

1 **ALBUQUERQUE/BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**

2 **RESOLUTION #2009-6**

3 **REPEALING ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL**
4 **BOARD REGULATIONS SECTION 20.11.90.12 NMAC, *BREAKDOWN, ABNORMAL***
5 ***OPERATING CONDITIONS, OR SCHEDULED MAINTENANCE* AND REPLACING WITH A**
6 **NEW RULE, 20.11.49 NMAC, *EXCESS EMISSIONS*. ALSO AMENDING ALBUQUERQUE-**
7 **BERNALILLO COUNTY AIR QUALITY CONTROL BOARD REGULATIONS 20.11.65**
8 **NMAC, *VOLATILE ORGANIC COMPOUNDS*, AND 20.11.69 NMAC, *PATHOLOGICAL***
9 ***WASTE DESTRUCTORS*, TO CORRECT CROSS-REFERENCING. SUBMITTING NEW**
10 **20.11.49 NMAC, AND AMENDED 20.11.90 NMAC, AND 20.11.65 NMAC TO EPA AS A**
11 **REVISION TO THE STATE IMPLEMENTATION PLAN (SIP)**

12 **Whereas**, the New Mexico Air Quality Control Act (“Air Act”), NMSA 74-2-5, requires the
13 Albuquerque/Bernalillo County Air Quality Control Board (“Air Board”), to “adopt, promulgate,
14 publish, amend and repeal regulations consistent with the Air Quality Control Act to attain and
15 maintain national ambient air quality standards and prevent or abate air pollution, including regulations
16 prescribing air standards” within Bernalillo County, and to meet requirements of the United States
17 Clean Air Act, the City of Albuquerque and Bernalillo County Joint Air Quality Control Board
18 Ordinances, and the Albuquerque/Bernalillo County Air Quality Control Board (“Air Board”)
19 Regulations; and

20 **Whereas**, on September 9, 2009, the Air Board held a public hearing in the City Council
21 Committee Room, 9th Floor, Room 9081 of the Albuquerque/Bernalillo County Government Center,
22 One Civic Plaza NW, in Albuquerque, New Mexico, and the hearing was held consistent with the
23 notice requirements of the New Mexico Air Quality Control Act, and 20.11.82 NMAC, *Rulemaking*
24 *Procedures - AQCB*; and

25 **Whereas**, on September 9, 2009, the Air Board met and determined that updating the local Air
26 Quality Control Board regulations by repealing 20.11.90.12 NMAC, the automatic exemption
27 provision, replacing the term “upset” with the term “abnormal operating conditions”, and replacing the
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1 term “secretary” with the term “Director”, to bring New Mexico’s rule into alignment with federal
2 guidance, changing language which states that excess emissions would only occur under exceptional
3 circumstances, and not during scheduled maintenance, startup or shutdown of operations, proposing a
4 requirement for a “root cause analysis” to be conducted, which is a detailed technical analysis, correct
5 cross-referencing, and to correct style and formatting is necessary; and

6 **Whereas**, at the September 9, 2009 public hearing, testimony was presented to establish a
7 present need, or a reasonably anticipated future need, which exists to warrant taking the following
8 actions to help prevent or abate air pollution;

9 **NOW, THEREFORE BE IT RESOLVED BY THE BOARD THAT:**

10 1. Regarding 20.11.49 NMAC, *Excess Emissions*, and 20.11.90.12 NMAC, *Breakdown,*
11 *Abnormal Operating Conditions, or Scheduled Maintenance*, 20.11.65 NMAC, *Volatile Organic*
12 *Compounds*, and 20.11.69 NMAC, *Pathological Waste Destructors* the Board hereby adopts the new
13 rule to 20.11.49 NMAC, *Excess Emissions*, and repeals 20.11.90.12 NMAC, *Breakdown, Abnormal*
14 *Operating Conditions, or Scheduled Maintenance*, and amends 20.11.65 NMAC, *Volatile Organic*
15 *Compounds*, and 20.11.69 NMAC, *Pathological Waste Destructors* as proposed in AQD Exhibits 1a,
16 1b and 1c, respectively which were admitted at the September 9, 2009 hearing as amended by “Staff’s
17 Proposed Floor Amendments” shown as AQD Exhibit #14.

18 2. The Board hereby directs staff to take all actions necessary to submit amended regulations to
19 EPA as a revision to the SIP.

20 3. The effective date of the new rule 20.11.49 NMAC, *Excess Emissions*, and repeal of
21 20.11.90.12 NMAC, *Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance*, and
22 amended 20.11.65 NMAC, *Volatile Organic Compounds*, and 20.11.69 NMAC, *Pathological Waste*
23 *Destructors* shall be October 13, 2009.

24 4. Staff is directed to submit the new rule 20.11.49 NMAC, *Excess Emissions*, and repealed

1 20.11.90.12 NMAC, *Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance*, and
2 amended 20.11.65 NMAC, *Volatile Organic Compounds*, and 20.11.69 NMAC, *Pathological Waste*
3 *Destructors* to the State Records Center in the format currently required by the State Records Center,
4 without changing the substance of the amendments as adopted by the Air Board on September 9, 2009.

5 **[WITH THE FOLLOWING CHANGES:]**

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PASSED AND ADOPTED THIS 9th DAY OF SEPTEMBER, 2009
BY A VOTE OF ___ FOR AND ___ AGAINST.
Absent: _____

Jens Deichmann Chair
Albuquerque-Bernalillo County
Air Quality Control Board

Attest:

Isreal Tavarez, Secretary