



ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO REPEAL SECTION 20.11.90.12 NMAC, *BREAKDOWN, ABNORMAL OPERATING CONDITIONS, OR SCHEDULED MAINTENANCE* AND REPLACE WITH A NEW RULE, 20.11.49 NMAC, *EXCESS EMISSIONS*. ALSO AMENDING 20.11.65 NMAC, *VOLATILE ORGANIC COMPOUNDS*, AND 20.11.69 NMAC, *PATHOLOGICAL WASTE DESTRUCTORS*, TO CORRECT CROSS-REFERENCING. SUBMIT NEW 20.11.49 NMAC, AND AMENDED 20.11.90 NMAC, AND 20.11.65 NMAC TO EPA AS A REVISION TO THE STATE IMPLEMENTATION PLAN (SIP)

AQCB Petition No. 2009-4

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

Petition for hearing to repeal Section 20.11.90.12 NMAC, *Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance* and replace with a new rule, 20.11.49 NMAC, *Excess Emissions*. Also amending 20.11.65 NMAC, *Volatile Organic Compounds*, and 20.11.69 NMAC, *Pathological Waste Destructors*, to correct cross-referencing. Submit new 20.11.49 NMAC, and amended 20.11.90 NMAC, and 20.11.65 NMAC to EPA as a revision to the state implementation plan (SIP)

The Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division (AQD), asks the Albuquerque-Bernalillo County Air Quality Control Board (Board) for a hearing at which the Board will hear AQD's request that the Board: Repeal Section 20.11.90.12 NMAC, *Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance* and replace with a new rule, 20.11.49 NMAC, *Excess Emissions*; Amend 20.11.65 NMAC, *Volatile Organic Compounds*, and 20.11.69 NMAC, *Pathological Waste Destructors*, to correct cross-referencing; and Submit new 20.11.49 NMAC, and amended 20.11.90 NMAC, and 20.11.65 NMAC to EPA as a revision to the state implementation plan (SIP).

This Petition includes a request for a hearing on these matters and permission to provide a court reporter and hearing officer for the hearing. As grounds, Petitioner states the following:

1. The New Mexico Air Quality Control Act (Air Act), NMSA 1978, Sections 74-2-4 and 74-2-5.B(1) [1967 as amended through 2007] authorizes and requires the Board to adopt, amend, or replace air quality regulations and to adopt air quality plans (SIPs) under NMSA 1978, Section 74-2-5.B(2).

2. On March 2, 1981, the Air Pollution Control Division received a letter from EPA stating that Regulation No. 19 (AKA Section 11 of Resolution No. 1 or Section 19 of Regulation No. 1 or 20.11.90.12 NMAC) “provides automatic exemptions from emission limitations for excess emissions during scheduled maintenance and some other situations. According to EPA guidance, all emissions that exceed emission limitations during startup, shut down, breakdown, or maintenance are a violation of the SIP unless there is a sudden and unavoidable malfunction that is totally beyond the control of the owner and/or operator. The automatic exemption provision is too broadly written and should be limited to sudden unavoidable exceedances”. Also, “the information which the source must report to the agency must be more specific. Enough detail must be reported to enable the agency to determine that the excess emissions were caused by a sudden and unavoidable occurrence”. In light of this letter, the Air Quality Division evaluated the need for a SIP revision to address EPA’s concerns. However, because a SIP revision was not mandated by EPA, this effort was never completed.

3. On September 28, 1982, September 20, 1999, and again on December 5, 2001, the U.S. Environmental Protection Agency (EPA) issued guidance on how states should

address excess emissions during malfunction, startup and shutdown in their State Implementation Plan (SIP).

4. In 2004, the New Mexico Environment Department's Air Quality Bureau (AQB) received a letter from EPA stating that "Section 20.2.7.109 NMAC is not consistent with the Environmental Protection Agency's (EPA) interpretation of the Clean Air Act as outlined in a 1999 memorandum, entitled '*State Implementation Plans: Policy Regarding Excess Emissions During Malfunction, Startup, and Shutdown*'. . . because the provision can be interpreted to exempt emissions from compliance with SIP limits. Because excess emissions might aggravate air quality so as to prevent attainment or interfere with maintenance of the ambient air quality standards, EPA views all excess emissions as violations of the applicable emission limitation. However, the State or EPA can exercise enforcement discretion to refrain from taking enforcement action in certain circumstances. Also, the State has discretion to provide an affirmative defense to actions for penalties brought for excess emissions that arise during certain malfunction, startup, and shutdown episodes".

5. To bring New Mexico's rule into alignment with federal guidance, the Air Quality Bureau (AQB) proposed to the Environmental Improvement Board (EIB), that they repeal 20.2.7 NMAC, *Excess Emissions*, [filed 4/29/1981], and replace it with a new rule that complies with EPA guidance. The AQB's proposal tightened notification requirements, established criteria recommended by EPA for affirmative defenses, and required "root cause" and "corrective action" analysis. The EIB adopted this new excess emissions rule, which became effective on 8/1/08.

6. The extant version of the excess emissions rule for Bernalillo County, entitled *Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance*, 20.11.90.12 NMAC was first adopted by the Albuquerque – Bernalillo County Air Quality Control Board (Air Board) as Section 11 of Resolution No. 1, and subsequently filed on 8/6/1971. This rule was subsequently changed, replacing the term “upset” with the term “abnormal operating conditions”, replacing the term “Secretary” with the term “Director” and becoming “Section 19” instead of “Section 11”. This amended rule was filed on 6/6/1973. Section 19 of Regulation # 1 was filed again on 7/19/1973 and 3/21/1977, but without any changes. The rule that was filed on 3/21/1977 was subsequently submitted to EPA for inclusion into the SIP and was approved by EPA on 4/10/1980, and made effective that same day. The name of the rule was changed from “Section 19” to “Regulation 19”, and filed on 3/24/1982. The rule was reformatted twice [Filed 10/27/1995 & 10/1/2002] to conform to the New Mexico Administrative Code. Except for formatting differences and phraseology, this rule has not changed substantively since 1971. Thus, in order to comply with current EPA guidance, and to comport with New Mexico’s new rule, the Air Board’s excess emissions rule needs to be updated. Therefore, the Air Quality Division proposes that Section 20.11.90.12 NMAC, be repealed (while leaving the rest of 20.11.90 NMAC intact), and be replaced by a new rule, 20.11.49 NMAC, *Excess Emissions*. The proposed replacement rule, *Excess Emissions*, 20.11.49 NMAC is patterned after New Mexico’s rule, 20.2.7 NMAC, *Excess Emissions*, with some modifications made in response to comments received from EPA. These modifications include the deletion of Sections 14 and 15 of 20.2.7 NMAC, and the incorporation of language from Oklahoma’s rule, entitled *Excess Emission Reporting*

Requirements, 252.100.9 OAC. The current proposal will reduce ambiguity within the rule, clearly define what is allowed and not allowed to qualify as an excess emissions event, and stipulate how reporting should take place.

7. EPA considers startup, shutdown and scheduled maintenance as part of a facility's normal operation and as such, should be accounted for in the planning, design and implementation of operating procedures for the source's process and control equipment. Therefore, excess emissions should only occur under exceptional circumstances, and not during scheduled maintenance, startup or shutdown. Thus, current language at 20.11.90.12 NMAC regarding startup, shutdown, and scheduled maintenance is out of compliance with EPA guidance, and needs to be removed. The proposed rule prohibits excess emissions for startup or shutdown unless they are the result of unavoidable and unforeseeable malfunctions.


8. In addition, as part of the required analysis for excess emissions events, the Air Quality Division is proposing a requirement for a “root cause analysis”. This would be a detailed technical analysis of excess emission events that determines the underlying reason(s) that the event occurred and all contributing factors to the malfunction, to the extent possible. The analysis would also require an evaluation of alternative measures (if any) that can be implemented to reduce the likelihood of a recurrence of such an incident. Minimizing the likelihood of excess emissions from malfunctions will reduce the reporting burden for both facilities and the Air Quality Division.

9. The cross-references made to 20.11.90.12 NMAC, found at 20.11.65.7.A NMAC and 20.11.69.25.A NMAC, are proposed to be changed to refer to 20.11.49 NMAC instead.

10. It is anticipated that the hearing will take approximately 1 hour or less.

11. The proposed Public Review Drafts for 20.11.90 NMAC, *Administration, Enforcement, Inspection*; 20.11.49 NMAC, *Excess Emissions*; 20.11.65 NMAC, *Volatile Organic Compounds*, and 20.11.69 NMAC, *Pathological Waste Destructors* are attached as AQD Exhibits #1a, #1b, #1c and #1d respectively.

Respectfully submitted,



Isreal Tavarez
Environmental Engineering Manager
Air Quality Division
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City of Albuquerque
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Albuquerque, New Mexico 87103
(505) 768-1965

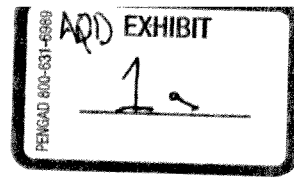
CERTIFICATION

I hereby certify that a copy of this petition to repeal section 20.11.90.12 NMAC, *Breakdown, Abnormal Operating Conditions, Or Scheduled Maintenance* and replace with a new rule, 20.11.49 NMAC, *Excess Emissions*; Also amending 20.11.65 NMAC, *Volatile Organic Compounds*, and 20.11.69 NMAC, *Pathological Waste Destructors*, to correct cross-referencing; and submission of a new 20.11.49 NMAC, and amended 20.11.90 NMAC, and 20.11.65 NMAC to EPA as a revision to the state implementation plan (SIP) and requesting a hearing was delivered to the following person on June 23, 2009.

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



Isreal Tavarez



1 **TITLE 20 ENVIRONMENTAL PROTECTION**
 2 **CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
 3 **PART 90 SOURCE SURVEILLANCE; ADMINISTRATION AND ENFORCEMENT [AND**
 4 **INSPECTION]**

5
 6 **20.11.90.1 ISSUING AGENCY:** Albuquerque - Bernalillo County Air Quality Control Board, P.O. Box
 7 1293, Albuquerque, NM 87103. Telephone: (505) [768-2600] 768-2601.
 8 [3/21/77. . .12/1/95; 20.11.90.1 NMAC - Rn, 20 NMAC 11.90.I.1, 10/1/02]

9
 10 **20.11.90.2 SCOPE:**
 11 **A.** [~~This Part~~] 20.11.90 NMAC is applicable to any source within Bernalillo county.
 12 **B. Exempt:** [~~This Part~~] 20.11.90 NMAC does not apply to sources within Bernalillo county, which
 13 are located on indian lands over which the Albuquerque - Bernalillo County Air Quality Control lacks jurisdiction.
 14 [12/1/95; 20.11.90.2 NMAC - Rn, 20 NMAC 11.90.I.2, 10/1/02]

15
 16 **20.11.90.3 STATUTORY AUTHORITY:** [~~This Part~~] 20.11.90 NMAC is adopted pursuant to the authority
 17 provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality
 18 Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board
 19 Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.
 20 [3/21/77. . .12/1/95; 20.11.90.3 NMAC - Rn, 20 NMAC 11.90.I.3, 10/1/02]

21
 22 **20.11.90.4 DURATION:** Permanent.
 23 [12/1/95; 20.11.90.4 NMAC - Rn, 20 NMAC 11.90.I.4, 10/1/02]

24
 25 **20.11.90.5 EFFECTIVE DATE:** December 1, 1995, unless a later date is cited at the end of a section.
 26 [12/1/95; 20.11.90.5 NMAC - Rn, 20 NMAC 11.90.I.5 & A, 10/1/02]

27
 28 **20.11.90.6 OBJECTIVE:** [~~The objective of This Part is~~] To minimize emissions from sources through
 29 inspection, enforcement, and good operating procedures.
 30 [12/1/95; 20.11.90.6 NMAC - Rn, 20 NMAC 11.90.I.6, 10/1/02]

31
 32 **20.11.90.7 DEFINITIONS:** [Reserved]

33
 34 **20.11.90.8 VARIANCES:** [Reserved]

35
 36 **20.11.90.9 SAVINGS CLAUSE:** Any amendment to 20.11.90 NMAC which is filed with the State Records
 37 Center shall not affect actions pending for violation of a City or County ordinance, Air Quality Control Board
 38 Regulation No. 19, 23, and 25, or 20.11.90 NMAC. Prosecution for a violation under prior regulation wording shall
 39 be governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation
 40 was committed.
 41 [12/1/95; 20.11.90.9 NMAC - Rn, 20 NMAC 11.90.I.9, 10/1/02]

42
 43 **20.11.90.10 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of [~~This Part~~] 20.11.90
 44 NMAC or the federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid
 45 by any court, the decision shall not affect the validity of remaining portions of [~~This Part~~] 20.11.90 NMAC.
 46 [12/1/95; 20.11.90.10 NMAC - Rn, 20 NMAC 11.90.I.10, 10/1/02]

47
 48 **20.11.90.11 DOCUMENTS:** Documents incorporated and cited in [~~This Part~~] 20.11.90 NMAC may be
 49 viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.
 50 [12/1/95; 20.11.90.11 NMAC - Rn, 20 NMAC 11.90.I.11 & A, 10/1/02]

51
 52 **20.11.90.12 [~~BREAKDOWN, ABNORMAL OPERATING CONDITIONS, OR SCHEDULED~~**
 53 **MAINTENANCE:** Operation of any equipment or air pollution control devices or apparatus so as to cause
 54 emissions of air contaminants in excess of limits set by these air pollution control regulations, which is a direct
 55 result of breakdown of equipment or of abnormal operating conditions, or is a direct result of the shutdown of such

1 equipment or air pollution control devices or apparatus for scheduled maintenance is not a violation of these air
2 pollution control regulations, provided:

3 ~~_____ A. _____ As to scheduled maintenance, the occurrence is reported in advance to the Director during his
4 working hours and that such work is performed during periods of non-operation and when the Air Pollution
5 Potential Index is under 50.~~

6 ~~_____ B. _____ As to breakdown of equipment or abnormal operating conditions, the occurrence has been reported
7 to the Director as soon as practicable, but no later than two (2) hours after the occurrence, except that when the
8 Director's office is closed, such report shall be made within two (2) hours after said office reopens for regular
9 business.~~

10 ~~_____ C. _____ Repairs are made with maximum, reasonable effort, including use of off shift labor, overtime or
11 work periods of non-operation.~~

12 ~~_____ D. _____ The emission of air contaminants is minimized as much as reasonably possible during breakdown
13 of equipment, abnormal operating conditions or scheduled maintenance.~~

14 ~~_____ E. _____ In the event of emission of air contaminants of a nature or in quantities, which would endanger
15 public health or safety, such emission is stopped entirely or reduced to harmless levels as soon as possible.~~

16 ~~_____ F. _____ Breakdown of equipment or abnormal operating conditions do not occur with such frequency that
17 careless, marginal, unsafe or deliberate abnormal operation is indicated.] Reserved~~

18 [~~3/21/77. . . 3/24/82; 12/1/95; 20.11.90.12 NMAC - Rn, 20 NMAC 11.90.I.12 & Repealed, 10/1/02; Rn, 20 NMAC
19 11.90.II.1, 10/1/02]~~

20
21 **20.11.90.13 SOURCE SURVEILLANCE:**

22 **A.** The owner or operator of any stationary source of an air contaminant shall, upon notification by
23 the director, maintain records of the nature and amounts of emissions, to which an air quality control emission
24 regulation applies, from the source and ~~[may]~~ any other information as may be deemed necessary by the director to
25 determine whether the source is in compliance with applicable regulations.

26 **B.** The information recorded as specified in Subsection A of 20.11.90.13 NMAC shall be
27 summarized and reported to the director, on forms furnished by the director, and shall be submitted within [~~forty-~~
28 ~~five]~~ (45) days after the end of the reporting period. Reporting periods are November 1 through April 30 and May 1
29 through October 31 or such other periods as the director may deem necessary. Information reported to the director
30 shall be signed by the person responsible for its accuracy.

31 **C.** Emission data obtained by the director shall be correlated with applicable emission limitations and
32 other control measures and be made available to the public during normal business hours.

33 **D.** The owner or operator of a stationary source shall, to determine compliance with these regulations
34 or to meet the source sampling requirements of a compliance schedule, conduct performance tests or allow the
35 director to conduct performance tests as specified in Subsection F of 20.11.90.13 NMAC.

36 **E.** The director shall establish a periodic visual surveillance system to detect and investigate apparent
37 violations of visible emission limitations and such complaints relating to apparent violations of the regulations as
38 may occur.

39 **F. Performance Tests:**

40 (1) As required by the director, the owner or operator of a stationary source shall conduct
41 performance tests and furnish the director with a written report of the results.

42 (2) Performance tests shall be conducted and the results reported in accordance with the test method,
43 as set forth in the Federal Register, Volume 36, No. 247, December 23, 1971, Part 60.8, or an approved alternate test
44 method. The director shall have [~~ten~~] 10 days prior notice before such testing is performed.

45 (3) The owner or operator shall permit the director to conduct performance tests at any reasonable
46 time and shall operate the stationary source for such testing purposes as the director shall specify.

47 (4) Each performance test shall consist of three repetitions of the applicable test procedure. For the
48 purpose of determining compliance with an applicable standard of performance, the average results of all repetitions
49 shall apply.

50 (5) The director shall determine that the performance test method has been properly performed before
51 accepting the results submitted by the owner or operator of the source.

52 [~~3/21/77. . . 3/24/82; 20.11.90.13 NMAC - Rn, 20 NMAC 11.90.II.2, 10/1/02]~~

53
54 **20.11.90.14 ADMINISTRATION AND ENFORCEMENT:**

55 **A.** Upon request of the director, the person responsible for the emission of air contaminants for which
56 limits are established by the [~~20.11 NMAC~~] rules codified under Title 20, *Environmental Protection*, Chapter 11,

1 Albuquerque – Bernalillo County Air Quality Control Board, of the New Mexico Administrative Code, shall provide
2 such facilities, utilities, and openings exclusive of instrument and sensing devices, as may be necessary for the
3 proper determination of the nature, extent, quantity and degree of such air contaminants. Such facilities may be
4 either temporary or permanent at the discretion of the person responsible for their provisions; and shall be suitable
5 for determination consistent with emission limits established in these [Parts] rules.

6 **B.** As an additional means of enforcing the [20.11 NMAC] rules codified under Title 20,
7 Environmental Protection, Chapter 11, Albuquerque – Bernalillo County Air Quality Control Board, of the New
8 Mexico Administrative Code, the director may accept a written assurance of discontinuance of any act or practice
9 deemed in violation of these [Parts] rules or any [Part] rule adopted pursuant thereto from any person engaging in, or
10 who has engaged in, such act or practice, signed and acknowledged by the director and during which such
11 discontinuance is to be accomplished.

12 [3/21/77. . 3/24/82; 20.11.90.14 NMAC - Rn, 20 NMAC 11.90.II.3, 10/1/02]

13
14 **HISTORY OF 20.11.90 NMAC:**

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

17 Resolution No. 1, Air Pollution Control Regulations of the Albuquerque Bernalillo County Air Quality Control
18 Board, filed 8/6/71.

19 Regulation No. 1, Air Pollution Control Regulations, filed 6/6/73;

20 Regulation No. 1, Air Pollution Control Regulations, filed 7/19/73;

21 Regulation No. 1, Air Pollution Control Regulations, filed 3/21/77;

22 Regulation No. 19, Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance, filed 3/24/82;

23 Regulation No. 23, Source Surveillance, filed 3/24/82;

24 Regulation No. 25, [~~Regulation~~] Administration and Enforcement, filed 3/24/82.

25
26 **History of Repealed Material:** [Reserved]

27
28 **Other History:** Regulation No. 19, Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance (filed
29 3/24/82); Regulation No. 23, Source Surveillance (filed 3/24/82); Regulation No. 25, [~~Regulation~~] Administration
30 And Enforcement (filed 3/24/82) were **renumbered** and **reformatted** into first version of the New Mexico
31 Administrative Code and **replaced** by 20 NMAC 11.90, Administration, Enforcement, Inspection, effective
32 12/01/95.

33 20 NMAC 11.90, Administration, Enforcement, Inspection (filed 10/27/95) was **renumbered, reformatted,**
34 **amended and replaced** by 20.11.90 NMAC, Administration, Enforcement, And Inspection, effective 10/1/02.
35

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 49 EXCESS EMISSIONS

20.11.49.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, c/o Environmental Health Department. P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2601.

[20.11.49.1 NMAC - N, xx/xx/xx]

20.11.49.2 SCOPE:

A. 20.11.49 NMAC is applicable to every stationary source within Bernalillo county.

B. Exempt: 20.11.49 NMAC does not apply to sources within Bernalillo county that are located on indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

[20.11.49.2 NMAC - N, xx/xx/xx]

20.11.49.3 STATUTORY AUTHORITY: 20.11.49 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance No. 94-5, Sections 4 and 5; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Sections 9-5-1-4 and 9-5-1-5.

[20.11.49.3 NMAC - N, xx/xx/xx]

20.11.49.4 DURATION: Permanent.

[20.11.49.4 NMAC - N, xx/xx/xx]

20.11.49.5 EFFECTIVE DATE: xx/xx/xx, unless a later date is cited at the end of a section.

[20.11.49.5 NMAC - N, xx/xx/xx]

20.11.49.6 OBJECTIVE:

To implement requirements for the reporting of excess emissions and establish affirmative defense provisions for facility owners and operators for excess emissions.

[20.11.49.6 NMAC - N, xx/xx/xx]

20.11.49.7 DEFINITIONS: In addition to the definitions in 20.11.49 NMAC, the definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.49 NMAC shall govern.

A. "Air pollution control equipment" means any device, equipment, process or combination thereof, the operation of which may limit, capture, reduce, confine, or otherwise control regulated air pollutants or convert for the purposes of control any regulated air pollutant to another form, another chemical or another physical state (e.g. sulfur recovery units, acid plants, baghouses, precipitators, scrubbers, cyclones, water sprays, enclosures, catalytic converters, and steam or water injection).

B. "Air quality regulation or permit condition" means any regulation adopted by the board, including a federal new source performance standard or national emission standard for hazardous air pollutants incorporated by reference, or any condition of an air quality permit issued by the department.

C. "Bypass" means the diversion of a regulated air contaminant around air pollution control equipment or process equipment.

D. "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. , which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

E. "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the permittee, including acts of God or nature, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include

1 noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, or careless
2 or improper operation.

3 **F. "Excess emission"** means the emission of an air contaminant, including a fugitive emission, in
4 excess of the quantity, rate, opacity or concentration specified by an air quality regulation or permit condition.

5 **G. "Malfunction"** means any sudden and unavoidable failure of air pollution control equipment or
6 process equipment beyond the control of the owner or operator, including malfunction during startup or shutdown.
7 A failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable
8 equipment breakdown shall not be considered a malfunction.

9 **H. [Reserved]**

10 **I. "Regular business day"** means any day on which city of Albuquerque government offices are
11 open for normal business. Saturdays, Sundays, and official federal and city of Albuquerque holidays are not regular
12 business days.

13 **J. "Shutdown"** means the cessation of operation of any air pollution control equipment or process
14 equipment.

15 **K. "Startup"** means setting into operation any air pollution control equipment or process equipment.

16 **L. "Stationary source" or "source"** means any building, structure, facility, or installation which
17 emits or may emit a regulated air pollutant.

18 [20.11.49.7 NMAC - N, xx/xx/xx]

19
20 **20.11.49.8 VARIANCES:** [Reserved].

21 [20.11.49.8 NMAC - N, xx/xx/xx]

22
23 **20.11.49.9 SAVINGS CLAUSE:** Any amendment to 20.11.49 NMAC which is filed with the state records
24 center shall not affect actions pending for violation of a city or county ordinance, or 20.11.49 NMAC. Prosecution
25 for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, part, or
26 regulation section in effect at the time the violation was committed.

27 [20.11.49.9 NMAC - N, xx/xx/xx]

28
29 **20.11.49.10 SEVERABILITY:** If for any reason any section, subsection, sentence, phrase, clause, wording or
30 application of 20.11.49 NMAC is held to be unconstitutional or otherwise invalid by any court or the United States
31 environmental protection agency, the decision shall not affect the validity or application of remaining portions of
32 20.11.49 NMAC.

33 [20.11.49.10 NMAC - N, xx/xx/xx]

34
35 **20.11.49.11 DOCUMENTS:** Documents incorporated and cited in 20.11.49 NMAC may be viewed at the
36 Albuquerque environmental health department, 400 Marquette NW, Room 3023, Albuquerque, NM 87102.

37 [20.11.49.11 NMAC - N, xx/xx/xx]

38
39 **20.11.49.12 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with 20.11.49 NMAC does
40 not relieve a person from the responsibility to comply with any other applicable federal, state, or local statute or
41 regulation.

42 [20.11.49.12 NMAC - N, xx/xx/xx]

43
44 **20.11.49.13 APPLICABILITY:**

45 **A.** Any source:

46 **(1)** whose operation results in an emission of a regulated air pollutant, including a fugitive emission,
47 in excess of the quantity, rate, opacity or concentration specified by an air quality regulation or permit condition; or

48 **(2)** subject to the requirements of 20.11.47 NMAC, *Emissions Inventory Requirements*, 20.11.41
49 NMAC, *Authority-To-Construct*, 20.11.42 NMAC, *Operating Permits*, 20.11.61 NMAC, *Prevention of Significant*
50 *Deterioration*, or 20.11.60 NMAC, *Permitting In Nonattainment Areas*.

51 **B.** Deviations under 20.11.42 NMAC, *Operating Permits* that do not result in excess emissions are
52 not subject to the provisions of 20.11.49 NMAC.

53 **C.** 20.11.49 NMAC does not create a separate cause of action for failure to obtain a permit under
54 20.11.41 NMAC, *Authority-To-Construct*, 20.11.42 NMAC, *Operating Permits*, 20.11.61 NMAC, *Prevention of*
55 *Significant Deterioration*, or 20.11.60 NMAC, *Permitting In Nonattainment Areas*.

56 [20.11.49.13 NMAC - N, xx/xx/xx]

1
2 **20.11.49.14 OPERATION RESULTING IN AN EXCESS EMISSIONS:** The emission of a regulated air
3 pollutant in excess of the quantity, rate, opacity, or concentration specified in an air quality regulation or permit
4 condition that results in an excess emission is a violation of the air quality regulation or permit condition and may be
5 subject to an enforcement action. The owner or operator of a source having an excess emission shall, to the extent
6 practicable, operate the source, including associated air pollution control equipment, in a manner consistent with
7 good air pollution control practices for minimizing emissions.

8 [20.11.49.14 NMAC - N, xx/xx/xx]
9

10 **20.11.49.15 NOTIFICATION:**

11 **A.** The owner or operator of a source having an excess emission shall report the following
12 information to the department on forms provided by the department. The department may authorize the submittal of
13 such reports in electronic format. The department may require that the owner or operator of a source provide
14 supplemental information in addition to that already required by 20.11.49.15 NMAC. The additional information
15 shall be reported by the deadline specified by the department.

16 **(1) Initial report:** The owner or operator shall file an initial report, no later than the end of the next
17 regular business day after the time of discovery of an excess emission. The initial report shall include all available
18 information regarding each item required by Subsection B of 20.11.49.15 NMAC.

19 **(2) Final report:** No later than 10 days after the end of the excess emission, the owner or operator
20 shall file a final report that contains specific and detailed information for each item required by Subsection B of
21 20.11.49.15 NMAC.

22 **B.** The report shall include the following information:

23 **(1)** the name of the source;
24 **(2)** the name of the owner and operator of the source;
25 **(3)** the name and title of the person preparing the report;
26 **(4)** identifying information (e.g. permit and database numbers);
27 **(5)** the specific date(s) and time(s) the excess emission occurred;
28 **(6)** identification of the equipment involved and the emission point(s) (including bypass) from which
29 the excess emission occurred;

30 **(7)** the air quality regulation or permit condition that was exceeded;
31 **(8)** identification of the air contaminant(s) and the magnitude of the excess emission expressed in the
32 units of the air quality regulation or permit condition;

33 **(9)** the method for determining the magnitude and duration of the excess emission;

34 **(10)** the cause and nature of the excess emission;

35 **(11)** the steps taken to limit the duration and magnitude of the excess emission;

36 **(12)** the corrective action(s) taken to eliminate the cause of the excess emission; if one or more
37 corrective actions are required, the report shall include a schedule for implementation of those actions, with
38 associated progress reports; if no corrective actions are required, the report shall include a detailed explanation for
39 that conclusion.

40 **(13)** the corrective action(s) taken to prevent a recurrence of the excess emission;

41 **(14)** whether the owner or operator attributes the excess emission to malfunction, startup or
42 shutdown;

43 **(15)** whether the owner or operator will claim an affirmative defense under Subsections A, B or C of
44 20.11.49.16 NMAC; if claiming an affirmative defense, an analysis and the supporting evidence for each reason
45 shall be submitted no later than 30 days after submittal of the final report required by 20.11.49.15 NMAC; no later
46 than 30 days after the earlier of the department's receipt of the final report or the deadline for submitting the final
47 report, if the department receives a request for an extension from the owner or operator of the source, the department
48 may grant an extension to complete the analysis not to exceed 30 additional days; and

49 **(16)** the contents of the final report shall contain a signed certification of truth, accuracy, and
50 completeness; the certification shall be signed by the person who is reporting the excess emission.

51 **C.** If the period of an excess emission extends beyond 10 days, the owner or operator shall submit the
52 final report required by Subsection B of 20.11.49.15 NMAC to the department within 72 hours of the date and time
53 the excess emission ceased.

54 **D. Alternative reporting.** If an owner or operator of a source is subject to both the excess emission
55 reporting requirements of 20.11.49.15 NMAC and the reporting requirements of 40 CFR Parts 60, 61, and 63, and

1 the federal reporting requirements duplicate the requirements of 20.11.49.15 NMAC, then the federal reporting
2 requirements shall suffice.

3
4 [20.11.49.15 NMAC - N, xx/xx/xx]

5
6 **20.11.49.16 AFFIRMATIVE DEFENSES:** All periods of excess emissions regardless of cause are violations
7 of the act and the rules promulgated thereunder, the New Mexico Air Quality Control Act and rules promulgated
8 thereunder, and applicable permit or other authorization of the air board. 20.11.49 NMAC provides an affirmative
9 defense to owners and operators for civil or administrative penalty actions brought for excess emissions during
10 periods of startup, shutdown malfunction or emergency, unless otherwise prohibited by Subsection D of 20.11.49.16
11 NMAC. 20.11.49.15 NMAC shall not be construed as limiting EPA's or citizens' authority under the act. The
12 department may require the owner or operator of a source to provide supplemental information in addition to that
13 already required by 20.11.49.16 NMAC. The additional information shall be reported by the deadline specified by
14 the department.

15 **A Affirmative defense for an excess emission during *malfunction*:**

16 The owner or operator of a source subject to 20.11.49 NMAC may claim an affirmative defense for an excess
17 emission during malfunction, against a civil penalty imposed in an administrative or judicial enforcement action.
18 There shall be no affirmative defense for an excess emission during malfunction, from the owner or operator's
19 liability or the department's claim for injunctive relief for the excess emission. The owner or operator claiming an
20 affirmative defense for an excess emission during malfunction, shall bear the burden of proof including the
21 demonstration of the following criteria:

- 22 (1) the excess emission was caused by a malfunction;
- 23 (2) the excess emission:
 - 24 (a) did not stem from any activity or event that could have been foreseen and avoided, or
25 planned for; and
 - 26 (b) could not have been avoided by better operation and maintenance practices;
- 27 (3) to the maximum extent practicable the air pollution control equipment or processes were
28 maintained and operated in a manner consistent with good practice for minimizing emissions;
- 29 (4) repairs were made in an expeditious fashion when the operator knew or should have known that
30 applicable emission limitations were being exceeded; off-shift labor and overtime must have been utilized, to the
31 extent practicable, to ensure that such repairs were made as expeditiously as practicable;
- 32 (5) the amount and duration of the excess emission (including any bypass) were minimized to the
33 maximum extent practicable during periods of such emissions;
- 34 (6) all possible steps were taken to minimize the impact of the excess emission on ambient air
35 quality;
- 36 (7) all emission monitoring systems were kept in operation if at all possible;
- 37 (8) the owner or operator's actions in response to the excess emission were documented by properly
38 signed, contemporaneous operating logs, or other relevant evidence;
- 39 (9) the excess emissions were not part of a recurring pattern indicative of inadequate design,
40 operation, or maintenance; and
- 41 (10) the owner or operator complied with the notification requirements in 20.11.49.15 NMAC.

42
43 **B Affirmative defense for an excess emission during *startup or shutdown*:**

44 The owner or operator of a source subject to 20.11.49 NMAC may claim an affirmative defense for an excess
45 emission during startup or shutdown against a civil penalty imposed in an administrative or judicial enforcement
46 action. There shall be no affirmative defense for an excess emission during startup or shutdown, from the owner
47 or operator's liability or the department's claim for injunctive relief for the excess emission. The owner or operator
48 claiming an affirmative defense for an excess emission during startup or shutdown shall bear the burden of proof
49 including the demonstration of the following criteria:

- 50 (1) the excess emission occurred during a startup or shutdown;
- 51 (2) the periods of excess emissions that occurred during startup or shutdown were short and
52 infrequent and could not have been prevented through careful planning and design;
- 53 (3) the excess emissions were not part of a recurring pattern indicative of inadequate design,
54 operation, or maintenance;
- 55 (4) if the excess emissions were caused by a bypass (an intentional diversion of control equipment),
56 then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- 1 (5) at all times, the source was operated in a manner consistent with good practices for minimizing
- 2 emissions;
- 3 (6) the frequency and duration of operation in startup or shutdown mode was minimized to the
- 4 maximum extent practicable;
- 5 (7) all possible steps were taken to minimize the impact of the excess emission on ambient air
- 6 quality;
- 7 (8) all emissions monitoring systems were kept in operation if at all possible;
- 8 (9) the owner or operator's actions during the period of excess emissions were documented by
- 9 properly signed, contemporaneous operating logs, or other relevant evidence; and
- 10 (10) The owner or operator complied with the notification requirements in 20.11.49.15 NMAC.

11 **C Affirmative defense for an emergency.**

12 (1) An emergency constitutes an affirmative defense to an action brought for noncompliance with a
 13 technology-based emission limitation if the owner or operator of the source demonstrates through properly signed,
 14 contemporaneous operating logs, or other relevant evidence that:

- 15 (a) an emergency occurred and that the owner or operator can identify the cause(s) of the
- 16 emergency;
- 17 (b) the source was being properly operated at the time;
- 18 (c) during the period of the emergency the owner or operator took all reasonable steps to
- 19 minimize levels of emissions that exceeded the technology-based emission limitation; and
- 20 (d) the owner or operator fulfilled the notification requirements under Subsection A of
- 21 20.11.49.15 NMAC, including a description of the emergency, any steps taken to mitigate emissions, and corrective
- 22 actions taken.

23 (2) In any enforcement proceeding, the owner or operator seeking to establish the occurrence of an
 24 emergency has the burden of proof.

25 **D Affirmative defenses prohibited.** The affirmative defense provisions of this section shall not be
 26 available for:

- 27 (1) claims for injunctive relief;
- 28 (2) SIP limits or permit limits that have been set taking into account potential emissions during
- 29 startup and shutdown, including, but not limited to, limits that indicate they apply during startup and shutdown, and
- 30 limits that explicitly indicate they apply at all times or without exception;
- 31 (3) excess emissions that cause an exceedance of the NAAQS or PSD increments;
- 32 (4) failure to meet federally promulgated emission limits, including, but not limited to, 40 CFR Parts
- 33 60, 61 and 63; or
- 34 (5) violations of requirements that derive from 40 CFR Parts 60, 61 and 63 or any other federally
- 35 enforceable performance standard or emission limit.

36 **E Department's determination of adequacy of affirmative defense.** The department may issue a
 37 determination regarding an owner or operator's assertion of the affirmative defense under Subsections A, B or C of
 38 20.11.49.16 NMAC on the basis of any relevant information, including but not limited to information submitted
 39 pursuant to 20.11.49 NMAC or obtained through an inspection. Any such determination is not a final action and is
 40 not reviewable, shall not be a prerequisite to the commencement of an administrative or judicial enforcement action,
 41 does not constitute a waiver of liability pursuant to 20.11.49.18 NMAC, and shall not preclude an enforcement
 42 action by the federal government or a citizen pursuant to the federal Clean Air Act. A source may not assert an
 43 affirmative defense under Subsections A, B or C of 20.11.49.16 NMAC in an administrative or judicial enforcement
 44 action unless it asserted such defense pursuant to Paragraph (15) of Subsection B of 20.11.49.15 NMAC.
 45 [20.11.49.16 NMAC - N, xx/xx/xx]

47 **20.11.49.17 ROOT CAUSE AND CORRECTIVE ACTION ANALYSIS:**

48 **A.** Upon receipt of a written demand by the department, the owner or operator of a source having an
 49 excess emission, shall prepare an analysis that uses analytical tools determined by the department to be appropriate.
 50 The analysis shall contain the following information:

- 51 (1) an analysis describing the root cause and all contributing causes of the excess emission; and
- 52 (2) an analysis of the corrective actions implemented or available to reduce the likelihood of a
- 53 recurrence of the excess emission resulting from the causes identified under Paragraph (1) of Subsection A of
- 54 20.11.49.17 NMAC, including, as applicable:
- 55 (a) identification of implemented or available corrective action alternatives, such as changes in
- 56 design, operation and maintenance;

1 (b) the estimated cost associated with each corrective action alternative;
2 (c) the probable effectiveness of each corrective action alternative;
3 (d) if no corrective action alternatives are available, a clear explanation providing an adequate
4 justification for that conclusion; and
5 (e) if one or more corrective actions are identified, a schedule for implementation and progress
6 reports.

7 **B.** The department shall make the demand for an analysis no later than 90 days after receipt of the
8 final report required by Subsection A of 20.11.49.15 NMAC.

9 **C.** The department may require the analysis authorized by Subsection A of 20.11.49.17 NMAC after
10 considering relevant factors. Examples of relevant factors include the significance of the excess emission, the nature
11 or pattern of excess emissions, and the history of the source, as well as any other factors determined to be relevant
12 by the department.

13 **D.** The completed analysis shall be submitted to the department no later than 60 days after the
14 department's demand is received by the owner or operator of the source, pursuant to Subsection A of 20.11.49.17
15 NMAC. For good cause shown, the department may grant an extension to submit the analysis.

16 **E.** The owner or operator of a source complying with 20.11.49.17 NMAC may assert a claim for
17 confidential information protection.
18 [20.11.49.17 NMAC - N, xx/xx/xx]

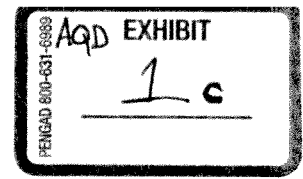
19
20 **20.11.49.18 FUTURE ENFORCEMENT ACTION:** The department may commence an administrative or
21 judicial enforcement action against the owner or operator of a source for an excess emission for which the
22 department has made a determination pursuant to Subsection E of 20.11.49.16 NMAC if the department determines
23 that the excess emission is related to a pattern of excess emission events, poor maintenance, careless or marginal
24 operation, or other appropriate reason.
25 [20.11.49.18 NMAC - N, xx/xx/xx]

26
27 **HISTORY OF 20.11.49 NMAC:**

28 **Pre- NMAC History:** The material in this part was derived from that previously filed with the commission of
29 public records – state records center and archives.
30 Regulation No. 19, Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance; filed 3/24/82;

31
32 **History of Repealed Material:** 20.11.90.12 NMAC, Breakdown, Abnormal Operating Conditions, or Scheduled
33 Maintenance (filed 8/30/02) was repealed and replaced by 20.11.49 NMAC xx/xx/xx

34
35 **Other History:**



1 **TITLE 20 ENVIRONMENTAL PROTECTION**
 2 **CHAPTER 11 ALBUQUERQUE/BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
 3 **PART 65 VOLATILE ORGANIC COMPOUNDS**
 4
 5

6 **20.11.65.1 ISSUING AGENCY:** Albuquerque/ Bernalillo County Air Quality Control Board. P.O. Box
 7 1293, Albuquerque, New Mexico 87103. Telephone: (505) [768-2600] 768-2601.
 8 [3/23/87. . .12/1/95; 20.11.65.1 NMAC - Rn, 20 NMAC 11.65.I.1, 10/1/02]
 9

10 **20.11.65.2 SCOPE:** 20.11.65 NMAC is applicable to any source located within Bernalillo County.
 11 **A. Exempt:** 20.11.65 NMAC does not apply to sources within Bernalillo County which are located
 12 on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control Board lacks jurisdiction,
 13 **B. NSPS Facilities:** Facilities, processes and equipment that are subject to specific requirements or
 14 allowed exemption by the federal New Source Performance Standards per 40 CFR 60 shall be exempt from the
 15 requirements of 20.11.65 NMAC that would otherwise govern.
 16 [3/23/87. . .12/1/95; 20.11.65.2 NMAC - Rn, 20 NMAC 11.65.I.2 & A, 10/1/02]
 17

18 **20.11.65.3 STATUTORY AUTHORITY:** This Part is adopted pursuant to the authority provided in the
 19 New Mexico Air Quality Control Act, NMSA 1978 Section 74-2-4, 74-2-5.C; the Joint Air Quality Control Board
 20 Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance,
 21 Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.
 22 [3/23/87. . .12/1/95; 20.11.65.3 NMAC - Rn, 20 NMAC 11.65.I.3, 10/1/02]
 23

24 **20.11.65.4 DURATION:** Permanent.
 25 [12/1/95; 20.11.65.4 NMAC - Rn, 20 NMAC 11.65.I.4, 10/1/02]
 26

27 **20.11.65.5 EFFECTIVE DATE:** December 1, 1995, unless a later date is cited at the end of a section.
 28 [12/1/95; 20.11.65.5 NMAC - Rn, 20 NMAC 11.65.I.5 & A, 10/1/02]
 29

30 **20.11.65.6 OBJECTIVE:** The objective of this Part is to prevent or reduce emission of hydrocarbon vapors
 31 from facilities and sources not otherwise regulated or exempted by 40 CFR Part 60; including volatile organic
 32 compounds and petroleum liquids, in order to prevent the formation of photochemical oxidants in the atmosphere.
 33 [3/23/87. . .12/1/95; 20.11.65.6 NMAC - Rn, 20 NMAC 11.65.I.6, 10/1/02]
 34

35 **20.11.65.7 DEFINITIONS:** In addition to the definitions in 20.11.65.7 NMAC the definitions in 20.11.1
 36 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.65 NMAC shall
 37 govern.

- 38 **A. "Active life"** means the time from initial startup until final shut down of the facility. This would
 39 also include periods of scheduled or unscheduled maintenance, flow adjustments or system failure, all of which are
 40 subject to the provisions of [~~20.11.90 NMAC~~] 20.11.49 NMAC.
- 41 **B. "Alternative method"** means any method of sampling and analyzing for an air pollutant which is
 42 not a reference or equivalent method but which has been demonstrated to the EPA Administrator's or the Director's
 43 satisfaction, in specific cases, to produce results adequate for the determination of compliance.
- 44 **C. "Contaminated"** means a condition resulting from seepage, drainage, or flow of gaseous or liquid
 45 substances from activities such as a leaking underground storage tank, usually detected by hydro-geologic
 46 investigations or underground storage tank excavation and removal.
- 47 **D. "Cutback asphalt"** means asphalt cement or other paving material, which has been diluted or
 48 blended with petroleum solvents such as kerosene, naphtha, diesel oil, gasoline, or similar petroleum distillate
 49 products.
- 50 **E. "Decontamination facility"** means a place where a portable or stationary treatment system is
 51 installed and operated to receive water, air, or other gaseous substances bearing VOC contaminants.
- 52 **F. "Dispense"** means to introduce organic liquids by temporary connection from a supply container,
 53 greater than 60 gallons capacity, into a receptor container, which is normally closed and sealed against spillage or
 54 evaporative loss.
- 55 **G. "Equivalent approved by the director"** means the authorization to substitute an alternative
 56 control process, which has been demonstrated to the satisfaction of the Director to result in no greater emissions,

1 than would occur with the control process otherwise required. The Director may use federal EPA document AP-42
2 or any other reliable reference and/or manufacturers data in completing the evaluation of the proposed alternative.

3 **H. "Equivalent method"** means any method of sampling and analyzing for an air pollutant which is
4 not a reference method but which has been demonstrated to the EPA Administrator's or the Director's satisfaction to
5 have a consistent and quantitatively known relationship to the reference method, under specified conditions.

6 **I. "Existing facilities"** means those decontamination facilities, which were constructed and placed
7 in operation prior to June 1, 1991.

8 **J. "Gasoline"** means a mixture of liquid hydrocarbons with Reid Vapor Pressure of 4.0 psi or
9 greater which is suitable for use as a fuel in spark ignition internal combustion engines and includes oxygenated
10 blends.

11 **K. "Loading rack"** means a gasoline loading facility, which was constructed prior to December 17,
12 1980, and it includes loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves
13 necessary to fill tank trucks. Those constructed or refurbished after December 17, 1980, may be subject to 20.11.63
14 NMAC, New Source Performance Standards.

15 **L. "Motor vehicle"** means any wheeled conveyance propelled by an internal combustion engine and
16 commonly operated on roadways and which has a fuel tank capacity exceeding 5.0 U.S. gallons (18.93 liters).

17 **M. "New facilities"** means those decontamination facilities, which are authorized by an Authority-to-
18 Construct permit issued by the Department and dated June 1, 1991 or later.

19 **N. "Organic fluid"** means any substance or mixture thereof, which is liquid at standard conditions
20 and contains carbon compounds that act as volatile organic compounds.

21 **O. "Oxygenate"** means an oxygen-containing, ashless organic compound such as alcohol or ether,
22 which may be used as a motor vehicle fuel or fuel supplement.

23 **P. "Reference method"** means any method of sampling and analyzing for an air pollutant as
24 described in Appendix A to 40 CFR 60.

25 **Q. "Regenerate"** means to drive off or cause the release of adsorbed or absorbed VOC from the
26 collection media of a pollution control device.

27 **R. "Stationary container"** shall mean any aggregation or combination of containers which is:

28 (1) possessed by one person,

29 (2) located so that any portion of such aggregation or combination of containers can be encompassed
30 within a circle 300 feet in diameter, and

31 (3) was constructed prior to June 11, 1973; Those constructed after June 11, 1973, may be subject to
32 20.11.63 NMAC, New Source Performance Standards.

33 **S. "Strip"** means to subject contaminated liquid to direct contact with a gaseous medium so that
34 contamination products are transferred from the liquid to the gas, such as in a packed column.

35 **T. "Submerged fill pipe"** means any fill pipe, the discharge opening of which is entirely submerged
36 when the fluid level is six (6) inches above the bottom of the container.

37 **U. "Transportable container"** means a gasoline or other organic fluid-containing vessel and its
38 ancillary plumbing fixtures with a capacity greater than 500 gallons which is mounted on a truck or trailer chassis
39 licensed for bulk movement of organic fluids by way of public roadways.

40 **V. "Underground storage tank"** means any single vessel buried or installed below ground and used
41 for holding gasoline at a facility having an annual total volume of use and/or sale in excess of 100,000 gallons of
42 gasoline.

43 **W. "Vapor pressure"** means the true vapor pressure of the fluid mixture vapors as could reasonably
44 be expected under the actual storage conditions. This would be the equilibrium.

45 **X. "Ventilation"** means to evaporate and flush VOC's from contaminated soil by increasing soil by
46 increasing soil temperature and/or exposing it to air, steam or any other working gases.

47 **Y. "Volatile organic compound (VOC)"** means any organic compound which participates in
48 atmospheric photochemical reactions; or which is measured by a federal EPA reference method, an equivalent
49 method, an alternative method, or which is determined by procedures specified under any subpart of 40 CFR 60 of
50 the federal Code of Regulations.

51 [3/23/87. . .12/1/95; 20.11.65.7 NMAC - Rn, 20 NMAC 11.65.I.7, 10/1/02]

52
53 **20.11.65.8 VARIANCES:** [Reserved]
54 [12/1/95; 20.11.65.8 NMAC - Rn, 20 NMAC 11.65.I.8, 10/1/02]
55

1 **20.11.65.9 SAVINGS CLAUSE:** Any amendment to 20.11.65 NMAC, which is filed, with the State
2 Records Center shall not affect actions pending for violation of a City or County ordinance, Air Quality Control
3 Board Regulation 11, or 20.11.65 NMAC. Prosecution for a violation under prior regulation wording shall be
4 governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation
5 was committed.
6 [12/1/95; 20.11.65.9 NMAC - Rn, 20 NMAC 11.65.I.9, 10/1/02]

7
8 **20.11.65.10 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of 20.11.65 NMAC or
9 any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any
10 court, the decision shall not affect the validity of remaining provisions of 20.11.65 NMAC.
11 [12/1/95; 20.11.65.10 NMAC - Rn, 20 NMAC 11.65.I.10, 10/1/02]

12
13 **20.11.65.11 DOCUMENTS:** Documents incorporated and cited in this Part may be viewed at the
14 Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.
15 [12/1/95; 20.11.65.11 NMAC - Rn, 20 NMAC 11.65.I.11 & A, 10/1/02]

16
17 **20.11.65.12 STORAGE OF GASOLINE IN STATIONARY CONTAINERS GREATER THAN 40,000**
18 **GALLONS CAPACITY:** No person shall load, store, or hold gasoline in any stationary container of more than
19 40,000 gallons capacity, unless such container is a pressure vessel capable of maintaining working pressures
20 sufficient at all times to prevent gasoline vapor loss to the atmosphere, or designed and equipped with one of the
21 following vapor loss control devices, properly installed, in good working order and in operation:

22 **A. A floating roof;** consisting of a pontoon-type or double-deck-type roof, resting on the surface of
23 the fluid contents and equipped with a closure seal, or seals, to close the space between the roof edge and container
24 wall. The control equipment provided for in this subsection shall not be used if the gasoline has a vapor pressure of
25 9.0 psia or greater under actual storage conditions. All container gauging and sampling devices shall be gas-tight
26 except when gauging or sampling is taking place.

27 **B. A vapor recovery system;** consisting of a vapor gathering system capable of collecting the vapors
28 and gases discharged and a vapor disposal system capable of processing such vapors and gases so as to emit no
29 greater than 1.24 pounds of VOC's per 1000 gallons transferred with all container gauging and sampling devices
30 gas-tight except when gauging or sampling is taking place.

31 **C. Other equipment;** which is an equivalent approved by the Director.
32 [12/1/95; 20.11.65.12 NMAC - Rn, 20 NMAC 11.65.I.12 & Repealed, 10/1/02; Rn, 20 NMAC 11.65.II.1, 10/1/02]

33
34 **20.11.65.13 LOADING OF GASOLINE FROM A LOADING RACK WITH A 30-DAY**
35 **THROUGHPUT GREATER THAN 600,000 GALLONS:** No person shall load gasoline from a loading rack
36 having a 30-day throughput greater than 600,000 gallons of gasoline into any tank truck, trailer, or railroad tank car
37 unless the loading rack is equipped with a vapor collection and disposal system or its equivalent approved by the
38 Director.

39 **A.** Loading shall be accomplished in such a manner that displaced vapor and air will be vented only
40 to the vapor collection system. Measures shall be taken to prevent fluid drainage from the loading device when it is
41 not in use or to accomplish complete drainage before the loading device is disconnected.

42 **B.** The vapor disposal portion of the vapor collection and disposal system shall consist of one of the
43 following:

44 (1) A vapor recovery or disposal system which will recover or dispose of all the organic vapors and
45 gases vented to it in such a manner that the emissions to the atmosphere do not exceed 1.24 pounds of VOC's per
46 1,000 gallons of organic fluids transferred by the equipment being controlled.

47 (2) A continuously operating smokeless flare or waste heat boiler operated at a continuous
48 combustion efficiency sufficient to meet the following smoke opacity criteria. No person, in operating a smokeless
49 flare for the purposes of 20.11.65 NMAC, shall cause, suffer, or allow visible emissions greater than 5% opacity.

50 (3) Other equipment which is equivalent approved by the Director.
51 [12/1/95; 20.11.65.13 NMAC - Rn, 20 NMAC 11.65.II.2, 10/1/02]

52
53 **20.11.65.14 TRANSPORT AND DELIVERY OF GASOLINE BY MOBILE TANK TRUCKS OR**
54 **TRAILER:** No person shall unload gasoline from any gasoline transport truck or trailer to a user within the
55 jurisdiction of the Albuquerque/Bernalillo County Air Quality Control Board without meeting the following
56 requirements:

1 **A. Delivery of Gasoline into Underground Storage Tanks:**

2 (1) No person shall unload gasoline into any underground storage tank with a capacity of 3,000
3 gallons or more unless such tank is equipped with an approved vapor loss control system, including a submerged fill
4 pipe, in which displaced vapors from the underground storage tank are either contained or are processed such that
5 final emissions to the atmosphere do not exceed 1.15 pounds of VOC's per 1,000 gallons of gasoline loaded.

6 (2) No person shall unload gasoline into any underground storage tank with a capacity of greater than
7 500 gallons and less than 3,000 gallons unless such tank is equipped with a securely fastened submerged fill pipe or
8 an approved vapor recovery system.

9 **B.** The transportable container of gasoline shall be sealed to prevent the loss of gasoline liquids or
10 vapors or the entrance of ambient air into the container when transporting or unloading gasoline into any
11 underground storage tank having a capacity greater than 3,000 gallons.

12 **C.** No person unloading gasoline from a transportable container into an underground storage tank of
13 greater than 3,000 gallons capacity shall cause or allow the flow of gasoline through the product connecting hose
14 until the return vapor recovery hose is attached and properly connected and sealed.

15 **D.** No person unloading gasoline from a transportable container into an underground storage tank
16 greater than 3,000 gallons capacity shall cause or allow the continuation of product delivery if there is an apparent
17 leakage of liquid gasoline from any point in the delivery system.

18 [12/1/95; 20.11.65.14 NMAC - Rn, 20 NMAC 11.65.II.3, 10/1/02]

19
20 **20.11.65.15 GASOLINE HANDLING AND HOLDING AT RETAIL OR FLEET SERVICE**

21 **STATIONS:** No person shall allow loading of gasoline into an underground storage tank with greater than 3,000
22 gallons capacity, unless it is equipped with an approved vapor loss control system, including a submerged fill pipe,
23 in which the displaced vapors are either continuously contained or processed such that the emission of gasoline
24 vapors to the atmosphere do not exceed 1.15 pounds of gasoline per 1,000 gallons loaded into said tank. Liquid
25 gasoline dispensing from the underground storage tank as well as momentary opening of the system for gasoline
26 gauging purposes shall not be considered as vapor loss in the requirement of this Section.

27 [12/1/95; 20.11.65.15 NMAC - Rn, 20 NMAC 11.65.II.4, 10/1/02]

28
29 **20.11.65.16 ORGANIC FLUIDS EXEMPT FROM VAPOR LOSS CONTROL UNDER 20.11.65**

30 **NMAC:** The handling, transport, loading, storage, or dispensing of organic fluid such as diesel fuels numbers 2-D
31 and 4-D as specified by ASTM D975-78, fuels oils number 2 through 6 as specified by ASTM D396-78, and jet
32 aircraft and gas turbine fuel oils number 2-GT through 4-GT as specified by ASTM D2880-82 and D1655-85A shall
33 be exempt from vapor loss controls of this Part.

34 [12/1/95; 20.11.65.16 NMAC - Rn, 20 NMAC 11.65.II.5, 10/1/02]

35
36 **20.11.65.17 INDUSTRIAL HANDLING, STORAGE, OR USE OF ORGANIC FLUIDS AND GASES**

37 **NOT OTHERWISE ADDRESSED IN 20.11.65 NMAC:** No person shall operate an industrial processor material
38 handling, transport, or delivery system which would have a potential emission rate greater than either 100 pounds of
39 organic vapors in any single 24 hour day or 10 pounds per hour without operating with the following level of
40 emission controls:

41 **A. Organic Fluids and Gases with a vapor pressure greater than 15.0 psia;** shall be continuously
42 contained in pressurized containers and handling systems designed and capable of holding, process handling, and
43 use of said organic fluids and gases such that no more than 2.2 pounds of organic vapors are emitted into the
44 atmosphere for every 6,000 gallons loaded, transferred, or used in any process including making and braking the
45 connections of product lines and operation of valves.

46 **B. Organic Fluids and Gases with a vapor pressure less than 15.0 psia, but greater than 1.5**
47 **psia;** shall not be loaded, transferred or used in any process in monthly quantities greater than 1,000 pounds unless
48 there is a system of organic vapor emission control such that no more than 2.2 pounds of organic vapors will be
49 emitted for every 1,000 gallons of use of such organic fluid or gas.

50 **C. Organic Fluids and Gases with a vapor pressure less than 1.5 psia;** under conditions of actual
51 exposure to the atmosphere shall be exempt from the requirements of 20.11.65 NMAC.

52 [12/1/95; 20.11.65.17 NMAC - Rn, 20 NMAC 11.65.II.6, 10/1/02]

53
54 **20.11.65.18 CUTBACK ASPHALT:**

1 A. No person shall cause, allow, or permit the use of cutback asphalt in quantities greater than 100
2 pounds per application directly onto existing or new paved surfaces without first obtaining a permit for such use
3 from the Department.

4 B. The Director of the Department may only issue a permit to use cutback asphalt if it is determined,
5 based on information supplied by the applicant, that less than 25 tons per year of VOC's will be emitted to the
6 ambient air as a result of the activities approved under the permit.

7 C. **Penetrate Uses:** for the purposes of this subsection, asphalt cement cut with naphtha for the
8 purposes of getting surface penetration into existing driveway and parking lot surfaces shall be exempt from the
9 requirements of Subsections A and B of 20.11.65.18 NMAC. However, this exemption does not apply between the
10 dates of June 15 through September 15. During the period of June 15 through September 15 a permit for such
11 operation shall be required and the Department shall consider the annual 25-ton limitation to apply entirely within
12 the three-month span of this requirement.

13 [12/1/95; 20.11.65.18 NMAC - Rn, 20 NMAC 11.65.II.7, 10/1/02]

14
15 **20.11.65.19 CONTAMINATED SOILS AND/OR GROUNDWATER TREATMENT:**

16 A. **Applicability:**

17 (1) **Existing decontamination facilities;** shall comply with the provisions of this subsection no later
18 than June 1, 1991.

19 (2) **New decontamination facilities;** which are authorized by an Authority-to-Construct permit
20 issued by the Department, shall comply with the provisions of this subsection immediately upon startup.

21 B. **VOC Emission Controls Required:** No person shall strip or extract VOC's from contaminated
22 soils or water or regenerate or reactivate a VOC collecting material used within a pollution control device such that
23 emissions to the ambient air be in excess of Albuquerque/Bernalillo County Air Quality Control Board, Ambient Air
24 Quality Standards.

25 C. **VOC Emission Controls - Exceptions:** Site excavation to examine tanks and other underground
26 conditions shall be exempt from this provision. Aeration of wastewater at sewage treatment facilities shall be
27 exempt from this subsection.

28 D. **Testing and Reporting:**

29 (1) Emission testing shall be performed by the operator of the stripper/extracting operation to insure
30 pollution control device efficiency. Performance testing shall be performed and reported within 30 days from
31 startup and quarterly thereafter throughout the active life of the project. This provision may be suspended, with the
32 Director's approval, upon receipt of the operator's petition demonstrating emissions have declined to negligible
33 quantities. Testing shall quantify the emissions of VOC from each emission point of the pollution control device
34 using EPA Method 25 - Determination of Total Gaseous Non-methane Organic Emissions as Carbon as published in
35 40 CFR 60 Appendix A, or an equivalent method approved by the Director. In addition, testing shall quantify all
36 hazardous air pollutants as listed in 40 CFR 61.01(a) and (b). This emissions testing shall be performed by EPA
37 Method 18 - Measurement of Gaseous Organic Compound Emissions By Gas Chromatography as published in 40
38 CFR 60 Appendix A or equivalent. After the initial report, the emissions shall be tested no less frequently than
39 annually to monitor any change in the emissions of hazardous air pollutants.

40 (2) All test reports shall be submitted to the Department within 45 days of the test date.

41 [3/23/87; 20.11.65.19 NMAC - Rn, 20 NMAC 11.65.II.8, 10/1/02]

42
43 **HISTORY OF 20.11.65 NMAC:**

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

46 Resolution No. 1, Air Pollution Control Regulations Of The Albuquerque Bernalillo County Air Quality Control
47 Board, 8/6/71.

48 Regulation No. 1, Air Pollution Control Regulations, 6/6/73;

49 Regulation No. 1, Air Pollution Control Regulations, 7/19/73;

50 Regulation No. 1, Air Pollution Control Regulations, 3/21/77;

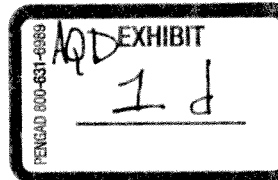
51 Regulation No. 11, Volatile Organic Compounds, 3/24/82;

52 Regulation No. 11, Volatile Organic Compounds, 3/23/87;

53 Regulation No. 11, Volatile Organic Compounds, 2/25/91.

54
55 **History of Repealed Material:** [Reserved]

1 **Other History:** Regulation No. 11, Volatile Organic Compounds, filed 2/25/91, was **renumbered** and
2 **reformatted** into first version of the New Mexico Administrative Code as 20 NMAC 11.65, Volatile Organic
3 Compounds, filed 10/27/95.
4 20 NMAC 11.65, Volatile Organic Compounds, filed 10/27/95, was **renumbered, reformatted, amended and**
5 **replaced** by 20.11.65 NMAC, Volatile Organic Compounds, effective 10/1/02.



1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE/BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
3 **PART 69 PATHOLOGICAL WASTE DESTRUCTORS**
4
5

6 **20.11.69.1 ISSUING AGENCY:** Albuquerque/Bernalillo County Air Quality Control Board, P.O. Box
7 1293, Albuquerque, NM 87103. Telephone: (505) [768-2600] 768-2601.
8 [5/13/92; 12/1/95; 20.11.69.1 NMAC - Rn, 20 NMAC 11.69.I.1, 10/1/02]
9

10 **20.11.69.2 SCOPE:**
11 **A.** The requirements of 20.11.69 NMAC apply to the owner or operator of any pathological waste
12 destructor (PWD).
13 **B. EXEMPT:** 20.11.69 NMAC does not apply to sources within Bernalillo County which are
14 located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control lacks jurisdiction.
15 [5/13/92; 20.11.69.2 NMAC - Rn, 20 NMAC 11.69.I.2, 10/1/02]
16

17 **20.11.69.3 STATUTORY AUTHORITY:** 20.11.69 NMAC is adopted pursuant to the authority provided in
18 the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality Control
19 Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance,
20 Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.
21 [5/13/92, 12/1/95; 20.11.69.3 NMAC - Rn, 20 NMAC 11.69.I.3, 10/1/02]
22

23 **20.11.69.4 DURATION:** Permanent.
24 [12/1/95; 20.11.69.4 NMAC - Rn, 20 NMAC 11.69.I.4, 10/1/02]
25

26 **20.11.69.5 EFFECTIVE DATE:** December 1, 1995, unless a later date is cited at the end of a section.
27 [12/1/95; 20.11.69.5 NMAC - Rn, 20 NMAC 11.69.I.5 & A, 10/1/02]
28

29 **20.11.69.6 OBJECTIVE:** The objective of 20.11.69 NMAC is to assure that the citizens of Bernalillo
30 County are not needlessly exposed to infectious or toxic substances in the air, which pathological waste destructors,
31 might otherwise emit.
32 [5/13/92; 20.11.69.6 NMAC - Rn, 20 NMAC 11.69.I.6, 10/1/02]
33

34 **20.11.69.7 DEFINITIONS:** In addition to the definitions in 20.11.69.7 NMAC the definitions in 20.11.1
35 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.69 NMAC shall
36 govern.

37 **A. "Charging Capacity"** means the pathological waste destructor manufacturers or designers rated
38 capacity expressed in terms of pounds per hour (lb/hr).

39 **B. "Charging Rate"** means the actual rate at which the subject unit is burning waste at a given point
40 in time expressed in terms of pounds per hour (lb/hr).

41 **C. "Chemotherapeutic Waste"** means all wastes resulting from the production or use of anti-
42 neoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. Chemotherapeutic
43 wastes shall not include any waste containing anti-neoplastic agents that are listed as hazardous waste.

44 **D. "Continuous Emission Monitor"** means the total equipment required to sample and analyze
45 emissions or process parameters on a continuous basis.

46 **E. "DSCF"** means dry standard cubic foot with standard conditions being a temperature of 68
47 degrees F and a pressure of 29.92 inches Hg.

48 **F. "DSCM"** means dry standard cubic meter with standard conditions being a temperature of 68
49 degrees F and a pressure of 29.92 inches Hg.

50 **G. "gr"** means grains.

51 **H. "Hazardous Waste"** means hazardous waste as defined in 40 CFR Part 261.3 as amended.

52 **I. "Infectious Waste"** means a limited class of substances that carry a significant risk of
53 transmitting disease, including but not limited to:

- 54 (1) microbiology laboratory wastes, including cultures and stocks of infectious agents from clinical
55 research and industrial laboratories, and disposable culture dishes and devices used to transfer, inoculate and mix
56 cultures,

- 1 (2) pathological wastes, including human or animal tissues, organs and body parts, removed during
 2 surgery, autopsy or biopsy,
 3 (3) disposable equipment, instruments, utensils, and other disposable materials which require special
 4 precautions because of contamination by highly contagious diseases.
 5 (4) blood and blood products, including waste blood, blood serum, plasma and blood products,
 6 (5) contaminated sharps, including contaminated hypodermic needles, syringes, scalpel blades,
 7 Pasteur pipettes and broken glass, and
 8 (6) contaminated animal carcasses, body parts and bedding, especially those intentionally exposed to
 9 pathogens in research, in the production of biologicals or the "in vivo" testing pharmaceutical.

10 **J.** "mg" means milligrams.

11 **K.** "ng" means nanogram.

12 **L.** "Opacity" means the degree to which emissions reduce the transmission of light and obscure the
 13 view of an object in the background.

14 **M.** "Operation" means the acts of ash removal, preheating of combustion unit, waste loading,
 15 combustion, burn down and cool down.

16 **N.** "Pathological Waste" means infectious wastes, chemotherapeutic wastes; wastes generated in
 17 health care facilities, medical laboratories and veterinary clinics that require special handling. Chemotherapeutic
 18 waste means all wastes resulting from the production or use of anti-neoplastic agents used to stop or reverse the
 19 growth of malignant cells excluding those listed as hazardous wastes. Specifically excluded from this definition are
 20 human or animal remains consisting of cadavers, carcasses, tissues, organs and/or body parts covered under
 21 20.11.68 NMAC, Incinerators and crematories.

22 **O.** "Pathological Waste Destructors" means any equipment, which is used to dispose of
 23 pathological waste by combustion.

24 **P.** "PCDD/PCDF" means total tetra-through octa-chlorinated dibenzo-para-dioxins and dibenzo
 25 furans.

26 **Q.** "Shutdown" means the cessation of all waste charging operations.

27 **R.** "Startup" means the setting into operation of any air pollution control equipment, process
 28 equipment or process for any purpose except routine phasing in of equipment.

29 **S.** "Total Charging Capacity" means the aggregate of all charging capacities of all pathological
 30 waste destructors located at a facility.

31 **T.** "Unit" means a combustion device otherwise called a pathological waste destructor.
 32 [12/13/92; 12/1/95; 20.11.69.7 NMAC - Rn, 20 NMAC 11.69.1.7, 10/1/02]

34 **20.11.69.8 VARIANCES:** [Reserved]
 35 [12/1/95; 20.11.69.8 NMAC - Rn, 20 NMAC 11.69.8, 10/1/02]

37 **20.11.69.9 SAVINGS CLAUSE:** Any amendment to 20.11.69 NMAC, which is filed, with the State
 38 Records Center shall not affect actions pending for violation of a City or County ordinance, Air Quality Control
 39 Board Regulation 39, or 20.11.69 NMAC. Prosecution for a violation under prior regulation wording shall be
 40 governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation
 41 was committed.
 42 [12/1/95; 20.11.69.9 NMAC - Rn, 20 NMAC 11.69.1.9, 10/1/02]

44 **20.11.69.10 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of this Part or any federal
 45 standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the
 46 decision shall not affect the validity of remaining provisions of 20.11.69 NMAC.
 47 [12/1/95; 20.11.69.10 NMAC - Rn, 20 NMAC 11.69.1.10, 10/1/02]

49 **20.11.69.11 DOCUMENTS:** Documents incorporated and cited in 20.11.69 NMAC may be viewed at the
 50 Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.
 51 [12/1/95; 20.11.69.11 NMAC - Rn, 20 NMAC 11.69.1.11 & A, 10/1/02]

53 **20.11.69.12 CONDITIONS:**

54 **A.** A PWD may only be used to destroy pathological waste that has been generated at the site where
 55 the unit is located.

1 **B.** No one shall burn material marked with radiation symbols or material having a radioactivity level
2 greater than background, in a unit subject to 20.11.69 NMAC.

3 **C.** Hazardous waste may not be burned in a unit subject to 20.11.69 NMAC.

4 **D.** No PWD shall be used to incinerate non-pathological waste.

5 [5/13/92; 12/1/95; 20.11.69.12 NMAC - Rn, 20 NMAC 11.69.I.12 & Repealed; 10/1/02; Rn, 20 NMAC 11.69.II.1,
6 10/1/02]

7
8 **20.11.69.13 EMISSION LIMITS:**

9 No owner or operator shall cause or allow exceedence of the following emission limits: (Particulate matter
10 emissions are measured at 12 percent CO₂. All other emissions are measured at 7 percent O₂. Opacity shall never
11 exceed 10 percent).

12 **(1) For PWDs with a charging capacity of less than 200 lb/hr:**

- 13 (a) Particulate matter 0.08 gr/dscf
14 (b) Hydrogen chloride 4 lb/hr or 99 percent control, whichever is more stringent
15 (c) Carbon monoxide 60 mg/dscm
16 (d) PCDD/PCDF 500 ng/dscm

17 **(2) For PWDs with a charging capacity of 200 lb/hr to 999 lb/hr:** (For all metals except mercury,
18 a cadmium surrogate emission limit of 50 µg/kg of waste burned may be used).

- 19 (a) Particulate matter 0.03 gr/dscf
20 (b) Hydrogen chloride 40 mg/dscm
21 (c) Carbon monoxide 60 mg/dscm
22 (d) PCDD/PCDF 5 ng/dscm
23 (e) Oxides of nitrogen 235 mg/dscm
24 (f) Sulfur dioxide 80 mg/dscm
25 (g) Arsenic 99 percent removal
26 (h) Beryllium 99 percent removal
27 (i) Cadmium 99 percent removal
28 (j) Chromium 99 percent removal
29 (k) Lead 99 percent removal
30 (l) Mercury 90 percent removal

31 **(3) For PWDs with a charging capacity of greater than 100 lb/hr:** (For all metals except mercury,
32 a cadmium surrogate emission limit of 50 µg/kg of waste burned may be used).

- 33 (a) Particulate matter 0.015 gr/dscf
34 (b) Hydrogen chloride 40 mg/dscm
35 (c) Carbon monoxide 60 mg/dscm
36 (d) PCDD/PCDF 5 ng/dscm
37 (e) Oxides of nitrogen 235 mg/dscm
38 (f) Sulfur dioxide 80 mg/dscm
39 (g) Arsenic 99 percent removal
40 (h) Beryllium 99 percent removal
41 (i) Cadmium 99 percent removal
42 (j) Lead 99 percent removal
43 (k) Mercury 90 percent removal

44 [5/13/92; 20.11.69.13 NMAC - Rn, 20 NMAC 11.69.II.2, 10/1/02]

45
46 **20.11.69.14 COMPLIANCE:**

47 **A.** Compliance with the carbon monoxide (CO) emission limitation, for units required to have
48 continuous CO monitoring, shall be determined by continuous emission monitor measurements calculated in 4-hour
49 block averages. For units not equipped with continuous CO monitoring equipment, compliance shall be determined
50 by manual tests as specified in 20.11.69.21 NMAC.

51 **B.** Compliance with particulate matter, sulfur dioxide, nitrogen dioxide, hydrogen chloride,
52 PCDD/PCDF, and metals emission limitations shall be determined by manual tests as specified in 20.11.69.21
53 NMAC. For metals, the removal percentage is calculated as the percent difference between the measured
54 concentrations at the inlet and outlet of the air pollution control system.

1 C. As surrogate for compliance with metals removal efficiency requirements, the owner or operator
2 may comply with an emission limitation for cadmium (Cd) of 50 micrograms per kilogram of waste burned. The
3 emission limit for cadmium cannot be used as surrogate for mercury.

4 D. Compliance with the opacity limit in Subsection A of 20.11.69.12 NMAC shall be determined by
5 continuous emission monitor measurements and 40 CFR Part 60, Appendix A, Method 9 as amended, calculated in
6 the form of 6-minute averages.

7 E. The owner or operator of a PWD with a total charging capacity of 400 pounds per hour or less
8 may obtain a written exemption from the Albuquerque/Bernalillo County AQCB from the applicable emission limits
9 set forth in 20.11.69.13 NMAC and may obtain a written exemption from the Albuquerque/Bernalillo County
10 AQCB from emission monitoring requirements as stated in Paragraph (3), of Subsection A of 20.11.69.18 NMAC
11 provided that:

12 (1) the owner or operator complies with the emission limits set forth in 20.11.69.12 NMAC for
13 PWDs with a total charging capacity of less than 200 pounds per hour, and

14 (2) the owner or operator obtains a written exemption from the Albuquerque/Bernalillo County
15 AQCB that contains a condition limiting the operation of such PWD to six hours in any one day. The violation of
16 such an exemption condition shall be a violation of 20.11.69 NMAC.

17 [5/13/92; 20.11.69.14 NMAC - Rn, 20 NMAC 11.69.II.3, 10/1/02]

18
19 **20.11.69.15 DESIGN REQUIREMENTS:**

20 A. All units shall be equipped with a secondary combustion chamber, which provides turbulent
21 mixing of the secondary air with the combustion gases. The secondary combustion chamber shall provide one
22 second of residence time, measured from the point of maximum temperature considering design-specific furnace
23 parameters including chamber volume, volumetric airflow rate, and excess air rate.

24 B. Primary combustion chamber temperature must be maintained at not less than 1400 degrees F.

25 C. Secondary combustion chamber temperature must be maintained at not less than 1800 degrees F.

26 D. Auxiliary burners must be designed to provide the required combustion chamber temperatures
27 described in Subsections B and C of 20.11.69.17 NMAC without utilization of the heat content of the waste. The
28 auxiliary burner fuel and the combustion air shall be controlled automatically to maintain the required temperatures.

29 E. The charging system of any unit must be designed to prevent disruption of the combustion
30 process. Batch charged units must be equipped with a lockout mechanism to prevent charging after start-up. Units
31 with automatic charging systems shall be equipped with a sealed feeding device to prevent combustion upsets during
32 charging. The loading system shall be designed to prevent overcharging.

33 F. For batch charged units, waste shall be not ignited until the secondary chamber exit temperature is
34 at 1800 degrees for at least fifteen minutes. Interlocks must prevent opening the charging door after ignition, until
35 the burn-down and cool-down periods are complete.

36 G. For continuously charged units, an interlock system must automatically stop waste feeding if:

37 (1) the unit's secondary chamber temperature drops below 1800 degrees F for any 15-minute period,

38 or

39 (2) the carbon monoxide emissions, corrected to 7 percent O₂ on a dry basis are equal to or greater
40 than 50 ppm by volume, for any 15-minute period.

41 [5/13/92; 20.11.69.15 NMAC - Rn, 20 NMAC 11.69.II.4, 10/1/02]

42
43 **20.11.69.16 STACK HEIGHT REQUIREMENTS:**

44 A. Exhaust stack height for all PWDs shall be determined as the greater of:

45 (1) $H_g = H + 1.5L$; where H_g = required stack height measured from the ground-level elevation at the
46 base of the stack; H = Height of nearby structure(s) measured from the ground-level elevation at the base of the
47 stack, and L = Lesser dimension, height or projected width, of nearby structure(s). Provided that the Department may
48 require the use of a field study or dispersion model to verify adequate stack height for the source; or

49 (2) The height demonstrated by a dispersion model or a field study approved by the Department,
50 which ensures that the emissions from the stack do not result in excessive concentration of any air pollutant as a
51 result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby
52 terrain features.

53 (3) The definitions in 40 CFR Sections 51.100(Z),(ff), and (hh)-(kk) (1987) as amended are hereby
54 incorporated in 20.11.69 NMAC.

55 [5/13/92; 20.11.69.16. NMAC - Rn, 20 NMAC 11.69.II.5, 10/1/02]

56

1 **20.11.69.17 OPERATING REQUIREMENTS:**

2 **A.** The owner or operator of a PWD shall not manually charge the primary combustion chamber
3 through doors open to the atmosphere while the unit is operating. Charging of waste for units other than batch units
4 shall be by mechanical means, which prevents upsets in the burn cycle.

5 **B.** Each unit shall operate so that during shutdown the unit continues to meet applicable emission
6 limitations and the secondary combustion chamber temperature is maintained at 1800 degrees F or above until the
7 waste is completely burned.

8 **C.** Units utilizing control devices to attain emission limits must be designed such that the flue gas
9 temperature at the outlet of the final control device does not exceed 300 degrees F unless a demonstration is made
10 that an equivalent collection (removal) of heavy metals and toxic organics can be achieved at a higher temperature
11 or through the use of alternate technologies.

12 [5/13/92; 20.11.69.17 NMAC - Rn, 20 NMAC 11.69.II.6, 10/1/02]

13
14 **20.11.69.18 EMISSION MONITORING:**

15 **A. Continuous emission monitors (CEM)s** shall be installed, calibrated, maintained, and operated,
16 and shall continuously record data for the following:

17 (1) For PWDs with a total charging rate of 1000 pounds per hour or greater:

18 (a) carbon monoxide (CO);

19 (b) oxygen (O₂);

20 (c) opacity.

21 (2) If an opacity monitor cannot be applied satisfactorily, alternate apparatus may be employed, on a
22 case by case basis, with the written approval of the Department, to demonstrate acceptable operation of the
23 particulate removal device.

24 (3) For PWDs with a total charging capacity of less than 1000 pounds per hour:

25 (a) oxygen (O₂);

26 (b) carbon monoxide (CO).

27 **B.** The owner or operator of any unit shall install, calibrate, maintain and operate equipment to
28 continuously record the temperature of gases leaving the primary and secondary combustion chambers and the outlet
29 of the final air pollution control device, if present. Such equipment shall have an accuracy of plus or minus 0.75
30 percent of the temperature being measured expressed in degrees Celsius or plus or minus 2.5 degrees C, whichever
31 represents greater accuracy. Sensors shall be located so that flames from the burners do not impinge on the sensors.

32 **C.** At least ninety days prior to initial startup, the owner or operator shall submit a report the
33 Department which describes, for each monitor, the location, specifications, calibration procedures, operation,
34 maintenance, data evaluation, and reporting. Monitoring equipment shall not be installed prior to Department
35 approval of the report.

36 **D.** The continuous emission monitors for oxygen (O₂) and carbon monoxide (CO) shall complete a
37 minimum of one operation cycle for each successive 15-minute period. One-hour averages shall be calculated from
38 four (4) or more data points equally spaced over each one-hour period.

39 **E.** The continuous opacity monitor shall complete a minimum of one operational cycle for each
40 successive ten-second period. Six-minute averages shall be calculated from thirty-six or more data points equally
41 spaced over each six-minute period.

42 **F.** Data recorded during periods of continuous emission monitor breakdown; repairs, calibration
43 checks, and zero and span adjustments shall not be included in calculated data averages.

44 **G.** Emission data capture rate for each continuous emission monitor must be a minimum of 75
45 percent of all operational hours for each twenty-four hour period beginning at midnight. Failure to meet this data
46 capture requirement shall cause the pathological waste destructor to be shutdown as required by 20.11.69.19
47 NMAC.

48 **H.** The owner or operator shall ensure that each continuous emission monitor meets the requirements
49 of 40 CFR Part 60, Appendix F Quality Assurance Procedures as amended and shall submit to the Department, all
50 reports specified in this Part. The required reports shall be submitted quarterly.

51 [5/13/92; 20.11.69.18 NMAC - Rn, 20 NMAC 11.69.II.7, 10/1/02]

52
53 **20.11.69.19 CONTINUOUS EMISSION MONITOR MALFUNCTION:** Whenever any required
54 continuous emission monitor cannot meet the data capture requirement of Subsection G of 20.11.69.18 NMAC, and
55 the owner or operator does not obtain the required data from an alternate monitor or test method, the PWD shall
56 cease operation until it can comply with Subsection G of 20.11.69.18 NMAC.

1 [5/13/92; 20.11.69.19 NMAC - Rn, 20 NMAC 11.69.II.8, 10/1/02]

2
3 **20.11.69.20 CEM PERFORMANCE EVALUATION:**

4 **A.** During or within thirty days of the emission tests required by 20.11.69.21 NMAC, the owner or
5 operator shall conduct a performance evaluation of each continuous emissions monitor in accordance with the
6 procedures of 40 CFR Part 60, Appendix B - Performance Specification as amended.

7 **B.** The performance evaluation required by Subsection A of 20.11.69.20 NMAC shall be repeated on
8 an annual basis or after any major equipment malfunction which requires component replacement, or at additional
9 times when the Department has reason to believe the monitor performance is inadequate.

10 **C.** The owner or operator shall provide at least thirty days prior notice to the Department before
11 conducting any performance evaluation.

12 **D.** A written report of each performance evaluation shall be furnished to the Department within thirty
13 days from the end of the test period.

14 [5/13/92; 20.11.69.20 NMAC - Rn, 20 NMAC 11.69.II.9, 10/1/02]

15
16 **20.11.69.21 EMISSION TESTING:**

17 **A.** Within sixty days of first achieving the maximum charging rate, but not more than one hundred
18 eighty days from the date of initial startup, the first annual performance test shall be conducted.

19 **B.** The owner or operator of any PWD that has a charging capacity of less than 200 pounds per hour
20 shall conduct an annual performance test to demonstrate compliance with the emission standards for particulate
21 matter (PM), carbon monoxide (CO) and hydrogen chloride (HCl).

22 (1) The initial performance test for units subject to Subsection B of 20.11.69.20 NMAC shall include
23 PCDD/PCDF and the following metals:

- 24 (a) arsenic and compounds (expressed as arsenic)
- 25 (b) beryllium and compounds (expressed as beryllium)
- 26 (c) cadmium and compounds (expressed as cadmium)
- 27 (d) chromium and compounds (expressed as chromium)
- 28 (e) lead and compounds (expressed as lead)
- 29 (f) mercury and compounds (expressed as mercury)

30 (2) The required performance test for PCDD/PCDF and metals shall be conducted once, provided that
31 PCDD/PCDF and metals emission test results indicate compliance with the standard set forth in Subsection A of
32 20.11.69.13 NMAC.

33 **C.** The owner or operator of any PWD with a charging capacity of 200 pounds per hour or greater
34 shall conduct a performance test to demonstrate compliance with the standards for particulate matter (PM), carbon
35 monoxide (CO), hydrogen chloride (HCl), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), total tetra-through octa-
36 chlorinated dibenzo-para-dioxins and dibenzo furans (PCDD/PCDF);

37 (1) and the following metals:

- 38 (a) arsenic and compounds (expressed as arsenic)
- 39 (b) beryllium and compounds (expressed as beryllium)
- 40 (c) cadmium and compounds (expressed as cadmium)
- 41 (d) chromium and compounds (expressed as chromium)
- 42 (e) lead and compounds (expressed as lead)
- 43 (f) mercury and compounds (expressed as mercury)

44 (2) Source tests shall be conducted annually for the above specified pollutants.

45 (3) The owner or operator may apply to the Department for a waiver of annual testing for a specific
46 pollutant where performance testing has consistently shown emission rates for that pollutant which are less than
47 those required in 20.11.69 NMAC, but in no case shall any required test be conducted less than once in every three
48 years.

49 **D.** All performance testing shall be conducted at the design charging capacity using waste that is
50 representative of normal operation while being operated by the facility operator.

51 **E.** The Department may require additional testing if there is a reasonable basis to believe the facility
52 is not in compliance with any provision of 20.11.69 NMAC or any applicable permit condition.

53 **F.** The Department or its representative may conduct unscheduled emission tests at any time during
54 operating hours of the facility.

55 [5/13/92; 12/1/95; 20.11.69.21 NMAC - Rn, 20 NMAC 11.69.II.10, 10/1/02]

56

1 **20.11.69.22 TEST PROCEDURES:**

2 **A.** Notice of the test date and a copy of the test protocol shall be submitted to the Department at least
3 thirty days prior to the actual test date.

4 **B.** A representative of the Department shall be given the opportunity to be present during all
5 emissions test required by 20.11.69 NMAC.

6 **C.** A written copy of all test results shall be furnished to the Department within sixty days from the
7 test date.

8 **D.** Emission tests shall be conducted utilizing the following methods:

- 9 (1) for total particulate matter 40 CFR Part 60, Appendix A, Methods 1 - 5 as amended,
10 (2) for PCDD/PCDF 40 CFR Part 60, Appendix A, Method 23 as amended,
11 (3) for cadmium chromium, and lead 40 CFR Part 60, Appendix A., Methods 1 - 4 and 12 as
12 amended,
13 (4) for arsenic 40 CFR Part 61, Appendix B, Method 108 as amended,
14 (5) for beryllium 40 CFR Part 61, Appendix B, Method 104 as amended,
15 (6) for mercury 40 CFR Part 61, Appendix B., Method 101A as amended,
16 (7) for opacity 40 CFR Part 60, Appendix A, Method 9 as amended,
17 (8) for hydrogen chloride 40 CFR Part 60, Appendix A, Method 26 as amended,
18 (9) for carbon monoxide 40 CFR Part 60, Appendix A, Method 10 as amended,
19 (10) for sulfur dioxide 40 ~~CFR~~ CFR Part 60, Appendix A, Method 6 as amended, and
20 (11) for nitrogen oxide 40 CFR Part 60, Appendix A, Method 7 as amended.

21 **E.** The owner or operator may use test methods other than those in Subsection D of 20.11.69.22
22 NMAC if the Department has approved the alternate test method prior to the test date. The Department shall rule on
23 proposed alternate test method acceptability within thirty days of receipt of the proposal.
24 [5/13/92; 12/1/95; 20.11.69.22 NMAC - Rn, 20 NMAC 11.69.II.11, 10/1/02]

25
26 **20.11.69.23 QUARTERLY REPORT:** The owner or operator shall submit a report containing the following
27 information to the Department within thirty days from the end of each calendar quarter:

28 **A.** The average hourly charging rate to each unit.

29 **B.** The thirty-minute average temperatures of the primary chamber, the secondary chamber, and the
30 outlet from the final air pollution control device.

31 **C.** The hourly and four-hour average concentrations of carbon monoxide (CO) in mg/dscm, corrected
32 to 7 percent O₂ as measured by continuous emission monitors.

33 **D.** The hourly average percent oxygen (O₂) and six-minute average opacity as measured by
34 continuous emission monitors.

35 **E.** The percent data capture for each twenty-four hour period for each continuous emission monitor.

36 **F.** The identification of all periods of startup, shutdown, and excess emissions.

37 **G.** The reason for any excess emissions and the corrective action taken.

38 [5/13/92; 20.11.69.23 NMAC - Rn, 20 NMAC 11.69.II.12, 10/1/02]

39
40 **20.11.69.24 RECORDS:**

41 **A.** The owner or operator shall maintain records for a period of three years from the date created, for
42 all parameters required in 20.11.69 NMAC and shall make them available upon request for inspection and copying
43 by the Department.

44 **B.** All information submitted to the Department in quarterly reports or emission test reports, or any
45 other information created or obtained by the Department regarding the PWD shall be available during business
46 hours at the Department's offices for public inspection and copying. Table 1 of 20.11.69 NMAC summarizes
47 reporting requirements and their respective due dates.

48 [5/13/92; 20.11.69.24 NMAC - Rn, 20 NMAC 11.69.II.13, 10/1/02]

49
50 **20.11.69.25 UPSET CONDITION:**

51 **A.** The provisions of ~~[20.11.90 NMAC]~~ 20.11.49 NMAC shall not apply to any PWD.

52 **B.** Whenever the temperature requirements of Sections 203 or 205 of 20.11.69 NMAC or any
53 emission limit in 20.11.69.13 NMAC for which compliance is based on continuous emissions monitoring, is
54 exceeded, the operator shall take the following actions:

- 55 (1) cut off waste charging to the combustion unit,

1 (2) notify the Department verbally of the exceedence within four hour of its occurrence or prior to
2 twelve noon of the next business day should the exceedence occur during non-business hours,

3 (3) note in the operating record the time and date of the exceedence, when shutdown began, and when
4 shutdown was complete,

5 (4) identify and correct the cause of the upset condition before resuming operation of the unit, and

6 (5) note in the operating record the corrective action taken and the time and date of startup.

7 [5/13/92; 20.11.69.25 NMAC - Rn, 20 NMAC 11.69.II.14, 10/1/02]

8
9 **20.11.69.26 HANDLING, STORAGE, AND TRANSPORTATION OF ASH:**

10 A. All handling and storage of fly ash and bottom ash shall be conducted in a closed system, which
11 prevents ash from becoming airborne.

12 B. Transporters of pathological waste destructor ash (PWD ash):

13 (1) Shall not accept or transport PWD ash unless it has been treated or is securely covered to prevent
14 release of fugitive dust;

15 (2) Shall line or seal vehicles to prevent any leakage of liquids;

16 (3) There shall be no visible emissions (0 percent opacity) resulting from handling, storage, or
17 transportation of PWD ash. Compliance with this requirement shall be determined by visual observation as
18 specified in 40 CRF Part 60, Appendix A, Method 9 as amended.

19 [5/13/92; 20.11.69.26 NMAC - Rn, 20 NMAC 11.69.II.15, 10/1/02]

20
21 **20.11.69.27 OPERATOR CERTIFICATION:**

22 A. A certified operator shall be present at the facility whenever waste is being burned. The facility
23 employed, unit operator will control the operation of the pathological waste destructor during performance testing.

24 B. All unit operators of their immediate supervisor on-site must have completed the certification
25 training, as required and specified in the Training and Certification Procedures Document developed by the
26 Department pursuant to 20.11.69 NMAC and approved by the Board.

27 [5/13/92; 20.11.69.27 NMAC - Rn, 20 NMAC 11.69.II.16, 10/1/02]

28
29 **20.11.69.28 COMPLIANCE SCHEDULE FOR EXISTING PATHOLOGICAL WASTE**

30 **DESTRUCTORS:**

31 A. PWDs in existence before the effective date of this Part must achieve full compliance with this
32 regulation within ten (10) days of the effective date of 20.11.69 NMAC. Each owner or operator of an existing
33 PWD who intends to permanently cease operating the unit shall remove the unit from the facility within thirty days
34 of the effective date of 20.11.69 NMAC. The Department shall be notified of the intent to cease operating within
35 the ten (10) day period specified above. Each owner or operator of an existing PWD shall either demonstrate
36 compliance with the requirements of 20.11.69 NMAC or seek an Assurance of Discontinuance from the Department
37 within the ten (10) day period specified above.

38 B. **Assurances of Discontinuance** shall contain the following:

39 (1) owner or operator's name and address,

40 (2) date of submittal,

41 (3) description of facility,

42 (4) description of the property upon which the facility is located,

43 (5) The following increments of progress:

44 (a) a date or dates by which contracts for each major phase of construction or installation of
45 emission control systems, or process modification, or orders for their component parts, will be awarded,

46 (b) a date or dates of initiation of each major phase of on-site construction or installation of
47 emission control equipment or process modification,

48 (c) a date or dates by which each major phase of on-site construction or installation of emission
49 control equipment or process modification is to be completed, and

50 (d) a date or dates by which final compliance is to be achieved (no later than Nov 30, 1992 for
51 < (less-than) 200pounds/hr units; or April 1, 1993 for single chamber units and \geq (greater-than-or-equal-to)
52 200pounds/hr units),

53 (e) a detailed description of the methods or devices to be used to achieve compliance.

54 [5/13/92; 20.11.69.28 NMAC - Rn, 20 NMAC 11.69.II.17, 10/1/02]

1 **20.11.69.29 TRAINING AND CERTIFICATION PROCEDURES DOCUMENT - PATHOLOGICAL**
 2 **WASTE DESTRUCTORS:**

3 **A.** A certified pathological waste destructor (PWD) operator shall be present at the facility in which a
 4 PWD is located whenever waste is being burned. The facility-employed operator will control the operation of the
 5 PWD during performance testing.

6 **B.** All PWD operators or their immediate supervisor on-site must have completed the following
 7 certification training: Operator training shall include a program of study approved by the Department. The owner
 8 or operator shall submit a proposed program of study to include the following:

- 9 (1) proper waste handling,
- 10 (2) identification of waste types acceptable for combustion,
- 11 (3) PWD design and waste combustion theory,
- 12 (4) proper PWD startup, operation, shutdown, and maintenance procedures; (these procedures must
 13 follow the PWD manufacturer's recommendations),
- 14 (5) work safety procedures, including infectious disease control procedures for the facility,
- 15 (6) applicable air pollution, solid waste, and wastewater management regulations,
- 16 (7) air pollution control equipment operation and maintenance, and
- 17 (8) a minimum of two (2) turn cycles of hands-on PWD operation under the supervision of another
 18 certified operator or the PWD manufacturer's representative.

19 **C.** Operator certification training shall include an annual review lasting at least eight hours. The
 20 required review may contain but shall not be limited to reviews of operation and maintenance procedures, topic
 21 specific conferences, manufacturer's updates, and regulatory updates. The content of the annual review shall be
 22 approved the Department.

23 **D.** Every operator shall have visible proof of certification posted or filed the work area at the facility.
 24 [5/13/92. . .5/13/95; 12/1/95; 20.11.69.29 NMAC - Rn, 20 NMAC 11.69.II.18, 10/1/02]

25
 26 **20.11.69.30 PATHOLOGICAL WASTE DESTRUCTOR SUMMARY OF REPORTING**
 27 **REQUIREMENTS:**
 28

TABLE 1

Report/Description	Reference	Date due to Department
Notice of CEM performance evaluation.	Subsection C of 20.11.69.20 NMAC	At least 30 days prior to performance evaluation.
CEM performance evaluation.	Subsection D of 20.11.69.20 NMAC	Within 30 days from the end of the test period.
Notice of emission testing and test protocols.	Subsection A of 20.11.69.22 NMAC	At least 30 days prior to the actual test date.
Copy of emission test results.	Subsection C of 20.11.69.23 NMAC	Within 60 days from the test date.
Quarterly report of CEM and temperature monitoring results.	20.11.69.23 NMAC	Within 30 days of the end of each calendar quarter.
Notice of intent to cease unit operations.	Subsection A of 20.11.69.28 NMAC	Within 10 days of the effective date of this Part.
Compliance schedule/Assurance of Discontinuance	Subsection A of 20.11.69.28 NMAC	Within 10 days of the effective date of this Part.

29

1 [5/13/95; 20.11.69.30 NMAC - Rn, 20 NMAC 11.69.Table 1, 10/1/02]
2

3 **HISTORY OF 20.11.69 NMAC:**

4 **Pre-NMAC History:** The material in this part was derived from that previously filed with the commission of
5 public records - state records center and archives.
6 Regulation No. 39, Pathological Waste Destructors, 6/16/92.
7

8 **History of Repealed Material:** [Reserved]
9

10 **Other History:** Regulation No. 39, Pathological Waste Destructors, filed 6/16/92 was **renumbered, reformatted,**
11 **and amended** into first version of the New Mexico Administrative Code as 20 NMAC 11.69, Pathological Waste
12 Destructors, filed 10/27/95.
13 20 NMAC 11.69, Pathological Waste Destructors, filed 10/27/95 was **renumbered, reformatted, amended and**
14 **replaced** by 20.11.69 NMAC, Pathological Waste Destructors, effective 10/1/02.