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ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND 20.11.47 NMAC, *EMISSIONS INVENTORY REQUIREMENTS*, INCORPORATE SAID AMENDMENTS INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN FOR AIR QUALITY (SIP) AND REPEAL 20.11.48 NMAC, *GREENHOUSE GAS EMISSIONS REPORTING*

AQCB Petition No. 2012-5

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

Petition to Amend 20.11.47 NMAC, *Emissions Inventory Requirements*, Incorporate Said Amendments into the New Mexico State Implementation Plan For Air Quality (SIP) and Repeal 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*

The City of Albuquerque ("City"), by and through the Air Quality Division ("Division") of the Environmental Health Department ("Department"), asks the Albuquerque-Bernalillo County Air Quality Control Board ("Air Board") to amend 20.11.47 NMAC, *Emissions Inventory Requirements*, and submit said amendments to the U.S. Environmental Protection Agency ("EPA") as a revision to the SIP and Repeal 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*. This Petition includes a request for a hearing on these matters and permission to provide a court reporter and hearing officer for the hearing. The New Mexico Air Quality Control Act ("Air Act"), NMSA 1978, Sections 74-2-4 and 74-2-5.B(1) [1967 as amended through 2007] authorizes and requires the Air Board to adopt, amend, or replace air quality regulations and to adopt air quality plans (SIPs) under NMSA 1978, Section 74-2-5.B(2).

As grounds, Petitioner states the following:

1. The Air Board adopted 20.11.47 NMAC, *Emissions Inventory Requirements*, on March 12, 2008, which became effective on May 1, 2008. This new rule was adopted to facilitate the efficient collection and reporting of emissions inventory (EI) data from sources within Bernalillo County. These inventories are required by 40 CFR 51 Subpart A, entitled *Emissions Inventory Reporting Requirements*, as well as the consolidated emissions rule (CER). Before this rule the Division collected this data under the aegis of the individual source's permit or through data requests. This rule standardized the methodology and format for EI reporting. This rule also provided baseline data for specific air pollutants for specific area and source categories in order to analyze the conditions in our air shed. This information provides a basis for planning of future regulations and policies. This rule also provided consistency in EI reporting for sources in Bernalillo County and the rest of the state by mirroring provisions found in the State's rule 20.2.87 NMAC, *GHG Emissions Reporting*.

2. The Air Board adopted 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*, on November 29, 2007, which became effective on January 1, 2008. The purpose of 20.11.48 NMAC was to provide a mechanism for measuring and reporting emissions of GHGs, thereby facilitating the collection of information that could provide a basis for policy decisions; enhance the County-wide GHG EI first compiled in 2005; and prepare GHG-emitting facilities for participating in a market-based emissions reduction program. 20.11.48 NMAC currently requires owners and operators of three categories of

stationary facilities within Bernalillo County to submit annual GHG emissions reports to the Division. These categories are:

(a) electrical generating facilities with nameplate capacity to generate equal to or greater than 25 megawatts of electricity (presently only two facilities in Bernalillo County are in this category: the Public Service Company ofNew Mexico and Delta Power);
(b) petroleum refining facilities with the industry classification code specified in 20.11.48 NMAC (however no such oil and gas production facility operates in Bernalillo County, and no such petroleum refining facility is expected to ever operate within Bernalillo County); and
(c) cement manufacturing facilities that meet the requirements of 20.11.48 NMAC (which applies only to one facility in Bernalillo County: the GCC Rio Grande Portland cement facility located in Tijeras Canyon). [20.11.48.200.A NMAC].

3. In the interim since these two rules were adopted, there have been two dramatic changes in the area of GHG EI reporting. First on October 30, 2009, the EPA promulgated their 'Mandatory Reporting of GHG Final Rule' [Federal Register Vol. 74, NO. 209, 56260-56519], effective December 29, 2009, codified at 40 CFR 98, entitled *Mandatory GHG Reporting*. This rule encompasses all of the GHG EI reporting requirements of 20.11.48 NMAC, as well as the reporting requirements for GHGs in 20.11.47 NMAC; thereby causing sources to report to both the Division and EPA, with two different reports each containing different information which results in duplicative and redundant information and places an unnecessary burden on the sources. Secondly, the New Mexico Environmental Improvement Board (EIB) has repealed their rules addressing GHGs, specifically 20.2.300 NMAC, *Reporting of Greenhouse Gas Emissions* (a/k/a 20.2.87 NMAC, *GHG Emissions Reporting*), upon which 20.11.48 NMAC was modeled. The Air Act requires the City of Albuquerque and the County of Bernalillo to enact enabling ordinances that provide for local Air Board regulations that are as "stringent as" the regulations adopted by the EIB [NMSA 74-2-4.C]. Since the EIB has

repealed its' GHG program, there are no longer any EIB rules addressing GHG EI reporting that the Air Board must be as 'stringent as'. Therefore, the Divisions is proposing to remove all provisions requiring local GHG emissions reporting [i.e. 20.11.47.15 NMAC] as well as concomitant definitions regarding GHGs from 20.11.47.7 NMAC, as well as repealing 20.11.48 NMAC in its entirety.

4. The use of the terms: "air contaminants" and "regulated air contaminant", are internally inconsistent within 20.11.47 NMAC, and so are proposed to be superseded by the term "regulated air pollutant" for clarity.

5. It is anticipated that the hearing will take approximately 1 hour or less.

6. The proposed Public Review Drafts of 20.11.47 NMAC, *Emissions Inventory Requirements* and 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*, are attached as AQD Exhibits #1a and #1b respectively.

Respectfully submitted,

Mary Lou Leonard, Director
Environmental Health Department
City of Albuquerque

CERTIFICATION

I hereby certify that a copy of this Petition to Amend 20.11.47 NMAC, *Emissions Inventory Requirements*, Incorporate Said Amendments into the SIP and Repeal 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*, was delivered to the following person on July 19, 2012.

Margaret Nieto
Secretary to the Air Quality Control Board
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87102

and that a copy was provided to:

Bill Grantham, Attorney to the Air Quality Control Board
at wggrantham@gmail.com

Mary Lou Leonard, Director,
Environmental Health Department
City of Albuquerque