CITY OF ALBUQUERQUE

Albuquerque Environmental Health Department
Mary Lou Leonard, Director

AQD EXHIBIT
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PENGAD 800-631-6989

July 16, 2010
Certified Mail #7006 0810 0003 9353 4320
Return Receipt Requested

Dr. Alfredo Armendarz
Regional Administrator
EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Re: Albuquerque-Bernalillo County Permitting Program - Tailoring Rule

Dear Dr. Armendariz:

In response to the *Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule* final rule published June 3, 2010 (Tailoring Rule), the Environmental Health Department (Department) of the City of Albuquerque (City) has determined that the Albuquerque-Bernalillo County Air Quality Control Board (local air board) regulations (local regulations) presently do not contain the same language as incorporated in the Tailoring Rule. In addition, the local regulations are not sufficiently open-ended to allow implementation of the Tailoring Rule without first having to amend existing local air board PSD and Title V permitting regulations. As a result, local regulations 20.11.61 NMAC, *Prevention of Significant Deterioration,* and 20.11.42 NMAC, *Operating Permits*, would have to be amended before the local permitting authority has authority to apply the meaning of the term "subject to regulation" established in the Tailoring Rule.

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NM 87103

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The City and Bernalillo County (County) accepted delegation over air quality permitting throughout the County by adopting ordinances as required by the New Mexico Air Quality Control Act (NM Air Act). The NM Air Act required the City and County ordinances to be "consistent with the substantive provisions of the (NM) Air Quality Control Act and shall provide for standards and regulations not lower than those required by regulations adopted by the (New Mexico) environmental improvement board." NMSA Section 74-2-4(C). The state Environmental Improvement Board (EIB) regulations regarding PSD and Title V permitting (20.2.74 NMAC and 20.2.70 NMAC respectively) do not contain the language that the Tailoring Rule incorporated in 40 CFR 51.166(b)(4) and 40 CFR 52.21(b)(50). In a June 24, 2010 letter to you, the New Mexico Environment Department (NMED) stated that NMED "intends to request a hearing before the Environmental Improvement Board in November 2010 to adopt amendments to the State's Title V and PSD rules reflecting the requirements of the Tailoring Rule". Because the City and County local

air board ordinances "provide for standards and regulations not lower than" the regulations adopted by the EIB, and because the local air board strives to adopt consistent wording as appropriate, the Department will wait until the EIB has adopted amendments to the EIB's Title V and PSD regulations so the Department can review the wording and make decisions regarding the hearing and related issues. We will inform you of the Department's decision regarding the local air board hearing.

If you have questions, please call, or have your staff contact Isreal Tavarez at (505)768-1965 or itavarez@cabq.gov. Thank you.

Sincerely,

Mary Lou Leonard, Director
Environmental Health Department
City of Albuquerque

e-mail copy also sent to:
Thomas Diggs, Associate Director - Air, EPA Region 6: diggs.thomas@epa.gov
Jeffrey Robinson, Section Chief, Air Permits Sec., EPA Region 6, robinson.jeffrey@epa.gov
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