AQD EXHIBIT 5

PENGAD 800-631-6989

FIGURES

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2. On December 11, 2007, the Director of the Environmental Health Department submitted a "certification letter" to the Regional Administrator for EPA Region VI, certifying that Bernalillo County's infrastructure is adequate to enforce the "new" 1997 8-hour ozone NAAQS (See Attachment A). However, on March 27, 2008, EPA published the "*Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS*" [FR Vol. 73, No. 60, 16205-16211]. Their finding for New Mexico, including Bernalillo County, was that:

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> "New Mexico: As required by Section 110(a)(2)(C) and (J), the State of New Mexico has failed to submit a SIP addressing changes to the Part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21."

Therefore, the Air Board's *Prevention of Significant Deterioration* rule, 20.11.61 NMAC must be amended to [~~correct~~] cure this deficiency. (See Attachment D).

As of 2004, states still had not submitted complete SIPs to satisfy all of the Section 110(a)(2) requirements for the 1997 $PM_{2.5}$ NAAQS (as well as for the aforementioned 8-hour ozone NAAQS). On March 4, 2004, Earth Justice submitted a notice of intent to sue, related to EPA's failure to issue 'findings of failure to submit' related to these requirements. Consequently, EPA entered into a Consent Decree with Earth Justice which required EPA, among other things, to sign a notice for publication in the Federal Register no later than October 5, 2008, announcing EPA's determinations pursuant to Section 110(k)(1)(B) as to whether each state has made complete submissions to meet the requirements of Section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS.

3. On April 7, 2008, the Governor of New Mexico submitted to EPA, an *Infrastructure SIP* which addressed all the non-transport-related elements of Section 110(a)(2) with respect to the $PM_{2.5}$ NAAQS. (See Attachment B).

Through these efforts, the Air Quality Division determined that it had the authority to implement the Infrastructure SIP requirements outlined in the EPA's guidance documents with respect to both the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS. Furthermore, these actions by the Air Quality Division, acting as agent for the Air Board, satisfied the timing requirement under the Consent Decree for the Section 110(a)(2) elements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS.

Then on October 22, 2008, the EPA published its "*Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter ($PM_{2.5}$) NAAQS*", [Vol. 73, No. 205, 62902-62906]. Their finding was as follows:

"The following states have been determined by EPA to have made complete SIP submissions that address all of the Section 110(a)(2) requirements as of the signature date of this notice: Region VI: Arkansas, Louisiana, New Mexico, Texas."

existing stay of the inclusion of fugitive emissions requirements in the federal PSD program published in the Federal Register on 12/19/08 (see item 5 above).

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Therefore, none of this language proposed in the fugitive emissions rule has been incorporated into this SIP.

11. On 2/11/10 EPA published a NPRM concerning the implementation of new source review (NSR) for fine particulate matter ($PM_{2.5}$) [FR Vol. 75, No. 28, 6827-6836]. The agency is proposing to repeal the grandfathering rule, which allows sources that applied for a permit before July 15, 2008, but have not yet received it, to use prevention of significant deterioration (PSD) requirements for particulate matter PM_{10} rather than those for $PM_{2.5}$. EPA is also proposing to end the PM_{10} Surrogate Policy sooner than currently scheduled. The Surrogate Policy currently allows sources to substitute PM_{10} PSD requirements in order to demonstrate compliance with the $PM_{2.5}$ requirements.

12. On 3/31/10, the EPA published "*PSD and Nonattainment NSR: Inclusion of Fugitive Emissions; Final Rule; Stay*." [FR Vol. 75, No. 61, 16012-17]. This extended the stay of the provisions of the fugitive emissions rule until 10/3/11.

This plethora of rulemaking has resulted in a volatile regulatory landscape. As such, the current proposed amendments do not include every change that has been made to the federal rules to date. Any rule revisions that are not addressed here, will be addressed in the future when there is more regulatory certainty on implementation of rules currently in flux.

In addition, on October 17, 2006, EPA promulgated a new 24-hour standard for $PM_{2.5}$, which became effective on 12/18/06 [Federal Register, Vol. 71, No. 200, 61144-61233]. Then on March 27, 2008, the EPA promulgated a new 8-hour standard for ozone, which became effective on May 27, 2008 [Federal Register, Vol. 73, No. 60, 16436-16514]., Thus, this SIP will also demonstrate that the Air Quality Division has the ability and authority to implement, maintain, and enforce these additional new NAAQS.

Interstate Transport. Section § 110(a)(2)(D)(i) of the Clean Air Act

Each state's SIP must contain adequate provisions prohibiting any source, or other type of emissions activity, within the State from emitting any air pollutants in amounts that will:
1) Contribute significantly to nonattainment of the NAAQS for areas in another state or interfere with the maintenance of the NAAQS by another state;

2) Interfere with measures required to meet the state implementation plan for any other state related to prevention of signification deterioration (PSD); or,

3) Interfere with measures required to meet the state implementation plan for any other state related to Regional Haze and Visibility.

To comply with provisions 1) and 2), the Air Board adopted an *Interstate Transport SIP* on September 12, 2007, and the Air Quality Division submitted it to EPA on October 24, 2007. This SIP is available at http://www.cabq.gov/airquality/aqcb/state-implementation-plans-sip

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Provision 3) *The Regional Haze and Visibility Interference Requirement*

$PM_{2.5}$ is one of the main components of regional haze. Therefore, the [~~$PM_{2.5}$~~] Regional Haze SIP impacts the visibility requirements of Section 110(a)(2)(D)(i). However, the EPA's transport guidance initially relieved the Air Quality Division from compliance with this Section 110(a)(2)(D)(i) requirement regarding visibility until such time that the Air Quality Division submitted it's Regional Haze SIP, which was due to the EPA by December 31, 2007. Since that time the Air Quality Division has submitted a revised Regional Haze SIP to EPA (See http://www.cabq.gov/airquality/aqcb/state-implementation-plans-sip).

Bernalillo County's Regional Haze SIP, demonstrates that, emissions from Bernalillo County will not significantly contribute to non-attainment or interfere with the maintenance of, the 8-hour ozone or $PM_{2.5}$ NAAQS in any Class I Areas within New Mexico. Therefore, Bernalillo County meets the PSD and protection of visibility requirements under CAA Section 110(a)(2)(D)(i).

NAAQS for $PM_{2.5}$ and Ozone

The EPA finalized its rule for implementation of the 1997 $PM_{2.5}$ NAAQS on April 25, 2007.[1] But on 10/17/06 EPA changed the $PM_{2.5}$ NAAQS again [*National Ambient Air Quality Standards for Particulate Matter*, FR Vol. 71, No. 200, 61144-61233 & 61236-61328]. EPA revised the level of the 24-hour $PM_{2.5}$ standard to 35 micrograms per cubic meter ($\mu g/m^3$) and retained the level of the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$. With regard to primary standards for PM_{10}, EPA retained the 24-hour PM_{10} standard, and revoked the annual PM_{10} standard. This rule became effective on 12/18/06. Consequently, the Governor of New Mexico has attested to the fact that Bernalillo County is in attainment of this $PM_{2.5}$ standard (See Attachment E). In addition, the EPA required that any changes that need to be made to our 'infrastructure' in order to implement, maintain and enforce this new NAAQS, be made by September 21, 2009.

Even though EPA finalized its rule for implementation of the 1997 $PM_{2.5}$ NAAQS on April 25, 2007,[2] no final $PM_{2.5}$ requirements for the Nonattainment New Source Review (NNSR) program were included. The EPA issued interim guidance[3] [4] calling for use of

[1] Clean Air Fine Particle Implementation Rule, 72 Federal Register 20586-667, April 25, 2007.

[2] 72 Federal Register 20586-667, April 25, 2007.

[3] USEPA Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, "Implementation of New Source Review Requirements in PM-2.5 Nonattainment Areas," April 5, 2005.

[4] USEPA Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, "Interim Implementation of New Source Review for PM2.5," October 23, 1997.

The Air Quality Division commits to the continued enforcement of control measures for which it has jurisdiction and the continued operation of permitting and enforcement programs with respect to measures required by the CAA.

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Evidence of the Air Quality Division's commitment, is shown by its submittal of proposed changes to the current PSD and NNSR rules as well as this submittal of a complete infrastructure SIP to address $PM_{2.5}$ and ozone. These amendments will [~~correct~~] cure the deficiency noted by EPA requiring that NO_x be delineated as a precursor to ozone formation.

§110(a)(2)(D) Interstate Transport
(A separate SIP was required to fulfill these requirements. See Page 8 for details.)

§110(a)(2)(E) Resources, Conflict of Interest, and Emergency Backstop

States are to provide assurances that (i) adequate personnel, funding, and legal authority will be available to carry out the SIP; (ii) a majority of its state board members represent the public interest and do not derive a significant portion of their income from entities that are subject to permits, and that conflicts of interest of members be adequately disclosed; and (iii) the State has responsibility for ensuring adequate implementation of plan provisions to be carried out by local districts.

(i) Adequate personnel, funding, and legal authority will be available to carry out the SIP

Funding and Personnel

Funding and personnel resources for carrying out the programs of the SIP to demonstrate attainment of the $PM_{2.5}$ and 8-hour ozone standards are provided by the City of Albuquerque and EPA. Budgets are approved annually by the City Council. The annual budget process provides a periodic update that enables the Air Quality Division to adjust funding and personnel needs. The annual budget appropriations process undertaken by the Mayor and the City Council, enables the Air Quality Division to present a request for resources required to meet the mandates of the Clean Air Act (CAA).

The Clean Air Act authorizes the federal government to provide grants for up to 60% of the cost of state and local air quality programs, while states must provide a 40% match (per Section 105).

The Air Quality Division assures EPA that it has adequate personnel and funding to carry out the SIP.

X. "Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration.

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

Z. "Net emissions increase" [~~shall have the following meanings:~~]

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

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

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

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs [~~within the time period five years prior to the commencement of construction on the particular change and~~] before the date that the increase from the particular change occurs.

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

(a) it occurs [~~within the time period~~] between:

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

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

(b) [~~either~~] the department [~~or the administrator~~] has not relied on it in issuing a permit for the source under [~~approved~~] regulations approved pursuant to 40 CFR 51.165, which permit [~~and~~] is in effect when the increase in actual emissions from the particular change occurs.

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

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

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

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

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

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

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

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

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

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

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

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

EE. "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source. {40 CFR 51.165 (a)(1)(iii)}

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

GG. "Prevention of significant deterioration (PSD) permit" means any permit that is issued under 20.11.61 NMAC.

HH. "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

II. "Projected actual emissions"

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

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

[~~(1)~~] (a) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan; and

[~~(2)~~] (b) shall include fugitive emissions ~~(~~to the extent quantifiable~~)~~, and emissions associated with startups, shutdowns, and malfunctions; and

[~~(3)~~] (c) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under Subsection E of 20.11.60.7 NMAC and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

[~~(4)~~] (d) in lieu of using the method set out in Paragraphs (1) through (3) of Subsection II of 20.11.60.7 NMAC, may elect to use the emissions unit's potential to emit, in tons per year, as defined under Subsection EE of 20.11.60.7 NMAC.

JJ. "Regulated new source review pollutant", for purposes of 20.11.60 NMAC, means the following:

(1) nitrogen oxides or any volatile organic compounds;

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

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

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

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

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

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

(5) Notwithstanding the significant emissions rates for ozone under Paragraphs (1) and (2) of Subsection MM of 20.11.60.7 NMAC, any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source of volatile organic compounds located in an extreme ozone nonattainment area that is subject to Subpart 2, Part D, Title I of the Act shall be considered a significant net emissions increase. {11/29/05 FR re: 40 CFR 51.165 (a)(1)(x)(A)-(E)}

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NN. "Significant emissions increase" means, for a regulated new source review pollutant, an increase in emissions that is significant for that pollutant.

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

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

QQ. "Visibility impairment" means any humanly perceptible change in visibility, that is, visual range, contrast, coloration, from that which would have existed under natural conditions.

[20.11.60.7 NMAC - Rp, 20.11.60.7 NMAC, 1/23/06]

20.11.60.8 VARIANCES: [Reserved]

[20.11.60.8 NMAC - Rp, 20.11.60.8 NMAC, 1/23/06]

20.11.60.9 SAVINGS CLAUSE: Any amendment to 20.11.60 NMAC, which is filed, with the state records center shall not affect actions pending for violation of a city or county ordinance, or air quality control board regulation. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, part, or regulation section in effect at the time the violation was committed.

[20.11.60.9 NMAC - Rp, 20.11.60.9 NMAC, 1/23/06]

20.11.60.10 SEVERABILITY: If any section, paragraph, sentence, clause, or word of 20.11.60 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of 20.11.60 NMAC.

[20.11.60.10 NMAC - Rp, 20.11.60.10 NMAC, 1/23/06]

20.11.60.11 DOCUMENTS: Documents incorporated and cited in 20.11.60 NMAC may be viewed at the Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM.

[20.11.60.11 NMAC - Rp, 20.11.60.11 NMAC, 1/23/06]

20.11.60.12 APPLICABILITY:

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

(1) **Sources that would locate in a designated nonattainment area.** The proposed major stationary source or major modification [~~will~~] would be located within a nonattainment area so designated pursuant to Section 107(d)(1)(A)(i) of the federal Clean Air Act and [~~will~~] would emit a regulated new source review pollutant for which it is major and for which the area is designated nonattainment [~~for~~]; or {40 CFR 51.165(a)(2)}

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

(a) The proposed major stationary source or major modification [~~will~~] would be located within an area designated as attainment or unclassifiable for any NAAQS pursuant to Section 107 of the federal Clean Air Act, [and will emit a regulated new source review pollutant for which it is major ~~and the ambient impact of such pollutant would exceed any of the significance levels in Subsection A of 20.11.60.22 NMAC at any location that does not meet any national ambient air quality standard for the same pollutant (See Subsection D of 20.11.60.12 NMAC)~~.] and when it would cause or contribute to a violation of any NAAQS.

(b) A major source or major modification will be considered to cause or contribute to a violation of a NAAQS when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard: {40 CFR 51.165 (b)(1) & (2)

Significant Ambient Concentrations:

Pollutant	Averaging Time

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	Annual	24-hr	8-hr	3-hr	1-hr
Sulfur Dioxide	1.0 μg/m^3	5 μg/m^3	--	25 μg/m^3	--
PM_{10}	1.0 μg/m^3	5 μg/m^3	--	--	--
Nitrogen Dioxide	1.0 μg/m^3	--	--	--	--
Carbon Monoxide	--	--	0.5 mg/m^3	--	2 mg/m^3

{20.11.60.22 Table A, re: 40 CFR 51.165 (b)(2)}

(3) A proposed major source or major modification subject to Subsection A of 20.11.60.12 NMAC may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such emission reductions, the department shall deny the proposed construction.

(4) The requirements of Subsection A of 20.11.60.12 NMAC shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to Section 107 of the Act. {40 CFR 51.165 (b)(3) & (4)}

~~[**B.** The requirements of 20.11.60 NMAC apply to each regulated new source review pollutant meeting the criteria of either Paragraph (1) or Paragraph (2) of Subsection A of 20.11.60.12 NMAC.~~

~~**C.** For an area which is nonattainment for ozone, volatile organic compounds and oxides of nitrogen are the regulated new source review pollutants which may make 20.11.60 NMAC applicable under the provisions of Paragraph (1) of Subsection A of 20.11.60.12 NMAC.~~

~~**D.** Other requirements.~~

~~(1) A new major stationary source or major modification which meets the criteria of Paragraph (2) of Subsection A of 20.11.60.12 NMAC shall demonstrate that the source or modification will not cause or contribute to a violation of any national ambient air quality standard by meeting the following requirements and no others of 20.11.60 NMAC:~~

~~(a) Paragraph (2) of Subsection C of 20.11.60.15 NMAC regarding emission offsets;~~

~~(b) Subsection D of 20.11.60.15 NMAC regarding a net air quality benefit;~~

~~(c) 20.11.60.17 NMAC - Emission Offset Baseline;~~

~~(d) 20.11.60.18 NMAC - Emission Offset; and~~

~~(e) 20.11.60.20 NMAC - Air Quality Benefit.~~

~~(2) In addition, a new source or modification which meets the criteria of Paragraph (2) of Subsection A of 20.11.60.12 NMAC and is also a major stationary source or major modification as defined in 20.11.61 NMAC, Prevention of Significant Deterioration (PSD), shall obtain a PSD permit under the provisions of 20.11.61 NMAC.~~]

[~~E.~~]B. Applicability procedures.

(1) Except as otherwise provided in [~~Paragraphs (3) and (4) of Subsection E of 20.11.60.12~~] Subsection [~~B~~] C of 20.11.60.12 NMAC, and consistent with the definition of major modification, a project is a major modification for a regulated new source review pollutant if it causes two types of emissions increases - a significant emissions increase, and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

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

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

(4) **Actual-to-potential test for projects that only involve construction of a new emissions unit(s)**. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project