

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
3 **PART 61 PREVENTION OF SIGNIFICANT DETERIORATION**
4

5 **20.11.61.1 ISSUING AGENCY:** Albuquerque - Bernalillo County Air Quality Control Board. P.O. Box
6 1293, Albuquerque, NM 87103. Telephone: (505) 768-2601.
7 [20.11.61.1 NMAC - Rp, 20.11.61.1 NMAC, 1/23/06; A, 8/30/10]
8

9 **20.11.61.2 SCOPE:** Any person constructing any new major stationary source or major modification, as
10 defined in 20.11.61 NMAC, that emits or will emit regulated new source review pollutants in an attainment or
11 unclassifiable area shall obtain a permit from the department in accordance with the requirements of 20.11.41
12 NMAC, *Authority-to-Construct*, and 20.11.61 NMAC prior to the construction or modification.

13 **A. Exempt:**

14 (1) sources within Bernalillo county which are located on Indian lands over which the Albuquerque-
15 Bernalillo county air quality control board lacks jurisdiction;

16 (2) each regulated new source review pollutant emitted by a source or modification located in a
17 nonattainment area for that pollutant;

18 (3) after a public hearing, consistent with the public notice and participation provisions of 20.11.41
19 NMAC, *Authority-to-Construct*, the board may exempt major stationary sources or major modifications if:

20 (a) the major stationary source would be a nonprofit health or nonprofit educational institution,
21 or a major modification that would occur at such an institution; or

22 (b) the source or modification is a portable stationary source which has previously received a
23 permit pursuant to 20.11.61 NMAC if:

24 (i) the owner or operator proposes to relocate the source, and emissions from the source
25 at the new location would be temporary; and

26 (ii) the emissions from the source would not exceed its allowable emission rate; and

27 (iii) the emissions from the source would not impact any federal class I area nor any area
28 where an applicable increment is known to be violated; and

29 (iv) reasonable notice is given to the department prior to the relocation identifying the
30 proposed new location and the probable duration of operation at the new location; such notice shall be given to the
31 department not less than 10 days in advance of the proposed relocation unless a different time duration is previously
32 approved by the department;

33 (4) sources or modifications that would be major only if quantifiable fugitive emissions are
34 considered in calculating the potential to emit, and the source does not belong to:

35 (a) any category in Table 1 of 20.11.61.26 NMAC; or

36 (b) any other stationary source category which as of August 7, 1980, is being regulated under
37 Section 111 or 112 of the act.

38 **B. Variances:** The director may grant a variance to any person constructing a major stationary
39 source or major modification from the federal class I maximum allowable increases consistent with the requirements
40 listed in 40 CFR 52.21(p)(5).
41 [20.11.61.2 NMAC - Rp, 20.11.61.2 NMAC, 1/23/06; A, 8/30/10]
42

43 **20.11.61.3 STATUTORY AUTHORITY:** 20.11.61 NMAC is adopted pursuant to the authority provided in
44 the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4 and 74-2-5; the Joint Air Quality Control
45 Board Ordinance; Bernalillo county Ordinance No. 94-5, Sections 4 and 5; and the Joint Air Quality Control Board
46 Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4.
47 [20.11.61.3 NMAC - Rp, 20.11.61.3 NMAC, 1/23/06]
48

49 **20.11.61.4 DURATION:** Permanent.
50 [20.11.61.4 NMAC - Rp, 20.11.61.4 NMAC, 1/23/06]
51

52 **20.11.61.5 EFFECTIVE DATE:** January 23, 2006, unless a later date is cited at the end of a section [[er](#)
53 [paragraph](#)].
54 [20.11.61.5 NMAC - Rp, 20.11.61.5 NMAC, 1/23/06]
55

1 **20.11.61.6 OBJECTIVE:** To minimize air pollutant emissions from new major stationary sources or major
2 modifications in areas classified as in attainment of the national ambient air quality standards or determined to be
3 unclassifiable pursuant to Section 107(d) of the act.
4 [20.11.61.6 NMAC - Rp, 20.11.61.6 NMAC, 1/23/06; A, 1/10/11]
5

6 **20.11.61.7 DEFINITIONS:** In addition to the definitions in 20.11.61 NMAC, the definitions in 20.11.1
7 NMAC, *General Provisions*, shall apply unless there is a conflict between definitions, in which case the definition in
8 20.11.61 NMAC shall govern.

9 **A. "Act"** means the federal Clean Air Act, as amended, 42 U. S. C. Sections 7401 et seq.

10 **B. "Actual emissions"** means the actual rate of emissions of a regulated new source review pollutant
11 from an emissions unit, as determined in accordance with Paragraphs (2) through (4) of Subsection B of 20.11.61.7
12 NMAC.

13 (1) This definition shall not apply for calculating whether a significant emissions increase has
14 occurred, or for establishing a PAL under 20.11.61.20 NMAC. Instead, Subsections I and VV of 20.11.61.7 NMAC
15 shall apply for those purposes.

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

22 (3) The department may presume that source-specific allowable emissions for the unit are equivalent
23 to the actual emissions of the unit.

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

26 **C. "Administrator"** means the administrator of the U.S. environmental protection agency (EPA) or
27 an authorized representative.

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

32 (1) times of visitor use of the federal class I area; and

33 (2) the frequency and timing of natural conditions that reduce visibility. This term does not include
34 effects on integral vistas as defined in 40 CFR 51.301 *Definitions*.

35 **E. "Air quality related values (AQRV)"** means visibility and other scenic, cultural, physical,
36 biological, ecological, or recreational resources which may be affected by a change in air quality resulting from the
37 emissions of a proposed major stationary source or major modification that interferes with the management,
38 protection, preservation, or enjoyment of the air quality related values of a federal class I area.

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

42 (1) the applicable standards as set forth in 40 CFR Parts 60 and 61;

43 (2) the applicable state implementation plan emissions limitation, including those with a future
44 compliance date; or

45 (3) the emissions rate specified as a federally enforceable permit condition, including those with a
46 future compliance date.

47 **G. "Associated emission sources"** means secondary emissions and all reasonably foreseeable
48 emissions of regulated pollutants from the growth of general residential, commercial, industrial, governmental
49 emission sources and other mobile and non-mobile emission sources which are associated with and/or support the
50 proposed new major stationary source or major modification. Other mobile and non-mobile emission sources shall
51 include, but not be limited to, new highways and roads or improvements to existing highways and roads to increase
52 capacity, new parking facilities or improvements to existing parking facilities to increase capacity, service
53 enhancements to ground and air public transportation to include the building of new public transportation facilities
54 or improvements to existing public transportation facilities to increase capacity; and the building of new public or
55 private educational facilities or improving existing public or private educational facilities to increase enrollment.

1 **H. “Attainment area”** means, for any air pollutant, an area which is shown by monitored data or
2 which is calculated by air quality modeling not to exceed any national ambient air quality standard for such
3 pollutant, and is so designated under Section 107(d)(1)(D) or (E) of the act.

4 **I. “Baseline actual emissions”** means the rate of emissions, in tons per year, of a regulated new
5 source review pollutant, as determined in accordance with Paragraphs (1)-(4) of Subsection I of 20.11.61.7 NMAC.

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

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

13 (b) The average rate shall be adjusted downward to exclude any non-compliant emissions that
14 occurred while the source was operating above an emission limitation that was legally enforceable during the
15 consecutive 24-month period.

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

20 (d) The average rate shall not be based on any consecutive 24-month period for which there is
21 inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required
22 by Subparagraph (b) of Paragraph (1) of Subsection I of 20.11.61.7 NMAC.

23 (2) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual
24 emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during
25 any consecutive 24-month period selected by the owner or operator within the 10 year period immediately preceding
26 either the date the owner or operator begins actual construction of the project, or the date a complete permit
27 application is received by the department for a permit required either under 20.11.61 NMAC or under a plan
28 approved by the administrator, whichever is earlier, except that the 10 year period shall not include any period
29 earlier than November 15, 1990.

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

32 (b) The average rate shall be adjusted downward to exclude any non-compliant emissions that
33 occurred while the source was operating above an emission limitation that was legally enforceable during the
34 consecutive 24-month period.

35 (c) The average rate shall be adjusted downward to exclude any emissions that would have
36 exceeded an emission limitation with which the major stationary source must currently comply, had such major
37 stationary source been required to comply with such limitations during the consecutive 24-month period. However,
38 if an emission limitation is part of a maximum achievable control technology standard that the administrator
39 proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state has
40 taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the
41 requirements of 40 CFR 51.165(a)(3)(ii)(G).

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

46 (e) The average rate shall not be based on any consecutive 24-month period for which there is
47 inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required
48 by Subparagraphs (b) and (c) of Paragraph (2) of Subsection I of 20.11.61.7 NMAC.

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

52 (4) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing
53 electric utility steam generating units in accordance with the procedures contained in Paragraph (1) of Subsection I
54 of 20.11.61.7 NMAC, for other existing emissions units in accordance with the procedures contained in Paragraph
55 (2) of Subsection I of 20.11.61.7 NMAC, and for a new emissions unit in accordance with the procedures contained
56 in Paragraph (3) of Subsection I of 20.11.61.7 NMAC.

1 **J. “Baseline area”**

2 (1) Means any intrastate area (and every part thereof) designated as attainment or unclassifiable under
3 Section ~~[407(d)(1)(D) or (E)]~~ 107(d)(1)(A)(ii) or (iii) of the act in which the major source or major modification
4 establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for
5 which the baseline date is established, as follows: equal to or greater than one microgram per cubic meter (1 µg/m³)
6 (annual average) ~~[of the pollutant for which the minor source baseline date is established]~~ for SO₂, NO₂ or PM₁₀; or
7 equal to or greater than 0.3 µg/m³* (annual average) for PM_{2.5}.

8 (2) Area redesignations under Section ~~[407(d)(1)(D) or (E)]~~ 107(d)(1)(A)(ii) or (iii) of the act cannot
9 intersect or be smaller than the area of impact of any major stationary source or major modification which:

10 (a) establishes a minor source baseline date; or

11 (b) is subject to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166, and
12 would be constructed in the same state as the state proposing the redesignation.

13 (3) Any baseline area established originally for total suspended particulates (TSP) increments shall
14 remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that
15 such baseline area shall not remain in effect if the department rescinds the corresponding minor source baseline date
16 in accordance with Paragraph (3) of Subsection MM of 20.11.61.7 NMAC. *{* Was under reconsideration by EPA.*
17 *NPRM = 1 µg/m³; Final rule = 0.3 µg/m³; EPA supports the 0.3 ug/m³ value; affirmed in ‘Brief of Respondent’ for*
18 *Sierra Club petition). {FR Vol. 75 No. 202, p. 64903, 10/20/10, re: 40 CFR 51.166(15)(i) }*

19 **K. “Baseline concentration”** means that ambient concentration level that exists in the baseline area
20 at the time of the applicable minor source baseline date.

21 (1) A baseline concentration is determined for each pollutant for which a minor source baseline date
22 is established and shall include:

23 (a) the actual emissions representative of sources in existence on the applicable minor source
24 baseline date, except as provided in Paragraph (2) of Subsection K of 20.11.61.7 NMAC;

25 (b) the allowable emissions of major stationary sources that commenced construction before
26 the major source baseline date, but were not in operation by the applicable minor source baseline date.

27 (2) The following will not be included in the baseline concentration and will affect the applicable
28 maximum allowable increase(s):

29 (a) actual emissions from any major stationary source on which construction commenced after
30 the major source baseline date; and

31 (b) actual emissions increases and decreases at any stationary source occurring after the minor
32 source baseline date.

33 **L. “Begin actual construction”** means, in general, the initiation of physical onsite construction
34 activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to,
35 installation of building supports and foundations, laying of underground pipework and construction of permanent
36 storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other
37 than preparatory activities which mark the initiation of the change.

38 **M. “Best available control technology (BACT)”** means an emissions limitation (including a visible
39 emission standard) based on the maximum degree of reduction for each regulated new source review pollutant
40 which would be emitted from any proposed major stationary source or major modification, which the director on a
41 case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is
42 achievable for such source or modification through application of production processes or available methods,
43 systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control
44 of such pollutant. In no event shall application of best available control technology result in emissions of any
45 pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60 and 61. If
46 the director determines that technological or economic limitations on the application of measurement methodology
47 to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment,
48 work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for
49 the application of best available control technology. Such standard shall, to the degree possible, set forth the
50 emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall
51 provide for compliance by means which achieve equivalent results.

52 **N. “Building, structure, facility, or installation”** means all of the pollutant emitting activities which
53 belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under
54 the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-
55 emitting activities shall be considered as part of the same industrial grouping if they belong to the same “major
56 group” (i.e., which have the same first two-digit code) as described in the standard industrial classification (SIC)

1 manual, 1972, as amended by the 1977 supplement (U. S. government printing office stock numbers 4101-0066 and
2 003-005-00176-0, respectively) or any superseding SIC manual.

3 **O. “Class I area”** means any federal land that is classified or reclassified as “class I” as listed in
4 20.11.61.25 NMAC.

5 **P. “Commence”** as applied to construction of a major stationary source or major modification,
6 means that the owner or operator has all necessary preconstruction approvals or permits and either has:

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

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

12 **Q. “Complete”** means, in reference to an application for a permit, that the department has determined
13 the application contains all of the information necessary for processing the application. Designating an application
14 complete for purposes of permit processing does not preclude the department from requesting or accepting any
15 additional information.

16 **R. “Construction”** means any physical change or change in the method of operation (including
17 fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in
18 emissions.

19 **S. “Continuous emissions monitoring system (CEMS)”** means all of the equipment that may be
20 required to meet the data acquisition and availability requirements of 20.11.61 NMAC, to sample, condition (if
21 applicable), analyze, and provide a record of emissions on a continuous basis.

22 **T. “Continuous emissions rate monitoring system (CERMS)”** means the total equipment required
23 for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

24 **U. “Continuous parameter monitoring system (CPMS)”** means all of the equipment necessary to
25 meet the data acquisition and availability requirements of 20.11.61 NMAC, to monitor process and control device
26 operational parameters (for example, control device secondary voltages and electric currents) and other information
27 (for example, gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter value(s) on a
28 continuous basis.

29 **V. “Department”** means the city of Albuquerque, environmental health department or its successor
30 agency.

31 **W. “Director”** means the director of the city of Albuquerque, environmental health department or the
32 director of its successor agency.

33 **X. “Electric utility steam generating unit”** means any steam electric generating unit that is
34 constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than
35 25 megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam
36 distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical
37 energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

38 **Y. “Emissions unit”** means any part of a stationary source that emits or would have the potential to
39 emit any regulated new source review pollutant and includes an electric utility steam generating unit as defined in
40 20.11.61.7 NMAC. For purposes of 20.11.61 NMAC, there are two types of emissions units as follows:

41 (1) a new emissions unit is any emissions unit that is (or will be) newly constructed and that has
42 existed for less than two years from the date such emissions unit first operated;

43 (2) an existing emissions unit is any emissions unit that does not meet the requirements in Paragraph
44 (1) of Subsection Y of 20.11.61.7 NMAC. A replacement unit is an existing unit.

45 **Z. “Federal land manager”** means, with respect to any lands in the United States, a federal level
46 cabinet secretary of a federal level department (e.g. interior department) with authority over such lands.

47 **AA. “Federally enforceable”** means all limitations and conditions which are enforceable by the
48 administrator, including:

49 (1) those requirements developed pursuant to 40 CFR Parts 60 and 61;

50 (2) requirements within any applicable state implementation plan (SIP);

51 (3) any permit requirements established pursuant to 40 CFR 52.21; or

52 (4) under regulations approved pursuant to 40 CFR Part 51, Subpart I, including operating permits
53 issued under an EPA-approved program that expressly requires adherence to any permit issued under such program.

54 **BB. “Fugitive emissions”** means those emissions which could not reasonably pass through a stack,
55 chimney, vent, or other functionally equivalent opening.

1 **CC. “Greenhouse gases” or “GHGs”** means the air pollutant defined in § 86.1818–12(a) of Chapter I
2 of Title 40 of the CFR, as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane,
3 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

4
5 **DD. “High terrain”** means any area having an elevation 900 feet or more above the base of a source's
6 stack.

7 **EE. “Indian governing body”** means the governing body of any tribe, band, or group of Indians
8 subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-
9 government.

10 **FF. “Innovative control technology”** means any system of air pollution control that has not been
11 adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous
12 emissions reduction than any control system in current practice or achieving at least comparable reductions at lower
13 cost in terms of energy, economics, or non-air quality environmental impacts.

14 **GG. “Low terrain”** means any area other than high terrain.

15 **HH. “Lowest achievable emission rate (LAER)”** means, for any source, the more stringent rate of
16 emissions based on the following:

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

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

25 **II. “Major modification”**

26 (1) Means any physical change in or change in the method of operation of a major stationary source
27 that would result in: a significant emissions increase of a regulated new source review pollutant; and a significant
28 net emissions increase of that pollutant from the major stationary source.

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

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

33 (a) routine maintenance, repair, and replacement;

34 (b) use of an alternative fuel or raw material by reason of an order under Section 2(a) and (b) of
35 the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a
36 natural gas curtailment plan pursuant to the Federal Power Act;

37 (c) use of an alternative fuel by reason of an order or rule under Section 125 of the act;

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

40 (e) use of an alternative fuel or raw material by a stationary source which:

41 (i) the source was capable of accommodating before January 6, 1975, unless such change
42 would be prohibited under any federally enforceable permit condition which was established after January 6, 1975
43 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Subpart I or 40 CFR 51.166; or

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

46 (f) an increase in the hours of operation or in the production rate, unless such change would be
47 prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to
48 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Subpart I or 40 CFR 51.166;

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

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

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

53 (ii) other requirements necessary to attain and maintain the national ambient air quality
54 standards during the project and after it is terminated;

55 (i) the installation or operation of a permanent clean coal technology demonstration project that
56 constitutes repowering, provided that the project does not result in an increase in the potential to emit of any

1 regulated new source review pollutant emitted by the unit; this exemption shall apply on a pollutant-by-pollutant
2 basis; or

3 (j) the reactivation of a very clean coal-fired electric utility steam generating unit.

4 (4) This definition shall not apply with respect to a particular regulated new source review pollutant
5 when the major stationary source is complying with the requirements under 20.11.61.20 NMAC for a PAL for that
6 pollutant. Instead, the definition at Paragraph (8) of Subsection B of 20.11.61.20 NMAC shall apply.

7 **JJ. “Major source baseline date”** means:

8 (1) in the case of ~~[particulate matter]~~ PM₁₀ and sulfur dioxide, January 6, 1975; ~~[and]~~

9 (2) in the case of nitrogen dioxide, February 8, 1988; and

10 (3) in the case of PM_{2.5}, October 20, 2010. {FR Vol. 75, No. 202, p. 64903, 10/20/10; re: 40 CFR
11 51.166(b)(14)(i)}

12 **KK. “Major stationary source”**

13 (1) means:

14 (a) any stationary source listed in Table 1 of 20.11.61.26 NMAC which emits, or has the
15 potential to emit, 100 tons per year or more of any regulated new source review pollutant;

16 (b) notwithstanding the stationary source categories specified in Subparagraph (a) of Paragraph
17 (1) of Subsection KK of 20.11.61.7 NMAC, any stationary source which emits, or has the potential to emit, 250
18 tons per year or more of any regulated new source review pollutant; or

19 (c) any physical change that would occur at a stationary source not otherwise qualifying under
20 Subsection KK of 20.11.61.7 NMAC, as a major stationary source if the change would constitute a major stationary
21 source by itself.

22 (2) A major source that is major for volatile organic compounds or oxides of nitrogen shall be
23 considered major for ozone.

24 (3) The fugitive emissions of a stationary source shall not be included in determining whether it is a
25 major stationary source, unless the source belongs to one of the stationary source categories found in Table 1 of
26 20.11.61.26 NMAC or any other stationary source category which, as of August 7, 1980, is being regulated under
27 Section 111 or 112 of the act.

28 **LL. “Mandatory federal class I area”** means any area identified in 40 CFR Part 81, Subpart D.

29 **MM. “Minor source baseline date”** means the earliest date after the trigger date on which a major
30 stationary source or major modification subject to 40 CFR 52.21, or ~~[20.11.61 NMAC]~~ to regulations approved
31 pursuant to 40 CFR 51.166, submits a complete application under the relevant regulations.

32 (1) The trigger dates are:

33 (a) August 7, 1977, for ~~[particulate matter]~~ PM₁₀ and sulfur dioxide; and

34 (b) February 8, 1988 for nitrogen dioxide; and

35 (c) October 20, 2011, for PM_{2.5}.

36 (2) The baseline date is established for each pollutant for which increments or other equivalent
37 measures have been established if:

38 (a) the area in which the proposed major stationary source or major modification would
39 construct is designated as attainment or unclassifiable under ~~[107(d)(1)(D) or (E)]~~ 107(d)(1)(A)(ii) or (iii) of the
40 federal act for the pollutant on the date of its complete application under 40 CFR 52.21 or ~~[20.11.61 NMAC]~~ under
41 regulations approved pursuant to 40 CFR 51.166; and

42 (b) in the case of a major stationary source, the pollutant would be emitted in significant
43 amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

44 (3) Any minor source baseline date established originally for the TSP increments shall remain in
45 effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the
46 department may rescind any such minor source baseline date where it can be shown, to the director's satisfaction
47 that, either the emissions increase from the major stationary source, or the net emissions increase from the major
48 modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions. {FR Vol.
49 75, No. 202, 10/20/10, p. 64903; re: 40 CFR 51.166(b)(14)(ii)}

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

52 **OO. “Necessary preconstruction approvals or permits”** mean those permits or approvals required
53 under federal air quality control laws and regulations and those air quality control laws and regulations which are
54 part of the New Mexico state implementation plan.

55 **PP. “Net emissions increase”**

- 1 (1) Means, that with respect to any regulated new source review pollutant emitted by a major
2 stationary source, the amount by which the sum of the following exceeds zero:
3 (a) the increase in emissions from a particular physical change or change in the method of
4 operation at a stationary source as calculated pursuant to Subsection D of 20.11.61.11 NMAC; and
5 (b) any other increases and decreases in actual emissions at the major stationary source that are
6 contemporaneous with the particular change and are otherwise creditable; baseline actual emissions for calculating
7 increases and decreases shall be determined as provided in Subsection I of 20.11.61.7 NMAC, except that
8 Subparagraph (c) of Paragraph (1) and Subparagraph (d) of Paragraph (2) of Subsection I of 20.11.61.7 NMAC shall
9 not apply.
- 10 (2) An increase or decrease in actual emissions is contemporaneous with the increase from the
11 particular change only if it occurs between:
12 (a) the date five years prior to the commencement of construction on the particular change; and
13 (b) the date that the increase from the particular change occurs.
- 14 (3) An increase or decrease in actual emissions is creditable only if:
15 (a) it occurs between:
16 (i) the date five years prior to the commencement of construction on the particular
17 change; and
18 (ii) the date that the increase from the particular change occurs; and
19 (b) the department has not relied on it in issuing a permit for the source under regulations
20 approved pursuant to ~~[20.11.61 NMAC]~~ [40 CFR 51.166](#), which permit is in effect when the increase in actual
21 emissions from the particular change occurs; and
22 (c) the increase or decrease in emissions did not occur at a *Clean Unit*. {40 CFR 51.166
23 (b)(3)(iii)(c) & FR Vol. 76 No. 61, 3/30/11, p. 17554}
24 (d) As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it
25 occurs at an emissions unit that is part of one of the source categories listed in Paragraph (3) of Subsection KK of
26 20.11.61.7 NMAC or it occurs at an emission unit that is located at a major stationary source that belongs to one of
27 the listed source categories. Fugitive emission increases or decreases are not included for those emissions units
28 located at a facility whose primary activity is not represented by one of the source categories listed in Paragraph (3)
29 of Subsection KK of 20.11.61.7 NMAC and that are not, by themselves, part of a listed source category. {40 CFR
30 51.166(b)(3)(iii)(d)}
- 31 (4) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or oxides of
32 nitrogen that occurs before the applicable minor source baseline date is creditable only if it is required to be
33 considered in calculating the amount of maximum allowable increases remaining available.
- 34 (5) An increase in actual emissions is creditable only to the extent that the new level of actual
35 emissions exceeds the old level.
- 36 (6) A decrease in actual emissions is creditable only to the extent that:
37 (a) the old level of actual emissions or the old level of allowable emissions, whichever is lower,
38 exceeds the new level of actual emissions;
39 (b) it is enforceable as a practical matter at and after the time that actual construction on the
40 particular change begins; and
41 (c) it has approximately the same qualitative significance for public health and welfare as that
42 attributed to the increase from the particular change; and
- 43 (7) an increase that results from a physical change at a source occurs when the emissions unit on
44 which construction occurred becomes operational and begins to emit a particular pollutant; any replacement unit that
45 requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- 46 (8) Paragraph (2) of Subsection B of 20.11.61.7 NMAC shall not apply for determining creditable
47 increases and decreases.

48 **QQ. “Nonattainment area”** means an area which has been designated under Section 107 of the act as
49 nonattainment for one or more of the national ambient air quality standards by EPA.

50 **RR. “Portable stationary source”** means a source which can be relocated to another operating site
51 with limited dismantling and reassembly.

52 **SS. “Potential to emit”** means the maximum capacity of a stationary source to emit a pollutant under
53 its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a
54 pollutant, including air pollutant control equipment and restrictions on hours of operation or on the type or amount
55 of material combusted, stored, or processed, shall be treated as part of its design if the limitations or the effect the

1 limitation would have on emissions is federally enforceable. Secondary emissions do not count in determining the
2 potential to emit of a stationary source.

3 **TT. “Predictive emissions monitoring system (PEMS)”** means all of the equipment necessary to
4 monitor process and control device operational parameters (for example, control device secondary voltages and
5 electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and
6 record the mass emissions rate (for example, lb/hr) on a continuous basis.

7 **UU. “Project”** means a physical change in, or change in method of operation of, an existing major
8 stationary source.

9 **VV. “Projected actual emissions”**

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

16 (2) In determining the projected actual emissions (before beginning actual construction), the owner or
17 operator of the major stationary source:

18 (a) shall consider all relevant information, including but not limited to, historical operational
19 data, the company's own representations, the company's expected business activity and the company's highest
20 projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance
21 plans under an approved SIP; and

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

24 (c) shall exclude, in calculating any increase in emissions that results from the particular
25 project, that portion of the unit's emissions following the project that an existing unit could have accommodated
26 during the consecutive 24-month period used to establish the baseline actual emissions under Subsection I of
27 20.11.61.7 NMAC and that are also unrelated to the particular project, including any increased utilization due to
28 product demand growth; or

29 (3) ~~[may elect to use the emissions unit's potential to emit in tons per year]~~ in lieu of using the
30 method set out in Subparagraphs (a)-(c) of Paragraph (2) of Subsection VV of 20.11.61.7 NMAC, may elect to use
31 the emissions unit's potential to emit in tons per year.

32 **WW. “Regulated new source review pollutant”** means the following:

33 (1) any pollutant for which a national ambient air quality standard has been promulgated; ~~and~~ This
34 includes, but is not limited to the following:

35 (a) PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or
36 activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such
37 condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions
38 limitations for PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM_{2.5} and PM₁₀ issued
39 prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of
40 the permit or the applicable implementation plan. Applicability determinations made prior to this date without
41 accounting for condensable particulate matter shall not be considered in violation of 40 CFR 51.166 unless the
42 applicable implementation plan required condensable particulate matter to be included;

43 (b) any pollutant identified under Subparagraph (b) of Paragraph (1) of Subsection WW of
44 20.11.61.7 NMAC as a constituent or precursor to ~~such~~ a pollutant for which a national ambient air quality
45 standard has been promulgated; precursors identified by the administrator for purposes of new source review are the
46 following:

47 ~~(a)~~ (i) volatile organic compounds and nitrogen oxides are precursors to ozone in all
48 attainment and unclassifiable areas;

49 ~~(b)~~ (ii) sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas;

50 ~~(c)~~ (iii) nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and
51 unclassifiable areas, unless the state demonstrates to the administrator's satisfaction or EPA demonstrates that
52 emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient
53 PM_{2.5} concentrations;

54 ~~(d)~~ (iv) volatile organic compounds are presumed not to be precursors to PM_{2.5} in any
55 attainment or unclassifiable area, unless the state demonstrates to the administrator's satisfaction or EPA

1 demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant
2 contributor to that area's ambient PM_{2.5} concentrations;

3 (2) any pollutant that is subject to any standard promulgated under Section 111 of the act; {FR Vol.
4 77, No. 207, 65107-65119, 10/25/12}

5 (3) any class I or II substance subject to a standard promulgated under or established by Title VI of
6 the act;

7 (4) any pollutant that otherwise is "subject to regulation" under the act as defined in Subsection CCC
8 of 20.11.61.7 NMAC;

9 (5) notwithstanding Paragraphs (1) through (4) of Subsection WW of 20.11.61.7 NMAC, the term
10 "regulated NSR pollutant" shall not include any or all hazardous air pollutants either listed in Section 112 of the act,
11 or added to the list pursuant to Section 112(b)(2) of the act, and which have not been delisted pursuant to Section
12 112(b)(3) of the act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a
13 general pollutant listed under Section 108 of the act;

14 (6) particulate matter (PM) emissions, PM_{2.5} emissions, and PM₁₀ emissions shall include gaseous
15 emissions from a source or activity which condense to form particulate matter at ambient temperatures; on or after
16 January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such
17 condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions
18 limitations for PM, PM_{2.5} and PM₁₀ in PSD permits; compliance with emissions limitations for PM, PM_{2.5} and PM₁₀
19 issued prior to this date shall not be based on condensable particulate matter unless required by the terms and
20 conditions of the permit or the applicable implementation plan; applicability determinations made prior to this date
21 without accounting for condensable particulate matter shall not be considered in violation of 20.11.61 NMAC unless
22 the applicable implementation plan required condensable particulate matter to be included. {FR Vol. 77, No. 52,
23 15656-15664, 3/16/12}

24 **XX. "Replacement unit"** means an emission unit for which all of the following criteria are met. No
25 creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

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

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

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

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

33 **YY. "Secondary emissions"** means emissions which occur as a result of the construction or operation
34 of a major stationary source or major modification, but do not come from the major stationary source or major
35 modification itself. For the purpose of [20.11.61 NMAC] 40 CFR 51.166, secondary emissions must be specific,
36 well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes
37 the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not
38 be constructed or increase its emissions except as a result of the construction or operation of the major stationary
39 source or major modification. Secondary emissions do not include any emissions which come directly from a
40 mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel. {40 CFR
41 51.166(b)(18)}

42 **ZZ. "Significant"** means:

43 (1) in reference to a net emissions increase or the potential of a source to emit any of the pollutants
44 listed in Table 2 of 20.11.61.27 NMAC, a rate of emissions that would equal or exceed any of the corresponding
45 emission rates listed in Table 2 of 20.11.61.27 NMAC;

46 (2) in reference to a net emissions increase or the potential of a source to emit a regulated new source
47 review pollutant that Paragraph (1) of Subsection ZZ of 20.11.61.7 NMAC, does not list, any emissions rate; and

48 (3) notwithstanding Paragraph (1) of Subsection ZZ of 20.11.61.7 NMAC, any emissions rate or any
49 net emissions increase associated with a major stationary source or major modification, which would construct
50 within 10 kilometers of a class I area, and have an impact on such area equal to or greater than 1 µg/m³ (24-hour
51 average).

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

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

1 **CCC. “Subject to regulation”** means, for any air pollutant, that the pollutant is subject to either a
2 provision in the Clean Air Act, or a nationally-applicable regulation codified by the administrator in Subchapter C of
3 Chapter I of Title 40 of the CFR, that requires actual control of the quantity of emissions of that pollutant, and that
4 such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of
5 that pollutant released from the regulated activity. Except that:

6 (1) **Greenhouse gases (GHGs)** shall not be subject to regulation except as provided in Paragraphs (4)
7 and (5) of Subsection CCC of 20.11.61.7 NMAC and shall not be subject to regulation if the stationary source
8 maintains its total source-wide emissions below the GHG PAL level, meets the requirements in 20.11.61.20 NMAC,
9 and complies with the PAL permit containing the GHG PAL. {FR Vol. 77, No. 134, 41051-75, 7/12/12}

10 (2) For purposes of Paragraphs (3) through (5) of Subsection CCC of 20.11.61.7 NMAC, the term
11 “tpy CO₂e equivalent emissions (CO₂e)” shall represent an amount of GHGs emitted, and shall be computed as
12 follows:

13 (a) multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the
14 pollutant GHGs, by the gas’s associated global warming potential published at Table A–1 to subpart A of Part 98 of
15 Chapter I of Title 40 of the CFR — *Global Warming Potentials*. For purposes of Paragraph (2) of Subsection CCC
16 of 20.11.61.7 NMAC, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon
17 dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic
18 material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste
19 from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of
20 industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and
21 biodegradable organic material); {FR Vol. 76, No. 139, 43490-43508, 7/20/11}

22 (b) sum the resultant value from Subparagraph (a) of Paragraph (2) of Subsection CCC of
23 20.11.61.7 NMAC for each gas to compute a tpy CO₂e.

24 (3) The term “emissions increase” as used in Paragraphs (4) and (5) of Subsection CCC of 20.11.61.7
25 NMAC, shall mean that both a significant emissions increase (as calculated using the procedures in Subsection D of
26 20.11.61.11 NMAC) and a significant net emissions increase (as defined in Subsection PP of 20.11.61.7 NMAC and
27 Subsection ZZ of 20.11.61.7 NMAC) occur. For the pollutant GHGs, an emissions increase shall be based on tpy
28 CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is
29 defined as 75,000 tpy CO₂e instead of applying the value in Table 2 of 20.11.61.27 NMAC.

30 (4) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

31 (a) the stationary source is a new major stationary source for a regulated NSR pollutant that is
32 not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

33 (b) the stationary source is an existing major stationary source for a regulated NSR pollutant
34 that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase
35 of 75,000 tpy CO₂e or more; and,

36 (5) beginning July 1, 2011, in addition to the provisions in Paragraph (4) of Subsection CCC of
37 20.11.61.7 NMAC, the pollutant GHGs shall also be subject to regulation:

38 (a) at a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

39 (b) at an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e,
40 when such stationary source undertakes a physical change or change in the method of operation that will result in an
41 emissions increase of 75,000 tpy CO₂e or more.

42 **DDD. “Temporary source”** means a stationary source which changes its location or ceases to exist
43 within two years from the date of initial start of operations.

44 **EEE. “Visibility impairment”** means any humanly perceptible change in visibility (visual range,
45 contrast, coloration) from that which would have existed under natural conditions.

46 **FFF. “Volatile organic compound (VOC)”** means any compound of carbon, excluding carbon
47 monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which
48 participates in atmospheric photochemical reactions; this includes any such organic compound other than those
49 which the administrator designates as having negligible photochemical reactivity under 40 CFR 51.100(s).
50 [20.11.61.7 NMAC - Rp, 20.11.61.7 NMAC, 1/23/06; A, 5/15/06; A, 8/30/10; A, 1/10/11]

51
52 **20.11.61.8 SAVINGS CLAUSE:** Any amendment to 20.11.61 NMAC, *Prevention of Significant*
53 *Deterioration* that is filed with the state records center and archives shall not affect actions pending for violation of a
54 city or county ordinance or board regulation. Prosecution for a violation under prior regulation wording shall be
55 governed and prosecuted under the statute, ordinance, part or section in effect at the time the violation was
56 committed.

1 [20.11.61.8 NMAC - Rp, 20.11.61.9 NMAC, 1/23/06]

2
3 **20.11.61.9 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of 20.11.61 NMAC or
4 any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any
5 court, the decision shall not affect the validity of remaining provisions of 20.11.61 NMAC.

6 [20.11.61.9 NMAC - Rp, 20.11.61.10 NMAC, 1/23/06]

7
8 **20.11.61.10 DOCUMENTS:** Documents incorporated and cited in 20.11.61 NMAC may be viewed at the
9 Albuquerque environmental health department, One Civic Plaza NW, 3rd Floor, [Room](#) [Suite](#) 3023, Albuquerque,
10 NM 87102.

11 [20.11.61.10 NMAC - Rp, 20.11.61.11 NMAC, 1/23/06]

12
13 **20.11.61.11 APPLICABILITY:**

14 **A.** The requirements of 20.11.61 NMAC apply to the construction of any new major stationary
15 source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.

16 **B.** The requirements of Sections 20.11.61.12 NMAC through 20.11.61.18 NMAC, 20.11.61.21
17 NMAC and 20.11.61.24 NMAC apply to the construction of any new major stationary source or the major
18 modification of any existing major stationary source, except as 20.11.61 NMAC otherwise provides.

19 **C.** No new major stationary source or major modification to which the requirements of Subsections
20 A, B, C and D of 20.11.61.12 NMAC, Sections 20.11.61.13 NMAC through 20.11.61.18 NMAC, 20.11.61.21
21 NMAC and 20.11.61.24 NMAC apply shall begin actual construction without a permit that states that the major
22 stationary source or major modification will meet those requirements.

23 **D. Applicability procedures.**

24 (1) Except as otherwise provided in Subsection E of 20.11.61.11 NMAC, and consistent with the
25 definition of major modification, a project is a major modification for a regulated new source review pollutant if it
26 causes a significant emissions increase and a significant net emissions increase. The project is not a major
27 modification if it does not cause a significant emissions increase. If the project causes a significant emissions
28 increase, then the project is a major modification only if it also results in a significant net emissions increase.

29 (2) The procedure for calculating (before beginning actual construction) whether a significant
30 emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being
31 modified, according to Paragraphs (3) through (4) of Subsection D of 20.11.61.11 NMAC. The procedure for
32 calculating (before beginning actual construction) whether a significant net emissions increase will occur at the
33 major stationary source (i.e., the second step of the process) is contained in the definition in Subsection PP of
34 20.11.61.7 NMAC. Regardless of any such preconstruction projections, a major modification results if the project
35 causes a significant emissions increase and a significant net emissions increase.

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

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

45 (5) **Hybrid test for projects that involve multiple types of emissions units.** A significant
46 emissions increase of a regulated new source review pollutant is projected to occur if the sum of the emissions
47 increases for each emissions unit, using the method specified in Paragraphs (3) and (4) of Subsection D of
48 20.11.61.11 NMAC as applicable with respect to each emissions unit, for each type of emissions unit equals or
49 exceeds the significant amount for that pollutant.

50 **E.** For any major stationary source for a PAL for a regulated new source review pollutant, the major
51 stationary source shall comply with requirements under 20.11.61.20 NMAC.

52 [20.11.61.11 NMAC - N, 1/23/06; A, 8/30/10; A, 1/10/11]

53
54 **20.11.61.12 OBLIGATIONS OF OWNERS OR OPERATORS OF SOURCES:**

1 **A.** Any owner or operator who begins actual construction or operates a source or modification
2 without, or not in accordance with, a permit issued under the requirements of 20.11.61 NMAC shall be subject to
3 enforcement action.

4 **B.** Approval to construct shall not relieve any person from the responsibility to comply fully with the
5 provisions of the Air Quality Control Act, Sections 74-2-1 to 74-2-17, NMSA 1978; any applicable regulations of
6 the board; and any other requirements under local, state, or federal law.

7 **C.** Approval to construct shall become invalid if construction is not commenced within 18 months
8 after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is
9 not completed within a reasonable time; the administrator may extend the 18-month period upon a satisfactory
10 showing that an extension is justified; this provision does not apply to the time period between construction of the
11 approved phases of a phased construction project; each phase must commence construction within 18 months of the
12 projected and approved commencement date.

13 **D.** At such time that a particular source or modification becomes a major stationary source or major
14 modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7,
15 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of
16 operation, then 20.11.61 NMAC shall apply to the source or modification as though construction had not yet
17 commenced on the source or modification.

18 **E.** Except as otherwise provided in [\[Subparagraph \(b\) of\]](#) Paragraph (6) of Subsection E of
19 20.11.61.12 NMAC the following specific provisions apply with respect to any regulated new source review
20 pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a
21 source with a PAL) in circumstances where there is a reasonable possibility within the meaning of Paragraph (6) of
22 Subsection E of 20.11.61.12 NMAC that a project that is not a part of a major modification may result in a
23 significant emissions increase of such pollutant and the owner or operator elects to use the method specified in
24 Paragraphs (1) through (3) of Subsection VV of 20.11.61.7 NMAC for calculating projected actual emissions. [{40](#)
25 [CFR 51.166\(r\)\(6\)}](#)

26 (1) Before beginning actual construction of the project, the owner or operator shall document and
27 maintain a record of the following information:

28 (a) a description of the project;
29 (b) identification of the emissions unit(s) whose emissions of a regulated new source review
30 pollutant could be affected by the project; and

31 (c) a description of the applicability test used to determine that the project is not a major
32 modification for any regulated new source review pollutant, including the baseline actual emissions, the projected
33 actual emissions, the amount of emissions excluded under Paragraph (3) of Subsection VV of 20.11.61.7 NMAC
34 and an explanation for why such amount was excluded, and any netting calculations, if applicable.

35 (2) If the emissions unit is an existing electric utility steam generating unit, before beginning actual
36 construction, the owner or operator shall provide a copy of the information set out in Paragraph (1) of Subsection E
37 of 20.11.61.12 NMAC to the department. Nothing in Paragraph (2) of Subsection E of 20.11.61.12 NMAC shall be
38 construed to require the owner or operator of such a unit to obtain any determination from the department before
39 beginning actual construction; however, necessary preconstruction approvals and/or permits must be obtained before
40 beginning actual construction.

41 (3) The owner or operator shall monitor the emissions of any regulated new source review pollutant
42 that could increase as a result of the project and that is emitted by any emissions unit identified in Subparagraph (b)
43 of Paragraph (1) of Subsection E of 20.11.61.12 NMAC; and calculate and maintain a record of the annual
44 emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular
45 operations after the change, or for a period of 10 years following resumption of regular operations after the change if
46 the project increases the design capacity or potential to emit of that regulated new source review pollutant at such
47 emissions unit. For purposes of Paragraph (3) of Subsection E of 20.11.61.12 NMAC, fugitive emissions (to the
48 extent quantifiable) shall be monitored if the emissions unit is part of one of the source categories listed in Table 1
49 of 20.11.61.26 NMAC or if the emissions unit is located at a major stationary source that belongs to one of the listed
50 source categories.

51 (4) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a
52 report to the department within 60 days after the end of each year during which records must be generated under
53 Subparagraph (c) of Paragraph (1) of Subsection E of 20.11.61.12 NMAC setting out the unit's annual emissions
54 during the calendar year that preceded submission of the report.

55 (5) If the unit is an existing unit other than an electric utility steam generating unit, the owner or
56 operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified

1 in Paragraph (1) of Subsection E of 20.11.61.12 NMAC, exceed the baseline actual emissions (as documented and
2 maintained pursuant to Subparagraph (c) of Paragraph (1) of Subsection E of 20.11.61.12 NMAC) by a significant
3 amount for that regulated new source review pollutant, and if such emissions differ from the preconstruction
4 projection as documented and maintained pursuant to Subparagraph (c) of Paragraph (1) of Subsection E of
5 20.11.61.12 NMAC. Such report shall be submitted to the department within 60 days after the end of such year. The
6 report shall contain the following:

7 (a) the name, address and telephone number of the major stationary source;
8 (b) the annual emissions as calculated pursuant to Paragraph (3) of Subsection E of 20.11.61.12
9 NMAC; and

10 (c) any other information that the owner or operator wishes to include in the report (e.g., an
11 explanation as to why the emissions differ from the preconstruction projection).

12 (6) A “reasonable possibility” under Subsection E of 20.11.61.12 NMAC occurs when the owner or
13 operator calculates the project to result in either:

14 (a) a projected actual emissions increase of at least 50 percent of the amount that is a
15 “significant emissions increase,” as defined under Subsection AAA of 20.11.61.7 NMAC (without reference to the
16 amount that is a significant net emissions increase), for the regulated new source review pollutant; or

17 (b) a projected actual emissions increase that, added to the amount of emissions excluded under
18 Paragraph (3) of Subsection VV of 20.11.61.7 NMAC, sums to at least 50 percent of the amount that is a
19 “significant emissions increase,” as defined under Subsection AAA of 20.11.61.7 NMAC (without reference to the
20 amount that is a significant net emissions increase), for the regulated new source review pollutant; for a project for
21 which a reasonable possibility occurs only within the meaning of Subparagraph (b) of Paragraph (6) of Subsection E
22 of 20.11.61.12 NMAC, and not also within the meaning of Subparagraph (a) of Paragraph (6) of Subsection E of
23 20.11.61.12 NMAC, then provisions of Paragraphs (2) through (5) of Subsection E of 20.11.61.12 NMAC do not
24 apply to the project.

25 **F.** The owner or operator of the source shall make the information required to be documented and
26 maintained pursuant to Subsection E of 20.11.61.12 NMAC available for review upon request for inspection by the
27 department or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).
28 [20.11.61.12 NMAC - Rp, 20.11.61.12 NMAC, 1/23/06; A, 8/30/10; A, 1/10/11]

29
30 **20.11.61.13 SOURCE INFORMATION:** The owner or operator of a proposed source or modification shall
31 submit all information necessary to perform any analysis or make any determination required by 20.11.61 NMAC.

32 **A.** Information shall include, but is not limited to:

33 (1) a description of the nature, location, design capacity, and typical operating schedule of the source
34 or modification, including specifications and drawings showing the design and plant layout; and

35 (2) a detailed schedule of construction of the source or modification; and

36 (3) a detailed description of the planned system of continuous emission reduction for the source or
37 modification, emission estimates, and other information necessary to determine that best available control
38 technology will be applied.

39 **B.** Upon request by the department, the owner or operator shall also provide information on:

40 (1) the air quality impact of the source or modification, including meteorological and topographic
41 data necessary to estimate such impact; and

42 (2) the air quality impacts, and the nature and extent of any or all general commercial, residential,
43 industrial, and other growth which has occurred since August 7, 1977 in the area the source or modification would
44 affect.

45 [20.11.61.13 NMAC - Rp, 20.11.61.13 NMAC, 1/23/06]

46
47 **20.11.61.14 CONTROL TECHNOLOGY REVIEW AND INNOVATIVE CONTROL TECHNOLOGY:**

48 **A.** A new major stationary source shall apply best available control technology for each regulated
49 new source review pollutant that it would have the potential to emit in amounts equal to or greater than the
50 significance levels as listed in Table 2 of 20.11.61.27 NMAC. This requirement applies to each proposed emissions
51 unit or operation that will emit such pollutant.

52 **B.** A major modification shall apply best available control technology for each regulated new source
53 review pollutant at the source when a significant net emissions increase occurs. This requirement applies to each
54 proposed emissions unit or operation where a net emissions increase in the pollutant would occur as a result of a
55 physical change or change in the method of operation in the unit.

1 **C.** For phased construction projects, the determination of best available control technology shall be
2 reviewed and modified as appropriate at the latest reasonable time but no later than 18 months prior to
3 commencement of construction of each independent phase of the project. At such time, the owner or operator of the
4 applicable stationary source may be required to demonstrate the adequacy of any previous determination of best
5 available control technology for the source.

6 **D. Innovative control technology.** The department may approve a system of innovative control
7 technology for the major stationary source or major modification if:

8 (1) the proposed control system would not cause or contribute to an unreasonable risk to public
9 health, welfare, or safety in its operation or function; and

10 (2) the owner or operator agrees to achieve a level of continuous emissions reduction equivalent to
11 that which would have been required under Subsection A of 20.11.61.14 NMAC by a date specified by the
12 department. Such date shall not be later than four years from the time of startup or seven years from permit
13 issuance; and

14 (3) the source or modification would meet the requirements equivalent to 20.11.61.14 NMAC and
15 20.11.61.15 NMAC based on the emissions rate that the stationary source employing the system of innovative
16 control technology would be required to meet on the date specified by the department; and

17 (4) during the interim period of achieving the permitted emission level, the source or modification
18 would not:

19 (a) cause or contribute to a violation of an applicable national ambient air quality standard; nor

20 (b) impact any federal class I area; nor

21 (c) impact any area where an applicable increment is known to be violated; and

22 (5) all other applicable requirements including those for public participation have been met.

23 **E.** The department shall withdraw any approval to employ a system of innovative control technology
24 if:

25 (1) the proposed system fails by the specified date to achieve the required continuous emissions
26 reduction rate; or

27 (2) the proposed system fails before the specified date so as to contribute to an unreasonable risk to
28 public health, welfare, or safety; or

29 (3) the department decides at any time that the proposed system is unlikely to achieve the required
30 level of control or to protect the public health, welfare, or safety.

31 **F.** If a source or modification fails to meet the required level of continuous emission reduction within
32 the specified time period or the approval is withdrawn in accordance with Subsection E of 20.11.61.14 NMAC, the
33 department may allow the source or modification up to an additional three years to meet the requirement for the
34 application of best available control technology through use of a demonstrated system of control.

35 **G.** If the owner or operator of a major stationary source or major modification previously issued a
36 permit under 20.11.61 NMAC applies for an extension, and the new proposed date of construction is greater than 18
37 months from the date the permit would become invalid, the determination of best available control technology shall
38 be reviewed and modified as appropriate before such an extension is granted. At such time, the owner or operator of
39 the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best
40 available control technology for the source.

41 [20.11.61.14 NMAC - Rp, 20.11.61.14 NMAC, 1/23/06; A, 8/30/10]

42 43 **20.11.61.15 AMBIENT IMPACT REQUIREMENTS:**

44 **A.** The requirements of 20.11.61.15 NMAC shall apply to each pollutant emitted by a new major
45 stationary source or major modification in amounts equal to or greater than that in Table 2 of 20.11.61.27 NMAC.
46 For particulate matter, the source will only be required to perform ambient impact analysis for PM₁₀ when the source
47 has the potential to emit significant amounts of PM₁₀ as determined from Table 2 of 20.11.61.27 NMAC.

48 **B. Source impact analysis.**

49 (1) Required demonstration. The owner or operator of the proposed source or modification shall
50 demonstrate that the allowable emission increases from the proposed source or modification, in conjunction with all
51 other applicable emissions increases or reductions, (including secondary emissions), would not cause or contribute
52 to air pollution in violation of:

53 ~~(+)~~ (a) any national ambient air quality standard in any air quality control region; or

54 ~~(=)~~ (b) any applicable maximum allowable increase (as shown in Table 4 of 20.11.61.29 NMAC)
55 over the baseline concentrations in any area.

56 (2) Reserved*

1 C. The owner or operator of the proposed major stationary source or major modification shall
2 demonstrate that neither a violation of Subparagraph (a) or (b) of Paragraph (1) [or Paragraph (2)] of Subsection B
3 of 20.11.61.15 NMAC will occur. ~~{* Was under reconsideration by EPA; EPA now agrees with Sierra Club that~~
4 ~~“Section 51.166(k)(2) & 52.21(k)(2) should be vacated and remanded”, as stated in ‘Brief of Respondent’ for Sierra~~
5 ~~Club petition (p. 42).}~~ {FR Vol. 75 No 202, 10/20/10, p. 64904; re: 40 CFR 51.166(k)(2)}
6 [20.11.61.15 NMAC - Rp, 20.11.61.15 NMAC, 1/23/06; A, 8/30/10]
7

8 **20.11.61.16 ADDITIONAL IMPACT ANALYSES:**

9 A. The owner or operator of the proposed major stationary source or major modification shall provide
10 an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or
11 modification and general commercial, residential, industrial, and other growth associated with the source or
12 modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant
13 commercial or recreational value. The analysis can use data or information available from the department.

14 B. The owner or operator shall also provide an analysis of the air quality impact projected for the area
15 as a result of general commercial, residential, industrial, and other growth associated with the source or
16 modification.

17 C. The department may require monitoring of visibility in any federal class I area where the
18 department determines that an adverse impact on visibility may occur due primarily to the operations of the
19 proposed new source or modification. Such monitoring shall be conducted following procedures approved by the
20 department and subject to the following:

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

23 (2) the cost of visibility monitoring required by the department shall not exceed 50 percent of the cost
24 of ambient monitoring required by 20.11.61 NMAC; if ambient monitoring is not required, the cost shall be
25 estimated as if it were required for each pollutant to which 20.11.61 NMAC applies;

26 (3) both preconstruction and post construction visibility monitoring may be required; in each case, the
27 duration of such monitoring shall not exceed one year.

28 [20.11.61.16 NMAC - Rp, 20.11.61.16 NMAC, 1/23/06; A, 8/30/10]
29

30 **20.11.61.17 AMBIENT AIR QUALITY MODELING:** All estimates of ambient concentrations required by
31 20.11.61 NMAC shall be based on applicable air quality models, data bases, and other requirements as specified in
32 Appendix W to 40 CFR Part 51, its revisions, or any superseding EPA document, and approved by the department.
33 Where an air quality model specified in the Appendix W to 40 CFR Part 51, *Guideline on Air Quality Models*, is
34 inappropriate, the model may be modified or another model substituted. Any substitution or modification of a
35 model must be approved by the department. Notification shall be given by the department of such a substitution or
36 modification and the opportunity for public comment provided for in fulfilling the public notice requirements in
37 Subsection B of 20.11.61.21 NMAC. The department will seek EPA approval of such substitutions or
38 modifications.

39 [20.11.61.17 NMAC - Rp, 20.11.61.17 NMAC, 1/23/06; A, 8/30/10]
40

41 **20.11.61.18 ~~[MONITORING REQUIREMENTS-] AIR QUALITY ANALYSIS AND MONITORING~~** 42 **REQUIREMENTS:**

43 A. **Preapplication analysis.**

44 (1) Any application for a permit under regulations approved pursuant to 40 CFR 51.166 (e.g.
45 20.11.61 NMAC) shall contain an analysis of ambient air quality in the area that the major stationary source or
46 major modification would affect for each of the following pollutants: {40 CFR 51.166(m)(1)(i)}

47 ~~[(1)]~~ (i) for a major stationary source, each pollutant ~~[for which]~~ that it would have the potential to
48 emit ~~[is equal to or greater than the significant emission rates as listed in Table 2 of 20.11.61.27 NMAC]~~ in a
49 significant amount; or {40 CFR 51.166(m)(1)(i)(a)}

50 ~~[(2)]~~ (ii) for a major modification, each pollutant ~~[that]~~ for which it would result in a significant net
51 emission increase. {40 CFR 51.166(m)(1)(i)(b)}

52 ~~[B.](2)~~ If no national ambient air quality standard for a pollutant exists, and there is an acceptable method
53 for monitoring that pollutant, the analysis shall contain such air quality monitoring data as the department
54 determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant
55 would affect. {40 CFR 51.166(m)(1)(ii)}

1 ~~[C.](3)~~ For pollutants (other than nonmethane hydrocarbons) for which a standard does exist, the analysis
2 shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that
3 pollutant would cause or contribute to a violation of the standard or any maximum allowable increase. {40 CFR
4 51.166(m)(1)(iii)}

5 ~~(4)~~ ~~[Such]~~ Continuous air quality monitoring data ~~that is required~~ shall ~~[be submitted to the~~
6 ~~department for at least]~~ ~~have been gathered over a period of one year and shall represent~~ the one year period ~~[prior~~
7 ~~to]~~ ~~preceding~~ receipt of the permit application. The department has the discretion to:

8 (1) determine that a complete and adequate analysis can be accomplished with monitoring data
9 gathered over a period shorter than one year but not less than four months; or

10 (2) determine that existing air quality monitoring data is representative of air quality in the affected
11 area and accept such data in lieu of additional monitoring by the applicant. {40 CFR 51.166(m)(1)(iv)}

12 ~~[D.](5)~~ Ozone monitoring shall be performed if monitoring data is required for volatile organic
13 compounds or oxides of nitrogen. The owner or operator of a proposed major stationary source or major
14 modification of volatile organic compounds who satisfies all conditions of 40 CFR Part 51 Appendix S, Section IV
15 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under
16 Subsection A of 20.11.61.18 NMAC. {40 CFR 51.166(m)(1)(v)}

17 ~~[E. Reserved.]~~

18 ~~[F.](B)~~ **Post-construction monitoring.** The owner or operator of a major stationary source or major
19 modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as
20 the department determines is necessary to determine the effect emissions from the stationary source or modification
21 may have, or are having, on air quality in any area, including monitoring to validate attainment of ambient air
22 quality standards and to assure that increments are not exceeded. {40 CFR 51.166(m)(2)}

23 ~~[G.](C)~~ **Operation of monitoring stations.** The owner or operator of a major stationary source or major
24 modification shall meet the requirements of 40 CFR 58, Appendix B during the operation of monitoring stations for
25 purposes of satisfying the requirements of 20.11.61.18 NMAC. {40 CFR 51.166(m)(3)}

26 ~~[H.](D)~~ **Exceptions.** The department has the discretion to exempt a stationary source or modification from
27 the requirements of Subsections A through C of 20.11.61.18 NMAC with respect to monitoring for a particular
28 pollutant if: {40 CFR 51.166(i)(5)}

29 (1) the emissions increase of the pollutant from ~~[the]~~ a new stationary source or the net emissions
30 increase of the pollutant from ~~[the]~~ a modification would cause, in any area, ~~[increases in ambient concentrations]~~
31 air quality impacts less than the levels listed in Table 3 of 20.11.61.28 NMAC. {40 CFR 51.166(i)(5)(i)}

32 ~~[I.]~~ ~~The department shall exempt a stationary source or modification from the requirements of~~
33 ~~20.11.61.18 NMAC with respect to preconstruction monitoring for a particular pollutant if:~~

34 ~~(1) for ozone, volatile organic compound emissions and oxides of nitrogen are less than 100 tons per~~
35 ~~year; or~~

36 ~~(2) the air pollutant is not a regulated new source review pollutant; or~~

37 ~~(3)(2) the existing ambient concentrations of the pollutant in the area affected by the source or~~
38 ~~modification are less than the concentrations listed in Table 3 of 20.11.61.28 NMAC; or {40 CFR 51.166(i)(5)(ii)}~~

39 ~~(3) the pollutants not listed in Table 3 of 20.11.61.28 NMAC.~~ {FR Vol. 73, No 96, 5/16/08, p. 28348;
40 re: 40 CFR 51.166(i)(5)(iii)}

41 [20.11.61.18 NMAC - Rp, 20.11.61.18 NMAC, 1/23/06; A, 8/30/10]

42
43 **20.11.61.19 TEMPORARY SOURCE EXEMPTIONS:** The requirements of Subsection B of 20.11.61.15
44 NMAC, 20.11.61.16 NMAC and 20.11.61.18 NMAC shall not apply to a major source or modification with respect
45 to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of
46 that pollutant from the modification: would not impact any federal class I area or any areas where an applicable
47 increment is known to be violated; and would be temporary.

48 [20.11.61.19 NMAC - Rp, 20.11.61.19 NMAC, 1/23/06; A, 8/30/10]

49
50 **20.11.61.20 ACTUALS PLANTWIDE APPLICABILITY LIMITS (PALs)** {FR Vol. 77, No. 134, 41051-
51 75, 7/12/12}

52 **A. Applicability.**

53 (1) The department may approve the use of an actuals PAL, including for GHGs on either a mass
54 basis or a CO₂e basis, for any existing major stationary source or any existing GHG-only source if the PAL meets
55 the requirements of 20.11.61.20 NMAC. The term “PAL” shall mean “actuals PAL” throughout 20.11.61.20
56 NMAC. {52.21(aa)(1)(i)}

1 (2) Any physical change in or change in the method of operation of a major stationary source that
2 maintains its total source-wide emissions below the PAL level, meets the requirements of 20.11.61.20 NMAC, and
3 complies with the PAL permit:

4 (a) is not a major modification for the PAL pollutant;
5 (b) does not have to be approved through the plan's major NSR program; and
6 (c) is not subject to the provisions in Subsection D of 20.11.61.12 NMAC (restrictions on
7 relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major
8 new source review program).

9 (d) does not make GHGs "subject to regulation" as defined by Subsection CCC of 20.11.61.7
10 NMAC. {52.21(aa)(1)(ii)(d)}

11 (3) Except as provided under Subparagraph (c) of Paragraph (2) of Subsection A of 20.11.61.20
12 NMAC, a major stationary source or a GHG-only source shall continue to comply with all applicable federal or state
13 requirements, emission limitations, and work practice requirements that were established prior to the effective date
14 of the PAL. {40 CFR 52.21(aa)(1), FR Vol. 77, No. 134, 7/12/12}

15 **B. Definitions applicable to 20.11.61.20 NMAC.**

16 (1) **Actuals PAL for a major stationary source** means a PAL based on the *baseline actual*
17 *emissions* (as defined in Subsection I of 20.11.61.7 NMAC) of all *emissions units* (as defined in Subsection Y of
18 20.11.61.7 NMAC) at the source, that emit or have the potential to emit the PAL pollutant. **For a GHG-only**
19 **source, actuals PAL** means a PAL based on the *baseline actual emissions* (as defined in Paragraph (13) of
20 Subsection B of 20.11.61.20 NMAC) of all *emissions units* (as defined in Paragraph (14) of Subsection B of
21 20.11.61.20 NMAC) at the source, that emit or have the potential to emit GHGs. {52.21 (aa)(2)(i)}

22 (2) **Allowable emissions** means "allowable emissions" as defined in Subsection F of 20.11.61.7
23 NMAC, except as this definition is modified in accordance with the following.

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

26 (b) An emissions unit's potential to emit shall be determined using the definition in Subsection
27 SS of 20.11.61.7 NMAC, except that the words "or enforceable as a practical matter" should be added after
28 "federally enforceable".

29 (3) **Small emissions unit** means an emissions unit that emits or has the potential to emit the PAL
30 pollutant in an amount less than the significant level for that PAL pollutant, as defined in Subsection ZZ of
31 20.11.61.7 NMAC or in the act, whichever is lower. **For a GHG PAL issued on a CO₂ e basis, small emissions**
32 **unit means an emissions unit that emits or has the potential to emit less than the amount of GHGs on a CO₂ e basis**
33 **defined as "significant" for the purposes of Paragraph (3) of Subsection CCC of 20.11.61.7 NMAC at the time the**
34 **PAL permit is being issued.** {52.21 (aa)(2)(iii)}

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

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

38 (b) any emissions unit that emits or has the potential to emit the PAL pollutant in an amount
39 that is equal to or greater than the major source threshold for the PAL pollutant as defined by the act for
40 nonattainment areas. For example, in accordance with the definition of major stationary source in Section 182(c) of
41 the act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious
42 ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.

43 (c) For a GHG PAL issued on a CO₂ e basis, any emissions unit that emits or has the potential
44 to emit equal to or greater than the amount of GHGs on a CO₂ e basis that would be sufficient for a new source to
45 trigger permitting requirements under Subsection CCC of 20.11.61.7 NMAC at the time the PAL permit is being
46 issued. {52.21(aa)(2)(iv)(c)}

47 (5) **Plantwide applicability limitation (PAL)** means an emission limitation expressed on a mass
48 basis in tons-per-year, or expressed in tpy CO₂ e for a CO₂ e-based GHG emission limitation, for a pollutant at a
49 major stationary source or GHG-only source, that is enforceable as a practical matter and established source-wide in
50 accordance with 20.11.61.20 NMAC. {52.21(aa)(2) (v)}

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

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

1 (8) **PAL major modification** means, notwithstanding the definitions for *major modification*, ~~and~~
2 *net emissions increase* and subject to regulation ~~at~~ at Subsections II, PP and CCC of 20.11.61.7 NMAC
3 respectively, any physical change in or change in the method of operation of the PAL source that causes it to emit
4 the PAL pollutant at a level equal to or greater than the PAL. {52.21(aa)(2)(viii)}

5 (9) **PAL permit** means the major new source review permit, the minor new source review permit, or
6 the state operating permit under a program that is approved into the SIP, or the title V permit issued by the
7 department that establishes a PAL for a major stationary source or a GHG-only source. {52.21(aa)(2)(ix)}

8 (10) **PAL pollutant** means the pollutant for which a PAL is established at a major stationary source
9 or a GHG-only source. For a GHG-only source, the only available PAL pollutant is GHGs. {52.21(aa)(2)(x)}

10 (11) **Significant emissions unit** means an emissions unit that emits or has the potential to emit a PAL
11 pollutant in an amount that is equal to or greater than the *significant level* (as defined in Subsection ZZ of 20.11.61.7
12 NMAC or in the act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit
13 as a *major emissions unit* as defined in Paragraph (4) of Subsection B of 20.11.61.20 NMAC. For a GHG PAL
14 issued on a CO₂e basis, significant emissions unit means any emissions unit that emits or has the potential to emit
15 GHGs on a CO₂e basis in amounts equal to or greater than the amount that would qualify the unit as small
16 emissions unit as defined in Paragraph (3) of Subsection B of 20.11.61.20 NMAC, but less than the amount that
17 would qualify the unit as a major emissions unit as defined in Subparagraph (c) of Paragraph (4) of Subsection B of
18 20.11.61.20 NMAC. {52.21(aa)(2)(xi)}

19 (12) **GHG-only source** means any existing stationary source that emits or has the potential to emit
20 GHGs in the amount equal to or greater than the amount of GHGs on a mass basis that would be sufficient for a new
21 source to trigger permitting requirements for GHGs under Subsection KK of 20.11.61.7 NMAC and the amount of
22 GHGs on a CO₂e basis that would be sufficient for a new source to trigger permitting requirements for GHGs under
23 Subsection CCC of 20.11.61.7 NMAC at the time the PAL permit is being issued, but does not emit or have the
24 potential to emit any other non-GHG regulated NSR pollutant at or above the applicable major source threshold. A
25 GHG-only source may only obtain a PAL for GHG emissions under 20.11.61.20 NMAC. {52.21(aa)(2)(xii)}

26 (13) **Baseline actual emissions for a GHG PAL** means the average rate, in tpy CO₂e or tpy GHG,
27 as applicable, at which the emissions unit actually emitted GHGs during any consecutive 24-month period selected
28 by the owner or operator within the 10-year period immediately preceding either the date the owner or operator
29 begins actual construction of the project, or the date a complete permit application is received by the Administrator
30 for a permit required under 40 CFR 52.21 or by the department for a permit required by a plan, whichever is earlier.
31 For any existing electric utility steam generating unit, baseline actual emissions for a GHG PAL means the average
32 rate, in tpy CO₂e or tpy GHG, as applicable, at which the emissions unit actually emitted the GHGs during any
33 consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding
34 either the date the owner or operator begins actual construction of the project, except that the Administrator shall
35 allow the use of a different time period upon a determination that it is more representative of normal source
36 operation.

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

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

42 (c) The average rate shall be adjusted downward to exclude any emissions that would have
43 exceeded an emission limitation with which the stationary source must currently comply, had such stationary source
44 been required to comply with such limitations during the consecutive 24-month period.

45 (d) The average rate shall not be based on any consecutive 24-month period for which there is
46 inadequate information for determining annual GHG emissions and for adjusting this amount if required by
47 Subparagraphs (b) and (c) of Paragraph (13) of Subsection B of 20.11.61.20 NMAC. {52.21(aa)(2)(xiii)}

48 (14) **Emissions unit** with respect to GHGs means any part of a stationary source that emits or has the
49 potential to emit GHGs. For purposes of 40 CFR 52.21, there are two types of emissions units as described in the
50 following:

51 (a) A new emissions unit is any emissions unit that is (or will be) newly constructed and that
52 has existed for less than 2 years from the date such emissions unit first operated.

53 (b) An existing emissions unit is any emissions unit that does not meet the requirements in
54 Subparagraph (a) of Paragraph (14) of Subsection B of 20.11.61.20 NMAC. {52.21(aa)(2)(xiv)}

1 (15) Minor source means any stationary source that does not meet the definition of major stationary
2 source in Subsection KK of 20.11.61.7 NMAC for any pollutant at the time the PAL is issued. {FR Vol. 77, No.

3 134, 41051-75, 7/12/12, re: 52.21(aa)(2)(xv)}
4 **C. Permit application requirements.** As part of a permit application requesting a PAL, the owner
5 or operator of a major stationary source or a GHG-only source shall submit the following information to the
6 department for approval:

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

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

13 (3) The calculation procedures that the major stationary source owner or operator proposes to use to
14 convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for
15 each month as required by Subsection M of 20.11.61.20 NMAC.

16 (4) As part of a permit application requesting a GHG PAL, the owner or operator of a major
17 stationary source or a GHG-only source shall submit a statement by the source owner or operator that clarifies
18 whether the source is an existing major source as defined in Subparagraphs (a) and (b) of Paragraph (1) of
19 Subsection KK of 20.11.61.7 NMAC or a GHG-only source as defined in Paragraph (12) of Subsection B of
20 20.11.61.20 NMAC. {40 CFR 52.21(aa)(3); FR Vol. 77, No. 134, 41051-75, 7/12/12}

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

22 (1) The department may establish a PAL at a major stationary source or a GHG-only source, provided
23 that at a minimum, the following requirements are met.

24 (a) The PAL shall impose an annual emission limitation expressed on a mass basis in tons per
25 year, or expressed in tpy CO₂ e, that is enforceable as a practical matter for the entire major stationary source or a
26 GHG-only source. For each month during the PAL effective period after the first 12 months of establishing a PAL,
27 the major stationary source or a GHG-only source owner or operator shall show that the sum of the monthly
28 emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a
29 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the
30 major stationary source or a GHG-only source owner or operator shall show that the sum of the preceding monthly
31 emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

32 (b) The PAL shall be established in a PAL permit that meets the public participation
33 requirements in Subsection E of 20.11.61.20 NMAC.

34 (c) The PAL permit shall contain all the requirements of Subsection G of 20.11.61.20 NMAC.

35 (d) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions
36 units that emit or have the potential to emit the PAL pollutant at the major stationary source or a GHG-only source.

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

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

39 (g) The owner or operator of the major stationary source or a GHG-only source with a PAL
40 shall comply with the monitoring, recordkeeping, and reporting requirements provided in Subsections L through N
41 of 20.11.61.20 NMAC for each emissions unit under the PAL through the PAL effective period.

42 (2) At no time during or after the PAL effective period are emissions reductions of a PAL pollutant
43 that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR
44 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such
45 reductions would be creditable in the absence of the PAL. {FR Vol. 77, No. 134, 41051-75, 7/12/12; 52.21(aa)(4)}

46 **E. Public participation requirements for PALs.** PALs for existing major stationary sources or
47 GHG-only sources shall be established, renewed, or increased, through a procedure that is consistent with 40 CFR
48 51.160 and 161. This includes the requirement that the department provide the public with notice of the proposed
49 approval of a PAL permit and at least a 30-day period for submittal of public comment. The department must
50 address all material comments before taking final action on the permit. {52.21(aa)(5); FR Vol. 77, No. 134, 41051-
51 75, 7/12/12}

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

53 (1) Except as provided in Paragraph (2) of Subsection F of 20.11.61.20 NMAC, the actuals PAL level
54 for a major stationary source or a GHG-only source shall be established as the sum of the baseline actual emissions
55 (as defined in Subsection I of 20.11.61.7 NMAC or, for GHGs Paragraph (13) of Subsection B of 20.11.61.20
56 NMAC) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable

1 significant level for the PAL pollutant under Subsection ZZ of 20.11.61.7 NMAC or under the act, whichever is
2 lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must
3 be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive
4 24-month period may be used for each different PAL pollutant. Emissions associated with units that were
5 permanently shutdown after this 24-month period must be subtracted from the PAL level. The department shall
6 specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s)
7 of any applicable federal or state regulatory requirement(s) that the department is aware of prior to issuance of the
8 PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial
9 boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a
10 future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of
11 such unit(s).

12 (2) For newly constructed units (which do not include modifications to existing units) on which
13 actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in
14 Paragraph (1) of Subsection F of 20.11.61.20 NMAC, the emissions must be added to the PAL level in an amount
15 equal to the potential to emit of the units.

16 (3) For CO₂ e based GHG PAL, the actuals PAL level shall be established as the sum of the GHGs
17 baseline actual emissions (as defined in Paragraph (13) of Subsection B of 20.11.61.20 NMAC) of GHGs for each
18 emissions unit at the source, plus an amount equal to the amount defined as “significant” on a CO₂ e basis for the
19 purposes of Paragraph (3) of Subsection CCC of 20.11.61.7 NMAC at the time the PAL permit is being issued.
20 When establishing the actuals PAL level for a CO₂ e-based PAL, only one consecutive 24-month period must be
21 used to determine the baseline actual emissions for all existing emissions units. Emissions associated with units that
22 were permanently shut down after this 24-month period must be subtracted from the PAL level. The department
23 shall specify a reduced PAL level (in tpy CO₂ e) in the PAL permit to become effective on the future compliance
24 date(s) of any applicable federal or state regulatory requirement(s) that the department is aware of prior to issuance
25 of the PAL permit. {FR Vol. 77, No. 134, 41051-75, 7/12/12; 52.21(aa)(6)}

26 **G. Contents of the PAL permit.** The PAL permit shall contain, at a minimum, the following
27 information.

28 (1) The PAL pollutant and the applicable source-wide emission limitation in tons per year or tpy CO₂
29 e.

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

31 (3) Specification in the PAL permit that if a major stationary source or a GHG-only source owner or
32 operator applies to renew a PAL in accordance with Subsection J of 20.11.61.20 NMAC before the end of the PAL
33 effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a
34 revised PAL permit is issued by the department.

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

37 (5) A requirement that, once the PAL expires, the major stationary source or a GHG-only source is
38 subject to the requirements of Subsection I of 20.11.61.20 NMAC.

39 (6) The calculation procedures that the major stationary source or a GHG-only source owner or
40 operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-
41 month rolling total for each month as required by Paragraph (1) of Subsection [E] M of 20.11.61.20 NMAC.

42 (7) A requirement that the major stationary source or a GHG-only source owner or operator monitor
43 all emissions units in accordance with the provisions under Subsection [M] L of 20.11.61.20 NMAC.

44 (8) A requirement to retain the records required under Subsection M of 20.11.61.20 NMAC on site.
45 Such records may be retained in an electronic format.

46 (9) A requirement to submit the reports required under Subsection N of 20.11.61.20 NMAC by the
47 required deadlines.

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

49 (11) A permit for a GHG PAL issued to a GHG-only source shall also include a statement denoting
50 that GHG emissions at the source will not be subject to regulation under Subsection CCC of 20.11.61.7 NMAC as
51 long as the source complies with the PAL. {FR Vol. 77, No. 134, 41051-75, 7/12/12; 52.21(aa)(7)}

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

53 (1) **PAL effective period.** The PAL effective period shall be 10 years.

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

55 (a) During the PAL effective period, the department shall reopen the PAL permit to:

1 the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment.
2 During such public review, any person may propose a PAL level for the source for consideration by the department.

3 (2) **Application deadline.** A major stationary source [or a GHG-only source](#) owner or operator shall
4 submit a timely application to the department to request renewal of a PAL. A timely application is one that is
5 submitted at least six months prior to, but not earlier than 18 months from, the date of permit expiration. This
6 deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the
7 owner or operator of a major stationary source [or a GHG-only source](#) submits a complete application to renew the
8 PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed
9 PAL is issued.

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

- 12 (a) The information required in Subsection C of 20.11.61.20 NMAC.
- 13 (b) A proposed PAL level.
- 14 (c) The sum of the potential to emit of all emissions units under the PAL, with supporting
15 documentation.
- 16 (d) Any other information the owner or operator wishes the department to consider in
17 determining the appropriate level for renewing the PAL.

18 (4) **PAL adjustment.** In determining whether and how to adjust the PAL, the department shall
19 consider the options outlined in Subparagraphs (a) and (b) of Paragraph (4) Subsection J of 20.11.61.20 NMAC.
20 However, in no case may any such adjustment fail to comply with Subparagraph (c) of Paragraph 4 of Subsection J
21 of 20.11.61.20 NMAC.

22 (a) If the emissions level calculated in accordance with Subsection F of 20.11.61.20 NMAC is
23 equal to or greater than 80 percent of the PAL level, the department may renew the PAL at the same level without
24 considering the factors set forth in Subparagraph (b) of Paragraph (4) of Subsection J of 20.11.61.20 NMAC; or

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

29 (c) Notwithstanding Subparagraphs (a) and (b) of Paragraph (4) of Subsection J of 20.11.61.20
30 NMAC:

31 (i) if the potential to emit of the major stationary source [or a GHG-only source](#) is less
32 than the PAL, the department shall adjust the PAL to a level no greater than the potential to emit of the source; and

33 (ii) the department shall not approve a renewed PAL level higher than the current PAL,
34 unless the major stationary source [or GHG-only source](#) has complied with the provisions of Subsection K of
35 20.11.61.20 NMAC, *Increasing a PAL during the PAL effective period*.

36 (5) If the compliance date for a state or federal requirement that applies to the PAL source occurs
37 during the PAL effective period, and if the department has not already adjusted for such requirement, the PAL shall
38 be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first. {FR Vol. 77, No.
39 134, 41051-75, 7/12/12; 52.21(aa)(10)}

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

41 (1) The department may increase a PAL emission limitation only if the major stationary source [or](#)
42 [GHG-only source](#) complies with the following provisions.

43 (a) The owner or operator of the major stationary source [or GHG-only source](#) shall submit a
44 complete application to request an increase in the PAL limit for a PAL major modification. Such application shall
45 identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary [or GHG-](#)
46 [only source](#) source's emissions to equal or exceed its PAL.

47 (b) As part of this application, the major stationary source [or GHG-only source](#) owner or
48 operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of
49 the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent
50 controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The
51 level of control that would result from BACT equivalent controls on each significant or major emissions unit shall
52 be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions
53 unit is currently required to comply with a BACT or LAER requirement that was established within the preceding
54 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or
55 LAER with which that emissions unit must currently comply.

1 (c) The owner or operator obtains a major new source review permit for all emissions unit(s)
2 identified in Subparagraph (a) of Paragraph (1) of Subsection B of 20.11.61.20 NMAC, regardless of the magnitude
3 of the emissions increase resulting from them, that is, no significant levels apply. These emissions unit(s) shall
4 comply with any emissions requirements resulting from the major new source review process, for example, BACT,
5 even though they have also become subject to the PAL or continue to be subject to the PAL.

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

8 (2) The department shall calculate the new PAL as the sum of the allowable emissions for each
9 modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions
10 units (assuming application of BACT equivalent controls as determined in accordance with Subparagraph (b) of
11 Paragraph (1) of Subsection K of 20.11.61.20 NMAC), plus the sum of the baseline actual emissions of the small
12 emissions units.

13 (3) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice
14 requirements of Subsection E of 20.11.61.20 NMAC. {FR Vol. 77, No. 134, 41051-75, 7/12/12; 52.21(aa)(11)}

15 **L. Monitoring requirements for PALs.**

16 (1) **General requirements.**

17 (a) Each PAL permit must contain enforceable requirements for the monitoring system that
18 accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time *or CO₂ e per unit*
19 *of time*. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet
20 generally acceptable scientific procedures for data quality and manipulation. Additionally, the information
21 generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to
22 enforce the PAL permit.

23 (b) The PAL monitoring system must employ one or more of the four general monitoring
24 approaches meeting the minimum requirements set forth in Paragraph (2) of Subsection L of 20.11.61.20 NMAC
25 and must be approved by the department.

26 (c) Notwithstanding Subparagraph (b) of Paragraph (1) of Subsection L of 20.11.61.20 NMAC,
27 you may also employ an alternative monitoring approach that meets Subparagraph (a) of Paragraph (1) of
28 Subsection L of 20.11.61.20 NMAC if approved by the department.

29 (d) Failure to use a monitoring system that meets the requirements of 20.11.61.20 NMAC
30 renders the PAL invalid.

31 (2) **Minimum performance requirements for approved monitoring approaches.** The following
32 are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in
33 Paragraphs (3) through (9) of Subsection L of 20.11.61.20 NMAC:

- 34 (a) mass balance calculations for activities using coatings or solvents;
- 35 (b) CEMS;
- 36 (c) CPMS or PEMS; and
- 37 (d) emission factors.

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

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

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

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

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

51 (a) CEMS must comply with applicable performance specifications found in 40 CFR part 60,
52 Appendix B; and

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

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

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

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

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

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

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

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

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

20 (8) Notwithstanding the requirements in Paragraphs (3) through (7) of Subsection L of 20.11.61.20
21 NMAC, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored
22 parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the department shall,
23 at the time of permit issuance:

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

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

28 (9) **Revalidation.** All data used to establish the PAL pollutant must be revalidated through
29 performance testing or other scientifically valid means approved by the department. Such testing must occur at least
30 once every five years after issuance of the PAL. {FR Vol. 77, No. 134, 41051-75, 7/12/12; 52.21(aa)(12)}

31 **M. Recordkeeping requirements.**

32 (1) The PAL permit shall require an owner or operator to retain a copy of all records necessary to
33 determine compliance with any requirement of 20.11.61.20 NMAC and of the PAL, including a determination of
34 each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

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

37 (a) a copy of the PAL permit application and any applications for revisions to the PAL; and

38 (b) each annual certification of compliance pursuant to 20.11.42 NMAC, *Operating Permits*,
39 and the data relied on in certifying the compliance.

40 **N. Reporting and notification requirements.** The owner or operator shall submit semi-annual
41 monitoring reports and prompt deviation reports to the department in accordance with 20.11.42 NMAC, *Operating*
42 *Permits*. The reports shall meet the following requirements.

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

45 (a) The identification of owner and operator and the permit number.

46 (b) Total annual emissions ([expressed on a mass-basis in tons/year](#), [or expressed in tpy CO₂e](#))
47 based on a 12-month rolling total for each month in the reporting period recorded pursuant to Paragraph (1) of
48 Subsection M of 20.11.61.20 NMAC.

49 (c) All data relied upon, including, but not limited to, any quality assurance or quality control
50 data, in calculating the monthly and annual PAL pollutant emissions.

51 (d) A list of any emissions units modified or added to the major stationary source [or GHG-only](#)
52 [source](#) during the preceding six-month period.

53 (e) The number, duration, and cause of any deviations or monitoring malfunctions (other than
54 the time associated with zero and span calibration checks), and any corrective action taken.

55 (f) A notification of a shutdown of any monitoring system, whether the shutdown was
56 permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully

1 operational or replaced with another monitoring system, and whether the emissions unit monitored by the
2 monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number
3 determined by method included in the permit, as provided by Paragraph (7) of Subsection L of 20.11.61.20 NMAC.

4 (g) A signed statement by the responsible official as defined by 20.11.42.7 NMAC certifying
5 the truth, accuracy, and completeness of the information provided in the report.

6 (2) **Deviation report.** The major stationary source [or GHG-only source](#) owner or operator shall
7 promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no
8 monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting
9 requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program
10 implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

11 (a) the identification of owner and operator and the permit number;
12 (b) the PAL requirement that experienced the deviation or that was exceeded;
13 (c) emissions resulting from the deviation or the exceedance; and
14 (d) a signed statement by the responsible official as defined by 20.11.42.7 NMAC certifying
15 the truth, accuracy, and completeness of the information provided in the report.

16 (3) **Revalidation results.** The owner or operator shall submit to the department the results of any
17 revalidation test or method within three months after completion of such test or method. {FR Vol. 77, No. 134,
18 41051-75, 7/12/12; 40 CFR 52.21(aa)(14)}

19 **O. Transition requirements.**

20 (1) The department may not issue a PAL that does not comply with the requirements of Subsections
21 A through O of 20.11.61.20 NMAC after [\[the administrator has approved regulations incorporating these](#)
22 [requirements into the SIP\] March 3, 2003.](#)

23 (2) The department may supersede any PAL which was established prior to [\[the date of approval of](#)
24 [the SIP by the administrator\] March 3, 2003](#) with a PAL that complies with the requirements of [Subsections A](#)
25 [through O of](#) 20.11.61.20 NMAC. {FR Vol. 77, No. 134, 41051-75, 7/12/12; 40 CFR 52.21(aa)(15)}
26 [20.11.61.20 NMAC - N, 1/23/06; A, 8/30/10; A, 1/10/11]
27

28 **20.11.61.21 PUBLIC PARTICIPATION AND NOTIFICATION:**

29 **A.** The department shall, within 30 days after receipt of an application, review such application and
30 determine whether it is administratively complete or there is any deficiency in the application or information
31 submitted. To be deemed administratively complete, the application must meet the requirements of 20.11.61.13
32 NMAC in addition to the requirements of 20.11.41 NMAC. If the application is deemed:

33 (1) administratively complete, a letter to that effect shall be sent by certified mail to the applicant;
34 (2) administratively incomplete, a letter shall be sent by certified mail to the applicant stating what
35 additional information or points of clarification are necessary to deem the application administratively complete;
36 upon receipt of the additional information or clarification, the department shall promptly review such information
37 and determine whether the application is administratively complete;

38 (3) administratively complete but no permit is required, a letter shall be sent by certified mail to the
39 applicant informing the applicant of the determination.

40 **B. For purposes of determining minor source baseline date pursuant to 40 CFR 51:**

41 (1) an application is complete when it contains all the information necessary for processing the
42 application; designating an application complete for purposes of 40 CFR 51 does not preclude the department from
43 requesting or accepting any additional information; and

44 (2) in the event that additional information is submitted to remedy any deficiency in the application
45 or information submitted, the date of receipt of the application shall be the date on which the department received all
46 required information.

47 **C. Within one year after receipt of a complete application, the department shall:**

48 (1) Make a preliminary determination whether construction should be approved, approved with
49 conditions, or disapproved.

50 (2) Make available at the department district and local office nearest to the proposed source a copy of
51 all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other
52 materials, if any, considered in making the preliminary determination.

53 (3) Notify the public by advertisement in a newspaper of general circulation in the area in which the
54 proposed source would be constructed:

55 (a) of the application;
56 (b) the preliminary determination;

1 (c) the degree of increment consumption that is expected from the source or modification; and
2 (d) of the opportunity for comment at a public hearing as well as written public comment; the
3 public comment period shall be for 30 days from the date of such advertisement.

4 (4) Send a copy of the notice of public comment to:

5 (a) the applicant;

6 (b) the administrator; and

7 (c) officials and agencies having jurisdiction over the location where the proposed construction
8 would occur as follows: any other state or local air pollution control agencies; the chief executives of the city and
9 county where the source would be located; any comprehensive regional land use planning agency; and any state,
10 federal land manager, or Indian governing body whose lands may be affected by emissions from the source or
11 modification.

12 (5) Provide opportunity for a public hearing for interested persons to appear and submit written or
13 oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other
14 appropriate considerations.

15 (6) Consider all written comments submitted within a time specified in the notice of public comment
16 and all comments received at any public hearing(s) in making a final decision on the approvability of the
17 application. The department shall make all comments available for public inspection in the same locations where
18 the department made available preconstruction information relating to the proposed source or modification.

19 (7) Within 180 days after an application is deemed administratively complete, unless the director
20 grants an extension not to exceed 90 days for good cause:

21 (a) make a final determination of whether construction should be approved, approved with
22 conditions, or disapproved; and

23 (b) notify the applicant in writing of the final determination and make such notification
24 available for public inspection at the same location where the department made available preconstruction
25 information and public comments relating to the source.

26 [20.11.61.21 NMAC - N, 1/23/06; A, 8/30/10]

27
28 **20.11.61.22 STACK HEIGHT CREDIT:** The department shall review all applications in accordance with
29 the provisions of 20.11.43 NMAC, *Stack Heights Requirements*.

30 [20.11.61.22 NMAC - Rp, 20.11.61.19 NMAC, 1/23/06]

31
32 **20.11.61.23 EXCLUSIONS FROM INCREMENT CONSUMPTION:**

33 **A.** Following a public hearing, the director may exclude the following concentrations in determining
34 compliance with a maximum allowable increase:

35 (1) concentrations attributable to the increase in emissions from stationary sources which have
36 converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2 (a)
37 and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), over the
38 emissions from such sources before the effective date of such an order;

39 (2) concentrations attributable to the increase in emissions from sources which have converted from
40 using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act, over the
41 emissions from such sources before the effective date of such plan;

42 (3) concentrations of particulate matter attributable to the increase in emissions from construction or
43 other temporary emission-related activities of new or modified sources;

44 (4) the increase in concentrations attributable to new sources outside the United States over the
45 concentrations attributable to existing sources which are included in the baseline concentration; and

46 (5) concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate
47 matter, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the
48 administrator as meeting the criteria specified in Subsection D of 20.11.61.23 NMAC.

49 **B.** If the plan provides that the concentrations to which Paragraph (1) or (2) of Subsection A of
50 20.11.61.23 NMAC refers, shall be excluded, it shall also provide that no exclusion of such concentrations shall
51 apply more than five years after the effective date of the order to which Paragraph (1) of Subsection A of
52 20.11.61.23 NMAC refers, or the plan to which Paragraph (2) of Subsection A of 20.11.61.23 NMAC refers,
53 whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five
54 years after the later of such effective dates.

55 **C.** [Reserved]

1 **D.** For purposes of excluding concentrations pursuant to Paragraph (5) of Subsection A of
2 20.11.61.23 NMAC, the administrator may approve a plan revision that:

3 (1) specifies the time over which the temporary emissions increase of sulfur dioxide, particulate
4 matter, or nitrogen oxides would occur such time is not to exceed 2 years in duration unless a longer time is
5 approved by the administrator.

6 (2) specifies that the time period for excluding certain contributions in accordance with Paragraph (1)
7 of Subsection D of 20.11.61.23 NMAC, is not renewable;

8 (3) allows no emissions increase from a stationary source which would:

9 (a) impact a class I area or an area where an applicable increment is known to be violated; or

10 (b) cause or contribute to the violation of a national ambient air quality standard;

11 (4) requires limitations to be in effect the end of the time period specified in accordance with
12 Paragraph (1) of Subsection D of 20.11.61.23 NMAC, which would ensure that the emissions levels from stationary
13 sources affected by the plan revision would not exceed those levels occurring from such sources before the plan
14 revision was approved.

15 [20.11.61.23 NMAC - Rp, 20.11.61.21 NMAC, 1/23/06; A, 8/30/10]

16
17 **20.11.61.24 SOURCES IMPACTING FEDERAL CLASS I AREAS - ADDITIONAL**
18 **REQUIREMENTS:**

19 **A. Notice to EPA.** The department shall transmit to the administrator and the federal land manager a
20 copy of each permit application relating to a major stationary source or major modification proposing to locate
21 within 100 kilometers of any federal class I area. The complete permit application shall be transmitted within 30
22 days of receipt and 60 days prior to any public hearing on the application. The department shall include all relevant
23 information in the permit application. Relevant information shall include an analysis of the proposed source's
24 anticipated impacts on visibility in the federal class I area. The department shall consult with all affected federal
25 land managers as to the completeness of the permit application and shall consider any analysis performed by the
26 federal land manager concerning the impact of the proposed major stationary source or major modification on air
27 quality related values (AQRV). This consideration shall include visibility, if such analysis is received within 30
28 days after the federal land manager receives a copy of the complete application. Additionally, the department shall
29 notify any affected federal land manager within 30 days from the date the department receives a request for a pre-
30 application meeting from a proposed source subject to 20.11.61 NMAC. Notice shall be provided to the
31 administrator and federal land manager of every action related to the consideration of such permit. The department
32 shall also provide the federal land manager and the administrator with a copy of the preliminary determination
33 required under 20.11.61.21 NMAC and shall make available to them any materials used in making that
34 determination. In any case where the department disagrees with the federal land manager's analysis of source
35 impact on air quality related values, the department shall, either explain its decision or give notice to the federal land
36 manager as to where the explanation can be obtained. In the case where the department disagrees with the federal
37 land managers' analysis, the department will also explain its decision or give notice to the public by advertisement in
38 a newspaper of general circulation in the area in which the proposed source would be constructed, as to where the
39 decision can be obtained.

40 **B.** The department shall transmit to air quality control agencies of neighboring states and Indian
41 governing bodies a copy of each permit application having the potential to affect federal class I areas or increment
42 consumption in areas under their jurisdiction. The department shall also provide the affected air quality control
43 agencies and Indian governing bodies with a copy of the preliminary determination required under 20.11.61.21
44 NMAC and shall make available to them any materials used in making that determination. The department shall
45 include a provision for a 60 day comment period for the federal land managers before any public hearing on a permit
46 application is held.

47 **C.** Federal land managers may demonstrate to the department that emissions from a proposed source
48 or modification would have an adverse impact on air quality related values, including visibility, of any federal class
49 I lands under their jurisdiction. This may be done even though the change in air quality resulting from emissions
50 from the proposed source or modification would not cause or contribute to concentrations which would exceed the
51 maximum allowable increases for a federal class I area. If the department concurs with this demonstration, then the
52 source shall not be issued a permit.

53 **D. Class I waivers:** The owner or operator of a proposed source or modification may demonstrate to
54 the federal land manager that the emissions from a proposed source or modification would have no adverse impact
55 on air quality related values, including visibility, of federal class I area under his or her jurisdiction. This may be
56 done even though the change in air quality resulting from emissions from such source or modification would cause

1 or contribute to concentrations which would exceed the maximum allowable increases for a federal class I area. If
2 the federal land manager concurs with such demonstration and so certifies to the department, the department may
3 ~~[grant a waiver from such maximum allowable increases]~~ ; provided, that applicable requirements are otherwise met,
4 issue the permit with such emission limitations ~~[must be included in the permit]~~ as may be necessary to assure that
5 emissions of sulfur dioxide, ~~[particulate matter,]~~ PM_{2.5}, PM₁₀ and oxides of nitrogen would not exceed the maximum
6 allowable increases over minor source baseline concentrations shown in Table 5 of 20.11.61.30 NMAC. {FR Vol.
7 75 No. 202, 10/20/10, & 40 CFR 51.166 (p)(4)}

8 **E.** For the case where the federal land manager does not perform an impact analysis with respect to
9 visibility impairment in a federal class I area, the department may perform such an analysis. The department shall
10 not issue the source a permit if the department determines that an adverse impact on visibility would occur. The
11 adverse impact must be due, primarily, to the operation of the proposed source or modification.

12 **F. Sulfur dioxide waiver by governor with FLM concurrence:** The owner or operator of a
13 proposed major stationary source or major modification, which cannot be approved under Subsection D of
14 20.11.61.23 NMAC, may demonstrate to the governor that the source cannot be constructed by reason of an
15 exceedance of a maximum allowable increase for a federal class I area for sulfur dioxide for a period of 24 hours or
16 less. The owner or operator may also demonstrate that a waiver from this requirement would not adversely affect
17 the air quality related values of the federal class I area. The governor, after consideration of the federal land
18 manager's recommendation and subject to his concurrence, may, after notice and public hearing, grant a waiver from
19 such maximum allowable increase. If the waiver is granted, the department shall issue a permit to the owner or
20 operator of the source or modification. Any owner or operator of a source or modification who obtains a permit
21 under 20.11.61 NMAC shall comply with sulfur dioxide emissions limitations. These limitations do not allow
22 increases of ambient concentrations, above the baseline concentration, to exceed the levels found in Table 6 of
23 20.11.61.31 NMAC for periods of 24 hours or less for more than 18 days, not necessarily consecutive, in any annual
24 period.

25 **G. Sulfur dioxide waiver by governor with the president's concurrence.** In any case where the
26 governor recommends a waiver in which the federal land manager does not concur, the recommendations of the
27 governor and the federal land manager shall be transmitted to the president through the office of the governor. If the
28 president so directs, the department shall issue the permit. Any source or modification that obtains a permit under
29 20.11.61 NMAC shall comply with sulfur dioxide emissions limitations. These limitations do not allow increases in
30 ambient concentrations, above the baseline concentration, to exceed the levels found in Table 6 of 20.11.61.31
31 NMAC for periods of 24 hours or less for more than 18 days, not necessarily consecutive, in any annual period.
32 [20.11.61.24 NMAC - Rp, 20.11.61.22 NMAC, 1/23/06; A, 8/30/10]

34 **20.11.61.25 RESTRICTIONS ON AREA CLASSIFICATIONS:**

35 **A. Mandatory federal class I areas:**

36 (1) **All of the following areas which were in existence on August 7, 1977, shall be class I areas**
37 **and may not be redesignated:**

- 38 (a) international parks (all of them);
- 39 (b) national wilderness areas which exceed 5,000 acres in size;
- 40 (c) national memorial parks which exceed 5,000 acres in size; and
- 41 (d) national parks which exceed 6,000 acres in size.

42 (2) **Specifically for New Mexico, these areas are:**

- 43 (a) Bandelier wilderness, administered by national park service (NPS);
- 44 (b) Bosque del Apache wilderness, administered by national fish and wildlife service (NFWS);
- 45 (c) Carlsbad caverns national park, administered by NPS;
- 46 (d) Gila wilderness, administered by national forest service (NFS);
- 47 (e) Pecos wilderness, administered by NFS;
- 48 (f) Salt Creek wilderness, administered by NFWS;
- 49 (g) San Pedro Parks wilderness, administered by NFS;
- 50 (h) Wheeler Peak wilderness, administered by NFS; and
- 51 (i) White Mountain wilderness, administered by NFS.

52 **B. Areas which may be redesignated only as class I or class II:**

53 (1) **The following areas may be redesignated only as class I or II:**
54 (a) an area which, as of August 7, 1977, exceeded 10,000 acres in size and was a national
55 monument, national primitive area, national preserve, national recreational area, national wild and scenic river,
56 national wildlife refuge; and

1 (b) a national park or national wilderness area established after August 7, 1977 which exceeds
2 10,000 acres in size.

3 (2) **Specifically for New Mexico, these areas include (but are not necessarily limited to):**

- 4 (a) Apache Kid wilderness, administered by national forest service (NFS);
5 (b) Bandelier national monument, administered by national park service (NPS);
6 (c) Bitter Lake national wildlife refuge, administered by national fish and wildlife service
7 (NFWS);
8 (d) Blue Range wilderness, administered by NFS;
9 (e) Bosque del Apache national wildlife refuge, administered by NFWS;
10 (f) Capitan mountains wilderness, administered by NFS;
11 (g) Cebolla wilderness, administered by bureau of land management (BLM);
12 (h) Chama River Canyon wilderness, administered by NFS;
13 (i) Cruces Basin wilderness, administered by NFS;
14 (j) De-na-zin wilderness, administered by BLM;
15 (k) El Malpais national monument, administered by NPS;
16 (l) Latir Peak wilderness, administered by NFS;
17 (m) Manzano mountain wilderness, administered by NFS;
18 (n) San Andres national wildlife refuge, administered by NFWS;
19 (o) Sandia Mountain wilderness, administered by NFS;
20 (p) Sevilleta national wildlife refuge, administered by NFWS;
21 (q) West Malpais wilderness, administered by BLM;
22 (r) White Sands national monument, administered by NPS; and
23 (s) Withington Wilderness, administered by NFS.

24 [20.11.61.25 NMAC - Rp, 20.11.61.20 NMAC, 1/23/06; A, 8/30/10]

25
26 **20.11.61.26 TABLE 1 - PSD SOURCE CATEGORIES:**

- 27 **A.** Carbon black plants (furnace process).
28 **B.** Charcoal production plants.
29 **C.** Chemical process plants (the term chemical processing plant shall not include ethanol production
30 facilities that produce ethanol by natural fermentation included in NAICS Codes 325193 or 312140).
31 **D.** Coal cleaning plants (with thermal dryers).
32 **E.** Coke oven batteries.
33 **F.** Fossil fuel boilers (or combinations thereof) totaling more than 250 million BTU/hr heat input.
34 **G.** Fossil fuel-fired steam electric plants of more than 250 million BTU/hr heat input.
35 **H.** Fuel conversion plants.
36 **I.** Glass fiber processing plants.
37 **J.** Hydrofluoric acid plants.
38 **K.** Iron and steel mills.
39 **L.** Kraft pulp mills.
40 **M.** Lime plants.
41 **N.** Municipal incinerators capable of charging more than 250 tons of refuse per day.
42 **O.** Nitric acid plants.
43 **P.** Petroleum refineries.
44 **Q.** Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
45 **R.** Phosphate rock processing plants.
46 **S.** Portland cement plants.
47 **T.** Primary aluminum ore reduction plants.
48 **U.** Primary copper smelters.
49 **V.** Primary lead smelters.
50 **W.** Primary zinc smelters.
51 **X.** Secondary metal production plants.
52 **Y.** Sintering plants.
53 **Z.** Sulfur recovery plants.
54 **AA.** Sulfuric acid plants.
55 **BB.** Taconite ore processing plants.

56 [20.11.61.26 NMAC - Rp, 20.11.61.23 NMAC, 1/23/06; A, 8/30/10]

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20.11.61.27 TABLE 2 - SIGNIFICANT EMISSION RATES:

POLLUTANT		EMISSION RATE (TONS/YR)
Carbon monoxide		100
Fluorides		3
Lead		0.6
Municipal waste combustor:		
	Acid gases (measured as sulfur dioxide and hydrogen chloride)	40 (36 megagrams/year)
	Metals (measured as particulate matter)	15 (14 megagrams/year)
	Organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035 (0.0000032 megagrams/yr)
Municipal solid waste landfill emissions (measured as NMOC)		50 (45 megagrams/year)
Nitrogen oxides		40
Ozone		40 VOC or NOx
Particulate Matter:		
	Particulate matter emissions	25
	PM ₁₀ emissions	15
	PM _{2.5} emissions	10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM _{2.5} precursor under Subsection WW of 20.11.61.7 NMAC
Sulfur compounds		
	Hydrogen sulfide (H ₂ S)	10
	Reduced sulfur compounds (incl. H ₂ S)	10
	Sulfur dioxide	40
	Sulfuric acid mist	7
	Total reduced sulfur (incl. H ₂ S)	10
Any other regulated new source review pollutant that is not listed in this table		Any emission rate
Each regulated pollutant		Emission rate or net emissions increase associated with a major stationary source or major modification that causes an air quality impact of one microgram per cubic meter or greater (24-hr average) in any Class I Federal area located within 10 km of the source.

3 [20.11.61.27 NMAC - Rp, 20.11.61.24 NMAC, 1/23/06; A, 8/30/10; A, 1/10/11]

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20.11.61.28 TABLE 3 - SIGNIFICANT MONITORING CONCENTRATIONS:

POLLUTANT	AIR QUALITY CONCENTRATION micrograms per cubic meter (µg/m ³)	AVERAGING TIME
Carbon monoxide	575	8 hours
Fluorides	0.25	24 hours
Lead	0.1	3 months
Nitrogen dioxide	14	Annual
Ozone	b	
Particulate matter (PM_{2.5})	4*	24 hours
Particulate matter (PM ₁₀)	10	24 hours
Sulfur compounds		

	Hydrogen sulfide (H ₂ S)	0.20	1 hour
	Reduced sulfur compounds (incl. H ₂ S)	10	1 hour
	Sulfur dioxide	13	24 hours
	Sulfuric acid mist	a	
	Total reduced sulfur (incl. H ₂ S)	10	1 hour

a - No acceptable monitoring techniques available at this time. Therefore, monitoring is not required until acceptable techniques are available.

b - No *de minimis* air quality level is provided for ozone. However, any net emissions increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

{* Was under reconsideration by EPA (NPRM = 10µ/m³; Final Rule = 4µ/m³); EPA supports and defends this value in 'Brief of Respondent' for Sierra Club petition; {FR Vol. 75 No. 202, 10/20/10, p. 64904; re: 40 CFR 51.166(i)(5)(i)}

[20.11.61.28 NMAC - Rp, 20.11.61.25 NMAC, 1/23/06; A, 5/15/06; A, 8/30/10]

20.11.61.29 TABLE 4 - ALLOWABLE PSD INCREMENTS:

Pollutant	Maximum allowable increase micrograms per cubic meter (µg/m ³)		
	Class I	Class II	Class III
Nitrogen Dioxide			
annual arithmetic mean	2.5	25	50
Particulate Matter			
PM_{2.5}, annual arithmetic mean	<u>1</u>	<u>4</u>	<u>8</u>
PM_{2.5}, 24-hour maximum	<u>2</u>	<u>9</u>	<u>18</u>
PM ₁₀ , annual arithmetic mean	4	17	34
PM ₁₀ , 24-hour maximum	8 ^a	30 ^a	60 ^a
Sulfur Dioxide			
annual arithmetic mean	2	20	40
24-hour maximum	5 ^a	91 ^a	182 ^a
3-hour maximum	25 ^a	512 ^a	700 ^a

a - Not to be exceeded more than once a year.

{FR Vol. 75 No. 202, 10/20/10, p. 64903; re: 40 CFR 51.166(c)(1);}

[20.11.61.29 NMAC - Rp, 20.11.61.26 NMAC, 1/23/06; A, 5/15/06; A, 8/30/10]

20.11.61.30 TABLE 5 - MAXIMUM ALLOWABLE INCREASES FOR CLASS I VARIANCES:

Pollutant	Maximum allowable increase Micrograms per cubic meter (µg/m ³)
Nitrogen Dioxide	
annual arithmetic mean	25
Particulate Matter	
PM_{2.5}, annual arithmetic mean	<u>4</u>
PM_{2.5}, 24-hour maximum	<u>9</u>
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24-hour maximum	30
Sulfur Dioxide	
annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325

{FR Vol. 75 No. 202, 10/20/10, p. 64904; re: 40 CFR 51.166(p)(4)}

[20.11.61.30 NMAC - N, 1/23/06; A, 8/30/10]

1 **20.11.61.31 TABLE 6 - MAXIMUM ALLOWABLE INCREASE FOR SULFUR DIOXIDE WAIVER**
 2 **BY GOVERNOR:**

Period of Exposure	Terrain Areas	
	Low	High
24-hr. maximum	36 µg/m ³	62 µg/m ³
3-hr. maximum	130 µg/m ³	221 µg/m ³

3 [20.11.61.31 NMAC - N, 1/23/06; A, 8/30/10]
 4

5 **HISTORY OF 20.11.61 NMAC:**

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

- 8 Regulation No. 29, Prevention of Significant Deterioration, 1/3/85;
- 9 Regulation No. 29, Prevention of Significant Deterioration, 6/18/86;
- 10 Regulation No. 29, Prevention of Significant Deterioration, 3/16/89;
- 11 Regulation No. 29, Prevention of Significant Deterioration, 4/24/90;
- 12 Regulation No. 29, Prevention of Significant Deterioration, 2/26/93.

13
 14 **History of Repealed Material:**

- 15 20 NMAC 11.61, Prevention of Significant Deterioration (filed 10/27/95) repealed 12/1/95.
- 16 20.11.61 NMAC, Prevention of Significant Deterioration (filed 8/30/02) repealed 1/23/06.

17
 18 **Other History:**

- 19 Regulation No. 29, Prevention of Significant Deterioration, filed 2/26/93 renumbered, reformatted and replaced by
- 20 20 NMAC 11.61, Prevention of Significant Deterioration, filed 10/27/95.
- 21 20 NMAC 11.61, Prevention of Significant Deterioration, filed 10/27/95 replaced by 20 NMAC 11.61, Prevention
- 22 of Significant Deterioration, filed 3/18/99.
- 23 20 NMAC 11.61, Prevention of Significant Deterioration, filed 3/18/99 renumbered, reformatted, amended, and
- 24 replaced by 20.11.61 NMAC, Prevention of Significant Deterioration, effective 10/1/02.
- 25 20.11.61 NMAC, Prevention of Significant Deterioration (filed 8/30/02) was replaced by 20.11.61 NMAC,
- 26 Prevention of Significant Deterioration, effective 1/23/06.

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