

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
3 **PART 100 MOTOR VEHICLE INSPECTION -- DECENTRALIZED**
4

5 **20.11.100.1 ISSUING AGENCY:** Albuquerque-Bernalillo County Air Quality Control Board, c/o
6 Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.
7 [10/19/82. . .12/1/95; 20.11.100.1 NMAC - Rn, 20 NMAC 11.100.I.1, 10/1/02; A, 9/1/04]
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9 **20.11.100.2 SCOPE:**

10 **A. Applicability (vehicles to be inspected):**

11 **(1) Motor vehicles.** All motor vehicles, as defined in 20.11.100.7 NMAC, shall be inspected for
12 compliance with the requirements of ~~[this part]~~ 20.11.100 NMAC unless otherwise exempted. A vehicle shall not
13 be registered or re-registered until the vehicle has passed the applicable on-board diagnostics (OBDII) inspection,
14 exhaust emissions inspection, tampering inspection, pressurized gas cap test and visible emissions inspection
15 prescribed by 20.11.100.14 NMAC or the program has issued a time extension for repairs of the vehicle,
16 unavailability for testing, or reciprocity for a test from another state.

17 ~~[B.]~~ **(2) Commuter vehicles:** All motor vehicles, which are more than four years old and are driven
18 into, operated, or are otherwise present in Bernalillo county for 60 or more days per year but are registered in
19 another county or state must comply with this part.

20 ~~[C.]~~ **(3) Federal installations:** Vehicles, which are operated on federal installations located in
21 Bernalillo county, shall comply with this part whether or not the vehicles are registered in New Mexico or Bernalillo
22 county. The inspection requirement applies to all employee owned or leased vehicles as well as agency operated
23 vehicles. The inspection requirements for federal installations are mandated by 40 CFR Part 51.356(a)(4).

24 ~~[D.]~~ **(4) Fleet vehicles:** Fleet vehicles, which are registered outside of Bernalillo county but are
25 primarily operated in Bernalillo county, shall comply with this part. The inspection requirements for fleet vehicles
26 are mandated by 40 CFR Part 51.356(a)(2).

27 ~~[E.]~~ **(5) Municipalities and counties:** If the program enters into a joint powers agreement with a
28 municipality or county to extend the enforcement of ~~[this part]~~ 20.11.100 NMAC, all vehicles registered in that
29 municipality or county must comply with ~~[this part]~~ 20.11.100 NMAC.

30 **B. Exempt vehicles:**

31 (1) All new motor vehicles for five years following initial registration from the date of the
32 manufacturer's certificate of origin (MCO).

33 (2) Vehicles, which are fueled by a mixture of gasoline and oil for purposes of lubrication.

34 (3) Motor vehicles that are used for legally sanctioned competition and not operated on public streets
35 and highways.

36 (4) Implements of husbandry, or road machinery not regularly operated on public streets and
37 highways.

38 (5) Other vehicles which are not regularly operated on public streets and highways after making a
39 proper showing to demonstrate such to the program manager.

40 (6) Vehicles leased by a leasing company whose place of business is Bernalillo county, to a person
41 who resides outside of Bernalillo county. However an exemption shall not be granted if the person resides in an
42 area, which has an EPA-required vehicle inspection program.

43 (7) Vehicles that are 35 years old or older.

44 (8) Vehicles sold between licensed dealers.

45 (9) Vehicles with a GVW of 10,001 lbs or more.

46 (10) New dedicated alternative fueled vehicles classified as super ultra low emission vehicles are
47 exempt until title transfer.

48 (11) New electric hybrid vehicles classified as super ultra low emission vehicles are exempt until title
49 transfer. { After 20.11.100.23 NMAC }

50 (12) Dedicated electric vehicles.

51 [5/20/88. . .12/1/95; 20.11.100.2 NMAC - Rn, 20 NMAC 11.100.I.2, 10/1/02; A, 5/1/04; A, 9/1/04]
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53 **20.11.100.3 STATUTORY AUTHORITY:** ~~[This part]~~ 20.11.100 NMAC is adopted pursuant to the,
54 authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint
55 Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3 and 4; the Joint Air Quality
56 Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4; and the City of

1 Albuquerque and Bernalillo County Motor Vehicle Emissions Control Ordinances. It is adopted in order to comply
2 with the Federal Clean Air Act Amendments of 1990 and 40 CFR Part 51, [~~which are the environmental protection~~
3 ~~agency inspection/maintenance requirements~~] Subpart S, *Inspection/Maintenance Program Requirements*.
4 [10/19/82. . .12/1/95; 20.11.100.3 NMAC - Rn, 20 NMAC 11.100.I.3, 10/1/02; A, 9/1/04]

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6 **20.11.100.4 DURATION:** Permanent, unless the violation described in 20.11.101 NMAC occurs.
7 [12/1/95; 20.11.100.4 NMAC - Rn, 20 NMAC 11.100.I.4, 10/1/02; A, 5/1/04]

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9 **20.11.100.5 EFFECTIVE DATE:** [~~Effective~~] December 1, 1995, unless a later date is cited at the end of a
10 section. If no EPA-confirmed violation (two exceedances) of the federal ambient carbon monoxide standards has
11 occurred within Bernalillo county, the vehicle inspection frequency shall be biennial. [~~Until the later of June 13,~~
12 ~~2006, or when the SIP revision, "second half of the carbon monoxide maintenance plan for Bernalillo county", is~~
13 ~~effective following EPA approval, if EPA confirms a violation of the federal ambient carbon monoxide standards,~~
14 ~~then, 120 days after the violation is confirmed by the EPA, the program shall require annual testing of vehicles and~~
15 ~~the program will be upgraded to meet the performance standards established in 40 CFR Part 51. Beginning on the~~
16 ~~later of June 13, 2006, or when the SIP revision, "second half of the carbon monoxide maintenance plan for~~
17 ~~Bernalillo county" is effective following EPA approval, if no EPA-confirmed violation of the federal ambient~~
18 ~~carbon monoxide standards has occurred, the vehicle inspection frequency shall be biennial.]
19 [8/25/92. . .12/1/95; 20.11.100.5 NMAC - Rn, 20 NMAC 11.100.I.5, & A, 10/1/02; A, 9/1/04]~~

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21 **20.11.100.6 OBJECTIVE:** To provide for the control and regulation of carbon monoxide (CO), hydrocarbon
22 (HC), ozone precursors and particulate emissions above certain levels from motor vehicles, and for anti-tampering
23 inspections.
24 [10/19/82. . .12/1/95; 20.11.100.6 NMAC - Rn, 20 NMAC 11.100.I.6, 10/1/02; A, 5/1/04; A, 9/1/04]

25
26 **20.11.100.7 DEFINITIONS:** In addition to the definitions in 20.11.100.7 NMAC the definitions in 20.11.1
27 NMAC apply unless there is a conflict between definitions, in which case the definition in [~~this part~~] 20.11.100
28 NMAC shall govern.

29 **A. "Air care inspection station"** means a private business authorized by certificate in accordance
30 with 20.11.100.18 NMAC to inspect motor vehicles and issue certificates of inspection. It also means stations
31 established by the city of Albuquerque and Bernalillo county, or other governmental entities for testing government
32 owned or leased motor vehicles.

33 **B. "Air care inspector"** means an individual authorized by a certificate issued by the program to
34 perform inspections of motor vehicles and who has met the requirements of 20.11.100.21 NMAC.

35 **C. "Air care station"** means both an *air care* inspection station and a fleet *air care* station.

36 **D. [~~Reserved~~] Audit** means an assessment by VPMD, either as a physical on site visit or an off site
37 review of data collected electronically, designed to determine whether *air care* inspectors and *air care* stations are
38 correctly performing all tests and other functions required by the VPMD program. Physical on site audits shall be of
39 two types: overt and covert. {after 40 CFR 51.363(a)}

40 **E. "Biennial"** means every other year.

41 **F. "Chassis"** means the complete motor vehicle, including standard factory equipment, exclusive of
42 the body and cab.

43 **G. "City"** means the city of Albuquerque, a New Mexico municipal corporation.

44 **H. "Clean piping"** means the illegal act of an *air care* station or *air care* inspector to create a
45 fraudulent "pass" for a vehicle's tailpipe emission test by entering into the emission analyzer unique information
46 identifying that vehicle but then performing the tailpipe test on a different vehicle for the purpose of bypassing
47 actual testing of the first vehicle.

48 • **I. "Clean Scanning"** means the illegal act of an *air care* station or *air care* inspector to create a
49 fraudulent "pass" for a vehicle's emission test by entering into the emission analyzer unique information
50 identifying that vehicle but then performing the emission test on a different vehicle for the purpose of bypassing
51 actual testing of the first vehicle. {after Missouri Code of State Regulations 10-5.381(2)(B)}

52 [~~H.~~] **J. "County"** means the county of Bernalillo, a political subdivision of the state of New Mexico.

53 **K. "Covert audit"** means a quality assurance site visit by an anonymous agent delegated by VPMD
54 to drive a vehicle into the selected station and asked to have the vehicle tested. The vehicle may be set up in a
55 tampered or failed condition. Covert audits are required by EPA to ensure that *air care* stations and *air care*
56 inspectors are performing the emissions test correctly. {after 40 CFR 51.363 (a)(4)(v)}

1 **L.** “Covert surveillance” means a quality assurance audit by observation done from an off-site
2 location near the *air care* station, often using binoculars to monitor the actions of an *air care* inspector performing
3 emission testing. {after 40 CFR 51.363 (a)(4)(v)}

4 **[H.] M.** “Dealer” means any person who sells or solicits or advertises the sale of new or used motor
5 vehicles subject to registration in the state of New Mexico and as further defined in the Motor Vehicle Code Chapter
6 66, NMSA 1978.

7 **[J.] N.** “Distributor” means any person who distributes or sells new or used motor vehicles to dealers
8 and who is not a manufacturer.

9 **[K.] O.** “Division or VPMD” means the vehicle pollution management division of the city environmental
10 health department, which provides the staff for the Albuquerque-Bernalillo county vehicle pollution management
11 program.

12 **[L.] P.** “Driver” means every person who drives or is in actual physical control of a motor vehicle upon a
13 highway or upon property used for inspections.

14 **Q.** “Emission Analyzer” means a device for measuring the concentration of certain exhaust gases
15 emitted by a motor vehicle.

16 **R.** “Emissions Inspection System” means the equipment and software for conducting the official
17 emissions inspection.

18 **[M.] S.** “Essential parts” means all integral and body parts of a vehicle of a type required to be registered
19 under the Motor Vehicle Code, the removal, alteration or substitution of which would tend to conceal the identity of
20 the vehicle or substantially alter its appearance, model type or mode of operation.

21 **[N.] T.** “Exhaust emissions” means CO, HC and all other substances emitted through a motor vehicle's
22 exhaust system, after passing downstream of the engine block exhaust ports and exhaust emissions control devices,
23 if any.

24 **[O.] U.** “Exhaust emission control device” means equipment designed by the manufacturer of the
25 vehicle and installed on a motor vehicle for the purpose of reducing pollutants emitted from the vehicle, or a system
26 or engine modification designed by the manufacturer of the motor vehicle which causes a reduction of pollutants
27 emitted from the vehicle, or equipment designed by the vehicle manufacturer to prevent damage to or tampering
28 with other exhaust emission control devices.

29 **[P.] V.** “Fast idle condition or unloaded 2500 rpm” means an exhaust emissions inspection conducted
30 with the engine of the vehicle running under an accelerated condition as required by 40 CFR Part 51, Subpart S,
31 Inspection/Maintenance Program Requirements.

32 **[Q.] W.** “Field audit gas” means a gas mixture with known concentrations of CO₂, CO, and HC that is
33 used by the program to check the accuracy of exhaust gas analyzers used by authorized inspection stations.

34 **[R.] X.** “Fleet *air care* station” means any person, business, government entity, firm, partnership or
35 corporation which provides for the construction, equipping, maintaining, staffing, managing and operation of
36 authorized inspection station for the sole purpose of inspecting its private fleet of motor vehicles subject to ~~this~~
37 ~~part~~ 20.11.100 NMAC, and not offering inspection services to its employees or the general public.

38 **[S.] Y.** “Fuel” means any material that is burned by the engine of a vehicle in order to propel the vehicle.

39 **Z.** “Gas cap test” means the determination of the ability of the gas cap(s) to retain pressure.

40 **[T.] AA.** “Gross vehicle weight” means the weight of a vehicle without load, plus the weight of any load
41 thereon.

42 **[U.] BB.** “Government vehicle” means a motor vehicle exempt from the payment of a registration fee and
43 owned or leased by any federal, state, local, or other governmental entity.

44 **[Y.] CC.** “Headquarters” means the main office of the vehicle pollution management program.

45 **[W.] DD.** “Highway” means every way or place generally open to the use of the public as a matter
46 of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of
47 construction, maintenance, repair or reconstruction.

48 **[X.] EE.** “Idle mode test” means an unloaded exhaust emissions test conducted only at the idle condition,
49 as described in the VPMP procedures manual.

50 **[Y.] FF.** “Inspection or re-inspection or test” means the mandatory vehicular anti-tampering and
51 emissions inspection conducted both visually and with equipment or chemical sensing devices as required by ~~this~~
52 ~~Part~~ 20.11.100 NMAC.

53 **[Z.] GG.** “Low emissions tune-up” means adjustments and repairs, which can reduce motor
54 vehicle emissions including but not limited to the following procedures:

55 (1) checking and setting to manufacturer's specifications, the idle mixture, idle speed, ignition timing
56 and dwell, and

1 (2) checking for proper connection of vacuum lines, electrical wires, and for proper operation of
2 pollution control devices, and

3 (3) checking and replacement of air breathing filters and positive crankcase ventilation valve as
4 necessary, and

5 (4) replacement of spark plugs, points, wires, and

6 (5) for all motor vehicles equipped with computer controlled closed-loop feedback exhaust emission
7 control devices and systems, inspecting the operation of the emission control system according to the motor vehicle
8 manufacturer's specified procedures, including hose routing and on-board diagnostics, new vehicle warranty, and
9 repair or replacement as necessary.

10 ~~[AA.]~~ **HH.** "Manufacturer" means every person engaged in the business of constructing or
11 assembling vehicles of a type required to be registered under the laws of the state of New Mexico.

12 ~~[BB.]~~ **II.** "Manufacturer's certificate of origin" or "MCO" means a certification, on a form supplied by
13 or approved by the MVD, signed by the manufacturer, stating that the new vehicle described therein has been
14 transferred to the New Mexico dealer or distributor named therein or to a dealer duly licensed or recognized as such
15 in another state, territory or possession of the United States and that such transfer is the first transfer of such vehicle
16 in ordinary trade and commerce. Every such certificate contains a space for proper reassignment to a New Mexico
17 dealer or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States.
18 The certificate also contains a description of the vehicle, the number of cylinders, type of body, engine number and
19 the serial number or other standard identification number provided by the manufacturer of the vehicle, where such
20 exists.

21 ~~[CC.]~~ **JJ.** "Model year" means the year of manufacture of the vehicle based on the annual
22 production period of the vehicle as designated by the manufacturer and indicated on the title and registration of the
23 vehicle. If the manufacturer does not designate a production period for the vehicle, then the model year means the
24 calendar year of manufacture.

25 ~~[DD.]~~ **KK.** "Motor vehicle" means any vehicle which:

- 26 (1) is propelled by a spark or compression ignition, internal combustion engine, and
27 (2) has four or more wheels in contact with the ground, and
28 (3) is subject to registration with the MVD to an owner of record who is domiciled within Bernalillo
29 county, or is a government vehicle which is assigned to a governmental unit within Bernalillo county, and
30 (4) has a GVW greater than 1,000 and less than 10,001 pounds, and
31 (5) is for use upon public roads and highways, and
32 (6) is a 1975 model year or newer, and
33 (7) is a vehicle not otherwise exempted by ~~[this part]~~ 20.11.100 NMAC.

34 ~~[EE.]~~ **LL.** "New motor vehicle" is a vehicle, which has undergone a transfer of ownership and is
35 being registered for the first time to any person except in the sale to another licensed motor vehicle dealer for the
36 purpose of resale as a new vehicle.

37 ~~[FF.]~~ **MM.** "Operator" means driver, as defined in ~~[this part]~~ 20.11.100 NMAC.

38 **NN.** "Overt audit" means an on-site quality assurance assessment of the performance of an *air care*
39 station or an *air care* inspector, conducted by VPMD personnel. An overt audit may also be an assessment of an *air*
40 *care* station's emissions analyzer to ensure that the equipment is maintained appropriately and operating correctly,
41 {after 40 CFR 51.363 (a)(1)}

42 ~~[GG.]~~ **DD.** "Owner" means a person who holds the legal title of the motor vehicle or, in the event a
43 vehicle is the subject of an agreement for conditional sale or lease thereof with the right of purchase upon
44 performance of the conditions stated in the agreement and with an immediate right of possession vested in the
45 conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional
46 vendee or lessee or mortgagor.

47 ~~[HH.]~~ **PP.** "Pass fail criteria" means those standards set by ~~[this part]~~ 20.11.100 NMAC which
48 specify the maximum allowable motor vehicle exhaust emissions under appropriate specified operating conditions.

49 ~~[I.]~~ **QQ.** "Person" means any individual, partnership, firm, public or private corporation,
50 association, trust, estate, political subdivision or agency, or any other legal entity or legal representative, agent, or
51 assign.

52 **RR.** "Pretesting" means the determination by an *air care* station or inspector of the "pass" or "fail"
53 status of a vehicle and providing the information to the vehicle owner without performing the required complete
54 emissions test.

55 ~~[JJ.]~~ **SS.** "Program" or ~~[VPM]~~ "VPMD program" means the Albuquerque - Bernalillo county vehicle
56 pollution management program.

1 ~~[KK.]~~ **TT.** “**Program manager**” means a classified city employee selected in accordance with
2 provisions of the Joint Powers Agreement between the city and the county to perform for the joint air quality control
3 board those duties required to enforce and administer the provisions of ~~[this part]~~ 20.11.100 NMAC, or the program
4 manager’s designee.

5 ~~[LL.]~~ **UU.** “**Reconstructed vehicle**” means any vehicle which shall have been assembled or
6 constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of
7 various names, models and types or which, if originally otherwise constructed, shall have been materially altered by
8 the removal of essential parts, new or used, derived from other vehicles or makes of vehicles.

9 ~~[MM.]~~ **VV.** “**Registration and re-registration**” means both original registration, and renewal of
10 motor vehicles as provided in the New Mexico Motor Vehicle Code, Chapter 66 NMSA 1978.

11 ~~[NN.]~~ “**Shall be inspected**” means the vehicle shall be subjected to testing and inspection as applicable
12 to model year and weight classification and shall satisfy the criteria of this part as evidenced by the issuance of a
13 certificate of inspection.]

14 ~~[OO.]~~ **WW.** “**Standard gases**” means NIST certified emissions samples of gases maintained as
15 primary standards for determining the composition of working gases, field audit gases, or the accuracy of analyzers.

16 ~~[PP.]~~ **XX.** “**Truck**” means every motor vehicle designed, used or maintained primarily for the
17 transportation of property. In addition, all vehicles with a GVW greater than 6000 pounds shall be considered a
18 truck.

19 ~~[QQ.]~~ “**VEGAS**” means a program certified, garage type, computer controlled NDIR vehicle exhaust
20 gas analyzer system which is capable of performing a preconditioned two speed idle test on board diagnostic test,
21 and pressurized gas cap test on vehicles as required by 40 CFR Part 51 appendix B to Subpart S and meets or
22 exceeds the specifications adopted by the program.]

23 **YY.** “**Vehicle Information Database**” means a database consisting of data collected for each official
24 inspection as specified in the EIS.

25 ~~[RR.]~~ **ZZ.** “**VIR**” means vehicle inspection report, a program-certified document (VIR) signed by a
26 certified *air care* inspector or other program authorized official stating that the vehicle described therein is either in
27 compliance (pass), not in compliance (fail), or has an approved time extension in order to achieve compliance
28 through additional repairs or adjustments (time-limit extension).

29 ~~[SS.]~~ **AAA.** “**Visible emissions**” means any fume, smoke, particulate matter, vapor or gas, or
30 combination thereof, except water vapor or steam.

31 ~~[TT.]~~ **BBB.** “**[VPMP] VPMD procedures manual**” or “**procedures manual**” means a ~~[compilation~~
32 ~~of]~~ technical guidance document outlining procedures required to do a complete and valid vehicle emission test that
33 is developed by the program manager pursuant to 20.11.100.12 NMAC and modified as vehicle emission tests or
34 equipment is changed.

35 ~~[UU.]~~ **CCC.** “**Wholesale**” means either any person selling or offering for sale vehicles of a type
36 subject to registration in New Mexico to a vehicle dealer licensed under the Motor Vehicle Code, Chapter 66,
37 NMSA 1978, or any person who is franchised by a manufacturer, distributor or vehicle dealer to sell or promote the
38 sale of vehicles dealt in by such manufacturer, distributor or vehicle dealer, but does not include the act of selling a
39 vehicle at retail as a dealer subject to the dealer-licensing provisions of the Motor Vehicle Code.

40 ~~[VV.]~~ **DDD.** “**Working gases**” means program-approved span gases maintained by an authorized *air*
41 *care* inspection station to perform periodic calibration of approved exhaust gas analyzers.

42 ~~[WW.]~~ **EEE.** **Abbreviations and symbols**

- 43 (1) **A/F** means air/fuel
- 44 (2) **ASE** means the National Institute for Automotive Service Excellence
- 45 (3) **CO** means carbon monoxide
- 46 (4) **CO₂** means carbon dioxide
- 47 (5) **DTC** means diagnostic trouble code
- 48 (6) **EHD** means the Environmental Health Department
- 49 (7) **EIS** means the Emissions Inspection System

50 ~~(7)~~(8) **EPA** means the Environmental Protection Agency

51 ~~(8)~~(9) **GVW** means gross vehicle weight

52 ~~(9)~~(10) **HC** means hydrocarbon

53 ~~(10)~~(11) **HP** means horsepower

54 ~~(11)~~(12) **LNG** means liquefied natural gas

55 ~~(12)~~(13) **LPG** means liquefied petroleum gas

56 ~~(13)~~(14) **MPH** means miles per hour

1 ~~(14)~~(15) **MCO** means manufacturer's certificate of origin
 2 ~~(15)~~(16) **MVD** means the Motor Vehicle Division of the New Mexico Taxation and Revenue
 3 Department
 4 ~~(16)~~(17) **NDIR** means non-dispersive infrared
 5 ~~(17)~~(18) **NIST** means National Institute of Standards and Technology
 6 ~~(18)~~(19) **OBDII** means the vehicle's On-Board Diagnostics second generation
 7 ~~(19)~~(20) % means percent
 8 ~~(20)~~(21) **PCV** means positive crankcase ventilation
 9 ~~(21)~~(22) **ppm** means parts per million by volume
 10 (23) **VID** means the vehicle information database.
 11 ~~(22)~~(24) **VIN** means vehicle identification number

12 [~~_____~~(23) ~~**40 CFR Part 51** means the EPA regulations for inspection/maintenance programs published in~~
 13 ~~the federal register on November 5, 1992 and mandated by the Federal Clean Air Act Amendments of 1990.]~~
 14 [10/12/82. . .5/20/88, 11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.7 NMAC - Rn, 20 NMAC 11.100.I.7, 10/1/02;
 15 A, 5/1/04; A, 9/1/04]

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 17 **20.11.100.8 VARIANCES:** [Reserved]
 18 [12/1/95; 20.11.100.8 NMAC - Rn, 20 NMAC 11.100.I.8, 10/1/02]

19
 20 **20.11.100.9 SAVINGS CLAUSE:** Any amendment of 20.11.100 NMAC, which is filed, with the state
 21 records center shall not affect actions pending for violation of a city or county ordinance, Air Quality Control Board
 22 Regulation 28, the procedures manual, or 20.11.100 NMAC. Prosecution for a prior violation shall be governed and
 23 prosecuted under the statute, ordinance, regulation, part or procedures manual in effect at the time the violation was
 24 committed.
 25 [9/23/94. . .12/1/95; 20.11.100.9 NMAC - Rn, 20 NMAC 11.100.I.9, 10/1/02]

26
 27 **20.11.100.10 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of ~~[this part]~~ 20.11.100
 28 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise
 29 invalid by any court, such decision shall not affect the validity of remaining provisions of ~~[this part]~~ 20.11.100
 30 NMAC or the procedures manual.
 31 [9/23/94. . .12/1/95; 20.11.100.10 NMAC - Rn, 20 NMAC 11.100.I.10, 10/1/02]

32
 33 **20.11.100.11 DOCUMENTS:** Documents incorporated and cited in ~~[this part]~~ 20.11.100 NMAC may be
 34 viewed at the vehicle pollution management program headquarters, 1500 Broadway NE, Albuquerque, NM 87102.
 35 [12/1/95; 20.11.100.11 NMAC - Rn, 20 NMAC 11.100.I.11, 10/1/02]

36
 37 **20.11.100.12 VEHICLE POLLUTION MANAGEMENT DIVISION:**
 38 **A.** The Vehicle Pollution Management Division or its successor agency, is formed within the
 39 Environmental Health Department.
 40 **B.** The division manager shall establish and maintain a VPMD headquarters which will include an
 41 emissions inspection facility equipped with certified emission testing equipment and employing at least two ASE
 42 certified technicians. {after 22.11.100.20.A.(3) NMAC}
 43 **C.** The facility shall be operated by the city to provide services to the public and as necessary to
 44 facilitate program responsibilities and administer the provisions of this part. {after 22.11.100.20.A.(3) NMAC}

45
 46 **20.11.100.13 RESPONSIBILITIES OF VEHICLE POLLUTION MANAGEMENT DIVISION**
 47 **A.** VPMD shall be responsible for administering a program that ensures that federal motor vehicle
 48 emission standards are met. In order to be successful in meeting federal goals and criteria for a motor vehicle
 49 emission testing program, VPMD is authorized take as any actions commonly known to be necessary for a motor
 50 vehicle emissions testing program, now and in the future, to include at a minimum:
 51 (1) Developing and approving specifications for gas analyzers in a manner consistent with
 52 improvements in the industry;
 53 (2) Maintaining databases including the Vehicle Information Database (VID), certified air care
 54 inspectors' information and history, and extensions/exemptions from official inspections.
 55 (3) Providing training and certification processes for Air care station and air care inspectors.

1 (4) Performing quality assurance audits as required by 20.11.100.24 NMAC, assessing, by the onsite
2 audits and by monitoring the information provided by the VID, the level of compliance of each air care station or air
3 care inspector. {after 20.11.100.20.B.(4) NMAC}

4 (5) Enforcing the certification and recertification requirements of air care inspectors,

5 (6) Taking enforcement actions as appropriate and providing for penalty assessment

6 (7) Investigating and maintaining records regarding complaints against certified air care stations and
7 certified air care inspectors. {after 20.11.100.20.B.(3) NMAC}

8 (8) Providing for non-binding mediation of disputes arising from inspection activities by certified air
9 care stations or certified air care inspectors, to include if necessary a verification test at no cost to the person
10 requesting such test. {after 20.11.100.20.B.(1) NMAC}

11 (9) Evaluating and issuing compliance time extensions for vehicles unable to pass the inspection test
12 criteria as provided under the terms of 20.11.100 NMAC. {after 20.11.100.20.B.(2) NMAC}

13 [20.11.100.13 NMAC - N 2010]

14 **20.11.100.14 SCHEDULING OF INSPECTIONS**

15 **A. Inspection and registration:** Every motor vehicle, as defined in Section 20.11.100.7 NMAC,
16 shall be inspected biennially when the owner is so notified or otherwise informed by MVD. The MVD will
17 distribute notices or other appropriate information to owners of vehicles applying for re-registration in accordance
18 with the written agreement made with the program manager. Vehicles shall also be inspected upon sale or when
19 titles are transferred. Any person who believes they have a vehicle for which they have been erroneously notified of
20 inspection may petition the program manager to correct such error.

21 **B. Vehicles unavailable for inspection:** Motor vehicles, which are unavailable for inspection, may
22 be granted an extension of inspection if authorized by the program manager. Persons seeking such extension may
23 petition the program manager by submitting a signed affidavit justifying the special need and by providing other
24 necessary documentation as required by the program manager.

25 **C. Federal, state and local government vehicles:**

26 (1) Each motor vehicle operated in Bernalillo county which is owned or leased by the United States
27 government, the state of New Mexico or any local government entity shall be inspected biennially.

28 (2) Scheduling vehicles under Paragraph (2) of Subsection C of 20.11.100.14 NMAC shall be
29 established by the responsible governmental authority pursuant to an agreement with the program manager. Such
30 schedules shall only be approved if the program manager determines that they are consistent with the scope and
31 goals of 20.11.100 NMAC.

32 (3) Persons who are responsible for such government fleet vehicles or motor pools shall update the
33 vehicle inventory annually each January and forward the resulting inspection plan with inventory to the program
34 manager in a format approved by the program manager.

35 (4) Failure to forward the inspection plan and fleet inventory to VPMD by March 31st of each year is
36 a violation of 20.11.100 NMAC, and of the Air Quality Control Act [74-2-1 NMSA 1978].

37 (5) The program manager may assess a civil penalty not to exceed fifteen thousand dollars (\$15,000)
38 for each day during any portion of which a violation occurs, pursuant to 74-2-12.1 NMSA 1978

39 **D. Private Fleets Issued Permanent Fleet Plates.**

40 (1) Each motor vehicle operated in Bernalillo county which is owned or leased by private or non-
41 governmental entity which has been issued a permanent fleet license plate shall be inspected biennially.

42 (2) Scheduling vehicles under Paragraph (2) of Subsection D of 20.11.100.14 NMAC shall be
43 established by the responsible entity personnel pursuant to an agreement with the program manager. Such schedules
44 shall only be approved if the program manager determines that they are consistent with the scope and goals of
45 20.11.100 NMAC.

46 (3) Persons who are responsible for such fleet vehicles or motor pools shall update the vehicle
47 inventory annually each January and forward the resulting inspection plan with inventory to the program manager in
48 a format approved by the program manager.

49 (4) Failure to forward the inspection plan and fleet inventory to VPMD by January 31st of each year
50 is a violation of 20.11.100 NMAC and of the Air Quality Control Act [74-2-1 NMSA 1978].

51 (5) The program manager may assess a civil penalty not to exceed fifteen thousand dollars (\$15,000)
52 for each day during any portion of which a violation occurs, pursuant to 74-2-12.1 NMSA 1978. {after
53 20.11.100.13 NMAC}

54 [20.11.100.14 NMAC - N 2010]

1 ~~[20.11.100.12]~~ **20.11.100.15 VEHICLE INSPECTION PROCEDURES:**

2 **A. [VPMP] VPMD Procedures manual:**

3 (1) The program manager shall develop ~~[an official a~~ document, entitled ~~[VPMP] VPMD~~ procedures
4 manual, outlining in sufficient detail the procedures necessary for a certified *air care* station, ~~and~~ a certified *air care*
5 inspector ~~[and a certified *air care* technician]~~ to comply with all applicable requirements of ~~[this part] 20.11.100~~
6 NMAC. ~~[Upon approval by the board, the program manager shall publish the official VPMP procedures manual~~
7 ~~and, within 10 days of publication, provide notice of its availability.]~~

8 (2) The procedures, details and specifications contained in the ~~[VPMP] VPMD~~ procedures manual
9 ~~[will be a part of and incorporated into this part and shall be binding upon each *air care* inspection station, *air care*~~
10 ~~station owner/operator, *air care* inspector and *air care* technician.]~~ are technical in nature and instruct the *air care*
11 station or *air care* inspector of the actions to take to do a complete and valid vehicle emission test. The procedure
12 manual also contains routine preventative maintenance of the test equipment and corrective actions regarding
13 procedure or equipment use or malfunction that may arise during a vehicle inspection .

14 (3) The procedures manual shall be amended as needed because of changes to equipment or
15 procedure. Notice of amendments to the procedures manual shall be provided by the program manager, with copies
16 made available to the users. It is the responsibility of each *air care* station owner or operator to obtain and
17 incorporate all amendments made available by the program manager. Each *air care* station shall maintain at least
18 one current copy of the ~~[VPMP] VPMD~~ procedures manual at each *air care* inspection station.

19 (4) If a provision of the procedures manual conflicts with a provision of ~~[this part] 20.11.100 NMAC~~,
20 the provision of ~~[this part] 20.11.100 NMAC~~ will prevail.

21 **B. Vehicle tests:**

22 (1) To determine if a motor vehicle is in compliance with ~~[this part] 20.11.100 NMAC~~ all inspections
23 shall be performed in strict accordance with ~~[this part] 20.11.100 NMAC~~ and the ~~[VPMP] VPMD~~ procedures
24 manual. Each vehicle shall be inspected at an *air care* station by an *air care* inspector. All items shall be tested to
25 completion with reports of outcomes provided to the motor vehicle owner.

26 (a) Vehicles with an engine other than the engine originally installed by the manufacturer or an
27 identical replacement of such an engine shall be subject to the inspection procedures and standards for the chassis
28 type, GVW, and model year of the vehicle.

29 (b) Assembled vehicles or kit cars shall meet the standards and emission control equipment as
30 requirements for the year of the vehicle engine. If the vehicle is assembled with pre-1975 engine, testing is not
31 required, but the vehicle owner must petition the program manager for an exemption from emission inspections.

32 (2) **Exhaust gas emissions measurements:** No emissions inspection required by ~~[this part]~~
33 20.11.100 NMAC shall be performed unless the instrument used for measuring exhaust gases from the motor
34 vehicle is an approved ~~[VEGAS] emissions analyzer~~.

35 (a) **Vehicle operating condition:**

36 (i) Prior to this portion of the inspection, the entire vehicle shall be in normal operating
37 condition as specified by the emissions tune-up label originally installed on the vehicle or as specified in the VPMP
38 procedures manual. Motor vehicles equipped for simple selection of alternate fuel supplies, switching between
39 gasoline and any compressed or liquefied gaseous fuel shall be inspected using the fuel in use when presented for
40 inspection.

41 (ii) ~~[All 1975—1995 model year motor vehicles]~~ Non-OBDII compatible vehicles
42 (usually 1995 model year or older) subject to ~~[this part] 20.11.100 NMAC~~ shall be required to take and pass a
43 preconditioned two-speed idle test as outlined in Appendix B to Subpart S of 40 CFR Part 51 and the VPMD
44 procedures manual. The test procedure will include a first and second-chance test at both idle and at the unloaded
45 2500 RPM test. If the vehicle passes both emission tests, it shall be deemed in compliance with minimum emissions
46 standards unless the vehicle fails the tampering inspection, pressurized gas cap test, or visible emissions inspection
47 required by ~~[this part] 20.11.100 NMAC~~.

48 (iii) All 1996 and newer model year motor vehicles subject to ~~[this part] 20.11.100~~
49 NMAC shall be required to take and pass an on-board diagnostic test, pressurized gas cap test, and visible emissions
50 inspection as outlined in 40 CFR Part 51, Subpart S, Inspection/Maintenance Program Requirements, and the
51 VPMD procedures manual. Certain 1996 and newer model year motor vehicles which are not OBDII compatible
52 may be tested using the two-speed idle test as determined by the program manager.

53 (iv) No test shall commence if there are apparent leaks in the motor vehicle's exhaust
54 system that will cause the exhaust analyzer to invalidate the test.

55 ~~[(v) Pattern failure notices issued by EPA shall be maintained by the *air care* station and~~
56 ~~*air care* inspector in an up to date file for reference to unusual pretest conditioning.]~~

1 ~~_____~~ (b) **Pretest:** Vehicles presented to an *air care* station for inspection shall not be pre-tested by
2 having manual diagnostic emissions analysis or visual examination for tampering performed prior to the beginning
3 of the inspection. This shall not prohibit diagnostic engine analysis service of vehicles when specifically presented
4 for such, before emission testing.]

5 ~~(e)~~(b) **Exhaust emissions inspection:** The exhaust emissions inspection shall proceed as
6 specifically described in 40 CFR Part 51 Appendix B to Subpart S and the ~~[VPMP]~~ VPMD procedures manual.

7 ~~(d)~~(c) **Selection of appropriate pass/fail emissions inspection criteria:** The appropriate
8 pass/fail criteria will be selected automatically by the approved ~~[VEGAS]~~ emissions analyzer.

9 (3) **Visual examination for tampering:** The certified *air care* inspector shall determine specifically
10 what emissions control devices should be in place and operable for each 1975 - 1995 model year vehicle inspected.
11 Specific design and equipment elements necessary in anti-tampering determinations shall only include catalytic
12 converter(s).

13 (4) **Visible emissions requirements:** In addition to exhaust and tampering requirements of ~~[this~~
14 ~~part]~~ 20.11.100 NMAC, all vehicles are subject to and must pass inspection for visible emissions (smoke). Non-
15 diesel vehicles may not emit any visible emissions (except steam) during the test as described in ~~[Paragraph (3), of~~
16 ~~Subsection A of 20.11.100.14 NMAC]~~ Subsection C of 20.11.100.19 NMAC.

17 [5/20/88. . .11/13/91, 8/25/92, 9/23/94, 12/1/95, 8/1/97; 20.11.100.12 NMAC - Rn, 20 NMAC 11.100.I.12 &
18 Repealed, 10/1/02; Rn, 20 NMAC 11.100.II.1, 10/1/02; A, 5/1/04]

20 **20.11.100.13 — SCHEDULING OF INSPECTIONS:**

21 ~~_____~~ **A. Inspection and registration:** Every motor vehicle, as defined in Section 20.11.100.7 NMAC,
22 shall be inspected biennially when the owner is so notified or otherwise informed by MVD, unless the vehicle is a
23 1975-1985 model year motor vehicle in which case the inspection requirement shall be annual. Any 1986-1995
24 model year motor vehicle which is determined to emit quantities (rates) of CO and/or HC between 75% and 100% of
25 any of its maximum allowable standards listed in Table I of Subsection A of 20.11.100.14 NMAC shall be issued a
26 pass certificate good only for a one-year registration and shall be required to be inspected again the following year
27 prior to re-registration. The MVD will distribute notices or other appropriate information to owners of vehicles
28 applying for re-registration in accordance with the written agreement made with the program manager. Vehicles
29 shall also be inspected upon sale or when titles are transferred. Any person who believes he/she has a vehicle for
30 which he/she has been erroneously notified of inspection may petition the program manager to correct such error.

31 ~~_____~~ **B. Vehicles unavailable for inspection:** Motor vehicles, which are unavailable for inspection, may
32 be granted an extension of inspection if authorized by the program manager. Persons seeking such extension may
33 petition the program manager by submitting a signed affidavit justifying the special need and by providing other
34 necessary documentation as required by the program manager.

35 ~~_____~~ **C. Federal, state and local government vehicles:**

36 ~~_____~~ (1) Each motor vehicle operated in Bernalillo county which is owned or leased by the United States
37 government, the state of New Mexico or any local government entity shall be inspected biennially.

38 ~~_____~~ (2) Scheduling vehicles under this subsection shall be established by the responsible governmental
39 authority pursuant to an agreement with the program manager. Such schedules shall only be approved if the
40 program manager determines that they are consistent with the scope and goals of this part.

41 ~~_____~~ (3) Persons who are responsible for such government fleet vehicles or motor pools shall periodically,
42 but not less than annually, update the vehicle inventory and forward the resulting inspection plan with inventory to
43 the program manager.]

44 [5/20/88. . .9/23/94, 12/1/95, 20.11.100.13 NMAC - Rn, 20 NMAC 11.100.II.2, 10/1/02; A, 5/1/04]

46 **20.11.100.16 ACTIONS PROHIBITED DURING VEHICLE INSPECTION**

47 ~~_____~~ **A.** Each certified *air care* station or certified *air care* inspector shall inspect each vehicle in its as-
48 presented condition, regardless of whether the *air care* inspector has knowledge or a belief that the vehicle will not
49 pass.

50 ~~_____~~ **B.** Each certified *air care* station or certified *air care* inspector shall inspect each vehicle according
51 to 20.11.100 NMAC and the procedures manual and is prohibited from taking any ~~act or~~ of the following actions:

52 ~~_____~~ (1) Engaging in conduct that constitutes fraud, deceit, or gross negligence

53 ~~_____~~ (2) Negligently providing incorrect or misleading information to the public regarding the
54 requirements of 20.11.100 NMAC or the program manual;

55 ~~_____~~ (3) failing or refusing to give a motorist the customer copy of the emission test;

- 1 (4) failing to follow the inspection procedures specified by the vehicle manufacturer or required by
2 20.11.100 NMAC or the program manual;
3 (5) making false promises likely to influence, persuade, or induce a motorist to authorize the repair,
4 service, or maintenance of a motor vehicle;
5 (6) entering false data into an emission analyzer;
6 (7) performing or allowing a repair that is represented to the motorist as being required to remedy the
7 cause of an inspection failure or obtain a certificate of inspection when the repair is not required;
8 (8) adjusting or modifying a vehicle in a manner that would cause the vehicle to fail an I/M test;
9 (9) charging for and performing an I/M test that is represented to the motorist as being required when
10 it is not required;
11 (10) failing to maintain the confidentiality of an inspector's access code for the emission analyzer;
12 (11) failing to advise VPMD of any change in information provided in the mechanic's or station's
13 application for certification or for renewal of certification;
14 (12) failing to report to VPMD any illegal certification or other violation of 20.11.100 NMAC; or
15 (13) performing any type of clean scanning, clean piping or pretesting.
16 **B.** Performance of any act or actions prohibited by Subsection B of 20.11.100.18 NMAC may result
17 in an enforcement action by VPMD.
18 **C.** It is the responsibility of each *air care* station owner/operator to ensure that all *air care* inspectors
19 in his employment does not engage in prohibited act or actions in preparation for or during a vehicle inspection.
20 VPMD may take an enforcement action against the *air care* station owner/operator employing *air care* inspectors
21 who engage in prohibited act or actions.
22 [20.11.100.16 NMAC - N 2010]

23
24 **[20.11.100.14] 20.11.100.17 VEHICLE INSPECTION CRITERIA:** Failure to pass any one of the
25 applicable criteria specified below in Subsections A, B, C, D and E of Section [20.11.100.14 NMAC] 20.11.100.17
26 NMAC, entitled *exhaust emissions, anti-tampering, visible emissions, gas cap, and on-board diagnostics*
27 respectively; shall constitute noncompliance with [this part] 20.11.100 NMAC and a fail VIR shall be issued.

28 **A. Exhaust emissions:**

29 (1) Any motor vehicle which is determined to emit quantities (rates) of CO and HC greater than those
30 listed in Table I appropriate to model year and weight classification listed shall be *failed* and those with emission
31 rates equal to or lower than the applicable amounts shall be *passed* under subsection A of [20.11.100.14 NMAC]
32 20.11.100.17 NMAC.

33
34 **TABLE I**

35 **Maximum Allowable Exhaust Emissions**

Vehicle Model Year	Gross Vehicle Weight Rating (pounds)	Group Code	Unloaded			
			Idle Mode		2500 RPM Test	
			HC PPM	CO %	HC PPM	CO %
1975 - 1978	0 to 6000	C/T	500	5.0	500	5.0
1979 - 1980	0 to 6000	C/T	400	4.0	400	4.0
1981 - 1985	0 to 6000	C/T	220	1.2	220	1.2
1986 - 1990	0 to 6000	C/T	200	1.2	200	1.2
1991 - 1995	0 to 6000	C/T	180	1.2	180	1.2

Vehicle Model Year	Gross Vehicle Weight Rating (pounds)	Group Code	Unloaded			
			Idle Mode		2500 RPM Test	
			HC PPM	CO %	HC PPM	CO %
1975 - 1978	6001 to 8000	LT	600	6.0	600	6.0
1979 - 1980	6001 to 8000	LT	600	4.5	600	4.5
1981 - 1982	6001 to 8500	LT	400	2.7	400	3.0
1983 - 1988	6001 to 8500	LT	300	1.2	300	3.0
1989 - 1995	6001 to 8500	LT	220	1.2	220	1.2
1975 - 1980	8001 to 10,000	MT	650	6.5	650	6.5
1981 - 1990	8501 to 10,000	MT	400	4.0	400	3.0
1991 - 1995	8501 to 10,000	MT	220	2.0	220	2.0

Note: ~~[These criteria will be reviewed by the board annually pursuant to the urban implementation plan for Albuquerque Bernalillo county. Adjustments will be promulgated as appropriate.]~~ This table does not apply to vehicles that are 35 years old or older, based on model year.

B. Anti-tampering:

(1) All ~~[1975—1995 model year]~~ motor vehicles subject to ~~[this part]~~ 20.11.100 NMAC shall be inspected for the presence ~~[and proper connections]~~ of a catalytic converter(s) that is properly connected.

(2) Any vehicle with such features or components removed or rendered inoperative shall be *failed* under ~~[this subsection]~~ Subsection B of 20.11.100.17 NMAC. If no tampering is evident with these components or systems, this portion of the inspection shall be *passed*.

(3) Vehicles which have had the original engine removed and replaced with a newer ~~[and/or]~~ or inherently cleaner technology engine including the emission control devices required in association with that engine may be eligible for a waiver of compliance with portions of ~~[this subsection]~~ Subsection B of 20.11.100.17 NMAC. The program manager or designee shall determine if a vehicle has been retrofitted with an engine that is not adaptable to the emission control requirements for the vehicle chassis model year. Upon such determination, the program manager may waive the requirements for replacement of emission control equipment. There shall be no waiver for the installation of a catalytic converter unless the program manager determines installation would create a safety hazard.

C. Visible emissions (smoke): All ~~[non-diesel]~~ motor vehicles subject to inspection must pass an inspection for visible emissions. ~~[Prior to conducting the OBDII or two-speed idle test, the air care inspector will observe the tailpipe for visible smoke while the driver raises the engine speed to 2200–2800 rpm for a minimum of 10 seconds to be followed immediately by observation at idle for a minimum of 10 seconds.]~~ The *air care* inspector will watch the tailpipe during the idle portion of the emissions test and during the high-speed portion of the emissions test (using a mirror if necessary). If the inspector observes *any* smoke (not steam) during any part of the inspection, the visible portion of the emissions test shall be a *fail*.

D. Gas cap (pressurized): All vehicles subject to inspection must pass a pressurized gas cap test to check the integrity of the gas cap seal designed to minimize fuel vapor loss or hydrocarbon emissions. Any vehicle with a gas cap that does not hold pressure consistent with the design standard for the vehicle shall be *failed*. Gas cap testing ~~[for 1996 and newer OBDII tested vehicles shall not commence until 2005 and]~~ shall be limited to vehicles that are at least ~~[four]~~ five years old, based on model year.

1 **E. On-board diagnostics (OBDII):** All 1996 and newer gasoline motor vehicles and 1998 and
2 newer diesel motor vehicles must pass an on-board diagnostics test consistent with 40 CFR Part 51, Subpart S,
3 Inspection/Maintenance Program Requirements. Any vehicle with an illuminated malfunction indicator lamp (MIL)
4 and/or a set diagnostic trouble code (DTC) shall be *failed*. [~~There will be a one year phase in period (2004) during~~
5 ~~which any vehicle which fails the OBDII test will default to the two speed idle test. Vehicles which fail the OBDII~~
6 ~~test during phase in but pass the two speed idle test with maximum allowable exhaust standards of 100ppm~~
7 ~~hydrocarbons and 1.0% carbon monoxide will be issued a pass certificate valid only for a one year registration.]~~
8 [~~Certain~~] Any 1996 and newer model year vehicles which have been determined by the program manager to be
9 OBDII incompatible shall be tested using the two-speed idle test with maximum allowable exhaust standards of 100
10 ppm hydrocarbons and 1.0 % carbon monoxide.
11 [10/19/82. . .5/20/88, 9/23/94, 12/1/95, 8/1/97, 20.11.100.14 NMAC - Rn, 20 NMAC 11.100.II.3, 10/1/02; A,
12 5/1/04]

13
14 ~~[20.11.100.15]~~ **20.11.100.18 VEHICLE INSPECTION REPORT:**

15 **A.** Vehicle inspection reports (VIRs) shall only be purchased at program headquarters. Unused VIRs
16 shall not be exchanged, sold or given by any person to any other person. All unused VIRs [~~which, a person, does~~
17 ~~not intend to use~~] shall be turned in to the headquarters for credit or a refund, as the program manager determines is
18 appropriate.

19 **B.** A pass VIR shall be issued to each motorist whose vehicle has undergone inspection and passed
20 all criteria relative to on-board diagnostics, exhaust emissions, anti-tampering, pressurized gas cap and visible
21 emissions as applicable. A fail VIR shall be issued to each motorist whose vehicle has undergone inspection and
22 failed on-board diagnostics or any of the criteria relative to exhaust emissions, anti-tampering, pressurized gas cap
23 and visible emissions as applicable. Vehicles, which have failed any portion of an inspection and have been
24 subsequently repaired and adjusted and passed a reinspection, shall be issued a pass VIR. Pass VIRs shall be
25 presented to the MVD upon re-registration of the vehicle.

26 **C.** VIRs may not be defaced by stamping information on, or affixing stickers to, the front or back of
27 the VIR. Any air care inspector or air care station found to be defacing VIRs in such a manner may be subject to
28 an enforcement action pursuant to 20.11.100.36 NMAC and penalties pursuant to 20.11.100.33 NMAC.
29 [11/13/91. . .8/25/92, 9/23/94, 12/1/95; 20.11.100.15 NMAC - Rn, 20 NMAC 11.100.II.4, 10/1/02; A, 5/1/04]

30
31 ~~[20.11.100.16]~~ **20.11.100.19 REPAIRS, ADJUSTMENTS, AND RE-INSPECTIONS:** Each motor vehicle
32 that fails an inspection required by [~~this part~~] 20.11.100 NMAC shall be repaired as necessary to pass re-inspection.
33 Where replacement of parts is required, such parts shall only be new aftermarket parts approved by the program
34 manager or new original equipment, manufacturer's parts or assemblies.

35 **A.** Repairs required by this subsection shall include but are not limited to, the following as applicable
36 to the type of failure.

37 (1) **Exhaust emissions:** adjust idle speed, fuel/air ratio and ignition timing to manufacturer's
38 specifications including replacement of spark plugs, spark plug wires, air filters and PCV specified by the
39 manufacturer.

40 (2) **Anti-tampering:** replace the missing or disabled components with replacement parts acceptable
41 to the program manager.

42 (3) **Visible emissions:** Repair engine or replace inoperative emission control devices as required to
43 eliminate visible emissions.

44 (4) **Gas cap:** Replace gas cap with a new approved aftermarket or original equipment cap.

45 (5) **On-board diagnostics:** Repair malfunction(s) indicated by diagnostic trouble code(s), clear
46 diagnostic trouble code(s) and drive vehicle through drive cycle required to reset readiness monitors in order to
47 ensure repair effectiveness and elimination of diagnostic trouble codes.

48 **B.** Any person may repair, adjust or replace parts as necessary to prepare a vehicle to pass re-
49 inspection.

50 **C.** Re-inspections may be obtained at any *air care* station. One free retest, within 90 calendar days of
51 a failed test, may be obtained at the program headquarters, if requested.

52 [10/19/82. . .12/1/95; 20.11.100.16 NMAC - Rn, 20 NMAC 11.100.II.5, 10/1/02; A, 5/1/04]

53
54 ~~[20.11.100.17]~~ **20.11.100.20 COMPLIANCE TIME EXTENSION: [~~Normal Difficulty:~~]**

55 **A. Time extension for repairs.** Vehicles, which are unable to pass re-inspection, [~~are~~] may be
56 eligible to obtain a time extension providing the following conditions are met:

1 ~~_____~~ (1) **Exhaust emissions:** In order for a motor vehicle to be eligible for a time extension, the owner
2 must:

3 ~~_____~~ (a) provide evidence, satisfactory to the program manager, that a low emissions tune-up has
4 been performed to the extent possible considering engine condition; repair and replace nonfunctional emissions
5 control devices;

6 ~~_____~~ (b) provide evidence that any emissions control devices needed to bring the vehicle into
7 compliance are not available;

8 ~~_____~~ (c) petition the program manager at the program headquarters, provide receipts for all parts
9 and/or repair work performed, and list at least the following information in order to be eligible for consideration:

10 ~~_____~~ (i) vehicle VIN number;

11 ~~_____~~ (ii) model year and manufacturer;

12 ~~_____~~ (iii) owner's name and street address;

13 ~~_____~~ (iv) valid driver's license number and/or any other information or documentation that the
14 program manager may deem necessary; and

15 ~~_____~~ (v) if applicable, identification of where the re-inspection, tune-up and/or determination
16 was made, including documentation acceptable to the program manager that critical parts are unavailable.

17 ~~_____~~ (2) **Anti-tampering:** In order for a motor vehicle to be eligible for a time extension, the vehicle must
18 pass all criteria relative to exhaust emissions for its model year and weight. If the vehicle cannot pass the exhaust
19 emissions, in order for a motor vehicle to be eligible for a time extension, the owner must:

20 ~~_____~~ (a) provide evidence that a low emissions tune-up has been performed to the extent possible
21 considering engine condition; repair and replace nonfunctional emissions control devices;

22 ~~_____~~ (b) provide evidence that any emissions control devices needed to bring the vehicle into
23 compliance are not available;

24 ~~_____~~ (c) petition the program manager at the headquarters, provide receipts for all parts and/or repair
25 work performed, and list at least the following information in order to be eligible for consideration:

26 ~~_____~~ (i) vehicle VIN number;

27 ~~_____~~ (ii) model year and manufacturer;

28 ~~_____~~ (iii) owner's name and street address;

29 ~~_____~~ (iv) valid driver's license number and/or any other information or documentation that the
30 program manager may deem necessary; and

31 ~~_____~~ (v) if applicable, identification of where the re-inspection, tune-up, and/or determination
32 was made including documentation acceptable to the program manager that critical parts are unavailable.]

33 ~~_____~~ (1) the owner must provide evidence, satisfactory to the program manager or his designee, that at
34 least \$300 has been spent on the vehicle at a licensed repair facility for emissions-related repairs; or

35 ~~_____~~ (2) the owner must provide evidence, satisfactory to the program manager or his designee, that at
36 least \$300 of repair work is required to bring the vehicle up to an engine performance level capable of passing an
37 emission inspection and:

38 ~~_____~~ (a) In order to receive a time extension based on a estimate of repairs, the owner must prove to
39 the program manager or his designee that the owner is financially incapable of paying for such repairs; and,

40 ~~_____~~ (b) the repair work estimate must be from a licensed repair facility.

41 **B Application for time extension.** Any owner who meets the criteria may apply for a time
42 extension by petitioning the program manager or his designee at the VPMD headquarters, providing receipts for all
43 parts and repair work performed, or providing the required estimate, and listing the following information in order to
44 be eligible for consideration:

45 ~~_____~~ (1) vehicle VIN number;

46 ~~_____~~ (2) model year and manufacturer;

47 ~~_____~~ (3) owner's name and street address;

48 ~~_____~~ (4) valid driver's license number and any other information or documentation that the program
49 manager may deem necessary; and

50 ~~_____~~ (5) if applicable, identification of where the re-inspection, tune-up, or determination was made
51 including documentation acceptable to the program manager or his designee that critical parts are unavailable.

52 **[B:]C. Time extension [for repairs] limitations:**

53 (1) [Vehicles which require repair in addition to a low emission tune-up may be eligible for a time
54 extension of up to 12 months for repairs over three hundred dollars (\$300).] A time extension shall be granted only
55 one time in the life of a vehicle and shall be for a period of up to 12 consecutive months.

1 (2) ~~[The vehicle owner must petition the program manager for a time extension for repairs. Upon~~
2 ~~receipt of the petition the program manager may grant a time extension based upon the validity and applicability of~~
3 ~~the information provided. In addition to the time extensions described above, the program manager has the~~
4 ~~discretion to issue time extensions for extraordinary circumstances and shall report such extensions on the next~~
5 ~~program report to the board.] If a vehicle which has been granted a time extension is repaired within the first 90 days~~
6 ~~of the extension, the extension may be cancelled and not counted as the one per life-of-the-vehicle time extension.~~

7 (3) Time extensions shall be limited to 90 days for motor vehicles that exceed any of their maximum
8 allowable exhaust standards as prescribed in Table I shown in Paragraph (1), of Subsection A of ~~[20.11.100.14]~~
9 ~~20.11.100.17~~ NMAC by more than twice the level allowed.

10 **D Free inspection for timely repair.** Any failing vehicle repaired within 90 days of its failed test is
11 eligible for a free retest of that vehicle at the Vehicle Pollution Management Division Headquarters.

12 **[C.]E. Inspection due following extension:** Any person owning a motor vehicle for which a time
13 extension has been issued pursuant to ~~[this section]~~ 20.11.100.20 NMAC shall have that vehicle inspected within the
14 time frame specified by the extension for that vehicle.

15 **[D.]E. Expiration upon sale:** If a motor vehicle is granted a time extension under ~~[this section]~~
16 20.11.100.20 NMAC and is sold within the time extension period, such sale shall terminate the extension. The
17 holder of the original time extension must inform each potential buyer that the vehicle does not comply with the
18 emission requirements of ~~[this Part]~~ 20.11.100 NMAC. The seller must also inform each potential buyer that the
19 time extension is void upon the sale and the vehicle cannot be registered unless the vehicle passes an emissions
20 inspection.

21 **[E.]G. Appeals:** Any person aggrieved by the decision of the program manager or designee regarding a
22 compliance time extension may appeal by petitioning the ~~[director of the environmental health department (EHD).]~~
23 ~~program manager in writing for reconsideration of the decision. [To perfect the appeal, the person aggrieved must~~
24 ~~deliver the completed form to the headquarters within 15 consecutive days after receipt of the program manager's~~
25 ~~decision. Following receipt of the request for hearing, the director of the EHD shall report his or her decision to the~~
26 ~~program within 48 hours of the determination. By the end of the next working day or sooner, if reasonably possible,~~
27 ~~the program shall report the decision of the director of the EHD to the petitioner. The director of the EHD will~~
28 ~~present written findings of fact and conclusions of law to the division within 45 days, and the program shall forward~~
29 ~~the findings and conclusions promptly to the petitioner.] The petition must provide the basis for reconsideration of~~
30 ~~the decision made on the time extension. The program manager, at his discretion, may review the petition and~~
31 ~~record and affirm or deny the decision on the request for the time extension, or the Program Manager may arrange~~
32 ~~for a hearing on the record at the Office of Administrative Hearings, to be held no later than 15 working days after~~
33 ~~receipt of the request for reconsideration. The petitioner must submit a \$50 fee to the Office of Administrative~~
34 ~~Hearings, who will set the time and place for the hearing. The hearing officer will present written findings of fact~~
35 ~~and a recommendation of action to the program manager, who shall make the decision and forward the findings and~~
36 ~~decision promptly to the petitioner. The final decision of the program manager may be appealed to the Albuquerque~~
37 ~~- Bernalillo county air quality control board in accordance with 20.11.81 NMAC.~~

38 ~~[5/20/88. . .11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.17 NMAC - Rn, 20 NMAC 11.100.II.6, 10/1/02; A,~~
39 ~~5/1/04]~~

40
41 **[20.11.100.18] 20.11.100.21 CERTIFICATION REQUIREMENTS FOR AIR CARE STATIONS:**

42 **A.** No person shall solicit, advertise or imply that a facility is an *air care* station certified by the
43 program manager to conduct inspections pursuant to ~~[this part]~~ 20.11.100 NMAC without having a current program-
44 issued certificate on display on the premises. Any *air care* inspection station that has its certification permanently or
45 temporarily, withdrawn or canceled by the Board or the program manager shall immediately remove all inspection
46 related signs and cease to represent the facility as a certified *air care* station.

47 **B.** No *air care* station owner or operator shall allow a person to conduct any part of an inspection
48 pursuant to ~~[this part]~~ 20.11.100 NMAC without that person being an *air care* inspector certified by the program
49 manager and having a current program-issued certificate on display on the premises.

50 **C.** Any person may make application for certification for the operation of an *air care* station.

51 **D.** Prior to construction, installation or renovation of any facility or building intended for use as an
52 *air care* station, the owner or operator must have submitted an application and received pre-approval to operate the
53 facility as an *air care* station. The applicant shall also provide information on traffic flow and how it will be
54 managed to prevent unsafe conditions. The applicant shall also indicate how and where the customer may view the
55 vehicle inspection from start to finish.

1 **E.** The program manager may issue a station certificate to a person who makes application and
2 demonstrates to the program manager's satisfaction the following minimum conditions will be in effect and
3 equipment will be present at the applicant's proposed *air care* station:

4 (1) At least one certified *air care* inspector whose certification is current and listed with the program
5 manager will be on hand and will conduct all the inspections of motor vehicles. No such inspection will be
6 performed in whole, or in part, by any person other than a certified *air care* inspector.

7 (2) At least one approved [~~VEGAS~~] emissions analyzer owned or leased by the station will be in
8 place and operating within the equipment specification limits [~~set forth in 20.11.100.25 NMAC~~].

9 (3) In order to qualify for certification, the facility shall also be equipped and supplied as follows:
10 (a) sufficient hand tools and automotive diagnostic equipment for proper performance of the
11 inspections,

12 (b) program approved span gas and compatible equipment for performing gas span checks,
13 (c) suitable non-reactive tail pipe extenders or probe adapters for inspecting vehicles with
14 screened or baffled exhaust systems, and

15 (d) the approved [~~VEGAS~~] emissions analyzer manufacturer's maintenance and calibration
16 manual.

17 (e) Gas cap checking adaptors.

18 (4) The *air care* station must provide the vehicle owner or driver access to the test area so that
19 observation of the entire official inspection process is possible. Access may be limited but in no way shall prevent
20 full observation [~~from beginning to end.~~] of the entire official inspection process from start to finish.

21 [~~_____ (5) The program manager may deny certification to a facility that:~~

22 [~~_____ (a) does not comply with all applicable federal, state and local laws and regulations, or~~

23 [~~_____ (b) does not provide for an entrance and a dedicated inspection area inside the facility that is
24 large enough to accept all vehicles with a GVW of 8500 lbs or less presented for inspection, or~~

25 [~~_____ (c) does not provide for adequate traffic flow, or~~

26 [~~_____ (d) does not provide adequate viewing access by the vehicle owner or driver or for surveillance
27 by program auditors.] { moved to its own Section, 20.11.100.22 NMAC }~~

28 (6) Certified *air care* station owners/operators shall be responsible for the general management of
29 their facility(ies) and for the supervision of their *air care* inspectors and technicians in accordance with [~~this part~~]
30 20.11.100 NMAC, the [~~VPMP~~] VPMD procedures manual and other procedures and policies of the program.

31 **F. “Emissions inspection-only” stations** may be authorized by the program manager. Such stations
32 shall indicate on a sign authorized by the program and placed in a readily visible location, that no emissions-related
33 adjustments or repair services are available. Repair-related requirements of Paragraph (2), of Subsection G of
34 [~~20.11.100.18~~] 20.11.100.21 NMAC do not apply to “inspection-only” stations.

35 [~~_____ **G. Performance of certified *air care* stations:**~~

36 [~~_____ (1) A certified *air care* station will obtain and pay for routine and unscheduled maintenance or
37 replacement parts of the approved exhaust gas analyzer.~~

38 [~~_____ (2) The certified *air care* station will accept and perform emissions inspections on all vehicles
39 presented for inspection and must have adequate reference manuals and basic emissions information in accordance
40 with the VPMP procedures manual. Emissions inspections will not be performed on vehicles when the emissions
41 inspection would pose a threat to any person's safety. Any motor vehicle accepted for repair shall be one for which
42 the station has adequate information regarding idle speed, idle mixture, timing, dwell, fast idle speed specifications,
43 high altitude specifications and information describing emissions control systems, diagnostic and repair procedures
44 if normally available in the trade.~~

45 [~~_____ (3) The times that a certified *air care* inspector will be available to make inspections shall be posted
46 if such times do not include all hours the station is open for business.~~

47 [~~_____ (4) Each certified *air care* station shall post a sign in a conspicuous location, on the exterior of the
48 station, indicating testing hours and the fee charged for inspections. The sign shall meet the uniform format and
49 style requirements established by the program manager.~~

50 [~~_____ (5) A certified *air care* station may not refuse any vehicle for inspection based upon the race, color,
51 religion, sex, national origin or ancestry, age or physical handicap or disability of the motorist, nor may the station
52 refuse any vehicle for inspection because of the make, model, or year of the vehicle.~~

53 [~~_____ (6) Each certified *air care* station shall provide vehicle owners or drivers access to the inspection area
54 so that the owner or driver can observe the official inspection. Access can be limited but in no way shall prevent full
55 observation.~~

1 ~~_____ (7) A certified *air care* station shall perform initial emissions inspection on vehicles without repair or~~
2 ~~adjustment prior to the inspection. This does not apply to a vehicle when an owner or driver specifically asks for~~
3 ~~repairs or adjustments prior to an emissions inspection and a work order is completed and authorized by the vehicle~~
4 ~~owner or driver.~~

5 ~~_____ (8) Each certified *air care* station must employ a sufficient number of *air care* inspectors so that it~~
6 ~~can adequately staff regular testing hours, as set by the *air care* station and approved by the program manager.~~

7 ~~_____ (9) Each *air care* station must ensure that emissions inspections are performed on every vehicle, upon~~
8 ~~presentation, unless a vehicle test poses a threat to a person's safety. An *air care* station which is not designated as~~
9 ~~an "inspection only" station may elect to conduct testing "by appointment only," as approved by the program~~
10 ~~manager, but must indicate this on the station sign in lieu of testing hours.~~

11 ~~_____ H. Any person owning or operating a certified *air care* station which undergoes change of business~~
12 ~~name, ownership, official inspection personnel, or approved exhaust gas analyzers, or ceases to operate as an *air*~~
13 ~~*care* station, shall notify the program manager within 10 days of such change. Any certified *air care* station may~~
14 ~~have its certification revoked for failure to provide such notice. Relocation of an *air care* station, without review~~
15 ~~and written approval of the program manager being required shall automatically terminate and invalidate a current~~
16 ~~station certificate.] { moved to its own section, 20.11.100.23 NMAC }~~

17 [5/20/88. . .11/13/91, 9/23/94, 12/1/95, 8/1/97; 20.11.100.18 NMAC - Rn, 20 NMAC 11.100.II.7, 10/1/02; A,
18 5/1/04]

19
20 **20.11.100.22 BASIS FOR DENIAL OF AIR CARE STATION CERTIFICATION:** The program manager
21 may deny certification to a facility that does not:

22 A. comply with all applicable federal, state and local laws and regulations, or

23 B. provide for an entrance and a dedicated inspection area inside the facility that is large enough to
24 accept all vehicles with a GVW of 8500 lbs or less presented for inspection, or

25 C. provide for adequate traffic flow, or

26 D. provide adequate viewing access by the vehicle owner or driver or for surveillance by program
27 auditors. {Moved from extant 20.11.100.18.E.(5) NMAC }

28 E. Subsection B of 20.11.100.22 NMAC does not apply to van-mounted or movable *air care* stations.
29 [20.11.100.22 NMAC - N 2010]

30
31 **20.11.100.23 Performance of certified *air care* stations:**

32 A. A certified *air care* station shall obtain and pay for routine and unscheduled maintenance or
33 replacement parts of the approved exhaust gas analyzer.

34 B. The certified *air care* station shall accept and perform emissions inspections on all vehicles
35 presented for inspection and must have adequate reference manuals and basic emissions information in accordance
36 with the VPMD procedures manual. Emissions inspections shall not be performed on vehicles when the emissions
37 inspection would pose a threat to any person's safety. Any motor vehicle accepted for repair shall be one for which
38 the station has adequate information regarding idle speed, idle mixture, timing, dwell, fast idle speed specifications,
39 high altitude specifications and information describing emissions control systems, diagnostic and repair procedures
40 if normally available in the trade.

41 C. The times that a certified *air care* inspector will be available to make inspections shall be posted if
42 such times do not include all hours the station is open for business.

43 D. Each certified *air care* station shall post a sign in a conspicuous location, on the exterior of the
44 station, indicating testing hours and the fee charged for inspections. The sign shall meet the uniform format and
45 style requirements established by the program manager.

46 E. A certified *air care* station shall not refuse any vehicle for inspection based upon the race, color,
47 religion, sex, national origin or ancestry, age or physical handicap or disability of the motorist, nor may the station
48 refuse any vehicle for inspection because of the make, model, or year of the vehicle.

49 F. Each certified *air care* station shall provide vehicle owners or drivers access to the inspection area
50 so that the owner or driver can observe the official inspection. Access may be limited but in no way shall prevent
51 full observation.

52 G. A certified *air care* station shall perform initial emissions inspection on vehicles without repair or
53 adjustment prior to the inspection. This does not apply to a vehicle when an owner or driver specifically asks for
54 repairs or adjustments prior to an emissions inspection and a work order is completed and authorized by the vehicle
55 owner or driver.

1 H. Each certified *air care* station shall employ a sufficient number of *air care* inspectors so that it can
2 adequately staff regular testing hours, as set by the *air care* station and approved by the program manager.

3 I. Each *air care* station shall ensure that emissions inspections are performed on every vehicle, upon
4 presentation, unless a vehicle test poses a threat to a person's safety. An *air care* station which is not designated as
5 an "inspection only" station may elect to conduct testing "by appointment only," as approved by the program
6 manager, but shall indicate this on the station sign in lieu of testing hours.

7 J. Any person owning or operating a certified *air care* station which undergoes change of business
8 name, ownership, official inspection personnel, or approved exhaust gas analyzers, or ceases to operate as an *air*
9 *care* station, shall notify the program manager within 10 days of such change. Any certified *air care* station may
10 have its certification revoked for failure to provide such notice. Relocation of an *air care* station, without review
11 and written approval of the program manager as required shall automatically terminate and invalidate a current
12 station certificate. {moved from extant 20.11.100.18.G & H NMAC}
13 [20.11.100.23 NMAC - N 2010]

14
15 **[20.11.100.19] 20.11.100.24 [VEHICLE POLLUTION MANAGEMENT PROGRAM] FLEET AIR**
16 **CARE STATIONS:**

17 A. No individual or business shall represent itself as a certified fleet *air care* station without being in
18 possession of a duly authorized and currently valid certificate issued by the program manager.

19 B. Any person may apply for authorization for an *air care* station authorized by the program to
20 perform inspections under ~~[this part] 20.11.100 NMAC~~ for the purposes of fleet inspection of a company or
21 corporate business, or governmental fleet. These stations shall not offer or provide the inspections to the company's
22 employees or the general public. Fleet *air care* stations shall be equipped and operated subject to the same quality
23 assurance requirements as a certified *air care* station. The signage requirements of ~~[Paragraphs (3) and (4), of~~
24 ~~Subsection G of 20.11.100.18 NMAC]~~ Subsections C and D of 20.11.100.23 NMAC are waived in such a facility.
25 The fee for authorization of such station shall be the same as for a certified *air care* station.

26 C. Notwithstanding the above, any person with a fleet may contract with any certified *air care* station
27 to provide inspections needed to satisfy ~~[this part] 20.11.100 NMAC~~.
28 [11/13/91. . .9/23/94, 12/1/95; 20.11.100.19 NMAC - Rn, 20 NMAC 11.100.II.8, 10/1/02]

29
30 **~~[20.11.100.20] VEHICLE POLLUTION MANAGEMENT PROGRAM HEADQUARTERS:~~**

31 ~~A. The program manager shall establish and maintain a VPMP headquarters, to be an emissions~~
32 ~~inspection facility equipped with at least one program certified VEGAS from each manufacturer participating in the~~
33 ~~program, and employing at least two ASE certified technicians. The facility shall be operated by the city to provide~~
34 ~~services to the public and as necessary to facilitate program responsibilities and administer the provisions of this~~
35 ~~part.~~

36 ~~B. The headquarters shall have, but not be limited to, the following responsibilities:~~

37 ~~(1) Provide for non-binding mediation of disputes arising from inspection activities by certified *air*~~
38 ~~*care* stations or certified *air care* inspectors, to include if necessary a verification test at no cost to the person~~
39 ~~requesting such test.~~

40 ~~(2) Evaluate and issue a compliance time extension for vehicles unable to pass the inspection test~~
41 ~~criteria as provided under the terms of this part.~~

42 ~~(3) Investigate and maintain records regarding complaints against certified *air care* stations, certified~~
43 ~~*air care* technicians and certified *air care* inspectors, and forward such findings to the board.~~

44 ~~(4) Perform quality assurance audits as required by 20.11.100.24 NMAC.]~~

45 ~~[5/20/88. . .11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.20 NMAC - Rn, 20 NMAC 11.100.II.9, 10/1/02; A,~~
46 ~~5/1/04]~~

47
48 **20.11.11.25 VAN MOUNTED OR MOVABLE AIR CARE STATIONS.**

49 A. No individual or business shall represent itself as a certified van mounted or movable *air care*
50 station without being in possession of a duly authorized and currently valid certificate issued by the program
51 manager.

52 B. Prior to development of a van-mounted or moveable *air care* station, the owner or operator must
53 have submitted an application and received preapproval to operate as an *air care* station.

54 C. Any person may apply for authorization for a van mounted or movable *air care* station authorized
55 by the program to perform inspections under 20.11.100.21 NMAC for the purposes of on-site inspections of non-
56 privately owned vehicles, with the following conditions.

1 (1) The van-mounted or movable air care station is restricted to testing model year 1996 or ~~later~~
2 newer;

3 (2) The van-mounted or movable air care station is further restricted to testing only OBDII
4 compatible vehicles; and,

5 (3) The van mounted or movable air care state is equipped with pressurized equipment to perform
6 gas cap testing as needed.

7 **D.** Van-mounted or movable air care stations will not be authorized to provide air care inspections to
8 the general public. Van-mounted or movable air care stations are anticipated to provide a benefit to businesses that
9 own multiple vehicles because these air care stations will alleviate the need to shuttle vehicles back and forth to
10 stationary air care stations.

11 **E.** The signage requirements of Subsections C and D of 20.11.100.23 NMAC are waived in such a
12 facility. The fee for authorization of such station shall be the same as for a certified *air care* station.

13 [20.11.100.25 NMAC - N 2010]

14
15 ~~[20.11.100.21]~~ **20.11.100.26 CERTIFICATION OF AIR CARE INSPECTORS:**

16 **A.** No person shall represent ~~[him or herself]~~ themselves as a certified *air care* inspector without
17 being in possession of a duly authorized and currently valid certificate issued by the program manager.

18 **B.** Certificates issued under ~~[this subsection]~~ Subsection B of 20.11.100.26 NMAC shall be valid for
19 12 months unless the program manager requires re-certification at some shorter time as provided below in Paragraph
20 (3), of Subsection B of ~~[20.11.100.21]~~ 20.11.100.26 NMAC.

21 (1) **Certification requirements for *air care* inspectors:**

22 (a) A person ~~[desiring to be certified]~~ seeking certification shall file an application with the
23 program manager on forms provided by the program. The issuance of certificates shall be administered by the
24 program. Before an applicant may be granted a certificate, the applicant must demonstrate general knowledge, skill
25 and competence requirements under the program and in accordance with training and testing requirements set forth
26 by the program manager.

27 (b) Knowledge, skill, and competence that an applicant must demonstrate shall include, but not
28 be limited to, the following:

29 (i) general operation and purpose of emissions control systems for all types of motor
30 vehicles,

31 (ii) how HC and CO relate to timing and air/fuel ratio control,

32 (iii) rules and regulations pertaining to inspection and the inspection procedures
33 established in the procedures manual and ~~[this part]~~ 20.11.100 NMAC,

34 (iv) general understanding of the benefits to vehicle owners provided in the *Defect*
35 *Warranty Provisions* of Section 207(a) and the *Performance Warranty Provisions* of Section 207(b) of the Federal
36 Clean Air Act as it applies to the inspection,

37 (v) ability to recognize by visual inspection the emissions control equipment for 1975
38 and newer vehicles, distinguishing between those required and those not requiring inspection,

39 (vi) operation and proper use, care, maintenance, and gas span checking of the approved
40 exhaust gas analyzers,

41 (vii) proper use, filing and storage of inspection forms, certificates of inspection and
42 supplemental documents, and

43 (viii) ability to perform an actual emissions inspection from start to finish,

44 (ix) other information as the program manager requires.

45 (c) The program may issue a certificate to the applicant when the program manager determines
46 that there has been successful completion of the certification requirements of ~~[this part]~~ 20.11.100 NMAC.

47 (d) persons certified under ~~[this subsection]~~ Subparagraph (d) of Paragraph (1) of Subsection B
48 of 20.11.100.26 NMAC shall inform the program manager within ~~[ten]~~ 10 days of any change in legal name,
49 employment status or current mailing address. Each certified inspector will be assigned a personal identification
50 number which will be checked for correlation in data audits of the program. Failure to keep the program manager
51 informed may be cause for revocation of certification.

52 (2) **Performance of certified *air care* inspectors:** ~~[Every]~~ Certified *air care* ~~[inspector]~~ inspectors
53 shall comply with the ~~[VPMP]~~ VPMD procedures manual, and all the board regulations and shall:

54 (a) at no time allow another person to use ~~[his or her]~~ their certificate or personal code to enter
55 into an approved exhaust gas analyzer nor will ~~[he or she]~~ they delegate ~~[his or her]~~ their authority to another person

1 to perform any official inspection or any part of an inspection under [~~his or her~~] their name or personal identity
2 code;

3 (b) accept all vehicles for emission inspection and perform the emissions inspections in an
4 expedient manner in order to avoid unnecessary public inconvenience. However, an *air care* inspector shall not
5 accept any vehicle for inspection if the inspection would pose a threat to any person's safety;

6 (c) refrain from deviation from [~~this part~~] 20.11.100 NMAC and official procedures established
7 for this program;

8 (d) at no time during the emissions inspections sequence attempt or allow adjustments to be
9 performed on the vehicle being inspected until the final VIR is complete; and

10 (e) sign all certificates of inspection at the time of inspection.

11 [~~_____ (3) **Re-certification requirements for certified *air care* inspectors:**~~

12 ~~_____ (a) The program manager will reissue certification to any *air care* inspector who demonstrates~~
13 ~~updated competency as evidenced under the then current requirements administered by the program. Such re-~~
14 ~~certification shall be required upon expiration of a current annual certificate or sooner as provided below.~~

15 ~~_____ (i) If the board determines a need to update the general qualifications of *air care*~~
16 ~~inspectors prior to the annual re-certification period, holders of such certificates may be required to re-qualify.~~

17 ~~_____ (ii) As a result of auditing or investigating consumer complaints, a certified inspector~~
18 ~~may be required to re-certify if the program manager determines that competency and related problems must be~~
19 ~~corrected in order to protect the public.~~

20 ~~_____ (b) Certified *air care* inspectors must re-certify during the month of expiration of a current~~
21 ~~certification. The program shall mail written notification to the station address of record of any active certified~~
22 ~~inspector whose certificate is about to expire or is otherwise being revoked. The notice shall inform the person of~~
23 ~~the necessity for re-certification and the nature of such skills, systems, or any updated procedures or retraining~~
24 ~~deemed necessary to perform emissions inspections. The notice shall state the deadline for re-certification.] {moved~~
25 ~~to XXXX?}~~

26 [5/20/88. . .11/13/91, 9/23/94, 12/1/95; 20.11.100.21 NMAC - Rn, 20 NMAC 11.100.II.10, 10/1/02]

27
28 [~~**20.11.100.22 — CERTIFICATION OF AIR CARE TECHNICIANS:**~~ [Reserved]]

29 [5/20/88. . .8/25/92, 9/23/94; 20.11.100.22 NMAC - Rn, 20 NMAC 11.100.II.11, 10/1/02; A, 5/1/04]

30
31 [~~**20.11.100.23 — EXEMPTED SPECIAL VEHICLES CLASSIFICATIONS:**~~

32 ~~_____ **A.** All new motor vehicles shall be exempt from inspection only during the initial two registration~~
33 ~~periods first following the date of the manufacturer's certificate of origin (MCO).~~

34 ~~_____ **B.** Vehicles, which are fueled by a mixture of gasoline and oil for purposes of lubrication, are exempt~~
35 ~~from inspection.~~

36 ~~_____ **C.** Motor vehicles that are used for legally sanctioned competition and not operated on public streets~~
37 ~~and highways.~~

38 ~~_____ **D.** Implements of husbandry, or road machinery not regularly operated on public streets and~~
39 ~~highways.~~

40 ~~_____ **E.** Other vehicles which are not regularly operated on public streets and highways after making a~~
41 ~~proper showing to demonstrate such to the program manager.~~

42 ~~_____ **F.** Diesel and electric powered vehicles. New diesel vehicles are exempt until title transfer. Diesel~~
43 ~~vehicles must pass a visible emissions test at VPMD Program Headquarters prior to registration following a title~~
44 ~~transfer.~~

45 ~~_____ **G.** Vehicles leased by a leasing company whose place of business is Bernalillo county, to a person~~
46 ~~who resides outside of Bernalillo county. However an exemption shall not be granted if the person resides in an~~
47 ~~area, which has an EPA required vehicle inspection program.~~

48 ~~_____ **H.** Vehicles manufactured during or before model year 1974.~~

49 ~~_____ **I.** Vehicles sold between licensed dealers.~~

50 ~~_____ **J.** Vehicles with a GVW of 10,001 lbs or more.~~

51 ~~_____ **K.** Dedicated alternative fueled vehicles classified as super ultra low emission vehicles.~~

52 ~~_____ **L.** Electric hybrid vehicles classified as super ultra low emission vehicles.] {moved to 20.11.100.2.B~~
53 ~~NMAC, except for "Subsection F".}~~

54 [5/20/88. . .11/13/91, 9/23/94, 12/1/95, 8/1/97; 20.11.100.23 NMAC - Rn, 20 NMAC 11.100.II.12, 10/1/02; A,

55 5/1/04]

56

1 **20.11.100.27. RECERTIFICATION REQUIREMENTS FOR CERTIFIED AIR CARE INSPECTORS:**

2 **A.** The program manager will reissue certification to any *air care* inspector who demonstrates
3 updated competency as evidenced under the then-current requirements administered by the program. Such re-
4 certification shall be required upon expiration of a current annual certificate or sooner if either of the following
5 situations exist.

6 (1) If the program manager determines a need to update the general qualifications of *air care*
7 inspectors prior to the annual re-certification period, holders of such certificates may be required to re-qualify.

8 (2) As a result of auditing or investigating consumer complaints, a certified inspector may be required
9 to re-certify if the program manager determines that competency and related problems must be corrected in order to
10 protect the public.

11 **B.** Certified air care inspectors must re-certify during the month the current certification is scheduled
12 for expiration.

13 **C.** Each *air care* inspector is responsible for applying for recertification in a timely manner. The date
14 of certification expiration is provided on the inspector certification certificate which must be displayed in the *air*
15 *care* station and the gas analyzer provides notice of certification expiration starting at least 30 days prior to the
16 certificate expiration date, VPMD will not give special consideration regarding the time and availability of a
17 recertification class to an *air care* inspector whose certification has lapsed unless good cause exists, as determined
18 by the program manager.

19 **D.** VPMD will review the VID records of each air care inspector at the time of the recertification
20 request to determine any pattern of violations or fraud during inspections done the previous three years.

21 **E.** Any former *air care* inspector wishing to recertify, that has allowed a lapse in recertification that
22 is greater than 90 days in length, may be required to take the week-long certification training class rather than the
23 recertification training class. {after 20.11.100.21.B.(3).(a).(i)}

24 [20.11.100.27 NMAC - N 2010]

25
26 **20.11.100.28 DENIAL OR SUSPENSION OF RECERTIFICATION FOR AIR CARE INSPECTOR**

27 **A.** VPMD may suspend an existing certification or deny recertification for the following reasons:

28 (1) it has determined, by a review of the VID or VPMD inspection files, that an air care inspector has
29 violations resulting in an accumulation of 16 points or more;

30 (2) the air care inspector has failed to attend the recertification training; or

31 (3) the air care inspector has failed the recertification test.

32 **B.** Whenever a certification has been suspended and then the certification expires during the
33 suspension period, the air care inspector may not obtain a new certification until the term of the suspension has
34 expired.

35 [20.11.100.28 NMAC - N 2010]

36
37 **20.11.100.29 ADMINISTRATIVE FEES FOR CERTIFICATIONS AND RECERTIFICATIONS:**

38 **A.** Any person seeking certification, or annual recertification thereof, in order to participate in the
39 program as an *air care* station or *air care* inspector shall remit to the city the appropriate fee as indicated below
40 before a certification shall be issued or renewed by the program.

41

<u>Certifications</u>	<u>Amount</u>
<u>Certified Air Care Station</u>	<u>\$200.00</u>
<u>Certified Air Care Inspector</u>	<u>\$35.00</u>

42 {after 20.11.100.28 NMAC}

43 **B.** *Air Care* Stations or *Air Care* Inspectors who have been subject to a certification suspension must
44 pay the following fees to reinstate the *Air Care* Station or *Air Care* Inspector certification.

45

<u>Reinstatement</u>	<u>Amount</u>
<u>Air Care Station Certification</u>	<u>\$200</u>
<u>Air Care Inspector Certification</u>	<u>\$35</u>

46 **C.** Any *Air Care* Inspector requesting to be authorized on more than one motor vehicle emissions
47 analyzer must pay the \$35 fee for each analyzer.

48 [20.11.100.25 NMAC - N 2010]

1 ~~[20.11.100.24 — QUALITY CONTROL OF AIR CARE STATIONS:]~~ **20.11.100.30 VPMD QUALITY**
2 **ASSURANCE AUDITS OF AIR CARE STATIONS AND AIR CARE INSPECTORS:** VPMD's quality
3 assurance audits and data analysis are designed to: discover, correct and prevent fraud, waste and abuse; determine
4 whether emission testing procedures are being correctly performed; assess whether emission analyzers are
5 measuring accurately; and find any existing problems that could impede program performance.

6 **A.** The program shall conduct announced and unannounced overt quality assurance audits of each
7 certified *air care* station as ordered by the program manager. The duties of the VPMD auditor shall include but not
8 be limited to the following:

9 (1) Verify that the equipment, reference materials and staffing agree with the information on file with
10 the program manager and are sufficiently maintained to meet the intent of the VPMD program;

11 (2) Check the accuracy of data entry and production of the final inspection reports furnished to
12 motorists;

13 (3) Perform a complete quality assurance survey on the analyzer, the calibration gas system, and
14 automatic zero-span performance in relation to the specifications and requirements of ~~[this part]~~ 20.11.100 NMAC.

15 (4) The field audit gases for standardizing approved analyzers used for inspections shall conform to
16 the provisions outlined in 40 CFR, Part 86, Subpart B, §86.114-94, Analytical Gases, for automotive exhaust
17 emissions testing. Those gases shall be of "precision" quality, certified to be within \pm (plus-or-minus) 1% of the
18 labeled concentration, and certified by the NIST; and

19 (5) Examine the service contract for the analyzer to assure proper lockout controls, data record
20 capture and response in case of trouble.

21 **B.** The program shall perform covert quality assurance audits without offering official credentials or
22 identification by submitting any motor vehicle for inspection ~~[so as]~~ in order to examine the station operation under
23 actual conditions. Such inspection vehicles may be offered at random times in a condition involving intentional
24 maladjustment, or ~~[intentionally removed or rendered inoperative]~~ with emissions control components intentionally
25 removed or rendered inoperative. The results of such audits by the program will provide data for assessing the
26 performance of the certified *air care* station and its adherence to the requirements of ~~[this part]~~ 20.11.100 NMAC
27 and the VPMP procedures manual.

28 **C.** VPMD shall perform covert quality assurance audits of the *air care* stations and *air care*
29 inspectors by observing their activities unannounced from a remote off site area. {40 CFR 51.363}

30 **D.** VPMD shall perform data analysis of information contained in the VID to audit the performance
31 of *air care* stations and *air care* inspectors. The criteria for the data analysis will be selected by VPMD in response
32 to VPMD investigations, complaints, certification renewals or other triggers or may be produced at random times on
33 random populations. {40 CFR 51.363}

34 [5/20/88. . .8/25/92, 9/23/94, 12/1/95, 20.11.100.24 NMAC - Rn, 20 NMAC 11.100.II.13, 10/1/02]

35
36 ~~[20.11.100.25 — SPECIFICATIONS FOR APPROVED VEGAS:~~

37 ~~**A. Performance and design specifications for the VEGAS:** The program manager shall establish~~
38 ~~the specifications for the VEGAS, which shall be used exclusively by all stations, which have been certified by the~~
39 ~~program to perform emission inspections. The specifications shall be consistent with those required in 40 CFR Part~~
40 ~~51 Appendix B subpart S and shall include, but are not limited to, operation by internal computer controlled logic,~~
41 ~~automatic data collection, service and maintenance requirements for replacement or loan analyzers and warranty for~~
42 ~~the period of an agreement with the station. The VEGAS shall be able to perform an on board diagnostic test, a~~
43 ~~pressurized gas cap test, an idle mode test and an unloaded 2500 RPM test. The VEGAS shall provide second~~
44 ~~chance capabilities for the idle mode and 2500 RPM tests. The specifications shall be described in a separate~~
45 ~~document and shall be made available by the program upon request. A list of vendors for the approved VEGAS will~~
46 ~~be available at VPMD Headquarters.~~

47 ~~**B.** The program manager will establish specifications for the exhaust gas analytical and sampling~~
48 ~~system portion of the approved VEGAS. The program manager will determine the manufacturers' compliance with~~
49 ~~the revisions and additions to the specifications necessary for use of the instrument within the program area.~~

50 ~~**C. Applications for approval of vehicle exhaust systems:**~~

51 ~~(1) Those manufacturers seeking to become a vendor of approved VEGAS shall make application to~~
52 ~~the program manager on forms provided by the program. Only manufacturers, which can offer an analyzer, which~~
53 ~~meets the requirements as specified by the program manager, shall be allowed to participate as a vendor.~~

54 ~~(2) A manufacturer requesting the approval of an analyzer for the measurement of exhaust gases for~~
55 ~~use in the program shall make application with the program manager on forms provided by the Program. All~~

1 manufacturers making application shall meet the applicable technical specifications and administrative requirements
2 specified by the program manager prior to approval.

3 ~~—————~~ **D. Working span gases:**

4 ~~—————~~ (1) **General:** The VEGAS manufacturer and its designated marketing vendors shall, on request,
5 supply span gases approved by the program to any ultimate purchaser of its unit. The VEGAS manufacturer shall
6 also provide the analyzer purchaser with a comprehensive, up to date list with addresses and phone numbers of
7 NIST approved gas blenders. Each new or used VEGAS sold or leased by the instrument manufacturer or marketing
8 vendor shall have a full span gas container installed and operational at time of delivery if the VEGAS is designed to
9 incorporate an integral span gas supply.

10 ~~—————~~ (2) **Span gas blends:** The span gas concentrations supplied with VEGAS used by certified *air care*
11 stations shall conform to the specifications developed pursuant to this subsection.

12 ~~—————~~ **E. VEGAS performance characteristics:**

13 ~~—————~~ (1) Optical correction factor sometimes referred to as "C" factor or "propane to hexane conversion
14 factor": Each approved VEGAS shall be permanently labeled with its correction factor, carried to at least two
15 decimal places. Factor confirmation shall be made on each assembled VEGAS by measuring both N hexane and
16 propane on assembly line quality checks.

17 ~~—————~~ (2) **Changes and equipment updates:** No changes in design or performance characteristics of
18 component specifications which may affect VEGAS performance will be allowed without the program manager's
19 approval. It will be the VEGAS manufacturer's responsibility to confirm that such changes have no detrimental
20 effect on VEGAS performance. All approved VEGAS shall be updated as needed and specified in the specifications
21 document.

22 ~~—————~~ **F. Documentation, logistics and warranty requirements:** An instruction manual shall accompany
23 each VEGAS and shall contain at least the following:

24 ~~—————~~ (1) complete technical description,

25 ~~—————~~ (2) functional schematics (mechanical and electrical),

26 ~~—————~~ (3) accessories and options,

27 ~~—————~~ (4) model number, identification markings and location,

28 ~~—————~~ (5) operating maintenance to include recommended periodic cycles and procedure for maintaining
29 sample system integrity (leaks, hang up, calibration, filters, etc.),

30 ~~—————~~ (6) required service schedule, identifying the items needing maintenance and the procedures to be
31 followed by the purchaser or lessor. The services to be performed only by the manufacturer shall be clearly
32 identified,

33 ~~—————~~ (7) warranty provisions to include listing of warranty repair stations by name, address, and phone
34 number, and

35 ~~—————~~ (8) the name, address, and phone number of the permanent southwestern regional representative(s)
36 for training, service, and warranties.

37 ~~—————~~ **G. Calibration of approved VEGAS:** Certified *air care* stations and all others participating in this
38 program shall abide by this subsection in the calibration and spanning of VEGAS. Span gases and containers shall
39 meet the following parameters, blends and specifications:

40 ~~—————~~ (1) **span and calibration gases:** The operator of a certified *air care* station shall be responsible to
41 assure that span gases used in approved VEGAS conform to the following:

42 ~~—————~~ (a) All span gases supplied to stations shall be named using EPA recommended naming
43 practices.

44 ~~—————~~ (b) The carrier gas shall be nitrogen; the hydrocarbon gas shall be propane. Three component
45 (HC, CO, CO₂ and carrier) gases will be provided.

46 ~~—————~~ (c) The concentration(s) of the span gas blend shall be within limits established by the program
47 to provide for uniform VEGAS spanning.

48 ~~—————~~ (d) The accuracy of the certified *air care* station span gas blend shall be certified by the blender
49 to be \pm (plus or minus) 2% of labeled concentration and traceable to the NIST. Only gas blends supplied by the
50 program's approved blenders shall be used with the approved VEGAS.

51 ~~—————~~ (e) Certified *air care* stations shall gas calibrate the approved VEGAS once each 72 hours as
52 determined by the instrument or as needed in order to maintain accuracy.

53 ~~—————~~ (f) All approved VEGAS shall be calibrated only with span gases bearing a program approved
54 label.

1 ~~_____ (2) **Accuracy:** A gas supplier shall initially demonstrate to the program its qualifications as a vendor~~
2 ~~of span gases. The program may require additional evidence of qualifications at periodic intervals. All gas~~
3 ~~suppliers will be required to abide by the "approved span gas verification program" established by the VPMP.~~

4 ~~_____ (3) **Containers:** Span gases shall be supplied in containers which meet all the applicable provisions~~
5 ~~of the occupational safety and health administration (OSHA).~~

6 ~~_____ (4) **Additional requirements:** Additional specifications related to calibration requirements are~~
7 ~~described in the VEGAS specifications document.]~~

8 [5/20/88. . .11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.25 NMAC - Rn, 20 NMAC 11.100.II.14, 10/1/02; A,
9 5/1/04]

10 **20.11.100.31 ENFORCEMENT AGAINST AIR CARE STATIONS AND INSPECTORS.**

11 A. If a VPMD program manager or a compliance auditor finds any conditions or practices that violate
12 any requirement of 20.11.100 NMAC, VPMD may take any enforcement action it finds necessary, including, but not
13 limited to: a written warning; a notice of violation; a letter denying recertification; ~~or~~ a notice of intent to suspend or
14 revoke an active certification, or immediate lockout of the gas analyzer.

15 B. Violations for which the program manager or VPMD personnel may take action under
16 20.11.100.31 NMAC include:

17 (1) any act or omission by an *air care* station or an *air care* inspector that causes the station or
18 inspector to be in violation of any applicable requirement of 20.11.100 NMAC;

19 (2) an *air care* station or inspector taking or performing any action prohibited under 20.11.100.16
20 NMAC as determined by any type of investigation by VPMD, such as an overt or covert audit, or VID analysis;

21 (3) any other act or omission on the part of a station or inspector that results in a situation that is not
22 compliant with 20.11.100 NMAC.

23 C. An enforcement action may be issued to the *air care* station or *air care* inspector ~~or~~ by first class
24 mail, VPMD personnel, or electronically through the EIS.

25 D. The program manager may issue a notice of violation to the *air care* station for acts or omissions
26 taken by inspectors at the *air care* station regardless of whether or not VPMD has issued a notice of violation to the
27 *air care* inspector who committed the violation.

28 E. Notices of Violation or warning issued pursuant to 20.11.100 NMAC, will be in writing on an
29 approved VPMD form and shall specify whether the notice of violation is issued to the Inspector or the station. The
30 Notice will include notification of the penalty points assessed for the violation and the total penalty points the *air*
31 *care* station or inspector has accumulated in the preceding 12-month period. {from procedure manual}
32 [20.11.100.31 NMAC - N 2010]

33 **20.11.100.32 CATEGORIES OF VIOLATIONS**

34 A. The program manager, supervisor or VPMD auditor shall review each notice of violation issued in
35 accordance with 20.11.100 NMAC, and determine the character and category of the violation, for the purpose of
36 assessing penalty points, monetary penalties or taking other enforcement or disciplinary action.

37 (1) **Intentional Violations.** An intentional violation is a violation resulting from actions that are
38 reckless, deliberate or purposeful or when the person committing the act or practice knew or should have known
39 their conduct was in violation of 20.11.100 NMAC.

40 (2) **Serious Violations.** Serious violations are actions that occur as a result of inspector error, and
41 which are likely to result in inaccurate test results.

42 (3) **Minor violations** are common errors which can be prevented by diligence and care. {from
43 procedures manual}
44 [20.11.100.32 NMAC - N 2010]

45 **20.11.100.33 PENALTY ASSESSMENT**

46 A. Penalty points will be assessed against the *air care* inspector, or *air care* station or any
47 combination according to responsibility. Penalty points are tracked for each *air care* station ~~or~~ and each *air care*
48 inspector and remain cumulative for a period of 12 months.

49 B. Violations committed during the inspection are the inspector's responsibility.

50 C. Program violations, such as allowing or requiring an inspector to perform an improper test or
51 allowing a non-certified individual to perform part or all of a test; improper filing and storage of program
52 documents, or improperly posted signs will be assessed against the station.

1 D. Air care stations may be held responsible for their inspectors' actions if evidence establishes that
2 the inspector violations occurred due to lack of diligence or supervision by the *air care* Station owner or operator.

3 **E. Intentional violations**

4 (1) Each intentional violation can result in the issuance of up to 16 points for each occurrence.

5 (2) 16 points will result in a suspension or revocation of certification, as appropriate, for the *air care*
6 inspector and *air care* station at which the infractions occurred.

7 (3) When an intentional violation results in a false pass, the *air care* station or inspector is subject to
8 a monetary penalty equal to 2.5 times the estimated cost of repair of the vehicle, according to the industry flat rate
9 book.

10 (4) When the intentional violation results in a false fail the *air care* station or inspector is subject to a
11 monetary penalty of up to \$1000.

12 **F. Serious Violations**

13 (1) Serious violations will be assessed four (4) points each.

14 (2) Serious violations will require the station to refund the test fee and provide a free retest to the
15 vehicle owner or designee.

16 (3) Serious violations may also result in mandatory conferences at the VPMD Headquarters to
17 discuss the violation and means of assuring no future repetitions of the problem. The results of the conference will
18 be documented and may include commitments to complete additional training. The program manager or designee
19 may agree to vacate points if such commitments are completed successfully and on a timely manner. Mandatory
20 conferences will be scheduled and held at the VPMD Headquarters.

21 **G. Minor Violations:** Each minor violation will be assessed two (2) points. Minor violations will
22 result in formal written notices of violation.

23 [20.11.100.33 NMAC - N 2010]

24
25 **20.11.100.34 HISTORY OF VIOLATIONS**

26 **A.** The program manager may determine that an *air care* station or *air care* inspector has a history of
27 violations for the purpose of increasing the level of enforcement or penalty assessment on any future violations. The
28 program manager is not limited to looking at a 12-month period to determine if a history of violations exists.

29 **B.** When violations continue to occur at an *air care* station or by an *air care* inspector following
30 other enforcement actions, the program manager may issue a more severe enforcement action, including but not
31 limited to: issuing a Notice of Violation instead of a written warning for a minor violation; or, issuing an Intent to
32 Revoke or Suspend a certification for a non-minor violation that is the latest violation in a history of violations.

33 **C.** When violations continue to occur at an *air care* station or by an *air care* inspector following
34 other enforcement actions, the program manager may assess more severe penalties or a greater number of penalty
35 points as a result of an *air care* station or *air care* inspector committing continuing errors.

36 **D.** Significant accumulation of penalty points shall result in disciplinary action described in
37 20.11.100.35

38 [20.11.100.35 NMAC - N 2010]

39
40 ~~[20.11.100.26]~~ **20.11.100.35 DISCIPLINARY ACTION, DENIAL, SUSPENSION, OR REVOCATION**
41 **OF CERTIFICATIONS:**

42 **A.** The program manager is authorized after reasonable investigation and showing of a violation of
43 any provisions of [this regulation] 20.11.100 NMAC to take disciplinary actions including monetary penalties
44 [and/or] and denial, suspension or revocation of certification to operate under the program as a certified *air care*
45 station, certified fleet *air care* station, or certified *air care* inspector [or certified *air care* technician]. In deciding
46 on an appropriate action, the program manager may consider: past violations on file against the charged party;
47 previous actions which may have been taken by the program against the charged party; settlement or consent
48 agreements which document past violations; and judicial decisions if related to the requirements of [this part]
49 20.11.100 NMAC [to the procedures manual, or other program guidelines or requirements].

50 **B.** Notwithstanding the provisions of Subsection C of ~~[20.11.100.26]~~ 20.11.100.35 NMAC, the
51 program manager may immediately suspend or revoke the certification of a certified *air care* station, certified fleet
52 *air care* station, or certified *air care* inspector [or certified *air care* technician] if the program manager determines
53 that continued operation as an *air care* station, fleet *air care* station, or *air care* inspector [or *air care* technician]
54 would jeopardize the public health, safety and welfare, violate the [VPMP] VPMD procedures manual or [this part]
55 20.11.100 NMAC; or compromise the program.

1 C. Prior to taking any action to suspend or revoke a certification, the program manager shall inform
2 the inspector, ~~technician~~ or station owner of the charges. Any party so informed may request a hearing on the
3 merits before the program manager. Such request must be made in writing to the program manager within 15
4 consecutive days of receipt of the notice of intent to suspend or revoke the certification.

5 D. Upon receipt of a written request for a hearing on the merits, the program manager shall set a date,
6 time and place for the hearing no more than 60 days from the date of receipt of the request. No fewer than 15
7 consecutive days before the hearing, the program manager shall inform the charged party of the date, time and place
8 of the hearing. The program manager may appoint a hearing officer. At the hearing, the charged party may
9 demonstrate why a monetary penalty should not be imposed ~~and/or~~ and the certification should not be suspended
10 or revoked. The hearing officer will provide a recommendation to the program manager based on the evidence
11 presented at the hearing.

12 E. ~~[At]~~ After the hearing on the merits, based on the findings of the initial investigation and the
13 ~~[evidence presented at the hearing]~~ recommendation of the hearing officer, the program manager, with the approval
14 of the environmental health department director, may take appropriate action including but not limited to any one or
15 a combination of the following: monetary penalty; suspension or revocation of the certification; or dismissal of the
16 charges. The program manager may issue monetary penalties as authorized by the City of Albuquerque and ~~the~~
17 Bernalillo County Joint Air Quality Control Board Ordinances, the City of Albuquerque and Bernalillo County
18 Motor Vehicle Emissions Control Ordinances, and the New Mexico Air Quality Control Act. The program manager
19 may consider: past violations on file against the charged party; previous actions which may have been taken by the
20 program against the charged party; settlement or consent agreements which document past violations; and judicial
21 decisions if related to the requirements of ~~[this part]~~ 20.11.100 NMAC, to the procedures manual, or other program
22 guidelines or requirements.

23 F. Any party whose application for certification is denied or certificate is suspended or revoked may
24 appeal the decision of the program manager to the board. To perfect the appeal to the board, the appellant must
25 deliver a written request to the headquarters within 15 consecutive days after receipt of the program manager's
26 decision. The program shall inform the board at the next regular meeting of the board. The board may make its
27 determination based on the record or may require a hearing de novo. If the board decides on a hearing de novo, the
28 petitioner must submit the fee of \$125 pursuant to 20.11.2.1 NMAC. The hearing de novo will be held in
29 accordance with 20.11.81 NMAC. The board may uphold, overturn or amend the program manager's decision. If
30 the board decides to conduct a hearing de novo, the board may appoint a hearing officer, and the board shall set a
31 date, time and place for the hearing and shall hold the hearing within 90 days of the headquarters' receipt of the
32 written request. No fewer than 15 consecutive days before the hearing, the board shall inform the appellant of the
33 date, time and place of the hearing. The decision of the board shall be final.
34 [5/20/88. . .11/13/91, 8/25/92, 9/23/94, 12/1/95, 20.11.100.26 NMAC - Rn, 20 NMAC 11.100.II.15, 10/1/02; A,
35 5/1/04; A, 9/1/04]

36
37 ~~[20.11.100.27 — ENFORCEMENT:]~~ **20.11.100.36 ADDITIONAL ENFORCEMENT AUTHORITY:**

38 A. **Mandatory inspections:** Any person who owns a motor vehicle subject to ~~[this part]~~ 20.11.100
39 NMAC and fails to demonstrate compliance with ~~[this part]~~ 20.11.100 NMAC shall be issued a failing VIR and
40 shall be refused re-registration by the MVD pursuant to the Motor Vehicle Code, 66-3-7.1 NMSA (1978).

41 B. **Procedural provisions:** Any person who violates the requirements of ~~[this part]~~ 20.11.100
42 NMAC shall be guilty of a misdemeanor pursuant to either the City of Albuquerque Joint Air Quality Control Board
43 Ordinance 9-15-1-99(B)(1) R.O.1994 or the Bernalillo County Joint Air Quality Control Board Ordinance No. 94-5.
44 Any person who violates a requirement of ~~[this regulation also]~~ 20.11.100 NMAC shall also be subject both to all
45 other enforcement actions authorized by the Air Quality Control Act, 74-2-1 et. seq., NMSA 1978 and all other
46 remedies available at law or equity.

47 C. **Referral for further investigation or legal remedy.** In addition to suspension or revocation of
48 certification and monetary penalties, cases involving an intentional violation could be referred to the Attorney
49 General, District Attorney or City Attorney, as appropriate, for further investigation of fraudulent acts or other acts
50 contrary to law.

51 [5/20/88. . .12/1/95; 20.11.100.27 NMAC - Rn, 20 NMAC 11.100.II.16, 10/1/02]

52
53 ~~[20.11.100.28 — ADMINISTRATIVE FEES FOR CERTIFICATIONS:~~ Any person seeking certification, or
54 annual renewal thereof, to participate in the program as an *air care* station, inspector or technician shall remit to the
55 city the appropriate fee as indicated below before a certification shall be issued or renewed by the program.
56

1	Certifications	Amount
2	Certified Air Care Station	\$200.00
3	Certified Air Care Inspector	\$35.00
4	Certified Air Care Technician	\$35.00 { moved to 20.11.100.29 NMAC }
5	[5/20/88; 20.11.100.28 NMAC - Rn, 20 NMAC 11.100.II.17, 10/1/02]	

6
7 **20.11.100.29** Repealed.
8 [9/23/94. . .12/1/95, R 8/1/97; 20.11.100.29 NMAC - Rn, 20 NMAC 11.100.II.18, 10/1/02]
9

10 **HISTORY OF 20.11.100 NMAC:**

11 **Pre-NMAC History:** The material in this part was derived from that previously filed with the commission of
12 public records - state records center and archives.
13 Regulation No. 28, Motor Vehicle Inspection, filed 5/20/88;
14 Regulation No. 28, Motor Vehicle Inspection, filed 8/30/89;
15 Regulation No. 28, Motor Vehicle Inspection, filed 11/13/91;
16 Regulation No. 28, Motor Vehicle Inspection, filed 8/25/92;
17 Regulation No. 28, Motor Vehicle Inspection, filed 9/23/94.

18
19 **History of Repealed Material:** 20 NMAC 11.100.II.18, effective 8/1/97.
20

21 **Other History:** Regulation No. 28, Motor Vehicle Inspection, filed 9/23/94 was renumbered and reformatted to 20
22 NMAC 11.100, Motor Vehicle Inspection-Decentralized, effective 12/1/95.
23 20 NMAC 11.100, Motor Vehicle Inspection-Decentralized, filed 10/27/95 was renumbered, amended and
24 reformatted to 20.11.100 NMAC effective 10/1/02.
25