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**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 11 ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**  
**PART 90 ADMINISTRATION, ENFORCEMENT, AND INSPECTION**

**20.11.90.1 ISSUING AGENCY:** Albuquerque/ Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.  
[3/21/77. . .12/1/95; 20.11.90.1 NMAC – Rn, 20 NMAC 11.90.I.1, 10/1/02]

**20.11.90.2 SCOPE:**

**A.** This Part is applicable to any source within Bernalillo County.  
**B. Exempt:** This Part does not apply to sources within Bernalillo County, which are located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control lacks jurisdiction.  
[12/1/95; 20.11.90.2 NMAC – Rn, 20 NMAC 11.90.I.2, 10/1/02]

**20.11.90.3 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.  
[3/21/77. . .12/1/95; 20.11.90.3 NMAC – Rn, 20 NMAC 11.90.I.3, 10/1/02]

**20.11.90.4 DURATION:** Permanent.  
[12/1/95; 20.11.90.4 NMAC – Rn, 20 NMAC 11.90.I.4, 10/1/02]

**20.11.90.5 EFFECTIVE DATE:** December 1, 1995, unless a later date is cited at the end of a section.  
[12/1/95; 20.11.90.5 NMAC – Rn, 20 NMAC 11.90.I.5 & A, 10/1/02]

**20.11.90.6 OBJECTIVE:** The objective of this Part is to minimize emissions from sources through inspection, enforcement, and good operating procedures.  
[12/1/95; 20.11.90.6 NMAC – Rn, 20 NMAC 11.90.I.6, 10/1/02]

**20.11.90.7 DEFINITIONS:** [Reserved]

**20.11.90.8 VARIANCES:** [Reserved]

**20.11.90.9 SAVINGS CLAUSE:** Any amendment to 20.11.90 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 No. 19, 23, and 25, or 20.11.90 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; 20.11.90.9 NMAC – Rn, 20 NMAC 11.90.I.9, 10/1/02]

**20.11.90.10 SEVERABILITY:** If any section, paragraph, sentence, clause, or word of this Part or the federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining portions of this Part.  
[12/1/95; 20.11.90.10 NMAC – Rn, 20 NMAC 11.90.I.10, 10/1/02]

**20.11.90.11 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; 20.11.90.11 NMAC – Rn, 20 NMAC 11.90.I.11 & A, 10/1/02]

**20.11.90.12 BREAKDOWN, ABNORMAL OPERATING CONDITIONS, OR SCHEDULED MAINTENANCE:** Operation of any equipment or air pollution control devices or apparatus so as to cause emissions of air contaminants in excess of limits set by these air pollution control regulations, which is a direct result of breakdown of equipment or of abnormal operating conditions, or is a direct result of the shutdown of such

equipment or air pollution control devices or apparatus for scheduled maintenance is not a violation of these air pollution control regulations, provided:

A. As to scheduled maintenance, the occurrence is reported in advance to the Director during his working hours and that such work is performed during periods of non-operation and when the Air Pollution Potential Index is under 50.

B. As to breakdown of equipment or abnormal operating conditions, the occurrence has been reported to the Director as soon as practicable, but no later than two (2) hours after the occurrence, except that when the Director's office is closed, such report shall be made within two (2) hours after said office reopens for regular business.

C. Repairs are made with maximum, reasonable effort, including use of off-shift labor, overtime or work periods of non-operation.

D. The emission of air contaminants is minimized as much as reasonably possible during breakdown of equipment, abnormal operating conditions or scheduled maintenance.

E. In the event of emission of air contaminants of a nature or in quantities, which would endanger public health or safety, such emission is stopped entirely or reduced to harmless levels as soon as possible.

F. Breakdown of equipment or abnormal operating conditions do not occur with such frequency that careless, marginal, unsafe or deliberate abnormal operation is indicated.

[3/21/77. . 3/24/82; 12/1/95; 20.11.90.12 NMAC – Rn, 20 NMAC 11.90.I.12 & Repealed, 10/1/02; Rn, 20 NMAC 11.90.II.1, 10/1/02]

#### **20.11.90.13 SOURCE SURVEILLANCE:**

A. The owner or operator of any stationary source of an air contaminant shall, upon notification by the Director, maintain records of the nature and amounts of emissions, to which an air quality control emission regulation applies, from the source and any other information as may be deemed necessary by the Director to determine whether the source is in compliance with applicable regulations.

B. The information recorded as specified in Subsection A of 20.11.90.13 NMAC shall be summarized and reported to the Director, on forms furnished by the Director, and shall be submitted within forty-five (45) days after the end of the reporting period. Reporting periods are November 1 through April 30 and May 1 through October 31 or such other periods as the Director may deem necessary. Information reported to the Director shall be signed by the person responsible for its accuracy.

C. Emission data obtained by the Director shall be correlated with applicable emission limitations and other control measures and be made available to the public during normal business hours.

D. The owner or operator of a stationary source shall, to determine compliance with these regulations or to meet the source sampling requirements of a compliance schedule, conduct performance tests or allow the Director to conduct performance tests as specified in Subsection F of 20.11.90.13 NMAC.

E. The Director shall establish a periodic visual surveillance system to detect and investigate apparent violations of visible emission limitations and such complaints relating to apparent violations of the regulations as may occur.

##### **F. Performance Tests:**

(1) As required by the Director, the owner or operator of a stationary source shall conduct performance tests and furnish the Director with a written report of the results.

(2) Performance tests shall be conducted and the results reported in accordance with the test method, as set forth in the Federal Register, Volume 36, No. 247, December 23, 1971, Part 60.8, or an approved alternate test method. The Director shall have ten (10) days prior notice before such testing is performed.

(3) The owner or operator shall permit the Director to conduct performance tests at any reasonable time and shall operate the stationary source for such testing purposes as the Director shall specify.

(4) Each performance test shall consist of three repetitions of the applicable test procedure. For the purpose of determining compliance with an applicable standard of performance, the average results of all repetitions shall apply.

(5) The Director shall determine that the performance test method has been properly performed before accepting the results submitted by the owner or operator of the source.

[3/21/77. . 3/24/82; 20.11.90.13 NMAC – Rn, 20 NMAC 11.90.II.2, 10/1/02]

#### **20.11.90.14 ADMINISTRATION AND ENFORCEMENT:**

A. Upon request of the Director, the person responsible for the emission of air contaminants for which limits are established by the 20.11 NMAC rules shall provide such facilities, utilities, and openings exclusive

of instrument and sensing devices, as may be necessary for the proper determination of the nature, extent, quantity and degree of such air contaminants. Such facilities may be either temporary or permanent at the discretion of the person responsible for their provisions; and shall be suitable for determination consistent with emission limits established in these Parts.

**B.** As an additional means of enforcing the 20.11 NMAC rules, the Director may accept a written assurance of discontinuance of any act or practice deemed in violation of these Parts or any Part adopted pursuant thereto from any person engaging in, or who has engaged in, such act or practice, signed and acknowledged by the Director and during which such discontinuance is to be accomplished.

[3/21/77. . 3/24/82; 20.11.90.14 NMAC – Rn, 20 NMAC 11.90.II.3, 10/1/02]

#### **HISTORY OF 20.11.90 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.

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Resolution No. 1, Air Pollution Control Regulations Of The Albuquerque Bernalillo County Air Quality Control Board, 8/6/71.

Regulation No. 1, Air Pollution Control Regulations, 6/6/73;

Regulation No. 1, Air Pollution Control Regulations, 7/19/73;

Regulation No. 1, Air Pollution Control Regulations, 3/21/77;

Regulation No. 25, Regulation And Enforcement, 3/24/82.

History of Repealed Material: [Reserved]

**Other History:** Regulation No. 25, Regulation And Enforcement, filed 3/24/82 was **renumbered and reformatted** into first version of the New Mexico Administrative Code and **replaced** by 20 NMAC 11.90, Administration, Enforcement, Inspection, filed 10/27/95.

20 NMAC 11.90, Administration, Enforcement, Inspection, filed 10/27/95 was **renumbered, reformatted, amended and replaced** by 20.11.90 NMAC, Administration, Enforcement, Inspection, effective 10/1/02.