,000.00. Pursuant to Paragraph ~~(9)~~(10) of Subsection
 27 A of 20.11.2.2 NMAC, this fee applies to any person required to obtain an air quality impact analysis
 28 pursuant to Revised Ordinances of Albuquerque 1994, Section 14-16-3-14, *Air Quality Impact Regulations.*
 29 **J. Variance request fees:** any person who petitions for a variance pursuant to 20.11.7
 30 NMAC shall pay a fee of \$1,500.00, unless the fee is determined by the board at a hearing to impose an
 31 undue economic burden on the petitioner.
 32 **K. Board hearing filing fees:** Any person who requests a hearing before the board to
 33 challenge the issuance of a permit, the terms of a permit or permit modification, the department's refusal to
 34 issue a permit, or the department's determination of a source classification or fee calculation for a fugitive
 35 dust control permit shall [~~be charged~~] pay a filing fee of \$125.00.
 36 [20.11.2.18 NMAC - Rp, 20 NMAC 11.02.II.2, 7/1/2001; A, 3/1/04; A, 12/16/06]
 37

38 **HISTORY of 20.11.2 NMAC:**

39 **Pre-NMAC history:**

40 Material in the part was derived from that previously filed with the commission of public records – state
 41 records center and archives under:

42 Resolution 1, Air Pollution Control Regulations of the Albuquerque - Bernalillo County Air Quality
 43 Control Board, filed 8-06-71;

44 Regulation 1, Air Pollution Control Regulations, filed 6-06-73;

45 Regulation 1, Air Pollution Control Regulations, filed 7-19-73;

46 Regulation 1, Air Pollution Control Regulations, filed 3-21-77;

47 Regulation No. 21, Permit Fees, filed 3-24-82;

48 Regulation No. 21, Permit Fees, filed 8-19-83;

49 Regulation No. 21, Permit Fees, filed 3-01-94;

50 Regulation No. 21, Permit Fees, filed 12-16-94.
 51

52 **History of repealed material:** 20 NMAC 11.02, Permit Fees, filed 10-27-95.
 53

54 **Other history:** Regulation No. 21, Permit Fees, filed 12-16-94 renumbered and reformatted to 20 NMAC
 55 11.02, Permit Fees, filed 10-27-95;

56 20 NMAC 11.02, Permit Fees, filed 10-27-95 replaced by 20.11.2 NMAC, Permit Fees, effective 7/1/2001.

