

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 72 HEALTH, ENVIRONMENT AND EQUITY IMPACTS

20.11.72.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-1972.
[20.11.72.1 NMAC – N, 1/1/2025]

20.11.72.2 SCOPE:

A. Applicability: Any person who intends to construct a new stationary source or modify an existing stationary source that is subject to permitting under 20.11.41 NMAC, 20.11.60 NMAC or 20.11.61 NMAC.

B. Exemptions: 20.11.72 NMAC does not apply to:

- (1) technical permit revisions under Subsection B of 20.11.41.28 NMAC;
- (2) administrative permit revisions under Subsection A of 20.11.41.28 NMAC;
- (3) emergency permits applications under Subsection A of 20.11.41.24NMAC;
- (4) relocations for portable sources under Paragraph (2) of Subsection F of 20.11.41 NMAC;
- (5) any source exempt from 20.11.41 NMAC, 20.11.60 NMAC, 20.11.61 NMAC; and
- (6) sources within Bernalillo county that are located on Indian lands over which the

Albuquerque-Bernalillo county air quality control board lacks jurisdiction.
[20.11.72.2 NMAC – N, 1/1/2025]

20.11.72.3 STATUTORY AUTHORITY: 20.11.72 NMAC is adopted pursuant to the authority provided in Title VI, Sections 74-2-4 and 74-2-5, NMSA 1978 ; Bern. Co. Ord. Ch. 30, Art. II, Sec. 32.
[20.11.72.3 NMAC – N, 1/1/2025]

20.11.72.4 DURATION: Permanent.
[20.11.72.4 NMAC – N, 1/1/2025]

20.11.72.5 EFFECTIVE DATE: January 1, 2025, except where a later date is cited at the end of a section.
[20.11.72.5 NMAC – N, 1/1/2025]

20.11.72.6 OBJECTIVE: To establish additional permitting requirements for new or modified stationary sources of air pollution that are located, or proposed to be located, in or within a one-mile radius of an overburdened area in order to prevent disproportionate health impacts or environmental effects from air emissions on the overburdened area, to protect all residents from certain hazardous air pollutants, and to encourage meaningful public participation in the permitting process.
[20.11.72.6 NMAC – N, 1/1/2025]

20.11.72.7 DEFINITIONS: In addition to the definitions in 20.11.72 NMAC, the definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.72 NMAC shall govern.

A. “Best Available Control Technology” or “BACT” means the same in 20.11.72 NMAC as it is defined in Subsection M of 20.11.61.7 NMAC.

B. “Environmental Factors” shall include particulate matter 2.5 microns or less (annual average PM 2.5 levels in air), ozone (average of the annual top ten daily maximum 8-hour ozone concentrations in air), diesel particulate matter (diesel particulate matter level in air), annual toxic releases (in pounds), and traffic proximity and volume (count of vehicles (average annual daily traffic) at major roads within 500 meters, divided by the distance in meters).

C. “Health Indicators” shall include asthma prevalence among adults 18 years of age and older, asthma prevalence among children 17 years of age and younger, chronic obstructive pulmonary disease (COPD) prevalence among adults 18 years of age and older, cardiovascular disease prevalence among adults 18 years of age and older, age-adjusted cancer incidence per 100,000 population, persons with disabilities, and life expectancy.

D. “Overburdened Area” means the twenty percent of census block groups in Bernalillo County that experience the highest cumulative environmental and public health stressors (using the most recent version of the Environmental Protection Agency’s Environmental Justice (EJ) Screen and New Mexico Department of Health’s New Mexico Indicator Based Information System (NMIBIS) as on-line resources), considering at least the

following: environmental factors, health indicators, and social determinants of health indicators as defined in this regulation.

E. “**Social Determinants of Health Indicators**” shall include percent of population age 25 years and older who do not have a high school diploma or equivalent, percent of households with a total household income below two hundred percent of the federal poverty level, percent of population over the age of five that speak a language other than English at home and who speak English less than “very well”, and percent of population that is non-white, and also those who list their ethnicity as Hispanic or Latino.

[20.11.72.7 NMAC – N, 1/1/2025]

20.11.72.8 OVERBURDENED AREA REQUIREMENTS:

A. The City of Albuquerque Environmental Health Department (department) shall, in consultation with the public and using the latest and best available science and data on health and the environment, develop a GIS map, along with map layers displaying environmental factors, health indicators, and social determinants of health indicators, representing overburdened areas in Bernalillo County.

B. The department shall publish and provide public notice of the overburdened areas map developed per section A of 20.11.72.8 NMAC by January 1, 2025 and, for purposes of 20.11.72 NMAC, the map shall go into effect on July 1, 2025. The department may make minor adjustments to correct errors and for other significant concerns based on public input per Subsections A & B of 20.11.72.9 NMAC in the six months before the overburdened area map goes into effect.

C. The department shall require every new or modified stationary source subject to permitting under 20.11.41 NMAC, 20.11.60 NMAC, or 20.11.61 NMAC that is located, or proposed to be located, in or within a one-mile radius of an overburdened area, as indicated by the overburdened areas map in effect as of the permit application date, to apply BACT even if the new or modified stationary source is not a major stationary source.

D. The department shall require BACT for new or modified stationary sources throughout Bernalillo County that emit any one, or combination of, the following fifteen hazardous air pollutants (HAPs): acetaldehyde, acrolein, benzene, 1,3-butadiene, carbon tetrachloride, ethyl benzene, ethylene oxide, formaldehyde, hydrochloric acid, methyl bromide, methylene chloride, naphthalene, toluene, vinyl chloride, and xylenes.

E. The department shall, in consultation with the public and using the latest and best available science on health and the environment, update its overburdened areas map when a change in circumstances warrant or at a minimum of every five years using data from the following on-line sources: U.S. Census Bureau’s American Community Survey (ACS) 5-Year Data, U.S. Environmental Protection Agency’s Environmental Justice (EJ) Screen, and New Mexico Department of Health’s New Mexico Indicator Based Information System (NMIBIS), and provide notice to potentially regulated entities at least six months before an updated overburdened areas map goes into effect.

[20.11.72.8 NMAC – N, 1/1/2025]

20.11.72.9 PUBLIC NOTICE BY DEPARTMENT – PUBLIC PARTICIPATION: In addition to the requirements for public notice by department – public participation set forth under 20.11.72.9 NMAC, the public notice by department – public participation requirements in 20.11.41.14 NMAC apply unless there is a conflict between requirements, in which case the more expansive notice requirements shall govern.

A. The department shall provide notice by regular mail or electronic mail to all individuals, neighborhood associations, and other organizations, and to those persons having stated a desire to receive notices of all applications filed pursuant to 20.11.41 NMAC, 20.11.60 NMAC or 20.11.61 NMAC as identified on a list maintained by the department, who reside in or represent persons residing in an overburdened area that is within a one-mile radius of a located, or proposed to be located, new or modified stationary source.

B. Public participation shall be encouraged and at least include opportunities for written, live, and on-line public comment and engagement.

[20.11.72.9 NMAC – N, 1/1/2025]

HISTORY OF 20.11.72 NMAC: [RESERVED]