TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 61 PREVENTION OF SIGNIFICANT DETERIORATION

20.11.61.1 ISSUING AGENCY: Albuquerque/Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.
[5/1/99; 20.11.61.1 NMAC – Rn, 20 NMAC 11.61.1, 10/1/02]

20.11.61.2 SCOPE: Any person constructing any new major stationary source or major modification, as defined in this Part, that emits or will emit regulated pollutants in an attainment or unclassifiable area shall obtain a permit from the Department in accordance with the requirements of 20.11.41 NMAC, Authority-to-Construct, and this Part prior to the construction or modification.

A. Exempt:

(1) Sources within Bernalillo County which are located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control Board lacks jurisdiction;

(2) Each regulated pollutant that will be emitted within the area in which the source proposes to locate, if the area is designated as a nonattainment area for that pollutant. See 20.11.41 NMAC, Authority-to-Construct, and 20.11.60 NMAC, Permitting in Nonattainment Areas;

(3) After a public hearing, consistent with the public notice and participation provisions of 20.11.41 NMAC, Authority-to-Construct, the Board may exempt major stationary sources or major modifications that are part of nonprofit health or nonprofit educational institutions; or

(4) Sources or modifications that would be major only if quantifiable fugitive emissions are considered in calculating the potential to emit or net emissions increase, and the source does not belong to:

(a) any category in Table 1 of this Part, or

(b) any other stationary source category which on or after August 7, 1980, is being regulated under Section 111 or 112 of the federal Act.

B. Variances: The Director may grant a variance to any person constructing a major stationary source or major modification from the federal Class I maximum allowable increases consistent with the requirements listed in 40 CFR 52.21(p)(5).
[5/1/99; 20.11.61.2 NMAC – Rn, 20 NMAC 11.61.2 & A, 10/1/02]

20.11.61.3 STATUTORY AUTHORITY: This Part is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-3 and 9-5-1-4.
[5/1/99; 20.11.61.3 NMAC – Rn, 20 NMAC 11.61.3, 10/1/02]

20.11.61.4 DURATION: Permanent.
[5/1/99; 20.11.61.4 NMAC – Rn, 20 NMAC 11.61.4, 10/1/02]

20.11.61.5 EFFECTIVE DATE: May 1, 1999, unless a later date is cited at the end of a section.
[5/1/99; 20.11.61.5 NMAC – Rn, 20 NMAC 11.61.5 & A, 10/1/02]

20.11.61.6 OBJECTIVE: The objective of this Part is to minimize air pollutant emissions from new major stationary sources or major modifications in areas classified as in attainment of the National Ambient Air Quality Standards or determined to be unclassifiable pursuant to section 107(d) of the federal Act.
[5/1/99; 20.11.61.6 NMAC – Rn, 20 NMAC 11.61.6, 10/1/02]

20.11.61.7 DEFINITIONS: In addition to the definitions in this section, the definitions in 20.11.1 NMAC, General Provisions, shall apply unless there is a conflict between definitions, in which case the definition in this Part shall govern.

A. "Actual Emissions" means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with the following criteria:

(1) in general, actual emissions on a specific date shall equal the average rate, expressed in tons per year, at which the unit actually emitted the pollutant during the two-year period which immediately precedes the

specific date and which is representative of normal operation. The Director may allow the use of a different time period based on a determination that it is more representative of normal operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and type of materials processed, stored, or combusted during the selected time period,

(2) the Director may determine that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit,

(3) for any emission unit which has not begun normal operation on the specific date, actual emissions shall equal the potential to emit of the unit on that date.

B. "**Administrator**" means the Administrator of the U. S. Environmental Protection Agency or an authorized representative.

C. "**Adverse Impact on Visibility**" means visibility impairment, which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience in a federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with, times of visitor use in the federal Class I area; and the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas as defined in 40 CFR 51.301, Definitions.

D. "**Air Quality Related Values (AQRV)**" means visibility and other scenic, cultural, physical, biological, ecological, or recreational resources which may be affected by a change in air quality resulting from the emissions of a proposed major stationary source or major modification that interferes with the management, protection, preservation, or enjoyment of the air quality related values of a federal Class I area.

E. "**Allowable Emissions**" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) the applicable standards as set forth in 40 CFR, Parts 60 and 61,

(2) the applicable State Implementation Plan emission limitations, including those with a future compliance date, or

(3) the emissions rate specified in a permit issued pursuant to 20.11.41 NMAC, Authority-to-Construct, or 20.11.42 NMAC, Operating Permits, including those with a future compliance date.

F. "**Associated Emission Sources**" means secondary emissions and all reasonably foreseeable emissions of regulated pollutants from the growth of general residential, commercial, industrial, governmental emission sources and other mobile and non-mobile emission sources which are associated with and/or support the proposed new major stationary source or major modification. Other mobile and non-mobile emission sources shall include, but not be limited to, new highways and roads or improvements to existing highways and roads to increase capacity, new parking facilities or improvements to existing parking facilities to increase capacity, service enhancements to ground and air public transportation to include the building of new public transportation facilities or improvements to existing public transportation facilities to increase capacity; and the building of new public or private educational facilities or improving existing public or private educational facilities to increase enrollment.

G. "**Attainment Area**" means an area which is shown by monitored data or which is calculated by air quality modeling not to exceed any national ambient air quality standard for a pollutant, and is so designated under section 107(d)(1)(D) or (E) of the federal Act.

H. "**Baseline Area**":

(1) Baseline area for the major stationary source or major modification that has submitted a complete application that results in the minor source baseline date being established for a particular pollutant, means the federal air quality control region that includes Bernalillo County, and any adjoining federal air quality region, which has been designated as attainment or unclassifiable under Section 107(d)(1)(D) or (E) of the federal Act if the air quality impact of the proposed major stationary source or major modification equals or is greater than 1 µg/m3 (annual average) for the pollutant that establishes the minor source baseline date.

(2) Area redesignations under section 107(d)(1)(D) or (E) of the federal Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) has established a minor source baseline date, or

(b) is subject to 40 CFR 52.21 or regulations approved pursuant to 40 CFR 51.166 and would be constructed in the same state as the state proposing the redesignation.

(3) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM10 increments, except that such baseline area shall not remain in effect if the permit authority rescinds the corresponding minor source baseline date in accordance with this section.

I. **"Baseline Concentration"** means the ambient concentration level, which exists in the baseline area at the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(1) the actual emissions representative of sources in existence on the applicable minor source baseline date except as provided in Paragraph (3), of Subsection I. of 20.11.61.7 NMAC,

(2) the allowable emissions of major stationary sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date,

(3) the following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) actual emissions from any major stationary source on which construction commenced after the major source baseline date, and

(b) actual emission increases and decreases at any stationary source occurring after the minor source baseline date.

J. **"Begin Actual Construction"** means the beginning of physical on-site construction activities of an emission unit, including, but not limited to, installation of building supports and foundations, laying underground pipe work and construction of storage structures. With respect to a change in method of operations, this term refers to on-site activities, which mark the start of the change other than preparatory activities.

K. **"Best Available Control Technology (BACT)"** means an emission limitation (including a visible emission standard) that is established following a case-by-case review by the Department. The limitation shall require the maximum degree of reduction for each regulated pollutant, taking into account energy, environmental, and economic impacts and other costs, that the Department determines is achievable for a major stationary source or major modification as a result of application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of regulated pollutants. In no event shall application of BACT result in emissions of any pollutant, which would exceed the emissions allowed by an applicable standard under 40 CFR, Parts 60 and 61, or any Board regulation. If the Director determines that technical or economic limitations on BACT to a particular emission unit would make the imposition of a emissions standard infeasible, then an alternate design, equipment, work practice, operational standard, or combination of alternatives, may be authorized to satisfy the requirement for BACT. The approved alternatives shall establish enforceable emission reductions through design, equipment, work practice, or operation that is equivalent to BACT.

L. **"Building, Structure, Facility, or Installation"** means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" with the same first two digit code as described in the Standard Industrial Classification (SIC) Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office Stock Numbers 4101-0066 and 003-005-00176-0, respectively) or any superceding SIC manual.

M. **"Construction"** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emission unit) which would result in a change in actual emissions.

N. **"Commence"** means, as applied to the construction of a major stationary source or major modification, that an owner or operator has all necessary pre-construction approvals or permits and has:

(1) started a continuous program of actual on-site construction of the source, to be completed within a reasonable time, or

(2) entered into a binding agreement or other contractual obligation, which cannot be canceled or changed without substantial loss to the owner or operator, to undertake and complete a continuous program of actual construction within a reasonable time.

O. **"Complete"** means, in reference to an application for a permit, that the Department has determined the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

P. **"Emission Unit"** means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the federal Act.

Q. **"Federal Class I Area"** means any federal land that is classified or reclassified as "Class I".

R. **"Federal Land Manager"** means, with respect to any lands in the United States, the secretary of the department with authority over such lands or the secretary's designated representative.

S. **"Federally Enforceable"** means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements of the New Mexico State Implementation Plan, any permit requirements established pursuant to 40 CFR 52.21 or any permit issued pursuant to 20.11.41 NMAC, Authority-to-Construct, and 20.11.42 NMAC, Operating Permits.

T. **"Fugitive Emissions"** means emissions, which cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

U. **"High Terrain"** means any area having an elevation 900 feet or more above the base of the stack of a source.

V. **"Impact Area"** means the geographical area for the required air quality analysis used to determine compliance with the National Ambient Air Quality Standards and PSD increments. The impact area shall be a circular area extending from the major stationary source to the most distant point where an approved dispersion modeling technique can predict an ambient impact that equals or exceeds the significance levels found in Table 5 of this Part, or a radius of 50 km, whichever is less. If the major stationary source is located within 100 km of a federal Class I area, the impact area shall include the entire affected federal Class I area for the purpose of determining impacts on air quality related values. On a case-by-case basis, the Director may extend the impact area for major emitting facilities that may affect federal Class I areas beyond 100 km.

W. **"Indian Governing Body"** means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

X. **"Innovative Control Technology"** means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emission reductions than any control system in current practice, or achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

Y. **"Low Terrain"** means any area other than high terrain.

Z. **"Major Modification"** means any physical change in, or changes in the method of operation of a major stationary source that would result in a significant net emission increase of any regulated pollutant. Any net emission increase that is significant for volatile organic compounds shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair, and replacement of equipment of equal or lower capacity,

(2) use of an alternative fuel or raw material as a result of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or as a result of a natural gas curtailment plan pursuant to the Federal Power Act,

(3) use of an alternative fuel as a result of an order or rule under Section 125 of the federal Act,

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste,

(5) use of an alterative fuel or raw material by a stationary source which:

(a) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or 20.11.41 NMAC, Authority-to-Construct or 20.11.42 NMAC, Operating Permits, or

(b) the source is approved to use under any permit issued under 40 CFR 52.21 or 20.11.41 NMAC, Authority-to-Construct or 20.11.42 NMAC, Operating Permits.

(6) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit which was established after January 6, 1975, pursuant to 40 CFR 52.21 , 20.11.41 NMAC, Authority-to-Construct, or 20.11.42 NMAC, Operating Permits, or,

(7) any change in ownership at a stationary source.

AA. **"Major Source Baseline Date"** means:

(1) January 6, 1975, for particulate matter and sulfur dioxide, and

(2) February 8, 1988, for nitrogen dioxide.

BB. **"Major Stationary Source"** means:

(1) any stationary source listed in Table 1 of this Part which emits or has the potential to emit emissions equal to or greater than 100 tons per year of any regulated pollutant,

(2) any stationary source not listed in Table 1 of this Part which emits or has the potential to emit 250 tons per year or more of any regulated pollutant,

(3) any physical change that would occur at a stationary source not otherwise qualifying under Paragraphs (1) or (2) , of Subsection BB. of 20.11.61.7 NMAC if the change would constitute a major stationary source by itself, or

(4) for ozone, any major stationary source or major modification that is major for VOCs.,

(a) for any of the purposes of Subsection Z. of 20.11.61.7 NMAC, the fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the source belongs to one of the source categories listed in Table 1 of this Part or any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Act.

CC. "Mandatory Class I Federal Area" means any area identified in 40 CFR 81.421. Areas identified as being within 100 kilometers of Bernalillo County can be found in section 19.2 of this Part [Subsection B. of Section 19 of 20.11.61.19 NMAC].

DD. "Minor Source Baseline Date":

(1) Means the earliest date after the trigger date on which a major stationary source or major modification subject to 40 CFR 52.21, or this Part, submits a complete application.

(2) The trigger dates are:

(a) August 7, 1977, for particulate matter and sulfur dioxide, and

(b) February 8, 1988 for nitrogen dioxide.

(3) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) the area in which the proposed major stationary source or major modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Act for the pollutant on the date the application is determined to be complete, consistent with 40 CFR 51.21 or this Part, and

(b) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(4) Any minor source baseline date established originally for the TSP increment shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments. The Department may rescind any TSP minor source baseline date if it can be shown, to the Director's satisfaction, that either the emissions increase from the major stationary source, or the net emissions increase from the major modification responsible for triggering the minor source baseline date did not result in a significant amount of PM_{10} emissions.

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

FF. "Necessary Pre-construction Approvals or Permits" means permits or approvals required by:

(1) 20.11.41 NMAC, Authority-to-Construct, and

(2) other applicable federal air quality control laws and regulations which are a part of the New Mexico State Implementation Plan.

GG. "Net Emissions Increase" means:

(1) The amount by which the sum of the following exceeds zero:

(a) any increase in actual emissions from a particular physical change or change in method of operation at a stationary source, and

(b) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and otherwise creditable. An increase and decrease in actual emissions is contemporaneous with the increase from a particular change only if it occurs within the time period five years prior to the commencement of construction on the particular change and the date of the increase from the particular change occurs.

(2) An increase or decrease in actual emissions is creditable only if either the Department or the Administrator has not relied on the increase or decrease in issuing a permit for the source under this Part, and if the permit was in effect when the increase or decrease in actual emissions from the particular change occurs.

(3) An increase or decrease in actual emissions of sulfur dioxide, particulate matter or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is necessary to consider the increase or decrease in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM_{10} emissions can be used to evaluate the net emission increase for PM_{10}.

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

(5) A decrease in actual emissions is creditable only to the extent that the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; and the decrease is federally enforceable at and after the time that actual construction on the particular change

begins; and the decrease has approximately the same qualitative significance for public health and welfare as the increase from the particular change.

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

HH. "Nonattainment Area" means an area which has been designated by the Administrator under Section 107 of the federal Act as nonattainment for one or more of the National Ambient Air Quality Standards .

II. "Potential to Emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollutant control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect the limitation would have on emissions, is federally enforceable through a permit issued pursuant to 20.11.41 NMAC, Authority-to-Construct, or 20.11.42 NMAC, Operating Permits, or other SIP approved Board regulation. Secondary emissions do not count in determining the potential to emit of a stationary source.

JJ. "Regulated Pollutant" means any air pollutant regulated by Board regulation, 20.11.xx NMAC the New Mexico Air Quality Control Act or the federal Act.

KK. "Secondary Emission" means an emission, which occurs as a result of the construction or operation of a major stationary source or major modification, but does not come from the major stationary source or major modification itself. For the purpose of this paragraph, the secondary emission must be specific, well defined, quantifiable, and impact the same general areas as the major stationary source or major modification, which causes the secondary emission. A secondary emission includes an emission from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions shall not include any emissions that come directly from a mobile source, such as tailpipe emissions from a motor vehicle, train or vessel.

LL. "Significant" means, in reference to a net emission increase or the potential of a source to emit air pollutants, a rate of emission that would equal or exceed any of the rates listed in Table 2 of this Part.

MM. "Stationary Source" means any building, structure, facility, or installation, which emits or may emit any regulated pollutant.

NN. [Reserved]

OO. "Visibility Impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from the visibility that would have existed under natural conditions.

PP. "Volatile Organic Compounds" is as defined in 40 CFR 51.100(s).

[5/1/99; 20.11.61.7 NMAC – Rn, 20 NMAC 11.61.7, 10/1/02]

20.11.61.8 VARIANCES: [Reserved]

[20.11.61.8 NMAC - N, 10/1/02]

20.11.61.9 SAVINGS CLAUSE: Any amendment to 20.11.61 NMAC, Prevention of Significant Deterioration, which is filed with the State Records Center and Archives, shall not affect actions pending for violation of a City or County ordinance, Air Quality Control Board Regulation 29, or 20.11.61 NMAC, Prevention of Significant Deterioration. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation was committed.

[5/1/99; 20.11.61.9 NMAC – Rn, 20 NMAC 11.61.8, 10/1/02]

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

[5/1/99; 20.11.61.10 NMAC – Rn, 20 NMAC 11.61.9, 10/1/02]

20.11.61.11 DOCUMENTS: Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.

[5/1/99; 20.11.61.11 NMAC – Rn, 20 NMAC 11.61.10 & A, 10/1/02]

20.11.61.12 SOURCE OBLIGATION:

A. Any owner or operator who begins actual construction or operates a source or modification without, or not in accordance with, a permit issued under the requirements of this Part shall be subject to a penalty

not to exceed fifteen thousand dollars ($15,000) per day and other appropriate enforcement action as determined by the Director.

B. The issuance of a permit does not relieve any person from the responsibility of complying with the provisions of the New Mexico Air Quality Control Act, any applicable regulation of the Board and any other requirements under local, state, or federal law.

C. Approval to construct shall become invalid if:

(1) construction is not commenced within 18 months after receipt of such approval,

(2) construction is discontinued for a period of 18 months or more, or

(3) construction is not completed within a reasonable time, as determined by the Director.

D. For a phased construction project, each phase must commence construction within 18 months of the projected and approved commencement date. The Director may extend the 18-month period upon a satisfactory showing that an extension is justified.

E. If a source or modification becomes a major stationary source or major modification solely due to a relaxation in any enforceable limitation on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, and if the limitation was established after August 7, 1980, then this Part shall apply to the source or modification as though construction had not yet commenced.

[3/16/89. . .5/1/99; 20.11.61.12 NMAC – Rn, 20 NMAC 11.61.11, 10/1/02]

20.11.61.13 SOURCE INFORMATION: The owner or operator of a proposed major stationary source or major modification subject to this Part shall submit all information determined by the Department to be necessary to perform any analysis or make any determination required under this Part. Information shall include, but is not limited to:

A. A description of the nature, location, design capacity, and typical operating schedule of the major stationary source or major modification, including specifications and drawings showing the design and plant layout.

B. A detailed schedule of construction of the major stationary source or major modification.

C. A detailed description of the planned system of continuous emission reduction for the major stationary source or major modification, emission estimates, and other information necessary to determine that best available control technology will be applied.

D. The air quality impact of the major stationary source or major modification, including meteorological and topographic data necessary to estimate such impact.

E. The air quality impacts in the area the major stationary source or major modification would affect, including the nature and extent of air quality impacts from all general commercial, residential, industrial, and other growth, which has occurred since August 7, 1977.

[5/1/99; 20.11.61.13 NMAC – Rn, 20 NMAC 11.61.12, 10/1/02]

20.11.61.14 CONTROL TECHNOLOGY REQUIREMENTS:

A. A major stationary source or major modification shall meet each applicable emissions limitation under the New Mexico State Implementation Plan and each applicable emission standard and standard of performance pursuant to 40 CFR 60 and 61.

B. A new major stationary source shall apply BACT for each regulated pollutant that the source would have the potential to emit in amounts equal to or greater than the significance levels listed in Table 2 of this Part. This requirement applies to each proposed emission unit or operation that will emit a regulated pollutant.

C. A major modification shall apply BACT for each regulated pollutant, which, at the source, would result in a significant net emission increase as defined in this Part. This requirement applies to each proposed emission unit or operation where a significant net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation.

D. For phased construction projects, the determination of BACT shall be reviewed and modified as of an appropriate date approved by the Director, but in no case shall the date be later than 18 months before commencement of construction of each independent phase of the project. Before commencement, the owner or operator of the applicable major stationary source or major modification may be required to demonstrate the adequacy of any previous determination of BACT for the source.

E. If the owner or operator of a major stationary source or major modification has been issued a permit for a phased construction project and applies for an extension of the 18-month construction deadline pursuant to Subsection D. of 20.11.61.12 NMAC, the owner or operator shall perform a BACT analysis as of an appropriate date determined by the Director.

F. If PM10 emissions cannot be quantified, the BACT limitation may be defined in terms of particulate matter emissions.

G. With the consent of the governor and the governors of any affected state, the Director may approve a system of innovative control technology for the major source or major modification in lieu of BACT approval if, during a public hearing, consistent with the public notice and hearing provisions required in 20.11.41 NMAC, Authority-to-Construct, Public Notice and Participation, the owner or operator of the major stationary source or major modification demonstrates that:

(1) the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function,

(2) the owner or operator has agreed in writing to achieve a level of continuous emissions reduction equivalent to the reduction which would have been required under BACT by a date specified by the Director. The date shall not be later than four years after startup or seven years after permit issuance, whichever first occurs,

(3) the major stationary source or major modification will meet the requirements of this section and section 14 of 20.11.61 NMAC based on the emission rate the system of innovative control technology will be required to meet on the date specified in Paragraph (2), of Subsection G of 20.11.61.14 NMAC of this section, and

(4) during the interim period of achieving the permitted emission level, the major stationary source or major modification would not:

(a) cause or contribute to a violation of an applicable NAAQS,

(b) impact any federal Class I area, or

(c) impact any area where an applicable increment is known to be exceeded.

H. The Department shall withdraw any approval to use a system of innovative control technology if:

(1) by the specified date in Paragraph (2), of Subsection G of 20.11.61.14 NMAC above, the proposed system fails to achieve the required continuous emissions reduction rate,

(2) before the specified date, the proposed system fails and contributes to an unreasonable risk to public health, welfare, or safety, or

(3) at any time the Department decides the proposed system is unlikely to achieve the required level of control or protect the public health, welfare, or safety.

I. If a major stationary source or major modification that has installed an approved system of innovative control technology fails to meet the required level of continuous emission reduction within the specified time period, or if the approval is withdrawn in accordance with Subsection G. of 20.11.61.13 NMAC, then the Director may allow the major stationary source or major modification up to an additional three years to meet the requirement for the application of BACT. However, during the three-year period the major stationary source or major modification shall not cause or contribute to a violation of the NAAQS or applicable maximum allowable increase as shown in Table 4 of this Part.

[5/1/99; 20.11.61.14 NMAC – Rn, 20 NMAC 11.61.13, 10/1/02]

20.11.61.15 AIR QUALITY ANALYSIS REQUIREMENTS:

A. The requirements of this section shall apply to each pollutant emitted by a new major stationary source or major modification if amounts are equal to or greater than those in Table 2 of this Part. For particulate matter, the source will only be required to perform ambient impact analysis for PM_{10} if the source has the potential to emit significant amounts of PM_{10}.

B. The allowable emission increases, including secondary emissions, from the proposed source or modification in conjunction with all other applicable emission increases or reductions, including secondary emissions, shall not cause an exceedence of the NAAQS or any maximum allowable increase as shown in Table 4 of this Part over the baseline concentrations in the impact area.

C. The owner or operator of the proposed major stationary source or major modification shall demonstrate that the proposed major stationary source or major modification will not cause or contribute to a violation of the NAAQS or applicable maximum allowable increase as shown in Table 4 of this Part.

[5/1/99; 20.11.61.15 NMAC – Rn, 20 NMAC 11.61.14, 10/1/02]

20.11.61.16 ADDITIONAL ANALYSIS REQUIREMENTS:

A. Visibility Impairment Analysis: The owner or operator shall provide an analysis of the impairment to visibility in the baseline area as the result of emissions from the proposed major stationary source or major modification and associated emission sources. The analysis shall include:

(1) a determination of current visual quality of the baseline area,

(2) initial screening of the proposed emission sources and associated emission sources to determine the extent of any visibility deterioration, and

(3) a more detailed visibility impairment analysis if requested by the Director.

B. Soil and Vegetation Damage Analysis: The owner or operator shall provide an analysis of the potential damage to soils and vegetation that would occur as a result of the ambient air impacts from the proposed new major stationary source or major modification and associated emission sources in the baseline area to include the long-term exposure of sensitive vegetation species to regulated pollutants for which no NAAQS exists. The owner or operator does not need to provide an analysis of vegetation having no significant commercial or recreational value as determined by the Director. The analysis can use data or information available from the Department or other sources acceptable to the Department.

C. Growth Analysis: The owner or operator shall provide an air quality analysis of the reasonably foreseeable growth of associated emission sources in the impact area as a result of the new major stationary source or major modification for a time period determined by the Director not to exceed 20 years from the proposed date of construction. At the request of Director, the owner or operator shall also provide the Department with an air quality analysis of the baseline area since August 7, 1977. The analysis shall include the nature and extent of air quality impacts from all general residential, commercial, industrial, and governmental emission sources and other mobile and non-mobile growth during this period.

D. Ambient Air Quality Analysis: The owner or operator shall estimate the total ground level concentrations, to include background concentrations, of all regulated pollutants, which can be reasonably, anticipated as a result the construction and operation of the proposed major stationary source or next modification including associated emission sources.

E. AQRV Analysis: Before the Director will determine that an application is complete, and after construction is finished, the Director may require the applicant to conduct monitoring to establish the condition of and impact on air quality related values in any federal Class I within the impact area. Monitoring procedures and methods shall be approved by the Board.

[5/1/99; 20.11.61.16 NMAC – Rn, 20 NMAC 11.61.15, 10/1/02]

20.11.61.17 AMBIENT AIR QUALITY MODELING: All estimates of ambient concentrations required by this Part shall be based on applicable air quality models, databases and any additional requirements as specified in EPA's Guideline on Air Quality Models, (EPA-450/2-78-027R, July, 1986, its revisions or any superseding EPA document, and approved by the Department. If an air quality model specified in the Guideline on Air Quality Models is inappropriate, the model may be modified or another model substituted if approved in advance by the Department and the Administrator. The owner or operator shall also provide an opportunity for public comment regarding the proposed substitution or modification of a model by providing a summary of the proposed substitution and supporting reasons in a newspaper of general circulation in the baseline area consistent with the public notice and participation provisions found in 20 NMAC 11.41, Authority-to-Construct.

[5/1/99; 20.11.61.17 NMAC – Rn, 20 NMAC 11.61.16, 10/1/02]

20.11.61.18 MONITORING REQUIREMENTS:

A. Any application for a permit under this Part shall contain an analysis of ambient air quality in the impact area as measured by the applicant or, if available, from publicly available ambient air quality data from the Department. The analysis shall include:

(1) for a major stationary source, each pollutant that the major stationary source would have the potential to emit in an amount equal to or greater than the significance levels as listed in Table 2 of this Part, or

(2) for a major modification, each pollutant that would result in a significant net emission increase as listed in Table 2 of this Part.

B. The owner or operator shall include in the application, for the one year period prior to the receipt of the permit application, continuous air quality monitoring data including all meteorological and topographic data, required by the Department, for all pollutants in which a NAAQS exist. The Director may:

(1) determine if a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year but not less than four consecutive months, or

(2) determine that existing air quality monitoring data is representative of air quality in the impact area and accept such data in lieu of additional monitoring by the applicant if the data meets the requirements of the air quality analysis provisions required in this section.

C. If no NAAQS exists for a pollutant found in Table 2 of this Part, and there is an acceptable method for monitoring that pollutant, the analysis shall contain such air quality monitoring data as the Department determines necessary to assess the ambient air quality for that pollutant.

D. The applicant shall perform ozone monitoring if the major stationary source or major modification will emit significant VOC or NOx emissions as listed in Table 2 of this Part. Post construction ozone monitoring data may be substituted for pre-construction data required by Subsection B, of 20.11.61.18 NMAC, if the owner or operator of the proposed major stationary source or major modification satisfies all the conditions of 40 CFR 51, Appendix S, Section IV, Sources That Would Locate in a Designated Nonattainment Area.

E. Following consultation with all affected Federal Land Managers, the Director may require preconstruction and post construction visibility monitoring in any federal Class I areas if the Director determines an adverse impact on visibility may occur due primarily to the operations of the proposed major stationary source or major modification. Such monitoring shall be conducted consistent with procedures approved by the Department.

(1) Visibility monitoring methods specified by the Department shall be reasonably available and not require any research and development.

(2) The cost of visibility monitoring required by the Director shall not exceed 50% of the cost of the ambient monitoring required by this Part. If ambient monitoring is not required, the cost shall be estimated as if it were required for each pollutant for which this Part applies.

(3) Pre-construction and post construction visibility monitoring shall not exceed 365 days for each case.

F. The owner or operator of a major stationary source or major modification shall conduct post construction ambient monitoring as the Department determines is necessary to establish that ambient air quality standards and applicable increments are not exceeded.

G. The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR 58, Appendix B, D and E when operating monitoring stations.

H. The Director may exempt a major stationary source or major modification from the requirements of this section with respect to preconstruction monitoring for a particular pollutant if:

(1) for ozone, VOC emissions are less than 100 tons per year,

(2) the air pollutant is not listed in Table 3 of this Part, or

(3) the existing ambient concentrations of the pollutant in the impact area affected by the major stationary source or major modification is less than the concentrations listed in Table 3 of this Part,

(4) the emissions from the new major stationary source, or the net emissions increase from the major modification, would cause ambient concentration increases less than the levels listed in Table 3 of this Part.

[5/1/99; 20.11.61.18 NMAC – Rn, 20 NMAC 11.61.17, 10/1/02]

20.11.61.19 STACK HEIGHT CREDIT: The Department shall review all applications in accordance with the provisions of 20.11.43 NMAC, Stack Height Requirements.

[5/1/99; 20.11.61.19 NMAC – Rn, 20 NMAC 11.61.18, 10/1/02]

20.11.61.20 RESTRICTIONS ON AREA CLASSIFICATIONS:

A. The following areas which were in existence on August 7, 1977, shall be mandatory Class I areas and may not be redesignated:

(1) National wilderness areas which exceed 5,000 acres in size,

(2) National parks which exceed 6,000 acres in size,

(3) National memorial parks which exceed 5,000 acres in size, and

(4) International Parks.

B. The following federal Class I areas are within 100 kilometers of Bernalillo County:

(1) Bandelier Wilderness (National Park Service)

(2) Pecos Wilderness (USDA, Forest Service)

(3) San Pedro Parks Wilderness (USDA, Forest Service)

C. The following areas may be redesignated only as Class I or II:

(1) an area which exceeds 10,000 acres in size and is a national monument, national primitive area, national preserve, national recreational area, national wild and scenic river, national wildlife refuge, or

(2) a national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size. All other areas not designated as Class I shall be designated as Class II. Any designation other than Class II shall be subject to the redesignation procedures found in 40 CFR 51.166(g) which hereby are incorporated by reference.

[5/1/99; 20.11.61.20 NMAC – Rn, 20 NMAC 11.61.19, 10/1/02]

20.11.61.21 EXCLUSIONS FROM INCREMENT CONSUMPTION: Following a public hearing, consistent with the public notice and participation provisions found in 20.11.41 NMAC, Authority-to-Construct, the Director may exclude specific maximum allowable increases consistent with the provisions found in 40 CFR 51.166(f) which are hereby incorporated by reference, Exclusions from Increment Consumption, including those concentrations from particulate matter due to the increase in emissions from construction or other temporary emission-related activities from major stationary sources or major modifications.
[5/1/99; 20.11.61.21 NMAC – Rn, 20 NMAC 11.61.21, 10/1/02]

20.11.61.22 ADDITIONAL REQUIREMENTS FOR SOURCES IMPACTING FEDERAL CLASS I AREAS:

A. The Department shall notify any affected Federal Land Manager within 30 days from the date the Department received a request for a pre-application meeting from a proposed major stationary source or major modification subject to this Part and allow the affected Federal Land Manager to participate in the pre-application meeting.

B. Within 30 days after the receipt of a complete application, but not less than 60 days before any public hearing on the application, the Department shall transmit to the Administrator and all affected Federal Land Managers a copy of each complete permit application relating to a major stationary source or major modification proposing to locate within 100 kilometers of any federal Class I area. The Department shall include all information relevant to the permit application, including an analysis of the proposed source's anticipated impacts on visibility in the federal Class I area.

C. Within 30 days of the Department's receipt of a complete application, the Department shall consult with all affected Federal Land Managers regarding the completeness of the permit application, and shall consider any analysis performed by the applicant concerning the impact of the proposed major stationary source or major modification on all air quality related values, including visibility.

D. The Department will encourage the participation of the Administrator and Federal Land Manager during permit processing.

E. The Department shall also provide the Federal Land Manager and the Administrator with a copy of the preliminary determination required under 20.11.41 NMAC, Authority-to-Construct, Permit Decisions and Appeals, and shall make available to the Federal Land Manager any materials used in making the determination. If the Department disagrees with the Federal Land Manager's analysis of the source's impact on air quality related values, the Department shall either explain its decisions or give notice to the Federal Land Manager where the explanation can be obtained. If the Department disagrees with the Federal Land Manager's analysis, the Department will explain its decision to the public by advertising a summary of the decision and reason in a newspaper of general circulation in the baseline area consistent with the public notice and participation provisions found in 20.11.41 NMAC, Authority-to-Construct. The notice also shall state where the decision can be obtained.

F. The Department shall transmit to air quality control agencies and Indian governing bodies, as listed in 20.11.41 NMAC, Authority-to-Construct, Table 2, a copy of each permit application and preliminary determination as required pursuant to 20.11.41 NMAC, Authority-to-Construct, Permit Decisions and Appeals, having the potential to affect federal Class I areas or increment consumption in areas under their jurisdiction.

G. If the Federal Land Managers demonstrate to the Department that the emissions from a proposed major stationary source or major modification would have an adverse impact on the air quality related values, including visibility, to any federal Class I lands under their jurisdiction, even though the change in air quality resulting from the emissions from the proposed major stationary source or major modification would not cause or contribute to concentrations that exceed the maximum allowable increases for the federal Class I area, and the Department concurs with this demonstration, then the Department shall not issue the permit.
[5/1/99; 20.11.61.22 NMAC – Rn, 20 NMAC 11.61.22, 10/1/02]

20.11.61.23 PSD SOURCE CATEGORIES:

TABLE 1

1. Fossil fuel-fired steam electric plants of more than 250 million Btu/hr heat input
2. Coal cleaning plants (with thermal dryers)
3. Kraft pulp mills
4. Portland cement plants
5. Primary zinc smelters
6. Iron and steel mill plants
7. Primary aluminum ore reduction plants
8. Primary copper smelters
9. Municipal incinerators capable of charging more than 50 tons of refuse per day.
10. Hydrofluoric acid plants
11. Sulfuric acid plants
12. Nitric acid plants
13. Petroleum refineries
14. Lime plants
15. Phosphate rock processing plants
16. Coke oven batteries
17. Sulfur recovery plants
18. Carbon black plants (furnace process)
19. Primary lead smelters.
20. Fuel conversion plants.
21. Sintering plants.
22. Secondary metal production plants.
23. Chemical process plants.
24. Fossil fuel boiler (or combination thereof) totaling more than 250 million Btu/hr heat input.
25. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
26. Taconite ore processing plants.
27. Glass fiber-processing plants.
28. Charcoal production plants.

[5/1/99; 20.11.61.23 NMAC - Rn, 20 NMAC 11.61.Table 1, 10/1/02]

20.11.61.24 SIGNIFICANT EMISSION RATES:

Table 2

Pollutant	Emission Rate (tons/yr)
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxides	40
Particulate Matter	
Particulate Matter Emissions	25
PM_{10} Emissions	15
Ozone (Volatile Organic Compounds)	40 (Volatile Organic Compounds)
Lead	0.6
Asbestos	0.007
Beryllium	0.0004
Mercury	0.1
Vinyl chloride	1
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H_2S)	10
Total reduced sulfur (including H_2S)	10
Reduced sulfur compounds (including H_2S)	10
Municipal waste combustor organics (measured as total tetra-through-octa-chlorinated dibenzo-p-dioxins and dibenzofurans	3.5×10^{-6} (3.2×10^{-6}megagrams/year)
Municipal waste combustor metals (measured as particulate matter)	15 (14 megagrams/year)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride	40 (36 megagrams/year)
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 (45 megagrams/year)
Any other regulated pollutant	Any emission rate
Each regulated pollutant	Emission rate or net emissions increase associated with a major stationary source or a major modification that causes an air quality impact of 1 $\mu g/m^3$ or greater (24 hr average) in any federal Class I area located within 10 km of the source.

[5/1/99; 20.11.61.24 NMAC - Rn, 20 NMAC 11.61.Table 2, 10/1/02]

20.11.61.25 SIGNIFICANT MONITORING CONCENTRATIONS:

Table 3

Pollutant	Air Quality Concentration in Micrograms per cubic meter and Averaging Time
Carbon monoxide	575 (8-hour)
Nitrogen oxides	14 (Annual)
Sulfur dioxides	13 (24-hour)
Particulate Matter	
Particulate Matter Emissions	10 (24-hour)
PM_{10} Emissions	10 (24-hour)
Ozone	(a)
Lead	0.1 (3-month)
Asbestos	(b)
Beryllium	0.001 (24-hour)
Mercury	0.25 (24-hour)
Vinyl chloride	15 (24-hour)
Fluorides	0.25 (24-hour)
Sulfuric acid mist	(b)
Hydrogen sulfide (H_2S)	0.20 (1-hour)
Total reduced sulfur (including H_2S)	10 (1-hour)
Reduced sulfur compounds (including H_2S)	10 (1-hour)

(a) No specific air quality concentration for ozone is prescribed. Exemptions are granted when a source's VOC emissions are less than 100 tons/year.

(b) No acceptable monitoring techniques available at this time. Therefore, monitoring is not required until acceptable techniques are available.

[5/1/99; 20.11.61.25 NMAC - Rn, 20 NMAC 11.61.Table 3, 10/1/02]

20.11.61.26 ALLOWABLE PSD INCREMENTS:

Table 4

Pollutant		Allowable Increment in µg/m^3		
		Class I	**Class II**	**Class III**
Sulfur dioxide				
	annual arithmetic mean	2	20	40
	24-hour maximum	5[(a)]	91[(a)]	182[(a)]
	3-hour maximum	25[(a)]	512[(a)]	700[(a)]
Particulate Matter				
	PM_{10}, annual arithmetic mean	4	17	34
	PM_{10}, 24-hour maximum	8[(a)]	30[(a)]	60[(a)]
Nitrogen dioxide				
	annual arithmetic mean	2.5	25	50

(a) Not to be exceeded more than once a year.

[5/1/99; 20.11.61.26 NMAC - Rn, 20 NMAC 11.61.Table 4, 10/1/02]

20.11.61.27 SIGNIFICANCE LEVELS FOR AIR QUALITY IMPACTS IN CLASS II AREAS:

Table 5

Pollutants	Annual	24-hour	8-hour	3-hour	1-hour
Sulfur dioxide	1 µg/m^3	5 µg/m^3	-	25 µg/m^3	-
PM_{10}	1 µg/m^3	5 µg/m^3	-	-	-
Nitrogen dioxide	1 µg/m^3	-	-	-	-
Carbon monoxide	-	-	500 µg/m^3	-	2000 µg/m^3
Ozone	No significant ambient impact concentration has been established for ozone. See Section 18 of this Part.				

[5/1/99; 20.11.61.27 NMAC - Rn, 20 NMAC 11.61.Table 5, 10/1/02]

HISTORY OF 20.11.61 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.

Regulation No. 29, Prevention Of Significant Deterioration, 1/3/85;
Regulation No. 29, Prevention Of Significant Deterioration, 6/18/86;
Regulation No. 29, Prevention Of Significant Deterioration, 3/16/89;

Regulation No. 29, Prevention Of Significant Deterioration, 4/24/90;
Regulation No. 29, Prevention Of Significant Deterioration, 2/26/93.

History of Repealed Material: 20 NMAC 11.61, Prevention of Significant Deterioration, filed 10/27/95, repealed effective 12/1/95.

Other History:
Regulation No. 29, Prevention Of Significant Deterioration, filed 2/26/93 **renumbered, reformatted** and **replaced** by 20 NMAC 11.61, Prevention of Significant Deterioration, filed 10/27/95.
20 NMAC 11.61, Prevention of Significant Deterioration, filed 10/27/95 **replaced** by 20 NMAC 11.61, Prevention of Significant Deterioration, filed 3/18/99.
20 NMAC 11.61, Prevention of Significant Deterioration, filed 3/18/99 renumbered, reformatted, amended, and replaced by 20.11.61 NMAC, Prevention of Significant Deterioration, effective 10/1/02.