

**NEW MEXICO ENVIRONMENT IMPROVEMENT BOARD NOTICE
OF SCHEDULED PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 20.3.3 NMAC,
20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, AND 20.3.15 NMAC OF THE RADIATION PROTECTION
REGULATIONS
EIB 22-35**

The Environmental Improvement Board (“EIB”) will hold a public hearing December 16, 2022 beginning at 9:00 a.m. MST via internet (WebEx), telephone, and in person.

If you would like to attend the public hearing in person, please go to the following address:

Marquez Building
525 Camino De Los Marquez
Santa Fe, New Mexico 87505

If you would like to join the public hearing online via video conference, go to:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m431b5a46004719eade0a5a52c2ab575f>

Meeting number:

2459 934 8536

Password:

WpcGwJZF236

If you would like to join the public hearing via telephone, please dial the following number:

+1-415-655-0001 US Toll

Access code: 2459 934 8536

Comments will be received via electronic mail or smart comment through the conclusion of the hearing. To comment via electronic mail, send correspondence to: Pamela.Jones@state.nm.us. To comment via smart comment, use the following link: <https://nmed.commentinput.com/?id=Jx2uQ>.

At the public hearing the EIB will consider proposed amendments to the following regulations: 20.3.3 NMAC “Licensing of Radioactive Materials”; 20.3.5 NMAC “Radiation Safety Requirements for Industrial Radiographic Operations”; 20.3.7 NMAC “Medical Use of Radionuclides”; 20.3.12 NMAC “Licenses and Radiation Safety Requirements for Well Logging”; 20.3.15 NMAC “Licenses and Radiation Safety Requirements for Irradiators”, as proposed in the Petition to Amend 20.3.3 NMAC, 20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, and 20.3.15 NMAC of the Radiation Protection Regulations and Request for Hearing (“Petition”), docket number EIB 22-35. The Petition has been filed by the Radiation Control Bureau (“Bureau”) of the New Mexico Environment Department (“NMED”). The proposed amendments are to align certain provisions within the state regulations with mandatory federal requirements.

New Mexico is an agreement state under 42 U.S.C. § 2021 and NMSA 1978, Section 74-3-15 (1977). As an agreement state, New Mexico’s state regulations must be compatible to the United States Nuclear Regulatory Commission’s (“NRC”) regulations. 42 U.S.C. § 2021(d)(2). The compatibility requirement is met through the promulgation of state regulations when necessary. The majority of the amendments currently being proposed are to align certain provisions within the state regulations with the federal NRC regulations. Pursuant to NMSA 1978, Section 74-3-5(A) (2000), the proposed amendments were provided to the Radiation Technology Advisory Council (“RTAC”) at its June 21, 2022 meeting. The RTAC consented to the amendments as proposed. Finally, the EIB has the authority to amend the Radiation Protection Regulations under NMSA 1978, Section 74-1-8(A)(5) (2020), NMSA 1978, Section 74-1-9 (1985), and Section 74-3-5(A).

In addition, the proposed amendments include several other minor changes and clarifications to current definitions, regulations, and procedures. Please note that formatting and minor technical changes in the regulations other than

those proposed by NMED may be proposed at the hearing. In addition, the EIB may make other changes as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing.

A copy of the proposed amendments is posted on the Bureau website at <https://www.env.nm.gov/rcb/open-meeting-notification-for-radioactive-material-rule-revision/>. In addition, copies of the proposed amendments are posted on the EIB website as attachments to the Petition under docket number EIB 22-35. <https://www.env.nm.gov/environmental-improvement/main-2/>.

To obtain a physical or electronic copy of the proposed amendments contact: Pamela Jones, Board Administrator, P.O. Box 5469, 1190 St. Francis Drive, Suite S-2103, Santa Fe, New Mexico, 87502; Pamela.Jones@state.nm.us; (505) 660-4305. In your correspondence reference docket number EIB 22-35.

The hearing will be conducted in accordance with the EIB's Rulemaking Procedures found at 20.1.1.1 – 501 NMAC, the Environmental Improvement Act under Section 74-1-9, and other applicable procedures and procedural orders. Written comments regarding the proposed revisions may be obtained from Pamela Jones, EIB Administrator, at the contact information listed above.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing via electronic mail to: Pamela.Jones@state.nm.us or via smart comment at the following link: <https://nmed.commentinput.com/?id=Jx2uQ>.

Persons wishing to present technical testimony must file with the EIB a written notice of intent to do so. Notices of intent for the hearing must be received by the EIB by 5:00 p.m. MST on November 28, 2022, and should reference the name of the regulations, the date of the hearing (December 16, 2022), and docket number EIB 22035.

The requirements for a notice of intent can be found in 20.1.1.302 NMAC.

The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present;
- include a copy of the direct testimony of each technical witness in narrative form;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of the rule language being proposed.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g., sign language interpreter, to participate in any aspect of this process, please contact Pamela Jones, Board Administrator, at least 14 days prior to the hearing date at P.O. Box 5469, 1190 St. Francis Drive, Suite S-2103, Santa Fe, New Mexico, 87502, telephone (505) 660-4305 or email Pamela.Jones@state.nm.us. (TDD or TTY) users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The EIB may make a decision on the proposed regulatory changes at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

STATEMENT OF NON-DISCRIMINATION

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations.

NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kathryn Becker, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us.

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.