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1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE -BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
3 **PART 41 AIR QUALITY CONSTRUCTION AND OPERATING PERMITS FOR MINOR**
4 **SOURCES**

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6 **20.11.41.1 ISSUING AGENCY:** Albuquerque-Bernalillo County Air Quality Control Board, P.O. Box
7 1293, Albuquerque, NM 87103. Telephone: (505) 768-2601.
8 [20.11.41.1 NMAC - N, X/X/XX]

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10 **20.11.41.2 SCOPE:** 20.11.41 NMAC applies to every person who intends to construct, operate, modify or
11 relocate a source subject to 20.11.41 NMAC or make a technical revision to a source subject to 20.11.41 NMAC,
12 except as otherwise provided.
13 [20.11.41.2 NMAC - N, X/X/XX]

14 **A. Applicability:** Every stationary source subject to 20.11.41 NMAC shall obtain an air quality
15 construction and operating permit for minor sources, permit modification, relocation approval or technical revision
16 approval from the department as required by 20.11.41 NMAC before commencing construction of a new stationary
17 source or commencing a modification, relocation, or technical revision if the proposed construction, modification,
18 relocation or technical revision will emit a regulated air contaminant that is subject to any of the emission
19 thresholds, source types, classifications or other requirements of Subsection A of 20.11.41.2. NMAC, except as
20 otherwise provided in 20.11.41 NMAC.

21 **(1) Emissions thresholds that require an air quality construction and operating permit for a**
22 **minor source or permit modification:**

23 **(a)** If a person proposes to construct a new stationary source that will emit one or more
24 regulated air contaminants for which a federal, state or board ambient air quality standard exists and if the source
25 will emit, when calculated at the contaminant's potential emission rate, 10 pounds per hour or more or 25 tons per
26 year or more of any single regulated air contaminant, then the person shall apply for a permit as required by
27 20.11.41 NMAC. For purposes of Paragraph (1) of Subsection A of 20.11.41.2 NMAC, when rounding, if the
28 number after the decimal point is less than 5, the whole number remains unchanged. If the number after the decimal
29 point is 5 or greater, the whole number shall be rounded up to next whole number.

30 **(b)** If a person proposes a modification of a stationary source and the modification will emit
31 one or more regulated air contaminants for which a federal, state or board ambient air quality standard exists, and if,
32 as a result of the modification, all activities at the source will emit, when calculated at the contaminant's potential
33 emission rate, 10 pounds per hour or more or 25 tons per year or more of a regulated air contaminant, then the
34 person shall apply for a permit modification as required by 20.11.41 NMAC.

35 **(c)** If a person proposes to construct a new stationary source or proposes a modification of a
36 stationary source, and if the source will emit, when calculated at the contaminant's potential emission rate, 2 tons
37 per year or more of a single hazardous air pollutant (HAP) as defined by Section 112(b) of the federal Clean Air
38 Act, or 5 tons or more per year of any combination of HAP, then the proposed or existing source shall apply for a
39 permit or permit modification as required by 20.11.41 NMAC.

40 **(d)** If a stationary source was not required to obtain a permit pursuant to 20.11.41 NMAC
41 because the source was operating before August 31, 1972, and if operations of the source have ceased for five or
42 more consecutive years, and if a contaminant emitted by the source has a potential emission rate of 10 pounds per
43 hour or more or 25 tons per year or more of any regulated air contaminant, then the owner or operator of the source
44 shall apply for a permit as required by 20.11.41 NMAC.

45 **(e)** If a major stationary source or major modification as defined in 20.11.60 NMAC, *Permitting*
46 *in Nonattainment Areas*, also meets the applicability requirements of 20.11.41 NMAC, then the major stationary
47 source or modification shall apply for a permit pursuant to both 20.11.41 NMAC and 20.11.60 NMAC if either of
48 the following conditions applies:

49 **(i)** the source is or will be located within a nonattainment area for any NAAQS and will
50 emit the air contaminant or contaminants for which the area is in nonattainment, or will emit hydrocarbons in the
51 case of ozone nonattainment; or

52 **(ii)** the source is or will be located in an area that is in attainment of the NAAQS for the
53 air contaminant or air contaminants that the source will emit, but, before emissions offsets or trades are considered,
54 the ambient impact of the emissions from the source will exceed the significance levels of Subsection A of
55 20.11.60.22 NMAC at any location within the impacted areas that is in nonattainment for the air contaminant or air
56 contaminants emitted by the source.

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1 (f) If a person proposes to construct a new stationary source or proposes a modification of a
2 stationary source, and if the source will emit, when calculated at the contaminant's potential emission rate, 5 tons
3 per year or more of lead (Pb) or any combination of lead and its compounds per year when measured by a reference
4 method based on 40 CFR 50, Appendix G, then the person shall apply for a permit or permit modification as
5 required by 20.11.41 NMAC.

6 (2) **Source classifications; source types:** If a person proposes to construct a new stationary source
7 or proposes a modification of a stationary source and any of the following conditions in apply, then the person shall
8 obtain a permit or a permit modification pursuant to 20.11.41 NMAC before commencing construction or
9 modification:

10 (a) if a person proposes to install any equipment or process that is subject to 20.11.63 NMAC,
11 New Source Performance Standards for Stationary Sources, or 20.11.64 NMAC, Emission Standards for Hazardous
12 Air Pollutants for Stationary Sources;

13 (b) if a source meets the applicability requirements of 20.11.41 NMAC but also is a major
14 stationary source or a major modification as defined in 20.11.61 NMAC, *Prevention of Significant Deterioration*, in
15 which case the owner or operator shall apply for a permit pursuant to both 20.11.41 NMAC and 20.11.61 NMAC.

16 (c) if the department determines that the source will emit a significant amount of an air
17 contaminant for which no federal emissions standard has yet been established but that is listed in 40 CFR 61.01(b)
18 with the hazardous air pollutants;

19 (d) if a source is a major source of HAP as defined in 40 CFR 63;

20 (e) if the source is a portable or temporary stationary source;

21 (f) if a source relocation is proposed; or

22 (g) if a revision to a permit is proposed.

23 (3) **Sources that become subject to new NSPS or NESHAP.** If a person is operating a source that
24 becomes subject to a new NSPS or NESHAP, the person shall apply for permit as required by 20.11.41 NMAC.

25 (4) **Additional Permit Requirements:**

26 (a) If a source includes more than one unit, the department may require a separate permit or
27 permit conditions for each unit that is not substantially interrelated with another unit. A common connection leading
28 to ductwork, pollution control equipment or a single stack, shall not, by itself, constitute a substantial
29 interrelationship.

30 (b) Although more than one air quality permitting regulation adopted by the board may apply
31 to a stationary source, including 20.11.40, 60, 61, 63, and 64 NMAC, nothing in 20.11.41 NMAC shall be construed
32 to require more than one permit application for each unit proposed for construction or modification. Definitions and
33 provisions included in specific federal *program regulations* shall apply to permit review of any regulated air
34 contaminant and source regulated by the federal NSPS, NESHAP, prevention of significant deterioration, visibility
35 or nonattainment requirements.

36 (c) For all sources subject to 20.11.41 NMAC, applications for permits shall be filed before
37 commencement of construction, modification, relocation or technical revision. Regardless of the anticipated
38 commencement date, no construction, modification, relocation or revision shall begin before the owner or operator
39 has received a permit or written approval from the department.

40 **B. Exemptions:**

41 (1) 20.11.41 NMAC does not apply to sources within Bernalillo county that are located on Indian
42 lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

43 (2) The permittee shall report the following new or modified sources and activities at a facility as
44 required in the permit application forms supplied by the department:

45 (a) fuel burning equipment that is used solely for heating buildings for personal comfort or for
46 producing hot water for personal use and that:

47 (i) uses gaseous fuel and has a total design rate for all units of five million BTU per hour
48 or less; or

49 (ii) uses distillate oil, but not including waste oil, and has a total design rate for all units
50 of one million BTU per hour or less;

51 (b) After a permit has been issued, construction of the sources or commencement of the sources
52 and activities described in Paragraph (2) of Subsection B of 20.11.41.2 NMAC shall comply with the administrative
53 permit revision procedures in Subsection A of 20.11.41.28 NMAC. Emissions from the sources and activities
54 described in Paragraph (2) of Subsection B of 20.11.41.2 NMAC shall not be included in the facility-wide potential
55 emission rate calculation that is described in Subparagraphs (a) and (b) of Paragraph (1) of Subsection A of

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1 20.11.41.2 NMAC, unless the sources or emissions are subject to any NSPS or NESHAP requirement of 20.11.41
2 NMAC.

3 [20.11.41.2 NMAC - N, X/X/XX]
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5 **20.11.41.3 STATUTORY AUTHORITY:** 20.11.41 NMAC is adopted pursuant to the authority provided in
6 the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5C; the Joint Air Quality Control
7 Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3 & 4; and the Joint Air Quality Control Board
8 Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 & 9-5-1-4.

9 [20.11.41.3 NMAC - N, X/X/XX]
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11 **20.11.41.4 DURATION:** Permanent.

12 [20.11.41.4 NMAC - N, X/X/XX]
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14 **20.11.41.5 EFFECTIVE DATE:** XX, XX, XXXX, unless a later date is cited at the end of a section.

15 [20.11.41.5 NMAC - N, X/X/XX]
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17 **20.11.41.6 OBJECTIVE:** To establish the requirements for obtaining an air quality construction and
18 operating permit for a minor source to insure that upon operation following construction, modification, relocation or
19 revision, a new stationary source or stationary source will not cause an exceedance of any federal or state emission
20 limitation or standard, or local board regulation. This procedure will protect the source owner's investment as well
21 as address public concern and desire for input before the department makes a decision regarding proposed
22 commencement of construction, modification, relocation or revision of an air pollution source in Bernalillo county.

23 [20.11.41.6 NMAC - N, X/X/XX]
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25 **20.11.41.7 DEFINITIONS:** 20.11.41 NMAC as well as 20.11.1, 60, 61, 63 and 64 NMAC use terms with
26 exclusive meanings applicable to air quality permits or modifications. The regulations referenced in the
27 immediately-preceding sentence shall apply the following terms as defined in 20.11.41.7 NMAC. If there is a
28 conflict among the use of terms and their definitions, the meaning specified in 20.11.41 NMAC shall prevail and
29 apply to permits issued pursuant to 20.11.41 NMAC.

30 **A. "Act" or "state act"** means the New Mexico Air Quality Control Act, Chapter 74, Article 2
31 NMSA 1978.

32 **B. "Administrative permit revision" or "administrative revision"** means a revision to an air
33 quality construction and operating permit for a minor source that is requested and approved pursuant to Subsection
34 A of 20.11.41.28 NMAC.

35 **C. "Air contaminant" or "contaminant"** means a substance, including particulate matter, fly ash,
36 dust, fumes, gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof or any decay
37 or reaction product thereof.

38 **D. "Air pollutant" or "pollutant"** means the emission, except emission that occurs in nature, into
39 the outdoor atmosphere of one or more air contaminants in quantities and of a duration that may with reasonable
40 probability injure human health or animal or plant life or as may unreasonably interfere with the public welfare,
41 visibility or the reasonable use of property.

42 **E. "Air pollution control equipment"** means any device, equipment, process or combination
43 thereof the operation of which would limit, capture, reduce, confine, or otherwise control air contaminants or
44 convert for the purposes of control any air contaminant to another form, another chemical or another physical state.

45 **F. "Ambient air"** means the outdoor atmosphere, but does not include the area entirely within the
46 geographical boundaries of the source from which the air contaminants are, or may be, emitted and where public
47 access is restricted within the boundaries.

48 **G. "Applicable requirement"** means any of the following, and includes requirements that have been
49 promulgated or approved by the board or EPA through rulemaking:

50 (1) any standard or other requirement provided in the New Mexico state implementation plan
51 approved by EPA, or promulgated by EPA through rulemaking, under Title I of the federal act, including Parts C or
52 D;

53 (2) any term or condition of a construction permit issued pursuant to regulations approved or
54 promulgated through rulemaking under Title I of the federal act, including Parts C or D;

55 (3) any standard or other requirement:

56 (a) under Section 111 or 112 of the federal act;

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1 (b) of the acid rain program under Title IV of the federal act or the regulations promulgated
2 thereunder;

3 (c) governing solid waste incineration under Section 129 of the federal act;

4 (d) for consumer and commercial products under Section 183(e) of the federal act; or

5 (e) of the regulations promulgated to protect stratospheric ozone under Title VI of the federal
6 act, unless the EPA administrator has determined that the requirements need not be contained in a Title V permit;

7 (4) any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the federal act;

8 (5) any national or state ambient air quality standard;

9 (6) any increment or visibility requirement under Part C of Title I of the federal act applicable to
10 temporary sources permitted pursuant to Section 504(e) of the federal act; and

11 (7) any regulation adopted by the board in accordance with the Joint Air Quality Control Board
12 Ordinances pursuant to the Air Quality Control Act, and the laws and regulations in effect pursuant to the Air
13 Quality Control Act.

14 **H. "Board"** means the Albuquerque-Bernalillo county air quality control board or its successor board
15 pursuant to the act.

16 **I. "Commence", "commencement" or "commencing"** means an owner or operator has undertaken
17 a continuous program of construction or modification or that an owner or operator has entered into a binding
18 contractual obligation to undertake and complete a continuous program of construction within a reasonable time.

19 **J. "Construction"** means fabrication, erection, installation or relocation of a stationary source,
20 including but not limited to temporary installations and portable stationary sources.

21 **K. "Days"** means consecutive days except as otherwise specifically provided.

22 **L. "Department"** means the Albuquerque environmental health department, which is the
23 administrative agency of the Albuquerque-Bernalillo county air quality control board.

24 **M. "Emergency"** means unforeseen circumstances resulting in an imminent and substantial
25 endangerment to health, safety, or welfare and that require immediate action.

26 **N. "Emission limitation"** means a requirement established by EPA, the state implementation plan
27 (SIP), the Air Quality Control Act, local ordinance, permit, or board part or regulation, that limits the quantity, rate
28 or concentration, or combination thereof, of emissions of regulated air pollutants on a continuous basis, including
29 any requirements relating to the operation or maintenance of a source to assure continuous reduction.

30 **O. "Emission unit" or "unit"** means any article, machine, equipment, contrivance, process, or
31 process line which emit(s) or reduce(s), or may emit or reduce, the emissions of any air contaminant, except from
32 motor vehicles.

33 **P. "EPA"** means the United States Environmental Protection Agency.

34 **Q. "Federal clean air act", "CAA" or "federal act"** means the federal Clean Air Act, 42 U.S.C.
35 Section 7401 through 7671 et seq., as amended

36 **R. "Federally enforceable"** means all limitations and conditions that are enforceable by the
37 administrator of the EPA, including all requirements developed pursuant to 40 CFR Parts 60 and 61, requirements
38 included in any applicable state implementation plan, and any permit requirements established pursuant to 40 CFR
39 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR
40 51.166Q.

41 **S. "Malfunction"** means any sudden, infrequent, and not reasonably preventable failure of air
42 pollution control equipment, process equipment, or the failure of a process to operate in a normal or expected
43 manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

44 **T. "Modification" or "to modify"** means a physical change in, or change in the method of operation
45 of a source that results in an increase in the potential emission rate of any regulated air contaminant emitted by the
46 source or that results in the emission of any regulated air contaminant not previously emitted; a relocation of a
47 stationary source, unless previously established as a portable stationary source subject to specific permit conditions;
48 or a revision that involves substantive changes that exceed the scope of a revision as defined by 20.11.41.29 NMAC,
49 but does not include:

50 (1) a change in ownership of the source;

51 (2) routine maintenance, repair or replacement;

52 (3) installation of air pollution control equipment, and all related process equipment and materials
53 necessary for its operation, undertaken for the purpose of complying with regulations adopted by the state or local
54 board or pursuant to the CAA; or

55 (4) unless previously limited by enforceable permit conditions:

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1 (a) an increase in the production rate, if the increase does not exceed the operating design
2 capacity of the source;

3 (b) an increase in the hours of operation; or

4 (c) use of an alternative fuel or raw material if, prior to January 6, 1975, the source was capable
5 of accommodating the fuel or raw material or if use of an alternate fuel or raw material is caused by any natural gas
6 curtailment or emergency allocation or any other lack of supply of natural gas.

7 **U. "National ambient air quality standards" or "NAAQS"** means the primary (health based) and
8 secondary (welfare-related) federal ambient air quality standards promulgated by the EPA pursuant to Section 109
9 of the CAA.

10 **V. "North American industry classification system" or "NAICS"** means the industry classification
11 system used by the statistical agencies of the United States issued by the federal office of management and budget
12 and replaces the standard industrial classification (SIC) system.

13 **W. "National emission standards for hazardous air pollutants" or "NESHAP"** means the
14 regulatory requirements, guidelines and emission limitations promulgated by the EPA pursuant to Section 112 of the
15 CAA.

16 **X. "New Mexico ambient air quality standards" or NMAAQs"** means the ambient air quality
17 standards promulgated by the New Mexico environmental improvement board.

18 **Y. "New source performance standard or NSPS"** means the regulatory requirements, guidelines
19 and emission limitations promulgated by the EPA pursuant to Section 111 of the CAA.

20 **Z. "Nonattainment area"** means for any air contaminant an area that is shown by monitoring data or
21 that is calculated by air quality modeling, or by other methods determined by the director of the department or the
22 administrator of the EPA to be reliable to exceed either a state NMAAQs or NAAQS for the contaminant, including
23 but not limited to areas identified under Section 107 (d) (1) (A) through (C) of the CAA.

24 **AA. "Operator"** means the specific local organization or subdivision of the firm or person, whether
25 private, corporate, or public, that manages, on location, the operations of the stationary source.

26 **BB. "Owner"** means the person or persons who own a facility or part of a facility.

27 **CC. "Part"** means an air quality control regulation organized under Title 20, Chapter 11 of the New
28 Mexico Administrative Code that has been adopted or amended by the board, unless otherwise noted.

29 **DD. "Permit"** means an air quality construction and operating permit for a minor source, a permit
30 modification, a relocation, or a technical revision to a permit that has been issued or approved by the department
31 pursuant to 20.11.41 NMAC. A permit includes constraints, emissions limitations and other conditions and
32 authorizes a person to commence construction, or to modify, relocate or make a technical revision to the permitted
33 source, facility or operation.

34 **EE. "Permittee"** means the person who has applied for and has obtained an air quality construction
35 and operating permit for a minor source that has been issued pursuant to 20.11.41 NMAC.

36 **FF. "Portable stationary source"** means a source that can be relocated to another operating site with
37 limited dismantling and reassembly, including, as an example, movable sand and gravel processing operations,
38 concrete and asphalt plants.

39 **GG. "Potential emission rate"** means the emission rate of a source at its maximum capacity to emit a
40 regulated air contaminant under its physical and operational design, provided any physical or operational limitation
41 on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and
42 restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be
43 treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is
44 enforceable by the department or the board pursuant to the Air Quality Control Act or the federal Act.

45 **HH. "Process equipment" or "process equipment unit"** means any equipment, apparatus, or device
46 embracing chemical, industrial, or manufacturing facilities such as ovens, mixing kettles, heating and reheating
47 furnaces, kilns, stills, dryers, roasters, and equipment used in connection therewith, and all other methods or forms
48 of manufacturing or processing that may emit any air contaminant.

49 **II. "Public information hearing" or "PIH"** means the hearing provided by the permit applicant
50 pursuant to 20.11.41.15 NMAC.

51 **JJ. "Regulated air contaminant"** means any air contaminant, the emission or ambient concentration
52 of which is regulated pursuant to the New Mexico air quality control act or the federal act

53 **KK. "Relocation"** means to physically move a portable stationary source.

54 **LL. "Shutdown"** means the cessation of operation of a stationary source, which involves deactivating
55 the air pollution controls and not activating the source to perform the purpose for which it was intended. Brief

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1 interruptions of operation that are normal for the type of source that operates in cyclic rather than near-steady-state
2 mode are not considered a shutdown source for the purpose of 20.11.41 NMAC.

3 **MM. "Significantly impact"** means to pollute to an extent that ambient contaminant concentrations,
4 including background, exceed any of the significance levels listed in Table 1 of 20.11.41.32 NMAC, as indicated by
5 modeling techniques authorized by the department.

6 **NN. "Standard industrial classification" or "SIC"** means the code from the system used to classify
7 all industries in the United States economy which was administered by the federal statistical policy division of the
8 office of management and budget and in 1997 was replaced by the North American industry classification system
9 (NAICS).

10 **OO. "Startup"** means to put a stationary source that has been constructed or modified as authorized by
11 a permit pursuant to 20.11.41 NMAC into operation complete with operable air pollution controls, so the process
12 equipment or the process performs for the purpose intended. The operation may be cyclic in response to on-off
13 controls. Repetition of cycles is not startup for purposes of 20.11.41 NMAC.

14 **PP. "Stationary source" or "source"** means any building, structure, equipment, facility, or
15 installation which is either permanent or temporary, excluding a private residence, that emits or may emit any
16 regulated air contaminant or any pollutant listed under Section 112(b) of the federal act, the Air Quality Control Act,
17 or the laws and regulations in effect pursuant to the act. Several buildings, structures, facilities, or installations, or
18 any combinations will be treated as a single stationary source if they belong to the same industrial grouping, are
19 located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons,
20 or are under common control. Pollutant-emitting activities shall be treated as the same industrial grouping if they
21 have the same first two digits of an applicable North American industry classification system (NAICS) code.

22 **QQ. "Technical permit revision" or "technical revision"** means a revision to an air quality
23 construction and operating permit for a minor source applied for and approved pursuant to Subsection B of
24 20.11.41.28 NMAC.

25 [20.11.41.7 NMAC - N, X/X/XX]

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27 **20.11.41.8 VARIANCES:** A person may request a variance from 20.11.41 NMAC in accordance with the
28 procedures established in 20.11.7 NMAC.

29 [20.11.41.8 NMAC - N, X/X/XX]

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31 **20.11.41.9 SAVINGS CLAUSE:** Any amendment to 20.11.41 NMAC that is filed with the state records
32 center and archives shall not affect actions pending for violation of the air quality control act, a city or county
33 ordinance, a prior version of 20.11.41 NMAC, another board regulation or a permit issued by the department.
34 Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute,
35 ordinance, part or regulation section in effect at the time the violation was committed.

36 [20.11.41.9 NMAC - N, X/X/XX]

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38 **20.11.41.10 SEVERABILITY:** If for any reason any section, paragraph, sentence, clause, wording or
39 application of 20.11.41 NMAC or any federal standards incorporated herein is held unconstitutional or otherwise
40 invalid by any court or the United States environmental protection agency, the decision shall not affect the validity
41 or application of remaining provisions of 20.11.41 NMAC.

42 [20.11.41.10 NMAC - N, X/X/XX]

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44 **20.11.41.11 DOCUMENTS:** Documents incorporated and cited in 20.11.41 NMAC may be viewed
45 at the Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM 87102. The permit
46 application, supporting documentation, any preliminary determination made by the department, and the draft permit,
47 if completed, shall be available for public inspection at the department's air quality division office at 11850 Sunset
48 Gardens SW, Albuquerque, New Mexico.

49 [20.11.41.11 NMAC - N, X/X/XX]

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51 **20.11.41.12 FEES FOR PERMIT APPLICATION REVIEW:**

52 **A.** An application for a permit shall be accompanied by a check or money order in the amount
53 required by 20.11.2 NMAC, *Fees*. No application shall be complete until the entire fee has been tendered. Checks
54 shall be made payable to the city of Albuquerque as required by 20.11.2 NMAC, *Fees*.

55 [20.11.41.12 NMAC - N, X/X/XX]

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20.11.41.13 APPLICATION FOR PERMIT:

A. Pre-application requirements: A person who is seeking a permit pursuant to 20.11.41 NMAC shall contact the department in writing and request a pre-application meeting or information regarding the contents of the application and the application process. The meeting shall include discussion of approved emission factors and control efficiencies, air dispersion modeling guidelines, department policies, air quality permit fees, public notice requirements and regulatory timelines. The department may waive the pre-application meeting requirement.

B. A person who is seeking a permit pursuant to 20.11.41 NMAC shall complete a permit application and file one complete original and one duplicate copy with the department

C. Application contents: The following are the minimum elements that shall be included in the permit application before the department can determine whether the application is administratively complete and ready for technical review. It is not necessary to include an element if the department has issued a written waiver regarding the element and the waiver accompanies the application. The permit application shall:

- (1) be filled in completely on a form provided by the department;
- (2) include name and address of the applicant and the names and address of the owner and all operators of the source if different than the applicant;
- (3) the date the application was submitted to the department;
- (4) sufficient attachments, including calculations, computations, EPA-approved air dispersion model or models executed under a protocol that has been approved in advance and in writing by the department, and all other analyses used by the applicant to providing information to describe the potential emission rate and nature of all regulated air contaminants that the source may emit, and the actual emissions that the source will emit under routine operations after construction, modification, relocation or technical revision, along with estimates of potential emissions during malfunction, startup and shutdown;
- (5) an operational and maintenance strategy detailing:
 - (a) the steps the applicant will take if a malfunction occurs that may cause emission of a regulated air contaminant to exceed a threshold that is included in the permit;
 - (b) the nature of emissions during routine startup or shutdown of the source and the source's air pollution control equipment; and
 - (c) the steps the applicant will take to minimize emissions during routine startup or shutdown;
- (6) a map, such as a 7.5 minute Topographic Quadrangle map published by the United States Geological Survey or a map of equivalent or greater scale, detail and precision, including a City of Albuquerque or County of Bernalillo Zone Atlas map that shows the exact location of each process equipment unit involved in the proposed construction, modification, relocation or technical revision of the source;
- (7) an aerial photograph showing the exact location of each process equipment unit involved in the proposed construction, modification, relocation or technical revision of the source;
- (8) a complete description of all sources of regulated air contaminants and a process flow diagram depicting the process equipment unit or units at the facility, both existing and proposed, that are proposed to be involved in routine operations and from which regulated air contaminant emissions are expected to be emitted;
- (9) a full description of air pollution control equipment, including all calculations and the basis for all control efficiencies presented, manufacturer's specifications sheets, and site layout and assembly drawings. UTM (Universal Transverse Mercator) coordinates shall be used to identify the location of each emission unit;
- (10) a description of the equipment or methods proposed by the applicant to be used for emission measurement, if required by the department;
- (11) the maximum and normal operating time schedules of the source after completion of construction, modification, relocation or technical revision;
- (12) other relevant information as the department may reasonably require;
- (13) the signature of the applicant, operator, owner or an authorized representative, certifying all information as represented in the application and attachments, if any;
- (14) be accompanied by a check or money order for the appropriate application fee or fees required by 20.11.2 NMAC, *Fees*. The fees are established to offset some or all of the reasonable cost of the department reviewing and acting upon an application for a permit and implementing and enforcing the terms and conditions of the permit, excluding costs associated with an enforcement action; and
- (15) documentary proof that applicant has complied with all public notice requirements, as required by Subsections D and E of 20.11.41.13 NMAC. Documentary proof shall include the proof of publication of the public notice required by Paragraph (3) of Subsection D of 20.11.41.13 NMAC and a photograph of each notice posted as required by Paragraph (4) of Subsection D of 20.11.41.13 NMAC.

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1 **D. Applicant's public notice requirements:** The applicant shall comply with the following public notice
2 requirements of Paragraphs (1)-(4) of Subsection D of 20.11.41.13 NMAC if the applicant is applying for a permit,
3 permit modification or source relocation. The applicant shall:

4 (1) provide public notice by certified mail to the owners of record, as shown in the most recent
5 property tax schedule, of all properties within one-quarter mile of the boundaries of the property on which the
6 facility is located or proposed to be located;

7 (2) provide public notice by certified mail to the Bernalillo county manager; to the mayor of all
8 municipal corporations and counties within a two-mile radius of the property upon which the facility is or is
9 proposed to be located; to the city of Albuquerque councilors and Bernalillo county commissioners of the districts
10 within which the facility is or is proposed to be located; and to all Indian pueblos, Indian reservations and counties
11 within a two-mile radius of the property on which the facility is or is proposed to be located;

12 (3) publish public notice once in the newspaper of the largest general circulation in Bernalillo county.
13 The notice shall be located in either the classified or the legal advertisements section of the newspaper and at one
14 additional location in the newspaper that is calculated to provide effective notice to the general public. The notice in
15 the additional location shall be at least 96.8 square centimeters (15 square inches), with the shortest dimension at
16 least 7.6 centimeters (three inches). The department may require the notice to be published in a language other than
17 English.

18 (4) until the application is issued or denied, post and maintain the public notice at a minimum of four
19 publicly-accessible and conspicuous locations, including:

20 (a) a weather-proof sign meeting the minimum size as determined by the department posted at
21 the more visible of either the proposed or existing facility entrance or another location on the property boundary;
22 and

23 (b) three additional locations commonly frequented by the general public, such as city hall, a
24 nearby post office, public library, community center, senior center or institution of learning.

25 **E. Additional public notice requirements:** The public notice specified in Paragraphs (1) through
26 (4) of Subsection D of 20.11.41.13 NMAC shall include the following:

27 (1) the applicant's name and address, and the names and addresses of owner or operator of the facility
28 or proposed facility;

29 (2) the actual or estimated date the application will be submitted to the department;

30 (3) the exact location of the facility or proposed facility;

31 (4) a description of the facility, the nature of business, the process or change for which the permit is
32 being requested, including an estimate of the maximum quantities of each regulated air contaminant the source will
33 emit if the permit is issued and the proposed construction or modification is completed;

34 (5) the maximum and standard normal operating schedules proposed for the facility; and

35 (6) the current address of the applicant to which comments and inquiries may be directed.

36 **F. Changing, Supplementing or Correcting Applications:**

37 (1) Before the department makes a final decision regarding the application, the applicant shall have a
38 duty to promptly supplement and correct information the applicant has submitted in the application to the
39 department. Applicant's duty to supplement and correct the application includes relevant information acquired after
40 the applicant has submitted the application and additional information the applicant otherwise determines is relevant
41 to the application and the department's review and decision.

42 (2) While the department is processing an application, regardless of whether the department has
43 determined the application is administratively complete, if the department determines additional information is
44 necessary to evaluate or make a final decision regarding the application, the department may request, and the
45 applicant shall provide the requested additional information. The request shall be in writing, identify the additional
46 information requested, the reason the additional information is needed, and set a reasonable deadline for a response.
47 The applicant shall submit the requested information in writing to the department on or before the response deadline.

48 **G. Protection of Confidential Information:**

49 (1) All records, reports or information relating to permit applications obtained by the department or
50 the board from any person shall be available to the public for inspection and copying, except if a person has made a
51 satisfactory showing to the department or the board that specific items or information or parts thereof, if made
52 public, would divulge confidential business records or methods or processes entitled to protection as trade secrets. If
53 the items or information are specifically marked by the person as confidential at the time of submittal, the
54 department or the board shall then protect the following as confidential and not to be made a part of any public
55 record unless the person expressly agrees, in writing, to its inspection, copying, or publication:

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1 (a) records, reports or information relating to methods, processes or production
2 techniques unique to the person, and

3 (b) data relating to the person's profits and costs or other confidential business
4 information which have not previously been released to the public.

5 (2) Subsection F of 20.11.41.13 NMAC shall not be construed to prohibit the release of information
6 concerning the nature and amount of emissions from any source.

7 (3) The department shall review all claims of confidentiality made by any person pursuant to
8 20.11.41 NMAC and shall notify the person by certified mail in a timely manner with the reasons for its decision.
9 The burden of proof for claims of confidentiality shall be upon the person submitting such claim.

10 (4) The department's determination regarding claims made pursuant to Subsection F of 20.11.41.13
11 NMAC shall be the final administrative determination.

12 (5) The department shall protect information claimed and subsequently found to be confidential in
13 accordance with the provisions of 14-2-1 NMSA 1978 and 18 U. S. C. Section 1905, except that any such record,
14 report or information may be disclosed:

15 (a) to other officers, employees or authorized representatives of the department, the board and
16 the EPA; or

17 (b) in any proceeding pursuant to the federal act or the state act, when relevant.
18 [20.11.41.13 NMAC - N, X/X/XX]
19

20 **20.11.41.14 PUBLIC NOTICE BY DEPARTMENT -- PUBLIC PARTICIPATION:**

21 **A.** The department shall make a list of all pending applications for permits available for public inspection.

22 **B.** The department shall make the permit application and all supporting documentation available for
23 public inspection. The application, supporting documentation, any preliminary determination made by the
24 department, and the draft permit, if completed, shall be available for public inspection at the department's air quality
25 division office at 11850 Sunset Gardens SW, Albuquerque, New Mexico.

26 **C.** If the department makes an affirmative administrative completeness determination:

27 (1) the department shall publish the public notice in the newspaper with the largest general circulation
28 in Bernalillo county. The notice shall include:

29 (a) the applicant's name and address, the proposed or existing location, a brief
30 description of the source, a summary of proposed emissions and ambient air quality impact as determined by air
31 dispersion modeling, and that the department will issue the permit if the department determines the construction or
32 modification requested in the application complies with all requirements of 20.11.41 NMAC, including ambient air
33 quality standards.

34 (b) where the permit application, the department's analysis, and a draft permit, if
35 completed, are available for public review.

36 (c) that the public has 30 days to submit written comments and evidence to the
37 department regarding the proposed permit, and the deadline for submitting written comments and evidence.

38 (d) that the applicant shall hold a public information hearing if the director determines
39 there is significant public interest and a significant air quality issue is involved; and

40 (e) that any person who does not submit written comments and evidence to the
41 department by the deadline will not receive notification of the department's decision regarding the proposed permit.

42 (2) the department shall provide the notice required by Paragraph (1) of Subsection C of
43 20.11.41.14 NMAC by regular mail or electronic mail to all individuals and organizations identified on a list
44 maintained by the department of persons who have stated in writing a desire to receive notices of all applications
45 filed pursuant to 20.11.41 NMAC.

46 (5) the department shall allow all interested persons 30 days from the date the public notice is
47 published to deliver to the department written comment and evidence regarding the application for a permit;

48 (6) the department shall send notice of the department's action regarding the permit application
49 and the reasons for the action to every person who participated in the permitting action. The applicant shall be
50 notified by certified mail. All other interested persons who participated shall be notified by regular mail;

51 (7) when the department submits the public notice for publication, the department shall provide a
52 copy of the public notice to the mayor of each municipality within Bernalillo county, the Bernalillo county manager,
53 every Albuquerque city councilor within one-quarter mile of the proposed location, every Bernalillo county
54 commissioner for each district within one-quarter mile of the proposed location, and the president or vice president
55 for every neighborhood association within one-quarter mile of the proposed location.

1 (8) the department shall mail a copy of the public notice to every person who submits a written
2 request for a copy to the department.
3 [20.11.41.14 NMAC - N, X/X/XX]
4

5 **20.11.41.15 PUBLIC INFORMATION HEARING**

6 **A.** Before the department makes a final decision regarding the application, the applicant shall hold a public
7 information hearing if the director determines that there is significant public interest and a significant air quality
8 issue is involved. The applicant shall coordinate the date and time of the public information hearing with the
9 department, and the applicant shall make all arrangements regarding the public information hearing in consultation
10 with, and as required by the department. The applicant shall pay all expenses of the hearing and provide and pay for
11 notice of the public information hearing. The applicant shall not be required to reimburse the department for costs
12 related to department staff attending the public information hearing. The public information hearing shall be held
13 more than 30 days before the deadline for the department to make a final decision regarding the permit application.

14 **B.** The applicant shall:

15 (1) arrange for a location for the public information hearing that has been approved in advance
16 and in writing by the department and shall be near the proposed facility location if reasonably feasible;

17 (2) provide an English-Spanish and Spanish-English translator at the public information hearing if
18 required by the department;

19 (3) provide a hearing officer approved in advance and in writing by the department; the hearing
20 officer shall run the public information hearing; shall give all people present at the hearing a reasonable opportunity
21 to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing; and shall
22 not make a final decision regarding the permit application;

23 (4) provide individuals to present applicant's proposal and to answer questions from attendees at
24 the public information hearing;

25 (5) provide notice of the public information hearing to the president of each neighborhood
26 association in the city of Albuquerque and county of Bernalillo that is within one-quarter mile of the property on
27 which the facility is located or proposed to be located; the applicant shall obtain the name and address of the
28 neighborhood association from the city of Albuquerque or county of Bernalillo, as applicable; the notice shall
29 contain the information required by Paragraphs (1) and (3)-(5) of Subsection E of 20.11.41.13 NMAC. The notice
30 of the public information hearing shall be in both English and Spanish. The applicant shall obtain a sample public
31 information hearing notice from the department, which the applicant shall use as a template. If a public information
32 hearing notice is returned to the applicant undelivered, the applicant shall promptly confirm the address through the
33 appropriate local government entity, and, if possible, shall deliver a second copy of applicant's PIH notice to the
34 president or vice president of the neighborhood association. The applicant shall deliver proof of delivery as required
35 by the department. If the applicant cannot successfully deliver public notice to a neighborhood association as
36 required, applicant shall include proof of applicant's good faith efforts to comply with the requirements of Paragraph
37 (5) of Subsection B of 20.11.41.15 NMAC.

38 (6) publish and post notice of the public information hearing as required by Paragraphs (3) and (4)
39 of Subsection D of 20.11.41.13 NMAC. In addition, the notice shall include the date, time, and location of the PIH,
40 and the number of the proposed permit and a statement that a final decision has not been made by the department
41 regarding the proposed permit.

42 **C.** The department shall:

43 (1) mail notice of the public information hearing to all interested persons who have submitted
44 written comments or evidence to the department and to interested persons who have delivered to the department a
45 written request for notice regarding the application. A request to inspect or copy shall not be considered a written
46 comment for the purposes of this paragraph;

47 (2) require department staff to attend the PIH and be present during the applicant's presentation
48 and the questions by the attendees; and

49 (3) record the PIH and include the recording in the administrative record for the permit
50 application. The department shall provide a duplicate of the tapes to any person who requests a copy. The person
51 requesting shall reimburse the department for the cost of the duplicate tapes before the department makes the copies.
52 The person making the request for copying may instead provide the department with wrapped, new tapes that meet
53 the department specifications, and the department will not impose a charge for copying. If a transcript of the hearing
54 is requested, the department shall arrange for a transcription to be made, and the cost of the transcript shall be paid
55 promptly by the person who requested the transcript.

1 [20.11.41.15 NMAC - N, X/X/XX]
2

3 **20.11.41.16 PERMIT DECISIONS AND APPEALS: NEW STATIONARY SOURCES:**

4 **A.** Within 30 days after the department has received an application for a permit, the department shall
5 review the application and determine whether it is administratively complete.

6 (1) If the department determines the application is administratively complete, the department shall
7 send a letter by certified mail to the applicant stating the department’s determination.

8 (2) If the department determines the application is administratively incomplete, the department
9 shall send a letter by certified mail to the applicant stating what additional information or points of clarification are
10 necessary before the department can determine whether the application is administratively complete. The letter shall
11 state a reasonable deadline for the applicant to deliver the information or clarification. The applicant shall deliver
12 the requested information or clarification in writing by the deadline set by the department. The department may
13 extend the deadline for good cause as determined by the department. If the department does not receive the
14 additional information or clarification by the deadline, the department may deny the application. If the department
15 has ruled an application administratively incomplete three times, the department shall send a letter by certified mail
16 to the applicant stating the permit application is denied. If the department has denied the application, the applicant
17 may submit a new application and the fee required for a new application.

18 (3) If the department determines the application is administratively complete but no permit is
19 required, the department shall send a letter by certified mail to the applicant informing the applicant of the
20 determination.

21 **B.** If the application is not subject to the requirements of 20.11.60 NMAC, *Permitting in*
22 *Nonattainment Areas*, or 20.11.61 NMAC, *Prevention of Significant Deterioration*, then no fewer than 90 days after
23 the department has determined the application is administratively complete, the department shall grant, grant subject
24 to conditions or deny the permit, unless the director grants an extension for not more than 90 days for good cause,
25 including the need to hold a public hearing.

26 **C.** If the department fails to take action on the application within the deadlines specified in
27 Subsection B of 20.11.41.16 NMAC, the department shall notify the applicant by certified mail that an extension of
28 time is required to process the application. The notification shall specify in detail the grounds for the extension.

29 **D.** The department shall grant, grant subject to conditions or deny the requested permit or permit
30 modification based on information contained in the department’s administrative record for the permit application.
31 The administrative record shall consist of the application, any other evidence submitted by the applicant, any
32 evidence or written comments submitted by interested persons, any other evidence considered by the department, a
33 statement of matters officially noticed, and, if a public information hearing has been held, the evidence submitted at
34 the hearing. The applicant has the burden of demonstrating that a permit or permit modification should be approved.

35 **E.** A person who participated in a permitting action before the department shall be notified by the
36 department of the action taken and the reasons for the action. A request to inspect or copy is not participation for
37 purposes of Subsection E of 20.11.41.16 NMAC. The department shall notify the applicant by certified mail as
38 required by the state act. The department shall notify all other participating persons by regular mail sent to the
39 legible address the participating person has provided to the department. Notification by mail shall be complete and
40 deemed given three days after mailing to the address provided to the department.

41 **F.** A person who participated in a permitting action before the department and who is adversely affected by
42 the permitting action may file a petition for hearing before the board. The petition shall be in writing and shall be
43 delivered to the board within 30 days from the date notice is given of the department’s action. The petition shall
44 conform to the requirements of Subsection B of 20.11.81.14 NMAC. The petitioner shall certify that a copy of the
45 petition has been mailed or hand delivered to the applicant if the petitioner is not the applicant. A hearing before the
46 board shall be conducted as required by 20.11.81 NMAC. Unless a timely request for a hearing is made, the
47 decision of the department shall be final.

48 **G.** If a timely request for a hearing is made, the local board shall hold a hearing within 60 days of receipt
49 of the petition as required by the state act at Subsection I of 74-2-7 NMSA 1978.

50 **H.** Any person adversely affected by an administrative action taken by the board may appeal in accordance
51 with the state act at 74-2-9 NMSA 1978.

52 [20.11.41.16 NMAC – N, X/X/XX]
53

54 **20.11.41.17 BASIS FOR PERMIT DENIAL:** After the department has determined a permit application is
55 administratively complete, the department may deny the application if:

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1 **A.** the department determines the proposed construction, modification or technical revision will not meet
2 applicable standards, rules, regulations, provisions or requirements of the federal act, the state act or a board
3 regulation;

4 **B.** the department determines the source will cause or contribute to air contaminant levels in excess of a
5 national or state air quality standard;

6 **C.** the source will emit a hazardous air pollutant for which no NESHAP applies, unless the department is
7 required to implement a case-by-case MACT review;

8 **D.** the department determines the construction, modification, or technical revision would cause or
9 contribute to ambient concentrations in excess of a prevention of significant deterioration (PSD) increment;

10 **E.** the department concludes that construction of a proposed new or modified source cannot or will not be
11 completed within a reasonable time;

12 **F.** the department determines a conflict of interest exists regarding an application that was submitted
13 during accelerated review, as provided by 20.11.41.31 NMAC;

14 **G.** the emission data that was submitted by the applicant as part of the application is not acceptable to the
15 department for technical reasons;

16 **H.** the estimated emissions of air contaminants submitted by the applicant have not been appropriately
17 identified or quantified to the reasonable satisfaction of the department;

18 **I.** the issuance of a permit, permit modification or technical revision will not be consistent with achieving
19 progress toward attainment of the state ambient air quality standard that is being exceeded; or

20 **J.** the department has delivered three written notices requiring the applicant to provide specified
21 information the department needs in order to take final action on the application and the applicant either has not
22 provided the information by the deadline stated in the related notification or the applicant has submitted
23 information that the department has determined to be technically unacceptable. The department may agree in
24 writing to extend the deadline. A department request for information shall be for information that is necessary for
25 the department to perform a thorough review of the application and to take final action on the application and may
26 include technical clarifications, emission calculations, emission factor usage and replacement of air dispersion
27 modeling.

28 [20.11.41.17 NMAC - N, X/X/XX]

29
30 **20.11.41.18 APPLICANTS' ADDITIONAL LEGAL RESPONSIBILITIES:** The issuance of a permit
31 does not relieve any person from responsibility for complying with the provisions of the federal act, the state act or
32 any applicable regulation of the board.

33 [20.11.41.18 NMAC - N, X/X/XX]

34
35 **20.11.41.19 PERMIT CONDITIONS:**

36 **A.** The contents of the application specifically identified by the department shall become terms and
37 conditions of the permit, permit modification or permit revision.

38 **B.** The department shall specify conditions upon a permit as appropriate, including:

39 (1) placement of individual emission limits on the source for which the permit is issued, as
40 determined on a case-by-case basis, but the individual emission limits shall be only as restrictive as the more
41 stringent of the following:

42 (a) the extent necessary to meet the requirements of the federal act, state act or board
43 regulations; and

44 (b) the emission rate specified in the permit application;

45 (2) a requirement that the source install and operate control technology, determined on a case-by-case
46 basis, sufficient to meet the requirements of the federal act, state act or board regulations;

47 (3) compliance with applicable NSPS and NESHAP;

48 (4) imposition of reasonable restrictions and limitations other than restrictions and limitations relating
49 to emission limits or emission rates, including throughput limitations, hours of operation, and unpaved haul road
50 speed limits;

51 (5) any combination of the above; and

52 (6) in the case of a modification, the requirements of Subsection B of 20.11.41.19 NMAC apply only
53 to the emission units involved in the modification.

54 **C.** The department may impose additional conditions in order to meet requirements of the federal act,
55 state act, or a board regulation including:

56 (1) a schedule of construction;

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- 1 (2) a condition requiring timely revision of permit terms or conditions;
- 2 (3) sampling ports of a size, number and location as the department may require;
- 3 (4) safe access to each port;
- 4 (5) instrumentation to monitor and record emission data including continuous emission monitoring;
- 5 (6) any other reasonable sampling, testing and ambient monitoring and meteorological facilities and
- 6 protocols;
- 7 (7) periodic testing pursuant to 20.11.41.22 NMAC, *Performance Testing Following Startup*
- 8 (8) periodic reports;
- 9 (9) performance of air pollution control equipment; and
- 10 (10) monitoring, recordkeeping and reporting for hours of operation, throughput, capacity and other
- 11 parametric information.

12 **D.** Any term or condition imposed by the department on a permit or permit revision is enforceable to

13 the same extent as a regulation of the board.

14 **E.** All permits issued pursuant to 20.11.41 NMAC after the **mo/da/yr** effective date of 20.11.41

15 NMAC shall be valid for no longer than 10 years. Applications for a permit renewal shall be submitted to the

16 department, with the required fee, one year before the permit expiration date.

17 [20.11.41.19 NMAC - N, X/X/XX]

18 **20.11.41.20 PERMIT SUSPENSION OR REVOCATION:**

19 **A.** The department may suspend or revoke a permit if:

- 20 (1) the construction of a new stationary source or modification of a stationary source has not
- 21 commenced within one year from the date the permit was issued;
- 22 (2) during construction or modification, work is suspended for a total of one year or more;
- 23 (3) any permitted source has temporarily ceased operation for five years or more or permanently
- 24 ceased operations; or
- 25 (4) the director determines based on any credible evidence that a person has violated or is violating a
- 26 requirement or prohibition of the federal act, the state act, board regulation or a condition of a permit issued pursuant
- 27 to 20.11.41 NMAC.

28 **B.** If a permit has been revoked for any reason included in Paragraphs (1) – (4) of Subsection A of

29 20.11.41.20 NMAC, a new application for a permit shall be submitted to the department.

30 **C.** No fewer than 30 days before a permit suspension or revocation becomes effective, the department

31 shall notify the permittee by certified mail of the proposed action. The notification shall include the date by which

32 the permittee may either respond in writing to the department or make a written request for a public hearing before

33 the board. The permittee's request for a hearing before the board shall be delivered to the board no fewer than 30

34 days after the permittee has received the notice of suspension or revocation. The permittee's response to the

35 department or request for a board hearing shall state the reasons the permit should remain active. If the permittee

36 does not deliver a written response to the department or a hearing request to the board by the required date, the

37 suspension or revocation shall be final and the department shall issue a final notice of suspension or revocation and

38 send the final notice to the permittee by certified mail. The final notice shall state the date the permit suspension or

39 revocation is effective. The permittee shall cease all construction and operation of the source no later than the date

40 of permit suspension or revocation that is stated in the final notice.

41 **D.** If a timely request for public hearing is received by the board, the board shall hold the hearing

42 within 60 days after receipt of the request. The department shall notify the permittee by certified mail of the date,

43 time and place of the hearing. The burden of proof shall be upon the permittee at the hearing. The board may

44 designate a hearing officer to take evidence in the hearing and may direct the hearing officer to provide proposed

45 findings of fact, conclusions of law, a recommended decision with reasons for the recommendation, and a proposed

46 final order. Based upon the evidence presented at the hearing, the board shall sustain, modify or reverse the action

47 of the department.

48 [20.11.41.20 NMAC - N, X/X/XX]

49

50

51 **20.11.41.21 PERMITTEE'S OBLIGATIONS TO INFORM THE DEPARTMENT:** After a permit is

52 issued pursuant to 20.11.41 NMAC, the permittee shall inform the department by letter, facsimile or electronic mail

53 of:

54 **A.** the date of anticipated initial startup of the source no fewer than 30 days before the anticipated

55 initial startup date;

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1 **B.** the date of anticipated initial startup of a portable stationary source no fewer than 2 days before
2 the anticipated initial startup date;

3 **C.** the date of actual initial startup of the source or portable stationary source no more than 15 days
4 after actual startup has occurred;

5 **D.** the date a portable stationary source leaves and returns to Bernalillo county;

6 **E.** any change of ownership, operator or permittee no more than 15 days after the change has
7 occurred; and

8 **F.** any permit update or correction as required by 20.11.41 NMAC no more than 60 days after the
9 permittee knows or should have known about the condition that requires updating or correction of the permit.
10 [20.11.41.21 NMAC - N, X/X/XX]

11 12 **20.11.41.22 NMAC PERFORMANCE TESTING:**

13 **A.** Within 60 days after achieving the maximum production rate at which a source will be operated, but not
14 more than 180 days after initial startup of the source, the department may require the permittee to conduct an initial
15 performance test. The permittee shall notify the department no fewer than 30 days before the test date by submitting
16 a testing protocol, including test methods, to the department for pre-approval and shall allow a representative of the
17 department to be present at the test. Whenever the requirements of 40 CFR 60, 61 or 63 apply, the test methods
18 specified in the code of federal regulations shall be used. No more than 30 days after the test is completed, the
19 permittee shall deliver a written report of the test results to the department.

20 **B.** The department may require the permittee to perform initial testing or additional testing if the
21 department determines that:

22 (1) an inspection of the source indicates noncompliance with any regulation or permit condition;

23 (2) previous testing indicated noncompliance with emission limits established by the permit; or

24 (3) the test was technically unsatisfactory.

25 **C.** The permittee shall conduct performance testing as frequently as the department requires to determine
26 that the source being tested demonstrates compliance with the permit. The department may waive testing; reduce
27 testing frequency; extend testing deadlines; or authorize performance testing at less than 90% of the maximum
28 production rate, rated capacity, or permitted rate if requested in writing by the permittee to the department no fewer
29 than 60 days before the test. The department shall review all requests and notify the permittee of its decision in
30 writing no fewer than 30 days before the performance test. The department's determination shall be final.

31 [20.11.41.22 NMAC - N, X/X/XX]

32 33 **20.11.41.23 TEMPORARY RELOCATION OF PORTABLE STATIONARY SOURCES:**

34 **A.** The permittee of a portable stationary source previously included in a permit issued pursuant to
35 20.11.41 NMAC may submit a request to the department in writing seeking approval to temporarily relocate and
36 operate the portable stationary source at a proposed location. Temporary relocations shall not exceed at total of 365
37 consecutive days.

38 **B.** The permittee of a portable stationary source shall not construct or operate at the new location
39 until the department approves the relocation request in writing.

40 **C.** The permittee of a portable stationary source that has been issued a permit pursuant to 20.11.41
41 NMAC shall submit a relocation application no fewer than 60 days before the date the permittee proposes to
42 commence operations at a new location within Bernalillo county. The permittee shall operate the portable stationary
43 source at the proposed new location in a manner that is consistent with the permit conditions unless the department
44 approves or imposes additional or more restrictive operational requirements or conditions. The relocation
45 application shall:

46 (1) be submitted on forms provided by the department;

47 (2) include an equipment list that shall include make, model, manufacture date, serial number and
48 rated capacity; production rates, and emissions estimates for each process unit;

49 (3) include a description of all residences, offices, schools, medical facilities and other stationary
50 sources that have an air quality source registration or permit and are located within one-quarter of a mile from the
51 property boundary of the proposed new location;

52 (4) include an EPA-approved air dispersion model executed for the proposed new location that
53 demonstrates compliance with the NAAQS and the NMAAQs; the modeling protocol shall comply with the
54 requirements of Paragraph (4) of Subsection C of 20.11.41.13 NMAC;

55 (5) include all information required by 20.11.41.13 NMAC determined to be relevant by the
56 department and all additional information the department reasonably requires; and

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1 (6) be signed by the operator, owner or an authorized representative certifying all information as
2 represented in the application and any attachments.

3 **D.** The permittee shall comply with the public notice requirements imposed by the department. In
4 determining whether to require public notice, the department may take into consideration the proposed duration of
5 operation, the proposed location, the nature and amount of emissions, anticipated public concerns and other relevant
6 factors.

7 **E.** The department may require the permittee to hold a public information hearing for good cause.

8 **F.** The department may deny the request to relocate the portable stationary source if the relocation
9 application does not include all information required by Subsection C of 20.11.41.23 NMAC, or if the relocation
10 application is submitted to the department fewer than 60 days before the proposed relocation date.

11 **G.** The department shall not approve the relocation if the department determines the relocation will
12 result in an exceedance of any NAAQS or NMAAQs at the proposed new location.

13 **H.** No more than 60 days after the department receives the relocation application, the department
14 shall approve, deny or approve the relocation with conditions, or require that the permittee hold a public information
15 hearing regarding the relocation request.

16 **I.** If stationary source has been issued a permit pursuant to a board regulation but has not been
17 designated in the permit as a portable stationary source, and the source wishes to relocate within Bernalillo county or
18 be classified as a portable stationary source, the request to relocate the source shall be treated as a proposed permit
19 modification and the permittee shall comply with the requirements of 20.11.41.29 NMAC.

20 [20.11.41.23 NMAC - N, X/X/XX]

21 22 **20.11.41.24 EMERGENCY PERMITS:**

23 **A.** The department may issue an emergency permit when the director determines an emergency
24 situation exist that threatens public health, safety or welfare, and that a source subject to 20.11.41 NMAC should be
25 immediately constructed, modified or relocated in order to mitigate, prevent or remedy the emergency.

26 **B.** In order to prevent worsening an emergency situation, department personnel shall evaluate the
27 emissions from the source to determine what conditions shall be included in the emergency permit.

28 **C.** If a person commits a negligent or unlawful act, including failing to apply in a timely manner for a
29 permit, permit modification, relocation or technical revision, or if a source is operated in a negligent or unlawful
30 manner, then the act, failure to act or operation shall not qualify as an emergency for the purposes of 20.11.41.24
31 NMAC.

32 **D.** The following requirements shall not apply to emergency permits processed pursuant to
33 20.11.41.24 NMAC: Subsection D of 20.11.41.13 NMAC; Subsection C of 20.11.41.14 NMAC; 20.11.41.15
34 NMAC; and Subsections A and B of 20.11.41.16 NMAC.

35 **E.** If required by the department, the permittee shall not commence emergency construction,
36 modification or relocation until the department has issued an emergency permit.

37 [20.11.41.24 NMAC - N, X/X/XX]

38 39 **20.11.41.25 NONATTAINMENT AREA REQUIREMENTS:**

40 **A.** 20.11.41.25 NMAC applies to:

41 (1) a new source or modification of an existing source that will emit a regulated air contaminant that
42 will cause an ambient impact of the contaminant in excess of a significant ambient concentration included in
43 20.11.41.33 NMAC, *Significant Ambient Concentrations*, table 1, at a location that does not meet the standards
44 incorporated in 20.11.8 NMAC for that contaminant;

45 (2) a new source or modification of an existing source that is not a major stationary source or major
46 modification as defined in 20.11.60 NMAC, *Permitting in Nonattainment Areas*, and will emit a regulated air
47 contaminant that will cause an ambient impact of the contaminant in excess of a significant ambient concentration
48 incorporated in 20.11.41.33 NMAC, *Significant Ambient Concentrations*, table 1, at a location that does not meet the
49 NAAQS for that contaminant; and

50 (3) an existing source that does not propose an increase in emissions but will emit a regulated air
51 contaminant that will cause an ambient impact of the contaminant in excess of a significant ambient concentration
52 included in 20.11.41.33 NMAC, *Significant Ambient Concentrations*, table 1, at any location that does not meet the
53 20.11.8 NMAC standards for that contaminant.

54 **B.** A new source or modification of an existing source subject to 20.11.41.25 NMAC shall offset the
55 ambient impact of its emissions by:

56 (1) obtaining emission offsets for proposed emissions in an amount greater than one-to-one so that a

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1 net air quality benefit will result; and

2 (2) ensuring emission offsets are quantifiable, enforceable and permanent by complying with the
3 following sections of 20.11.60 NMAC:

4 (a) 20.11.60.17 NMAC, *Emission Offset Baseline*;

5 (b) 20.11.60.18 NMAC, *Emission Offsets*; and

6 (c) 20.11.60.20 NMAC, *Air Quality Benefit*.

7 C. An existing source that is subject to 20.11.41.25 NMAC shall demonstrate a net air quality benefit
8 of at least a 20 percent reduction in ambient impact for each applicable contaminant. The 20 percent reduction shall
9 be calculated by subtracting the projected source impact from the existing source impact and dividing the result by
10 the existing source impact. The net air quality benefit also shall also comply with 20.11.60.20 NMAC, *Air Quality*
11 *Benefit*.

12 [20.11.41.25 NMAC - N, X/X/XX]

14 20.11.41.26 COMPLIANCE CERTIFICATION:

15 A. Notwithstanding any other provision in the New Mexico state implementation plan for air quality,
16 a permittee may use monitoring required by 20.11.42 NMAC, *Operating Permits*, in addition to compliance
17 methods specified in a permit issued to the source for the purpose of submitting a compliance certification.

18 B. 20.11.41.26 NMAC applies only to sources that are subject to 20.11.41 NMAC and are defined as
19 a major source in 20.11.42 NMAC, *Operating Permits*.

20 [20.11.41.26 NMAC - N, X/X/XX]

21
22 20.11.41.27 ENFORCEMENT: Notwithstanding any other provision in the New Mexico state
23 implementation plan for air quality, any credible evidence may be used to determine whether a person has violated
24 or is in violation of the terms or conditions of a permit issued pursuant to 20.11.41 NMAC and a permit issued to a
25 source that meets the applicability requirements 20.11.61 NMAC, *Prevention of Significant Deterioration*, or
26 20.11.60 NMAC, *Permitting in Nonattainment Areas*.

27 A. The requirements of 20.11.41.27 NMAC only apply to sources that, in addition to being subject to
28 20.11.41 NMAC, are defined as a major source by 20.11.42 NMAC, *Operating Permits*.

29 B. Information obtained by using the following methods is presumptively credible evidence of
30 whether a violation has occurred at a source:

31 (1) a monitoring or information-gathering method approved for the source pursuant to 20.11.42
32 NMAC and incorporated in an operating permit; or

33 (2) compliance methods specified by the New Mexico state implementation plan for air quality.

34 C. The following are presumptively credible testing, monitoring or information gathering methods:

35 (1) any federally enforceable monitoring or testing method, including methods authorized or required
36 by 40 CFR, parts 51, 60, 61, 63 and 75; and

37 (2) other testing, monitoring or information gathering methods that the department determines
38 produce information comparable to information produced by any method authorized by Subsection A of 20.11.41.27
39 NMAC or Paragraph (1) of Subsection B of 20.11.41.27 NMAC.

40 [20.11.41.27 NMAC - N, X/X/XX]

42 20.11.41.28 ADMINISTRATIVE AND TECHNICAL PERMIT REVISIONS:

43 A. Administrative Permit Revision:

44 (1) An administrative permit revision may be used by the department or requested by the permittee to
45 revise a permit that has been issued pursuant to 20.11.41 NMAC in order to:

46 (a) correct a typographical error;

47 (b) identify a change in ownership, name, address or contact information of any person
48 identified in the permit;

49 (c) incorporate a change in the permit if the change is limited to retiring an emission unit at the
50 facility, which shall be effective when the department receives written notice that the emission unitk has ceased
51 operation; and

52 (d) incorporate a change in the permit to include a source or activity at the facility if the facility
53 or activity is exempted by Paragraph (2) of Subsection B of 20.11.41.2 NMAC,

54 (2) An administrative permit revision shall:

55 (a) not be subject to Subsection D of 20.11.41.13 NMAC, *Applicant's Public Notice*
56 *Requirements*;

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- (b) not be subject to 20.11.41.14 NMAC, *Public Notice by Department – Public Participation*;
- (c) be subject to 20.11.41.12 NMAC, *Fees for Permit Application Review*; and
- (d) be submitted on forms provided by the department.

(3) When the department receives a revision form, the department shall review the form. If the department determines the revision qualifies as an administrative revision, the department shall file the revision with the permit. However, the procedure authorized by Subsection A of 20.11.41.28 NMAC may not be used to create federally enforceable conditions or emissions limitations to avoid any applicable requirement.

B. Technical Permit Revision:

(1) A technical permit revision may be requested by a permittee:

(a) to incorporate a change in the permit if the change only involves a change in monitoring, record keeping or reporting requirements, if the department determines the change does not reduce the enforceability of the permit;

(b) to incorporate a change in the permit if the change only involves incorporating permit conditions, including emissions limitations, but only if the source existed on August 31, 1972, and the source has been in regular operation since that date;

(c) if the permittee wishes to impose a voluntary reduction of an emission limitation that was included as a specific permit conditions pursuant to Subsection B of 20.11.41.19 NMAC, *Permit Conditions*;

(d) to incorporate a change at a facility by replacing an emissions unit for which an allowable emissions limit has been established in the permit, but only if the new emissions unit:

(i) is equivalent to the replaced emissions unit, and serves the same function within the facility and process;

(ii) has the same or lower potential emission rates;

(iii) has the same or higher control efficiency, and stack parameters that are at least as effective in dispersing air pollutants;

(iv) would not result in an increase of the potential emission rate of any other equipment at the facility;

(v) after the technical permit revision is approved by the department, is subject to the same or lower allowable emissions limits under the permit and to all other permit conditions that applied to the replaced emissions unit before the technical permit revision;

(vi) when operated under applicable permit conditions, and as determined by the department, will not cause or contribute to a violation of any NAAQS and NMAAQs;

(vii) as determined by the department, will not require additional permit conditions to ensure the enforceability of the permit, such as additional record keeping or reporting in order to establish compliance; and

(viii) does not emit a regulated air contaminant not previously emitted.

(e) in order to reduce the potential emission rate of a unit or source, incorporates terms and conditions in the permit, such as a cap on hours of operation, limitations on throughput of a specific product or products, or limitations on equipment capacity.

(2) An application for a technical revision to a permit shall:

(a) not be subject to Subsection D of 20.11.41.13 NMAC, *Applicant's Public Notice Requirements*;

(b) be subject to 20.11.41.12 NMAC, *Fees for Permit Application Review*;

(c) not be subject to 20.11.41.14 NMAC, *Public Notice by Department – Public Participation*;

and

(d) be submitted on forms provided by the department, with all information submitted by the applicant certified as required by Paragraph (13) of Subsection C of 20.11.41.13 NMAC.

(3) The department shall approve or deny the technical permit revision, or inform the applicant in writing that the request must be submitted as a permit modification within 30 days of receipt of the application.

(4) The department may deny an application for a technical permit revision or require that the application be submitted as a permit modification if:

(a) the revision does not meet the criteria included in Subsection B of 20.11.41.28;

(b) in the judgment of the department, the revision would require a decision on a significant or complex issue, or involve a substantive change; or

(c) in the judgment of the department the permittee has submitted multiple or subsequent applications for technical permit revisions under 20.11.41.28 NMAC that segment a larger revision or modification that otherwise would not be eligible for a technical permit revision.

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1 (5) The technical permit revision shall become effective when approved in writing by the department.
2 The department shall file the technical permit revision with the permit. However, the procedure established in
3 20.11.41.28 NMAC may not be used to create federally enforceable conditions or emissions limitations to avoid an
4 applicable requirement.

5 [20.11.41.28 NMAC - N, X/X/XX]
6

7 **20.11.41.29 PERMIT MODIFICATION:** A person who proposes a modification of a stationary source
8 shall comply with all requirements of 20.11.41 NMAC. Applications for permit modifications shall be processed
9 in accordance with all requirements established by 20.11.41 NMAC for permit applications, including public notice,
10 review, fees and hearing procedures.

11 [20.11.41.29 NMAC - N, X/X/XX]
12

13 **20.11.41.30 PERMIT REOPENING, REVISION AND REISSUANCE**

14 **A.** The department may impose reasonable terms and conditions upon a permit, including a schedule
15 of construction, the maximum period of time the permit shall be valid, and a condition requiring timely revision of
16 permit terms or conditions in order to meet new requirements, if any, under any federally required and approved
17 state implementation plan revision. The department may reopen, revise and reissue a permit if the department
18 determines:

19 (1) additional applicable requirements of the federal Clean Air Act become applicable to the source,
20 including excess emission requirements under the Title IV acid rain program or the New Mexico Air Quality
21 Control Act;

22 (2) the permit contains a substantive material mistake or that an inaccurate statement was made in the
23 permit application that resulted in incorrect or inappropriate evaluation of ambient air quality impacts or incorrect
24 or inappropriate terms and conditions in the permit, including emissions limitations;

25 (3) the permit requires reopening, revision and reissuance to ensure compliance with all applicable
26 requirements of the federal act, the state act and the board regulations;

27 (4) the permittee failed to disclose a material fact or a regulation that is applicable to the source as
28 required in the permit application process, and the applicant knew or should have known about the material fact or
29 regulation at the time the application was submitted; or

30 (5) the terms and conditions of a permit have been or are being repeatedly violated.

31 **B.** The department shall notify the permittee by certified mail no fewer than 60 days before the date
32 of the reopening of the permit, except that a shorter time period may be specified in case of an emergency. The
33 notification shall include a description of the reason or grounds for the reopening and revisions required, and any
34 information to be submitted to the department by the permittee. The permittee shall submit all required additional
35 information to the department no later than 30 days after receipt of the notification from the department. A
36 permittee may request additional time to provide required information by delivering the request in writing to the
37 department. The extension of time shall be effective if approved in writing by the department.

38 **C.** A permit that has been reopened and reissued may be appealed pursuant to 20.11.81 NMAC.
39 [20.11.41.30 NMAC - N, X/X/XX]
40

41 **20.11.41.31 ACCELERATED REVIEW:**

42 **A. Qualified outside firms:**

43 (1) The department shall request proposals from persons interested in providing assistance as a
44 qualified outside firm in the accelerated review of permit applications under 20.11.41 NMAC.

45 (2) The department shall evaluate the proposals submitted by the interested persons. To be eligible to
46 contract with the department as a qualified outside firm a person must be:

47 (a) legally qualified to contract with the department; and

48 (b) qualified to assist the department in review of permit applications, as determined by the
49 department in the department's sole discretion.

50 (3) Persons who are selected as qualified outside firms shall be under contract with the department to
51 provide accelerated review of permit applications pursuant to 20.11.41.31 NMAC.

52 **B. Requests for accelerated review:**

53 (1) At the sole discretion of the applicant, an applicant for a permit pursuant to 20.11.41.31 NMAC
54 may request accelerated permit review of the application by a qualified outside firm. Applications for accelerated
55 review shall be preceded by a pre-application meeting between the applicant and the department. Requests for
56 accelerated review shall not be granted unless there is at least one qualified outside firm under contract with the

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1 department pursuant to Paragraph (3) of Subsection A of 20.11.41.31 NMAC. If there are no firms under contract to
2 provide accelerated review, the department shall review the application in accordance with 20.11.41.16 NMAC.

3 (2) A request for accelerated permit review shall be submitted with the permit application and a
4 corporate check or money order for the amount of the accelerated review filing fee as specified in 20.11.2 NMAC.
5 The department shall notify the applicant of the names and addresses of the qualified outside firms. The applicant
6 shall deliver a copy of the application, by mail or hand delivery, to each qualified outside firm identified by the
7 department, unless the applicant is aware of a conflict of interest.

8 (3) Participation in the accelerated permit review process shall not relieve the applicant of any
9 responsibilities imposed by a board regulation.

10 (4) Applicants who have chosen accelerated review pursuant to 20.11.41.31 NMAC shall pay the
11 accelerated review fee required by 20.11.2 NMAC in addition to all other applicable fees imposed by 20.11.2
12 NMAC.

13 (5) Qualified outside firms under contract that are interested in performing accelerated review of a
14 specific application shall submit to the department:

15 (a) a statement of interest;

16 (b) a statement of qualifications for the specific application;

17 (c) an estimate of the cost and schedule for the review; and

18 (d) a notarized affidavit attesting that no conflict of interest exists on the specific permit
19 application.

20 (6) In the department's sole discretion, the department shall review the submittals and determine
21 which firms qualify to review a specific application.

22 (7) If no qualified outside firm submits the four items required by Paragraph (5) of Subsection B of
23 20.11.41.31 NMAC, the department shall impose the accelerated review filing fee and the permit application review
24 fee required by 20.11.2 NMAC and review the application without the assistance of a qualified outside firm and in
25 accordance with 20.11.41.16 NMAC.

26 (8) Before the department determines whether an application for accelerated review is
27 administratively complete, the department shall provide the applicant with a written bid summary of the qualified
28 outside firm submittals that show the costs of the accelerated review and the anticipated schedule for reviewing the
29 application, drafting the permit and issuing the permit. The department shall determine whether an application for
30 accelerated review is administratively complete.

31 (9) Applicant's responsibilities for response to bid summary.

32 (a) Within five working days after the department receives the department's bid summary, the
33 applicant shall either:

34 (i) submit to the department a written recommendation to accept one of the accelerated
35 review bids, or a prioritized list of more than one of the accelerated review bids, including a brief justification for
36 the recommendation with a corporate check or money order payable to the department for the amount specified in
37 the bid summary and a notarized affidavit attesting that no conflict of interest exists regarding the applicant's
38 recommended selections; or

39 (ii) submit to the department a written withdrawal of the request for accelerated review.

40 (b) The department shall deem the applicant's request for accelerated review withdrawn if the
41 applicant fails to submit a written recommendation or written withdrawal within five working days after the
42 applicant has received the department's bid summary unless the applicant has submitted a written request for an
43 extension and the department has granted an extension in writing.

44 (10) Department's selection of qualified outside firm.

45 (a) If the request for accelerated review is withdrawn, the department shall retain the
46 accelerated review filing fee required by 20.11.2 NMAC and shall review the application without the assistance of a
47 qualified outside firm and pursuant to 20.11.41.16 NMAC.

48 (b) If the applicant recommends a qualified submittal, the department shall determine whether
49 to accept the recommended submittal. If the department accepts the recommended submittal, the department shall
50 instruct the qualified outside firm to begin review of the application. If the department rejects the recommended
51 submittal, the department shall inform the applicant and allow the applicant to recommend an alternate submittal
52 pursuant to Paragraph (9) of Subsection B of 20.11.41.31 NMAC or, if there are no other qualified submittals, the
53 department shall retain the accelerated review filing fee required by 20.11.2 NMAC and review the application
54 without the assistance of a qualified outside firm pursuant to 20.11.41.16 NMAC.

55 C. Disclosure of conflict of interest during accelerated review:

56 (1) The applicant and the qualified outside firm have a continuing obligation to investigate potential

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1 conflicts of interest and to immediately disclose any conflict of interest to the department in writing. If a conflict of
2 interest is not disclosed as required by Subparagraph (d) of Paragraph (5) of Subsection B of 20.11.41.31 NMAC
3 and is later disclosed or discovered, the department may:

- 4 (a) deny the application pursuant to 20.11.41.17 NMAC;
- 5 (b) terminate accelerated review and review the application pursuant to 20.11.41.16 NMAC; or
- 6 (c) allow accelerated review to continue after elimination of the conflict.

7 (2) In choosing among the options provided by Subparagraphs (a)-(c) of Paragraph (1) of Subsection
8 C of 20.11.41.31 NMAC, the department shall consider whether the conflict of interest was disclosed or discovered,
9 the timing of the disclosure or discovery, the applicant's diligence in investigating potential conflicts of interest, any
10 indication of intentional or willful failure to disclose, the significance of the conflict of interest, and the applicant's
11 ability to eliminate the conflict of interest in a timely manner.

12 **D. Issuance of a permit after accelerated review:**

13 (1) Upon completion of the review, the qualified outside firm shall provide the department with all
14 documentation pertaining to the permit application, including all communications, notes and drafts. At any time
15 during the review, the qualified outside firm shall provide the department with all documentation pertaining to a
16 specific application requested by the department in writing. The documentation shall be subject to the Inspection of
17 Public Records Act, Chapter 14, Article 2 NMSA 1978, and the confidential information section of the Air Quality
18 Control Act, 74-2-11 NMSA 1978.

19 (2) The department shall review the analysis prepared by the qualified outside firm and shall grant,
20 grant subject to conditions or deny the requested permit pursuant to 20.11.41.17 NMAC. The department retains
21 final authority to accept or reject the qualified outside firm's analysis regarding the permit application.

22 (3) The department shall not issue the permit until the applicant has paid both the accelerated review
23 processing fee and the permit review fee required by 20.11.2 NMAC.
24 [20.11.41.31 NMAC - N, X/X/XX]

25 **20.11.41.32 SIGNIFICANT AMBIENT CONCENTRATIONS -- NONATTAINMENT**

26
27
28 **Table 1.**

Pollutant	Averaging Time					
	Annual	24-hr	8-hr	3-hr	1-hr	1/2-hr
TSP	1.0 µg/m ³	5.0 µg/m ³	--	--	--	--
PM ₁₀	1.0 µg/m ³	5.0 µg/m ³	--	--	--	--
SO ₂	1.0 µg/m ³	5.0 µg/m ³	--	25 µg/m ³	--	--
H ₂ S	--	--	--	--	1.0 µg/m ³	5.0 µg/m ³
CO	--	--	0.5 µg/m ³	--	2.0 µg/m ³	--
NO ₂	1.0 µg/m ³	5.0 µg/m ³	--	--	--	--
NMHC	--	--	--	5.0 µg/m ³	--	--
Lead (Pb)	0.03 µg/m ³ quarterly					

29
30 [20.11.41.32 NMAC - N, X/X/XX]

31 32 33 **20.11.41.33 PERMIT STREAMLINING SOURCE CLASS CATEGORIES: [RESERVED]**

34 [20.11.41.34 NMAC - N, X/X/XX]

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1
2 **HISTORY OF 20.11.41 NMAC:**
3 **Pre-NMAC History:** The material in 20.11.41 NMAC was derived from that previously filed with the commission
4 of public records – State records center and archives.
5 Resolution No. 1, Air Pollution Control Regulations of The Albuquerque Bernalillo County Air Quality Control
6 Board, 8/6/71;
7 Regulation No. 1, Air Pollution Control Regulations, 6/6/73;
8 Regulation No. 1, Air Pollution Control Regulations, 7/9/73;
9 Regulation No. 1, Air Pollution Control Regulations, 3/21/77;
10 Regulation No. 20, Permits. 3/24/82;
11 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, 3/24/82;
12 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, 7/21/87;
13 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, 6/5/91;
14 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, 2/26/93;
15 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, 5/23/94,
16 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, 12/16/94.
17
18 **History of Repealed Material:** [Reserved]
19
20 **Other History:**
21 Regulation No. 20, Authority-To-Construct Permits; supersedes Regulation No. 20, filed 12/16/94 91 was
22 **renumbered** and **reformatted** into first version of the New Mexico Administrative Code as 20 NMAC 11.41,
23 Authority-To-Construct Permits, filed 10/27/95.
24 20 NMAC 11.41, Authority-To-Construct Permits, filed 10/27/95 was **renumbered, reformatted, amended and**
25 **replaced** by 20.11.41 NMAC, Authority-To-Construct Permits, effective 10/1/02.