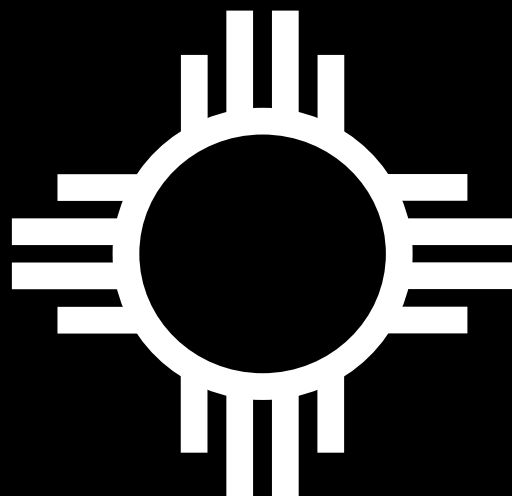


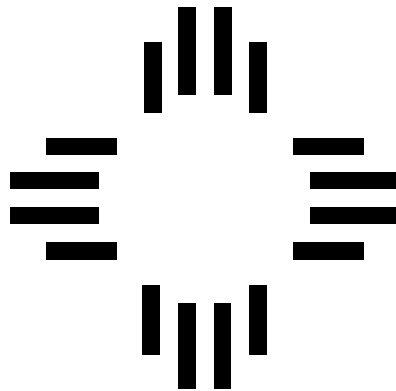
**NEW
MEXICO
REGISTER**



Volume XV
Issue Number 23
December 14, 2004

New Mexico Register

**Volume XV, Issue Number 23
December 14, 2004**



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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New Mexico Register

Volume XV, Number 23

December 14, 2004

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Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." Section 14-4-5 NMSA 1978.

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Notices of Rulemaking and Proposed Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION

NOTICE OF PUBLIC HEARING

The Children, Youth and Families Department, Family Services, Child Care Services Bureau will hold a formal public hearing on Friday, January 14, 2005 from 1:00 p.m. to 3:30 p.m. in the conference room at the Family Services Offices located at 3401 Pan American Freeway NE; Albuquerque, New Mexico to receive public comments regarding new regulations 8.15.2 NMAC Requirements for Child Care Assistance Programs for Clients and Child Care Providers, 8.16.2 NMAC Child Care Centers, Out of School Time Programs, Family Child Care Homes, and Other Early Care and Education Programs, 8.16.3 NMAC Requirements Governing the Child Care Facility Loan Act, and 8.17.2 NMAC Requirements Governing Registration of Non-Licensed Family Child Care Homes.

The proposed regulations may be obtained at the following website www.Newmexicokids.org or by contacting Patricia Lucero at 505-827-7659. Interested persons may testify at the hearing or submit written comments no later than 5:00 PM on January 14, 2005. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Patricia Lucero, Family Services Director's Office, Children, Youth and Families Department, P.O. Drawer 5160 Room 205, Santa Fe, New Mexico 87502-5160, Fax Number: 505-827-9978.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Family Services at 505-827-7659. Family Services requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO OFFICE OF THE STATE ENGINEER

STATE ENGINEER PROPOSED RULES
AND REGULATIONS
AND NOTICE OF PUBLIC HEARING

OFFICE OF THE STATE ENGINEER
P.O. BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120

www.ose.state.nm.us

Upon review of the existing Rules and Regulations Governing the Drilling of Wells and Appropriation and Use of Ground Water in New Mexico, and in particular Article 4, Well Drillers Licensing-Construction, Repair, and Plugging of Wells, the State Engineer of the State of New Mexico discovered the following deficiencies:

- a. Existing regulations do not adequately address revisions and additions to state law that have occurred since the last revision of the regulations.
- b. Existing regulations do not adequately address revised methods in the drilling, construction and plugging of wells.
- c. Existing regulations do not adequately address protection of underground aquifers from intermixing and contamination from surface sources.

To address the deficiencies found in the existing rules and regulations, the State Engineer of the State of New Mexico revised Article 4 of the Rules and Regulations Governing the Drilling of Wells and Appropriation and Use of Ground Water in New Mexico. The proposed rules and regulations are available at the Office of the State Engineer in Santa Fe, Albuquerque, Las Cruces, Roswell, Deming, Aztec, and Cimarron. The proposed rules and regulations are also posted on the Office of the State Engineer web site and may be accessed as follows:

- a. Start from the OSE home page at www.ose.state.nm.us
- b. On the OSE home page click on "Hot Topics"
- c. On the "Hot Topics" page, click on "Proposed Well Driller Licensing and Well Drilling and Construction Rules and Regulations"

Alternatively, the proposed rules and regulations may be directly accessed on the following web-page:

<http://www.ose.state.nm.us/doing-business/WellDrillerRegs/WellDriller-menu.html>

To request that a copy of the rules and regulations be sent to you in the mail, please contact Paul Wells at 505-827-6120 or email publiccomments@ose.state.nm.us

The proposed Well Driller Licensing and Well Drilling and Construction Rules and Regulations contain the following sections: (1) Issuing Agency, (2) Scope, (3) Statutory

Authority, (4) Duration, (5) Effective Date, (6) Objective, (7) Definitions, (8) Application for New License, (9) Application Review and Licensing Requirements, (10) License Amendments, (11) License Renewal, (12) Reprimands, Suspension or Revocation of Driller's License, (13) Non-Artesian Well and Bore Hole Construction - Repair - Plugging, (14) Artesian Well Construction, (15) Requirements for Mine Load Discovery and Mine Drill Holes, (16) Request for Variance, (17) Liberal Constructions, (18) Severability

A public hearing will be held on the above described proposed rules and regulations at Mabry Hall in the Jerry Apodaca Education Building, 300 Don Gaspar Avenue, Santa Fe, New Mexico, on January 10, 2005, beginning at 9:00 a.m. Any person who is or may be affected by these proposed rules and regulations may appear and testify. If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Paul Wells at (505) 827-6120. The Office of the State Engineer requests ten days advance notice to provide any special accommodation.

Written comments on the proposed rules and regulations may be submitted to the Office of the State Engineer in Santa Fe or to any of the district offices. Written comments on the proposed rules and regulations may also be mailed to:

Office of the State Engineer
Attn: Paul Wells
P.O. Box 25102
Santa Fe, NM 87504.

Please submit your written comments to the Office of the State Engineer no later than January 5, 2005. After January 5, comments should be submitted at the hearing in Santa Fe on January 10, 2005.

NEW MEXICO OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT

NOTICE OF CANCELLATION

The New Mexico Office of Workforce Training and Development is canceling the Public Hearing scheduled for December 28, 2004 at 9:00 a.m. in the Aspen Plaza conference room located at 1596 Pacheco Street, Room 201, Santa Fe, New Mexico. Questions may be addressed to Mr. Patrick Newman at (505) 827-6817 or by e-mail to Patrick.Newman@state.nm.us . The

rescheduling date will be published at a later date.

**End of Notices and
Proposed Rules Section**

Adopted Rules

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.63 NMAC, Sections 1, 2, 3, 6, 8, 9, 10, 11, & 12, effective 1/1/05. These amendments are being made in furtherance of our effort to update delegation by EPA of 40 CFR Part 60 to the Albuquerque-Bernalillo County Air Quality Control Board.

20.11.63.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, c/o Environmental Health Department, P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2600.
[1/1/2000; 20.11.63.1 NMAC - Rn, 20 NMAC 11.63.1, 10/1/02; A, 1/1/05]

20.11.63.2 SCOPE: [This Part] 20.11.63 NMAC is applicable to all stationary sources of air pollutants located within Bernalillo county, which are subject to the requirements of 40 CFR Part 60, as amended in the *Federal Register* through [July 1, 1999] July 1, 2004.

A. Exempt:

[1] This Part 20.11.63 NMAC does not apply to sources within Bernalillo county [which] that are located on Indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

[2] Exclude: B. Exclusions:

(1) 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.

(2) 40 CFR 60, Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills.

(3) 40 CFR 60, Subpart Cc, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.

[B.] C. Variances: The variance provisions of 20.11.7 NMAC, Variance [Procedures] Procedure, Revised Ordinances of Albuquerque 1994 Section 9-5-1-8, Bernalillo County [Code, Section 30-37] Ordinance 94-5, Section 8, and NMSA 1978 Section 74-2-8 shall not apply to [this Part] 20.11.63 NMAC or the incorporated federal standards.

[1/1/2000; 20.11.63.2 NMAC - Rn, 20 NMAC 11.63.2, 10/1/02; A, 1/1/05]

20.11.63.3 STATUTORY AUTHORITY: [This Part] 20.11.63 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality

Act, NMSA 1978 Sections 74-2-4 and 74-2-5; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 [Section] Sections 3 and 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4.

[1/1/2000; 20.11.63.3 NMAC - Rn, 20 NMAC 11.63.3, 10/1/02; A, 1/1/05]

20.11.63.6 OBJECTIVE: [The objective of this Part is to adopt local requirements that are identical to those of the] To adopt specified federal New Source Performance Standards (NSPS) codified at 40 CFR Part 60 as part of 20.11.63 NMAC.
[1/1/2000; 20.11.63.6 NMAC - Rn, 20 NMAC 11.63.6, 10/1/02; A, 1/1/05]

20.11.63.8 SAVINGS CLAUSE: Any amendment to 20.11.63 NMAC, New Source Performance Standards for Stationary Source [which] that is filed with the state records center and archives shall not affect actions pending for violation of a city or county ordinance or [Air Quality Control Board Regulation No. 30] the version of 20.11.63 NMAC, New Source Performance Standards For Stationary Sources, in effect prior to amendment. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the ordinance, part, or regulation section in effect at the time the violation was committed.

[1/1/2000; 20.11.63.8 NMAC - Rn, 20 NMAC 11.63.8, 10/1/02; A, 1/1/05]

20.11.63.9 SEVERABILITY: If any section, subsection, sentence, phrase, clause, or wording of [this Part] 20.11.63 NMAC 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] 20.11.63 NMAC.

[1/1/2000; 20.11.63.9 NMAC - Rn, 20 NMAC 11.63.9, 10/1/02; A, 1/1/05]

20.11.63.10 DOCUMENTS: Documents incorporated and cited in [this Part] 20.11.63 NMAC may be viewed at the Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM.

[1/1/2000; 20.11.63.10 NMAC - Rn, 20 NMAC 11.63.10, & A, 10/1/02; A, 1/1/05]

20.11.63.11 INCORPORATION OF FEDERAL STANDARDS: Except as otherwise provided in 20.11.63 NMAC, the New Source Performance Standards [of] promulgated by the United States environ-

mental protection agency, and codified at 40 CFR Part 60, including [the] Subpart A- General Provisions thereto, [codified at 40 CFR Part 60,] as amended in the *Federal Register* through [July 1, 1999] July 1, 2004, are hereby incorporated [as an Air Quality Control Board Regulation of the Albuquerque-Bernalillo County Air Quality Control Board] into 20.11.63 NMAC.

[1/1/2000; 20.11.63.11 NMAC - Rn, 20 NMAC 11.63.11, 10/1/02; A, 1/1/05]

20.11.63.12 MODIFICATIONS AND EXCEPTIONS: [The following modifications or exceptions are made to the incorporated federal standards: Amend 40 CFR Part 60, Section 60.2, Definitions, as follows: For the purpose of delegation of authority which the Administrator of the United States Environmental Protections Agency may delegate to the Director of the Albuquerque Environmental Health Department "Administrator" means the Director of the Albuquerque Environmental Health Department or his/her authorized representative.] For purposes of administering and enforcing 20.11.63 NMAC, the following modification or exception is made to the federal standards that are incorporated in 20.11.63 NMAC. When the director of Albuquerque environmental health department is exercising the authority delegated to the director by the United States environmental protection agency, the definition of "administrator" of the United States environmental protection agency that is included in 40 CFR 60.2, Definitions, shall be changed to "director" of the Albuquerque environmental health department.

[1/1/2000; 20.11.63.12 NMAC - Rn, 20 NMAC 11.63.12, 10/1/02; A, 1/1/05]

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.64 NMAC, Sections 1, 2, 3, 6, 8, 9, 10, 11, 12, 13 & 14, effective 1/1/05. These amendments are being made in furtherance of our effort to update delegation by EPA of 40 CFR Part 61 and 40 CFR Part 63 to the Albuquerque-Bernalillo County Air Quality Control Board.

20.11.64.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, c/o Environmental Health Department, P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2600.

[1/1/2000; 20.11.64.1 NMAC - Rn, 20

NMAC 11.64.1, 10/1/02; A, 1/1/05]

20.11.64.2 SCOPE: ~~[This Part]~~ 20.11.64 NMAC is applicable to all stationary sources of air pollutants located within Bernalillo county, which are subject to any requirements of 40 CFR Part 61 or Part 63, as amended in the *Federal Register* through ~~[July 1, 1999]~~ July 1, 2004.

A. Exempt:

~~[(+)]~~ 20.11.64 NMAC does not apply to sources ~~[with]~~ within Bernalillo county, ~~[which]~~ that are located on Indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

~~[(2) Excludes]~~ **B. Exclusions:**

~~[(+)]~~ (1) 40 CFR 61, Subpart B, National Emission Standards for Radon Emissions From Underground Uranium Mines;

~~[(b)]~~ (2) ~~[40 CFR 61, Subpart I, National Emission Standards for Radionuclides Other Than From Facilities Licensed By Nuclear Regulatory Commission (NRC) And Federal Facilities Not Covered By Subpart H;]~~ 40 CFR 61, Subpart H, National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities;

~~[(+)]~~ (3) 40 CFR 61, Subpart I, National Emission Standards for ~~[Radionuclides Other Than From Facilities Licensed By Nuclear Regulatory Commission (NRC) and Federal Facilities]~~ Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H;

~~[(+)]~~ (4) 40 CFR 61, Subpart K, National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants;

~~[(+)]~~ (5) 40 CFR 61, Subpart Q, National Emission Standards for Radon Emissions From Department of Energy Facilities;

~~[(+)]~~ (6) 40 CFR 61, Subpart R, National Emission Standards for Radon ~~[Emission]~~ Emissions From Phosphogypsum Stacks;

~~[(+)]~~ (7) 40 CFR 61, Subpart T, National Emission Standards for Radon Emissions From the ~~[Deposit]~~ Disposal of Uranium Mill Tailings; and

~~[(+)]~~ (8) 40 CFR 61, Subpart W, National Emission Standards for Radon Emissions From Operating Mill Tailings.

[B.] C. Variances: The variance provisions of 20.11.07 NMAC, Variance ~~[Procedures]~~ Procedure, Revised Ordinances of Albuquerque 1994 Section 9-5-1-8, Bernalillo County Ordinance 94-5, Section [4] 8 and NMSA 1978 Section 74-2-8 shall not apply to ~~[this Part]~~ 20.11.64 NMAC ~~[and]~~ or the incorporated federal

standards.

[1/1/2000; 20.11.64.2 NMAC - Rn, 20 NMAC 11.64.2, 10/1/02; A, 1/1/05]

20.11.64.3 STATUTORY

AUTHORITY: ~~[This Part]~~ 20.11.64 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Act, NMSA 1978 ~~[Section]~~ Sections 74-2-4 [;] and 74-2-5; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 ~~[Section]~~ Sections 3 and 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 and 9-5-1-4.

[1/1/2000; 20.11.64.3 NMAC - Rn, 20 NMAC 11.64.3, 10/1/02; A, 1/1/05]

20.11.64.6 OBJECTIVE: ~~[The objective of this Part is to adopt local requirements that are identical to those of the]~~ To adopt specified federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and National Emissions Standards for Hazardous Air Pollutants for Source Categories codified at 40 CFR Parts 61 and 63 as part of 20.11.64 NMAC.

[1/1/2000; 20.11.64.6 NMAC - Rn, 20 NMAC 11.64.6, 10/1/02; A, 1/1/05]

20.11.64.8 SAVINGS CLAUSE:

Any amendment to 20.11.64 NMAC, Emission Standards For Hazardous Air Pollutants For Stationary Sources ~~[, which]~~ that is filed with the state records center and archives shall not affect actions pending for violation of a city or county ordinance or ~~[Air Quality Control Board Regulation No. 31, Emission Standards for Hazardous Air Pollutants]~~ the version of 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources, in effect prior to amendment. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the ordinance, part, or regulation section in effect at the time the violation was committed.

[1/1/2000; 20.11.64.8 NMAC - Rn, 20 NMAC 11.64.8, 10/1/02; A, 1/1/05]

20.11.64.9 SEVERABILITY: If any section, subsection, sentence, phrase, clause, or wording of ~~[this Part]~~ 20.11.64 NMAC 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 20.11.64 NMAC.

[1/1/2000; 20.11.64.9 NMAC - Rn, 20 NMAC 11.64.9, 10/1/02; A, 1/1/05]

20.11.64.10 DOCUMENTS :

Documents incorporated and cited in ~~[this Part]~~ 20.11.64 NMAC may be viewed at the Albuquerque environmental health depart-

ment, 400 Marquette NW, Albuquerque, NM.

[1/1/2000; 20.11.64.10 NMAC - Rn, 20 NMAC 11.64.10, & A, 10/1/02; A, 1/1/05]

20.11.64.11 INCORPORATION OF FEDERAL STANDARDS CODIFIED AT 40 CFR PART 61:

Except as otherwise provided, the National Emission Standards for Hazardous Air Pollutants, promulgated by the United States environmental protection agency, and codified at 40 CFR Part 61, including [the] Subpart-A, General Provisions thereto, [promulgated by the United States Environmental Protection Agency, codified at 40 CFR Part 61,] as amended in the *Federal Register* through ~~[July 1, 1999]~~ July 1, 2004, are hereby incorporated ~~[as an Air Quality Control Board Regulation of the Albuquerque Bernalillo County Air Quality Control Board]~~ into 20.11.64 NMAC.

[1/1/2000; 20.11.64.11 NMAC - Rn, 20 NMAC 11.64.11, 10/1/02; A, 1/1/05]

20.11.64.12 INCORPORATION OF FEDERAL STANDARDS CODIFIED AT 40 CFR PART 63:

Except as otherwise provided, the National Emissions Standards for Hazardous Air Pollutants for Source Categories, promulgated by the United States environmental protection agency, and codified at 40 CFR Part 63, including [the] Subpart-A, General Provisions thereto, [promulgated by the United States Environmental Protection Agency and codified at 40 CFR Part 63,] as amended in the *Federal Register* through ~~[July 1, 1999]~~ July 1, 2004, are hereby incorporated ~~[as Air Quality Control Board Regulations of the Albuquerque Bernalillo County Air Quality Control Board]~~ into 20.11.64 NMAC.

[1/1/2000; 20.11.64.12 NMAC - Rn, 20 NMAC 11.64.12, 10/1/02; A, 1/1/05]

20.11.64.13 MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) DETERMINATIONS FOR CONSTRUCTED AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS:

Any owner or operator that constructs or reconstructs a major source of hazardous air pollutants shall be required to perform a MACT determination, approved by the department, ~~[and]~~ consistent with the provisions ~~[found in]~~ of 40 CFR 63, Sections 40 through 44. Any MACT emission limitations or requirements shall be incorporated into any permit issued pursuant to 20.11.41 NMAC, Authority-to-Construct, or 20.11.42 NMAC, Operating Permits.

[1/1/2000; 20.11.64.13 NMAC - Rn, 20 NMAC 11.64.13, 10/1/02; A, 1/1/05]

20.11.64.14 MODIFICATIONS AND EXCEPTIONS: The following modifications or exceptions are made to the incorporated federal standards:

A. [~~Amend 40 CFR 61.01, Definitions, as follows: For the purpose of delegation of authority which the Administrator of the United States Environmental Protection Agency may delegate to the Director of the Albuquerque Environmental Health Department, "Administrator" means the Director of that department the Albuquerque Environmental Health Department or his/her authorized representative.~~] For purposes of administering and enforcing 40 CFR 61, the following modification or exception is made to the federal standards that are incorporated in 40 CFR 61. When the director of the Albuquerque environmental health department is exercising the authority delegated to the director by the United States environmental protection agency, the definition of "administrator" of the United States environmental protection agency that is included in 40 CFR 61.02, Definitions, shall be changed to "director" of the Albuquerque environmental health department.

B. [~~Amend 40 CFR 63.2, Definitions, to read as follows: For the purposes of delegation of authority which the Administrator of the United States Environmental Protection Agency may delegate to the Director of the Albuquerque Environmental Health Department, "Administrator" means the Director of the Albuquerque Environmental Health Department or his/her authorized representative.~~] For purposes of administering and enforcing 40 CFR 63, the following modification or exception is made to the federal standards that are incorporated in 40 CFR 63. When the director of the Albuquerque environmental health department is exercising the authority delegated to the director by the United States environmental protection agency, the definition of "administrator" of the United States environmental protection agency that is included in 40 CFR 63.2, Definitions, shall be changed to "director" of the Albuquerque environmental health department.

C. Pursuant to 40 CFR 63.42(b), the effective date for the incorporation of 40 CFR 63, Sections 40 through 44, shall be June 29, 1999. If the department does not have a program to adequately implement the provisions of Section 112(g) of the Clean Air Act, all case-by-case MACT determinations made by the department shall be submitted in writing to the EPA regional administrator for concurrence. [~~Any~~] All applicable MACT emission [limitation or requirement] limitations and requirements shall be incorporated into [any permit] all permits issued by the department.

[1/1/2000; 20.11.64.14 NMAC - Rn, 20 NMAC 11.64.14, 10/1/02; A, 1/1/05]

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

This is an amendment to 20.2.73 NMAC, Section 300, effective December 31, 2004.

20.2.73.300 EMISSION INVENTORY REQUIREMENTS:

A. Applicability. The requirements of 20.2.73.300 NMAC apply to the owner or operator of any stationary source located outside of Bernalillo county which:

(1) has been issued a permit under 20.2.72 NMAC (Construction Permits) during any period of time, except for toxic air pollutant permits issued under Sections 401 to 499 of 20.2.72 NMAC;

(2) is required to file a notice of intent under 20.2.73.200 NMAC; or

(3) emits in excess of 1 ton of lead or 10 tons of total suspended particulate, PM10, PM2.5, sulfur dioxide, nitrogen oxides, carbon monoxide, or volatile organic compounds in any calendar year including and subsequent to 1990.

B. Reporting requirements.

(1) Any source which emits, or has the potential to emit, 5 tons per year or more of lead or lead compounds, or 100 tons per year or more of PM10, PM2.5, sulfur oxides, nitrogen oxides, carbon monoxide, or volatile organic compounds shall submit an emissions report annually.

(2) Any source defined as a major source of hazardous air pollutants under 20.2.70 NMAC (Operating Permits) shall submit an emissions report annually.

(3) Any source which is located in an ozone nonattainment area and which emits, or has the potential to emit, 25 tons per year or more of nitrogen oxides or volatile organic compounds shall submit an emissions report annually.

(4) Any source which is not required by Paragraph (1), (2), or (3) of Subsection B of this section (20.2.73.300 NMAC) to submit an emission report shall submit an emissions report under this part upon request by the department, but no more frequently than annually.

(5) Except as provided in Paragraph (8) of Subsection B of this section (20.2.73.300 NMAC), the department shall provide to the owner or operator required by this section (20.2.73.300 NMAC) to submit an emissions report a complete copy of the most current emissions report for their stationary source which is on file with the department. The

department shall provide this copy to the owner or operator at least 90 days prior to the date when the source is required to submit an emissions report.

(6) The owner or operator shall submit to the department a complete, correct and current emissions report in the format specified by the department which reflects emissions during the previous calendar year.

(7) Except as provided in Paragraph (8) of Subsection B of this section (20.2.73.300 NMAC) the owner or operator shall submit the emission report by April 1 of each year in which the source is required to submit an emission report.

(8) Sources for which a date for submitting an annual emission report is specified in a current operating permit issued under 20.2.70 NMAC (Operating Permits) shall submit such report on that date. The department shall provide a copy of the previous emissions report upon request by the owner or operator of such source.

C. Content of emissions reports. Emissions report contents shall include:

(1) the name, address, and physical location of the stationary source;

(2) the name and telephone number of the person to contact regarding the emissions report;

(3) a certification signed by the owner, or operator, or a responsible official as defined in 20.2.70 NMAC attesting that the statements and information contained in the emissions report are true and accurate to the best knowledge and belief of the certifying official, and including the full name, title, signature, date of signature, and telephone number of the certifying official; for sources subject to 20.2.70 NMAC, the certification shall be made as required under that part;

(4) smelters shall submit an annual report of sulfur input, in tons/year;

(5) for each emission point, as required by the department:

(a) stack and exhaust gas parameters and location information;

(b) type of control equipment and estimated control efficiency;

(c) schedule of operation;

(d) estimated actual emissions, including fugitive emissions and emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime of total suspended particulate, PM10, PM2.5, ammonia, sulfur oxides, nitrogen oxides, carbon monoxide, volatile organic compounds, and lead, and, if requested by the department, speciated hazardous air pollutants, in tons per year and a description of the methods utilized to make such estimates, including calculations;

(e) the annual process or fuel

combustion rates; and

(f) the fuel heat, sulfur, and ash content; and

(6) all information required under the federal act.

D. Additional content for emissions reports from sources in ozone nonattainment areas. Emissions reports from sources located in ozone nonattainment areas shall include, in addition to the contents specified by Subsection C of this section (20.2.73.300 NMAC), the following information:

(1) typical daily process rate during the peak ozone season, where the peak ozone season is specified by the department; and

(2) estimated actual emissions of nitrogen oxides and volatile organic compounds, which shall be reported:

(a) for each emissions point;

(b) for each process and fuel type contributing to emissions from each point;

(c) in units of tons per year for annual emissions; and

(d) in units of pounds per day for a typical day during the peak ozone season.

E. Waiver of reporting requirements for insignificant emissions. The department may waive the requirements of Paragraph [(4)] (5) of Subsection C of this section (20.2.73.300 NMAC) for emissions which the department determines to be insignificant under 20.2.70 NMAC, except that:

(1) for sources in nonattainment areas, reporting of emissions of pollutants for which the area is nonattainment shall not be waived; and

(2) reporting of emissions for which reporting is required under the federal act shall not be waived.

F. Emission tracking requirements for sulfur dioxide emission inventories. All stationary sources with actual emissions of one hundred (100) tons per year or more of sulfur dioxide in the year 2000, or in any subsequent year, shall submit an annual inventory of sulfur dioxide emissions, beginning with the 2003 emission inventory. A source that meets these criteria that then emits less than 100 tons per year in a later year shall submit a sulfur dioxide inventory for tracking compliance with the regional sulfur dioxide milestones until the western backstop sulfur dioxide trading program has been fully implemented and emission tracking has occurred under 20.2.81.106 NMAC.

(1) All WEB sources will be subject to the following federally enforceable provisions:

(a) submit an annual inventory of sulfur dioxide emissions;

(b) document the emissions monitoring/estimation methodology used, and demonstrate that the selected methodology

is acceptable under the inventory program;

(c) include emissions from start up, shut down, and upset conditions in the annual total inventory;

(d) use 40 CFR Part 75 methodology for reporting emissions for all sources subject to the federal acid rain program;

(e) maintain all records used in the calculation of the emissions, including but not limited to the following:

(i) amount of fuel consumed;

(ii) percent sulfur content of fuel and how the content was determined;

(iii) quantity of product monitoring data;

(iv) emissions monitoring data;

(v) operating data; and

(vi) how the emissions

are calculated;

(f) maintain records of any physical changes to facility operations or equipment, or any other changes that may affect the emissions projections; and

(g) retain records for a minimum of ten years from the date of establishment, or if the record was the basis for an adjustment to the milestone, five years after the date of an implementation plan revision, whichever is longer.

(2) The state shall retain emission inventory records for non-utilities for 1996 and 1998 until the year 2018 to ensure that changes in emissions monitoring techniques can be tracked.

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.6 NMAC, Sections 12 and 18. Effective date will be 12/14/2004.

19.31.6.12 REQUIREMENTS AND PERMITS FOR BERNARDO AND CASA COLORADA LIGHT GOOSE HUNT:

A. The Bernardo and Casa Colorada WMAs will be open for light goose hunting by permit only on December 6, 8, 29, 31, and January 25, 27 and 29.

B. Up to 32 permits, at Bernardo WMA, and up to 32 permits, at Casa Colorada, per hunting day, will be available (except Bernardo WMA on December 29; see Section 19.31.6.13 below).

C. Applications for Bernardo/Casa Colorada light goose hunts shall be submitted on the appropriate application form. A six-dollar (\$6.00) application fee shall be required of each applicant. Up to four persons may apply per applica-

tion. Applications for the LTG-0-105 hunt code must have a minimum of one adult and one youth hunter. Refer to the Hunting and Fishing License Application Rule (19.31.3 NMAC, Section 11-Restrictions) for criteria qualifying an applicant for a youth hunt license. Applicants may designate up to three hunt choices. Only one choice may be awarded. The deadline date for application shall be on the second Saturday in September. All applications must be mailed to the Santa Fe office. Applications that have been mailed and postmarked by the deadline, but not delivered, will be accepted by the Santa Fe office up to five working days after that deadline.

Hunt packages for the Bernardo and Casa Colorada light goose hunts.

(B: refers to hunts on Bernardo WMA, C: refers to Casa Colorada WMA)

LTG-O-101 B-12/6 C-1/27

LTG-O-102 B-12/8 C-1/25

LTG-O-103 B-12/31 C-12/8

LTG-O-104 B-1/25 C-12/31

LTG-O-105 B-1/29 C-12/29

D. [RESERVED]

E. While hunting light geese, hunters participating in this season must have in their possession a valid hunting license and a special permit issued by the department.

F. While hunting, hunters shall have in their possession only nontoxic shot. Only 25 rounds per hunter will be allowed at the blinds.

G. Designated areas open for light goose ~~[hunting on Bernardo and Casa Colorada WMAs]~~ by permit only are Bernardo WMA and Casa Colorada WMA—all open.

[19.31.6.12 NMAC - Rp, 19.31.6.12 NMAC, 8-29-2004; A, 12-14-2004]

19.31.6.18 REQUIREMENTS AND PERMITS FOR THE SPECIAL BERNARDO YOUTH/ADULT DUCK HUNTS:

A. The Bernardo WMA ponds north of highway U.S. 60 will be open for duck hunting by permit only.

B. Up to 12 permits will be available per hunting day.

[Continued on page 1063]

Hunt codes and dates for the Bernardo youth/adult duck hunts:

BND-0-101	Nov. 6
BND-0-102	Nov. 27
BND-0-103	Dec. 11
BND-0-104	Dec. 26
BND-0-105	Jan. 2
BND-0-106	Jan. 15
BND-0-107	Jan. 30
<u>BND-0-108</u>	<u>Dec. 20</u>
<u>BND-0-109</u>	<u>Dec. 22</u>
<u>BND-0-110</u>	<u>Dec. 27</u>
<u>BND-0-111</u>	<u>Jan. 3</u>
<u>BND-0-112</u>	<u>Jan. 5</u>
<u>BND-0-113</u>	<u>Jan. 10</u>
<u>BND-0-114</u>	<u>Jan. 12</u>
<u>BND-0-115</u>	<u>Jan. 17</u>
<u>BND-0-116</u>	<u>Jan. 19</u>
<u>BND-0-117</u>	<u>Jan. 24</u>
<u>BND-0-118</u>	<u>Jan. 26</u>

C. Applications for Bernardo youth/adult duck hunts **BND-0-101 through BND-0-107** shall be submitted on the appropriate application form. A six-dollar (\$6.00) application fee shall be required of each applicant. Up to four persons may apply per application with a minimum of one youth and one adult per application. No more than two adults may be on an application. Applicants may designate up to three hunt choices. Only one choice may be awarded. The deadline date for application shall be on the second Saturday in September. All applications must be mailed to the Santa Fe office. Applications that have been mailed and postmarked by the deadline, but not delivered, will be accepted by the Santa Fe office up to five working days after that deadline.

D. Applications for Bernardo youth/adult duck hunts BND-0-108 through BND-0-118 shall be submitted on the appropriate application form (form 2004). A six dollar (\$6.00) application fee shall not be required of each applicant. Up to four persons may apply per application with a minimum of one youth and one adult per application. Applicants may designate up to three hunt choices. Only one choice may be awarded. The deadline date for application shall be December 15, 2004. All applications must be submitted to the northwest area office. Applications will not be accepted after the deadline.

~~[D-]~~ E. Refer to the Hunting

and Fishing License Application Rule (19.31.3 NMAC, Section 11-Restrictions) for criteria qualifying an applicant for a youth hunting license.

~~[E-]~~ E. While hunting ducks, hunters participating in this season must have in their possession a valid hunting license and a special permit issued by the department.

~~[F-]~~ G. While hunting, hunters shall have in their possession only nontoxic shot. Only 25 rounds per hunter will be allowed at the blinds.

~~[G-]~~ H. Designated areas open for Bernardo youth/adult duck hunts are; north of highway U.S. 60 and east of Unit 7 drain.

~~[H-]~~ I. Use of motorized motion decoys is prohibited. [19.31.6.18 NMAC - N, 8-29-2004; A, 12-14-2004]

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.243.600 NMAC, Section 9, which will be effective on December 15, 2004. The Medical Assistance Division amended the section to incorporate a designation of earned and unearned income that was inadvertently omitted when the rule was filed effective June 1, 2004.

8.243.600.9 GENERAL BENEFIT DESCRIPTION: An individual who is eligible for medicaid coverage under the working disabled individuals program is eligible to receive the full range of medicaid covered services.

A. **Co-payment responsibility for WDI recipients:** Eligible recipients have co-payment requirements as follows:

- (1) \$5 per prescription, applies to covered prescription and non-prescription drug items;
- (2) \$7 per dental visit;
- (3) \$7 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session;
- (4) \$20 per emergency room visit;
- (5) \$30 per inpatient hospital admission.

B. **Co-payment maximum:**

- (1) The co-payment maximum varies depending on the recipient's income. Once the recipient has reached his/her co-payment maximum on covered medicaid services, co-payments cease for the rest of that calendar year, only after the recipient has fulfilled the required steps listed below.
- (2) Co-payment maximum

amounts for WDI recipients are calculated at initial determination, based on the income received in the first month of eligibility, and every twelve months thereafter. The co-payment maximum amount calculated at the initial determination is prorated for the rest of the calendar year and is also determined for the following calendar year. At each annual periodic review, the co-payment maximum will be calculated for the following calendar year.

(a) Recipients with earned and unearned income below 100% FPL - maximum is \$600.

(b) Recipients with earned and unearned income between 100-250% FPL - maximum is \$1500.

(3) It is the responsibility of the recipient to track and total the co-payments paid.

(4) Once the yearly maximum amount has been paid on co-payment for medicaid covered services, the recipient must notify the medical assistance division that the maximum amount has been met

(5) Verification must be provided to the medical assistance division that the co-payment maximum has been paid.

(6) The first month that co-payments will no longer be required by the WDI recipient is the month following the month in which it has been verified by the medical assistance division that the maximum amount has been met.

(7) If the determination is made after the twenty-fifth (25th) of the month, the change is made effective the second month after the request.

(8) No retroactive eligibility for the "met co-payment maximum" criteria is allowed.

[8.243.600.9 NMAC - N, 1-1-01; A, 1-1-02; A, 6-1-04; A, 12-15-04]

**NEW MEXICO DEPARTMENT OF PUBLIC SAFETY
TRAINING AND RECRUITING DIVISION
Law Enforcement Academy**

This is an amendment to 10.29.1 NMAC, Section 7, effective December 14, 2004.

10.29.1.7 DEFINITIONS

A. "HSD" means the New Mexico human services department.

B. "Statement of compliance" means a certified statement from HSD stating that an applicant certified police officer is in compliance with a judgment and order for support; and

C. "Statement of non-compliance" means a certified statement from HSD stating than an applicant or certi-

fied police officer is not in compliance with a judgment and an order for support.

D. “Moral turpitude” means any criminal act done contrary to justice, honesty, or with disregard to one’s responsibilities to society in general. [10-1-97; 10.29.1.7 NMAC - Rn, 10 NMAC 29.1.7, 7/1/01; A, 12/14/04]

**NEW MEXICO
DEPARTMENT OF
PUBLIC SAFETY
TRAINING AND RECRUITING
DIVISION
Law Enforcement Academy**

Explanatory paragraph: This is an amendment to 10.29.9 NMAC, Section 8, to become effective 12-14-04. Subsection C of 10.29.9.8 NMAC is amended to remove the text in parenthesis which, reads (One repetition maximum bench press may substitute for the one minute push up.) This amendment is made because the one repetition of bench press will no longer be accepted as a substitute for the one minute push up test at the academy level. Subsection P of 10.29.9.8 is amended to revise the minimum standard to include the new legislative requirement of the Safe Pursuit Act. This section will only be a 40 hour block of instruction of which 16 hours must be provided in safe pursuits.

**10.29.9.8 POLICE OFFICER
MINIMUM STANDARDS OF TRAINING**

C. Block 3: Physical and emotional readiness; 76 total block hours - This unit of instruction will instruct the student in health and physical fitness concepts, flexibility, strength, body composition and cardiovascular endurance. The student will be expected to successfully complete both entrance and exit standards of fitness and exit standards of job-related agility. The subjects and standards include:

(1) Physical fitness/wellness; 1 hour

(a) Academy entry standard: This standard is based on cooper clinic studies, data and recommendations. Each academy entry student will be pre-assessed on five (5) fitness/wellness evaluations:

(i) 1.5 mile run (altitude adjusted);

(ii) 1 minute sit-up;

(iii) 1 minute push-up;

(iv) sit and reach; and

(v) 300 meter run.

Entry evaluations 1 through 5 will be measured relative to age and sex norms. Each academy entry candidate must score in the 40th percentile or better, in each of the five (5) designated fitness/wellness evaluations, to be eligible for entry into state-certified

law enforcement basic training academies. [~~One repetition maximum bench press may substitute for the one minute push up.~~]

(b) Academy exit goal: For each academy student the goal, through participation in the physical fitness program, is to be able to score in the 60th percentile in each of the above five (5) fitness/wellness evaluations.

P. Block 16: Operation of a patrol vehicle; 40 total block hours - This unit of instruction will prepare the officer for proficiently operating a patrol vehicle, the various factors that affect the operation of a patrol vehicle, procedures for emergency driving, and the legal issues related to emergency vehicle operations. The student will demonstrate their [~~competency on a driving course. The subject include~~] competencies on the sub-skills (lane change, slalom, perception/reaction, lolly-pop, and backing) driving courses. The subject’s include:

(1) introduction to emergency vehicle operations; [~~3 hours~~]

(2) [~~Pursuit and Legal Issues; 2 hours~~] Safe Pursuit Act

(3) emergency responses; [~~3 hours~~]

(4) vehicle dynamics; [~~2.5 hours~~]

(5) driving courses; [~~29.5 hours~~]

[5-29-86, 2-18-87, 2-19-87, 3-16-87, 5-31-97, 1-1-98, 3-1-98, 12-20-99; 10.29.9.8 NMAC - Rn & A, 10 NMAC 29.9.8, 4/30/01; A, 7/1/02; A, 12-14-04]

End of Adopted Rules Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

2004

Volume XV	Submittal Deadline	Publication Date
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 14
Issue Number 24	December 15	December 30

2005

Volume XVI	Submittal Deadline	Publication Date
Issue Number 1	January 3	January 14
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 14
Issue Number 8	April 15	April 29
Issue Number 9	May 2	May 13
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 18	July 29
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Issue Number 20	October 18	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 15
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