

1 TITLE 20 ENVIRONMENTAL PROTECTION  
2 CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD  
3 PART 100 MOTOR VEHICLE INSPECTION -- DECENTRALIZED  
4

5 20.11.100.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, c/o  
6 Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.  
7 [10/19/82. . .12/1/95; 20.11.100.1 NMAC - Rn, 20 NMAC 11.100.I.1, 10/1/02; A, 9/1/04]  
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9 20.11.100.2 SCOPE:

10 A. Applicability (vehicles to be inspected):

11 (1) Motor vehicles. All motor vehicles, as defined in 20.11.100.7 NMAC, shall be inspected for  
12 compliance with the requirements of ~~[this part]~~ 20.11.100 NMAC unless otherwise exempted. A vehicle shall not  
13 be registered or re-registered until the vehicle has passed the applicable on-board diagnostics (OBDII) inspection,  
14 exhaust emissions inspection, tampering inspection, pressurized gas cap test and visible emissions inspection  
15 prescribed by ~~[20.11.100.14]~~ 20.11.100.17 NMAC or the program has issued a time extension for repairs of the  
16 vehicle, unavailability for testing, or reciprocity for a test from another state.

17 ~~[B.]~~ (2) Commuter vehicles: All motor vehicles ~~[, which]~~ that are more than four years old and are  
18 driven into, operated, or are otherwise present in Bernalillo county for 60 or more days per year but are registered in  
19 another county or state ~~[must]~~ shall comply with ~~[this part]~~ 20.11.100 NMAC.

20 ~~[C.]~~ (3) Federal installations: Vehicles ~~[, which]~~ that are operated on federal installations located in  
21 Bernalillo county, shall comply with ~~[this part]~~ 20.11.100 NMAC, whether or not the vehicles are registered in New  
22 Mexico or Bernalillo county. The inspection requirement applies to all employee owned or leased vehicles as well  
23 as agency operated vehicles. The inspection requirements for federal installations are mandated by 40 CFR Part  
24 51.356(a)(4).

25 ~~[D.]~~ (4) Fleet vehicles: Fleet vehicles ~~[, which]~~ that are registered outside of Bernalillo county but are  
26 primarily operated in Bernalillo county shall comply with ~~[this part]~~ 20.11.100 NMAC. The inspection  
27 requirements for fleet vehicles are mandated by 40 CFR Part 51.356(a)(2).

28 ~~[E.]~~ (5) Municipalities and counties: If the program enters into a joint powers agreement with a  
29 municipality or county to extend the enforcement of ~~[this part]~~ 20.11.100 NMAC, all vehicles registered in that  
30 municipality or county ~~[must]~~ shall comply with ~~[this part]~~ 20.11.100 NMAC.

31 B. Exempt vehicles:

32 (1) all new motor vehicles for four years following initial registration from the date of the  
33 manufacturer's certificate of origin (MCO);

34 (2) vehicles that are fueled by a mixture of gasoline and oil for purposes of lubrication;

35 (3) motor vehicles that are used for legally sanctioned competition and not operated on public streets  
36 and highways;

37 (4) implements of husbandry, or road machinery not regularly operated on public streets and  
38 highways;

39 (5) other vehicles that are not regularly operated on public streets and highways after providing  
40 satisfactory proof to the program manager;

41 (6) vehicles leased by a leasing company whose place of business is Bernalillo county to a person  
42 who resides outside of Bernalillo county; however, an exemption shall not be granted if the person resides in an  
43 area, that has an EPA-required vehicle inspection program;

44 (7) vehicles that are 35 years old or older;

45 (8) vehicles sold between licensed dealers;

46 (9) vehicles with a GVW of 10,001 lbs or more; and

47 (10) Dedicated electric vehicles.

48 (11) Existing electric hybrid vehicles which were exempted from 20.11.100 NMAC as of the  
49 effective date of 20.11.100.2 NMAC, until such time that a change of ownership of the vehicle occurs.

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51 [5/20/88. . .12/1/95; 20.11.100.2 NMAC - Rn, 20 NMAC 11.100.I.2, 10/1/02; A, 5/1/04; A, 9/1/04]  
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53 20.11.100.3 STATUTORY AUTHORITY: ~~[This part]~~ 20.11.100 NMAC is adopted pursuant to the,  
54 authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint  
55 Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3 and 4; the Joint Air Quality  
56 Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4; and the City of

1 Albuquerque and Bernalillo County Motor Vehicle Emissions Control Ordinances. It is adopted in order to comply  
2 with the Federal Clean Air Act Amendments of 1990 and 40 CFR Part 51, [~~which are the environmental protection~~  
3 ~~agency inspection/maintenance requirements~~] Subpart S, Inspection/Maintenance Program Requirements.  
4 [10/19/82. . .12/1/95; 20.11.100.3 NMAC - Rn, 20 NMAC 11.100.I.3, 10/1/02; A, 9/1/04]

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6 **20.11.100.4 DURATION:** Permanent, unless the violation described in 20.11.101 NMAC occurs.  
7 [12/1/95; 20.11.100.4 NMAC - Rn, 20 NMAC 11.100.I.4, 10/1/02; A, 5/1/04]

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9 **20.11.100.5 EFFECTIVE DATE:**

10 A. [Effective] December 1, 1995, unless a later date is cited at the end of a section. If no EPA-  
11 confirmed violation (two exceedances) of the federal ambient carbon monoxide standards has occurred within  
12 Bernalillo county, the vehicle inspection frequency shall be biennial. [~~Until the later of June 13, 2006, or when the~~  
13 ~~SIP revision, "second half of the carbon monoxide maintenance plan for Bernalillo county", is effective following~~  
14 ~~EPA approval, if EPA confirms a violation of the federal ambient carbon monoxide standards, then, 120 days after~~  
15 ~~the violation is confirmed by the EPA, the program shall require annual testing of vehicles and the program will be~~  
16 ~~upgraded to meet the performance standards established in 40 CFR Part 51. Beginning on the later of June 13, 2006,~~  
17 ~~or when the SIP revision, "second half of the carbon monoxide maintenance plan for Bernalillo county" is effective~~  
18 ~~following EPA approval, if no EPA confirmed violation of the federal ambient carbon monoxide standards has~~  
19 ~~occurred, the vehicle inspection frequency shall be biennial.]~~

20 B. Beginning January 1 of the first year following the federally effective date for the 2011 revised  
21 ozone standard, all 1998 and newer diesel motor vehicles must pass an on-board diagnostic test pursuant to  
22 Paragraph (2) of Subsection E of 20.11.100.17 NMAC.  
23 [8/25/92. . .12/1/95; 20.11.100.5 NMAC - Rn, 20 NMAC 11.100.I.5, & A, 10/1/02; A, 9/1/04]

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25 **20.11.100.6 OBJECTIVE:** To provide for the control and regulation of carbon monoxide (CO), hydrocarbon  
26 (HC), ozone precursors and particulate emissions above certain levels from motor vehicles, and for anti-tampering  
27 inspections.  
28 [10/19/82. . .12/1/95; 20.11.100.6 NMAC - Rn, 20 NMAC 11.100.I.6, 10/1/02; A, 5/1/04; A, 9/1/04]

29  
30 **20.11.100.7 DEFINITIONS:** In addition to the definitions in 20.11.100.7 NMAC the definitions in 20.11.1  
31 NMAC apply unless there is a conflict between definitions, in which case the definition in [~~this part~~] 20.11.100  
32 NMAC shall govern.

33 A. "**Air care inspection station**" means a private business authorized by a certificate in accordance  
34 with [~~20.11.100.18~~] 20.11.100.21 NMAC to inspect motor vehicles and issue certificates of inspection. It also  
35 means stations established by the city of Albuquerque and Bernalillo county, or other governmental entities, for  
36 testing government owned or leased motor vehicles.

37 B. "**Air care inspector**" means an individual authorized by a certificate issued by the program to  
38 perform inspections of motor vehicles and who has met the requirements of [~~20.11.100.21~~] 20.11.100.26 NMAC.

39 C. "**Air care station**" means [~~both~~] an *air care* inspection station, [~~and~~] a fleet *air care* station or a  
40 vehicle-mounted or moveable *air care* station.

41 D. [~~Reserved~~] **Audit** means an assessment by VPMD, either as a physical on site visit or an off site  
42 review of data collected electronically, designed to determine whether *air care* inspectors and *air care* stations are  
43 correctly performing all tests and other functions required by the VPMD program. Physical on site audits shall be of  
44 two types: overt and covert. {after 40 CFR 51.363(a)}

45 E. "**Biennial**" means every other year.

46 F. "**Chassis**" means the complete motor vehicle, including standard factory equipment, [~~exclusive~~  
47 ~~of~~] but excluding the body and cab.

48 G. "**City**" means the city of Albuquerque, a New Mexico municipal corporation.

49 H. "**Clean piping**" means the illegal act of an *air care* station or *air care* inspector that results in a  
50 fraudulent "pass" for a vehicle's tailpipe emissions test by entering into the emissions analyzer unique information  
51 identifying the vehicle being tested, but then performing the tailpipe test on a different vehicle, which bypasses  
52 actual testing of the first vehicle.

53 I. "**Clean scanning**" means the illegal act of an *air care* station or *air care* inspector that results in a  
54 fraudulent "pass" for a vehicle's emissions test by entering into the emissions analyzer unique information  
55 identifying the vehicle being tested, but then performing the emissions test on a different vehicle, which bypasses  
56 actual testing of the first vehicle. {after Missouri Code of State Regulations 10-5.381(2)(B)}

1        ~~[H.]~~ **J.** “County” means the county of Bernalillo, a political subdivision of the state of New Mexico.

2        **K.** “Covert audit” means a quality assurance site visit by an anonymous agent delegated by VPMD

3 to drive a vehicle into the selected station and asked to have the vehicle tested. The vehicle may be set up by

4 VPMD in a tampered or failed condition. Covert audits are required by EPA to ensure that air care stations and air

5 care inspectors are performing the emissions test correctly. {after 40 CFR 51.363 (a)(4)(v)}

6        **L.** “Covert surveillance” means a quality assurance audit by observation done from an off-site

7 location near the air care station, often using binoculars to monitor the actions of an air care inspector performing

8 emissions testing. {after 40 CFR 51.363 (a)(4)(v)}

9        ~~[I.]~~ **M.** “Dealer” means any person who sells or solicits or advertises the sale of new or used motor

10 vehicles subject to registration in the state of New Mexico and as further defined in the Motor Vehicle Code Chapter

11 66, NMSA 1978.

12        ~~[J.]~~ **N.** “Distributor” means any person who distributes or sells new or used motor vehicles to dealers

13 and who is not a manufacturer.

14        ~~[K.]~~ **O.** “Division” or “VPMD” means the vehicle pollution management division of the city

15 environmental health department, which provides the staff for the Albuquerque-Bernalillo county vehicle pollution

16 management program.

17        ~~[L.]~~ **P.** “Driver” means every person who drives or is in actual physical control of a motor vehicle upon a

18 highway or upon property used for inspections.

19        **Q.** “Emissions analyzer” means a device for measuring the concentration of certain exhaust gases

20 emitted by a motor vehicle.

21        **R.** “Emissions inspection system” or “EIS” means the equipment and software for conducting the

22 official emissions inspection.

23        ~~[M.]~~ **S.** “Essential parts” means all integral and body parts of a vehicle of a type required to be registered

24 under the Motor Vehicle Code, the removal, alteration or substitution of which would tend to conceal the identity of

25 the vehicle or substantially alter its appearance, model type or mode of operation.

26        ~~[N.]~~ **T.** “Exhaust emissions” means CO, HC and all other substances emitted through a motor vehicle's

27 exhaust system, after passing downstream of the engine block exhaust ports and exhaust emissions control devices,

28 if any.

29        ~~[O.]~~ **U.** “Exhaust ~~[emission]~~ emissions control device” means equipment designed by the manufacturer

30 of the vehicle and installed on a motor vehicle for the purpose of reducing pollutants emitted from the vehicle, or a

31 system or engine modification designed by the manufacturer of the motor vehicle ~~[which]~~ that causes a reduction of

32 pollutants emitted from the vehicle, or equipment designed by the vehicle manufacturer to prevent damage to or

33 tampering with other exhaust ~~[emission]~~ emissions control devices.

34        ~~[P.]~~ **V.** “Fast idle condition or unloaded 2500 rpm” means an exhaust emissions inspection conducted

35 with the engine of the vehicle running under an accelerated condition as required by 40 CFR Part 51, Subpart S,

36 Inspection/Maintenance Program Requirements.

37        ~~[Q.]~~ **W.** “Field audit gas” means a gas mixture with known concentrations of CO<sub>2</sub>, CO, and HC that is

38 used by the program to check the accuracy of exhaust gas analyzers used by authorized inspection stations.

39        **X.** “Fleet” means a group of vehicles under the common ownership or control of a commercial or

40 governmental entity.

41        ~~[R.]~~ **Y.** “Fleet air care station” means any person, business, government entity, firm, partnership or

42 corporation ~~[which]~~ that provides for the construction, equipping, maintaining, staffing, managing and operation of

43 authorized inspection station for the sole purpose of inspecting its private fleet of motor vehicles subject to ~~[this~~

44 ~~part]~~ 20.11.100 NMAC, and not offering inspection services to its employees or the general public.

45        ~~[S.]~~ **Z.** “Fuel” means any material that is burned by the engine of a vehicle in order to propel the vehicle.

46        **AA.** “Gas cap test” means the determination of the ability of the gas cap(s) to retain pressure.

47        ~~[F.]~~ **BB.** “Gross vehicle weight” means the weight of a vehicle without load, plus the weight of any load

48 thereon.

49        ~~[U.]~~ **CC.** “Government vehicle” means a motor vehicle exempt from the payment of a registration fee and

50 owned or leased by any federal, state, local, or other governmental entity.

51        ~~[Y.]~~ **DD.** “Headquarters” means the main office of the vehicle pollution management program.

52        ~~[W.]~~ **EE.** “Highway” means every way or place generally open to the use of the public as a matter

53 of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of

54 construction, maintenance, repair or reconstruction.

55        ~~[X.]~~ **FF.** “Idle mode test” means an unloaded exhaust emissions test conducted only at the idle condition,

56 as described in the ~~[VPMP]~~ VPMD procedures manual.

1 ~~[Y.] GG.~~ "Inspection or re-inspection or test" means the mandatory vehicular anti-tampering and  
2 emissions inspection conducted both visually and with equipment or chemical sensing devices as required by ~~[this~~  
3 ~~Part]~~ 20.11.100 NMAC.

4 ~~[Z.] HH.~~ "Low emissions tune-up" means adjustments and repairs~~[-which]~~ that can reduce motor  
5 vehicle emissions, including but not limited to the following procedures:

6 (1) checking and setting to manufacturer's specifications, the idle mixture, idle speed, ignition timing  
7 and dwell; ~~[and]~~

8 (2) checking for proper connection of vacuum lines, electrical wires, and for proper operation of  
9 pollution control devices; ~~[and]~~

10 (3) checking and replacement of air breathing filters and positive crankcase ventilation valve as  
11 necessary; ~~[and]~~

12 (4) replacement of spark plugs, points, and wires; and

13 (5) for all motor vehicles equipped with computer controlled closed-loop feedback exhaust  
14 ~~[emission] emissions~~ control devices and systems, inspecting the operation of the ~~[emission] emissions~~ control  
15 system according to the motor vehicle manufacturer's specified procedures, including hose routing and on-board  
16 diagnostics, new vehicle warranty and repair or replacement as necessary.

17 ~~[AA.] II.~~ "Manufacturer" means every person engaged in the business of constructing or  
18 assembling vehicles of a type required to be registered under the laws of the state of New Mexico.

19 ~~[BB.] JJ.~~ "Manufacturer's certificate of origin" or "MCO" means a certification, on a form  
20 supplied by or approved by the MVD, signed by the manufacturer, stating that the new vehicle described therein has  
21 been transferred to the New Mexico dealer or distributor named therein or to a dealer duly licensed or recognized as  
22 ~~[such] a dealer or distributor~~ in another state, territory or possession of the United States, and that ~~[such] the~~ transfer  
23 is the first transfer of ~~[such] the~~ vehicle in ordinary trade and commerce. Every ~~[such certificate] MCO~~ contains a  
24 space for proper reassignment to a New Mexico dealer or to a dealer duly licensed or recognized as ~~[such] a dealer~~  
25 ~~or distributor~~ in another state, territory or possession of the United States. The certificate also contains a description  
26 of the vehicle, the number of cylinders, type of body, engine number and the serial number or other standard  
27 identification number provided by the manufacturer of the vehicle, ~~[where] if [such] the information~~ exists.

28 ~~[CC.] JJ.~~ "Model year" means the year of manufacture of the vehicle based on the annual  
29 production period of the vehicle as designated by the manufacturer and indicated on the title and registration of the  
30 vehicle. If the manufacturer does not designate a production period for the vehicle, then the model year means the  
31 calendar year of manufacture.

32 ~~[DD.] KK.~~ "Motor vehicle" means any vehicle ~~[which] that~~:

33 (1) is propelled by a spark or compression ignition, internal combustion engine; ~~[and]~~

34 (2) has four or more wheels in contact with the ground; ~~[and]~~

35 (3) is subject to registration with the MVD to an owner of record who is domiciled within Bernalillo  
36 county, or is a government vehicle which is assigned to a governmental unit within Bernalillo county; ~~[and]~~

37 (4) has a GVW greater than 1,000 and less than 10,001 pounds; ~~[and]~~

38 (5) is for use upon public roads and highways; ~~[and]~~

39 (6) is a 1975 model year or newer; and

40 (7) is a vehicle not otherwise exempted by ~~[this part] 20.11.100 NMAC.~~

41 ~~[EE.] LL.~~ "New motor vehicle" is a vehicle~~[-which]~~ that has undergone a transfer of ownership  
42 and is being registered for the first time to any person, ~~[except in but does not include]~~ the sale to another licensed  
43 motor vehicle dealer for the purpose of resale as a new vehicle.

44 ~~[FF.] MM.~~ "Operator" means driver, as defined in ~~[this part] 20.11.100 NMAC.~~

45 NN. "Overt audit" means an on-site quality assurance assessment of the performance of an *air care*  
46 station or an *air care* inspector, conducted by VPMD personnel. An overt audit may also be an assessment of an *air*  
47 *care* station's emissions analyzer to ensure that the equipment is maintained appropriately and operating correctly.  
48 {after 40 CFR 51.363 (a)(1)}

49 ~~[GG.] DD.~~ "Owner" means a person who holds the legal title of the motor vehicle or, ~~[in the event~~  
50 ~~a] if the~~ vehicle is the subject of an agreement for conditional sale or lease ~~[thereof]~~ with the right of purchase upon  
51 performance of the conditions stated in the agreement and with an immediate right of possession vested in the  
52 conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then ~~[such]~~ "owner"  
53 means the conditional vendee, [or] lessee or mortgagor.

54 ~~[HH.] PP.~~ "Pass fail criteria" means ~~[these] the~~ standards ~~[set] established by [this part] 20.11.100~~  
55 NMAC [which] that specify the maximum allowable motor vehicle exhaust emissions under appropriate specified  
56 operating conditions.

1 ~~[H-]~~ **OO.** "Person" means any individual, partnership, firm, public or private corporation,  
2 association, trust, estate, political subdivision or agency, or any other legal entity or legal representative, agent or  
3 assign.

4 ~~RR.~~ "Pretesting" means the determination by an *air care* station or inspector, of the "pass" or "fail"  
5 status of a vehicle and providing the information to the vehicle owner prior to performing the required complete  
6 emissions test

7 ~~[J-]~~ **SS.** "Program" or ~~[VPM]~~ "VPMD program" means the Albuquerque - Bernalillo county vehicle  
8 pollution management program.

9 ~~[K-]~~ **TT.** "Program manager" means a classified city employee selected in accordance with  
10 provisions of the joint powers agreement between the city and the county to perform for the joint air quality control  
11 board ~~[these]~~ the duties required to enforce and administer the provisions of ~~[this part]~~ 20.11.100 NMAC, or the  
12 program manager's designee.

13 ~~[L-]~~ **UU.** "Reconstructed vehicle" means ~~[any]~~ a vehicle ~~[which shall have been]~~ that was  
14 assembled or constructed largely ~~[by means]~~ from of essential parts, new or used, derived from other vehicles or  
15 makes of vehicles of various names, models and types or ~~[which,]~~ that, if originally otherwise constructed, ~~[shall~~  
16 ~~have been]~~ was materially altered by the removal of essential parts, new or used, derived from other vehicles or  
17 makes of vehicles.

18 ~~[M-]~~ **VV.** "Registration and re-registration" means both original registration and renewal of  
19 motor ~~[vehicles]~~ vehicle registration as provided in the New Mexico Motor Vehicle Code, Chapter 66 NMSA 1978.

20 ~~-----~~ **NN.** "Shall be inspected" means the vehicle shall be subjected to testing and inspection as applicable  
21 to model year and weight classification and shall satisfy the criteria of this part as evidenced by the issuance of a  
22 certificate of inspection.]

23 ~~[O-]~~ **WW.** "Standard gases" means NIST certified emissions samples of gases maintained as  
24 primary standards for determining the composition of working gases, field audit gases, or the accuracy of analyzers.

25 ~~[P-]~~ **XX.** "Truck" means every motor vehicle designed, used or maintained primarily for the  
26 transportation of property. In addition, all vehicles with a GVW greater than 6000 pounds shall be considered a  
27 truck.

28 ~~-----~~ **QQ.** "VEGAS" means ~~a program certified, garage type, computer-controlled NDIR vehicle exhaust~~  
29 ~~gas analyzer system which is capable of performing a preconditioned two speed idle test on board diagnostic test,~~  
30 ~~and pressurized gas cap test on vehicles as required by 40 CFR Part 51 appendix B to Subpart S and meets or~~  
31 ~~exceeds the specifications adopted by the program.]~~

32 ~~-----~~ **YY.** "Vehicle information database" or "VID" means a database consisting of data collected from  
33 each official inspection as specified in the EIS.

34 ~~[R-]~~ **ZZ.** "VIR" means vehicle inspection report, a program-certified document (VIR) signed by a  
35 certified *air care* inspector or other program authorized official stating that the vehicle described therein is either in  
36 compliance (pass), not in compliance (fail), or has an approved time extension in order to achieve compliance  
37 through additional repairs or adjustments (time-limit extension).

38 ~~[S-]~~ **AAA.** "Visible emissions" means any fume, smoke, particulate matter, vapor or gas, or  
39 combination thereof, ~~[except]~~ excluding water vapor or steam.

40 ~~[T-]~~ **BBB.** "~~[VPMP]~~ VPMD procedures manual" or "procedures manual" means a ~~[compilation~~  
41 ~~of]~~ technical guidance document that outlines procedures required to perform a complete and valid vehicle  
42 emissions test and that [is] has been developed by the program manager pursuant to [20.11.100-12 20.11.100.15  
43 NMAC and modified as vehicle emissions tests or equipment is changed.

44 ~~[U-]~~ **CCC.** "~~[Wholesale]~~" means either any person selling or offering for sale vehicles of a type  
45 subject to registration in New Mexico to a vehicle dealer licensed under the Motor Vehicle Code, Chapter 66,  
46 NMSA 1978, or any person who is franchised by a manufacturer, distributor or vehicle dealer to sell or promote the  
47 sale of vehicles dealt in by such manufacturer, distributor or vehicle dealer, but does not include the act of selling a  
48 vehicle at retail as a dealer subject to the dealer licensing provisions of the Motor Vehicle Code.] **RESERVED**

49 ~~[V-]~~ **DDD.** "Working gases" means program-approved span gases maintained by an authorized *air*  
50 *care* inspection station to perform periodic calibration of approved exhaust gas analyzers.

51 ~~[W-]~~ **EEE.** **Abbreviations and symbols**

- 52 (1) A/F means air/fuel.
- 53 (2) ASE means the national institute for automotive service excellence.
- 54 (3) CO means carbon monoxide.
- 55 (4) CO<sub>2</sub> means carbon dioxide.
- 56 (5) DTC means diagnostic trouble code.

- 1 (6) EHD means the environmental health department.
- 2 (7) EIS means the emissions inspection system.
- 3 ~~[(7)](8)~~ EPA means the environmental protection agency.
- 4 ~~[(8)](9)~~ GVW means gross vehicle weight.
- 5 ~~[(9)](10)~~ HC means hydrocarbon.
- 6 ~~[(10)](11)~~ HP means horsepower.
- 7 ~~[(11)](12)~~ LNG means liquefied natural gas.
- 8 ~~[(12)](13)~~ LPG means liquefied petroleum gas.
- 9 ~~[(13)](14)~~ MPH means miles per hour.
- 10 ~~[(14)](15)~~ MCO means manufacturer's certificate of origin.
- 11 ~~[(15)](16)~~ MVD means the motor vehicle division of the New Mexico taxation and revenue
- 12 department.
- 13 ~~[(16)](17)~~ NDIR means non-dispersive infrared.
- 14 ~~[(17)](18)~~ NIST means national institute of standards and technology.
- 15 ~~[(18)](19)~~ OBDII means a vehicle's on-board diagnostics second generation.
- 16 ~~[(19)](20)~~ % means percent.
- 17 ~~[(20)](21)~~ PCV means positive crankcase ventilation.
- 18 ~~[(21)](22)~~ ppm means parts per million by volume.
- 19 ~~(23)~~ VID means the vehicle information database.
- 20 ~~[(22)](24)~~ VIN means vehicle identification number.

21 ~~[(23)](24)~~ 40 CFR Part 51 means the EPA regulations for inspection/maintenance programs published in  
 22 the federal register on November 5, 1992 and mandated by the Federal Clean Air Act Amendments of 1990.  
 23 [10/12/82. . .5/20/88, 11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.7 NMAC - Rn, 20 NMAC 11.100.I.7, 10/1/02;  
 24 A, 5/1/04; A, 9/1/04]

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 26 **20.11.100.8 VARIANCES:** [Reserved]  
 27 [12/1/95; 20.11.100.8 NMAC - Rn, 20 NMAC 11.100.I.8, 10/1/02]

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 29 **20.11.100.9 SAVINGS CLAUSE:** Any amendment of 20.11.100 NMAC~~[, which,]~~ that is filed with the state  
 30 records center shall not affect actions pending for violation of a city or county ordinance, [~~Air Quality Control Board~~  
 31 ~~Regulation 28,~~] the VPMD procedures manual or 20.11.100 NMAC. Prosecution for a prior violation shall be  
 32 governed and prosecuted under the statute, ordinance, regulation, part or procedures manual in effect at the time the  
 33 violation was committed.  
 34 [9/23/94. . .12/1/95; 20.11.100.9 NMAC - Rn, 20 NMAC 11.100.I.9, 10/1/02]

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 36 **20.11.100.10 SEVERABILITY:** If any section, paragraph, sentence, clause or word of ~~[this part]~~ 20.11.100  
 37 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise  
 38 invalid by any court, ~~[such]~~ the decision shall not affect the validity of remaining provisions of ~~[this part]~~ 20.11.100  
 39 NMAC or the procedures manual.  
 40 [9/23/94. . .12/1/95; 20.11.100.10 NMAC - Rn, 20 NMAC 11.100.I.10, 10/1/02]

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 42 **20.11.100.11 DOCUMENTS:** Documents incorporated and cited in ~~[this part]~~ 20.11.100 NMAC may be  
 43 viewed at the vehicle pollution management program headquarters, 1500 Broadway NE, Albuquerque, NM 87102.  
 44 [12/1/95; 20.11.100.11 NMAC - Rn, 20 NMAC 11.100.I.11, 10/1/02]

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 46 **20.11.100.12 VEHICLE POLLUTION MANAGEMENT DIVISION:**

47 A. The vehicle pollution management division or its successor agency is part of the city of  
 48 Albuquerque environmental health department.

49 B. The division manager shall establish and maintain a VPMD headquarters, which will include an  
 50 emissions inspection facility equipped with certified emissions testing equipment and employing at least two ASE  
 51 certified technicians. {after 22.11.100.20.A.(3) NMAC}

52 C. The facility shall be operated by the city to provide services to the public and to facilitate program  
 53 responsibilities and administer the provisions of 20.11.100 NMAC. {after 22.11.100.20.A.(3) NMAC}

54  
 55 **20.11.100.13 RESPONSIBILITIES OF VEHICLE POLLUTION MANAGEMENT DIVISION:**

1 A. VPMD shall be responsible for administering a program that ensures that federal motor vehicle  
2 emissions standards are met. In order to be successful in meeting federal goals and criteria for a motor vehicle  
3 emissions testing program, VPMD is authorized to take any actions commonly known to be necessary for a motor  
4 vehicle emissions testing program, now and in the future, including, at a minimum:  
5 (1) developing and approving specifications for gas analyzers in a manner consistent with  
6 improvements in the industry;  
7 (2) maintaining databases including the VID, certified *air care* inspectors' information and history,  
8 and extensions/exemptions from official inspections;  
9 (3) providing training and certification processes for *air care* station and *air care* inspectors;  
10 (4) performing quality assurance audits as required by 20.11.100.30 NMAC, assessing the level of  
11 compliance of each *air care* station or *air care* inspector by using onsite audits and by monitoring the information  
12 provided by the VID; {after 20.11.100.20.B.(4) NMAC}  
13 (5) enforcing the certification and recertification requirements of *air care* inspectors;  
14 (6) taking enforcement actions as appropriate and providing for penalty assessment;  
15 (7) investigating and maintaining records regarding complaints against certified *air care* stations and  
16 certified *air care* inspectors; {after 20.11.100.20.B.(3) NMAC}  
17 (8) providing for non-binding mediation of disputes arising from inspection activities by certified *air*  
18 *care* stations or certified *air care* inspectors, including if necessary, a verification test at no cost to the person  
19 requesting the test; and {after 20.11.100.20.B.(1) NMAC}  
20 (9) evaluating and issuing compliance time extensions for vehicles unable to pass the inspection test  
21 criteria as provided by 20.11.100 NMAC. {after 20.11.100.20.B.(2) NMAC}  
22 [20.11.100.13 NMAC - N 2010]

#### 23 24 **20.11.100.14 SCHEDULING OF INSPECTIONS:**

25 A. **Inspection and registration:** Every motor vehicle, as defined in 20.11.100.7 NMAC, shall be  
26 inspected biennially unless it is determined to emit quantities of CO or HC between 75% and 100% of its maximum  
27 allowable standard listed in Table I of Subsection A of 20.11.100.17 NMAC, in which case it shall be issued a  
28 provisional pass certificate good only for a one year registration and shall be required to be inspected again the  
29 following year prior to registration. The MVD shall distribute notices or other appropriate information to owners of  
30 vehicles applying for re-registration in accordance with the written agreement between the MVD and the program  
31 manager. Vehicles shall also be inspected when sold and when titles are transferred. A person who believes he has  
32 a vehicle for which he has been erroneously notified of inspection may petition the program manager to correct the  
33 error.

34 B. **Vehicles unavailable for inspection:** Motor vehicles that are unavailable for inspection may be  
35 granted an extension of inspection if authorized by the program manager. Persons seeking an extension may  
36 petition the program manager by submitting a signed affidavit justifying the special need and by providing other  
37 necessary documentation as required by the program manager.

#### 38 C. **Federal, state and local government vehicles:**

39 (1) Each motor vehicle operated in Bernalillo county that is owned or leased by the United States  
40 government, the state of New Mexico or any local government entity shall be inspected biennially.

41 (2) Scheduling vehicles for inspection pursuant to an agreement with the program manager shall be  
42 the responsibility of the governmental authority that owns or leases the vehicles. The schedules shall only be  
43 approved if the program manager determines that they are consistent with the scope and goals of 20.11.100 NMAC.

44 (3) Persons who are responsible for government fleet vehicles or motor pools shall update the  
45 vehicle inventory annually each January and forward the resulting inspection plan with fleet inventory to the  
46 program manager in a format approved by the program manager.

47 (4) Failure to forward the inspection plan and fleet inventory to VPMD by March 31<sup>st</sup> of each year is  
48 a violation of 20.11.100 NMAC and of the Air Quality Control Act [74-2-1 NMSA 1978].

49 (5) The program manager may assess a civil penalty not to exceed fifteen thousand dollars (\$15,000)  
50 for each day during any portion of which a violation occurs, pursuant to 74-2-12.1 NMSA 1978

#### 51 D. **Private Fleets Issued Permanent Fleet Plates:**

52 (1) Each motor vehicle operated in Bernalillo county that is owned or leased by a private or non-  
53 governmental entity that has been issued a permanent fleet license plate shall be inspected biennially.

54 (2) Scheduling vehicles for inspection pursuant to an agreement with the program manager shall be  
55 the responsibility of the entity that owns or leases the vehicles. The schedules shall only be approved if the program  
56 manager determines that they are consistent with the scope and goals of 20.11.100 NMAC.

1 (3) Persons who are responsible for fleet vehicles or motor pools shall update the vehicle inventory  
2 annually each January and forward the resulting inspection plan with fleet inventory to the program manager in a  
3 format approved by the program manager.

4 (4) Failure to forward the inspection plan and fleet inventory to VPMD by March 31<sup>st</sup> of each year is  
5 a violation of 20.11.100 NMAC and of the Air Quality Control Act [74-2-1 NMSA 1978].

6 (5) The program manager may assess a civil penalty not to exceed fifteen thousand dollars (\$15,000)  
7 for each day during any portion of which a violation occurs, pursuant to 74-2-12.1 NMSA 1978. {after  
8 20.11.100.13 NMAC}  
9 [20.11.100.14 NMAC - N 2010]

10  
11 ~~[20.11.100.12]~~ 20.11.100.15 **VEHICLE INSPECTION PROCEDURES:**

12 A. ~~[VPMP]~~ VPMD Procedures manual:

13 (1) The program manager shall develop ~~[an official]~~ a document entitled ~~[VPMP]~~ VPMD procedures  
14 manual, ~~[outlining]~~ that outlines in sufficient detail the procedures necessary for a certified *air care* station and a  
15 certified *air care* inspector ~~[and a certified air care technician]~~ to comply with all applicable requirements of ~~[this~~  
16 ~~part]~~ 20.11.100 NMAC. ~~[Upon approval by the board, the program manager shall publish the official VPMP~~  
17 ~~procedures manual and, within 10 days of publication, provide notice of its availability.]~~

18 (2) The procedures, details and specifications contained in the ~~[VPMP]~~ VPMD procedures manual  
19 ~~[will be a part of and incorporated into this part and shall be binding upon each air care inspection station, air care~~  
20 ~~station owner/operator, air care inspector and air care technician.]~~ are technical in nature and instruct the *air care*  
21 station or air care inspector of the actions to take to do a complete and valid vehicle emissions test. The VPMD  
22 procedures manual also contains requirements regarding routine preventative maintenance of the test equipment and  
23 corrective actions regarding procedure or equipment use or malfunction that may arise during a vehicle inspection .

24 (3) The VPMD procedures manual shall be amended as needed as a result of changes to equipment or  
25 procedure. Notice of amendments to the procedures manual shall be provided by the program manager, with copies  
26 made available to the users. It is the responsibility of each *air care* station owner and operator to obtain and  
27 incorporate all amendments made available by the program manager. Each *air care* station shall maintain at least  
28 one current copy of the ~~[VPMP]~~ VPMD procedures manual at each *air care* inspection station.

29 (4) If a provision of the VPMD procedures manual conflicts with a provision of ~~[this part]~~ 20.11.100  
30 NMAC, the provision of ~~[this part]~~ 20.11.100 NMAC ~~[will]~~ shall prevail.

31 B. **Vehicle tests:**

32 (1) To determine if a motor vehicle is in compliance with ~~[this part]~~ 20.11.100 NMAC, all  
33 inspections shall be performed in strict accordance with ~~[this part]~~ 20.11.100 NMAC and the ~~[VPMP]~~ VPMD  
34 procedures manual. Each vehicle shall be inspected at an *air care* station by an *air care* inspector. All items shall  
35 be tested to completion with reports of outcomes provided to the motor vehicle owner.

36 (a) Vehicles with an engine other than the engine originally installed by the manufacturer or an  
37 identical replacement of ~~[such an]~~ the engine shall be subject to the inspection procedures and standards for the  
38 chassis type, GVW and model year of the vehicle.

39 (b) Assembled vehicles or kit cars shall meet the standards and ~~[emission]~~ emissions control  
40 equipment ~~[as requirements]~~ that are required for the year of the vehicle engine. If the vehicle is assembled with a  
41 pre-1975 engine, testing is not required, but the vehicle owner ~~[must]~~ shall petition the program manager for an  
42 exemption from ~~[emission]~~ emissions inspections.

43 (2) **Exhaust gas emissions measurements:** No emissions inspection required by ~~[this part]~~  
44 20.11.100 NMAC shall be performed unless the instrument used for measuring exhaust gases from the motor  
45 vehicle is an approved ~~[VEGAS]~~ emissions analyzer.

46 (a) **Vehicle operating condition:**

47 (i) Prior to this portion of the inspection, the entire vehicle shall be in normal operating  
48 condition as specified by the emissions tune-up label originally installed on the vehicle or as specified in the  
49 ~~[VPMP]~~ VPMD procedures manual. Motor vehicles equipped for simple selection of alternate fuel supplies  
50 (switching between gasoline and any compressed or liquefied gaseous fuel) shall be inspected using the fuel in use  
51 when presented for inspection.

52 (ii) ~~[All 1975–1995 model year motor vehicles]~~ Non-OBDII compatible vehicles  
53 (usually 1995 model year or older) subject to ~~[this part]~~ 20.11.100 NMAC shall be required to take and pass a  
54 preconditioned two-speed idle test as ~~[outlined]~~ specified in Appendix B to Subpart S of 40 CFR Part 51 and the  
55 VPMD procedures manual. The test procedure ~~[with]~~ shall include a first and second-chance test at both idle and at  
56 the unloaded 2500 RPM test. If the vehicle passes both ~~[emission]~~ emissions tests, it shall be deemed in compliance

1 with minimum emissions standards unless the vehicle fails the tampering inspection, pressurized gas cap test or  
2 visible emissions inspection required by [this part] 20.11.100 NMAC.

3 (iii) All 1996 and newer model year motor vehicles subject to [this part] 20.11.100  
4 NMAC shall be required to take and pass an on-board diagnostic test, pressurized gas cap test and visible emissions  
5 inspection as [outlined] specified in 40 CFR Part 51, Subpart S, *Inspection/Maintenance Program Requirements*,  
6 and the *VPMD procedures manual*. Certain 1996 and newer model year motor vehicles [which] that are not OBDII  
7 compatible may be tested using the two-speed idle test as determined by the program manager.

8 (iv) No test shall commence if there are apparent leaks in the motor vehicle's exhaust  
9 system that will cause the exhaust analyzer to invalidate the test.

10 [~~-----~~(v) ~~Pattern failure notices issued by EPA shall be maintained by the air-care station and~~  
11 ~~air-care inspector in an up to date file for reference to unusual pretest conditioning.~~]

12 [~~-----~~(b) ~~Pretest: Vehicles presented to an air-care station for inspection shall not be pre-tested by~~  
13 ~~having manual diagnostic emissions analysis or visual examination for tampering performed prior to the beginning~~  
14 ~~of the inspection. This shall not prohibit diagnostic engine analysis service of vehicles when specifically presented~~  
15 ~~for such, before emission testing.~~]

16 [(e)](b) Exhaust emissions inspection: The exhaust emissions inspection shall proceed as  
17 specifically [described] specified in 40 CFR Part 51 Appendix B to Subpart S and the [VPMP] *VPMD procedures*  
18 *manual*.

19 [(d)](c) Selection of appropriate pass/fail emissions inspection criteria: The appropriate  
20 pass/fail criteria will be selected automatically by the approved [VEGAS] emissions analyzer.

21 (3) Visual examination for tampering: The certified *air care* inspector shall determine specifically  
22 what emissions control devices should be in place and operable for each [1975—1995 model year] vehicle inspected.  
23 Specific design and equipment elements necessary in anti-tampering determinations shall only include catalytic  
24 converter(s).

25 (4) Visible emissions requirements: In addition to exhaust and tampering requirements of [this  
26 part] 20.11.100 NMAC, all vehicles are subject to and must pass inspection for visible emissions (smoke). Non-  
27 diesel vehicles may not emit any visible emissions (except steam) during the test as [described] specified in  
28 [Paragraph (3), of Subsection A of 20.11.100.14 NMAC] Subsection C of 20.11.100.19 NMAC.  
29 [5/20/88. . . 11/13/91, 8/25/92, 9/23/94, 12/1/95, 8/1/97; 20.11.100.12 NMAC - Rn, 20 NMAC 11.100.II.12 &  
30 Repealed, 10/1/02; Rn, 20 NMAC 11.100.II.1, 10/1/02; A, 5/1/04]

### 31 32 **[20.11.100.13 — SCHEDULING OF INSPECTIONS:**

33 ~~-----~~ A. ~~Inspection and registration: Every motor vehicle, as defined in Section 20.11.100.7 NMAC,~~  
34 ~~shall be inspected biennially when the owner is so notified or otherwise informed by MVD, unless the vehicle is a~~  
35 ~~1975-1985 model year motor vehicle in which case the inspection requirement shall be annual. Any 1986-1995~~  
36 ~~model year motor vehicle which is determined to emit quantities (rates) of CO and/or HC between 75% and 100% of~~  
37 ~~any of its maximum allowable standards listed in Table I of Subsection A of 20.11.100.14 NMAC shall be issued a~~  
38 ~~pass certificate good only for a one-year registration and shall be required to be inspected again the following year~~  
39 ~~prior to re-registration. The MVD will distribute notices or other appropriate information to owners of vehicles~~  
40 ~~applying for re-registration in accordance with the written agreement made with the program manager. Vehicles~~  
41 ~~shall also be inspected upon sale or when titles are transferred. Any person who believes he/she has a vehicle for~~  
42 ~~which he/she has been erroneously notified of inspection may petition the program manager to correct such error.~~

43 ~~-----~~ B. ~~Vehicles unavailable for inspection: Motor vehicles, which are unavailable for inspection, may~~  
44 ~~be granted an extension of inspection if authorized by the program manager. Persons seeking such extension may~~  
45 ~~petition the program manager by submitting a signed affidavit justifying the special need and by providing other~~  
46 ~~necessary documentation as required by the program manager.~~

47 ~~-----~~ C. ~~Federal, state and local government vehicles:~~

48 ~~-----~~ (1) ~~Each motor vehicle operated in Bernalillo county which is owned or leased by the United States~~  
49 ~~government, the state of New Mexico or any local government entity shall be inspected biennially.~~

50 ~~-----~~ (2) ~~Scheduling vehicles under this subsection shall be established by the responsible governmental~~  
51 ~~authority pursuant to an agreement with the program manager. Such schedules shall only be approved if the~~  
52 ~~program manager determines that they are consistent with the scope and goals of this part.~~

53 ~~-----~~ (3) ~~Persons who are responsible for such government fleet vehicles or motor pools shall periodically,~~  
54 ~~but not less than annually, update the vehicle inventory and forward the resulting inspection plan with inventory to~~  
55 ~~the program manager.] { moved to 20.11.100.14 NMAC }~~

56 [5/20/88. . . 9/23/94, 12/1/95, 20.11.100.13 NMAC - Rn, 20 NMAC 11.100.II.2, 10/1/02; A, 5/1/04]

1  
2 **20.11.100.16 ACTIONS PROHIBITED DURING VEHICLE INSPECTION:**

3 **A.** Each certified *air care* station or certified *air care* inspector shall inspect each vehicle in its as-  
4 presented condition, regardless of whether the *air care* inspector knows or believes that the vehicle will not pass.

5 **B.** Each certified *air care* station or certified *air care* inspector shall inspect each vehicle according  
6 to 20.11.100 NMAC and the procedures manual and is prohibited from taking any of the following actions:

7 (1) engaging in conduct that constitutes fraud, deceit, or gross negligence;

8 (2) negligently providing incorrect or misleading information to the public regarding the  
9 requirements of 20.11.100 NMAC or the program manual;

10 (3) failing or refusing to give a motorist the customer copy of the emissions test;

11 (4) failing to follow the inspection procedures specified by the vehicle manufacturer or required by  
12 20.11.100 NMAC or the program manual;

13 (5) making false promises likely to influence, persuade or induce a motorist to authorize the repair,  
14 service or maintenance of a motor vehicle;

15 (6) entering false data into an emissions analyzer;

16 (7) performing or allowing a repair that is represented to the motorist as being required to remedy the  
17 cause of an inspection failure or obtain a certificate of inspection when the repair is not required;

18 (8) adjusting or modifying a vehicle in a manner that would cause the vehicle to fail an inspection;

19 (9) charging for and performing an inspection that is represented to the motorist as being required  
20 when it is not required;

21 (10) failing to maintain the confidentiality of an inspector's access code for the emissions analyzer;

22 (11) failing to advise VPMD of any change in information provided in the inspector

23 'sor station's application for certification or for renewal of certification;

24 (12) failing to report to VPMD any illegal certification or other violation of 20.11.100 NMAC; or

25 (13) performing any type of clean scanning, clean piping or pretesting.

26 **C.** Performing any act or actions prohibited by Subsection B of 20.11.100.18 NMAC is a violation of  
27 20.11.100 NMAC and may result in an enforcement action by VPMD.

28 **D.** It is the responsibility of each *air care* station owner or operator to ensure that all *air care*  
29 inspectors in his employment does not engage in prohibited act or actions in preparation for or during a vehicle  
30 inspection. VPMD may take an enforcement action against the *air care* station owner or operator employing *air*  
31 *care* inspectors who engage in prohibited act or actions.

32 [20.11.100.16 NMAC - N 2010]

33  
34 [20.11.100.14] **20.11.100.17 VEHICLE INSPECTION CRITERIA:** Failure to pass any one of the  
35 applicable criteria specified below in Subsections A, B, C, D and E of [Section] [20.11.100.14 NMAC] 20.11.100.17  
36 NMAC, entitled *exhaust emissions, anti-tampering, visible emissions, gas cap, and on-board diagnostics*  
37 respectively, shall constitute noncompliance with [this part] 20.11.100 NMAC and a fail VIR shall be issued.

38 **A. Exhaust emissions:**

39 (1) [Any] Every motor vehicle [which] that is determined to emit quantities (rates) of CO and HC  
40 greater than those listed in Table I appropriate to model year and weight classification listed shall be *failed*. [and  
41 those] Every motor vehicle with [emission] emissions rates equal to or lower than the applicable amounts shall be  
42 *passed* under subsection A of [20.11.100.14 NMAC] 20.11.100.17 NMAC.

43  
44 **TABLE I**

45 **Maximum Allowable Exhaust Emissions**

46  
47

Vehicle Model Year	Gross Vehicle Weight Rating (pounds)	Group Code	Unloaded			
			Idle Mode		2500 RPM Test	
			HC PPM	CO %	HC PPM	CO %
1975 - 1978	0 to 6000	C/T	500	5.0	500	5.0

Vehicle Model Year	Gross Vehicle Weight Rating (pounds)	Group Code	Unloaded			
			Idle Mode		2500 RPM Test	
			HC PPM	CO %	HC PPM	CO %
1979 - 1980	0 to 6000	C/T	400	4.0	400	4.0
1981 - 1985	0 to 6000	C/T	220	1.2	220	1.2
1986 - 1990	0 to 6000	C/T	200	1.2	200	1.2
1991 - 1995	0 to 6000	C/T	180	1.2	180	1.2
1975 - 1978	6001 to 8000	LT	600	6.0	600	6.0
1979 - 1980	6001 to 8000	LT	600	4.5	600	4.5
1981 - 1982	6001 to 8500	LT	400	2.7	400	3.0
1983 - 1988	6001 to 8500	LT	300	1.2	300	3.0
1989 - 1995	6001 to 8500	LT	220	1.2	220	1.2
1975 - 1980	8001 to 10,000	MT	650	6.5	650	6.5
1981 - 1990	8501 to 10,000	MT	400	4.0	400	3.0
1991 - 1995	8501 to 10,000	MT	220	2.0	220	2.0

[Note: These criteria will be reviewed by the board annually pursuant to the urban implementation plan for Albuquerque Bernalillo county. Adjustments will be promulgated as appropriate.]

**B. Anti-tampering:**

(1) All [1975-1995 model year] motor vehicles subject to [this part] 20.11.100 NMAC shall be inspected for the presence [and proper connections] of a catalytic converter(s) that is properly connected.

(2) Any vehicle with [such] required features or components removed or rendered inoperative shall be failed [under this subsection]. If no tampering [is evident] with [these] required components or systems is evident, this portion of the inspection shall be passed.

(3) Vehicles [which] that have had the original engine removed and replaced with a newer [and/or] or inherently cleaner technology engine (including the [emission] emissions control devices required in association with that engine) may be eligible for a waiver of compliance with portions of [this subsection] Subsection B of 20.11.100.17 NMAC. The program manager [or designee] shall determine if a vehicle has been retrofitted with an engine that is not adaptable to the [emission] emissions control requirements for the vehicle chassis model year. [Upon such] When the program manager makes the determination, the program manager may waive the requirements for replacement of [emission] emissions control equipment. There shall be no waiver for the installation of a catalytic converter unless the program manager determines installation would create a safety hazard.

**C. Visible emissions (smoke):** All [non-diesel] motor vehicles subject to inspection must pass an inspection for visible emissions. [Prior to conducting the OBDII or two-speed idle test, the air care inspector will observe the tailpipe for visible smoke while the driver raises the engine speed to 2200-2800 rpm for a minimum of

1 10 seconds to be followed immediately by observation at idle for a minimum of 10 seconds.] The *air care* inspector  
2 [will] shall watch the tailpipe during the idle portion of the emissions test and during the high-speed portion of the  
3 emissions test (using a mirror if necessary). If the inspector observes *any* smoke (not steam) during any part of the  
4 inspection, the visible portion of the emissions test shall be a *fail*.

5 **D. Gas cap (pressurized):** All 1975-2005 model year vehicles subject to inspection must pass a  
6 pressurized gas cap test to check the integrity of the gas cap seal designed to minimize fuel vapor loss or  
7 hydrocarbon emissions. Any vehicle with a gas cap that does not hold pressure consistent with the design standard  
8 for the vehicle shall be *failed*. [~~Gas cap testing for 1996 and newer OBDII tested vehicles shall not commence until~~  
9 ~~2005 and shall be limited to vehicles that are at least four years old.~~]

10 **E. On-board diagnostics (OBDII):**

11 (1) All 1996 and newer gasoline motor vehicles must pass an on-board diagnostics test [consistent  
12 with] specified by 40 CFR Part 51, Subpart S, *Inspection/Maintenance Program Requirements*. Any vehicle with an  
13 illuminated malfunction indicator lamp (MIL) [and/or] or a set diagnostic trouble code (DTC) shall be *failed*.  
14 [There will be a one year phase in period (2004) during which any vehicle which fails the OBDII test will default to  
15 the two speed idle test. Vehicles which fail the OBDII test during phase in but pass the two speed idle test with  
16 maximum allowable exhaust standards of 100ppm hydrocarbons and 1.0% carbon monoxide will be issued a *pass*  
17 certificate valid only for a one year registration.] [Certain] Any 1996 and newer model year vehicles [which] that  
18 have been determined by the program manager to be OBDII incompatible shall be tested using the two-speed idle  
19 test with maximum allowable exhaust standards of 100 ppm hydrocarbons and 1.0 % carbon monoxide.

20 (2) all 1998 and newer diesel motor vehicles must pass an on-board diagnostic test (beginning  
21 January 1 of the first year following the federally effective date for the 2011 revised ozone standard),  
22 [10/19/82. . . 5/20/88, 9/23/94, 12/1/95, 8/1/97, 20.11.100.14 NMAC - Rn, 20 NMAC 11.100.II.3, 10/1/02; A,  
23 5/1/04]

24  
25 ~~[20.11.100.15]~~ **20.11.100.18 VEHICLE INSPECTION REPORT:**

26 **A.** Vehicle inspection reports (VIRs) shall only be purchased at program headquarters. Unused VIRs  
27 shall not be exchanged, sold or given by any person to any other person. All unused VIRs [which, a person, does  
28 not intend to use] shall be turned in to the headquarters for credit or a refund, as the program manager determines is  
29 appropriate.

30 **B.** A pass VIR shall be issued to each motorist whose vehicle has undergone inspection and passed  
31 all criteria [relative to] regarding on-board diagnostics, exhaust emissions, anti-tampering, pressurized gas cap and  
32 visible emissions as applicable. A fail VIR shall be issued to each motorist whose vehicle has undergone inspection  
33 and failed on-board diagnostics or any of the criteria [relative to] regarding exhaust emissions, anti-tampering,  
34 pressurized gas cap and visible emissions as applicable. Vehicles [which] that have failed any portion of an  
35 inspection and have been subsequently repaired and adjusted and passed a reinspection shall be issued a pass VIR.  
36 Pass VIRs shall be presented to the MVD upon re-registration of the vehicle.

37 **C.** VIRs may not be defaced by stamping information on, or affixing stickers to, the front or back of  
38 the VIR except in the delineated area designated by the VPMD program manager. Any *air care* inspector or *air*  
39 *care* station found to be defacing VIRs may be subject to an enforcement action pursuant to 20.11.100.36 NMAC  
40 and penalties pursuant to 20.11.100.33 NMAC.

41 [11/13/91. . . 8/25/92, 9/23/94, 12/1/95; 20.11.100.15 NMAC - Rn, 20 NMAC 11.100.II.4, 10/1/02; A, 5/1/04]

42  
43 ~~[20.11.100.16]~~ **20.11.100.19 REPAIRS, ADJUSTMENTS, AND RE-INSPECTIONS:** [Each] Every  
44 motor vehicle that fails an inspection required by [this part] 20.11.100 NMAC shall be repaired as necessary to pass  
45 re-inspection. [Where] If replacement of parts is required, [such] the parts shall only be new aftermarket parts  
46 approved by the program manager or new original equipment, manufacturer's parts or assemblies.

47 **A.** Repairs required by [this subsection] Subsection A of 20.11.100.19 NMAC, shall include but are  
48 not limited to, the following as applicable to the type of failure.

49 (1) **Exhaust emissions:** adjust idle speed, fuel/air ratio and ignition timing to manufacturer's  
50 specifications including replacement of spark plugs, spark plug wires, air filters and PCV specified by the  
51 manufacturer.

52 (2) **Anti-tampering:** replace the missing or disabled components with replacement parts acceptable  
53 to the program manager.

54 (3) **Visible emissions:** Repair engine or replace inoperative [emission] emissions control devices as  
55 required to eliminate visible emissions.

56 (4) **Gas cap:** Replace gas cap with a new approved aftermarket or original equipment cap.

1 (5) **On-board diagnostics:** Repair malfunction(s) indicated by diagnostic trouble code(s), clear  
2 diagnostic trouble code(s) and drive vehicle through drive cycle required to reset readiness monitors in order to  
3 ensure repair effectiveness and elimination of diagnostic trouble codes.

4 **B.** Any person may repair, adjust or replace parts as necessary to prepare a vehicle to pass re-  
5 inspection, but not after an inspection has commenced.

6 **C.** Re-inspections may be obtained at any *air care* station. One free retest, within 90 calendar days of  
7 a failed test, may be obtained at the program headquarters, if requested.

8 [10/19/82. . .12/1/95; 20.11.100.16 NMAC - Rn, 20 NMAC 11.100.II.5, 10/1/02; A, 5/1/04]

9  
10 **[20.11.100.17] 20.11.100.20 COMPLIANCE TIME EXTENSION: [Normal Difficulty:]**

11 **A. Time extension for repairs.** Vehicles[~~which~~] that are unable to pass re-inspection [are] may be  
12 eligible to obtain a time extension [providing] if the following conditions are met:

13 [~~\_\_\_\_\_~~] (1) **Exhaust emissions:** In order for a motor vehicle to be eligible for a time extension, the owner  
14 must:

15 ~~\_\_\_\_\_~~ (a) ~~provide evidence, satisfactory to the program manager, that a low emissions tune-up has~~  
16 ~~been performed to the extent possible considering engine condition; repair and replace nonfunctional emissions~~  
17 ~~control devices;~~

18 ~~\_\_\_\_\_~~ (b) ~~provide evidence that any emissions control devices needed to bring the vehicle into~~  
19 ~~compliance are not available;~~

20 ~~\_\_\_\_\_~~ (c) ~~petition the program manager at the program headquarters, provide receipts for all parts~~  
21 ~~and/or repair work performed, and list at least the following information in order to be eligible for consideration:~~

22 ~~\_\_\_\_\_~~ (i) ~~vehicle VIN number;~~

23 ~~\_\_\_\_\_~~ (ii) ~~model year and manufacturer;~~

24 ~~\_\_\_\_\_~~ (iii) ~~owner's name and street address;~~

25 ~~\_\_\_\_\_~~ (iv) ~~valid driver's license number and/or any other information or documentation that the~~  
26 ~~program manager may deem necessary, and~~

27 ~~\_\_\_\_\_~~ (v) ~~if applicable, identification of where the re-inspection, tune up and/or determination~~  
28 ~~was made, including documentation acceptable to the program manager that critical parts are unavailable.~~

29 ~~\_\_\_\_\_~~ (2) **Anti-tampering:** In order for a motor vehicle to be eligible for a time extension, the vehicle must  
30 ~~pass all criteria relative to exhaust emissions for its model year and weight. If the vehicle cannot pass the exhaust~~  
31 ~~emissions, in order for a motor vehicle to be eligible for a time extension, the owner must:~~

32 ~~\_\_\_\_\_~~ (a) ~~provide evidence that a low emissions tune-up has been performed to the extent possible~~  
33 ~~considering engine condition; repair and replace nonfunctional emissions control devices;~~

34 ~~\_\_\_\_\_~~ (b) ~~provide evidence that any emissions control devices needed to bring the vehicle into~~  
35 ~~compliance are not available;~~

36 ~~\_\_\_\_\_~~ (c) ~~petition the program manager at the headquarters, provide receipts for all parts and/or repair~~  
37 ~~work performed, and list at least the following information in order to be eligible for consideration:~~

38 ~~\_\_\_\_\_~~ (i) ~~vehicle VIN number;~~

39 ~~\_\_\_\_\_~~ (ii) ~~model year and manufacturer;~~

40 ~~\_\_\_\_\_~~ (iii) ~~owner's name and street address;~~

41 ~~\_\_\_\_\_~~ (iv) ~~valid driver's license number and/or any other information or documentation that the~~  
42 ~~program manager may deem necessary; and~~

43 ~~\_\_\_\_\_~~ (v) ~~if applicable, identification of where the re-inspection, tune up, and/or determination~~  
44 ~~was made including documentation acceptable to the program manager that critical parts are unavailable.]~~

45 ~~\_\_\_\_\_~~ (1) the owner shall provide evidence satisfactory to the program manager or his designee, that at least  
46 \$300 has been spent on the vehicle at a licensed repair facility for emissions-related repairs; or

47 ~~\_\_\_\_\_~~ (2) the owner shall provide evidence satisfactory to the program manager or his designee that at least  
48 \$300 of repair work is required to bring the vehicle up to an engine performance level capable of passing an  
49 emissions inspection; and:

50 ~~\_\_\_\_\_~~ (a) in order to receive a time extension based on a estimate of repairs, the owner must prove to  
51 the program manager or his designee that the owner is financially incapable of paying for the repairs; and

52 ~~\_\_\_\_\_~~ (b) the repair work estimate shall be from a licensed repair facility.

53 **B Application for time extension.** An owner who meets the criteria may apply for a time extension  
54 by petitioning the program manager or his designee at the VPMD headquarters, providing receipts for all parts and  
55 repair work performed, or providing the required estimate, and listing the following information in order to be  
56 eligible for consideration:

- 1 (1) vehicle VIN number;  
2 (2) model year and manufacturer;  
3 (3) owner's name and street address;  
4 (4) valid driver's license number and any other information or documentation that the program  
5 manager deems necessary; and  
6 (5) if applicable, identification of the business and address where the re-inspection, tune-up or  
7 determination was made, including documentation acceptable to the program manager or his designee that critical  
8 parts are unavailable.

9 **[B-]C. Time extension [for repairs] limitations:**

10 (1) ~~[Vehicles which require repair in addition to a low emission tune-up may be eligible for a time~~  
11 ~~extension of up to 12 months for repairs over three hundred dollars (\$300).] A time extension shall be granted only~~  
12 ~~one time in the life of a vehicle and shall be for a period of up to 12 consecutive months.~~

13 (2) ~~[The vehicle owner must petition the program manager for a time extension for repairs. Upon~~  
14 ~~receipt of the petition the program manager may grant a time extension based upon the validity and applicability of~~  
15 ~~the information provided. In addition to the time extensions described above, the program manager has the~~  
16 ~~discretion to issue time extensions for extraordinary circumstances and shall report such extensions on the next~~  
17 ~~program report to the board.] If a vehicle that has been granted a time extension is repaired within the first 90 days~~  
18 ~~of the extension, the extension may be cancelled and not counted as the one-per-life-of-the-vehicle time extension.~~

19 (3) Time extensions shall be limited to 90 days for motor vehicles that exceed any of their maximum  
20 allowable exhaust standards as ~~[prescribed in]~~ specified in Table I ~~[shown in]~~ at Paragraph (1) of Subsection A of  
21 ~~[20.11.100.14]~~ 20.11.100.17 NMAC by more than twice the level allowed.

22 **D Free inspection for timely repair.** Any failing vehicle repaired within 90 days of its failed test is  
23 eligible for a free retest of that vehicle at the Vehicle Pollution Management Division Headquarters.

24 **[C-]E. Inspection due following extension:** Any person ~~[owning]~~ who owns a motor vehicle for which  
25 a time extension has been issued pursuant to ~~[this section]~~ 20.11.100.20 NMAC shall have that vehicle inspected  
26 within the time frame specified ~~[by]~~ in the extension granted for that vehicle.

27 **[D-]F. Expiration upon sale:** If a motor vehicle is granted a time extension under ~~[this section]~~  
28 20.11.100.20 NMAC and is sold within the time extension period, ~~[such]~~ the sale shall terminate the extension. The  
29 holder of the original time extension ~~[must]~~ shall inform each potential buyer that the vehicle does not comply with  
30 the ~~[emission]~~ emissions requirements of ~~[this Part]~~ 20.11.100 NMAC. The seller ~~[must]~~ shall also inform each  
31 potential buyer that the time extension is void upon the sale and the vehicle cannot be registered unless the vehicle  
32 passes an emissions inspection.

33 **[E-]G. Appeals:** Any person aggrieved by the decision of the program manager or designee regarding a  
34 compliance time extension may appeal by petitioning the ~~[director of the environmental health department (EHD).]~~  
35 program manager in writing for reconsideration of the decision. ~~[To perfect the appeal, the person aggrieved must~~  
36 ~~deliver the completed form to the headquarters within 15 consecutive days after receipt of the program manager's~~  
37 ~~decision. Following receipt of the request for hearing, the director of the EHD shall report his or her decision to the~~  
38 ~~program within 48 hours of the determination. By the end of the next working day or sooner, if reasonably possible,~~  
39 ~~the program shall report the decision of the director of the EHD to the petitioner. The director of the EHD will~~  
40 ~~present written findings of fact and conclusions of law to the division within 45 days, and the program shall forward~~  
41 ~~the findings and conclusions promptly to the petitioner.] The petition shall provide the basis for reconsideration of~~  
42 ~~the decision made regarding the time extension. The program manager, at his discretion, may review the petition~~  
43 ~~and record and affirm or deny the decision on the request for the time extension, or the program manager may~~  
44 ~~arrange for a hearing on the record at the city of Albuquerque office of administrative hearings, to be held no later~~  
45 ~~than 15 working days after receipt of the request for reconsideration. The petitioner shall submit a \$50 fee to the~~  
46 ~~office of administrative hearings, which shall set the time and place for the hearing. The hearing officer shall~~  
47 ~~present written findings of fact and a recommendation of action to the program manager, who shall make the final~~  
48 ~~decision and forward the findings and decision promptly to the petitioner. The final decision of the program~~  
49 ~~manager may be appealed to the Albuquerque - Bernalillo county air quality control board in accordance with~~  
50 20.11.81 NMAC.

51 [5/20/88. . . 11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.17 NMAC - Rn, 20 NMAC 11.100.II.6, 10/1/02; A,  
52 5/1/04]

54 **[20.11.100.18] 20.11.100.21 CERTIFICATION REQUIREMENTS FOR AIR CARE STATIONS:**

55 **A.** No person shall solicit, advertise or imply that a facility is an *air care* station certified by the  
56 program manager to conduct inspections pursuant to ~~[this part]~~ 20.11.100 NMAC without having a current program-

1 issued certificate on display on the premises. Any *air care* inspection station that has its certification permanently or  
2 temporarily withdrawn or canceled by the board or the program manager shall immediately remove all inspection  
3 related signs and cease to represent the facility as a certified *air care* station.

4 B. No *air care* station owner or operator shall allow a person to conduct any part of an inspection  
5 pursuant to ~~[this part]~~ 20.11.100 NMAC ~~[without that person being]~~ unless the person is an *air care* inspector  
6 certified by the program manager and ~~[having]~~ has a current program-issued certificate on display on the premises.

7 C. Any person may ~~[make application]~~ apply for certification ~~[for the operation of]~~ to operate an *air*  
8 *care* station.

9 D. ~~[Prior to construction, installation or renovation of any]~~ Before constructing, installing or  
10 renovating a facility or building intended for use as an *air care* station, the owner or operator ~~[must have submitted]~~  
11 shall submit an application and ~~[received]~~ receive pre-approval to operate the facility as an *air care* station. The  
12 applicant shall also provide information on traffic flow and how it will be managed to prevent unsafe conditions.  
13 The applicant shall also indicate how and where the customer may view the vehicle inspection from start to finish.

14 E. The program manager may issue a station certificate to a person who ~~[makes application]~~ applies  
15 and demonstrates to the program manager's satisfaction the following minimum conditions will shall be in effect and  
16 equipment will shall be present at the applicant's proposed *air care* station:

17 (1) at least one certified *air care* inspector whose certification is current and listed with the program  
18 manager will shall be ~~[on hand]~~ present and will shall conduct all the inspections of motor vehicles; no ~~[such]~~  
19 inspection ~~[will]~~ shall be performed in whole or in part by any person ~~[other than]~~ who is not a certified *air care*  
20 inspector;

21 (2) at least one approved ~~[VEGAS]~~ emissions analyzer owned or leased by the station ~~[will]~~ shall be  
22 in place and operating within the equipment specification limits ~~[set forth in 20.11.100.25 NMAC]~~;

23 (3) in order to qualify for certification, the facility shall also be equipped and supplied as follows:

24 (a) sufficient hand tools and automotive diagnostic equipment for proper performance of the  
25 inspections;

26 (b) program approved span gas and compatible equipment for performing gas span checks;

27 (c) suitable non-reactive tail pipe extenders or probe adapters for inspecting vehicles with  
28 screened or baffled exhaust systems; ~~[and]~~

29 (d) the approved ~~[VEGAS]~~ emissions analyzer manufacturer's maintenance and calibration  
30 manual; and

31 (e) gas cap checking adaptors.

32 (4) The *air care* station ~~[must]~~ shall provide the vehicle owner or driver with access to the test area so  
33 that observation of the entire official inspection process is possible. Access may be limited, but in no way shall  
34 prevent full observation ~~[from beginning to end.]~~ of the entire official inspection process from start to finish; and

35 ~~[(5) The program manager may deny certification to a facility that:~~

36 ~~(a) does not comply with all applicable federal, state and local laws and regulations, or~~

37 ~~(b) does not provide for an entrance and a dedicated inspection area inside the facility that is~~  
38 ~~large enough to accept all vehicles with a GVW of 8500 lbs or less presented for inspection, or~~

39 ~~(c) does not provide for adequate traffic flow, or~~

40 ~~(d) does not provide adequate viewing access by the vehicle owner or driver or for surveillance~~  
41 ~~by program auditors.] {moved to its' own Section, 20.11.100.22 NMAC}~~

42 (6) Certified *air care* station owners or operators shall be responsible for the general management of  
43 their facility(ies) and for the supervision of their *air care* inspectors ~~[and technicians]~~ in accordance with ~~[this part]~~  
44 20.11.100 NMAC, the ~~[VPMP]~~ VPMD procedures manual and other procedures and policies of the program.

45 F. "Emissions-inspection-only" stations may be authorized by the program manager. ~~[Such]~~  
46 Emissions-inspection-only stations shall indicate on a sign authorized by the program and placed in a readily visible  
47 location that no emissions-related adjustments or repair services are available. Repair-related requirements of  
48 ~~[Paragraph (2), of Subsection G of 20.11.100.18]~~ Subsection B of 20.11.100.23 NMAC do not apply to "inspection-  
49 only" stations.

50 ~~[(5) G. Performance of certified *air care* stations:~~

51 ~~(1) A certified *air care* station will obtain and pay for routine and unscheduled maintenance or~~  
52 ~~replacement parts of the approved exhaust gas analyzer.~~

53 ~~(2) The certified *air care* station will accept and perform emissions inspections on all vehicles~~  
54 ~~presented for inspection and must have adequate reference manuals and basic emissions information in accordance~~  
55 ~~with the VPMP procedures manual. Emissions inspections will not be performed on vehicles when the emissions~~  
56 ~~inspection would pose a threat to any person's safety. Any motor vehicle accepted for repair shall be one for which~~

1 the station has adequate information regarding idle speed, idle mixture, timing, dwell, fast idle speed specifications,  
2 high altitude specifications and information describing emissions control systems, diagnostic and repair procedures  
3 if normally available in the trade.

4 (3) The times that a certified *air care* inspector will be available to make inspections shall be posted  
5 if such times do not include all hours the station is open for business.

6 (4) Each certified *air care* station shall post a sign in a conspicuous location, on the exterior of the  
7 station, indicating testing hours and the fee charged for inspections. The sign shall meet the uniform format and  
8 style requirements established by the program manager.

9 (5) A certified *air care* station may not refuse any vehicle for inspection based upon the race, color,  
10 religion, sex, national origin or ancestry, age or physical handicap or disability of the motorist, nor may the station  
11 refuse any vehicle for inspection because of the make, model, or year of the vehicle.

12 (6) Each certified *air care* station shall provide vehicle owners or drivers access to the inspection area  
13 so that the owner or driver can observe the official inspection. Access can be limited but in no way shall prevent full  
14 observation.

15 (7) A certified *air care* station shall perform initial emissions inspection on vehicles without repair or  
16 adjustment prior to the inspection. This does not apply to a vehicle when an owner or driver specifically asks for  
17 repairs or adjustments prior to an emissions inspection and a work order is completed and authorized by the vehicle  
18 owner or driver.

19 (8) Each certified *air care* station must employ a sufficient number of *air care* inspectors so that it  
20 can adequately staff regular testing hours, as set by the *air care* station and approved by the program manager.

21 (9) Each *air care* station must ensure that emissions inspections are performed on every vehicle, upon  
22 presentation, unless a vehicle test poses a threat to a person's safety. An *air care* station which is not designated as  
23 an "inspection only" station may elect to conduct testing "by appointment only," as approved by the program  
24 manager, but must indicate this on the station sign in lieu of testing hours.

25 **H.** Any person owning or operating a certified *air care* station which undergoes change of business  
26 name, ownership, official inspection personnel, or approved exhaust gas analyzers, or ceases to operate as an *air*  
27 *care* station, shall notify the program manager within 10 days of such change. Any certified *air care* station may  
28 have its certification revoked for failure to provide such notice. Relocation of an *air care* station, without review  
29 and written approval of the program manager being required shall automatically terminate and invalidate a current  
30 station certificate. {moved to its own section, 20.11.100.23 NMAC}

31 [5/20/88. . . 11/13/91, 9/23/94, 12/1/95, 8/1/97; 20.11.100.18 NMAC - Rn, 20 NMAC 11.100.II.7, 10/1/02; A,  
32 5/1/04]

### 34 **20.11.100.22 BASIS FOR DENIAL OF AIR CARE STATION CERTIFICATION:**

35 **A.** The program manager may deny certification to a facility that does not:

- 36 (1) comply with all applicable federal, state and local laws and regulations;  
37 (2) provide for an entrance and a dedicated inspection area inside the facility that is large enough to  
38 accept all vehicles with a GVW of 8500 lbs or less presented for inspection;  
39 (3) provide for adequate traffic flow; or  
40 (4) provide adequate viewing access by the vehicle owner or driver or for surveillance by program  
41 auditors. {Moved from extant 20.11.100.18.E.(5) NMAC}

42 **B.** Paragraph (2) of Subsection A of 20.11.100.22 NMAC does not apply to van-mounted or movable  
43 *air care* stations.

44 [20.11.100.22 NMAC - N 2010]

### 46 **20.11.100.23 PERFORMANCE OF CERTIFIED AIR CARE STATIONS:**

47 **A.** A certified *air care* station shall obtain and pay for routine and unscheduled maintenance and  
48 replacement parts for the approved exhaust gas analyzer.

49 **B.** A certified *air care* station shall accept and perform emissions inspections on all vehicles  
50 presented for inspection and shall have adequate reference manuals and basic emissions information as required by  
51 the *VPMD procedures manual*. Emissions inspections shall not be performed on vehicles if the emissions inspection  
52 would pose a threat to any person's safety. A motor vehicle shall not be accepted for repair unless the station has  
53 adequate information regarding idle speed, idle mixture, timing, dwell, fast idle speed specifications, high altitude  
54 specifications and information describing emissions control systems, diagnostic and repair procedures, if normally  
55 available in the trade.

1 C. The times that a certified *air care* inspector will be available to conduct inspections shall be posted  
2 if inspection times do not include all hours the station is open for business.

3 D. Each certified *air care* station shall post a sign in a conspicuous location, on the exterior of the  
4 station, indicating testing hours and the fee charged for each inspection. The sign shall meet the uniform format and  
5 style requirements established by the program manager.

6 E. A certified *air care* station shall not refuse any vehicle for inspection based upon the race, color,  
7 religion, sex, national origin or ancestry, age or physical handicap or disability of the motorist, nor may the station  
8 refuse any vehicle for inspection because of the make, model or year of the vehicle.

9 F. Each certified *air care* station shall provide vehicle owners or drivers access to the inspection area  
10 so that the owner or driver can observe the official inspection. Access may be limited but in no way shall prevent  
11 full observation.

12 G. A certified *air care* station shall perform initial emissions inspection on vehicles without repair or  
13 adjustment prior to the inspection. This requirement shall not apply to a vehicle if an owner or driver specifically  
14 asks for repairs or adjustments prior to an emissions inspection, without prior suggestion or recommendation by the  
15 inspector or station owner or operator, and a work order is completed and authorized by the vehicle owner or driver.

16 H. Each certified *air care* station shall employ a sufficient number of *air care* inspectors so the  
17 station can adequately staff regular testing hours, as set by the *air care* station and approved by the program  
18 manager.

19 I. Each *air care* station shall ensure that emissions inspections are performed on every vehicle, upon  
20 presentation, unless a vehicle test poses a threat to a person's safety. An *air care* station that is not designated as an  
21 "inspection only" station may elect to conduct testing "by appointment only," as approved by the program manager,  
22 but shall indicate this on the station sign in lieu of posting the testing hours.

23 J. A person who owns or operates a certified *air care* station that changes the business name,  
24 ownership, official inspection personnel, or approved exhaust gas analyzers, or ceases to operate as an *air care*  
25 station, shall notify the program manager in writing within 10 days of the change. A certified *air care* station may  
26 have its certification revoked for failure to provide required notice. Relocation of an *air care* station, without prior  
27 review and written approval of the program manager as required, shall automatically terminate and invalidate a  
28 current station certificate. {moved from extant 20.11.100.18.G & H NMAC}

29 [20.11.100.23 NMAC - N 2010]

30  
31 ~~{20.11.100.19} 20.11.100.24 [VEHICLE POLLUTION MANAGEMENT PROGRAM] FLEET AIR~~  
32 ~~CARE STATIONS:~~

33 A. No individual or business shall represent itself as a certified fleet *air care* station without being in  
34 possession of a duly authorized and currently valid certificate issued by the program manager.

35 B. Any person may apply for authorization for an *air care* station authorized by the program to  
36 perform inspections under ~~[this part] 20.11.100 NMAC~~ for the purposes of fleet inspection of a company or  
37 corporate business, or governmental fleet. ~~[These]~~ Fleet *air care* stations shall not offer or provide the inspections  
38 to the company's employees or the general public. Fleet *air care* stations shall be equipped and operated and shall  
39 be subject to the same quality assurance requirements as a certified *air care* station. The signage requirements of  
40 ~~[Paragraphs (3) and (4), of Subsection G of 20.11.100.18 NMAC]~~ Subsections C and D of 20.11.100.23 NMAC ~~[are~~  
41 ~~waived [in such a facility]~~ do not apply to a fleet *air care* station. The fee for ~~[authorization of such]~~ certifying a  
42 van-mounted or moveable *air care* station shall be the same as for a certified *air care* station.

43 C. Notwithstanding ~~[the above]~~ Subsections A and B of 20.11.100.24 NMAC, any person with a fleet  
44 may contract with any certified *air care* station to provide inspections ~~[needed]~~ required to satisfy ~~[this part]~~  
45 20.11.100 NMAC.

46 [11/13/91 . . 9/23/94, 12/1/95; 20.11.100.19 NMAC - Rn, 20 NMAC 11.100.II.8, 10/1/02]

47  
48 ~~{20.11.100.20} VEHICLE POLLUTION MANAGEMENT PROGRAM HEADQUARTERS:~~

49 ~~A. The program manager shall establish and maintain a VPMP headquarters, to be an emissions~~  
50 ~~inspection facility equipped with at least one program-certified VEGAS from each manufacturer participating in the~~  
51 ~~program, and employing at least two ASE-certified technicians. The facility shall be operated by the city to provide~~  
52 ~~services to the public and as necessary to facilitate program responsibilities and administer the provisions of this~~  
53 ~~part.~~

54 ~~B. The headquarters shall have, but not be limited to, the following responsibilities:~~

1 ~~\_\_\_\_\_ (1) Provide for non-binding mediation of disputes arising from inspection activities by certified *air*~~  
2 ~~*care* stations or certified *air care* inspectors, to include if necessary a verification test at no cost to the person~~  
3 ~~requesting such test.~~

4 ~~\_\_\_\_\_ (2) Evaluate and issue a compliance time extension for vehicles unable to pass the inspection test~~  
5 ~~criteria as provided under the terms of this part.~~

6 ~~\_\_\_\_\_ (3) Investigate and maintain records regarding complaints against certified *air care* stations, certified~~  
7 ~~*air care* technicians and certified *air care* inspectors, and forward such findings to the board.~~

8 ~~\_\_\_\_\_ (4) Perform quality assurance audits as required by 20.11.100.24 NMAC.]~~

9 [5/20/88. . . 11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.20 NMAC - Rn, 20 NMAC 11.100.II.9, 10/1/02; A,  
10 5/1/04]

11  
12 **20.11.11.25 VAN MOUNTED OR MOVABLE AIR CARE STATIONS:**

13 A. No individual or business shall represent itself as a certified van-mounted or movable *air care*  
14 station without being in possession of a duly authorized and currently valid *air care* station certificate issued by the  
15 program manager.

16 B. Before developing or retrofitting a van-mounted or moveable *air care* station, the owner or  
17 operator shall submit an application and receive approval to operate as an *air care* station.

18 C. Any person may apply to the program manager for authorization to operate a van mounted or  
19 movable *air care* station certified by the program to perform on-site inspections of non-privately-owned vehicles  
20 under 20.11.100.21 NMAC if the proposed van-mounted or moveable *air care* station meets the following  
21 conditions:

22 (1) the van-mounted or movable *air care* station is restricted to testing model year 1996 or newer  
23 vehicles;

24 (2) the van-mounted or movable *air care* station is further restricted to testing only OBDII  
25 compatible vehicles; and

26 (3) the van mounted or movable *air care* state is equipped with pressurized equipment to perform gas  
27 cap testing as required.

28 D. Van-mounted or movable *air care* stations will not be authorized to provide *air care* inspections to  
29 the general public. Van mounted or movable testing is restricted to on-site commercial, government or public utility  
30 fleets and used vehicle inventories of dealerships licensed by the state of New Mexico. Van-mounted or moveable  
31 *air care* stations must provide a minimum of one-hour written notice (fax or email) provided to VPMD of the site  
32 name, address and requested number of vehicles.

33 E. The signage requirements of Subsections C and D of 20.11.100.23 NMAC do not apply to van-  
34 mounted or moveable *air care* stations. The fee for [authorization of such] certifying a fleet *air care* station shall be  
35 the same as for certifying an *air care* station.  
36 [20.11.100.25 NMAC - N 2010]

37  
38 ~~[20.11.100.24]~~ **20.11.100.26 CERTIFICATION OF AIR CARE INSPECTORS:**

39 A. No person shall represent [him or herself] himself as a certified *air care* inspector without being in  
40 possession of a duly authorized and currently valid certificate issued by the program manager.

41 B. Certificates issued under [this subsection] Subsection B of 20.11.100.26 NMAC shall be valid for  
42 12 months unless the program manager requires re-certification [at some shorter time] earlier as provided [below] in  
43 [Paragraph (3), of Subsection B of 20.11.100.24] 20.11.100.27 NMAC.

44 (1) Certification requirements for *air care* inspectors:

45 (a) A person [desiring to be certified] seeking certification shall file an application with the  
46 program manager on forms provided by the program. The issuance of certificates shall be administered by the  
47 program. Before an applicant may be granted a certificate, the applicant [must] shall demonstrate general  
48 knowledge, skill and competence requirements under the program and in accordance with training and testing  
49 requirements set forth by the program manager.

50 (b) The knowledge, skill and competence that an applicant must demonstrate shall include, but  
51 is not [be] limited to, the following:

52 (i) general operation and purpose of emissions control systems for all types of motor  
53 vehicles;

54 (ii) how HC and CO relate to timing and air/fuel ratio control;

55 (iii) rules and regulations pertaining to inspection and the inspection procedures  
56 established in the *VPMD procedures manual* and [this part] 20.11.100 NMAC;

1 (iv) general understanding of the benefits to vehicle owners provided in the *Defect*  
2 *Warranty Provisions* of Section 207(a) and the *Performance Warranty Provisions* of Section 207(b) of the Federal  
3 Clean Air Act as it applies to the inspection;

4 (v) ability to recognize by visual inspection the emissions control equipment for 1975  
5 and newer vehicles, distinguishing between those ~~[required]~~ requiring and those not requiring inspection;

6 (vi) operation and proper use, care, maintenance and gas span checking of the approved  
7 exhaust gas analyzers;

8 (vii) proper use, filing and storage of inspection forms, ~~[certificates of inspection]~~ VIRs  
9 and supplemental documents; ~~[and]~~

10 (viii) ability to perform an actual emissions inspection from start to finish; and

11 (ix) other information as the program manager requires.

12 (c) The program may issue a certificate to the applicant when the program manager determines  
13 that ~~[there has been successful completion of]~~ the applicant has successfully completed the certification  
14 requirements of ~~[this part]~~ 20.11.100 NMAC.

15 (d) Persons certified under ~~[this subsection]~~ Subsection B of 20.11.100.26 NMAC shall inform  
16 the program manager within ~~[ten]~~ 10 days of any change in legal name, employment status or current mailing  
17 address. Each certified inspector will be assigned a personal identification number ~~[which]~~ that will be checked for  
18 correlation in data audits of the program. Failure to keep the program manager informed may ~~[be cause for]~~ result in  
19 revocation of certification.

20 (2) **Performance of certified *air care* inspectors:** ~~[Every]~~ Certified *air care* ~~[inspector]~~ inspectors  
21 shall comply with the ~~[VPMP]~~ VPMD procedures manual and all the board regulations and shall:

22 (a) at no time allow another person to use ~~[his or her]~~ certificate or personal code to enter into  
23 an approved exhaust gas analyzer, nor ~~[will]~~ shall ~~[he or she]~~ delegate ~~[his or her]~~ authority to another person to  
24 perform any official inspection or any part of an inspection under ~~[his or her]~~ name or personal identity code;

25 (b) accept all vehicles for ~~[emission]~~ emissions inspection and perform the emissions  
26 inspections in an expedient manner in order to avoid unnecessary public inconvenience; however, an *air care*  
27 inspector shall not accept ~~[any]~~ a vehicle for inspection if the inspection would pose a threat to any person's safety;

28 (c) refrain from deviation from ~~[this part]~~ 20.11.100 NMAC and official procedures established  
29 for this program;

30 (d) at no time during the emissions inspections sequence attempt or allow adjustments to be  
31 performed on the vehicle being inspected until the final VIR is complete; and

32 (e) sign all ~~[certificates of inspection]~~ VIRs at the time of inspection.

33 ~~\_\_\_\_\_~~ (3) **Re-certification requirements for certified *air care* inspectors:**

34 ~~\_\_\_\_\_~~ (a) ~~The program manager will reissue certification to any *air care* inspector who demonstrates~~  
35 ~~updated competency as evidenced under the then-current requirements administered by the program. Such re-~~  
36 ~~certification shall be required upon expiration of a current annual certificate or sooner as provided below.~~

37 ~~\_\_\_\_\_~~ (i) ~~If the board determines a need to update the general qualifications of *air care*~~  
38 ~~inspectors prior to the annual re-certification period, holders of such certificates may be required to re-qualify.~~

39 ~~\_\_\_\_\_~~ (ii) ~~As a result of auditing or investigating consumer complaints, a certified inspector~~  
40 ~~may be required to re-certify if the program manager determines that competency and related problems must be~~  
41 ~~corrected in order to protect the public.~~

42 ~~\_\_\_\_\_~~ (b) ~~Certified *air care* inspectors must re-certify during the month of expiration of a current~~  
43 ~~certification. The program shall mail written notification to the station address of record of any active certified~~  
44 ~~inspector whose certificate is about to expire or is otherwise being revoked. The notice shall inform the person of~~  
45 ~~the necessity for re-certification and the nature of such skills, systems, or any updated procedures or retraining~~  
46 ~~deemed necessary to perform emissions inspections. The notice shall state the deadline for re-certification.] {moved~~  
47 ~~to 20.11.100.27 A & B}~~

48 ~~[5/20/88. . . 11/13/91, 9/23/94, 12/1/95; 20.11.100.21 NMAC - Rn, 20 NMAC 11.100.II.10, 10/1/02]~~

50 ~~[20.11.100.22 — CERTIFICATION OF AIR CARE TECHNICIANS: [Reserved]]~~

51 ~~[5/20/88. . . 8/25/92, 9/23/94; 20.11.100.22 NMAC - Rn, 20 NMAC 11.100.II.11, 10/1/02; A, 5/1/04]~~

53 ~~[20.11.100.23 — EXEMPTED SPECIAL VEHICLES CLASSIFICATIONS:~~

54 ~~\_\_\_\_\_ A. All new motor vehicles shall be exempt from inspection only during the initial two registration~~  
55 ~~periods first following the date of the manufacturer's certificate of origin (MCO).~~

- 1 ~~\_\_\_\_\_ B. \_\_\_\_\_ Vehicles, which are fueled by a mixture of gasoline and oil for purposes of lubrication, are exempt~~
- 2 ~~from inspection.~~
- 3 ~~\_\_\_\_\_ C. \_\_\_\_\_ Motor vehicles that are used for legally sanctioned competition and not operated on public streets~~
- 4 ~~and highways.~~
- 5 ~~\_\_\_\_\_ D. \_\_\_\_\_ Implements of husbandry, or road machinery not regularly operated on public streets and~~
- 6 ~~highways.~~
- 7 ~~\_\_\_\_\_ E. \_\_\_\_\_ Other vehicles which are not regularly operated on public streets and highways after making a~~
- 8 ~~proper showing to demonstrate such to the program manager.~~
- 9 ~~\_\_\_\_\_ F. \_\_\_\_\_ Diesel and electric powered vehicles. New diesel vehicles are exempt until title transfer. Diesel~~
- 10 ~~vehicles must pass a visible emissions test at VPMD Program Headquarters prior to registration following a title~~
- 11 ~~transfer.~~
- 12 ~~\_\_\_\_\_ G. \_\_\_\_\_ Vehicles leased by a leasing company whose place of business is Bernalillo county, to a person~~
- 13 ~~who resides outside of Bernalillo county. However an exemption shall not be granted if the person resides in an~~
- 14 ~~area, which has an EPA required vehicle inspection program.~~
- 15 ~~\_\_\_\_\_ H. \_\_\_\_\_ Vehicles manufactured during or before model year 1974.~~
- 16 ~~\_\_\_\_\_ I. \_\_\_\_\_ Vehicles sold between licensed dealers.~~
- 17 ~~\_\_\_\_\_ J. \_\_\_\_\_ Vehicles with a GVW of 10,001 lbs or more.~~
- 18 ~~\_\_\_\_\_ K. \_\_\_\_\_ Dedicated alternative fueled vehicles classified as super ultra low emission vehicles.~~
- 19 ~~\_\_\_\_\_ L. \_\_\_\_\_ Electric hybrid vehicles classified as super ultra low emission vehicles.} {moved to 20.11.100.2.B~~
- 20 ~~NMAC, except for "Subsection F, K and L".}~~
- 21 ~~[5/20/88. . . 11/13/91, 9/23/94, 12/1/95, 8/1/97; 20.11.100.23 NMAC - Rn, 20 NMAC 11.100.II.12, 10/1/02; A,~~
- 22 ~~5/1/04]~~

23

24 **20.11.100.27 RECERTIFICATION REQUIREMENTS FOR CERTIFIED AIR CARE INSPECTORS:**

- 25 ~~\_\_\_\_\_ A. \_\_\_\_\_ The program manager will reissue certification to any *air care* inspector who demonstrates~~
- 26 ~~updated competency as evidenced under the then-current requirements administered by the program. Re-~~
- 27 ~~certification shall be required upon expiration of a current annual certificate or sooner if either of the following~~
- 28 ~~situations exist.~~
- 29 ~~\_\_\_\_\_ (1) \_\_\_\_\_ If the program manager determines a need to update the general qualifications of *air care*~~
- 30 ~~inspectors prior to the annual re-certification period, holders of the certificates may be required to re-qualify.~~
- 31 ~~\_\_\_\_\_ (2) \_\_\_\_\_ As a result of auditing or investigating consumer complaints, a certified inspector may be required~~
- 32 ~~to re-certify if the program manager determines that competency or other problems must be corrected in order to~~
- 33 ~~protect the public.~~
- 34 ~~\_\_\_\_\_ B. \_\_\_\_\_ Certified air care inspectors shall re-certify during the month the current certification is scheduled~~
- 35 ~~to expire.~~
- 36 ~~\_\_\_\_\_ C. \_\_\_\_\_ Each *air care* inspector is responsible for applying for recertification in a timely manner. The date~~
- 37 ~~of certification expiration is provided on the inspector certification certificate, which shall be displayed in the *air*~~
- 38 ~~*care* station, and the gas analyzer provides notice of certification expiration starting at least 30 days prior to the~~
- 39 ~~certificate expiration date. VPMD will not give special consideration regarding the time and availability of a~~
- 40 ~~recertification class to an *air care* inspector whose certification has lapsed unless good cause exists, as determined~~
- 41 ~~by the program manager.~~
- 42 ~~\_\_\_\_\_ D. \_\_\_\_\_ VPMD will review the VID records of each *air care* inspector at the time of the recertification~~
- 43 ~~request to determine if there is a pattern of violations or fraud during inspections performed during the previous~~
- 44 ~~three years.~~
- 45 ~~\_\_\_\_\_ E. \_\_\_\_\_ If a former *air care* inspector requests recertification, but has allowed a lapse in recertification that~~
- 46 ~~is greater than 90 days in length, the program manager may require the former inspector to take the week-long~~
- 47 ~~certification training class rather than the recertification training class. {after 20.11.100.21.B.(3).(a).(i)}~~
- 48 ~~[20.11.100.27 NMAC - N 2010]~~

49

50 **20.11.100.28 DENIAL OR SUSPENSION OF RECERTIFICATION FOR AIR CARE INSPECTOR:**

- 51 ~~\_\_\_\_\_ A. \_\_\_\_\_ The VPMD program manager may suspend an existing certification or deny recertification for the~~
- 52 ~~following reasons:~~
- 53 ~~\_\_\_\_\_ (1) \_\_\_\_\_ the VPMD program manager has determined, as a result of a review of the VID or VPMD~~
- 54 ~~inspection files, that an *air care* inspector has committed violations resulting in an accumulation of 16 points or~~
- 55 ~~more;~~
- 56 ~~\_\_\_\_\_ (2) \_\_\_\_\_ the *air care* inspector has failed to attend the recertification training; or~~

1 (3) the *air care* inspector has failed the recertification test.  
2 B. Whenever a certification has been suspended and the certification expires during the suspension  
3 period, the *air care* inspector may not obtain a new certification until the term of the suspension has expired.  
4 [20.11.100.28 NMAC - N 2010]

5  
6 **20.11.100.29 ADMINISTRATIVE FEES FOR CERTIFICATIONS AND RECERTIFICATIONS:**

7 A. Any person seeking certification, or annual recertification thereof, in order to participate in the  
8 program as an *air care* station or *air care* inspector shall pay to the city the required fee as established below, before  
9 a certification shall be issued or renewed by the program.

<u>Certifications</u>	<u>Amount</u>
<u>Certified Air Care Station</u>	<u>\$200.00</u>
<u>Certified Air Care Inspector</u>	<u>\$35.00</u>

11 {after 20.11.100.28 NMAC}

12 B. Every *air care* station or *air care* inspector who has had a certification suspended shall pay the  
13 following fees before the *air care* station or *air care* inspector certification will be reinstated.

<u>Reinstatement</u>	<u>Amount</u>
<u>Air Care Station Certification</u>	<u>\$200.00</u>
<u>Air Care Inspector Certification</u>	<u>\$35.00</u>

15 C. Any *air care* inspector who requests to be certified on more than one motor vehicle emissions  
16 analyzer shall pay a \$35 fee for each analyzer.  
17 [20.11.100.25 NMAC - N 2010]

18  
19  
20 ~~[20.11.100.24 — QUALITY CONTROL OF AIR CARE STATIONS:]~~ **20.11.100.30 VPMD QUALITY**  
21 **ASSURANCE AUDITS OF AIR CARE STATIONS AND AIR CARE INSPECTORS:** VPMD's quality  
22 assurance audits and data analysis are designed to: discover, correct and prevent fraud, waste and abuse; determine  
23 whether emissions testing procedures are being correctly performed; assess whether emissions analyzers are  
24 measuring accurately; and find any existing problems that could impede program performance.

25 A. The program shall conduct announced and unannounced overt quality assurance audits of each  
26 certified *air care* station as ordered by the program manager. The duties of the VPMD auditor shall include but not  
27 be limited to the following:

28 (1) Verify that the equipment, reference materials and staffing agree with the information on file with  
29 the program manager and are sufficiently maintained to meet the intent of the VPMD program;

30 (2) check the accuracy of data entry and production of the final inspection reports furnished to  
31 motorists;

32 (3) perform a complete quality assurance survey on the analyzer, the calibration gas system, and  
33 automatic zero-span performance in relation to the specifications and requirements of ~~[this part]~~ 20.11.100 NMAC.

34 (4) the field audit gases for standardizing approved analyzers used for inspections shall conform to  
35 the provisions ~~[outlined]~~ specified in 40 CFR, Part 86, Subpart B, §86.114-94, *Analytical Gases*, for automotive  
36 exhaust emissions testing; those gases shall be of "precision" quality, certified to be within  $\pm$  (plus-or-minus) 1% of  
37 the labeled concentration, and certified by the NIST; and

38 (5) examine the service contract for the analyzer to assure proper lockout controls, data record  
39 capture and response in case of trouble.

40 B. The program shall perform covert quality assurance audits without offering official credentials or  
41 identification by submitting ~~[any]~~ motor ~~[vehiele]~~ vehicles for inspection ~~[so-as]~~ in order to examine the station  
42 operation under actual conditions. ~~[Such inspection]~~ covert audit vehicles may be offered at random times in a  
43 condition ~~[involving]~~ resulting from intentional maladjustment, or ~~[intentionally-removed or rendered inoperative]~~  
44 with emissions control components ~~intentionally removed or rendered inoperative by VPMD~~. The results of ~~[Such]~~  
45 covert audits by the program will provide data for assessing the performance of ~~[the]~~ certified *air care* ~~[station]~~  
46 stations and certified *air care* inspectors and ~~[its]~~ their adherence to the requirements of ~~[this part]~~ 20.11.100 NMAC  
47 and the ~~[VPMP]~~ VPMD procedures manual.

48 C. VPMD shall perform covert quality assurance audits of the *air care* stations and *air care*  
49 inspectors by observing their activities unannounced from a remote off site area. {40 CFR 51.363}

1 D. VPMD shall perform data analysis of information contained in the VID to audit the performance  
2 of air care stations and air care inspectors. The criteria for the data analysis will be selected by VPMD in response  
3 to VPMD investigations, complaints, certification renewals or other triggers, or may occur at random times on  
4 randomly-selected stations and inspectors. {40 CFR 51.363}  
5 [5/20/88. . . 8/25/92, 9/23/94, 12/1/95, 20.11.100.24 NMAC - Rn, 20 NMAC 11.100.II.13, 10/1/02]  
6

7 **~~[20.11.100.25 SPECIFICATIONS FOR APPROVED VEGAS:~~**

8 ~~A. Performance and design specifications for the VEGAS: The program manager shall establish~~  
9 ~~the specifications for the VEGAS, which shall be used exclusively by all stations, which have been certified by the~~  
10 ~~program to perform emission inspections. The specifications shall be consistent with those required in 40 CFR Part~~  
11 ~~51 Appendix B subpart S and shall include, but are not limited to, operation by internal computer controlled logic,~~  
12 ~~automatic data collection, service and maintenance requirements for replacement or loan analyzers and warranty for~~  
13 ~~the period of an agreement with the station. The VEGAS shall be able to perform an on-board diagnostic test, a~~  
14 ~~pressurized gas cap test, an idle mode test and an unloaded 2500 RPM test. The VEGAS shall provide second~~  
15 ~~chance capabilities for the idle mode and 2500 RPM tests. The specifications shall be described in a separate~~  
16 ~~document and shall be made available by the program upon request. A list of vendors for the approved VEGAS will~~  
17 ~~be available at VPMD Headquarters.~~

18 ~~B. The program manager will establish specifications for the exhaust gas analytical and sampling~~  
19 ~~system portion of the approved VEGAS. The program manager will determine the manufacturers' compliance with~~  
20 ~~the revisions and additions to the specifications necessary for use of the instrument within the program area.~~

21 ~~C. Applications for approval of vehicle exhaust systems:~~

22 ~~(1) Those manufacturers seeking to become a vendor of approved VEGAS shall make application to~~  
23 ~~the program manager on forms provided by the program. Only manufacturers, which can offer an analyzer, which~~  
24 ~~meets the requirements as specified by the program manager, shall be allowed to participate as a vendor.~~

25 ~~(2) A manufacturer requesting the approval of an analyzer for the measurement of exhaust gases for~~  
26 ~~use in the program shall make application with the program manager on forms provided by the Program. All~~  
27 ~~manufacturers making application shall meet the applicable technical specifications and administrative requirements~~  
28 ~~specified by the program manager prior to approval.~~

29 ~~D. Working span gases:~~

30 ~~(1) General: The VEGAS manufacturer and its designated marketing vendors shall, on request,~~  
31 ~~supply span gases approved by the program to any ultimate purchaser of its unit. The VEGAS manufacturer shall~~  
32 ~~also provide the analyzer purchaser with a comprehensive, up-to-date list with addresses and phone numbers of~~  
33 ~~NIST approved gas blenders. Each new or used VEGAS sold or leased by the instrument manufacturer or marketing~~  
34 ~~vendor shall have a full span gas container installed and operational at time of delivery if the VEGAS is designed to~~  
35 ~~incorporate an integral span gas supply.~~

36 ~~(2) Span gas blends: The span gas concentrations supplied with VEGAS used by certified air care~~  
37 ~~stations shall conform to the specifications developed pursuant to this subsection.~~

38 ~~E. VEGAS performance characteristics:~~

39 ~~(1) Optical correction factor sometimes referred to as "C" factor or "propane to hexane conversion~~  
40 ~~factor": Each approved VEGAS shall be permanently labeled with its correction factor, carried to at least two~~  
41 ~~decimal places. Factor confirmation shall be made on each assembled VEGAS by measuring both N hexane and~~  
42 ~~propane on assembly line quality checks.~~

43 ~~(2) Changes and equipment updates: No changes in design or performance characteristics of~~  
44 ~~component specifications which may affect VEGAS performance will be allowed without the program manager's~~  
45 ~~approval. It will be the VEGAS manufacturer's responsibility to confirm that such changes have no detrimental~~  
46 ~~effect on VEGAS performance. All approved VEGAS shall be updated as needed and specified in the specifications~~  
47 ~~document.~~

48 ~~F. Documentation, logistics and warranty requirements: An instruction manual shall accompany~~  
49 ~~each VEGAS and shall contain at least the following:~~

50 ~~(1) complete technical description,~~

51 ~~(2) functional schematics (mechanical and electrical),~~

52 ~~(3) accessories and options,~~

53 ~~(4) model number, identification markings and location,~~

54 ~~(5) operating maintenance to include recommended periodic cycles and procedure for maintaining~~  
55 ~~sample system integrity (leaks, hang-up, calibration, filters, etc.);~~

1 ~~\_\_\_\_\_ (6) required service schedule, identifying the items needing maintenance and the procedures to be~~  
2 ~~followed by the purchaser or lessor. The services to be performed only by the manufacturer shall be clearly~~  
3 ~~identified,~~

4 ~~\_\_\_\_\_ (7) warranty provisions to include listing of warranty repair stations by name, address, and phone~~  
5 ~~number, and~~

6 ~~\_\_\_\_\_ (8) the name, address, and phone number of the permanent southwestern regional representative(s)~~  
7 ~~for training, service, and warranties.~~

8 ~~\_\_\_\_\_ G. Calibration of approved VEGAS: Certified *air care* stations and all others participating in this~~  
9 ~~program shall abide by this subsection in the calibration and spanning of VEGAS. Span gases and containers shall~~  
10 ~~meet the following parameters, blends and specifications:~~

11 ~~\_\_\_\_\_ (1) span and calibration gases: The operator of a certified *air care* station shall be responsible to~~  
12 ~~assure that span gases used in approved VEGAS conform to the following:~~

13 ~~\_\_\_\_\_ (a) All span gases supplied to stations shall be named using EPA recommended naming~~  
14 ~~practices.~~

15 ~~\_\_\_\_\_ (b) The carrier gas shall be nitrogen; the hydrocarbon gas shall be propane. Three component~~  
16 ~~(HC, CO, CO<sub>2</sub> and carrier) gases will be provided.~~

17 ~~\_\_\_\_\_ (c) The concentration(s) of the span gas blend shall be within limits established by the program~~  
18 ~~to provide for uniform VEGAS spanning.~~

19 ~~\_\_\_\_\_ (d) The accuracy of the certified *air care* station span gas blend shall be certified by the blender~~  
20 ~~to be  $\pm$  (plus or minus) 2% of labeled concentration and traceable to the NIST. Only gas blends supplied by the~~  
21 ~~program's approved blenders shall be used with the approved VEGAS.~~

22 ~~\_\_\_\_\_ (e) Certified *air care* stations shall gas calibrate the approved VEGAS once each 72 hours as~~  
23 ~~determined by the instrument or as needed in order to maintain accuracy.~~

24 ~~\_\_\_\_\_ (f) All approved VEGAS shall be calibrated only with span gases bearing a program approved~~  
25 ~~label.~~

26 ~~\_\_\_\_\_ (2) Accuracy: A gas supplier shall initially demonstrate to the program its qualifications as a vendor~~  
27 ~~of span gases. The program may require additional evidence of qualifications at periodic intervals. All gas~~  
28 ~~suppliers will be required to abide by the "approved span gas verification program" established by the VPMP.~~

29 ~~\_\_\_\_\_ (3) Containers: Span gases shall be supplied in containers which meet all the applicable provisions~~  
30 ~~of the occupational safety and health administration (OSHA).~~

31 ~~\_\_\_\_\_ (4) Additional requirements: Additional specifications related to calibration requirements are~~  
32 ~~described in the VEGAS specifications document.]~~

33 ~~[5/20/88. . . 11/13/91, 8/25/92, 9/23/94, 12/1/95; 20.11.100.25 NMAC - Rn, 20 NMAC 11.100.II.14, 10/1/02; A,~~  
34 ~~5/1/04]~~

35  
36 **20.11.100.31 ENFORCEMENT AGAINST AIR CARE STATIONS AND INSPECTORS:**

37 **A. If a VPMD program manager or a compliance auditor finds a condition or practice that violates**  
38 **any requirement of 20.11.100 NMAC, VPMD may take any enforcement action or combination of actions it finds**  
39 **necessary, including, but not limited to: a written warning, a notice of violation, a letter denying recertification, a**  
40 **notice of intent to suspend or revoke an active certification, or immediate lockout of the gas analyzer.**

41 **B. Violations for which the program manager or VPMD personnel may take action under**

42 **20.11.100.31 NMAC include:**

43 **(1) any act or omission by an *air care* station or an *air care* inspector that causes the station or**  
44 **inspector to be in violation of any applicable requirement of 20.11.100 NMAC;**

45 **(2) an *air care* station or inspector taking or performing any action prohibited under 20.11.100.16**  
46 **NMAC as determined by any type of investigation by VPMD, such as an overt or covert audit, or VID analysis; and**

47 **(3) any other act or omission by a station or inspector that results in a situation that does not comply**  
48 **with 20.11.100 NMAC.**

49 **C. An enforcement action may be issued to an *air care* station or *air care* inspector by first class**  
50 **mail, hand delivery by VPMD personnel or electronically through the EIS.**

51 **D. The program manager may issue a notice of violation to the *air care* station for acts or omissions**  
52 **by an *air care* inspector at the *air care* station regardless of whether VPMD has issued a notice of violation to the**  
53 ***air care* inspector who committed the violation.**

54 **E. A notice of violation or warning issued pursuant to 20.11.100 NMAC, shall be in writing on an**  
55 **approved VPMD form and shall specify whether the notice of violation is issued to the inspector or the station. The**

1 notice shall include notification of the penalty points assessed for the violation and the total penalty points the air  
2 care station or inspector has accumulated during the preceding 12-month period. {from procedure manual}  
3 [20.11.100.31 NMAC - N 2010]  
4

5 **20.11.100.32 CATEGORIES OF VIOLATIONS:**

6 A. The program manager, supervisor or VPMD auditor shall review each notice of violation for  
7 consistency with 20.11.100 NMAC and determine the character and category of the violation for the purpose of  
8 assessing penalty points, monetary penalties or taking other enforcement action.

9 (1) Intentional violations. An intentional violation is a violation that is the result of actions that are  
10 reckless, deliberate or purposeful or that occur when the person who committed the act or omission knew or should  
11 have known the conduct was a violation of 20.11.100 NMAC.

12 (2) Serious violations. Serious violations are actions that occur as a result of inspector error, which  
13 includes an omission, and are likely to result in inaccurate test results.

14 (3) Minor violations are common errors that can be prevented by diligence and care. {from  
15 procedures manual}  
16 [20.11.100.32 NMAC - N 2010]  
17

18 **20.11.100.33 PENALTY ASSESSMENT:**

19 A. Penalty points may be assessed against the air care inspector, air care station or both. Penalty  
20 points are tracked for each air care station and each air care inspector throughout a rolling 12 month period.

21 B. Violations committed during an inspection shall be assessed against the air care inspector.

22 C. Program violations, such as allowing or requiring an inspector to perform an improper test or  
23 allowing a non-certified individual to perform part or all of a test; improper filing and storage of program  
24 documents, or improperly posted signs, shall be assessed against the station.

25 D. Air care stations may be held responsible for their inspectors' actions if evidence establishes that  
26 the inspector violations occurred due to lack of diligence or supervision by the air care station owner or operator.

27 **E. Intentional violations**

28 (1) Each intentional violation may result in the issuance of up to 16 points for each occurrence.

29 (2) 16 points shall result in a suspension or revocation of certification, as appropriate, for the air care  
30 inspector and the air care station at which the violations occurred.

31 (3) When an intentional violation results in a false pass, the air care station or inspector may be  
32 assessed a monetary penalty equal to 2.5 times the estimated cost of repair of the vehicle, according to the industry  
33 flat rate book.

34 (4) When the intentional violation results in a false fail, the air care station or inspector may be  
35 assessed a monetary penalty of up to \$1000.

36 **F. Serious Violations**

37 (1) Each serious violation shall be assessed four points for each occurrence.

38 (2) A Serious violation shall require the station to refund the test fee and provide a free retest to the  
39 vehicle owner or designee.

40 (3) A Serious violation may also result in a mandatory conference at the VPMD Headquarters to  
41 discuss the violation and how to assure that there will be no future repetition of the problem. The results of the  
42 conference shall be documented and may include a commitment by the station or inspector or both to complete  
43 additional training. The program manager or designee may agree to vacate points if commitments are completed  
44 successfully and in a timely manner. Mandatory conferences shall be scheduled and held at the VPMD  
45 headquarters.

46 **G. Minor Violations:** Each minor violation shall be assessed two points. Minor violations shall  
47 result in formal written notices of violation.

48 [20.11.100.33 NMAC - N 2010]  
49

50 **20.11.100.34 HISTORY OF VIOLATIONS:**

51 A. If the program manager determines that an air care station or air care inspector has a history of  
52 violations, the level of enforcement or penalty assessment may be increased for any future violations. The program  
53 manager shall not be limited to considering the immediately-preceding 12-month period to determine whether a  
54 history of violations exists.

55 B. When violations continue to occur at an air care station or by an air care inspector following  
56 previous enforcement actions, the program manager may issue a more severe enforcement action, including but not

1 limited to: issuing a notice of violation instead of a written warning for a minor violation, or issuing an intent to  
2 revoke or suspend a certification for a non-minor violation that is the latest violation in a history of violations.

3 C. When violations continue to occur at an *air care* station or by an *air care* inspector following  
4 previous enforcement actions, the program manager may assess more severe penalties or a greater number of penalty  
5 points as a result of an *air care* station or *air care* inspector committing additional errors or violations.

6 D. Significant accumulation of penalty points shall result in an enforcement action described in  
7 20.11.100.35

8 [20.11.100.35 NMAC - N 2010]

9  
10 ~~[20.11.100.26]~~ 20.11.100.35 **[DISCIPLINARY] ENFORCEMENT ACTION, DENIAL, SUSPENSION**  
11 **OR REVOCATION OF CERTIFICATIONS:**

12 A. The program manager is authorized, after reasonable investigation and showing of a violation of  
13 any ~~[provisions]~~ provision of ~~[this regulation]~~ 20.11.100 NMAC, to take ~~[disciplinary]~~ enforcement actions  
14 including monetary penalties ~~[and/or]~~ and denial, suspension or revocation of certification to operate under the  
15 program as a certified *air care* station~~[-certified fleet *air care* station;]~~ or certified *air care* inspector ~~[or certified *air*~~  
16 ~~*care technician*].~~ In deciding on an appropriate action, the program manager may consider: past violations on file  
17 against the charged party, previous actions ~~[which]~~ that may have been taken by the program against the charged  
18 party, settlement or consent agreements ~~[which]~~ that document past violations, and judicial decisions if related to the  
19 requirements of ~~[this part]~~ 20.11.100 NMAC ~~[to the procedures manual, or other program guidelines or~~  
20 ~~requirements].~~

21 B. Notwithstanding the provisions of Subsection C of ~~[20.11.100.26]~~ 20.11.100.35 NMAC, the  
22 program manager may immediately suspend or revoke the certification of a certified *air care* station~~[-certified fleet~~  
23 ~~*air care station;]*~~ or certified *air care* inspector ~~[or certified *air care technician*]~~ if the program manager determines  
24 that continued operation as an *air care* station~~[-fleet *air care station;]*~~ or *air care* inspector ~~[or *air care technician*]~~  
25 would jeopardize the public health, safety and welfare; violate the ~~[VPMP]~~ VPMD *procedures manual* or ~~[this part]~~  
26 20.11.100 NMAC or compromise the program.

27 C. ~~[Prior to]~~ Before taking any action to suspend or revoke a certification, the program manager shall  
28 inform the inspector ~~[technician]~~ or station owner of the charges. Any party so informed may request a hearing on  
29 the merits before the program manager. ~~[Such]~~ The request ~~[must]~~ shall be made in writing to the program manager  
30 within 15 consecutive days ~~[of receipt of]~~ after receiving the notice of intent to suspend or revoke the certification.

31 D. Upon receipt of a written request for a hearing on the merits, the program manager shall set a date,  
32 time and place for the hearing no more than 60 consecutive days from the date of receipt of the request. No fewer  
33 than 15 consecutive days before the hearing, the program manager shall inform the charged party of the date, time  
34 and place of the hearing. The program manager may appoint a hearing officer. At the hearing, the charged party  
35 may demonstrate why a monetary penalty should not be imposed ~~[and/or]~~ and the certification should not be  
36 suspended or revoked. The hearing officer shall provide findings of fact, conclusions of law and a written  
37 recommendation to the program manager based on the evidence presented at the hearing.

38 E. ~~[At]~~ After the hearing on the merits, based on the findings of the initial investigation and the  
39 ~~[evidence presented at the hearing]~~ recommendation of the hearing officer, the program manager~~[-with the approval~~  
40 ~~of the environmental health department director;]~~ may shall take appropriate action including but not limited to any  
41 one or a combination of the following: monetary penalty; suspension or revocation of the certification or dismissal  
42 of the charges. The program manager may ~~[issue]~~ impose monetary penalties as authorized by the City of  
43 Albuquerque and ~~[the]~~ Bernalillo County Joint Air Quality Control Board Ordinances, the City of Albuquerque and  
44 Bernalillo County Motor Vehicle Emissions Control Ordinances, and the New Mexico Air Quality Control Act. The  
45 program manager may consider: past violations on file against the charged party; previous actions ~~[which]~~ that may  
46 have been taken by the program against the charged party; settlement or consent agreements ~~[which]~~ that document  
47 past violations and judicial decisions if related to the requirements of ~~[this part]~~ 20.11.100 NMAC, ~~[to]~~ the  
48 procedures manual, or other program guidelines or requirements.

49 F. After a hearing specified by 20.11.100.35 NMAC, any party whose application for certification is  
50 denied or certificate is suspended or revoked may appeal the decision of the program manager to the board. To  
51 perfect the appeal to the board, the appellant ~~[must]~~ shall deliver a written request to the headquarters within 15  
52 consecutive days after receipt of the program manager's decision. At the next regular meeting of the board, the  
53 program manager shall inform the board ~~[at the next regular meeting of the board]~~ that an appeal has been filed.  
54 The board may make its determination based on the record or may require a hearing de novo. If the board decides  
55 on a hearing de novo, the petitioner shall pay a fee of \$125 pursuant to Subsection C of 20.11.2.22 NMAC by the  
56 deadline established by the board. A hearing de novo shall be held in accordance with 20.11.81 NMAC. The board

1 may uphold, overturn or amend the program manager's decision. If the board decides to conduct a hearing de novo,  
2 the board may appoint a hearing officer, and the board shall set a date, time and place for the hearing and shall hold  
3 the hearing within 90 consecutive days of the headquarters' receipt of the written request. No fewer than 15  
4 consecutive days before the hearing, the board shall inform the appellant of the date, time and place of the hearing.  
5 The decision of the board shall be final.

6 [5/20/88. . . 11/13/91, 8/25/92, 9/23/94, 12/1/95, 20.11.100.26 NMAC - Rn, 20 NMAC 11.100.II.15, 10/1/02; A,  
7 5/1/04; A, 9/1/04]

8  
9 **[20.11.100.27 — ENFORCEMENT:] 20.11.100.36 ADDITIONAL ENFORCEMENT AUTHORITY:**

10 A. **Mandatory inspections:** Any person who owns a motor vehicle subject to [this part] 20.11.100  
11 NMAC and fails to demonstrate compliance with [this part] 20.11.100 NMAC shall be issued a failing VIR and  
12 shall be refused re-registration by the MVD pursuant to the Motor Vehicle Code, 66-3-7.1 NMSA (1978).

13 B. **Procedural provisions:** Any person who violates the requirements of [this part] 20.11.100  
14 NMAC shall be guilty of a misdemeanor pursuant to either the City of Albuquerque Joint Air Quality Control Board  
15 Ordinance 9-15-1-99(B)(1) R.O.1994 or the Bernalillo County Joint Air Quality Control Board Ordinance No. 94-5.  
16 Any person who violates a requirement of [this regulation also] 20.11.100 NMAC shall also be subject [both] to all  
17 other enforcement actions authorized by the Air Quality Control Act, 74-2-1 et. seq., NMSA 1978 and [all] other  
18 remedies available at law or equity.

19 C. **Referral for further investigation or legal remedy.** In addition to suspension or revocation of  
20 certification and monetary penalties, cases that involve an intentional violation may be referred to the attorney  
21 general, district attorney or city attorney, as appropriate, for further investigation of fraudulent acts or other acts  
22 contrary to law.

23 [5/20/88. . . 12/1/95; 20.11.100.27 NMAC - Rn, 20 NMAC 11.100.II.16, 10/1/02]

24  
25 **[20.11.100.28 — ADMINISTRATIVE FEES FOR CERTIFICATIONS:** Any person seeking certification, or  
26 annual renewal thereof, to participate in the program as an *air care* station, inspector or technician shall remit to the  
27 city the appropriate fee as indicated below before a certification shall be issued or renewed by the program.  
28

Certifications	Amount
Certified <i>Air Care</i> Station	\$200.00
Certified <i>Air Care</i> Inspector	\$35.00
Certified <i>Air Care</i> Technician	\$35.00] {moved to 20.11.100.29 NMAC}

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31  
32  
33 [5/20/88; 20.11.100.28 NMAC - Rn, 20 NMAC 11.100.II.17, 10/1/02]

34  
35 **20.11.100.29** Repealed.  
36 [9/23/94. . . 12/1/95, R 8/1/97; 20.11.100.29 NMAC - Rn, 20 NMAC 11.100.II.18, 10/1/02]

37  
38 **HISTORY OF 20.11.100 NMAC:**

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

41 Regulation No. 28, Motor Vehicle Inspection, filed 5/20/88;  
42 Regulation No. 28, Motor Vehicle Inspection, filed 8/30/89;  
43 Regulation No. 28, Motor Vehicle Inspection, filed 11/13/91;  
44 Regulation No. 28, Motor Vehicle Inspection, filed 8/25/92;  
45 Regulation No. 28, Motor Vehicle Inspection, filed 9/23/94.  
46

47 **History of Repealed Material:** 20 NMAC 11.100.II.18, effective 8/1/97.  
48

49 **Other History:** Regulation No. 28, Motor Vehicle Inspection, filed 9/23/94 was renumbered and reformatted to 20  
50 NMAC 11.100, Motor Vehicle Inspection-Decentralized, effective 12/1/95.  
51 20 NMAC 11.100, Motor Vehicle Inspection-Decentralized, filed 10/27/95 was renumbered, amended and  
52 reformatted to 20.11.100 NMAC effective 10/1/02.  
53