AQD EXHIBIT
3
PENGAD 800-631-6989

[Direct Testimony for Hearing regarding proposal to amend 20.11.47 NMAC, *Emissions Inventory Requirements* and repeal 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*

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Thank you Madam Chair Upson, and members of the Board. My name is Neal Butt. I am an Environmental Health Scientist with the Control Strategies Section of the Air Quality Division,. I am here

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

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Background 20.11.47

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 provided 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*.

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Background 20.11.48 NMAC

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.

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Applicability of 20.11.48 NMAC

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].

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Changes to GHG EI Reporting

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 resulting in duplicative efforts 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 dismantled its' GHG program, there are no longer any EIB rules addressing GHG EI reporting that the Air Board must be as 'stringent as'.

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.

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Proposed Changes to 20.11.47 & 48 NMAC

Therefore, the Divisions is proposing to:

remove all provisions requiring local GHG emissions reporting [i.e.

20.11.47.15 NMAC];

remove concomitant definitions regarding GHGs from 20.11.47.7 NMAC;

replace terms "Air Contaminant" and "Regulated Air Contaminant" with the

term "Regulated Air Pollutant"; and

repeal 20.11.48 NMAC in its entirety.

SLIDE 7 Request

This hearing has been legally noticed as shown by AQD Exhibits 2a, 2b, and 2c. There have not been any negative comments received regarding this proposal, only a "No comment" received by EPA, shown as AQD Exhibit # 4. Therefore, the Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division, asks the Albuquerque-Bernalillo County Air Quality Control Board to adopt amendments to 20.11.47 NMAC, *Emissions Inventory Requirements* as shown in AQD Exhibit #1a, and submit these amendments to EPA as a revision to the State Implementation Plan (SIP), and repeal 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting* in its entirety, as shown in AQD Exhibit #1b.

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Questions

That concludes my presentation, and I request that exhibits 1 through 4 be moved into the record {"so moved"}, and I stand for questions