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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

Mr. Neal Butt
Environmental Health Scientist
Environmental Health/Air Quality Division
P.O. Box 1293
Albuquerque, NM 87102

MAY 0 5 2009

Dear Mr. Butt:

Thank you for the opportunity to review and comment on proposed revisions to the New Mexico Administrative Code, Title 20, Chapter 11, Part 49 regulation concerning Excess Emissions, as provided to us for review in your May 7, 2009 email correspondence. We have reviewed the May 7, 2009 version of the proposed Part 49 regulation, and have the following comments:

The proposed Part 49 regulation follows EPA's long-standing national policy on excess emissions as reaffirmed in the 1999 memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance and Robert Perciasepe, Assistant Administrator for Air and Radiation, entitled "State Implementation Plans (SIP): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (the 1999 Policy). For your reference we have enclosed a copy of the 1999 Policy with this letter.

The proposed Part 49 regulation adopts the "affirmative defense" approach for reviewing and evaluating reports of excess emissions resulting from malfunctions, or startup, and shutdown activities. This approach is permissible under the 1999 Policy. We believe implementation of the proposed Part 49 requirements should result in less excess emissions in Bernalillo County, New Mexico, and a cleaner air for its residents to enjoy.

EPA Region 6 applauds your efforts in undertaking this project, and fully supports your adoption of the proposed Part 49 regulation concerning Excess Emissions.

Thank you for the opportunity to provide comments on this proposed rule. Should you have any questions regarding this letter, please feel free to contact me at (214) 665-7242, or Mr. Alan Shar at (214) 665-6691.

Sincerely,

Guy Donaldson
Chief
Air Planning Section

Enclosure

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