AQD Ex. #2o

Repeal currently effective 20.11.41 NMAC, *Authority To Construct*
and
Adopt Proposed Replacement 20.11.41 NMAC, *Construction Permits*, and Incorporate Into the New Mexico State Implementation Plan for Air Quality (SIP)

AQCB Petition No. 2013-5

July 10, 2013 Air Board Hearing

Technical Panel Testimony:
Albuquerque Environmental Health Department
Air Quality Division

Danny Nevarez, Acting Deputy Director
Mary Lou Leonard, Director

Outline

- Technical panel introductions
- Thanks to participants
- Background of current regulation
- Review of Exhibits
- Proposed replacement regulation
- Development of proposed regulation
- Overview of proposed regulation
- Recently-received comments
- Proposed staff floor amendments

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Technical Panel

- Dario Rocha, Permitting Section
- Damon Reyes, Enforcement Section
- Matt Stebleton, Compliance Section
- Isreal Tavarez, Permitting Section

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Thanks

- Air Board
- Public
- Regulated Community
- Air Quality Control Strategies Section
- Environmental Protection Agency
- City Legal
- Technical Panel

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Background of Current 20.11.41 NMAC, *Authority to Construct*

- Establishes the foundation for air quality minor new source review permitting of stationary sources
- Has not been substantively changed since 1994
- Consistency with State of New Mexico Environmental Improvement Board air quality permitting regulation

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Review of Exhibits

- Review of 2nd Amended Petition Exhibits
- Request for Admission of Exhibits into Hearing Record
- AQD Exhibit #2d, Proposed regulation with proposed staff floor amendments (and without underlines and strike-throughs) is the focus of this Presentation and my direct testimony

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Proposed Replacement 20.11.41 NMAC, *Construction Permits*

- Consistent with requirements of New Mexico Air Quality Control Act
- Increases public outreach
- Increases Environmental Health Department public notice regulatory requirements
- Establishes new public notice requirements for applicants

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Development of Proposed Regulation

- Surveyed other jurisdictions
- Conducted stakeholder outreach (public and regulated community)
- Original Petition to the Air Board - 2008
- EPA completed review
- Researched items EPA identified
- 1st amended Petition to the Air Board - 2012
- EPA & Stakeholder comments received
- 2nd amended petition to the Air Board – 4-23-13
- Floor Amendments to 4-23-13 regulation

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Outreach & Notification

- Extensive input was received in developing the proposed replacement regulation
- 2nd Amended Public Review Draft Notification
  - 328 letters and 60 emails sent to current permit holders
  - 662 emails and 27 letters sent to leaders of neighborhood associations and coalitions in Albuquerque and Bernalillo County
  - Air Quality Control Board email list
  - Environmental Protection Agency
- Presentations to business groups

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Objectives of Proposed Replacement Regulation

- Update regulation to be consistent with New Mexico Air Quality Control Act
- Enhance public notification and outreach regarding proposed projects
- Consistency with State of New Mexico Environmental Improvement Board air quality minor new source review permitting regulation

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Overview of Proposed Regulation

- AQD Exhibit #2d, Proposed regulation with proposed staff floor amendments (and without underlines and strike-throughs) is used to discuss significant changes
- Page 1, lines 16-17 [20.11.41.2.A(2) NMAC] - New owner must obtain a permit if the source does not have permit but the soruce requires a permit

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Overview of Proposed Regulation

- Page 2, lines 13-15 [20.11.41.2.D NMAC] - A permit must be obtained when new federal standards apply

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Overview of Proposed Regulation

- Page 2, lines 31-56 & Page 3 lines 1-16 [20.11.41.2.F NMAC] - Allows exemptions for activities such as
  - Maintenance of grounds & equipment
  - Exhaust from forklifts, etc.
  - Use of portable aerospace ground equipment

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Overview of Proposed Regulation

- Page 6, lines 30-35 [20.11.41.7.HH NMAC] - "Potential emission rate" is used to determine if a permit is required
- Page 7, lines 46-50 [20.11.41.13.A NMAC] - Pre-application meeting required

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Overview of Proposed Regulation

- Page 7, lines 51-56 & Page 8, lines 1-19 [20.11.41.13.B NMAC] – Applicant's public notice requirements
  - Public notice to neighborhood associations & coalitions
  - Post & maintain sign at site/proposed site
    - Sign provided by Environmental Health Department

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Overview of Proposed Regulation

- Page 10, lines 24-55 & Page 11, lines 1-15 [20.11.41.14.B NMAC] – Department's public notice requirements
  - Legal ad in Albuquerque Journal
  - Public notice to neighborhood associations & coalitions
  - Notice to individuals on Department list
  - Notice of to the New Mexico Environment Department and Environmental Protection Agency, if requested

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Overview of Proposed Regulation

- Page 10, lines 41-43 [20.11.41.14.B(2)(g) NMAC] – Public has 30 days to submit written comments & evidence or to request a public information hearing or both

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Overview of Proposed Regulation

- Page 11, lines 16-20 [20.11.41.14.C NMAC] & Page 10, lines 36-40 [20.11.41.14.B(2)(f)] - After the Department's analysis is available, 30 days for written public comment and/or to request a public information hearing on an application

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Overview of Proposed Regulation

- Page 12, lines 27-41 [20.11.41.16.A(2) NMAC] - Application denied after being ruled incomplete three times
- Page 12, lines 45-51 [20.11.41.16.B NMAC] - Final action on permit application within 90 days of determining application is complete

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Overview of Proposed Regulation

- Page 14, lines 50-55 & Page 15, lines 1-17 [20.11.41.20 NMAC]– Establishes criteria and process for the Department to suspend, revoke or cancel a permit

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Overview of Proposed Regulation

- Page 16, lines 11-13 [20.11.41.23.B NMAC] - Establishes a time limit of 365 consecutive days for temporary relocation of a portable stationary source.

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Overview of Proposed Regulation

- Page 16, lines 35-42 [20.11.41.23.E NMAC] - Temporary relocation of a portable stationary source requires posting of a sign and may require public notice to neighborhood associations/coalitions

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Overview of Proposed Regulation

- Page 17, lines 13-42 [20.11.41.24.C NMAC] - Department must provide public notice for emergency permits
  - Legal ad in Albuquerque Journal
  - Notice to neighborhood associations/coalitions
  - Notice to Department list
  - 30 day public comment period

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Overview of Proposed Regulation

- Page 19, lines 19-56 & Page 20, lines 1-29 [20.11.41.28.B NMAC] - Allows technical permit revisions to permits that do <u>not</u> increase emissions & do <u>not</u> reduce the enforceability of the permit

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Overview of Proposed Regulation

- Page 21, lines 20-54, Page 22, lines 1-56 & Page 23, lines 1-18 [20.11.41.31.B NMAC] - Establishes a process for general construction permit forms and issuing individual permits
  - Used by NM Environment Dept. for 10+ years
  - Develops a more efficient and consistent permitting process for similar operations, processes and emissions.

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Overview of Proposed Regulation

- Page 23, lines 20-56; Page 24, lines 1-56; and Page 25, lines 1-32 [20.11.41.32 NMAC] - Establishes a process for accelerated review of air quality permits
  - Required by NM Air Quality Control Act

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Recently-Received Comments

- Trinity Consultants on behalf of Cummins
- City of Albuquerque Small Business Regulatory Advisory Commission
- NAIOP, a commercial real estate development association
- Others?

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Proposed Staff Floor Amendments

- Identified in AQD Exhibit #2d by underlined text for added language and by strike-through for deleted language
- Add clarity, improve consistency, correct typographical errors and correct errors in internal citations that occurred when sections were rearranged

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Questions?

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