

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NOTICE OF SCHEDULED PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 11.5.1.16 NMAC OF THE OCCUPATIONAL HEALTH AND SAFETY – GENERAL PROVISIONS EIB 22-64(R)

The Environmental Improvement Board (EIB) will hold a public hearing on April 28, 2023, beginning at 9:00 a.m. MDT via internet (WebEx), telephone, and in person.

If you would like to attend the public hearing in person, please go to the following address:

Marquez Building
525 Camino de los Marquez
Santa Fe, New Mexico 87505

If you would like to join the public hearing online via video conference, go to:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=mda58846efa570b4af6fc64e6d3429433>

Meeting Number: 2460 675 2296

Password: ThPqwRXm252

If you would like to join the public hearing via telephone, please dial the following number:

+1-415-655-0001 US Toll

Access code: 2460 675 2296

Comments will be received via electronic mail or smart comment through the conclusion of the hearing. To comment via electronic mail, send correspondence to: pamela.jones@env.nm.gov. To comment via smart comment, use the following link: <https://commentinput.com/comment-manager/comment/commentEntry?projectID=200062>.

At the public hearing, the EIB will consider proposed amendments to 11.5.1.16 NMAC, Occupational Health and Safety – General Provisions as proposed in the [Petition to Amend 11.5.1.16 NMAC of the Occupational Health and Safety Regulations and Request for Hearing](#) (Petition), docket number EIB 22-64(R). The Occupational Health and Safety Bureau (Bureau) of the New Mexico Environment Department filed the Petition. The proposed amendments will remove a requirement that employers must report an employee’s positive test of the novel coronavirus (COVID-19) to the Bureau.

While COVID-19 caused a public health emergency and continues to pose a threat to the health, safety, wellbeing, and property of the residents of New Mexico, the state has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its impacts; additionally, the Governor’s declaration of a public health emergency expired on November 11, 2022. New Mexico has the effective tools and practices to minimize the spread of COVID-19, and immediate knowledge of an employee’s positive test result for the novel coronavirus is no longer necessary for the Bureau to help assure safe and healthful working conditions for employees. Additionally, the apparatus necessary to successfully manage immediate reporting from employers is no longer sustainable.

A copy of the proposed amendment is posted on the Department’s website at <https://commentinput.com/comment-manager/comment/commentEntry?projectID=200062>. The EIB has also posted a copy of the proposed amendment on the EIB website as an attachment to the Petition under docket number EIB 22-64(R).

To obtain a physical or electronic copy of the proposed amendment, please contact: Pamela Jones, Board Administrator, P.O. Box 5469, 1190 St. Francis Drive, Suite S-2103, Santa Fe, New Mexico, 87502; pamela.jones@env.nm.gov; (505) 660-4305. In your correspondence, reference docket number EIB 22-64(R).

The hearing will be conducted in accordance with the EIB's Rulemaking Procedures found at 20.1.1 NMAC, the Environmental Improvement Act under Section 74-1-9, and other applicable procedures and procedural orders. You may obtain written comments regarding the proposed amendment from Pamela Jones at the contact information listed above.

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. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing via electronic mail to: pamela.jones@env.nm.gov or via smart comment at the following link: <https://commentinput.com/comment-manager/comment/commentEntry?projectID=200062>.

Persons wishing to present technical testimony must file with the EIB a written notice of intent to do so. Notices of intent for the hearing must be received by the EIB by 5:00 p.m. MDT Monday, April 10, 2023, and should reference the name of the regulations, the date of the hearing (April 28, 2023), and docket number EIB 22-64(R).

You may find the requirements for a notice of intent to present technical testimony at 20.1.1.302 NMAC.

The notice of intent shall:

- Identify the person or entity for whom the witness(es) will testify;
- Identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- If the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present;
- Include a copy of the direct testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of the rule language being proposed.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g., sign language interpreter, to participate in any aspect of this process, please contact Pamela Jones, Board Administrator, at least 14 days prior to the hearing date at P.O. Box 5469, 1190 St. Francis Drive, Suite S-2103, Santa Fe, New Mexico, 87502, telephone (505) 660-4305 or email Pamela.Jones@env.nm.gov. (TDD or TTY) users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The EIB may make a decision on the proposed regulatory changes at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

STATEMENT 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. Parts 5 and 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:

Kathryn Becker, 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@env.nm.gov.

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.