AQD Ex. #1h

From: City of Albuquerque-Air Quality Division [nbutt@cabq.gov]
Sent: Monday, November 19, 2012 4:45 PM
To: Butt, Neal T.
Subject: Notice of Hearing and Meeting - Repeal & Replace 20.11.41 NMAC, Authority to Construct

Follow Up Flag: Follow up
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City of Albuquerque

Notice of Hearing and Meeting - Proposal to repeal 20.11.41 NMAC, *Authority to Construct*; adopt a proposed replacement 20.11.41 NMAC, *Construction Permits*; and incorporate it into the New Mexico State Implementation Plan (SIP) for Air Quality

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
NOTICE OF HEARING AND REGULAR MEETING

On February 13, 2013 at 5:30 PM, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers (City Council/County Commission Chambers) at the Albuquerque/Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM 87102.

The hearing will address a proposal by the Air Quality Division (AQD) of the City of Albuquerque's Environmental Health Department, to repeal the currently effective rule 20.11.41 NMAC, *Authority to Construct*; adopt a proposed replacement 20.11.41 NMAC, *Construction Permits*; and incorporate it into the New Mexico State Implementation Plan (SIP) for Air Quality. As grounds, the Petitioner (City of Albuquerque) states the following: The existing 20.11.41 NMAC is an outdated regulation. There have been significant changes made to the New Mexico Air Quality Control Act (Air Act) since 1994 when 20.11.41 NMAC was last substantively amended. For example, the Air Act generally requires AQD to make a final decision regarding a construction permit application within 90 days of the application being determined to be complete. Although AQD follows the 90-day timeline, the present wording of 20.11.41 NMAC provides 120 days, which is inconsistent with the Air Act.

The Air Act and the currently effective 20.11.41 NMAC include minimal wording regarding hearings or meetings that may be held before the AQD makes a decision about a pending permit application. Although public information hearings (PIHs) are not required by the Air Act, the AQD has adopted increasing outreach, notice and other activities regarding PIHs on a policy level. The expanded processes are included in the proposed 20.11.41 NMAC.

The Air Act at NMSA 1978, §74-2-4.C [1967 as amended through 2007], requires air quality standards and regulations within Bernalillo County to be "not lower than those required by regulations adopted by" the state Environmental Improvement Board (EIB). Therefore, AQD compared the currently effective 20.11.41 NMAC to the EIB regulation 20.2.72 NMAC, *Construction Permits*, and is proposing amendments to bring the two rules into alignment. PLEASE NOTE: additional important changes are also included in proposed replacement 20.11.41 NMAC.

Following the hearing, the Air Board will convene its regular monthly meeting during which they are expected to consider repealing the currently effective rule 20.11.41 NMAC, *Authority to Construct*; adopting a proposed replacement 20.11.41 NMAC, *Construction*

Permits; and incorporating this replacement into the SIP.

The Air Board is the federally delegated air quality authority for Albuquerque and Bernalillo County. Local delegation authorizes the Air Board to administer and enforce the Clean Air Act, the New Mexico Air Quality Control Act, local air quality regulations, and to require local air pollution sources to comply with air quality standards and regulations.

Hearings and meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to provide non-technical testimony regarding the proposal to repeal and replace 20.11.41 NMAC may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinance, Section 9-5-1-6, *Adoption of Regulations, Notice and Hearing* [ROA 1994]; Bernalillo County Ordinance, Section 30-35, *Adoption of Regulations, Notice and Hearings* [Ord. No. 94-5, Section 6, 2-2-94]; and 20.11.82 NMAC, *Rulemaking Procedures-Air Quality Control Board.*

Anyone intending to present technical testimony at this hearing is required by 20.11.82.20 NMAC and 20.11.82.16.B.(1) NMAC to file, by 5:00 pm on January 29, 2013, a written Notice Of Intent (NOI) to testify and 15 copies, with Elizabeth Jones, Air Quality Control Board Liaison, Environmental Health Department, One Civic Plaza, NW, Suite 3023, Albuquerque, New Mexico 87102, or email to ejones@cabq.gov or you may deliver your NOI to the Environmental Health Department, Suite 3023, 400 Marquette Avenue NW. The NOI shall identify the name, address, and affiliation of the person testifying.

In addition, written non-technical comments to be incorporated into the public record for the February 13, 2013 hearing should be received at P.O. Box 1293, Albuquerque, NM 87103; or the Environmental Health Department office, by 5:00 pm on February 6, 2013. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to ejones@cabq.gov and shall include the required name and address information.

A copy of the proposed replacement regulation and the October 30, 2012 *Comparison Summary of Current and Proposed Albuquerque-Bernalillo County Air Quality Control Board Regulations for Minor Stationary Source Air Quality Permitting Actions* may be obtained at the Environmental Health Department Office, or by contacting Ms. Elizabeth Jones electronically at ejones@cabq.gov by phone (505) 768-2601 or by downloading the documents at http://www.cabq.gov/airquality/documents/AQCBPetitionNo_20126Filed_103012Portfolio.pdf

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