

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
3 **PART 60 PERMITTING IN NONATTAINMENT AREAS**
4

5 **20.11.60.1 ISSUING AGENCY:** Albuquerque - Bernalillo County Air Quality Control Board. P.O. Box
6 1293, Albuquerque, NM 87103. Telephone: (505) 768-2601.
7 [20.11.60.1 NMAC - Rp, 20.11.60.1 NMAC, 1/23/06; A, 8/30/10]
8

9 **20.11.60.2 SCOPE:**

10 **A.** 20.11.60 NMAC establishes a pre-construction permit program for new major stationary sources
11 and major modifications of existing major stationary sources located within a nonattainment area.

12 **B. Exempt:** 20.11.60 NMAC does not apply to sources within Bernalillo county, which are located
13 on indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.
14 [20.11.60.2 NMAC - Rp, 20.11.60.2 NMAC, 1/23/06; A, 8/30/10]
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16 **20.11.60.3 STATUTORY AUTHORITY:** 20.11.60 NMAC is adopted pursuant to the authority provided in
17 the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4 and 74-2-5; the Joint Air Quality Control
18 Board Ordinance; Bernalillo County Ordinance No. 94-5, Sections 4 and 5; and the Joint Air Quality Control Board
19 Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4.
20 [20.11.60.3 NMAC - Rp, 20.11.60.3 NMAC, 1/23/06]
21

22 **20.11.60.4 DURATION:** Permanent.

23 [20.11.60.4 NMAC - Rp, 20.11.60.4 NMAC, 1/23/06]
24

25 **20.11.60.5 EFFECTIVE DATE:** January 23, 2006, unless a later date is cited at the end of a section.

26 [20.11.60.5 NMAC - Rp, 20.11.60.5 NMAC, 1/23/06]
27

28 **20.11.60.6 OBJECTIVE:** To implement a pre-construction permit program for new or modified major
29 stationary sources that plan to locate in an area where a federal ambient air quality ~~standards are~~ standard is being
30 exceeded.

31 [20.11.60.6 NMAC - Rp, 20.11.60.6 NMAC, 1/23/06; A, 8/30/10]
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33 **20.11.60.7 DEFINITIONS:** In addition to the definitions in 20.11.60.7 NMAC, the definitions in 20.11.1
34 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.60.7 NMAC shall
35 govern.

36 **A. "Actual emissions"** means the actual rate of emissions of a regulated new source review pollutant
37 from an emissions unit, as determined in accordance with Paragraphs (1)-(3) of Subsection A of 20.11.60.7 NMAC,
38 except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or
39 for establishing a plantwide applicability limit under 20.11.60.27 NMAC. Instead, Subsections E and II of
40 20.11.60.7 NMAC shall apply for those purposes.

41 (1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at
42 which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular
43 date and which is representative of normal source operation. The department shall allow the use of a different time
44 period upon a determination that it is more representative of normal source operation. Actual emissions shall be
45 calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or
46 combusted during the selected time period.

47 (2) The department may presume that source-specific allowable emissions for the unit are equivalent
48 to the actual emissions of the unit.

49 (3) For any emissions unit that has not begun normal operations on the particular date, actual
50 emissions shall equal the potential to emit of the unit on that date.

51 **B. "Administrator"** means the administrator of the United States environmental protection agency
52 (USEPA) or an authorized representative.

53 **C. "Adverse impact on visibility"** means visibility impairment which interferes with the
54 management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory federal class
55 I area. This determination must be made on a case-by-case basis taking into account the geographic extent,
56 intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with:

- 1 (1) times of visitor use of the mandatory federal class I area; and
2 (2) the frequency and timing of natural conditions that reduce visibility. This term does not include
3 effects on integral vistas as defined in 40 CFR 51.301 *Definitions*.

4 **D. "Allowable emissions"** means the emissions rate of a stationary source calculated using the
5 maximum rated capacity of the source, (unless the source is subject to federally enforceable limits which restrict the
6 operating rate, or hours of operation, or both,) and the most stringent of the following:

- 7 (1) the applicable standard set forth in 40 CFR Part 60 or 61;
8 (2) any applicable state implementation plan emissions limitation including those with a future
9 compliance date; or
10 (3) the emissions rate specified as a federally enforceable permit condition, including those with a
11 future compliance date.

12 **E. "Baseline actual emissions"** means the rate of emissions, in tons per year, of a regulated new
13 source review pollutant, as determined in accordance with Paragraphs (1)-(4) of Subsection E of 20.11.60.7 NMAC.

14 (1) For any existing electric utility steam generating unit, baseline actual emissions means the
15 average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month
16 period selected by the owner or operator within the five year period immediately preceding when the owner or
17 operator begins actual construction of the project. The department shall allow the use of a different time period
18 upon a determination that it is more representative of normal source operation.

19 (a) The average rate shall include fugitive emissions to the extent quantifiable, and emissions
20 associated with startups, shutdowns, and malfunctions.

21 (b) The average rate shall be adjusted downward to exclude any noncompliant emissions that
22 occurred while the source was operating above any emission limitation that was legally enforceable during the
23 consecutive 24-month period.

24 (c) For a regulated new source review pollutant, when a project involves multiple emissions
25 units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the
26 emissions units being changed. A different consecutive 24-month period can be used for each regulated new source
27 review pollutant.

28 (d) The average rate shall not be based on any consecutive 24-month period for which there is
29 inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required
30 by Subparagraph (b) of Paragraph (1) of Subsection E of 20.11.60.7 NMAC.

31 (2) For an existing emissions unit (other than an electric utility steam generating unit) baseline actual
32 emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during
33 any consecutive 24-month period selected by the owner or operator within the 10 year period immediately preceding
34 either the date the owner or operator begins actual construction of the project, or the date a complete permit
35 application is received by the department for a permit required either under 20.11.60.7 NMAC or under a plan
36 approved by the administrator, whichever is earlier, except that the 10 year period shall not include any period
37 earlier than November 15, 1990.

38 (a) The average rate shall include fugitive emissions to the extent quantifiable, and emissions
39 associated with startups, shutdowns, and malfunctions.

40 (b) The average rate shall be adjusted downward to exclude any noncompliant emissions that
41 occurred while the source was operating above an emission limitation that was legally enforceable during the
42 consecutive 24-month period.

43 (c) The average rate shall be adjusted downward to exclude any emissions that would have
44 exceeded an emission limitation with which the major stationary source must currently comply, had such major
45 stationary source been required to comply with such limitations during the consecutive 24-month period. However,
46 if an emission limitation is part of a maximum achievable control technology standard that the administrator
47 proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state has
48 taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the
49 requirements of Paragraph (7) of Subsection B of 20.11.60.15 NMAC.

50 (d) For a regulated new source review pollutant, when a project involves multiple emissions
51 units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the
52 emissions units being changed. A different consecutive 24-month period can be used for each regulated new source
53 review pollutant.

54 (e) The average rate shall not be based on any consecutive 24-month period for which there is
55 inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required
56 by Subparagraphs (b) and (c) of Paragraph (2) of Subsection E of 20.11.60.7 NMAC.

1 (3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions
2 increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for
3 all other purposes, shall equal the unit's potential to emit.

4 (4) For a plantwide applicability limit for a major stationary source, the baseline actual emissions
5 shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in
6 Paragraph (1) of Subsection E of 20.11.60.7 NMAC, for other existing emissions units in accordance with the
7 procedures contained in Paragraph (2) of Subsection E of 20.11.60.7 NMAC, and for a new emissions unit in
8 accordance with the procedures contained in Paragraph (3) of Subsection E of 20.11.60.7 NMAC.

9 **F. "Begin actual construction"** means in general, initiation of physical on-site construction
10 activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to,
11 installation of building supports and foundations, laying of underground pipework, and construction of permanent
12 storage structures. With respect to a change in method of operating this term refers to those on-site activities other
13 than preparatory activities which mark the initiation of the change.

14 **G. "Best available control technology (BACT)"** means an emissions limitation (including a visible
15 emissions standard) based on the maximum degree of reduction for each regulated new source review pollutant
16 which would be emitted from any proposed major stationary source or major modification which the department, on
17 a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines
18 is achievable for such source or modification through application of production processes or available methods,
19 systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques
20 for control of such pollutant. In no event shall application of best available control technology result in emissions of
21 any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If
22 the department determines that technological or economic limitations on the application of measurement
23 methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design,
24 equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the
25 requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions
26 reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for
27 compliance by means which achieve equivalent results.

28 **H. "Building, structure, facility[;] or installation"** means all of the pollutant-emitting activities
29 which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are
30 under the control of the same person (or persons under common control) except the activities of any vessel.
31 Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same
32 "major group," that is, which have the same two-digit code, as described in the *standard industrial classification*
33 *manual*, 1972, as amended by the 1977 supplement (U. S. government printing office stock numbers 4101-0065 and
34 003-005-00176-0, respectively).

35 **I. "Commence"** as applied to construction of a major stationary source or major modification means
36 that the owner or operator has all necessary preconstruction approvals or permits and either has:

37 (1) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be
38 completed within a reasonable time; or

39 (2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified
40 without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be
41 completed within a reasonable time.

42 **J. "Construction"** means any physical change or change in the method of operation (including
43 fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change
44 in actual emissions.

45 **K. "Continuous emissions monitoring system (CEMS)"** means all of the equipment that may be
46 required to meet the data acquisition and availability requirements of 20.11.60 NMAC, to sample, condition (if
47 applicable), analyze, and provide a record of emissions on a continuous basis.

48 **L. "Continuous emissions rate monitoring system (CERMS)"** means the total equipment required
49 for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

50 **M. "Continuous parameter monitoring system (CPMS)"** means all of the equipment necessary to
51 meet the data acquisition and availability requirements of 20.11.60 NMAC, to monitor process and control device
52 operational parameters (for example, control device secondary voltages and electric currents), and other information
53 (for example, gas flow rate, oxygen or carbon dioxide concentrations), and to record average operational parameter
54 value(s) on a continuous basis.

55 **N. "Electric utility steam generating unit"** means any steam electric generating unit that is
56 constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than

1 25 megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam
2 distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical
3 energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

4 **O. "Emissions unit"** means any part of a stationary source that emits or would have the potential to
5 emit any regulated new source review pollutant and includes an electric steam generating unit as defined in
6 Subsection N of 20.11.60.7 NMAC. For purposes of 20.11.60.7 NMAC, there are two types of emissions units as
7 described in Paragraphs (1) and (2) of Subsection O of 20.11.60.7 NMAC.

8 (1) A new emissions unit is any emissions unit which is (or will be) newly constructed and which has
9 existed for less than two years from the date such emissions unit first operated.

10 (2) An existing emissions unit is any emissions unit that does not meet the requirements in Paragraph
11 (1) of Subsection O of 20.11.60.7 NMAC. A replacement unit, as defined in 20.11.60.7 NMAC, is an existing unit.

12 **P. "Federal class I area"** means any federal land that is classified or reclassified as "class I".

13 **Q. "Federal land manager"** means, with respect to any lands in the United States, the secretary of
14 the department with authority over such lands.

15 **R. "Federally enforceable"** means all limitations and conditions which are enforceable by the
16 administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any
17 applicable state implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under
18 regulations approved pursuant to 40 CFR Part 51, Subpart I including operating permits issued under an EPA-
19 approved program that requires adherence to any permit issued under such program.

20 **S. "Fugitive emissions"** means those emissions which could not reasonably pass through a stack,
21 chimney, vent, or other functionally equivalent opening.

22 **T. "Lowest achievable emission rate (LAER)"** means, for any source, the more stringent rate of
23 emissions based on the following:

24 (1) the most stringent emissions limitation which is contained in the implementation plan of any state
25 for such class or category of stationary source, unless the owner or operator of the proposed stationary source
26 demonstrates that such limitations are not achievable; or

27 (2) the most stringent emissions limitation which is achieved in practice by such class or category of
28 stationary source; this limitation, when applied to a modification, means the lowest achievable emissions rate for the
29 new or modified emissions units within the stationary source; in no event shall the application of this term permit a
30 proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an
31 applicable new source performance standard.

32 **U. "Major modification"** means:

33 (1) Any physical change in or change in the method of operation of a major stationary source that
34 would result in:

- 35 (a) a significant emissions increase of a regulated new source review pollutant; and
- 36 (b) a significant net emissions increase of that pollutant from the major stationary source.

37 (2) Any significant emissions increase from any emissions units or net emissions increase at a major
38 stationary source that is significant for volatile organic compounds or oxides of nitrogen shall be considered
39 significant for ozone.

40 (3) A physical change or change in the method of operation shall not include:

41 (a) routine maintenance, repair, and replacement;
42 (b) use of an alternative fuel or raw material by reason of an order under Section 2 (a) and (b)
43 of the Energy Supply and Environmental Coordination Act of 1974, or any superseding legislation, or by reason of a
44 natural gas curtailment plan pursuant to the Federal Power Act;

45 (c) use of an alternative fuel by reason of an order or rule under Section 125 of the federal
46 Clean Air Act;

47 (d) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated
48 from municipal solid waste;

49 (e) use of an alternative fuel or raw material by a stationary source which:
50 (i) the source was capable of accommodating before December 21, 1976, unless such
51 change would be prohibited under any federally enforceable permit condition which was established after December
52 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Subpart I or 40 CFR 51.166;
53 or

54 (ii) the source is approved to use under any permit issued under 40 CFR 52.21 or under
55 regulations approved pursuant to 40 CFR 51.166;

1 (f) an increase in the hours of operation or in the production rate, unless such change is
2 prohibited under any federally enforceable permit condition which was established after December 21, 1976,
3 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.165 or 40 CFR 51.166;

4 (g) any change in ownership at a stationary source; or

5 (h) the installation, operation, cessation, or removal of a temporary clean coal technology
6 demonstration project, provided that the project complies with:

7 (i) the state implementation plan for the state in which the project is located and

8 (ii) other requirements necessary to attain and maintain the national ambient air quality
9 standards during the project and after it is terminated.

10 (4) This definition shall not apply with respect to a particular regulated new source review pollutant
11 when the major stationary source is complying with the requirements under 20.11.60.27 NMAC for a plantwide
12 applicability limit for that pollutant. Instead, the definition at Paragraph (8) of Subsection B of 20.11.60.27 NMAC
13 shall apply.

14 (5) For the purpose of applying the requirements of 20.11.60.17 NMAC to modifications at major
15 stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or
16 not subject to Subpart 2, Part D, Title I of the act, any significant net emissions increase of nitrogen oxides is
17 considered significant for ozone.

18 (6) Any physical change in, or change in the method of operation of, a major stationary source of
19 volatile organic compounds that results in any increase in emissions of volatile organic compounds from any
20 discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant
21 net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme
22 ozone nonattainment area that is subject to Subpart 2, Part D, Title I of the act.

23 **V. "Major stationary source"**

24 (1) Means:

25 (a) Any stationary source of air pollutants that emits, or has the potential to emit, 100 tons per
26 year or more of any regulated new source review pollutant, except that lower emission thresholds shall apply in
27 areas subject to Subpart 2, Subpart 3, or Subpart 4 of Part D, Title I of the act, according to Items (i)-(vi) of
28 Subparagraph (a) of Paragraph (1) of Subsection V of 20.11.60.7 NMAC.

29 (i) 50 tons per year of volatile organic compounds in any serious ozone nonattainment
30 area.

31 (ii) 50 tons per year of volatile organic compounds in an area within an ozone transport
32 region, except for any severe or extreme ozone nonattainment area.

33 (iii) 25 tons per year of volatile organic compounds in any severe ozone nonattainment
34 area.

35 (iv) 10 tons per year of volatile organic compounds in any extreme ozone nonattainment
36 area.

37 (v) 50 tons per year of carbon monoxide in any serious nonattainment area for carbon
38 monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined
39 under rules issued by the administrator).

40 (vi) 70 tons per year of PM₁₀ in any serious nonattainment area for PM₁₀.

41 (b) For the purposes of applying the requirements of 20.11.60.17 NMAC to stationary sources
42 of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source
43 which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxides emissions, except that the
44 emission thresholds in Items (i)-(vi) of Subparagraph (b) of Paragraph (1) of Subsection V of 20.11.60.7 NMAC
45 shall apply in areas subject to Subpart 2 of Part D, Title I of the act.

46 (i) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area
47 classified as marginal or moderate.

48 (ii) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area
49 classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone
50 transport region.

51 (iii) 100 tons per year or more of nitrogen oxides in any area designated under Section
52 107(d) of the act as attainment or unclassifiable for ozone that is located in an ozone transport region.

53 (iv) 50 tons per year or more of nitrogen oxides in any serious nonattainment area for
54 ozone.

55 (v) 25 tons per year or more of nitrogen oxides in any severe nonattainment area for
56 ozone.

1 (vi) 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for
2 ozone; or

3 (c) any physical change that would occur at a stationary source not qualifying under
4 Subparagraph (a) or (b) of Paragraph (1) of Subsection V of 20.11.60.7 NMAC as a major stationary source, if the
5 change would constitute a major stationary source by itself.

6 (2) A major stationary source that is major for volatile organic compounds shall be considered major
7 for ozone.

8 (3) The fugitive emissions of a stationary source shall not be included in determining for any of the
9 purposes of Subsection V of 20.11.60.7 NMAC whether it is a major stationary source, unless the source belongs to
10 one of the following categories of stationary sources:

- 11 (a) carbon black plants (furnace process);
- 12 (b) charcoal production plants;
- 13 (c) chemical process plants – not including ethanol production facilities that produce ethanol by
14 natural fermentation included in NAICS codes 325193 or 312140;
- 15 (d) coal cleaning plants (with thermal dryers);
- 16 (e) coke oven batteries;
- 17 (f) fossil fuel-fired steam electric plants of more than 250 million Btu/hr heat input;
- 18 (g) fossil fuel boilers (or combination thereof) totaling more than 250 million Btu/hr heat input;
- 19 (h) fuel conversion plants;
- 20 (i) glass fiber processing plants;
- 21 (j) hydrofluoric acid plants;
- 22 (k) iron and steel mill plants;
- 23 (l) kraft pulp mills;
- 24 (m) lime plants;
- 25 (n) municipal incinerators capable of charging more than 250 tons of refuse per day;
- 26 (o) nitric acid plants;
- 27 (p) petroleum refineries;
- 28 (q) petroleum storage and transfer units with a total storage capacity exceeding 300,000
29 barrels;
- 30 (r) phosphate rock processing plants;
- 31 (s) Portland cement plant;
- 32 (t) primary lead smelters;
- 33 (u) primary zinc smelters;
- 34 (v) primary aluminum ore reduction plants;
- 35 (w) primary copper smelters;
- 36 (x) secondary metal production plants;
- 37 (y) sintering plants;
- 38 (z) sulfur recovery plants;
- 39 (aa) sulfuric acid plants;
- 40 (bb) taconite ore processing plants; or
- 41 (cc) any other stationary source category which, as of August 7, 1980, is being regulated under
42 Section 111 or 112 of the federal Clean Air Act.

43 **W. “Mandatory federal class I area”** means those federal lands that are international parks, national
44 wilderness areas which exceed 5,000 acres in size, national memorial parks which exceed 5,000 acres in size, and
45 national parks which exceed 6,000 acres in size, and which were in existence on August 7, 1977. These areas may
46 not be redesignated.

47 **X. “Natural conditions”** includes naturally occurring phenomena that reduce visibility as measured
48 in terms of visual range, contrast or coloration.

49 **Y. “Necessary preconstruction approvals or permits”** means those permits or approvals required
50 under federal air quality control laws and regulations and those air quality control laws and regulations which are
51 part of the applicable state implementation plan (SIP).

52 **Z. “Net emissions increase”**

53 (1) Means, with respect to any regulated new source review pollutant emitted by a major stationary
54 source, the amount by which the sum of the following exceeds zero:

55 (a) the increase in emissions from a particular physical change or change in the method of
56 operation at a stationary source as calculated pursuant to Subsection B of 20.11.60.12 NMAC; and

1 (b) any other increases and decreases in actual emissions at the major stationary source that are
2 contemporaneous with the particular change and are otherwise creditable; baseline actual emissions for calculating
3 increases and decreases under Subparagraph (b) of Paragraph (1) of Subsection Z of 20.11.60.7 NMAC, shall be
4 determined as provided in Subsection E of 20.11.60.7 NMAC, except that Subparagraphs (c) of Paragraph (1) and
5 (d) of Paragraph (2) of Subsection E of 20.11.60.7 NMAC shall not apply.

6 (2) An increase or decrease in actual emissions is contemporaneous with the increase from the
7 particular change only if it occurs before the date that the increase from the particular change occurs.

8 (3) An increase or decrease in actual emissions is creditable only if:

9 (a) it occurs between:

10 (i) the date five years prior to the commencement of construction on the particular
11 change; and

12 (ii) the date that the increase from the particular change occurs; and

13 (b) the department has not relied on it in issuing a permit for the source under regulations
14 approved pursuant to 40 CFR 51.165, which permit is in effect when the increase in actual emissions from the
15 particular change occurs.

16 (4) An increase in actual emissions is creditable only to the extent that the new level of actual
17 emissions exceeds the old level.

18 (5) A decrease in actual emissions is creditable only to the extent that:

19 (a) the old level of actual emissions or the old level of allowable emissions whichever is lower,
20 exceeds the new level of actual emissions;

21 (b) it is enforceable as a practical matter at and after the time that actual construction on the
22 particular change begins;

23 (c) the department has not relied on it in issuing any permit under regulations approved
24 pursuant to 40 CFR Part 51 Subpart I or the state has not relied on it in demonstrating attainment or reasonable
25 further progress; and

26 (d) it has approximately the same qualitative significance for public health and welfare as that
27 attributed to the increase from the particular change.

28 (6) An increase that results from a physical change at a source occurs when the emissions unit on
29 which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit
30 that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

31 (7) Paragraph (1) of Subsection A of 20.11.60.7 NMAC shall not apply for determining creditable
32 increases and decreases or after a change.

33 **AA. "Nonattainment area"** means, for any air pollutant an area which is shown by monitored data or
34 which is calculated by air quality modeling, or other methods determined by the administrator to be reliable, to
35 exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under
36 Subparagraphs (A) through (C) of Section 107(d)(1) of the federal Clean Air Act.

37 **BB. "Nonattainment major new source review (NSR) program"** means a major source
38 preconstruction permit program that has been approved by the administrator and incorporated into the New Mexico
39 state implementation plan to implement the requirements of 40 CFR 51.165, or a program that implements 40 CFR
40 Part 51, Appendix S, Sections I through VI. Any permit issued under such a program is a major new source review
41 permit.

42 **CC. "Part"** means an air quality control regulation under Title 20, Chapter 11 of the New Mexico
43 administrative code (NMAC), unless otherwise noted; as adopted or amended by the board.

44 **DD. "Portable stationary source"** means a source which can be relocated to another operating site
45 with limited dismantling and reassembly.

46 **EE. "Potential to emit"** means the maximum capacity of a stationary source to emit a pollutant under
47 its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a
48 pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount
49 of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it
50 would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to
51 emit of a stationary source.

52 **FF. "Predictive emissions monitoring system (PEMS)"** means all of the equipment necessary to
53 monitor process and control device operational parameters (for example, control device secondary voltages and
54 electric currents), and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and
55 calculate and record the mass emissions rate (for example, pounds per hour), on a continuous basis.

1 **GG. “Prevention of significant deterioration (PSD) permit”** means any permit that is issued under
2 20.11.61 NMAC.

3 **HH. “Project”** means a physical change in, or change in the method of operation of, an existing major
4 stationary source.

5 **II. “Projected actual emissions”**

6 (1) Means, the maximum annual rate, in tons per year, at which an existing emissions unit is
7 projected to emit a regulated new source review pollutant in any one of the five years (12-month period) following
8 the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the
9 project involves increasing the emissions unit's design capacity or its potential to emit of that regulated new source
10 review pollutant and full utilization of the unit would result in a significant emissions increase or a significant net
11 emissions increase at the major stationary source.

12 (2) In determining the projected actual emissions under Paragraph (1) of Subsection II of 20.11.60.7
13 NMAC, before beginning actual construction, the owner or operator of the major stationary source:

14 (a) shall consider all relevant information, including but not limited to, historical operational
15 data, the company's own representations, the company's expected business activity and the company's highest
16 projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance
17 plans under the approved plan; and

18 (b) shall include fugitive emissions to the extent quantifiable, and emissions associated with
19 startups, shutdowns, and malfunctions; and

20 (c) shall exclude, in calculating any increase in emissions that results from the particular
21 project, that portion of the unit's emissions following the project that an existing unit could have accommodated
22 during the consecutive 24-month period used to establish the baseline actual emissions under Subsection E of
23 20.11.60.7 NMAC and that are also unrelated to the particular project, including any increased utilization due to
24 product demand growth; or,

25 (d) in lieu of using the method set out in ~~[Paragraphs (1) through (3)] Paragraphs (a) through~~
26 ~~(c) of Paragraph (2)~~ of Subsection II of 20.11.60.7 NMAC, may elect to use the emissions unit's potential to emit, in
27 tons per year, as defined under Subsection EE of 20.11.60.7 NMAC. {40 CFR 51.165 (a)(1)(xxviii)(B)(4) & FR
28 Vol. 76 No. 61, 3/30/11}

29 **JJ. “Regulated new source review pollutant”**, for purposes of 20.11.60 NMAC, means the
30 following:

31 (1) nitrogen oxides or any volatile organic compounds;

32 (2) any pollutant for which a national ambient air quality standard has been promulgated; or

33 (3) any pollutant that is a constituent or precursor of a general pollutant listed under Paragraphs (1) or
34 (2) of Subsection JJ of 20.11.60.7 NMAC, provided that such constituent or precursor pollutant may only be
35 regulated under new source review as part of regulation of the general pollutant; precursors identified by the
36 administrator for purposes of NSR are the following:

37 (a) volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone
38 nonattainment areas;

39 (b) sulfur dioxide is a precursor to PM_{2.5} in all PM_{2.5} nonattainment areas;

40 (c) nitrogen oxides are presumed to be precursors to PM_{2.5} in all PM_{2.5} nonattainment areas,
41 unless the state demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen
42 oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations;

43 (d) volatile organic compounds and ammonia are presumed not to be precursors to PM_{2.5} in any
44 PM_{2.5} nonattainment area, unless the state demonstrates to the administrator's satisfaction or EPA demonstrates that
45 emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to
46 that area's ambient PM_{2.5} concentrations; or

47 (4) PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity
48 which condense to form particulate matter at ambient temperatures; on or after January 1, 2011 (or any earlier date
49 established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be
50 accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in
51 nonattainment major NSR permits; compliance with emissions limitations for PM_{2.5} and PM₁₀ issued prior to this
52 date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit
53 or the applicable implementation plan; applicability determinations made prior to this date without accounting for
54 condensable particulate matter shall not be considered in violation of this section unless the applicable
55 implementation plan required condensable particulate matter to be included.

1 **KK. “Replacement unit”** means an emission unit for which all of the criteria listed in Paragraphs (1)-
2 (4) of Subsection KK of 20.11.60.7 NMAC are met. No creditable emission reductions shall be generated from
3 shutting down the existing emissions unit that is replaced.

4 (1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the
5 emissions unit completely takes the place of an existing emissions unit.

6 (2) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

7 (3) The replacement (unit) does not alter the basic design parameter(s) of the process unit.

8 (4) The replaced emissions unit is permanently removed from the major stationary source, otherwise
9 permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If
10 the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

11 **LL. “Secondary emissions”** means emissions which would occur as a result of the construction or
12 operation of a major stationary source or major modification, but do not come from the major stationary source or
13 major modification itself. For the purpose of 20.11.60.7 NMAC, secondary emissions must be specific, well
14 defined, quantifiable, and impact the same general area as the stationary source or modification which causes the
15 secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be
16 constructed or increase its emissions except as a result of the construction or operation of the major stationary source
17 or major modification. Secondary emissions do not include any emissions which come directly from a mobile
18 source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

19 **MM. “Significant”** means, in reference to a net emissions increase or the potential of a source to emit
20 any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

21 (1) Pollutant emission rates:

22 (a) carbon monoxide, 100 tons per year;

23 (b) nitrogen oxides, 40 tons per year;

24 (c) sulfur dioxide, 40 tons per year;

25 (d) PM₁₀ emissions, 15 tons per year;

26 (e) ozone, 40 tons per year of volatile organic compounds or nitrogen oxides; or

27 (f) lead, 0.6 tons per year; or

28 (g) PM_{2.5}, 10 tons per year of direct PM_{2.5} emissions; 40 tons per year of sulfur dioxide
29 emissions; 40 tons per year of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under
30 Subsection JJ of 20.11.60.7 NMAC.

31 (2) Notwithstanding the significant emissions rate for ozone in Paragraph (1) of Subsection MM of
32 20.11.60.7 NMAC, significant means, in reference to an emissions increase or a net emissions increase, any increase
33 in actual emissions of volatile organic compounds that would result from any physical change in, or change in the
34 method of operation of, a major stationary source locating in a serious or severe ozone nonattainment area that is
35 subject to Subpart 2, Part D, Title I of the act, if such emissions increase of volatile organic compounds exceeds 25
36 tons per year.

37 (3) For the purposes of applying the requirements of 20.11.60.17 NMAC to modifications at major
38 stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the
39 significant emission rates and other requirements for volatile organic compounds in Paragraphs (1), (2), and (5) of
40 Subsection MM of 20.11.60.7 NMAC shall apply to nitrogen oxides emissions.

41 (4) Notwithstanding the significant emissions rate for carbon monoxide under Paragraph (1) of
42 Subsection MM of 20.11.60.7 NMAC, significant means, in reference to an emissions increase or a net emissions
43 increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or
44 change in the method of operation of, a major stationary source in a serious nonattainment area for carbon monoxide
45 if such increase equals or exceeds 50 tons per year, provided the administrator has determined that stationary
46 sources contribute significantly to carbon monoxide levels in that area.

47 (5) Notwithstanding the significant emissions rates for ozone under Paragraphs (1) and (2) of
48 Subsection MM of 20.11.60.7 NMAC, any increase in actual emissions of volatile organic compounds from any
49 emissions unit at a major stationary source of volatile organic compounds located in an extreme ozone
50 nonattainment area that is subject to Subpart 2, Part D, Title I of the act shall be considered a significant net
51 emissions increase.

52 **NN. “Significant emissions increase”** means, for a regulated new source review pollutant, an increase
53 in emissions that is significant for that pollutant.

54 **OO. “Stationary source”** means any building, structure, facility, or installation which emits or may
55 emit any regulated new source review pollutant.

1 **PP. “Temporary source”** means a stationary source which changes its location or ceases to exist
2 within one year from the date of initial start of operations.

3 **QQ. “Visibility impairment”** means any humanly perceptible change in visibility, that is, visual range,
4 contrast, coloration, from that which would have existed under natural conditions.
5 [20.11.60.7 NMAC - Rp, 20.11.60.7 NMAC, 1/23/06; A, 8/30/10]

6
7 **20.11.60.8 VARIANCES:** [Reserved]
8 [20.11.60.8 NMAC - Rp, 20.11.60.8 NMAC, 1/23/06]

9
10 **20.11.60.9 SAVINGS CLAUSE:** Any amendment to 20.11.60 NMAC, which is filed, with the state records
11 center shall not affect actions pending for violation of a city or county ordinance, or air quality control board
12 regulation. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the
13 statute, ordinance, part, or regulation section in effect at the time the violation was committed.
14 [20.11.60.9 NMAC - Rp, 20.11.60.9 NMAC, 1/23/06]

15
16 **20.11.60.10 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of 20.11.60 NMAC or
17 any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any
18 court, the decision shall not affect the validity of remaining provisions of 20.11.60 NMAC.
19 [20.11.60.10 NMAC - Rp, 20.11.60.10 NMAC, 1/23/06]

20
21 **20.11.60.11 DOCUMENTS:** Documents incorporated and cited in 20.11.60 NMAC may be viewed at the
22 Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM.
23 [20.11.60.11 NMAC - Rp, 20.11.60.11 NMAC, 1/23/06]

24
25 **20.11.60.12 APPLICABILITY:**

26 **A.** Any person constructing any new major stationary source or major modification shall obtain a
27 permit from the department in accordance with the requirements of 20.11.60 NMAC prior to the start of construction
28 or modification if either of the following conditions under Paragraph (1) or (2) of Subsection A of 20.11.60.12
29 NMAC apply.

30 (1) **Sources that would locate in a designated nonattainment area.** The proposed major stationary
31 source or major modification would be located within a nonattainment area so designated pursuant to Section
32 107(d)(1)(A)(i) of the federal Clean Air Act and would emit a regulated new source review pollutant for which it is
33 major and for which the area is designated nonattainment.

34 (2) **Sources locating in designated clean or unclassifiable areas which would cause or contribute**
35 **to a violation of a NAAQS.**

36 (a) The proposed major stationary source or major modification would be located within an
37 area designated as attainment or unclassifiable for any NAAQS pursuant to Section 107 of the federal Clean Air Act,
38 and will emit a regulated new source review pollutant for which it is major and when it would cause or contribute to
39 a violation of any NAAQS.

40 (b) A major source or major modification will be considered to cause or contribute to a
41 violation of a NAAQS when such source or modification would, at a minimum, exceed the following significance
42 levels at any locality that does not or would not meet the applicable national standard:

43
44 **Significant ambient concentrations:**

45

Pollutant	Averaging Time				
	Annual	24-hr	8-hr	3-hr	1-hr
Sulfur Dioxide	1.0 µg/m ³	5 µg/m ³	--	25 µg/m ³	--
PM _{2.5}	0.3 µg/m ³	1.2 µg/m ³	--	--	--
PM ₁₀	1.0 µg/m ³	5 µg/m ³	--	--	--
Nitrogen Dioxide	1.0 µg/m ³	--	--	--	--
Carbon Monoxide	--	--	0.5 mg/m ³	--	2 mg/m ³

46 {FR Vol. 75 No. 202, 10/20/10, p. 64902; re: 40 CFR 51.165(b)(2)}

47 (3) A proposed major source or major modification subject to Subsection A of 20.11.60.12 NMAC
48 may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a

1 minimum, compensate for its adverse ambient impact where the major source or major modification would
2 otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such
3 emission reductions, the department shall deny the proposed construction.

4 (4) The requirements of Subsection A of 20.11.60.12 NMAC shall not apply to a major stationary
5 source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to
6 that pollutant, the source or modification is located in an area designated as nonattainment pursuant to Section 107
7 of the act.

8 **B. Applicability procedures.**

9 (1) Except as otherwise provided in Subsection C of 20.11.60.12 NMAC, and consistent with the
10 definition of major modification, a project is a major modification for a regulated new source review pollutant if it
11 causes two types of emissions increases - a significant emissions increase, and a significant net emissions increase.
12 The project is not a major modification if it does not cause a significant emissions increase. If the project causes a
13 significant emissions increase, then the project is a major modification only if it also results in a significant net
14 emissions increase.

15 (2) The procedure for calculating (before beginning actual construction) whether a significant
16 emissions increase (i.e. the first step of the process) will occur depends upon the type of emissions units being
17 modified, according to Paragraphs (3), (4) and (6) of Subsection B of 20.11.60.12 NMAC. The procedure for
18 calculating (before beginning actual construction) whether a significant net emissions increase will occur at the
19 major stationary source (i.e. the second step of the process) is contained in the definition of net emissions increase.
20 Regardless of any such preconstruction projections, a major modification results if the project causes a significant
21 emissions increase and a significant net emissions increase.

22 (3) **Actual-to-projected-actual applicability test for projects that involve existing emissions**
23 **units.** A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of
24 the difference between the projected actual emissions and the baseline actual emissions for each existing emissions
25 unit, equals or exceeds the significant amount for that pollutant.

26 (4) **Actual-to-potential test for projects that only involve construction of a new emissions**
27 **unit(s).** A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum
28 of the difference between the potential to emit from each new emissions unit following completion of the project
29 and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that
30 pollutant.

31 (5) [Reserved]

32 (6) **Hybrid test for projects that involve multiple types of emissions units.** A significant
33 emissions increase of a regulated new source review pollutant is projected to occur if the sum of the emissions
34 increases for each emissions unit, using the method specified in Paragraphs (3) and (4) of Subsection B of
35 20.11.60.12 NMAC as applicable with respect to each emissions unit, for each type of emissions unit equals or
36 exceeds the significant amount for that pollutant (as defined in Subsection MM of 20.11.60.7 NMAC).

37 **C.** For any major stationary source for a PAL for a regulated new source review pollutant, the major
38 stationary source shall comply with requirements under 20.11.60.27 NMAC.
39 [20.11.60.12 NMAC - N, 1/23/06; A, 8/30/10]
40

41 **20.11.60.13 SOURCE OBLIGATION AND ENFORCEABLE PROCEDURES:**

42 **A.** At such time that a particular source or modification becomes a major stationary source or major
43 modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7,
44 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of
45 operation, then the requirements of regulations approved pursuant to ~~[20.11.60 NMAC]~~ 40 CFR 51.165 shall apply
46 to the source or modification as though construction had not yet commenced on the source or modification.

47 **B.** Approval to construct shall not relieve any owner or operator of the responsibility to comply fully
48 with applicable provision of the plan and any other requirements under local, state or federal law, including
49 provisions of the Air Quality Control Act, Sections 74-2-1 to 74-2-17, NMSA 1978, and any applicable regulations
50 of the board.

51 **C.** Any owner or operator who commences construction or operates a major stationary source or
52 major modification without, or not in accordance with, a permit issued under the requirements of 20.11.60 NMAC
53 shall be subject to enforcement action.

54 **D.** Approval to construct shall become invalid if construction is not commenced within 18 months
55 after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is
56 not completed within a reasonable time. For a phased construction project, each phase must commence construction

1 within 18 months of the projected and approved commencement date. The director may extend the 18-month period
2 upon a satisfactory showing that an extension is justified.

3 **E.** For phased construction projects, the determination of the lowest achievable emission rate shall be
4 reviewed and modified as appropriate at the latest reasonable time but no later than 18 months prior to
5 commencement of construction of each independent phase of the project. At such time, the owner or operator of the
6 applicable stationary source may be required to demonstrate the adequacy of any previous determination of lowest
7 achievable emission rate.

8 **F.** If the owner or operator previously issued a permit under 20.11.60 NMAC applies for an
9 extension as provided for under Subsection D of 20.11.60.13 NMAC, and the new proposed date of construction is
10 greater than 18 months from the date the permit would become invalid, the determination of lowest achievable
11 emission rate shall be reviewed and modified as appropriate before such an extension is granted. At such time, the
12 owner or operator may be required to demonstrate the adequacy of any previous determination of lowest achievable
13 emission rate.

14 [20.11.60.13 NMAC - Rp, 20.11.60.12 NMAC, 1/23/06; A, 8/30/10]
15

16 **20.11.60.14 FUGITIVE EMISSIONS:** The provisions of 20.11.60 NMAC do not apply to a source or
17 modification that would be a major stationary source or major modification only if fugitive emission to the extent
18 quantifiable are considered in calculating the potential to emit of the stationary source or modification and the
19 source does not belong to any of the following categories:

- 20 **A.** carbon black plants (furnace process);
- 21 **B.** charcoal production plants;
- 22 **C.** chemical process plants – not including ethanol production facilities that produce ethanol by
23 natural fermentation included in NAICS codes 325193 or 312140;
- 24 **D.** coal cleaning plants (with thermal dryers);
- 25 **E.** coke oven batteries;
- 26 **F.** fossil fuel-fired steam electric plants of more than 250 million Btu/hr heat input;
- 27 **G.** fossil fuel boilers (or combination thereof) totaling more than 250 million Btu/hr heat input;
- 28 **H.** fuel conversion plants;
- 29 **I.** glass fiber processing plants;
- 30 **J.** hydrofluoric acid plants;
- 31 **K.** iron and steel mill plants;
- 32 **L.** kraft pulp mills;
- 33 **M.** lime plants;
- 34 **N.** municipal incinerators capable of charging more than 250 tons of refuse per day;
- 35 **O.** nitric acid plants;
- 36 **P.** petroleum refineries;
- 37 **Q.** petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- 38 **R.** phosphate rock processing plants;
- 39 **S.** Portland cement plant;
- 40 **T.** primary lead smelters;
- 41 **U.** primary zinc smelters;
- 42 **V.** primary aluminum ore reduction plants;
- 43 **W.** primary copper smelters;
- 44 **X.** secondary metal production plants;
- 45 **Y.** sintering plants;
- 46 **Z.** sulfur recovery plants;
- 47 **AA.** sulfuric acid plants;
- 48 **BB.** taconite ore processing plants; or
- 49 **CC.** any other stationary source category which, as of August 7, 1980, is being regulated under Section
50 111 or 112 of the federal Clean Air Act.

51 [20.11.60.14 NMAC - Rp, 20.11.60.13, 1/23/06; 20.11.60.14 NMAC - N, 8/30/10]
52

53 **20.11.60.15 BASELINE FOR DETERMINING CREDIT FOR EMISSION AND AIR QUALITY**
54 **OFFSETS:**

55 **A.** For sources and modifications subject to any preconstruction review program adopted pursuant to
56 ~~[20.11.60 NMAC]~~ [Subsection 40 CFR 51.165\(a\)](#), the baseline for determining credit for emissions reductions is the

1 emissions limit under the applicable state implementation plan (SIP) in effect at the time the application to construct
2 is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained
3 where: {40 CFR 51.165(a)(3)(i)}

4 (1) the demonstration of reasonable further progress and attainment of ambient air quality standards
5 is based upon the actual emissions of sources located within a designated nonattainment area for which the
6 preconstruction review program was adopted; or

7 (2) the applicable SIP does not contain an emissions limitation for that source or source category.

8 **B. Combustion of fuels.**

9 (1) Where the emissions limit under the applicable SIP allows greater emissions than the potential to
10 emit of the source, emissions offset credit will be allowed only for control below this potential.

11 (2) For an existing fuel combustion source, credit shall be based on the allowable emissions under the
12 applicable SIP for the type of fuel being burned at the time the permit application to construct is filed. If the existing
13 source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or
14 actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a
15 specified alternative control measure, which would achieve the same degree of emission reduction should the source
16 switch back to a dirtier fuel at some later date. The department should ensure that adequate long-term supplies of
17 the new fuel are available before granting emissions offset credit for fuel switches.

18 (3) **Emission reduction credit from shutdowns and curtailments.**

19 (a) Emissions reductions achieved by shutting down an existing emission unit or curtailing
20 production or operating hours may be generally credited for offsets if they meet the requirements in Items (i) and (ii)
21 of Subparagraph (a) of Paragraph (3) of Subsection B of 20.11.60.15 NMAC.

22 (i) Such reductions are surplus, permanent, quantifiable, and federally enforceable.

23 (ii) The shutdown or curtailment occurred after the last day of the base year for the SIP
24 planning process. For purposes of Item (ii) of Subparagraph (a) of Paragraph (3) of Subsection B of 20.11.60.15
25 NMAC, the department may choose to consider a prior shutdown or curtailment to have occurred after the last day
26 of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly
27 includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit
28 be given for shutdowns that occurred before August 7, 1977.

29 (b) Emissions reductions achieved by shutting down an existing emissions unit or curtailing
30 production or operating hours and that do not meet the requirements in Item (ii) of Subparagraph (a) of Paragraph
31 (3) of Subsection B of 20.11.60.15 NMAC may be generally credited only if:

32 (i) the shutdown or curtailment occurred on or after the date the construction permit
33 application is filed; or

34 (ii) the applicant can establish that the proposed new emissions unit is a replacement for
35 the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met
36 the requirements of Item (i) of Subparagraph (a) of Paragraph (3) of Subsection B of 20.11.60.15 NMAC.

37 (4) No emissions credit shall be allowed for replacing one hydrocarbon compound with another of
38 lesser reactivity, except for those compounds listed in Table 1 of EPA's *Recommended Policy on Control of Volatile*
39 *Organic Compounds* (42 FR 35314, July 8, 1977) and any amendments thereto.

40 (5) All emission reductions claimed as offset credit shall be federally enforceable.

41 (6) Procedures relating to the permissible location of offsetting emissions shall be followed which are
42 at least as stringent as those set out in 40 CFR Part 51 Appendix S Section IV.D.

43 (7) Credit for an emissions reduction can be claimed to the extent that the department has not relied
44 on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I or the department has
45 not relied on it in demonstration attainment or reasonable further progress.

46 (8) [Reserved]

47 (9) [Reserved]

48 (10) The total tonnage of increased emissions, in tons per year, resulting from a major modification
49 that must be offset in accordance with Section 173 of the federal Clean Air Act shall be determined by summing the
50 difference between the allowable emissions after the modification and the actual emissions before the modification
51 for each emissions unit.

52 **C.** All emission reductions claimed as offset credit shall occur prior to or concurrent with the start of
53 operation of the proposed source. In addition, past reductions must have occurred later than the date upon which the
54 area became nonattainment in order to be creditable.

55 **D.** The owner or operator desiring to utilize an emission reduction as an offset shall submit to the
56 department the following information:

- 1 (1) a detailed description of the process to be controlled and the control technology to be used; and
- 2 (2) emission calculations showing the types and amounts of actual emissions to be reduced; and
- 3 (3) the effective date of the reduction.

4 [20.11.60.15 NMAC - Rp, 20.11.60.14 NMAC, 1/23/06; 20.11.60.15 NMAC - N, 8/30/10]

5
6 **20.11.60.16 PROVISIONS FOR PROJECTED ACTUAL EMISSIONS:** Except as otherwise provided in
7 Subsection F of 20.11.60.16 NMAC, the following specific provisions apply with respect to any regulated new
8 source review pollutant emitted from projects at existing emissions units at a major stationary source (other than
9 projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of
10 Subsection F of 20.11.60.16 NMAC, that a project that is not a part of a major modification may result in a
11 significant emissions increase of such pollutant and the owner or operator elects to use the method specified in
12 Subparagraphs (a), (b) and (c) of Paragraph (2) of Subsection II of 20.11.60.7 NMAC for calculating projected
13 actual emissions. Deviations from these provisions will be approved only if the department specifically
14 demonstrates that the submitted provisions are more stringent than or at least as stringent in all respects as the
15 corresponding provisions in Subsections A through F of 20.11.60.16 NMAC.

16 **A.** Before beginning actual construction of the project, the owner or operator shall document and
17 maintain a record of the following information:

- 18 (1) a description of the project;
- 19 (2) identification of the emissions unit(s) whose emissions of a regulated new source review pollutant
20 could be affected by the project; and
- 21 (3) a description of the applicability test used to determine that the project is not a major modification
22 for any regulated new source review pollutant, including the baseline actual emissions, the projected actual
23 emissions, the amount of emissions excluded under Subparagraph (c) of Paragraph (2) of Subsection II of 20.11.60.7
24 NMAC and an explanation for why such amount was excluded, and any netting calculations, if applicable.

25 **B.** If the emissions unit is an existing electric utility steam generating unit, before beginning actual
26 construction, the owner or operator shall provide a copy of the information set out in Paragraph (1) of Subsection F
27 of 20.11.60.12 NMAC to the department. Nothing in Paragraph (2) of Subsection F of 20.11.60.12 NMAC shall be
28 construed to require the owner or operator of such a unit to obtain any determination from the department; however,
29 necessary preconstruction approvals or permits must be obtained before beginning actual construction.

30 **C.** The owner or operator shall monitor the emissions of any regulated new source review pollutant
31 that could increase as a result of the project and that is emitted by any emissions units identified in Subparagraph (a)
32 of Paragraph (2) of Subsection A of 20.11.60.16 NMAC; and calculate and maintain a record of the annual
33 emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular
34 operations after the change, or for a period of 10 years following resumption of regular operations after the change if
35 the project increases the design capacity or potential to emit of that regulated new source review pollutant at such
36 emissions unit.

37 **D.** If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a
38 report to the department within 60 days after the end of each year during which records must be generated under
39 Subsection C of 20.11.60.16 NMAC setting out the unit's annual emissions during the year that preceded submission
40 of the report.

41 **E.** If the unit is an existing unit other than an electric utility steam generating unit, the owner or
42 operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified
43 in Subsection A of 20.11.60.16 NMAC, exceed the baseline actual emissions (as documented and maintained
44 pursuant to Paragraph (3) of Subsection A of 20.11.60.16 NMAC) by a significant amount for that regulated new
45 source review pollutant, and if such emissions differ from the preconstruction projection (as documented and
46 maintained pursuant to Paragraph (3) of Subsection A of 20.11.60.16 NMAC). Such report shall be submitted to the
47 department within 60 days after the end of such year. The report shall contain the following:

- 48 (1) the name, address and telephone number of the major stationary source;
- 49 (2) the annual emissions as calculated pursuant to Subsection C of 20.11.60.16 NMAC; and
- 50 (3) any other information that the owner or operator wishes to include in the report, (for
51 example, an explanation as to why the emissions differ from the preconstruction projection).

52 **F.** A "reasonable possibility" under 20.11.60.16 NMAC occurs when the owner or operator
53 calculates the project to result in either:

- 54 (1) a projected actual emissions increase of at least 50 percent of the amount that is a "significant
55 emissions increase," as defined under Subsection NN of 20.11.60.7 NMAC (without reference to the amount that is
56 a significant net emissions increase), for the regulated new source review pollutant; or

1 (2) a projected actual emissions increase that, added to the amount of emissions excluded under
2 Subparagraph (c) of Paragraph (2) of Subsection II of 20.11.60.7 NMAC, sums to at least 50 percent of the amount
3 that is a “significant emissions increase,” as defined under Subsection NN of 20.11.60.7 NMAC (without reference
4 to the amount that is a significant net emissions increase), for the regulated new source review pollutant; for a
5 project for which a reasonable possibility occurs only within the meaning of Paragraph (2) of Subsection F of
6 20.11.60.16 NMAC, and not also within the meaning of Paragraph (1) of Subsection F of 20.11.60.16 NMAC, then
7 the provisions in Subsections B through E of 20.11.60.16 NMAC do not apply to the project.

8 **G. Information requests.** The owner or operator of the source shall make the information required
9 to be documented and maintained pursuant to 20.11.60.16 NMAC available for review upon a request for inspection
10 by the department or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).
11 [20.11.60.16 NMAC - Rp, 20.11.60.15 NMAC, 1/23/06; 20.11.60.16 NMAC - N, 8/30/10]
12

13 **20.11.60.17 ADDITIONAL PROVISIONS FOR EMISSIONS OF NITROGEN OXIDES IN OZONE**
14 **TRANSPORT REGIONS AND NONATTAINMENT AREAS:** The requirements of 20.11.60 NMAC applicable
15 to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides
16 emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or
17 in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region
18 where the administrator has granted a NO_x waiver applying the standards set forth under Section 182(f) of the act
19 and the waiver continues to apply.

20 [20.11.60.17 NMAC - Rp, 20.11.60.16 NMAC, 1/23/06; Repealed 8/30/10; 20.11.60.17 NMAC - N, 8/30/10]
21

22 **20.11.60.18 EMISSIONS OFFSET RATIOS.**

23 **A.** In meeting the emissions offset requirements of 20.11.60.15 NMAC, the ratio of total actual
24 emissions reductions to the emissions increase shall be at least 1:1 unless an alternative ratio is provided for the
25 applicable nonattainment area in Subsections B through D of 20.11.60.18 NMAC.

26 **B.** In meeting the emissions offset requirements of 20.11.60.15 NMAC for ozone nonattainment
27 areas that are subject to Subpart 2, Part D, Title I of the act, the ratio of total actual emissions reductions of VOC to
28 the emissions increase of VOC shall be as follows:

29 (1) in any marginal nonattainment area for ozone—at least 1.1:1;

30 (2) in any moderate nonattainment area for ozone—at least 1.15:1;

31 (3) in any serious nonattainment area for ozone—at least 1.2:1;

32 (4) in any severe nonattainment area for ozone—at least 1.3:1 (except that the ratio may be at least
33 1.2:1 if the approved plan also requires all existing major sources in such nonattainment area to use BACT for the
34 control of VOC); and

35 (5) in any extreme nonattainment area for ozone—at least 1.5:1 (except that the ratio may be at least
36 1.2:1 if the approved plan also requires all existing major sources in such nonattainment area to use BACT for the
37 control of VOC); and

38 **C.** Notwithstanding the requirements of Subsection B of 20.11.60.18 NMAC for meeting the
39 requirements of 20.11.60.15 NMAC, the ratio of total actual emissions reductions of VOC to the emissions increase
40 of VOC shall be at least 1.15:1 for all areas within an ozone transport region that is subject to Subpart 2, Part D,
41 Title I of the act, except for serious, severe, and extreme ozone nonattainment areas that are subject to Subpart 2,
42 Part D, Title I of the act.

43 **D.** In meeting the emissions offset requirements of 20.11.60.15 NMAC for ozone nonattainment
44 areas that are subject to Subpart 1, Part D, Title I of the act (but are not subject to Subpart 2, Part D, Title I of the
45 act, including 8-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions
46 reductions of VOC to the emissions increase of VOC shall be at least 1:1.

47 [20.11.60.18 NMAC - Rp, 20.11.60.17 NMAC, 1/23/06; Repealed 8/30/10; 20.11.60.18 NMAC - N, 8/30/10]
48

49 **20.11.60.19 PM₁₀ PRECURSORS.** The requirements of 20.11.60 NMAC applicable to major stationary
50 sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of
51 PM₁₀ precursors, except where the administrator determines that such sources do not contribute significantly to PM₁₀
52 levels that exceed the PM₁₀ ambient standards in the area.

53 [20.11.60.19 NMAC - Rp, 20.11.60.18 NMAC, 1/23/06; 20.11.60.19 NMAC - N, 8/30/10]
54

55 **20.11.60.20 INTERPRECURSOR OFFSETTING.** In meeting the emissions offset requirements of
56 20.11.60.15 NMAC and Subsections A-D of 20.11.60.18 NMAC, the emissions offsets obtained shall be for the

1 same regulated new source review pollutant unless interprecursor offsetting is permitted for a particular pollutant as
2 specified in 20.11.60.20 NMAC. The offset requirements in 20.11.60.15 NMAC for direct PM_{2.5} emissions or
3 emissions of precursors of PM_{2.5} may be satisfied by offsetting reductions of direct PM_{2.5} emissions or emissions of
4 any PM_{2.5} precursor identified under Paragraph (3) of Subsection JJ of 20.11.60.7 NMAC if such offsets comply
5 with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment
6 area.

7 [20.11.60.20 NMAC - Rp, 20.11.60.19 NMAC, 1/23/06; 20.11.60.20 NMAC - N, 8/30/10]

8
9 **20.11.60.21 APPLICATION CONTENTS:** The owner or operator of a proposed major stationary source or
10 major modification shall submit all information necessary to perform any analysis or make any determination
11 required under 20.11.60 NMAC. The following items are required before the department may deem an application
12 administratively complete. All applications shall include:

13 **A.** all information required by Subsection A of 20.11.41.13 NMAC; and

14 **B.** a detailed schedule for construction of the major stationary source or major modification; and

15 **C.** a detailed description of the planned system of continuous emission reduction to be implemented,
16 emission estimates, and other information necessary to demonstrate that the lowest achievable emission rate or any
17 other applicable emission limitation will be maintained.

18 [20.11.60.21 NMAC - Rp, 20.11.60.20 NMAC, 1/23/06; 20.11.60.21 NMAC - Rn, 20.11.60.14 NMAC, 8/30/10]

19
20 **20.11.60.22 SOURCE REQUIREMENTS FOR SOURCES THAT WOULD LOCATE IN A**
21 **DESIGNATED NONATTAINMENT AREA:**

22 **A. Conditions for approval.** If the department finds that the major stationary source or major
23 modification would be constructed in an area designated in 40 CFR 81.300 *et seq* as nonattainment for a pollutant
24 for which the stationary source or modification is major, approval may be granted only if the following conditions
25 are met:

26 (1) **Condition 1.** The major stationary source or major modification shall meet an emission
27 limitation which specifies the lowest achievable emission rate (LAER) for such source.

28 (2) **Condition 2.** The applicant must certify that all existing major stationary sources owned or
29 operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in
30 the same state as the proposed source are in compliance with, all applicable emission limitations and standards,
31 under the federal Clean Air Act (or are in compliance with an expeditious schedule which is federally enforceable or
32 contained in a court decree).

33 (3) **Condition 3.** Emission reductions (offsets) from existing sources in the area of the proposed
34 source (whether or not under the same ownership) are required such that there will be reasonable progress toward
35 attainment of the applicable NAAQS. Except as provided in 20.11.60.20 NMAC (addressing PM_{2.5} and its
36 precursors). Only intrapollutant emission offsets will be acceptable (e.g., hydrocarbon increases may not be offset
37 against SO₂ reductions).

38 (4) **Condition 4.** The emission offsets shall provide a positive net air quality benefit in the affected
39 area (where the national ambient air quality standard for that pollutant is violated). Atmospheric simulation
40 modeling is not necessary for volatile organic compounds and NOx. Fulfillment of “condition 3” at Paragraph (3) of
41 Subsection A of 20.11.60.22 NMAC and “location of offsetting emissions” requirements at Subsection B of
42 20.11.60.22 NMAC, will be considered adequate to meet this condition.

43 **B. Location of offsetting emissions.** The owner or operator of a new or modified major stationary
44 source may comply with any offset requirement in effect under 20.11.60 NMAC for increased emissions of any air
45 pollutant only by obtaining emissions reductions of such air pollutant from the same source or other sources in the
46 same nonattainment area, except that the department may allow the owner or operator of a source to obtain such
47 emissions reductions in another nonattainment area if the conditions in Paragraph (1) and (2) of Subsection B of
48 20.11.60.22 NMAC are met.

49 (1) The other area has an equal or higher nonattainment classification than the area in which the
50 source is located.

51 (2) Emissions from such other area contribute to a violation of the national ambient air quality
52 standard in the nonattainment area in which the source is located.

53 **C.** The owner or operator of the proposed major stationary source or major modification shall
54 conduct an analysis of alternative sites, sizes, production processes, and environmental control techniques for such
55 proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental
56 and social costs imposed as a result of its location, construction, or modification.

1 **D.** The proposed major stationary source or major modification shall meet all applicable emission
2 requirements in the New Mexico state implementation plan, any applicable new source performance standard in 40
3 CFR Part 60, and any national emission standard for hazardous air pollutants in 40 CFR Part 61 or 40 CFR Part 63.

4 **E. Emission reductions:**

5 (1) Emission reductions (offsets) at existing sources shall occur prior to or concurrent with the start of
6 operation of the proposed major stationary source or major modification for each pollutant emitted which is subject
7 to 20.11.60 NMAC. As a general rule, such offsets shall be at least 20 percent greater than the allowable emissions
8 of the proposed new major stationary source or major modification, and shall assure that the total tonnage of
9 increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater
10 reduction in the actual emissions of such air pollutant from the same or other sources in the area. An offset less than
11 20 percent, but at least 10 percent (a 1.0:1.1 ratio), may be allowed if reasonable progress toward the attainment of
12 the applicable NAAQS will be achieved. A higher level of offset reduction may be required in order to demonstrate
13 that a net air quality benefit will occur.

14 (2) A new major stationary source or major modification which is subject to the requirements of
15 Subsection D of 20.11.60.12 NMAC shall obtain sufficient emission reductions to, at a minimum, compensate for its
16 adverse ambient impact where the major stationary source or major modification would otherwise cause or
17 contribute to a violation of any national ambient air quality standard.
18 [20.11.60.22 NMAC - Rp, 20.11.60.21 & 20.11.60.22 NMAC, 1/23/06; Repealed, 8/30/10; 20.11.60.22 NMAC - Rn
19 & A, 20.11.60.15 NMAC, 8/30/10]

20
21 **20.11.60.23 ADDITIONAL REQUIREMENTS FOR SOURCES IMPACTING MANDATORY**
22 **FEDERAL CLASS I AREAS:**

23 **A.** The requirements of 20.11.60.23 NMAC apply only to proposed major stationary sources or major
24 modifications that meet the criteria of Paragraph (1) of Subsection A of 20.11.60.12 NMAC and that also are major
25 stationary sources or major modifications as defined in 20.11.61 NMAC. A major stationary source or major
26 modification which meets the criteria of Paragraph (2) of Subsection A of 20.11.60.12 NMAC may be subject to
27 requirements for federal class I areas in 20.11.61 NMAC, if applicable.

28 **B.** The department shall transmit to the administrator and any affected federal land manager a copy of
29 each permit application and any information relevant to any proposed major stationary source or major modification
30 which may have an impact on visibility in any mandatory federal class I area. Relevant information will include an
31 analysis of the proposed source's anticipated impacts on visibility in the federal class I area. The application shall be
32 transmitted within 30 days of receipt by the department and at least 60 days prior to any public hearing on the
33 application. Additionally, the department shall notify any affected federal land manager within 30 days from the
34 date the department receives a request for a pre-application meeting from a proposed source subject to 20.11.60
35 NMAC. The department shall consult with the affected federal land manager prior to making a determination of
36 completeness for any such permit application. The department shall also provide the federal land manager and the
37 administrator with a copy of the preliminary determination on the permit application and shall make available to
38 them any materials used in making that determination.

39 **C.** The owner or operator of any proposed major stationary source or major modification which may
40 have an impact on visibility in a mandatory federal class I area shall include in the permit application an analysis of
41 the anticipated impacts on visibility in such areas.

42 **D.** The department may require monitoring of visibility in any mandatory federal class I area where
43 the department determines an adverse impact on visibility may occur due to the operations of the proposed new
44 source or modification. Such monitoring shall be conducted following procedures approved by the department and
45 subject to the following conditions:

46 (1) visibility monitoring methods specified by the department shall be reasonably available and not
47 require any research and development; and

48 (2) both preconstruction and post construction visibility monitoring may be required. In each case,
49 the duration of such monitoring shall not exceed one year.

50 **E.** The department shall consider any analysis with respect to visibility impacts provided by the
51 federal land manager if it is received within 30 days from the date a complete application is given to the federal land
52 manager. In any case where the department disagrees with the federal land manager's analysis, the department shall
53 either explain its decision to the federal land manager or give notice as to where the explanation can be obtained. In
54 the case where the department disagrees with the federal land manager's analysis, the department will also explain
55 its decision or give notice to the public by means of an advertisement in a newspaper of general circulation in the
56 area in which the proposed source would be constructed as to where the decision can be obtained.

1 **F.** In making its determination as to whether or not to issue a permit, the department shall ensure that
2 the source's emissions will be consistent with making reasonable progress toward the national visibility goal of
3 preventing any future impairment of visibility in mandatory federal class I areas. The department may take into
4 account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental
5 impacts of compliance, and the useful life of the source.

6 [20.11.60.23 NMAC - N, 1/23/06; 20.11.60.23 NMAC - Rn & A, 20.11.60.16 NMAC, 8/30/10]

7
8 **20.11.60.24 BANKING OF EMISSION REDUCTION:**

9 **A.** Any stationary source which decreases actual emissions of a regulated new source review
10 pollutant in excess of the requirements of 20.11.60 NMAC or any other applicable air quality regulation or permit
11 emission limitation may preserve or bank such excess emission reductions for sale or future use.

12 **B.** The owner or operator desiring to preserve such reductions shall submit a written request prior to
13 the actual emission reduction to the department which contains the following information:

14 (1) a detailed description of the process(es) to be controlled and the control technology to be used;
15 and

16 (2) emission calculations showing the types and amounts of actual emissions to be reduced; and

17 (3) the effective date(s) of such reductions.

18 **C.** The department shall:

19 (1) verify the amount of emission reduction claimed in the written request; and

20 (2) approve or deny the request for banking of the emission reduction and notify the applicant in
21 writing of the decision; and

22 (3) keep appropriate records of any emission reduction accepted for banking; and

23 (4) for the case where emission reductions are approved in excess of those required for obtaining a
24 permit under 20.11.60 NMAC, the department shall make such reductions a condition of the permit; and

25 (5) for the case where emission reductions are approved not in conjunction with granting a permit, the
26 department shall preserve such reductions as a state implementation plan revision which must be approved by the
27 board.

28 **D. Use and sale of emission reductions.**

29 (1) The use of any preserved emission reduction is confined to meeting the emission offset
30 requirements of 20.11.60 NMAC or 20.11.41 NMAC.

31 (2) The provisions of 20.11.60 NMAC apply to the future use of any preserved emission reduction as
32 if such reductions were obtained concurrently with the commencement of operations of the new or modified source.

33 (3) Before the use or sale of any preserved emission reduction occurs, written notification must be
34 given to the department. Such notice shall be in writing and shall identify the permit(s) and state implementation
35 plan revision(s) in which such reductions are preserved. The department must verify the availability of the
36 preserved reduction before any use or sale occurs.

37 (4) The use of preserved emission reduction credits is subject to the criteria of 20.11.60 NMAC.
38 [20.11.60.24 NMAC - Rn & A, 20.11.60.19 NMAC, 8/30/10]

39
40 **20.11.60.25 AIR QUALITY BENEFIT:** All demonstrations of the occurrence of a net air quality benefit
41 shall meet the following criteria.

42 **A.** Emission offsets for volatile organic compounds or nitrogen oxides emissions impacting an ozone
43 nonattainment area may be obtained from sources located in the broad vicinity of the proposed new source or
44 modification, subject to approval by the department. Atmospheric dispersion modeling will not be required to
45 demonstrate the net air quality benefit that occurs due to reductions in volatile organic compound emissions.

46 **B.** An applicant which proposes emission offsets for sulfur dioxide, particulate matter, carbon
47 monoxide, nitrogen oxides, or any other pollutant may be required by the department to submit atmospheric
48 dispersion modeling to demonstrate a net air quality benefit will occur. For any case involving these pollutants
49 where stack emissions and fugitive or ground level emissions are offsetting, atmospheric dispersion modeling shall
50 be required to demonstrate a net air quality benefit will occur.

51 [20.11.60.25 NMAC - Rn, 20.11.60.20 NMAC, 8/30/10]

52
53 **20.11.60.26 PUBLIC PARTICIPATION AND NOTIFICATION:**

54 **A.** The department shall, within 30 days after its receipt of an application for a permit or significant
55 permit revision subject to 20.11.60 NMAC, review such application and determine whether it is administratively
56 complete. If the application is deemed:

- 1 (1) administratively complete, a letter to that effect shall be sent by certified mail to the applicant;
2 (2) administratively incomplete, a letter shall be sent by certified mail to the applicant stating what
3 additional information or points of clarification are necessary to deem the application administratively complete;
4 upon receipt of the additional information or clarification, the department shall promptly review such information
5 and determine whether the application is administratively complete;
6 (3) administratively complete but no permit is required, a letter shall be sent by certified mail to the
7 applicant informing the applicant of the determination.

8 **B.** The department shall:

- 9 (1) Make a preliminary determination whether construction should be approved, approved with
10 conditions, or disapproved.
11 (2) Make available at the department, district and local office nearest to the proposed source a copy
12 of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other
13 materials, if any, considered in making the preliminary determination.
14 (3) Notify the public by advertisement in a newspaper of general circulation in the area in which the
15 proposed major stationary source or major modification would be constructed, of the application, the preliminary
16 determination, and of the opportunity for comment at a public hearing as well as written public comment. The
17 public comment period shall be for 45 days from the date of such advertisement.
18 (4) Send a copy of the notice of public comment to the applicant, the administrator, and to officials
19 and agencies having jurisdiction over the location where the proposed construction would occur as follows: any
20 other state or local air pollution control agencies, the chief executives of the city and county where the source would
21 be located, any regional comprehensive land use planning agency, and any state, federal land manager, or indian
22 governing body whose lands may be affected by emissions from the source or modification.
23 (5) Provide opportunity for a public hearing for interested persons to appear and submit written or
24 oral comments on the air quality impact of the source and other appropriate considerations. Public hearings shall be
25 held in the geographic area likely to be impacted by the source.
26 (6) Consider all written comments submitted within a time specified in the notice of public comment
27 and all comments received at any public hearing(s) in making a final decision on the approvability of the
28 application. The department shall make all comments available for public inspection in the same locations where
29 the department made available preconstruction information relating to the source.
30 (7) Within 90 days after the application is deemed administratively complete, unless the director
31 grants an extension, not to exceed 90 days for good cause:
32 (a) make a final determination whether construction should be approved, approved with
33 conditions, or disapproved, or whether no permit is required; and
34 (b) notify the applicant in writing of the final determination and make such notification
35 available for public inspection at the same location where the department made available preconstruction
36 information and public comments relating to the source.
37 [20.11.60.26 NMAC - Rn, 20.11.60.21 NMAC, 8/30/10]
38

39 **20.11.60.27 ACTUALS PLANTWIDE APPLICABILITY LIMITS (PALS)**

40 **A. Applicability.**

- 41 (1) The department may approve the use of an actuals PAL for any existing major stationary source
42 (except as provided in Paragraph (2) of Subsection A of 20.11.60.27 NMAC) if the PAL meets the requirements of
43 20.11.60.27 NMAC. The term "PAL" shall mean "actuals PAL" throughout 20.11.60.27 NMAC.
44 (2) An actuals PAL for VOC or NO_x shall not be allowed for any major stationary source located in
45 an extreme ozone nonattainment area.
46 (3) Any physical change in or change in the method of operation of a major stationary source that
47 maintains its total source-wide emissions below the PAL level, meets the requirements of 20.11.60.27 NMAC, and
48 complies with the PAL permit:
49 (a) is not a major modification for the PAL pollutant;
50 (b) does not have to be approved through the requirements of 20.11.60 NMAC; and
51 (c) is not subject to the provisions in Subsection A of 20.11.60.13 NMAC (restrictions on
52 relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the
53 nonattainment major new source review program).
54 (4) Except as provided under Subparagraph (c) of Paragraph (3) of Subsection A of 20.11.60.27
55 NMAC, a major stationary source shall continue to comply with all applicable federal or state requirements,
56 emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

1 **B. Definitions.** When a term is not defined in Subsection B of 20.11.60.27 NMAC, it shall have the
2 meaning given in 20.11.60.7 NMAC or in 20.11.1 NMAC.

3 (1) **Actuals PAL for a major stationary source** means a PAL based on the baseline actual
4 emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant.

5 (2) **Allowable emissions** means “allowable emissions” as defined in Subsection D of 20.11.60.7
6 NMAC, except as this definition is modified according to Subparagraph (a) and (b) of Paragraph (2) of Subsection B
7 of 20.11.60.27 NMAC.

8 (a) The allowable emissions for any emissions unit shall be calculated considering any
9 emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

10 (b) An emissions unit's potential to emit shall be determined using the definition in Subsection
11 EE of 20.11.60.7 NMAC, except that the words "or enforceable as a practical matter" should be added after
12 “federally enforceable”.

13 (3) **Small emissions unit** means an emissions unit that emits or has the potential to emit the PAL
14 pollutant in an amount less than the significant level for that PAL pollutant, as defined in Subsection MM of
15 20.11.60.7 NMAC or in the federal Clean Air Act, whichever is lower.

16 (4) **Major emissions unit** means:

17 (a) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the
18 PAL pollutant in an attainment area; or

19 (b) any emissions unit that emits or has the potential to emit the PAL pollutant in an amount
20 that is equal to or greater than the major source threshold for the PAL pollutant as defined by the federal Clean Air
21 Act for nonattainment areas; for example, in accordance with the definition of major stationary source in Section
22 182 (c) of the federal Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions
23 unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC
24 per year.

25 (5) **Plantwide applicability limitation (PAL)** means an emission limitation expressed in tons per
26 year, for a pollutant at a major stationary source that is enforceable as a practical matter and established source-wide
27 in accordance with 20.11.60.27 NMAC.

28 (6) **PAL effective date** generally means the date of issuance of the PAL permit. However, the PAL
29 effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification
30 becomes operational and begins to emit the PAL pollutant.

31 (7) **PAL effective period** means the period beginning with the PAL effective date and ending 10
32 years later.

33 (8) **PAL major modification** means, notwithstanding the definitions for major modification and net
34 emissions increase in 20.11.60.7 NMAC, any physical change in or change in the method of operation of the PAL
35 source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

36 (9) **PAL permit** means the minor NSR permit, major NSR permit or operating permit issued by the
37 department under the requirements of 20.11.41 NMAC, 20.11.60 NMAC, or 20.11.61 NMAC, or the title V permit
38 issued by the department under the requirements of 20.11.42 that establishes a PAL for a major stationary source.

39 (10) **PAL pollutant** means the pollutant for which a PAL is established at a major stationary source.

40 (11) **Significant emissions unit** means an emissions unit that emits or has the potential to emit a PAL
41 pollutant in an amount that is equal to or greater than the significant level (as defined in Subsection MM of
42 20.11.60.7 NMAC or in the federal Clean Air Act, whichever is lower) for that PAL pollutant, but less than the
43 amount that would qualify the unit as a major emissions unit as defined in Paragraph (4) of Subsection B of
44 20.11.60.27 NMAC.

45 **C. Permit application requirements.** As part of a permit application requesting a PAL, the owner
46 or operator of a major stationary source shall submit the following information to the department for approval.

47 (1) A list of all emissions units at the source designated as small, significant or major based on their
48 potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state
49 applicable requirements, emission limitations or work practices apply to each unit.

50 (2) Calculations of the baseline actual emissions with supporting documentation. Baseline actual
51 emissions are to include emissions associated not only with operation of the unit, but also emissions associated with
52 startup, shutdown and malfunction.

53 (3) The calculation procedures that the major stationary source owner or operator proposes to use to
54 convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for
55 each month as required by Paragraph (1) of Subsection M of 20.11.60.27 NMAC.

56 **D. General requirements for establishing PALs.**

1 (1) A PAL at a major stationary source may be established by the department, provided that at a
2 minimum, the following requirements are met.

3 (a) The PAL shall impose an annual emission limitation in tons per year that is enforceable as a
4 practical matter, for the entire major stationary source. For each month during the PAL effective period after the
5 first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the
6 monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the
7 PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date,
8 the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the
9 PAL effective date for each emissions unit under the PAL is less than the PAL.

10 (b) The PAL shall be established in a PAL permit that meets the public participation
11 requirements in Subsection E of 20.11.60.27 NMAC.

12 (c) The PAL permit shall contain all the requirements of Subsection G of 20.11.60.27 NMAC.

13 (d) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions
14 units that emit or have the potential to emit the PAL pollutant at the major stationary source.

15 (e) Each PAL shall regulate emissions of only one pollutant.

16 (f) Each PAL shall have a PAL effective period of 10 years.

17 (g) The owner or operator of the major stationary source with a PAL shall comply with the
18 monitoring, recordkeeping, and reporting requirements provided in Subsection L through N of 20.11.60.27 NMAC
19 for each emissions unit under the PAL through the PAL effective period.

20 (2) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant,
21 which occur during the PAL effective period, creditable as decreases for purposes of offsets under Subsection B of
22 20.11.60.15 NMAC unless the level of the PAL is reduced by the amount of such emissions reductions and such
23 reductions would be creditable in the absence of the PAL.

24 **E. Public participation requirement for PALs.** PALs for existing major stationary sources shall be
25 established, renewed, or increased through a procedure that is consistent with 40 CFR 51.160 and 161. This
26 includes the requirement that the department provide the public with notice of the proposed approval of a PAL
27 permit and at least a 30-day period for submittal of public comment. The department shall address all material
28 comments before taking final action on the permit.

29 **F. Setting the 10-year actuals PAL level.**

30 (1) Except as provided in Paragraph (2) of Subsection F of 20.11.60.27 NMAC, the actuals PAL level
31 for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in
32 20.11.60.7 NMAC) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the
33 applicable significant level for the PAL pollutant under Subsection UU of 20.11.60.27 NMAC or under the federal
34 Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one
35 consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions
36 units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions
37 associated with units that were permanently shutdown after this 24-month period must be subtracted from the PAL
38 level. The department shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on
39 the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the department is
40 aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to
41 reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30
42 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half
43 of the original baseline emissions of such unit(s).

44 (2) For newly constructed units (which do not include modifications to existing units) on which
45 actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in
46 Paragraph (1) of Subsection F of 20.11.60.27 NMAC, the emissions must be added to the PAL level in an amount
47 equal to the potential to emit of the units.

48 **G. Contents of the PAL permit.** The PAL permit shall contain, at a minimum, all of the following
49 information.

50 (1) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

51 (2) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

52 (3) Specification in the PAL permit that if a major stationary source owner or operator applies to
53 renew a PAL in accordance with Subsection J of 20.11.60.27 NMAC before the end of the PAL effective period,
54 then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL
55 permit is issued by the department.

1 (4) A requirement that emission calculations for compliance purposes include emissions from
2 startups, shutdowns and malfunctions.

3 (5) A requirement that, once the PAL expires, the major stationary source is subject to the
4 requirements of Subsection I of 20.11.60.27 NMAC.

5 (6) The calculation procedures that the major stationary source owner or operator shall use to convert
6 the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each
7 month as required by Paragraph (1) of Subsection M of 20.11.60.27 NMAC.

8 (7) A requirement that the major stationary source owner or operator monitor all emissions units in
9 accordance with the provisions under Subsection L of 20.11.60.27 NMAC.

10 (8) A requirement to retain the records required under Subsection M of 20.11.60.27 NMAC on site.
11 Such records may be retained in an electronic format.

12 (9) A requirement to submit the reports required under Subsection N of 20.11.60.27 NMAC by the
13 required deadlines.

14 (10) Any other requirements that the department deems necessary to implement and enforce the PAL.

15 **H. PAL effective period and reopening of the PAL permit.**

16 (1) **PAL effective period.** The permit shall specify a PAL effective period of 10 years.

17 (2) **Reopening of the PAL permit.**

18 (a) During the PAL effective period, the department shall reopen the PAL permit to:
19 (i) correct typographical/calculation errors made in setting the PAL or reflect a more
20 accurate determination of emissions used to establish the PAL;

21 (ii) reduce the PAL if the owner or operator of the major stationary source creates
22 creditable emissions reductions for use as offsets under 20.11.60.15 NMAC; or

23 (iii) revise the PAL to reflect an increase in the PAL as provided under Subsection K of
24 20.11.60.27 NMAC.

25 (b) The department may reopen the PAL permit to:

26 (i) reduce the PAL to reflect newly applicable federal requirements (for example, NSPS)
27 with compliance dates after the PAL effective date;

28 (ii) to reduce the PAL consistent with any other requirement, that is enforceable as a
29 practical matter, and that the department may impose on the major stationary source under 20.11.60 NMAC; or

30 (iii) to reduce the PAL if the department determines that a reduction is necessary to avoid
31 causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality related
32 value that has been identified for a federal class I area by a federal land manager and for which information is
33 available to the general public.

34 (c) Except for the permit reopening in Subparagraph (a) of Paragraph (2) of Subsection H of
35 20.11.60.27 NMAC for the correction of typographical/calculation errors that do not increase the PAL level, all
36 other reopenings shall be carried out in accordance with the public participation requirements of Subsection E of
37 20.11.60.27 NMAC.

38 **I. Expiration of a PAL.** Any PAL which is not renewed in accordance with the procedures in
39 Subsection J of 20.11.60.27 NMAC shall expire at the end of the PAL effective period, and the following
40 requirements shall apply.

41 (1) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply
42 with an allowable emission limitation under a revised permit established according to the following procedures.

43 (a) Within the time frame specified for PAL renewals in Paragraph (2) of Subsection J of
44 20.11.60.27 NMAC, the major stationary source shall submit a proposed allowable emission limitation for each
45 emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the
46 department) by distributing the PAL allowable emissions for the major stationary source among each of the
47 emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that
48 became effective during the PAL effective period, as required under Paragraph (5) of Subsection J of 20.11.60.27
49 NMAC, such distribution shall be made as if the PAL had been adjusted.

50 (b) The department shall decide whether and how the PAL allowable emissions will be
51 distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of
52 emissions units, as the department determines is appropriate.

53 (2) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling
54 basis. The department may approve the use of monitoring systems (source testing, emission factors, etc.) other than
55 CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

1 (3) Until the department issues the revised permit incorporating allowable limits for each emissions
2 unit, or each group of emissions units, as required under Subparagraph (a) of Paragraph (1) of Subsection I of
3 20.11.60.27 NMAC, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to
4 the level of the PAL emission limitation.

5 (4) Any physical change or change in the method of operation at the major stationary source will be
6 subject to the nonattainment major new source review requirements if such change meets the definition of major
7 modification in 20.11.60.7 NMAC.

8 (5) The major stationary source owner or operator shall continue to comply with any New Mexico or
9 federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective
10 period or prior to the PAL effective period except for those emission limitations that had been established pursuant
11 to 20.11.60.12 NMAC, but were eliminated by the PAL in accordance with the provisions in Subparagraph (c) of
12 Paragraph (3) of Subsection A of 20.11.60.27 NMAC.

13 **J. Renewal of a PAL.**

14 (1) The department shall follow the procedures specified in Subsection E of 20.11.60.27 NMAC in
15 approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level
16 and a written rationale for the proposed PAL level to the public for review and comment. During such public
17 review, any person may propose a PAL level for the source for consideration by the department.

18 (2) **Application deadline.** A major stationary source owner or operator shall submit a timely
19 application to the department to request renewal of a PAL. A timely application is one that is submitted at least six
20 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application
21 submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a
22 major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall
23 continue to be effective until the revised permit with the renewed PAL is issued.

24 (3) **Application requirements.** The application to renew a PAL permit shall contain the following
25 information.

26 (a) The information required in Paragraphs (1) through (3) of Subsection C of 20.11.60.27
27 NMAC.

28 (b) A proposed PAL level.

29 (c) The sum of the potential to emit of all emissions units under the PAL, (with supporting
30 documentation).

31 (d) Any other information the owner or operator wishes the department to consider in
32 determining the appropriate level for renewing the PAL.

33 (4) **PAL adjustment.** In determining whether and how to adjust the PAL, the department shall
34 consider the options outlined in Subparagraph (a) of Paragraph (4) of Subsection J of 20.11.60.27 NMAC.
35 However, in no case may any such adjustment fail to comply with Subparagraph (b) of Paragraph (4) of Subsection
36 J of 20.11.60.27 NMAC.

37 (a) If the emissions level calculated in accordance with Subsection F of 20.11.60.27 NMAC is
38 equal to or greater than 80 percent of the PAL level, the department may renew the PAL at the same level without
39 considering the factors set forth in Subparagraph (b) of Paragraph (4) of Subsection J of 20.11.60.27 NMAC; or

40 (b) the department may set the PAL at a level that it determines to be more representative of
41 the source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances
42 in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary
43 emissions reductions, or other factors as specifically identified by the department in its written rationale.

44 (c) Notwithstanding Paragraph (4) of Subsection J of 20.11.60.27 NMAC,

45 (i) if the potential to emit of the major stationary source is less than the PAL, the
46 department shall adjust the PAL to a level no greater than the potential to emit of the source; and

47 (ii) the department shall not approve a renewed PAL level higher than the current PAL,
48 unless the major stationary source has complied with the provisions of Subsection K of 20.11.60.27 NMAC,
49 *Increasing a PAL during the PAL effective period.*

50 (5) If the compliance date for a New Mexico or federal requirement that applies to the PAL source
51 occurs during the PAL effective period, and if the department has not already adjusted for such requirement, the
52 PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

53 **K. Increasing a PAL during the PAL effective period.**

54 (1) The department may increase a PAL emission limitation only if the major stationary source
55 complies with the following provisions.

1 (a) The owner or operator of the major stationary source shall submit a complete application to
2 request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions
3 unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or
4 exceed its PAL.

5 (b) As part of this application, the major stationary source owner or operator shall demonstrate
6 that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual
7 emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the
8 sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that
9 would result from BACT equivalent controls on each significant or major emissions unit shall be determined by
10 conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently
11 required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such
12 a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which
13 that emissions unit must currently comply.

14 (c) The owner or operator shall obtain a major new source review permit for all emissions
15 unit(s) identified in Subparagraph (a) of Paragraph (1) of Subsection K of 20.11.60.27 NMAC, regardless of the
16 magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions
17 unit(s) shall comply with any emissions requirements resulting from the nonattainment major NSR program process
18 (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

19 (d) The PAL permit shall require that the increased PAL level shall be effective on the day any
20 emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

21 (2) The department shall calculate the new PAL as the sum of the allowable emissions for each
22 modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions
23 units (assuming application of BACT equivalent controls as determined in accordance with Subparagraph (b) of
24 Paragraph (1) of Subsection K of 20.11.60.27 NMAC), plus the sum of the baseline actual emissions of the small
25 emissions units.

26 (3) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice
27 requirements of Subsection E of 20.11.60.27 NMAC.

28 **L. Monitoring requirements for PALs.**

29 (1) **General Requirements.**

30 (a) Each PAL permit must contain enforceable requirements for the monitoring system that
31 accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring
32 system authorized for use in the PAL permit must be based on sound science and meet generally acceptable
33 scientific procedures for data quality and manipulation. Additionally, the information generated by such system
34 must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

35 (b) The PAL monitoring system must employ one or more of the four general monitoring
36 approaches meeting the minimum requirements set forth in Subparagraphs (a) through (d) of Paragraph (2) of
37 Subsection L of 20.11.60.27 NMAC and must be approved by the department.

38 (c) Notwithstanding Subparagraph (b) of Paragraph (1) of Subsection L of 20.11.60.27 NMAC,
39 the owner or operator may also employ an alternative monitoring approach that meets Subparagraph (a) of
40 Paragraph (1) of Subsection L of 20.11.60.27 NMAC if approved by the department.

41 (d) Failure to use a monitoring system that meets the requirements of 20.11.60.27 NMAC
42 renders the PAL invalid.

43 (2) **Minimum performance requirements for approved monitoring approaches.** The following
44 are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in
45 Paragraphs (3) through (9) of Subsection L of 20.11.60.27 NMAC:

46 (a) mass balance calculations for activities using coatings or solvents;

47 (b) CEMS;

48 (c) CPMS or PEMS; and

49 (d) emission factors.

50 (3) **Mass balance calculations.** An owner or operator using mass balance calculations to monitor
51 PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

52 (a) provide a demonstrated means of validating the published content of the PAL pollutant that
53 is contained in or created by all materials used in or at the emissions unit;

54 (b) assume that the emissions unit emits all of the PAL pollutant that is contained in or created
55 by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process;
56 and

1 (c) where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a
2 range of pollutant content from such material, the owner or operator must use the highest value of the range to
3 calculate the PAL pollutant emissions unless the department determines there is site-specific data or a site-specific
4 monitoring program to support another content within the range.

5 (4) **CEMS.** An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the
6 following requirements:

7 (a) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60,
8 appendix B; and

9 (b) CEMS must sample, analyze and record data at least every 15 minutes while the emissions
10 unit is operating.

11 (5) **CPMS or PEMS.** An owner or operator using CPMS or PEMS to monitor PAL pollutant
12 emissions shall meet the following requirements:

13 (a) the CPMS or the PEMS must be based on current site-specific data demonstrating a
14 correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the
15 emissions unit; and

16 (b) each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at
17 another less frequent interval approved by the department, while the emissions unit is operating.

18 (6) **Emission factors.** An owner or operator using emission factors to monitor PAL pollutant
19 emissions shall meet the following requirements:

20 (a) all emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty
21 or limitations in the factors' development;

22 (b) the emissions unit shall operate within the designated range of use for the emission factor, if
23 applicable; and

24 (c) if technically practicable, the owner or operator of a significant emissions unit that relies on
25 an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific
26 emission factor within six months of PAL permit issuance, unless the department determines that testing is not
27 required.

28 (7) A source owner or operator must record and report maximum potential emissions without
29 considering enforceable emission limitations or operational restrictions for an emissions unit during any period of
30 time that there is no monitoring data, unless another method for determining emissions during such periods is
31 specified in the PAL permit.

32 (8) Notwithstanding the requirements in Paragraphs (3) through (7) of Subsection L of 20.11.60.27
33 NMAC, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored
34 parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the department shall,
35 at the time of permit issuance:

36 (a) establish default value(s) for determining compliance with the PAL based on the highest
37 potential emissions reasonably estimated at such operating point(s); or

38 (b) determine that operation of the emissions unit during operating conditions when there is no
39 correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

40 (9) **Revalidation.** All data used to establish the PAL pollutant must be revalidated through
41 performance testing or other scientifically valid means approved by the department. Such testing must occur at least
42 once every five years after issuance of the PAL.

43 **M. Recordkeeping requirements.**

44 (1) The PAL permit shall require an owner or operator to retain a copy of all records necessary to
45 determine compliance with any requirement of 20.11.60.27 NMAC and of the PAL, including a determination of
46 each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

47 (2) The PAL permit shall require an owner or operator to retain a copy of the following records for
48 the duration of the PAL effective period plus five years:

49 (a) a copy of the PAL permit application and any applications for revisions to the PAL; and
50 (b) each annual certification of compliance pursuant to title V and the data relied on in

51 certifying the compliance.

52 **N. Reporting and notification requirements.** The owner or operator shall submit semi-annual
53 monitoring reports and prompt deviation reports to the department in accordance with the requirements of 20.11.42
54 NMAC. The reports shall meet the following requirements.

55 (1) **Semi-Annual Report.** The semi-annual report shall be submitted to the department within 30
56 days of the end of each reporting period. This report shall contain the following information.

- 1 (a) The identification of owner and operator and the permit number.
2 (b) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the
3 reporting period recorded pursuant to Paragraph (1) of Subsection M of 20.11.60.27 NMAC.
4 (c) All data relied upon, including, but not limited to, any quality assurance or quality control
5 data, in calculating the monthly and annual PAL pollutant emissions.
6 (d) A list of any emissions units modified or added to the major stationary source during the
7 preceding six-month period.
8 (e) The number, duration, and cause of any deviations or monitoring malfunctions (other than
9 the time associated with zero and span calibration checks), and any corrective action taken.
10 (f) A notification of a shutdown of any monitoring system, whether the shutdown was
11 permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully
12 operational or replaced with another monitoring system, and whether the emissions unit monitored by the
13 monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number
14 determined by method included in the permit, as provided by Paragraph (7) of Subsection L of 20.11.60.27 NMAC.
15 (g) A signed statement by the responsible official (as defined by 20.11.42.7 NMAC) certifying
16 the truth, accuracy, and completeness of the information provided in the report.

17 (2) **Deviation report.** The major stationary source owner or operator shall promptly submit reports
18 of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A
19 report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports
20 shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR
21 70.6(a)(3)(iii)(B). The reports shall contain the following information:

- 22 (a) the identification of owner and operator and the permit number;
23 (b) the PAL requirement that experienced the deviation or that was exceeded;
24 (c) emissions resulting from the deviation or the exceedance; and
25 (d) a signed statement by the responsible official (as defined by 20.11.42 NMAC) certifying
26 the truth, accuracy, and completeness of the information provided in the report.

27 (3) **Revalidation results.** The owner or operator shall submit to the department the results of any
28 revalidation test or method within three months after completion of such test or method.

29 **O. Transition requirements.**

30 (1) The department shall not issue a PAL that does not comply with the requirements of 20.11.60.27
31 NMAC after the administrator has approved regulations incorporating these requirements into the SIP.

32 (2) The department may supersede any PAL which was established prior to the date of approval of
33 20.11.60 NMAC by the administrator with a PAL that complies with the requirements of 20.11.60.27 NMAC.
34 [20.11.60.27 NMAC - Rn & A, 20.11.60.23 NMAC, 8/30/10]

35
36 **HISTORY OF 20.11.60 NMAC:**

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

39 Regulation No. 32, Construction Permits - Nonattainment Areas, 4/25/85;

40 Regulation No. 32, Construction Permits - Nonattainment Areas, 6/18/86;

41 Regulation No. 32, Construction Permits - Nonattainment Areas, 3/16/89;

42 Regulation No. 32, Construction Permits - Nonattainment Areas, 2/26/93.

43
44 **History of Repealed Material:** 20.11.60 NMAC, Permitting In Nonattainment Areas (filed 8/30/02) repealed
45 1/23/06.

46
47 **Other History:** Regulation No. 32, Construction Permits - Nonattainment Areas, filed 2/26/93 was renumbered and
48 reformatted into first version of the New Mexico Administrative Code as 20 NMAC 11.60, Permitting In
49 Nonattainment Areas, filed 10/27/95.

50 20 NMAC 11.60, Permitting In Nonattainment Areas, filed 10/27/95 was renumbered, reformatted, amended and
51 replaced by 20.11.60 NMAC, Permitting In Nonattainment Areas, effective 10/1/02.

52 20.11.60 NMAC, Permitting In Nonattainment Areas (filed 8/30/02) was replaced by 20.11.60 NMAC, Permitting
53 In Nonattainment Areas, effective 1/23/06.