



**BILL RICHARDSON**  
GOVERNOR

*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**  
*Office of the Secretary*  
*Harold Runnels Building*  
*1190 St. Francis Drive, P.O. Box 26110*  
*Santa Fe, New Mexico 87502-6110*  
*Telephone (505) 827-2855*  
*Fax (505) 827-2836*



**RON CURRY**  
SECRETARY

**DERRITH WATCHMAN-MOORE**  
DEPUTY SECRETARY

July 19, 2004

Ms. Gay Dillingham, Chair  
Environmental Improvement Board  
1190 St. Francis Drive  
Santa Fe, New Mexico 87502

Re: Request for Public Hearing to Consider Proposed Regulatory Revision

Dear Ms. Dillingham:

The New Mexico Environment Department is requesting a hearing for consideration of adoption of the following air quality regulation modification:

- 20.2.71 NMAC – *Operating Permit Emissions Fees*
- 20.2.2 NMAC – *Definitions*
- 20.2.70 NMAC – *Operating Permits*

Copies of the proposed revisions to the regulations are attached to this letter. The Department requests that these hearings be scheduled in conjunction with the November meeting of the Board.

**20.2.71 NMAC – *Operating Permit Emissions Fees***

The Department has not revised the emissions fees regulation since the Board adopted the regulation in 1993. Currently Title V fees are based on the potential to emit of a facility and the facility's allowable emission rate. The Department is requesting to revise 20.2.71 NMAC by removing the potential-to-emit fee basis and adding a fee for excess emissions. In addition, the Department is requesting a fee increase of \$1.75 per ton for the first year, and then \$2.00 per ton per year for the following years until 2008, when the fee will be \$18.00 per ton. Beginning in 2009, the Department proposes that the Consumer Price Index be used to increase fees as appropriate.

Ms. Gay Dillingham, Chair  
Environmental Improvement Board  
July 19, 2004  
Page 2

Although the Department's direct testimony is expected to take only two hours, the hearing may require four hours depending on the degree of interest in the regulated and environmental communities. We have held two preliminary meetings to discuss this proposal with interested parties and will continue to hold meetings prior to the hearing date.

### **20.2.2 NMAC - *Definitions***

The Department proposes to add the definition of "excess emissions" to 20.2.2 NMAC – *Definitions*. The term is used in 20.2.7 NMAC – *Excess Emissions During Malfunctions, Startup, Shutdown or Scheduled Maintenance* and in 20.2.70 NMAC – *Operating Permits*. This definition will also be used in 20.2.71 NMAC. Because the term is used in several regulations, we propose adding the definition to 20.2.2 NMAC which includes terms used throughout the air quality control regulations.

The Department's testimony for this hearing is expected to take approximately one-half hour. We do not expect that the hearing will be controversial.

### **20.2.70 NMAC – *Operating Permits***

In order to clarify when and how air quality modeling analyses are used in Title V permitting, the Department proposes clarifying language in 20.2.70 NMAC – *Operating Permits*. The proposed revisions explain the modeling requirements to show compliance with both state and national ambient air quality standards. The proposed revisions also clarify the applicability of state ambient air quality standards to the Title V operating permit program. This hearing was first proposed to the Environmental Improvement Board in August 2002; at the Department's request, the hearing was vacated in January 2003 pending the outcome of legislation. The proposed legislation to fund a study of state standards was not passed by the legislature in 2003; therefore, the Department is moving forward with the proposed regulatory revisions attached.

The Department's testimony for this hearing is expected to take approximately two hours. The hearing may take up to four hours.

Thank you for your consideration of this request.

Sincerely,

Ron Curry  
Secretary

A handwritten signature in black ink, appearing to read "Ron Curry", is written over a horizontal line. The signature is fluid and cursive.

---

Ms. Gay Dillingham, Chair  
Environmental Improvement Board  
July 19, 2004  
Page 3

Enclosures

cc: Clifford Stroud, Vice Chair, EIB  
Gregory Green, Secretary, EIB  
Gwen Wardwell, Member, EIB  
Harold Tso, Member, EIB  
Dolores Herrera, Member, EIB  
Ken Marsh, Member, EIB  
Mary Smith, Attorney, EIB  
Sandra Ely, Bureau Chief, Air Quality Bureau