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Via Electronic Mail: [barbarabrazil@state.nm.us](mailto:barbarabrazil@state.nm.us)

March 17, 2017

Barbara Brazil  
Small Business Regulatory Advisory Commission  
New Mexico Economic Development Department  
1100 St. Francis Drive  
Santa Fe, New Mexico 87501

**Re: Proposed Adoption of Section 111(d) State Plan for Implementing Municipal Solid Waste Landfills Emission Guidelines, and Proposed Amendments to Part 20.2.64 – Municipal Solid Waste Landfills**

Dear Ms. Brazil:

The New Mexico Environment Department (“Department”) hereby provides notice to the Small Business Regulatory Advisory Commission, pursuant to the Small Business Regulatory Relief Act (“Act”), NMSA 1978, Sections 14-4A-1 to -5 (2005), that the Environmental Protection Division, Air Quality Bureau (“Bureau”) has submitted a petition to the Environmental Improvement Board (“EIB”) proposing the adoption of a State Plan under Section 111(d) of the Clean Air Act to implement new federal emission guidelines (“Guidelines”) issued by the U.S. Environmental Protection Agency (“EPA”) for existing municipal solid waste landfills (“MSWLs”). As a required component of the State Plan, the Petition also proposes amendments to the New Mexico regulations governing Municipal Solid Waste Landfills at 20.2.64 NMAC.

The Guidelines, which are codified at 40 C.F.R. Part 60 Subpart Cf, and are effective as of October 28, 2016, are aimed at reducing emissions of landfill gas and its components, including methane. 81 Fed. Reg. 59,276. Section 111(d) of the Clean Air Act requires states to adopt and submit plans to EPA to implement the Guidelines. *See* 42 U.S.C. § 7411(d). State plans must contain specific information and legal mechanisms necessary to implement the Guidelines, and must be adopted within nine (9) months of EPA’s adoption of the Guidelines. *See* 40 C.F.R. § 60.23(a). If New Mexico fails to submit a State Plan or if its State Plan fails to satisfy the required elements, EPA may prescribe a plan for the State. *See* 42 U.S.C. § 7411(d)(2).

Barbara Brazil, SBRAC

March 17, 2017

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The purpose of the Petition is to implement the Guidelines, including requirements for calculating emissions; monitoring, record-keeping and reporting; when and how control technologies must be installed at MSWLs; and operation of control systems. The proposed amendments to the New Mexico regulations governing Municipal Solid Waste Landfills at 20.2.64 NMAC are necessary to meet the requirement that there be an enforceable State mechanism to implement the Guidelines.

The Bureau conducted extensive outreach to the affected landfill facilities under the Board's jurisdiction, including an informational meeting, solicitation of comments on the proposed State Plan, and notices published on the Department's web site, the New Mexico Register, and the Albuquerque Journal. All notices included an option to request an informational Open House; however, no such requests were received. Stakeholder comments received by the Bureau have been considered in the proposed State Plan and rule amendments.

The EIB will hold a hearing on the proposed State Plan and rule amendments (Docket No. EIB 16-02 (R)) currently scheduled for Friday, April 28, 2017. For details regarding the time and location of the hearing please check the EIB website at: <http://www.env.nm.gov/eib/>.

Pursuant to Section 14-4A-4 of the Act, the Department has determined that the regulatory changes proposed in this action will not have an adverse effect on small business because the proposed amendments will not impose additional substantive requirements on affected facilities, but rather will simply retain implementation authority with the State of New Mexico rather than EPA. MSWL owners/operators in New Mexico will continue to be subject to the federal Guidelines regardless of whether New Mexico adopts the proposed rule revisions and State Plan implementing the Guidelines.

If you have questions or require further information regarding these proposed regulatory amendments, please feel free to contact me at (505) 827-2885 or [lara.katz@state.nm.us](mailto:lara.katz@state.nm.us).

Sincerely,



Lara Katz  
Assistant General Counsel  
New Mexico Environment Department

cc: Cindy Hollenberg, Air Quality Bureau, via email  
Kerwin Singleton, Air Quality Bureau, via email

SUSANA MARTINEZ  
GOVERNOR

MATTHEW GEISEL  
CABINET SECRETARY



March 20, 2017

Ms. Lara Katz  
Assistant General Counsel  
New Mexico Environment Department

Dear Ms. Katz,

Thank you for the notice to the Small Business Regulatory Advisory Commission (SBRAC) that the NM Environment Department has submitted a petition to the Environmental Improvement Board proposing the adoption of a State Plan under the Clean Air Act to implement new federal emission guidelines for existing municipal solid waste landfills.

It is the SBRAC's understanding that the guidelines are aimed at reducing emissions of landfill gas and its components including methane and that Section 111(d) of the Clean Air Act requires states to adopt and submit plans.

The SBRAC appreciates that the Bureau conducted extensive outreach to the affected landfill facilities under its jurisdiction and has included all comments received in the proposed State Plan and rule amendments.

Therefore, the SBRAC finds no adverse implications for small businesses in our state. The SBRAC Chair has indicated support for the proposed rule amendments. As such this letter can be used as responsive testimony for the hearing scheduled on Friday, April 28, 2017.

Thank you for the notice and opportunity to comment.

Regards

A handwritten signature in blue ink that reads "Barbara Brazil".

Barbara Brazil  
Deputy Secretary  
NM Economic Development Department

cc: SBRAC

