

NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing on September 28, 2018, at 9:30 a.m., at the New Mexico Farm and Ranch Heritage Museum, 4100 Dripping Springs Road, Las Cruces, New Mexico. The purpose of the hearing is to consider the matter of EIB 18-05(R), the proposed adoption of an Air Quality Control Regulation to be codified in the New Mexico Administrative Code (NMAC) at 20.2.23 NMAC, Fugitive Dust Control.

The proponent of this regulatory amendment is the New Mexico Environment Department (“NMED”) Air Quality Bureau.

The U.S. Environmental Protection Agency published revisions to the Exceptional Events Rule on October 3, 2016, requiring mitigation plans in certain areas with recurring exceptional events of the same type and pollutant. The proposed regulation is a supporting element of the dust mitigation plan required by the federal Exceptional Events Rule. The proposed regulation will apply to sources of fugitive dust that are not required to obtain a construction permit from the NMED and will be applicable in any area of the state that experiences recurring high wind dust events where the PM₁₀ and/or the PM_{2.5} NAAQS is exceeded. Currently this includes Luna County and the Anthony PM₁₀ nonattainment area in Doña Ana County.

The full text of NMED’s proposed regulation is available on the Air Quality Bureau’s web site at <https://www.env.nm.gov/air-quality/proposed-regs/> or by contacting Michael Baca at 575-915-1091 or michael.baca1@state.nm.us. The proposed regulation may also be examined during regular business hours at the Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

The hearing will be conducted in accordance with Board Rulemaking Procedures (20.1.1 NMAC); the Environmental Improvement Act, Section 74-1-9 NMSA 1978; the Air Quality Control Act, Section 74-2-6 NMSA 1978; the State Rules Act, Section 14-4-5.3 NMSA 1978; and other applicable procedures.

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. Persons wishing to present technical testimony must file with the Board a written Notice of Intent to do so. The Notice of Intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form;
- (4) include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of Intent to present technical testimony at the hearing must be received in the Office of the Board not later than 5:00 pm on September 7, 2018, and should reference the docket number, EIB 18-05(R), and the date of the hearing. Notices of Intent to present technical testimony should be submitted to:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castaneda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing to the above listed address, or submit it at the hearing.

Persons having a disability and requiring assistance, an interpreter, or an auxiliary aid or other service to participate in this hearing process should contact Pam Castañeda, Administrator for Boards & Commissions, at least ten days prior to the meeting or as soon as possible at the above address or e-mail pam.castaneda@state.nm.us. TDY users please access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed regulation adoption at the conclusion of the hearing, or may convene a meeting after the hearing to consider action on the proposal.

Notice 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. Part 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:

Kristine Pintado, 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 an NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at to <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.