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Environment Department Issues Final Version of Proposed Solid Waste Regulation Revisions with Historic Environmental Justice Provisions

(Santa Fe, NM) — The New Mexico Environment Department (NMED) on Monday issued the final version of proposed revisions to the state solid waste regulations, including historic environmental justice provisions, that will position New Mexico among the leading states addressing impacts to under-served communities through formal, state government policies.

NMED has been seeking public comment and working with stakeholders since last summer on the proposed regulations that now go before the state Environment Improvement Board (EIB) for final approval. The Board will review the proposed regulations at its May 2-5 meeting, at which the public can comment further on the proposed revisions.

“New Mexico is truly making history here by putting the burden on facilities to prove they won’t have a disproportionate effect on the health and environment of a community,” NMED Secretary Ron Curry said. “The provisions will ensure that the communities and people of New Mexico who stand to receive the greatest environmental impacts will be protected by requiring that potential impacts be considered when new solid waste facilities or modifications to existing facilities are proposed.”

The environmental justice provisions lay out a clear process and requirements for anyone seeking a permit for a landfill or other solid waste facility, or for proposed changes to an existing facility, to determine if the proposed site is within a vulnerable area. Vulnerable areas and communities are defined as those within a four-mile radius of the geographic center of a proposed facility; have a proportion of economically-stressed households higher than the state average; have a population of 50 people or more within any square mile; and contain three or more regulated facilities, which might include a solid waste, a hazardous waste or a Superfund site, or a facility with a large source air quality permit.

If the facility is within a vulnerable area, the applicant must give public notice of its proposed plans and explain how residents can file comments to NMED on the proposal. The notice also must include a description of the facility, its location, proposed transportation routes, anticipated hours of operation, contact information for NMED and details for a community meeting that will explain the proposed facility and its operation.

“In working on the proposed Solid Waste Regulations, we were able to further strengthen the already existing municipal provisions of public notice and hearings to give the Environmental Justice community additional time and opportunity for involvement in the process,” New Mexico Municipal

League Executive Director Bill Fulginiti said. “We feel very strongly that the process used by the Department to develop these Environmental Justice provisions has resulted in a workable solution for all.”

If the NMED Secretary determines that there is significant community opposition to the proposed landfill or facility, then the Secretary can require that the applicant prepare a community impact assessment, which requires a separate public participation process with a scoping meeting, pre-assessment meeting and opportunity for public comment on the resulting community impact assessment. The proposed environmental justice provisions require that this assessment have an executive summary that is disseminated in English and, if appropriate, any other predominant language of the community.

Community impact assessments are not required for facilities located in an area that has been designated for the proposed use through a land-use zoning process conducted by the local government through a public hearing process.

“These proposed regulations are the culmination of many months of hard work and input from a diverse group of stakeholders, ranging from community and environmental groups to the solid waste industry and the New Mexico Municipal League and the New Mexico Association of Counties. I want to thank them all for working with us to elevate environmental justice issues in New Mexico,” Curry said. “This entire effort stems from Governor Richardson’s commitment to environmental justice and his Executive Order on Environmental Justice that he signed in November 2005.”

NMED also held a series of listening sessions around the state in 2004 that helped guide the solid waste regulation revisions. And on March 30 the New Mexico Inter-Agency Task Force on Environmental Justice – made up of nine state agencies and led by NMED – held its first meeting to develop mechanisms for state agencies to address community environmental justice concerns and to implement Governor Richardson’s Executive Order. If approved by the EIB, the proposed regulations could serve as a statewide model for addressing community impact concerns.

Revisions to the solid waste regulations, as well as the environmental justice provisions, are posted on NMED’s Web site at www.nmenv.state.nm.us/swb/draftregs.htm. NMED must provide the state EIB the proposed revisions with its Notice of Intent on April 17. The final proposed revisions are also posted on NMED’s Web site. The EIB must approve the revisions for them to become effective.

For more information, contact Adam Rankin, NMED Communications Director, at (505) 827-0314.

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