

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE/BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 5 VISIBLE AIR CONTAMINENTS

20.11.5.1 ISSUING AGENCY: Albuquerque/Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.
[3/21/77. . .11/1/95; 20.11.5.1 NMAC – Rn, 20 NMAC 11.05.I.1, 10/1/02]

20.11.5.2 SCOPE: This Part is applicable to the following:

A. Exempt:

(1) This Part does not apply to sources within Bernalillo County which are located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control lacks jurisdiction.

(2) Upon the written request of an affected source, the Director may, on a case by case basis, exempt aircraft engine test facilities and enclosed research and development (R&D) fire test facilities from the opacity requirements of this Part. For sources required to obtain a Part 42 operating permit, any exemption granted under this subpart shall be effective for the duration of the operating permit. For sources not required to obtain a Part 42 operating permit, any exemption granted under this subpart shall be effective for a period of up to five years. Exemptions granted under this subpart may be renewed by the Director on a case by case basis, upon the written request of the affected source.

B. Stationary Sources: Visible emissions and operational limitations shall be applicable to the sources listed in this Part.

C. Mobile Sources: Except for the mobile sources listed in this Part, motor vehicles are subject to the visible emission limitations required by 20.11.103 NMAC, and not this Part.

[3/24/82. . .11/28/89, 11/1/95, 12/1/95; 20.11.5.2 NMAC – Rn, 20 NMAC 11.05.I.2, 10/1/02]

20.11.5.3 STATUTORY AUTHORITY: This Part is adopted pursuant to the authority provided in the New Mexico Air Quality Act, NMSA 1978 Sections 74-2-4, 74-2-5.C: and the Joint Air Quality Board Ordinances, Bernalillo County Ordinance 94-5 Section 4, Revised Ordinances of Albuquerque ROA 1994 Section 9-5-1-4.
[11/1/95; 20.11.5.3 NMAC – Rn, 20 NMAC 11.05.I.3, 10/1/02; 20.11.5.3 NMAC - Rn, 20.11.5.5 NMAC, 1/1/03]

20.11.5.4 DURATION: Permanent.

[11/1/95; 20.11.5.4 NMAC – Rn, 20 NMAC 11.05.I.4 & A, 10/1/02; 20.11.5.4 NMAC - Rn, 20.11.5.3 NMAC, 1/1/03]

20.11.5.5 EFFECTIVE DATE: November 1, 1995, unless a later date is cited at the end of a section.

[11/28/89, 11/1/95; 20.11.5.5 NMAC - Rn, 20 NMAC 11.05.I.5, 10/1/02; 20.11.5.5 NMAC - Rn, 20.11.5.4 NMAC, 1/1/03]

20.11.5.6 OBJECTIVE: The objective of this Part is to provide a simple and effective means to assess and reduce air pollution from sources that emit particulate matter, fumes, smoke, or aerosols in order to reduce visible air contaminants.

[11/28/89. . .11/1/95; 20.11.5.6 NMAC – Rn, 20 NMAC 11.05.I.6, 10/1/02]

20.11.5.7 DEFINITIONS: [Reserved]

[11/1/95; 20.11.5.7 NMAC - Rn, 20 NMAC 11.05.I.7, 10/1/02]

20.11.5.8 VARIANCES: [Reserved]

[11/1/95; 20.11.5.8 NMAC - Rn, 20 NMAC 11.05.I.8, 10/1/02]

20.11.5.9 SAVINGS CLAUSE: Any amendment to 20.11.5 NMAC, which is filed, with the State Records Center shall not affect actions pending for violation of a City or County ordinance or Air Quality Control Board Regulation 5. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the ordinance, Part, or regulation section in effect at the time the violation was committed.

[11/1/95; 20.11.5.9 NMAC – Rn, 20 NMAC 11.05.I.9, 10/1/02]

20.11.5.10 SEVERABILITY: If any section, subsection, sentence, phrase, clause, or wording of this Part or the federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining portions of this Part.
[11/1/95; 20.11.5.10 NMAC – Rn, 20 NMAC 11.05.I.10, 10/1/02]

20.11.5.11 DOCUMENTS: Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.
[11/1/95; 20.11.5.11 NMAC – Rn, 20 NMAC 11.05.I.11 & A, 10/1/02]

20.11.5.12 GENERAL STATIONARY SOURCES: No person owning or operating any stationary source, not otherwise addressed in this Part, shall cause or allow visible air contaminant emissions that exceed an opacity of 20 percent, 6 minute time-averaged.
[11/28/89. . .11/1/95; 20.11.5.12 NMAC – Rn, 20 NMAC 11.05.I.12 & Repealed; Rn, 20 NMAC 11.05.II.1, 10/1/02]

20.11.5.13 SPECIFIC STATIONARY SOURCES: The following visible emissions and operational limitations shall be applicable to the sources listed.

A. Incinerator, Pathological Waste Destructor, or Crematorium: No person shall cause or allow visible emissions from an incinerator, pathological waste destructor, or crematorium, allowed pursuant to 20.11.68, or 69 NMAC, to exceed 5 percent opacity during any time interval including startup and shutdown.

B. Stationary Spark Ignition Engine: Except for the initial 10 seconds from startup, no person shall cause or allow visible emissions from any stationary spark ignition engine to exceed 5 percent opacity, 3 minute time-averaged.

C. Diesel-Powered Engine: No person shall cause or allow visible emissions from any stationary diesel-powered engine to exceed 20 percent opacity, 6 minute time-averaged. During the first 20 minutes of cold startup the visible emissions shall not exceed 40 percent opacity, 6 minute time-averaged. Additionally, no increase of load shall be applied so as to cause an emission having an opacity greater than 40 percent during any time interval.

D. Training: The operation of equipment specifically designed for the purposes of training certified smoke observers is permissible with no limits on visible emissions providing the equipment is operated so that the emissions do not pose an annoyance to any person, private residence, or business.
[11/28/89. . .11/1/95; 20.11.5.13 NMAC – Rn, 20 NMAC 11.05.II.2, 10/1/02]

20.11.5.14 MOBILE SOURCES:

A. Motor Vehicles: Except for the mobile sources listed below, motor vehicles are subject to the visible emission limitations required by 20.11.103 NMAC, and not this Part.

B. Railroad:

(1) No person shall cause or allow visible emissions from any moving railroad train to exceed 20 percent opacity, 6 minute time-averaged, except the restriction is not applicable in the following conditions:
(a) for a period of four consecutive minutes when a locomotive is loaded after a period of idle.
(b) for a period of one minute during acceleration under load from a throttle position other than idle to a higher throttle position.

(2) The owner or operator of any diesel powered locomotive that has been issued a Notice of Violation of this regulation, but which is not locally available for a compliance inspection, shall submit to the Department an affidavit attesting to those abatement measures which have been completed and shall state in that affidavit that the locomotive has achieved compliance with this regulation, as determined in accordance with EPA Method 9, (40 CFR 60, Appendix A).

C. Aircraft: No person shall cause or allow visible emissions from the operation of aircraft to exceed an opacity of 40 percent, 6 minute time-averaged. For the purposes of this regulation skywriting is excluded.
[3/24/82. . .11/28/89, 11/1/95; 20.11.5.14 NMAC – Rn, 20 NMAC 11.05.II.3, 10/1/02]

20.11.5.15 TEST PROCEDURES:

A. Visible emission limitations specified in this Part shall be determined by a certified observer using the standard visual method listed in 40 CFR 60 A, Method 9, or by operation of equipment approved by the Director that is known to produce equivalent or better accuracy.

B. Unless otherwise stated herein, emission observations shall be time-averaged over a minimum of 6 minutes. Where condensed water vapor is visible in an exhaust plume, the opacity assessment shall be made at a point consistent with the procedure stipulated in 40 CFR 60 Appendix A, Method 9.
[11/28/89. . .11/1/95; 20.11.5.15 NMAC – Rn, 20 NMAC 11.05.II.4, 10/1/02]

20.11.5.16 CIRCUMVENTION: No person shall use any plan, activity, device or contrivance, which the Department determines will, without resulting in an actual reduction of air contaminants, conceal or appear to minimize the effects of an emission, which would otherwise violate this Part. Air introduced for dilution purposes only shall be considered circumvention of this Part.
[3/24/82. . .11/1/95; 20.11.5.16 NMAC – Rn, 20 NMAC 11.05.II.5, 10/1/02]

HISTORY OF 20.11.5 NMAC:

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

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

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

Regulation No. 1, Air Pollution Control Regulations, 7/9/73;

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

Regulation No. 5, Visible Air Contaminants, 3/24/82;

Regulation No. 5, Visible Air Contaminants, 11/28/89.

History of Repealed Material: [Reserved]

Other History: Regulation No. 5, Visible Air Contaminants, filed 11/28/89 was **renumbered** and **reformatted** into first version of the New Mexico Administrative Code as 20 NMAC 11.05, Visible Air Contaminants, filed 9/15/95.

20 NMAC 11.05, Visible Air Contaminants, filed 9/15/95 was **renumbered, reformatted, amended and replaced** by 20.11.5 NMAC, Visible Air Contaminants, effective 10/1/02.