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TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 103 MOTOR VEHICLE VISIBLE EMISSIONS

20.11.103.1 ISSUING AGENCY: Albuquerque/ Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.
[11/28/89. . .12/1/95; 20.11.103.1 NMAC – Rn, 20 NMAC 11.103.I.1, 10/1/02]

20.11.103.2 SCOPE: This Part is applicable to all motor vehicles, as defined in this Part, shall comply with the requirements of this Part, unless otherwise exempted.
[11/28/89. . .12/1/95; 20.11.103.2 NMAC – Rn, 20 NMAC 11.103.I.2, 10/1/02]

20.11.103.3 STATUTORY AUTHORITY: This Part is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.
[12/1/95; 20.11.103.3 NMAC – Rn, 20 NMAC 11.103.I.3, 10/1/02]

20.11.103.4 DURATION: Permanent.
[12/1/95; 20.11.103.4 NMAC – Rn, 20 NMAC 11.103.I.4, 10/1/02]

20.11.103.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.
[12/1/95; 20.11.103.5 NMAC – Rn, 20 NMAC 11.103.I.5 & A, 10/1/02]

20.11.103.6 OBJECTIVE: This Part is intended to provide for the control and regulation of visible air contaminant emissions from motor vehicles into the ambient air.
[11/28/89. . .12/1/95; 20.11.103.6 NMAC – Rn, 20 NMAC 11.103.I.6, 10/1/02]

20.11.103.7 DEFINITIONS: In addition to the definitions in 20.11.103.7 NMAC the definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in this Part shall govern.

A. “**Motor Vehicle**” means any vehicle, including motorcycles, powered by gasoline or diesel fuel and which has been intended, designed and manufactured primarily for use in carrying passengers or cargo on public roads and highways.

B. “**Non Highway Motor Vehicle**” means any vehicle, including motorcycles, powered by gasoline or diesel fuel and which has been intended, designed and manufactured primarily for operation off public roads, streets, and highways.

C. “**Opacity**” means the degree to which an air contaminant emission obscures the view of an observer, expressed in percentage of obscuration or in the degree (percent) to which transmittance of light is reduced by an air contaminant emission.

D. “**Owner**” means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision, or agency or any other legal entity or legal representative, agent, or assign which owns a vehicle. If the operator of the motor vehicle is not the owner, the owner shall have primary responsibility for compliance.

E. “**Metro Court**” means the courts and those employees of the State of New Mexico Metropolitan Court.

F. “**Visible Air Contaminant Emission**” means any fume, smoke, particulate matter, vapor or gas, or combination thereof, except water vapor or steam condensate.

[11/28/89. . .12/1/95; 20.11.103.7 NMAC – Rn, 20 NMAC 11.103.I.7, 10/1/02]

20.11.103.8 VARIANCES: [Reserved]
[12/1/95; 20.11.103.8 NMAC - Rn, 20 NMAC 11.103.8, 10/1/02]

20.11.103.9 SAVINGS CLAUSE: Any amendment to 20.11.103 NMAC, which is filed, with the State Records Center shall not affect actions pending for violation of a City or County ordinance, Air Quality Control Board Regulation 36, or 20.11.103 NMAC. Prosecution for a violation under prior regulation wording shall be

governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation was committed.

[12/1/95; 20.11.103.9 NMAC – Rn, 20 NMAC 11.103.I.9, 10/1/02]

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

[12/1/95; 20.11.103.10 NMAC – Rn, 20 NMAC 11.103.I.10, 10/1/02]

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

[12/1/95; 20.11.103.11 NMAC – Rn, 20 NMAC 11.103.I.11 & A, 10/1/02]

20.11.103.12 VISIBLE EMISSION REQUIREMENTS:

A. No owner shall cause to be emitted from any gasoline powered highway or non-highway motor vehicle any continuous visible air contaminant emission while the vehicle is in operation for a period greater than two consecutive seconds.

B. No owner shall cause to be emitted from any diesel powered highway motor vehicle, 10,000 pounds gross vehicle weight rating or less, visible air contaminant emission while the vehicle is in operation for a period greater than five consecutive seconds, which is a shade or density of more than 25% opacity.

C. No owner shall cause to be emitted from any diesel powered highway motor vehicle, greater than 10,000 pounds gross vehicle weight rating, continuous visible air contaminant emission while the vehicle is in operation for a period greater than five consecutive seconds, which is a shade or density of more than 30 % opacity.

D. No owner shall cause to be emitted from any diesel powered non-highway motor vehicle continuous visible air contaminant emission while the vehicle is in operation for a period greater than ten consecutive seconds, which is a shade or density of more than 40 % opacity.

E. Diesel powered highway and non-highway motor vehicles exceeding these requirements shall be exempt for a period of ten minutes, if the excessive visible air contaminant emissions are a direct result of cold engine start-up and provided that the motor vehicle is in a stationary position.

[12/1/95; 20.11.103.12 NMAC – Rn, 20 NMAC 11.103.I.12 & Repealed, 10/1/02; Rn, 20 NMAC 11.103.II.1, 10/1/02]

20.11.103.13 ENFORCEMENT PROCEDURES:

A. Complaints may be filed with the Department by any person who observes a motor vehicle emitting visible air contaminant emissions in excess of that allowed by this Part. A signed written complaint will authorize the Department to request the owner to have his/her vehicle tested at Department facilities at no charge. If an owner fails the Opacity Test or does not present his/her motor vehicle for testing, in accordance with procedures set up by the Department, the Department may take appropriate enforcement action against the owner.

B. The Department shall enter into an agreement with the Metro Court to provide a free test for owners of motor vehicles, which have been issued a citation by a law enforcement officer for excessive visible air contaminant emissions. The owner will have sixty days to bring any failing motor vehicle into compliance and present it to the Department for testing. The Department may issue a clearance certificate to the Metro Court after testing a vehicle, which has shown compliance with the visible emission requirements of 20.11.103.12 NMAC.

C. The Department shall develop procedures to audit private and government fleets stationed in Bernalillo County for compliance with visible air contaminant emissions in accordance with this Part.

[12/1/95; 20.11.103.13 NMAC – Rn, 20 NMAC 11.103.II.2, 10/1/02]

20.11.103.14 PROGRAM REVIEW: The Department will provide a periodic report to the Board reviewing the results of the program including findings and recommendations.

[11/28/89; 20.11.103.14 NMAC – Rn, 20 NMAC 11.103.II.3, 10/1/02]

HISTORY OF 20.11.103 NMAC:

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

Regulation No.36, Motor Vehicle Visible Emissions, 11/28/89.

History of Repealed Material: [Reserved]

Other History: Regulation No.36, Motor Vehicle Visible Emissions, filed 11/28/89 was **renumbered and reformatted** into first version of the New Mexico Administrative Code as 20 NMAC 11.103, Motor Vehicle Visible Emissions, filed 10/27/95.

20 NMAC 11.103, Motor Vehicle Visible Emissions, filed 10/27/95 was **renumbered, reformatted, amended and replaced** by 20.11.103 NMAC, Motor Vehicle Visible Emissions, effective 10/1/02.