

**NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD
NOTICE
OF SCHEDULED PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO
20.3.16 NMAC OF THE RADIATION PROTECTION REGULATIONS
EIB 23-75**

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing beginning at 9 a.m. on February 29, 2024, and continuing at the direction of the Board, to consider the matter of EIB 23-75, proposed amendments to regulations at 20.3.16 NMAC (“Fees for Licensure of Radioactive Materials”). The hearing is expected to last for up to two days; however, the hearing will last as long as required to hear all testimony, evidence and public comment.

Meeting and meeting access details will be available no later than February 9, 2024, on the Board’s webpage at <https://www.env.nm.gov/opf/docketed-matters/> and the New Mexico Environment Department (“NMED”) Events Calendar at <https://www.env.nm.gov/events-calendar/>, on the calendar entry corresponding to the hearing start date.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation.

To attend the meeting:

- IN PERSON, go to:
 - Marquez Building, 525 Camino De Los Marquez, Santa Fe, New Mexico 87505.
- ONLINE via video conference, click on this link:
 - <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m431b5a46004719eade0a5a52c2ab575f>
 - Meeting number: 2459 934 8536
 - Password: WpcGwJZF236
 - The link also may be found at <https://www.env.nm.gov/events-calendar/>
 - Via telephone, call:
 - +1-415-655-0001, and enter U.S. Access Code # 2459 934 8536.

If you have difficulties joining the meeting, please contact Pamela Jones at (505) 660-4305 or Madai Corral at (505) 490-5803.

The proposed regulations and related information, including technical information, may be reviewed on the Radiation Control Bureau’s (RCB) webpage containing public notices and related documents: <https://www.env.nm.gov/rcb/public-notice-of-radioactive-materials-licensing-actions-and-rulemakings/>; during regular business hours at the RCB, Joseph Montoya Building, 1100 S. St Francis Drive, Suite 2022 Santa Fe, NM 87505; or by contacting RCB’s Radiation Protection Program Manager, Michael Ortiz, at (505) 699-0060.

From now until the conclusion of the hearing, public comments will be received via SmartComment at <https://nmed.commentinput.com?id=KGcbeTDp9>; via electronic mail to Pamela.Jones@env.nm.gov; or via physical mail to Pamela Jones, P.O. Box 5469, 1190 St. Francis Drive, S-2103, Santa Fe, NM 87502. Comments received after the conclusion of the hearing will not be viewed.

The purpose of the public hearing is for the Board to consider and take possible action on a petition by the New Mexico Environment Department (“NMED”) requesting the Board to adopt proposed regulatory changes to 20.3.16 NMAC (“Fees for Licensure of Radioactive Materials”). The proposed regulatory changes are attached as Exhibit 2 to the Petition to Amend NMAC 20.3.5.16 NMAC of the Radiation Protection Regulations and Request for Hearing (“Petition”), docket number EIB 23-75, available for viewing online at <https://www.env.nm.gov/rcb/public-notice-of-radioactive-materials-licensing-actions-and-rulemakings/>. If you need assistance obtaining a copy of the proposed amendments, the Petition, or any other documents related to this matter, then 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, please reference docket number EIB 23-75.

The proposed regulatory changes requested by the Radiation Control Bureau (“Bureau”) of the New Mexico Environment Department (“NMED”) are necessary for the Bureau to effectively operate the Radioactive Materials

Program (“Program”) in the State, pursuant to a signed agreement with the U.S. Nuclear Regulatory Commission (“NRC”). As an agreement state under 42 U.S.C. § 2021 and Section 74-3-15 NMSA 1978, the State must maintain a satisfactory and adequately staffed Program to keep its agreement status. To achieve this, the State is proposing radioactive materials licensing fee changes that would provide the much needed funding to adequately staff and equip the Program to protect public health and safety and the environment from radiation hazards. The fees described in the proposed rules are necessary to retain the authority granted to the State by the NRC to effectively operate the Program. The proposed regulatory changes are necessary to bring the 2002 radioactive materials licensing fees more in line with current times to better support Program costs and are based largely on the NRC’s fiscal year 2021 fees. Without the proposed regulatory changes, the Program cannot be run effectively, and the NRC could take over the Program and impose its current fiscal year fees.

Pursuant to NMSA 1978, Section 74-3-5(A) (2000), the proposed regulatory changes will be presented to the Radiation Technology Advisory Council (“RTAC”) at its December 19, 2023. Finally, the EIB has the authority to amend the Radiation Protection Regulations under NMSA 1978, Section 74-1-8(A)(5) (2020), NMSA 1978, Section 74-1-9 (1985), and Section 74-3-5(A).

The hearing will be conducted in accordance with the Board’s Rulemaking Procedures found at 20.1.1 NMAC; the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Radiation Protection Act, Section 74-3-1 et seq. NMSA 1978, and other applicable procedures.

The Board may make a decision on the proposed rule immediately at the conclusion of the hearing, or the Board may convene a meeting on a later date after the hearing to consider action on the proposed rule. Alternatively, the Board may continue the hearing beyond the expected conclusion date, leaving the hearing record open and continuing to receive comments. Notice of continuation will be posted on the Board’s and NMED’s websites.

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 SmartComment at <https://nmed.commentinput.com?id=48EQNGeVC>; by electronic mail at Pamela.Jones@env.nm.gov; or by physical mail to Pamela Jones, P.O. Box 5469, 1190 St. Francis Drive, Suite S-2103, Santa Fe, New Mexico, 87502. Any statements received after the conclusion of the hearing will not be viewed.

Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The requirements for a notice of intent can be found in 20.1.1.302 NMAC. Technical testimony means scientific, engineering, economic, or other specialized testimony, whether oral or written, but does not include legal argument, general comments, or statements of policy concerning matters at issue in the hearing. Notices of intent for the hearing must be received by the Board by 5:00 p.m. MST at least 20 days prior to the hearing, and should reference the name of the regulations, the date of the hearing, and docket number EIB 23-75.

Persons requiring language interpretation services or have a disability and need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pamela Jones no later than February 15, 2024, at (505) 660-4305 or pamela.jones@env.nm.gov. TDD or TDY users please access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779; TTY users: 1-800-659-8331).

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:

Kate Cardenas, 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.