PENGAD 800-631-6989 AQD EXHIBIT 1b

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 64 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR STATIONARY SOURCES

20.11.64.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, c/o Environmental Health Department, P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2601.
[1/1/2000; 20.11.64.1 NMAC - Rn, 20 NMAC 11.64.1, 10/1/02; A, 1/1/05; A, 2/16/09]

20.11.64.2 SCOPE: 20.11.64 NMAC is applicable to all stationary sources of air pollutants located within Bernalillo county, which are subject to any requirements of 40 CFR Part 61 or Part 63, as amended in the *Federal Register* through [~~August 1, 2008~~] August 29, 2011.

A. Exempt: 20.11.64 NMAC does not apply to sources within Bernalillo county, that are located on Indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

B. Exclusions:

(1) 40 CFR 61, Subpart B, National Emission Standards for Radon Emissions From Underground Uranium Mines;

(2) 40 CFR 61, Subpart H, National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities;

(3) 40 CFR 61, Subpart I, National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H;

(4) 40 CFR 61, Subpart K, National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants;

(5) 40 CFR 61, Subpart Q, National Emission Standards for Radon Emissions From Department of Energy Facilities;

(6) 40 CFR 61, Subpart R, National Emission Standards for Radon Emissions From Phosphogypsum Stacks;

(7) 40 CFR 61, Subpart T, National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings; and

(8) 40 CFR 61, Subpart W, National Emission Standards for Radon Emissions From Operating Mill Tailings.

C. Variances: The variance provisions of 20.11.[~~0~~]7 NMAC, *Variance Procedure*, Revised Ordinances of Albuquerque 1994 Section 9-5-1-8, Bernalillo County Ordinance 94-5, Section 8 and NMSA 1978 Section 74-2-8 shall not apply to 20.11.64 NMAC or the incorporated federal standards.
[1/1/2000; 20.11.64.2 NMAC - Rn, 20 NMAC 11.64.2, 10/1/02; A, 1/1/05; A, 1/15/07; A, 2/16/09]

20.11.64.3 STATUTORY AUTHORITY: 20.11.64 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Act, NMSA 1978 Sections 74-2-4 and 74-2-5; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3 and 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4.
[1/1/2000; 20.11.64.3 NMAC - Rn, 20 NMAC 11.64.3, 10/1/02; A, 1/1/05]

20.11.64.4 DURATION: Permanent.
[1/1/2000; 20.11.64.4 NMAC - Rn, 20 NMAC 11.64.4, 10/1/02]

20.11.64.5 EFFECTIVE DATE: December 1, 1999, unless a later date is cited at the end of a section.
[1/1/2000; 20.11.64.5 NMAC - Rn, 20 NMAC 11.64.5 & A, 10/1/02]

20.11.64.6 OBJECTIVE: To adopt specified federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and National Emissions Standards for Hazardous Air Pollutants for Source Categories codified at 40 CFR Parts 61 and 63 as part of 20.11.64 NMAC.
[1/1/2000; 20.11.64.6 NMAC - Rn, 20 NMAC 11.64.6, 10/1/02; A, 1/1/05]

20.11.64.7 DEFINITIONS: [Reserved]

20.11.64.8 SAVINGS CLAUSE: Any amendment to 20.11.64 NMAC, *Emission Standards For Hazardous Air Pollutants For Stationary Sources* that is filed with the state records center and archives shall not affect actions pending for violation of a city or county ordinance or the version of 20.11.64 NMAC, *Emission Standards for Hazardous Air Pollutants for Stationary Sources*, in effect prior to amendment. 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.
[1/1/2000; 20.11.64.8 NMAC - Rn, 20 NMAC 11.64.8, 10/1/02; A, 1/1/05]

20.11.64.9 SEVERABILITY: If any section, subsection, sentence, phrase, clause, or wording of 20.11.64 NMAC 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 20.11.64 NMAC.
[1/1/2000; 20.11.64.9 NMAC - Rn, 20 NMAC 11.64.9, 10/1/02; A, 1/1/05]

20.11.64.10 DOCUMENTS: Documents incorporated and cited in 20.11.64 NMAC may be viewed at the Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM.
[1/1/2000; 20.11.64.10 NMAC - Rn, 20 NMAC 11.64.10, & A, 10/1/02; A, 1/1/05]

20.11.64.11 INCORPORATION OF FEDERAL STANDARDS CODIFIED AT 40 CFR PART 61: Except as otherwise provided, the National Emission Standards for Hazardous Air Pollutants, promulgated by the United States environmental protection agency, and codified at 40 CFR Part 61, including Subpart-A, General Provisions thereto, as amended in the *Federal Register* through [~~August 1, 2008~~] August 29, 2011, are hereby incorporated into 20.11.64 NMAC.
[1/1/2000; 20.11.64.11 NMAC - Rn, 20 NMAC 11.64.11, 10/1/02; A, 1/1/05; A, 1/15/07; A, 2/16/09]

20.11.64.12 INCORPORATION OF FEDERAL STANDARDS CODIFIED AT 40 CFR PART 63: Except as otherwise provided, the National Emissions Standards for Hazardous Air Pollutants for Source Categories, promulgated by the United States environmental protection agency, and codified at 40 CFR Part 63, including Subpart-A, General Provisions thereto, as amended in the *Federal Register* through [~~August 1, 2008~~] August 29, 2011, are hereby incorporated into 20.11.64 NMAC.
[1/1/2000; 20.11.64.12 NMAC - Rn, 20 NMAC 11.64.12, 10/1/02; A, 1/1/05; A, 1/15/07; A, 2/16/09]

20.11.64.13 MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) DETERMINATIONS FOR CONSTRUCTED AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS: Any owner or operator that constructs or reconstructs a major source of hazardous air pollutants shall be required to perform a MACT determination, approved by the department, consistent with the provisions of 40 CFR 63, Sections 40 through 44. Any MACT emission limitations or requirements shall be incorporated into any permit issued pursuant to 20.11.41 NMAC, *Authority-to-Construct*, or 20.11.42 NMAC, *Operating Permits*.
[1/1/2000; 20.11.64.13 NMAC - Rn, 20 NMAC 11.64.13, 10/1/02; A, 1/1/05]

20.11.64.14 MODIFICATIONS AND EXCEPTIONS: The following modifications or exceptions are made to the incorporated federal standards:

A. For purposes of administering and enforcing 40 CFR 61, the following modification or exception is made to the federal standards that are incorporated in 40 CFR 61. When the director of the Albuquerque environmental health department is exercising the authority delegated to the director by the United States environmental protection agency, the definition of "administrator" of the United States environmental protection agency that is included in 40 CFR 61.02, Definitions, shall be changed to "director" of the Albuquerque environmental health department.

B. For purposes of administering and enforcing 40 CFR 63, the following modification or exception is made to the federal standards that are incorporated in 40 CFR 63. When the director of the Albuquerque environmental health department is exercising the authority delegated to the director by the United States environmental protection agency, the definition of "administrator" of the United States environmental protection agency that is included in 40 CFR 63.2, Definitions, shall be changed to "director" of the Albuquerque environmental health department.

C. Pursuant to 40 CFR 63.42(b), the effective date for the incorporation of 40 CFR 63, Sections 40 through 44, shall be June 29, 1999. If the department does not have a program to adequately implement the provisions of Section 112(g) of the Clean Air Act, all case-by-case MACT determinations made by the department

shall be submitted in writing to the EPA regional administrator for concurrence. All applicable MACT emission limitations and requirements shall be incorporated into all permits issued by the department.
[1/1/2000; 20.11.64.14 NMAC - Rn, 20 NMAC 11.64.14, 10/1/02; A, 1/1/05]

HISTORY OF 20.11.64 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. 31, Emission Standards for Hazardous Air Pollutants, 1/3/85;
Regulation No. 31, Emission Standards for Hazardous Air Pollutants, 6/18/86;
Regulation No. 31, Emission Standards for Hazardous Air Pollutants, 7/14/89;
Regulation No. 31, Emission Standards for Hazardous Air Pollutants, 1/14/92;
Regulation No. 31, Emission Standards for Hazardous Air Pollutants, 4/22/93;
Regulation No. 31, Emission Standards for Hazardous Air Pollutants, 12/16/94.

History of Repealed Material: 20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources, filed 08-30-95.

Other History: Regulation No. 31, Emission Standards for Hazardous Air Pollutants, filed 12/16/94, was **renumbered** and **reformatted** into first version of the New Mexico Administrative Code as 20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources, filed 08-30-95.
20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources, filed 08-30-95 was **replaced** by 20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources, filed 11/22/99.
20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources, filed 11/22/99, **renumbered, reformatted, amended and replaced** by 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources, effective 10/1/02.