



STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED AMENDMENTS
TO 20.2.3 NMAC - *Ambient Air Quality Standards*

EIB-18-04 (R)

Air Quality Bureau,
Environmental Protection Division
New Mexico Environment Department,

Petitioner.

DEPARTMENT'S NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY

The New Mexico Environment Department (“NMED”) hereby submits this notice of intent to present technical testimony at the September 28, 2018 hearing before the Environmental Improvement Board (“EIB”) in support of NMED’s proposed amendments to the Ambient Air Quality Standards, 20.2.3 NMAC.

1. Names and qualifications of technical witnesses to testify on behalf of NMED.

Kerwin Singleton is the Planning Section Chief. His resume is attached as Exhibit 1.

2. Summary of Testimony. A copy of Mr. Singleton’s written testimony is attached as Exhibit 2.

3. List of exhibits anticipated to be offered at the EIB hearing.

Exhibit 1 – Resume of Kerwin Singleton

Exhibit 2 – Written testimony of Kerwin Singleton

Exhibit 3 – Text of proposed amendments in NMAC form

Exhibit 4 – Copy of presentation from public meetings

Exhibit 5 – Copies of sign-in sheets from public meetings

Exhibit 6 – Noninterference demonstration under 110(l)

Exhibit 7 – Copies of public notices and affidavits of publication

Exhibit 8 – Letter to Small Business Regulatory Advisory Commission

Exhibit 9 – Proposed Final Order and Statement of Reasons

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT



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KERWIN C. SINGLETON

EDUCATION

Bachelor of Science, Chemical Engineering 1982

University of Missouri - Columbia

EXPERIENCE

New Mexico Environment Department Santa Fe, New Mexico

August 2004 - Present

Planning Section Chief – Air Quality Bureau

June 2018 – Present

The Planning Section of the Air Quality Bureau includes the Control Strategies, Dispersion Modeling, Emissions Inventory, and Small Business Assistance Programs. The control strategies section is responsible for preparing state implementation plan, policies, and regulations for air quality. The dispersion modeling and emission inventory section ensures that all air dispersion modeling analyses submitted to our agency are accurate and complete, assists major sources with the submittal of annual emissions inventories, and performs a quality control check of submitted data prior to certification and submittal to the US EPA. The Small Business Assistance Program assists small businesses in meeting air quality regulatory requirements.

Manager, Control Strategies - Air Quality Bureau

July 2008 – June 2018

As the Manager of Control Strategies, I managed a staff of environmental analysts for the development of air quality plans and regulations for the State of New Mexico, including providing guidance and assistance to staff to ensure that plans and regulations are successfully adopted by the Environmental Improvement Board; providing technical, fiscal, performance and administrative analysis on draft bills during the legislative session; and representing the Department at stakeholder meetings on issues related to air quality plans and rule development.

Environmental Scientist & Specialist – Advanced

August 2004 - July 2008

As a permit writer, I processed all assigned air quality permit applications (New Source Review, Prevention of Significant Deterioration, and Title V) to final action before or by regulatory deadlines in accordance with approved Department policies and standards and performed special projects to achieve the enhancement of the Bureau's goals.

**Concept Technical Group Menomonee Falls, Wisconsin
Engineer**

March 2003 - July 2004

As a staff engineer, I provided project-specific environmental support to the Johnson Controls Battery Group manufacturing sites and group headquarters, including preparation of air quality construction permit applications with detailed emissions calculations and supporting documentation; annual emission inventories; Toxic Release Inventory Form R reports; updating storm water management and contingency plans; and development of standardized environmental procedures.

RMT, Inc. Chicago, Illinois

December 1994 - January 2003

Senior Project Manager/Operations Manager

As a Senior Project Manager, I guided clients through the complexities of air pollution permitting, reporting and compliance in multiple states to minimize their regulatory burden and obtain permits according to schedule. As the Chicago Operations Manager, managed three staff engineers, identified and developing project opportunities for engineers to meet or exceed utilization goals, and provided training and workload leveling.

**Johnson Controls Battery Group, Inc. Milwaukee, Wisconsin
Environmental Engineer**

March 1992 - December 1994

As an Environmental Engineer, I maintained air quality compliance at thirteen lead-acid battery plants and successfully obtained air construction permits to support all new equipment installations and plant modifications.

Olin Corp. – Brass Group/Winchester Operations East Alton, Illinois June 1989 - March 1992

Exhibit 1

Senior Environmental Engineer

As a Senior Environmental Engineer, I prepared and submitted all air pollution permit applications and annual emissions reports for the casting plant, brass mill and Winchester ammunition operations. My duties also included the development and implementation of an obsolete chemical identification project to minimize future liabilities; the investigation and categorization of the use of hazardous solvents and implementation of non-hazardous alternatives that resulted in the elimination of several waste streams and a reduction of waste management costs; and providing comprehensive environmental permitting and compliance assistance for satellite operations in Missouri and Ohio.

Missouri Department of Natural Resources St. Louis, MO

July 1984 - June 1989

Environmental Engineer I/II

As an Environmental Engineer, I conducted inspections of hazardous waste generators and treatment/storage/disposal Facilities in the St. Louis region for compliance with state and federal regulations, and represented the Department at industrial association meetings and seminars.

DIRECT TESTIMONY OF KERWIN SINGLETON

The New Mexico Environment Department (Department) proposes to amend 20.2.3 NMAC – *Ambient Air Quality Standards* to repeal the New Mexico ambient air quality standards for total suspended particulate, or TSP, contained in 20.2.3.109 NMAC. NMED Exhibit 3 reflects the proposed amendments in current NMAC format. The proposed amendments are shown in underline/strikeout format.

BACKGROUND

The New Mexico Board of Health and Social Services held a hearing in September 1969 for the promulgation of state ambient air quality standards (Hearing 69-09-22). The following total suspended particulate (TSP) standards were adopted by the Board:

Table 1: NM Ambient Air Quality Standards

Averaging Time	Standard ($\mu\text{g}/\text{m}^3$)
24-hour average	150
7-day average	110
30-day average	90
Annual geometric mean	60

The Environmental Protection Agency (EPA) originally proposed National Ambient Air Quality Standards (NAAQS) for Particulate Matter on January 30, 1971 (36 FR 1502). Section 109 of the Clean Air Act Amendments of 1970 directed the EPA Administrator to publish, no later than January 30, 1971, proposed primary and secondary NAAQS for each pollutant for which air quality criteria had been issued prior to the amendments. Primary standards are health based, while secondary standards are welfare based.

Particulate matter was defined as "any matter dispersed in the air, whether solid or liquid, in which the individual particles are larger than small molecules but smaller than 500 microns." Particulate matter has the potential to produce injury in the respiratory tract, either alone or in conjunction with gases. Particulates may be cleared by transfer to the lymph, blood, and/or gastrointestinal tract, producing adverse effects elsewhere in the body. The preamble referenced the document *Air Quality Criteria for Particulate Matter* (National Air Pollution Control Administration Publication No. AP-49) for detailed information on particulate matter.

The final primary and secondary PM NAAQS were published in the Federal Register on April 30, 1971 (36 FR 8186).

Table 2: 1971 PM NAAQS (TSP)

Primary/Secondary	Averaging Time	Level ($\mu\text{g}/\text{m}^3$)	Form
Primary	24-hour	260	Not to be exceeded more than once per year
	Annual	75	Annual geometric mean
Secondary	24-hour	150	Not to be exceeded more than once per year
	Annual	60	Annual geometric mean

EPA proposed changes to the standards on March 20, 1984 (49 FR 10408) based on its review and revision of the criteria. The final standards were published on July 1, 1987 (52 FR 24634) and replaced TSP as the indicator for PM with a new indicator, PM₁₀.

Table 3: 1987 PM₁₀ NAAQS

Primary/Secondary	Averaging Time	Level ($\mu\text{g}/\text{m}^3$)	Form
Primary and Secondary	24-hour	150	Not to be exceeded more than once per year on average over a 3-year period
	Annual	50	Annual geometric mean, averaged over 3 years

During its review of available scientific information, EPA concluded the following:

- (1) The health risks posed by inhaled particles are influenced by the penetration and deposition of particles in the multiple regions of the respiratory tract and by the body's response to these materials.
- (2) There are greater risks of adverse health effects associated with the deposition of ambient fine and coarse particles in the thorax (tracheobronchial and alveolar regions) than those in the extrathoracic (head) region.
- (3) The size-specific indicator for primary standards should represent particles small enough to penetrate to the thoracic region, and the risks of adverse health effects from particles deposited in the head region were low enough to be excluded from the indicator.

These conclusions demonstrated the need to protect sensitive individuals; therefore, EPA staff recommended that the size-specific indicator include particles of diameters less than or equal to a nominal 10 micrometer "cut point," placing greater emphasis on controlling smaller particles than does a TSP indicator, without completely excluding larger particles from all control.

Additional scientific research prompted EPA to further revise the PM standards to focus on PM_{2.5} in addition to the PM₁₀ standards to provide the most effective protection from potential adverse health effects.

The NMED discontinued ambient monitoring for TSP in April 1998; therefore, TSP concentrations are not monitored. Compliance with the NMAAQS has been determined with dispersion modeling.

During the preparation for the 1988 hearing to adopt the Committal State Implementation Plan (SIP) to implement the new PM₁₀ standard, an internal document was prepared by the AQB that discussed why the TSP standard should be retained as a New Mexico ambient air quality standard (NMAAQS). The decision to retain the TSP standard was not based on health concerns. Instead, the Bureau believed at the time that EPA's decision to set the welfare-based secondary standard using PM₁₀ as the indicator would not protect the public from the soiling and nuisance effects of PM. The predominant concern was the fugitive dust associated with sand and gravel plants and rock crushing operations.

PUBLIC OUTREACH

The NMED held three outreach meetings to inform the public of its intent to repeal the TSP NMAAQS and to address any questions or concerns. These meetings were held in Deming (January 9, 2018), Las Cruces (January 10, 2018) and Santa Fe (January 11, 2018). A copy of the presentation is included as NMED Exhibit 4, and copies of the sign-in sheets are included as NMED Exhibit 5.

DESCRIPTION OF CURRENT REGULATIONS AND PERMITTING REQUIREMENTS

NMED has many other rules that limit and control emissions of PM, including PM₁₀ and PM_{2.5}. These rules include enforceable emission limits, control measures, permits, fees, and compliance schedules, and are found at: 20.2.5 NMAC – *Source Surveillance*; 20.2.7 NMAC – *Excess Emissions*; 20.2.8 NMAC – *Emissions Leaving New Mexico*; 20.2.10 NMAC – *Woodwaste Burners*; 20.2.13 NMAC – *Gypsum Processing Plants*; 20.2.14 NMAC – *Particulate Emissions From Coal Burning Equipment*; 20.2.15 NMAC – *Pumice, Mica And Perlite Processing Equipment*; 20.2.16 NMAC – *Nonferrous Smelters (New and Existing) – Particulate Matter*; 20.2.17 NMAC – *Nonferrous Smelters (Existing) – Particulate Matter*; 20.2.18 NMAC – *Oil Burning Equipment – Particulate Matter*; 20.2.19 NMAC – *Potash, Salt Or Sodium Sulfate Processing Equipment – Particulate Matter*; 20.2.22 NMAC – *Fugitive Particulate Matter Emissions From Roads Within The Town Of Hurley*; 20.2.30 NMAC – *Kraft Mills*; 20.2.60 NMAC – *Open Burning*; 20.2.61 NMAC – *Smoke And Visible Emissions*; 20.2.65 NMAC – *Smoke Management*; 20.2.66 NMAC – *Cotton Gins*; 20.2.72 NMAC – *Construction Permits*; 20.2.73 NMAC – *Notice Of Intent And Emissions Inventory Requirements*; 20.2.74 NMAC – *Permits – Prevention Of Significant Deterioration (PSD)*; 20.2.75 NMAC – *Construction Permit Fees*; 20.2.79 NMAC – *Permits – Nonattainment Areas*; and 20.2.99 NMAC – *Conformity To The State Implementation Plan Or Transportation Plans, Programs And Projects*.

There are mechanisms in the AQB's permitting program to address particulate matter emissions. Dispersion modeling is required to ensure that off-site receptors are not adversely affected. The New Source Review (NSR) and Title V permitting programs have evolved over the years, and now include source-specific emission limits and stringent operating, monitoring,

recordkeeping and reporting requirements designed to demonstrate compliance with applicable NAAQS and to minimize fugitive emissions both on- and off-site. To limit the potential for a nuisance condition from particulate matter, permit language does require continuous compliance with all rules adopted by the NMED.

The most prominent permitted sources of fugitive/nuisance dust are aggregate handling and construction industries (e.g., sand and gravel operations, crushing operations, asphalt batch plants, and concrete batch plants), mineral processing facilities (e.g., potash and humate mines), and solid waste landfills.

The New Mexico General Construction Permits (issued under 20.2.72 NMAC) for the aggregate handling and construction industries (GCP-2 – Quarrying, Crushing, and Screening Facilities, GCP-3 – Hot Mix Asphalt Plants, and GCP-5 – Concrete Batch Plants) all include best management practice conditions limiting fugitive emissions, including restrictions on visible emissions crossing the perimeter of the Restricted (non-publicly accessible) Area, material handling requirements to limit the generation of fugitive emissions, control requirements for haul roads, and a requirement to cease operations during atmospheric conditions under which emissions cannot be controlled to meet the no visible emissions requirement. Regular NSR permits for these industries also include similar general and specific conditions.

NSR permits (issued under 20.2.72 NMAC) for mineral processing facilities include conditions requiring control of fugitive emissions from material storage and handling and haul roads, general housekeeping, and fugitive dust control plans.

Similarly, permits (issued under 20.2.70 NMAC) for solid waste landfills include conditions to control fugitive dust from actively used cells and cells under construction, to control fugitive dust from haul roads, and a requirement to develop fugitive dust plans.

Permits containing conditions limiting TSP to comply with the TSP NMAAQS will remain in force until the permittee requests a permit revision. A request to revise permit conditions would need to include a demonstration of compliance with the PM₁₀ and PM_{2.5} NAAAQS; compliance with the TSP NMAAQS is not required in order to demonstrate compliance with the NAAQS.

ANTHONY, NM PM₁₀ NONATTAINMENT AREA

The repeal of the TSP NMAAQS will have no impact on the Anthony PM₁₀ nonattainment area. NMED submitted a SIP revision for the Anthony PM₁₀ nonattainment area in November 1991. The NMED determined that all point and area sources of PM₁₀ in or affecting the area to be de minimis, except for unpaved roads, unvegetated and sparsely vegetated areas, and range lands. The paving of roads was determined to be economically infeasible, the enhancement of ground cover in the region to be technologically infeasible, and emissions from range lands to be non-anthropogenic.

Despite continued efforts by the State and Doña Ana County to reduce dust levels in the area, the State was not confident that the implemented control strategies would prevent primarily non-anthropogenic exceedances of the standard. The State requested a waiver of the compliance

date, as allowed under Section 188(f) of the Clean Air Act Amendments. EPA approved the SIP on September 9, 1993 (52 FR 47383).

This area is still impacted by blowing dust from high winds, and NMED has developed a dust mitigation plan for both Doña Ana and Luna counties, as required by the Exceptional Events Rule. In addition to the dust mitigation plan, NMED has proposed for adoption a fugitive dust rule that will be applicable in areas of the state requiring a mitigation plan in accordance with 40 CFR Part 51.930. The proposed fugitive dust rule will be presented to the Board for adoption on September 28, 2018.

Therefore, the repeal of the TSP NMAAQS will not affect ongoing efforts to reduce PM₁₀ levels in Anthony.

The above reasoning is included in the Department's *Demonstrating Noninterference Under Federal Clean Air Act Section 110(l)* document that will be submitted to EPA Region 6 as part of this SIP revision. See NMED Exhibit 6. EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Clean Air Act. The Department's demonstration satisfies this requirement.

CONCLUSION

NMED concludes that there are sufficient rules and procedures in place other than Section 109 to assure compliance with the PM NAAQS and to address nuisance PM; that repeal of this section will not result in any adverse effects on human health, welfare, visibility, property or the environment; and that the technical practicability and economic reasonableness of reducing or eliminating TSP from affected sources is not a factor, as other Department rules and permits already effectively control TSP.

**TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 3 AMBIENT AIR QUALITY STANDARDS**

20.2.3.1 ISSUING AGENCY: Environmental Improvement Board.
[11/30/95; 20.2.3.1 NMAC - Rn, 20 NMAC 2.3.100 10/31/02]

20.2.3.2 SCOPE: All geographic areas within the jurisdiction of the Environmental Improvement Board.
[11/30/95; 20.2.3.2 NMAC - Rn, 20 NMAC 2.3.101 10/31/02]

20.2.3.3 STATUTORY AUTHORITY: Environmental Improvement Act, NMSA 1978, section 74-1-8(A)(4) and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-5(A) and (B).
[11/30/95; 20.2.3.2 NMAC - Rn, 20 NMAC 2.3.102 10/31/02]

20.2.3.4 DURATION: Permanent.
[11/30/95; 20.2.3.4 NMAC - Rn, 20 NMAC 2.3.103 10/31/02]

20.2.3.5 EFFECTIVE DATE: November 30, 1995.
[11/30/95; 20.2.3.5 NMAC - Rn, 20 NMAC 2.3.104 10/31/02]
[The latest effective date of any section in this Part is 9/6/06.]

20.2.3.6 OBJECTIVE: The objective of this Part is to establish ambient air quality standards for the areas of New Mexico under the jurisdiction of the Environmental Improvement Board.
[11/30/95; 20.2.3.6 NMAC - Rn, 20 NMAC 2.3.105 10/31/02]

20.2.3.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this Part: "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.
[11/30/95; 20.2.3.7 NMAC - Rn, 20 NMAC 2.3.107 10/31/02]

20.2.3.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulations ("AQCR") 200 - Preamble and 201 - Ambient Air Quality Standards last filed January 27, 1970 and June 15, 1981, respectively.

A. All references to AQCR 200 or 201 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 200 and 201 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 200 or 201.
[11/30/95; 20.2.3.8 NMAC - Rn, 20 NMAC 2.3.106 10/31/02]

20.2.3.9 LIMITATION OF APPLICABILITY TO 20.2.70 NMAC. The requirements of this part are not applicable requirements under 20.2.70 NMAC, as defined by that part. This section does not limit the applicability of this part to sources required to obtain a permit under 20.2.72 NMAC, nor does it limit which terms and conditions of permits issued pursuant to 20.2.72 NMAC are applicable requirements for permits issued pursuant to 20.2.70 NMAC.
[20.2.3.9 NMAC - N, 9/6/06]

20.2.3.10 to 20.2.3.107 [RESERVED]

20.2.3.108 PREAMBLE: Ambient Air Quality Standards are not intended to provide a sharp dividing line between air of satisfactory quality and air of unsatisfactory quality. They are, however, numbers which represent objectives that will preserve our air resources. It is understood that at certain times, due to unusual meteorological conditions, these standards may be exceeded for short periods of time without the addition of specific pollutants into the atmosphere. The adoption of these statewide ambient air quality standards does not prohibit the promulgation of standards for specific areas, functions, and conditions within the state such as air sheds, municipalities, and certain

counties, as authorized under the Act. As scientific data accumulates on the effects of a contaminant, these standards may be revised or additional standards added.

[11/30/95; 20.2.3.108 NMAC - Rn, 20 NMAC 2.3.108 10/31/02]

20.2.3.109 [TOTAL SUSPENDED PARTICULATES: The maximum allowable concentrations of total suspended particulate in the ambient air are as follows:

- A. 24 hour average: 150 ug/m³;
- B. 7 day average: 110 ug/m³;
- C. 30 day average: 90 ug/m³;
- D. Annual geometric mean: 60 ug/m³. [RESERVED]

[11/30/95; 20.2.3.109 NMAC - Rn, 20 NMAC 2.3.109 10/31/02, XX/XX/XX]

20.2.3.110 SULFUR COMPOUNDS: The maximum allowable concentrations of the following sulfur-containing air contaminants in the ambient air are as follows:

A. Sulfur Dioxide:

- (1) For the state except on the area within 3.5 miles of the Chino Mines Company smelter furnace stack at Hurley:
 - (a) 24-hour average: 0.10 ppm;
 - (b) Annual arithmetic average: 0.02 ppm;
- (2) For the area within 3.5 miles of the Chino Mines Company smelter furnace stack at Hurley:
 - (a) 24-hour average, not to be exceeded more than once per year: 0.14 ppm;
 - (b) 3-hour average, not to be exceeded more than once per year: 0.50 ppm;
 - (c) Annual arithmetic average: 0.03 ppm.

B. Hydrogen Sulfide:

- (1) For the state, except the Pecos-Permian Basin Intrastate Air Quality Control Region (1-hour average, not to be exceeded more than once per year): 0.010 ppm;
- (2) For the Pecos-Permian Basin Intrastate Air Quality Control Region (1/2 hour average): 0.100 ppm;
- (3) For within corporate limits of municipalities within the Pecos-Permian Basin Intrastate Air Quality Control Region (1/2 hour average): 0.030 ppm;
- (4) For within five miles of the corporate limits of municipalities having a population of greater than twenty thousand and within the Pecos-Permian Basin Intrastate Air Quality Control Region (1/2 hour average): 0.030 ppm.

C. Total Reduced Sulfur:

- (1) For the state, except the Pecos-Permian Basin Intrastate Air Quality Control Region except for hydrogen sulfide (1/2 hour average): 0.003 ppm;
- (2) For the Pecos-Permian Basin Intrastate Air Quality Control Region, except for hydrogen sulfide (1/2 hour average): 0.010 ppm;
- (3) For within corporate limits of municipalities within the Pecos-Permian Basin Intrastate Air Quality Control Region, except for hydrogen sulfide (1/2 hour average): 0.003 ppm;
- (4) For within five miles of the corporate limits of municipalities having a population of greater than twenty thousand and within the Pecos-Permian Basin Intrastate Air Quality Control Region, except for hydrogen sulfide (1/2 hour average): 0.003 ppm.

[11/30/95; 20.2.3.110 NMAC - Rn, 20 NMAC 2.3.110 10/31/02]

20.2.3.111 OTHER AIR CONTAMINANTS: The maximum allowable concentrations of the following air contaminants in the ambient air are as follows:

A. Carbon Monoxide:

- (1) 8-hour average: 8.7 ppm;
- (2) 1-hour average: 13.1 ppm;

B. Nitrogen Dioxide:

- (1) 24-hour average: 0.10 ppm;
- (2) Annual arithmetic average: 0.05 ppm.

[11/30/95; 20.2.3.111 NMAC - Rn, 20 NMAC 2.3.111 10/31/02]

HISTORY OF 20.2.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records-state records center and archives:

HSSD 70-1, Ambient Air Quality Standards And Air Quality Control Regulations, 01/27/70.

EIB/AQCR 201, Ambient Air Quality Standards, 12/07/79.

AQCR 201, Ambient Air Quality Standards, 06/15/81.

History of Repealed Material: [RESERVED]

Other History:

AQCR 201, Ambient Air Quality Standards, filed 06/15/81 was renumbered into first version of the New Mexico Administrative Code as 20 NMAC 2.3, Air Quality (Statewide) - Ambient Air Quality Standards, filed 10/30/95.

20 NMAC 2.3, Air Quality (Statewide) - Ambient Air Quality Standards, filed 10/30/95 was renumbered, reformatted and replaced by 20.2.3 NMAC, Ambient Air Quality Standards, effective 10/31/02.

REVIEW OF THE NM AMBIENT AIR QUALITY STANDARD FOR TOTAL SUSPENDED PARTICULATES

Exhibit 4

January 2018

Kerwin Singleton
Manager, Control Strategies – Air Quality Bureau
New Mexico Environment Department

History of TSP – New Mexico

2

- TSP ambient air quality standards were first adopted by the New Mexico Board of Health & Social Services in September 1969.

Parameter	Standard
24-hour average	150
7-day average	110
30-day average	90
Annual geometric mean	60

Parameter	Standard
24-hour average	150
7-day average	110
30-day average	90
Annual geometric mean	60



History of TSP – Federal (con't)

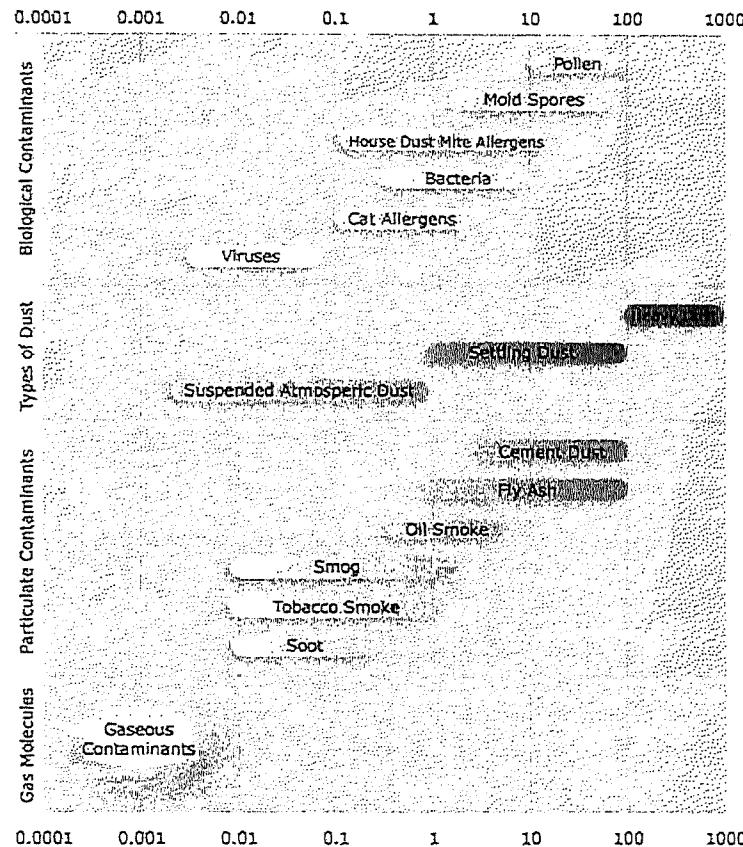
3

- The final primary and secondary PM (TSP) NAAQS were published in the April 30, 1971 Federal Register (36 FR 8186).

Primary/Secondary	Average	Level (ug/m ³)	Period
Primary	24-hour	260	Not to be exceeded more than once per year
	Annual	75	Annual geometric mean
Secondary	24-hour	150	Not to be exceeded more than once per year
	Annual	60	Annual geometric mean



Micron Comparison



Revised Federal PM Standards

Primary Secondary	Averaging Time	Level µg/m ³	Form
Primary and Secondary – PM ₁₀	24-hour	150	Not to be exceeded more than once per year on average over a 3-year period
	Annual	50	Annual geometric mean, averaged over 3 years



Review of the NM TSP Standard

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- The Air Quality Bureau conducted a review of the standard during preparation for the 1988 hearing to adopt the State Implementation Plan to implement the new PM₁₀ standard.
- Decision made to retain the TSP standard for welfare-based concerns.
 - ▣ The Bureau believed at the time that EPA's decision to set the secondary standard using PM₁₀ as the indicator would not protect the public from soiling and nuisance effects of PM.



Implications of a TSP Standard Repeal

7

- TSP is no longer monitored in New Mexico.
- The AQB currently operates 7 PM₁₀ monitors and 10 PM_{2.5} monitors.



Implications of a TSP Standard Repeal

- The AQB Modeling Section has determined the following:
 - ▣ Only mining and mineral sources that are required to have air quality construction permits are impacted by the TSP standard, as additional dispersion modeling is required.
 - ▣ Particles larger than PM₁₀ typically drop out of the air within one minute.
 - ▣ A repeal of the TSP standard will have no effect on combustion sources (fine particles).
 - ▣ No effect on General Construction Permits (GCP) 2, 3 or 5 setback distances.



Implications of a TSP Standard Repeal (con't)

9

- Regular construction permits for sand and gravel or rock crushing operations include conditions limiting visible emissions beyond the facility's property line.
- A repeal would ease the permitting burden for sources and the AQB.
- The current PM₁₀ and PM_{2.5} standards are protective of public health.



Questions?

1.0

Contact: Kerwin Singleton 505.476.4350, or
kerwin.singleton@state.nm.us



Public Outreach Meeting: TSP Repeal and Dust Mitigation Plan/Fugitive Dust Rule Deming 09 Jan 18

Public Outreach Meeting: TSP Repeal and Dust Mitigation Plan/Fugitive Dust Rule Las Cruces 10 Jan 18

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Public Outreach Meeting: TSP Repeal and Dust Mitigation Plan/Fugitive Dust Rule Las Cruces 10 Jan 18

Public Outreach Meeting: TSP Repeal and Dust Mitigation Plan/Fugitive Dust Rule Santa Fe 11 Jan 18

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Amy Hui	Intrepid	Amy.hui@intrepidpotash.com

DEMONSTRATING NONINTERFERENCE UNDER FEDERAL CLEAN AIR ACT, SECTION 110(I)

The New Mexico Environment Department (NMED) provides the following information to clarify why the repeal of the New Mexico Ambient Air Quality Standards (NMAAQS) contained in 20.2.3.109 – *Total Suspended Particulates* from the New Mexico Administrative Code (NMAC) and the New Mexico State Implementation Plan (SIP) will not negatively impact the attainment status of the state's particulate matter (PM) attainment areas or any other Clean Air Act (CAA) requirement.

EPA's June 8, 2005 draft guidance, *Demonstrating Noninterference Under Section 110(I) of the Clean Air Act When Revising a State Implementation Plan*, provides two options to demonstrate noninterference for the affected pollutant(s), either:

- 1) "Substitution of one measure by another with equivalent or greater emissions reductions or air quality benefit; or
- 2) an air quality analysis showing that removing the measure will not interfere with other applicable requirements."

BACKGROUND

NMED's predecessor agency, the New Mexico Board of Health & Social Services, held a hearing in September 1969 that resulted in the promulgation of Standards and Regulations Governing Air Quality Control. The Ambient Air Quality Standards were promulgated in Air Quality Control Regulation (AQCR) 201. The SIP was officially submitted to the EPA on January 27, 1972. This rule was reformatted in 1995 to 20.2.3 NMAC (NMAC1 version) and again in 2002 to NMAC2 version, but retaining the same rule number. The TSP NMAAQS have not been revised since their original promulgation.

EPA did not finalize national ambient air quality standards (NAAQS) for particulate matter until April 1971 (36 FR 8186). EPA published revised PM NAAQS on July 1, 1987 (52 FR 24634), replacing TSP as the indicator with PM₁₀. In terms of the health and welfare effects of PM, scientific information supported the conclusion that there are greater risks of adverse health effects associated with respirable PM (that which can enter the respiratory system, generally regarded as ten micrometers or smaller in aerodynamic diameter). The primary (health) and secondary (welfare) standards for PM₁₀ are identical. EPA published new PM_{2.5} standards on July 18, 1997 (62 FR 38652). The primary standards were set to provide increased protection against PM-related health effects, including premature mortality and increased hospital admissions and emergency room visits, and increased respiratory symptoms and disease in individuals with asthma. The secondary standards were set as appropriate protection against welfare effects including soiling, material damage, and visibility impairment. Therefore, the current PM NAAQS using PM₁₀ and PM_{2.5} as indicators are better suited to address health concerns than standards based on TSP, such as 20.2.3.109 NMAC or its predecessor, AQCR 201. Additionally, EPA has not made any TSP nonattainment designations for many years.

PRIOR REVIEW OF TSP NMAAQS

The AQB conducted a review of the TSP NMAAQS during preparation for the 1988 hearing to adopt the Committal State Implementation Plan to implement the new PM₁₀ standard. The decision was made to retain the TSP standards for welfare-based concerns, as the AQB believed at the time that EPA's decision to set the secondary standard using PM₁₀ as the indicator would not protect the public from soiling and nuisance effects of PM. The prominent concern of the AQB was the fugitive dust associated with sand and gravel plants and rock crushing operations.

20.2.3.109 NMAC is an artifact that is no longer consistent with modern air quality regulation, which is based on science. There are sufficient tools and procedures described in the following section that are currently available to address nuisance PM, in addition to health and welfare.

DESCRIPTION OF CURRENT REGULATIONS AND PERMITTING REQUIREMENTS

NMED has many other rules that limit and control emissions of PM, including PM₁₀ and PM_{2.5}. These rules include enforceable emission limits, control measures, permits, fees, and compliance schedules, and are found at: 20.2.5 NMAC – *Source Surveillance*; 20.2.7 NMAC – *Excess Emissions*; 20.2.8 NMAC – *Emissions Leaving New Mexico*; 20.2.10 NMAC – *Woodwaste Burners*; 20.2.13 NMAC – *Gypsum Processing Plants*; 20.2.14 NMAC – *Particulate Emissions From Coal Burning Equipment*; 20.2.15 NMAC – *Pumice, Mica And Perlite Processing Equipment*; 20.2.16 NMAC – *Nonferrous Smelters (New and Existing) – Particulate Matter*; 20.2.17 NMAC – *Nonferrous Smelters (Existing) – Particulate Matter*; 20.2.18 NMAC – *Oil Burning Equipment – Particulate Matter*; 20.2.19 NMAC – *Potash, Salt Or Sodium Sulfate Processing Equipment – Particulate Matter*; 20.2.22 NMAC – *Fugitive Particulate Matter Emissions From Roads Within The Town Of Hurley*; 20.2.30 NMAC – *Kraft Mills*; 20.2.60 NMAC – *Open Burning*; 20.2.61 NMAC – *Smoke And Visible Emissions*; 20.2.65 NMAC – *Smoke Management*; 20.2.66 NMAC – *Cotton Gins*; 20.2.72 NMAC – *Construction Permits*; 20.2.73 NMAC – *Notice Of Intent And Emissions Inventory Requirements*; 20.2.74 NMAC – *Permits – Prevention Of Significant Deterioration (PSD)*; 20.2.75 NMAC – *Construction Permit Fees*; 20.2.79 NMAC – *Permits – Nonattainment Areas*; and 20.2.99 NMAC – *Conformity To The State Implementation Plan Or Transportation Plans, Programs And Projects*.

20.2.3.109 NMAC, AND THE NATIONAL PRIMARY AND SECONDARY AIR QUALITY STANDARDS

The ambient air quality standards adopted by the New Mexico Board of Health & Social Services were based on a document prepared under a provision of the 1967 Air Quality Control Act whereby the National Air Pollution Control Administration was charged to develop certain criteria for use by states in developing their air pollution control programs. The document is titled "The Air Quality Criteria for Particulate Matter" and was published by the National Air Pollution Control Administration, U.S. Department of Health, Education, and Welfare, Washington, D.C., January 1969. The TSP NAAQS promulgated in 1971 were likewise based on research conducted in the 1960s, at a time when it was not known what types of particulate matter was the greatest concern related to adverse health effects. Criteria was based on total particulate matter normally measured by high volume sampling methods, paper-tape sampling

methods, and by dustfall collection. The effects of health from particulate matter were only beginning to be understood.

Since that time, science has progressed; EPA published revised standards on July 1, 1987 (52 FR 24634), replacing TSP as the indicator with PM₁₀. During its review of available scientific information, EPA concluded the following:

1. The health risks posed by inhaled particles are influenced by the penetration and deposition of particles in the multiple regions of the respiratory tract and the body's response to these materials.
2. There are greater risks of adverse health effects associated with the deposition of ambient fine and coarse particles in the thorax (the portion of the body between the neck and abdomen, containing the chief organs of the circulatory and respiratory systems) than those in the extrathoracic (head) region.
3. The size-specific indicator for primary standards should represent particles small enough to penetrate to the thoracic region, and the risks of adverse health effects from particles deposited in the head region were low enough to be excluded from the indicator. (52 FR 24634).

Additional scientific research prompted EPA to further revise the PM standards to focus on PM_{2.5} in addition to the PM₁₀ standards to provide the most effective protection from potential adverse health effects.

The NMED discontinued ambient monitoring for TSP in April 1998; therefore, TSP concentrations are not monitored. Compliance with the NMAAQS has been determined with dispersion modeling.

ANTHONY, NM PM₁₀ NONATTAINMENT AREA

The repeal of the TSP NMAAQS will have no impact on the Anthony PM₁₀ nonattainment area. NMED submitted a SIP revision for the Anthony PM₁₀ nonattainment area in November 1991. The NMED determined that all point and area sources of PM₁₀ in or affecting the area to be de minimis, except for unpaved roads, unvegetated and sparsely vegetated areas, and range lands. The paving of roads was determined to be economically infeasible, the enhancement of ground cover in the region to be technologically infeasible, and emissions from range lands to be non-anthropogenic.

Despite continued efforts by the State and Doña Ana County to reduce dust levels in the area, the State was not confident that the implemented control strategies would prevent primarily non-anthropogenic exceedances of the standard. The State requested a waiver of the compliance date, as allowed under Section 188(f) of the Clean Air Act Amendments. EPA approved the SIP on September 9, 1993 (52 FR 47383).

This area is still impacted by blowing dust from high winds, and NMED is developing a dust mitigation plan for both Doña Ana and Luna counties, as required by the Exceptional Events Rule. In addition to the dust mitigation plan, NMED is developing a fugitive dust rule that will

be applicable in areas of the state requiring a mitigation plan in accordance with 40 CFR Part 51.930.

Therefore, the repeal of the TSP NMAAQS will not affect ongoing efforts to reduce PM₁₀ levels in Anthony.

FUGITIVE/NUISANCE DUST SOURCES

There are mechanisms in the AQB's permitting program to address particulate matter emissions. Dispersion modeling is required to ensure that off-site receptors are not adversely affected. The New Source Review (NSR) and Title V permitting programs have evolved over the years, and now include source-specific emission limits and stringent operating, monitoring, recordkeeping and reporting requirements designed to demonstrate compliance with applicable NAAQS and to minimize fugitive emissions both on- and off-site. To limit the potential for a nuisance condition from particulate matter, permit language does require continuous compliance with all rules adopted by the NMED.

The most prominent permitted sources of fugitive/nuisance dust are aggregate handling and construction industries (e.g., sand and gravel operations, crushing operations, asphalt batch plants, and concrete batch plants), mineral processing facilities (e.g., potash and humate mines), and solid waste landfills.

The New Mexico General Construction Permits (issued under 20.2.72 NMAC) for the aggregate handling and construction industries (GCP-2 – Quarrying, Crushing, and Screening Facilities, GCP-3 – Hot Mix Asphalt Plants, and GCP-5 – Concrete Batch Plants) all include best management practice conditions limiting fugitive emissions, including restrictions on visible emissions crossing the perimeter of the Restricted (non-publicly accessible) Area, material handling requirements to limit the generation of fugitive emissions, control requirements for haul roads, and a requirement to cease operations during atmospheric conditions under which emissions cannot be controlled to meet the no visible emissions requirement. Regular NSR permits for these industries also include similar general and specific conditions.

NSR permits (issued under 20.2.72 NMAC) for mineral processing facilities include conditions requiring control of fugitive emissions from material storage and handling and haul roads, general housekeeping, and fugitive dust control plans.

Similarly, permits (issued under 20.2.70 NMAC) for solid waste landfills include conditions to control fugitive dust from actively used cells and cells under construction, to control fugitive dust from haul roads, and a requirement to develop fugitive dust plans.

Permits containing conditions limiting TSP to comply with the TSP NMAAQS will remain in force until the permittee requests a permit revision. A request to revise permit conditions would need to include a demonstration of compliance with the PM₁₀ and PM_{2.5} NAAAQS; compliance with the TSP NMAAQS is not required in order to demonstrate compliance with the NAAQS.

CONCLUSION

NMED concludes that there are sufficient rules and procedures in place to assure compliance with the PM NAAQS and to address nuisance PM.

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO

County of Bernalillo SS

NEWMEXICOENVIRONMENTALIMPROVEMENTBOARDNOTICEOFRULEMAKINGHEARINGTHENEWMEXICOENVIRONMENTALIMPROVEMENTBOARDBOARDDWILLHOLDAPUBLICHEARINGON

Bernadelte Gonzales, the undersigned, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

06/17/2018

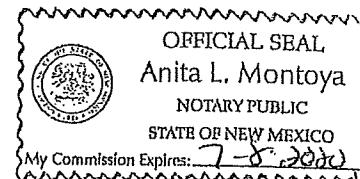
Sworn and subscribed before me, a Notary Public, In and for the County of Bernalillo and State of New Mexico this

17 day of June of 2018

PRICE \$308.01

Statement to come at the end of month.

ACCOUNT NUMBER 1007594



Persons having a disability and needing help to participate in this hearing process should contact Pam Castaneda, Administrator for Boards & Commissions, at least ten days prior to the meeting or as soon as possible. At the above address or e-mail pam.castaneda@state.nm.us. TDD users please access her number via the New Mexico Relay Network at 1-800-559-8831.

The Board may make a decision on the proposed regulation repeal at the conclusion of the hearing or the Board may convene a meeting after the hearing to consider action on the proposal.

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. Part 7, including Title VI of the Civil Rights Act of 1966, as amended; Section 304 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:

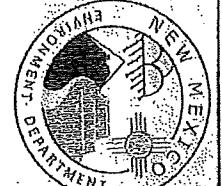
Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite 1000
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
nmdcoordinator@state.nm.us

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

Journal, June 17, 2018

Notices of intent to present technical testimony during the hearing must be received in the Office of the Board no later than 5:00 p.m. on September 7, 2018, and should reference the docket number: ELB-18-04 (R), and the date of the hearing. Notices of intent to present technical testimony should be submitted to Pam Castaneda, Administrator for Boards & Commissions Environmental Improvement Board, P.O. New Mexico Environment Department, P.O. Box 5469, Santa Fe, NM 87502, Phone: (505) 827-2925, Fax: (505) 827-1728, email: pam.castaneda@state.nm.us

My Commission Expires: 7-8-2020



NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING

The purpose of the public hearing is to consider and take possible action on a petition from NMED to suspend the New Mexico Ambient Air Quality Standards for total suspended particulate matter via Title 20-23.109 NMAC. The U.S. Environmental Protection Agency replaced the national ambient air quality standards (NAAQS) for TSP with PM10 in 1987. The Air Quality Bureau ceased ambient monitoring for TSP in 1998. The Air Quality Bureau has conducted a thorough analysis of these standards and has concluded that the repeal of the standards will not result in a relaxation of emissions controls or an adverse effect on air quality, and is not necessary to maintain the NAAQS for particulate matter in New Mexico. If adopted by the Board, the repeal of 20-23.109 NMAC would be submitted to EPA for removal from New Mexico's SIP.

The full text of NMED's proposed regulation repeal is available on the Air Quality Bureau's web site at <https://www.env.state.nm.us/air-quality/proposedregs/> or by contacting Kevin Singleton at 505-476-4350 or kevin.singleton@state.nm.us.

The proposed regulation repeal may also be examined during office hours at the Air Quality Bureau office, 352 Camino de los Marques, Suite 1, Santa Fe, New Mexico, 87505.

The hearing will be conducted in accordance with 2011 NMAC Rulemaking Procedures – Environmental Improvement Board, the Environmental Improvement Act, NMSA 1978, Section 74-1-13, the Air Quality Control Act, NMSA 1978, Section 74-26, and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written Notice of Intent to do so. The Notice of Intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form;
- (4) include the text of any recommended modifications to the proposed regulatory change, and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Deming Headlight

AFFIDAVIT OF PUBLICATION

Ad No.
0001250875

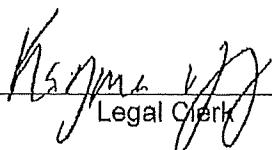
NEW MEXICO ENVIRONMENT DEPT
1190 ST. FRANCIS

SANTA FE NM 87502

I, a legal clerk of the Deming Headlight, a newspaper published weekly in the county of Luna, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

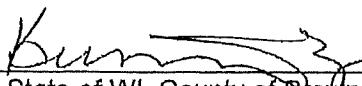
06/15/18

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.



Legal Clerk

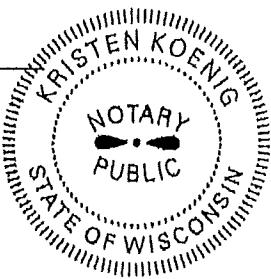
Subscribed and sworn before me this
20th of July 2018.



State of WI, County of Brown
NOTARY PUBLIC

3/20/2022
My Commission Expires

Ad#:0001250875
P O : 29214
of Affidavits :0.00



**NEW MEXICO ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF RULEMAKING HEARING**

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on September 28, 2018, at 9:30 a.m., at the New Mexico Farm and Ranch Heritage Museum, 4100 Dripping Springs Rd., Las Cruces, New Mexico. The purpose of the hearing is to consider the matter of EIB 18-04(R), proposed revisions to the New Mexico State Implementation Plan ("SIP") regarding the Air Quality Control Regulation codified in the New Mexico Administrative Code (NMAC) at 20.2.3 NMAC, Ambient Air Quality Standards.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from NMED to repeal the New Mexico Ambient Air Quality Standards for total suspended particulate (TSP) contained in 20.2.3.109 NMAC. The U.S. Environmental Protection Agency replaced the national ambient air quality standards (NAAQS) for TSP with PM10 in 1987. The Air Quality Bureau ceased ambient monitoring for TSP in 1998. The Air Quality Bureau has conducted a thorough analysis of these standards and has concluded that the repeal of the standards will not result in a relaxation of emissions controls or an adverse effect on air quality, and is not necessary to maintain the NAAQS for particulate matter in New Mexico. If adopted by the Board, the repeal of 20.2.3.109 NMAC would be submitted to EPA for removal from New Mexico's SIP.

The full text of NMED's proposed regulation repeal is available on the Air Quality Bureau's web site at <https://www.env.nm.gov/air-quality/proposed-regs/> or by contacting Kerwin Singleton at 505-476-4350 or kerwin.singleton@state.nm.us. The proposed regulation repeal may also be examined during office hours at the Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

The hearing will be conducted in accordance with: 20.1.1 NMAC, Rulemaking Procedures - Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; the Air Quality Control Act, NMSA 1978, Section 74-2-6; and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written Notice of Intent to do so. The Notice of Intent shall:

- (1) Identify the person for whom the witness(es) will testify;
- (2) Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- (3) Include a copy of the direct testimony of each technical witness in narrative form;
- (4) Include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of Intent to present technical testimony at the hearing must be received in the Office of the Board not later than 5:00 pm on September 7, 2018, and should reference the docket number, EIB 18-04 (R), and the date of the hearing. Notices of Intent to present technical testimony should be submitted to:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castañeda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hear-

ing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help to participate in this hearing process should contact Pam Castañeda, Administrator for Boards & Commissions, at least ten days prior to the meeting or as soon as possible at the above address or e-mail pam.castañeda@state.nm.us. TDY users please access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed regulation repeal at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

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. Part 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:

Kristine Pintado, 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@state.nm.us

If you believe that you have been discriminated against with respect to an 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.

**JUNTA DE MEJORA AMBIENTAL
DE NUEVO MÉXICO
NOTIFICACIÓN DE AUDIENCIA
PÚBLICA DE REGLAMENTACIÓN**

La Junta de Mejora Ambiental de Nuevo México (Junta) celebrará una audiencia pública el 28 de septiembre, 2018, a las 9:30 a.m., en New Mexico Farm and Ranch Heritage Museo, 4100 Dripping Springs Road, Las Cruces, New Mexico. El motivo de la audiencia pública es considerar el asunto del BEI 18-04 (R), revisiones propuestas al Plan de Implementación Estatal de Nuevo México (SIP, por su sigla en inglés) con respecto al Reglamento de Control de la Calidad del Aire codificado en el Código Administrativo de Nuevo México (NMAC, por su sigla en inglés), en 20.2.3 NMAC, Estándares de Calidad Ambiental del Aire.

El proponente de esta enmienda regulatoria es el Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés).

El motivo de la audiencia pública es considerar y posiblemente tomar medidas en una petición de NMED para revocar los estándares de calidad ambiental del aire de Nuevo México para partículas suspendidas totales (TSP, por su sigla en inglés) contenidas en 20.2.3.109 NMAC. La Agencia de Protección Ambiental de EE. UU. reemplazó los estándares nacionales de calidad ambiental del aire (NAAQS, por su sigla en inglés) por TSP con PM10 en 1987. La Oficina de Calidad del Aire dejó de monitorear el ambiente para TSP en 1998. La Oficina de Calidad del Aire realizó un análisis exhaustivo de estos estándares y concluyó que la revocación de los estándares no dará como resultado una relajación de los controles de emisiones o un efecto adverso en la calidad del aire, y que no es necesario mantener los NAAQS para material particulado en

Nuevo México. Si la Junta lo adopta, la revocación del 20.2.3.109 NMAC será presentada a EPA para su eliminación del SIP de Nuevo México.

El texto completo de la revocación del reglamento propuesto por NMED está disponible en el sitio web de la Oficina de Calidad del Aire en <https://www.env.nm.gov/air-quality/proposed-regs/> o comunicándose con Kervin Singleton al 505-476-4350 o kerwin.singleton@state.nm.us. La revocación del reglamento propuesto también se puede examinar durante horas hábiles en Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

La audiencia se llevará a cabo en acuerdo con: 20.1.1 NMAC, Procedimientos de Reglamentación - Junta de Mejora Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; la Ley de Control de Calidad del Aire, NMSA 1978, Sección 74-2-6; y otros procedimientos aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia pública para presentar pruebas, datos, puntos de vista y argumentos relevantes, oralmente o por escrito, para presentar pruebas y para examinar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar ante la Junta, por escrito, una Notificación de Intención de hacerlo. La Notificación de Intención deberá:

- (1) identificar a la persona para la cual testificará el/los testigo/s;
- (2) Identificar a cada testigo técnico que la persona tiene la intención de presentar y declarar las calificaciones de ese testigo, incluida una descripción de su historial educativo y laboral;
- (3) Incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- (4) Incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto;
- (5) hacer una lista y adjuntar todas las pruebas anticipadas que ofrecerá esa persona en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Las Notificaciones de Intención de presentar testimonio técnico en la audiencia deben ser recibidas en la Oficina del Consejo antes de las 5:00 p.m. del 7 de septiembre de 2018, y deben hacer referencia al número de expediente, EIB 18-04 (R), y la fecha de la audiencia. Las Notificaciones de Intención para presentar un testimonio técnico deben ser enviadas a:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castañeda@state.nm.us

Cualquier miembro del público puede testificar en la audiencia. No se requiere notificación previa para presentar un testimonio no técnico en la audiencia. Cualquiera de estos miembros también pueden ofrecer pruebas no técnicas en relación con su testimonio, siempre y cuando las pruebas no sean excesivamente repetitivas del testimonio.

Un miembro del público que desee presentar una declaración escrita para el registro, en lugar de proporcionar un testimonio oral en la audiencia, deberá presentar la declaración escrita antes de la audiencia o presentarla durante la audiencia.

Las personas que tienen una discapacidad y necesitan ayuda para participar en este proceso deben comunicarse con Pam Castañeda, Administradora de Juntas y Comisiones, al menos diez días antes de la reunión o tan pronto como sea posible a la dirección anterior o enviar un correo electrónico a pam.castañeda@state.nm.us. Los usuarios de TTY pueden acceder a su número a través de la Red de Retransmisión de Nuevo México llamando al 1-800-659-8331.

La Junta puede tomar una decisión sobre la revocación del reglamento propuesto al final de la audiencia, o la Junta pueda convocar una reunión después de la audiencia para considerar acciones sobre la propuesta.

El Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés) no discrimina por motivos de raza, color, origen nacional,

discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación:

Kristine Pintado, 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@state.nm.us

Si usted piensa que ha sido discriminado con respecto a un programa o actividad de NMED, usted puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación.

Run Date: June 15, 2018

LAS CRUCES SUN-NEWS

AFFIDAVIT OF PUBLICATION

Ad No.
0001250785

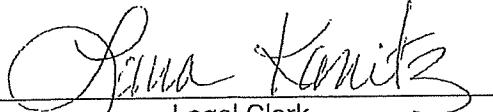
MARY ARCHULETA / COLEMAN SMITH
AIR QUALITY BUREAU
525 CAMINO DE LOS MARQUEZ, SUITE 1

SANTA FE NM 87505

I, a legal clerk of the **Las Cruces Sun-News**, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

06/15/18

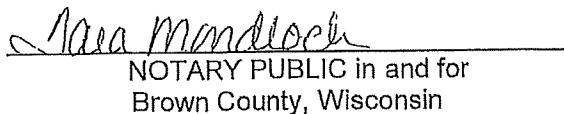
Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.



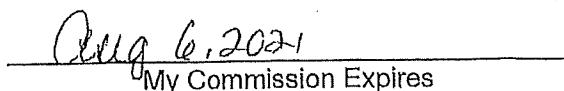
Anna Kanitz

Legal Clerk
STATE OF WISCONSIN ss.
County of Brown

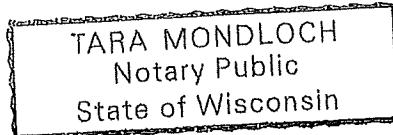
Subscribed and sworn before me this
15th of June 2018.



Tara Mondloch
NOTARY PUBLIC in and for
Brown County, Wisconsin



Aug 6, 2021
My Commission Expires



**JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO
NOTIFICACIÓN DE AUDIENCIA PÚBLICA DE
REGLAMENTACIÓN**

La Junta de Mejora Ambiental de Nuevo México (Junta) celebrará una audiencia pública el 28 de septiembre, 2018, a las 9:30 a.m., en New Mexico Farm and Ranch Heritage Museo, 4100 Dripping Springs Road, Las Cruces, New Mexico. El motivo de la audiencia pública es considerar el asunto del BE 18-04 (R), revisiones propuestas al Plan de Implementación Estatal de Nuevo México (SIP, por su sigla en inglés) con respecto al Reglamento de Control de la Calidad del Aire codificado en el Código Administrativo de Nuevo México (NMAC, por su sigla en inglés), en 20.2.3 NMAC, Estándares de Calidad Ambiental del Aire.

El proponente de esta enmienda regulatoria es el Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés).

El motivo de la audiencia pública es considerar y posiblemente tomar medidas en una petición de NMED para revocar los estándares de calidad ambiental del aire de Nuevo México para partículas suspendidas totales (TSP, por su sigla en inglés) contenidas en 20.2.3.109 NMAC. La Agencia de Protección Ambiental de EE. UU. reemplazó los estándares nacionales de calidad ambiental del aire (NAAQS, por su sigla en inglés) por TSP con PM10 en 1987. La Oficina de Calidad del Aire dejó de monitorear el ambiente para TSP en 1998. La Oficina de Calidad del Aire realizó un análisis exhaustivo de estos estándares y concluyó que la revocación de los estándares no dará como resultado una relajación de los controles de emisiones o un efecto adverso en la calidad del aire, y que no es necesario mantener los NAAQS para material particulado en Nuevo México. Si la Junta lo adopta, la revocación del 20.2.3.109 NMAC será presentada a EPA para su eliminación del SIP de Nuevo México.

El texto completo de la revocación del reglamento propuesto por NMED está disponible en el sitio web de la Oficina de Calidad del Aire en <https://www.env.nm.gov/air-quality/proposed-regs/> o comunicándose con Kerwin Singleton al 505-476-4350 o kerwin.singleton@state.nm.us. La revocación del reglamento propuesto también se puede examinar durante horas hábiles en Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

La audiencia se llevará a cabo en acuerdo con: 20.1.1 NMAC, Procedimientos de Reglamentación - Junta de Mejora Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; la Ley de Control de Calidad del Aire, NMSA 1978, Sección 74-2-6; y otros procedimientos aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia pública para presentar pruebas, datos, puntos de vista y argumentos relevantes, oralmente o por escrito, para presentar pruebas y para examinar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar ante la Junta, por escrito, una Notificación de Intención de hacerlo. La Notificación de Intención deberá:

- (1) identificar a la persona para la cual testificará el/los testigo/s;
- (2) identificar a cada testigo técnico que la persona tiene la intención de presentar y declarar las calificaciones de ese testigo, incluida una descripción de su historial educativo y laboral;
- (3) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- (4) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y
- (5) hacer una lista y adjuntar todas las pruebas anticipadas que ofrecerá esa persona en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Las Notificaciones de Intención de presentar testimonio técnico en la audiencia deben ser recibidas en la Oficina del Consejo antes de las 5:00 p.m. del 7 de septiembre de 2018, y deben hacer referencia al número de expediente, EIB 18-04 (R), y la fecha de la audiencia. Las Notificaciones de Intención para presentar un testimonio técnico deben ser enviadas a:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castañeda@state.nm.us

Cualquier miembro del público puede testificar en la audiencia. No se requiere notificación previa para presentar un testimonio no técnico en la audiencia. Cualquiera de estos miembros también pueden ofrecer pruebas no técnicas en relación con su testimonio, siempre y cuando las pruebas no sean excesivamente repetitivas del testimonio.

Un miembro del público que deseé presentar una declaración escrita para el registro, en lugar de proporcionar un testimonio oral en la audiencia, deberá presentar la declaración escrita antes de la audiencia o presentarla durante la audiencia.

Las personas que tienen una discapacidad y necesitan ayuda para participar en este proceso deben comunicarse con Pam Castañeda, Administradora de

Juntas y Comisiones, al menos diez días antes de la reunión o tan pronto como sea posible a la dirección anterior o enviar un correo electrónico a pam.castaneda@state.nm.us. Los usuarios de TDY pueden acceder a su número a través de la Red de Retransmisión de Nuevo México llamando al 1-800-659-8331.

La Junta puede tomar una decisión sobre la revocación del reglamento propuesto al final de la audiencia, o la Junta puede convocar una reunión después de la audiencia para considerar acciones sobre la propuesta.

El Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación:

Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 S. Francis Dr., Suite N4050
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Santa Fe, NM 87502
(505) 827-2855
nd.coordinator@state.nm.us

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Pub# 1250785

Run Date: June 15, 2018

LAS CRUCES SUN-NEWS

AFFIDAVIT OF PUBLICATION

Ad No.
0001250789

MARY ARCHULETA / COLEMAN SMITH
AIR QUALITY BUREAU
525 CAMINO DE LOS MARQUEZ, SUITE 1

SANTA FE NM 87505

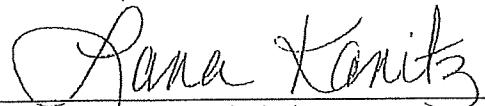
I, a legal clerk of the **Las Cruces Sun-News**, a newspaper published daily at the county of Dona

Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

06/15/18

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec.

Chapter 167, Laws of 1937.



Legal Clerk

STATE OF WISCONSIN ss.

County of Brown

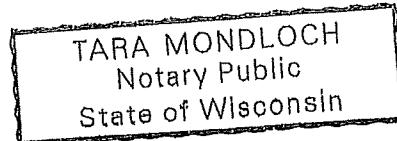
Subscribed and sworn before me this
15th of June 2018.

Tara Mondloch RECEIVED
NOTARY PUBLIC in and for
Brown County, Wisconsin JUN 20 2018
Air Quality Bureau

July 6 2021

My Commission Expires

Ad#:0001250789
P O : 29214
of Affidavits :0.00



NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on September 28, 2018, at 9:30 a.m., at the New Mexico Farm and Ranch Heritage Museum, 4100 Dripping Springs Rd., Las Cruces, New Mexico. The purpose of the hearing is to consider the matter of EIB 18-04(R), proposed revisions to the New Mexico State Implementation Plan ("SIP") regarding the Air Quality Control Regulation codified in the New Mexico Administrative Code (NMAC) at 20.2.3 NMAC, Ambient Air Quality Standards.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from NMED to repeal the New Mexico Ambient Air Quality Standards for total suspended particulate (TSP) contained in 20.2.3.109 NMAC. The U.S. Environmental Protection Agency replaced the national ambient air quality standards (NAAQS) for TSP with PM10 in 1987. The Air Quality Bureau ceased ambient monitoring for TSP in 1998. The Air Quality Bureau has conducted a thorough analysis of these standards and has concluded that the repeal of the standards will not result in a relaxation of emissions controls or an adverse effect on air quality, and is not necessary to maintain the NAAQS for particulate matter in New Mexico. If adopted by the Board, the repeal of 20.2.3.109 NMAC would be submitted to EPA for removal from New Mexico's SIP.

The full text of NMED's proposed regulation repeal is available on the Air Quality Bureau's web site at <https://www.env.nm.gov/air-quality/proposed-regs/> or by contacting Kerwin Singleton at 505-476-4350 or kerwin.singleton@state.nm.us. The proposed regulation repeal may also be examined during office hours at the Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

The hearing will be conducted in accordance with: 20.1.1 NMAC, Rulemaking Procedures - Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; the Air Quality Control Act, NMSA 1978, Section 74-2-6; and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written Notice of Intent to do so. The Notice of Intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form;
- (4) include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of Intent to present technical testimony at the hearing must be received in the Office of the Board not later than 5:00 pm on September 7, 2018, and should reference the docket number, EIB 18-04 (R), and the date of the hearing. Notices of Intent to present technical testimony should be submitted to:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castaneda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help to participate in this hearing process should contact Pam Castañeda, Administrator for Boards & Commissions, at least ten days prior to the meeting or as soon as

possible at the above address or e-mail pam.castaneda@state.nm.us. TDY users please access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed regulation repeal at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

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. Part 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:

Kristine Pintado, 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@state.nm.us

If you believe that you have been discriminated against with respect to an 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.

Pub#1250789

Run Date: June 15, 2018

Las Notificaciones de Intención de presentar testimonio técnico en la audiencia deben ser recibidas en la Oficina del Consejo antes de las 5:00 p.m. del 7 de septiembre de 2018, y deben hacer referencia al número de expediente, EIB 18-04 (R), y la fecha de la audiencia. Las Notificaciones de Intención para presentar un testimonio técnico deben ser enviadas a:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax: (505) 827-1828
email: pam.castañeda@state.nm.us

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Un miembro del público que desee presentar una declaración escrita para el registro, en lugar de proporcionar un testimonio oral en la audiencia, deberá presentar la declaración escrita antes de la audiencia o presentarla durante la audiencia.

Las personas que tienen una discapacidad y necesitan ayuda para participar en este proceso deben comunicarse con Pam Castañeda, Administradora de Juntas y Comisiones, al menos diez días antes de la reunión o tan pronto como sea posible a la dirección anterior o enviar un correo electrónico a pam.castañeda@state.nm.us. Los usuarios de TTY pueden acceder a su número a través de la Red de Retransmisión de Nuevo México llamando al 1-800-659-8331.

La Junta puede tomar una decisión sobre la revocación del reglamento propuesto al final de la audiencia, o la Junta puede convocar una reunión después de la audiencia para considerar acciones sobre la propuesta.

El Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación:

Kristine Pintado, 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@state.nm.us

Si usted pliega que ha sido discriminado con respecto a un programa o actividad de NMED, usted puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación.

Journal: June 17, 2018



JUNTA DE MEJORA AMBIENTAL
DE NUEVO MÉXICO
NOTIFICACIÓN DE AUDIENCIA PÚBLICA
DE REGLAMENTACIÓN

La Junta de Mejora Ambiental de Nuevo México (Junta) celebrará una audiencia pública el 28 de septiembre, 2018, a las 9:30 a.m., en New Mexico Farm and Ranch Heritage Museum, 4100 Dripping Springs Road, Las Cruces, New Mexico. El motivo de la audiencia pública es considerar el asunto del EIB 18-04 (R), revisiones propuestas al Plan de Implementación Estatal de Nuevo México (SIP, por su sigla en inglés) con respecto al Reglamento de Control de la Calidad del Aire codificado en el Código Administrativo de Nuevo México (NMAC, por su sigla en inglés), en 20.2.3 NMAC, Estándares de Calidad Ambiental del Aire.

El proponente de esta enmienda regulatoria es el Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés).

El motivo de la audiencia pública es considerar y posiblemente tomar medidas en una petición de NMED para revocar los estándares de calidad ambiental del aire de Nuevo México para partículas suspendidas totales (TSP, por su sigla en inglés) contenidas en 20.2.3.109 NMAC. La Agencia de Protección Ambiental de EE. UU. reemplazó los estándares nacionales de calidad ambiental del aire (NAAQS, por su sigla en inglés) por TSP con PM10 en 1987. La Oficina de Calidad del Aire dejó de monitorear el ambiente para TSP en 1998. La Oficina de Calidad del Aire realizó un análisis exhaustivo de estos estándares y concluyó que la revocación de los estándares no dará como resultado una relajación de los controles de emisiones o un efecto adverso en la calidad del aire, y que no es necesario mantener los NAAQS para material particulado en Nuevo México. Si la Junta lo adopta, la revocación del 20.2.3.109 NMAC será presentada a EPA para su eliminación del SIP de Nuevo México.

El texto completo de la revocación del reglamento propuesto por NMED está disponible en el sitio web de la Oficina de Calidad del Aire en <https://www.env.nm.gov/air-quality/proposed-reg/> o comunicándose con Kevin Singleton al 505-476-4350 o kevin.singleton@state.nm.us. La revocación del reglamento propuesto también se puede examinar durante horas hábiles en Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

La audiencia se llevará a cabo en acuerdo con: 20.1.1 NMAC, Procedimientos de Reglamentación - Junta de Mejora Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; la Ley de Control de Calidad del Aire, NMSA 1978, Sección 74-2-8; y otros procedimientos aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia pública para presentar pruebas, datos, puntos de vista y argumentos relevantes, oralmente o por escrito, para presentar pruebas y para examinar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar ante la Junta, por escrito, una Notificación de Intención de hacerlo. La Notificación de Intención deberá:

- (1) Identificar a la persona para la cual testificará el/los testigo/s;
- (2) Identificar a cada testigo técnico que la persona tiene la intención de presentar y declarar las calificaciones de ese testigo, incluida una descripción de su historial educativo y laboral;
- (3) Incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- (4) Incluir el texto de cualquier modificación recomendada al

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO

County of Bernalillo SS

JUNTADEMEJORAAM
BIENTALDENUEVOME
XICONOTIFICACIOND
EAUDIENCIAPUBLICA
DEREGLAMENTACION
LAJUNTADEMEJORAA
MBIENTALDENUEVOM
EXICOJUNTACELEBR
AR

Bernadette Gonzales , the undersigned, on oath states that she Is an authorized Representative of The Albuquerque Journal, and that this newspaper Is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

06/17/2018



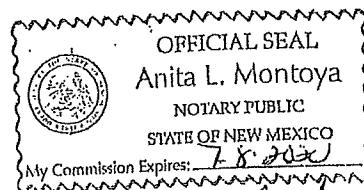
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

17 day of June _____ of 2018

PRICE _____ \$388.25

Statement to come at the end of month.

ACCOUNT NUMBER _____ 1007594



Deming Headlight

AFFIDAVIT OF PUBLICATION

Ad No.
0001250875

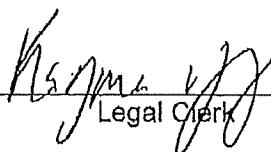
NEW MEXICO ENVIRONMENT DEPT
1190 ST. FRANCIS

SANTA FE NM 87502

I, a legal clerk of the **Deming Headlight**, a newspaper published weekly in the county of Luna, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

06/15/18

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.



Legal Clerk

Subscribed and sworn before me this
20th of July 2018.



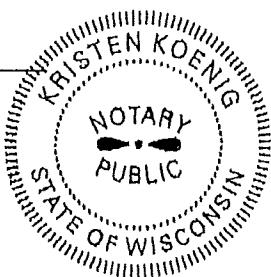
State of WI, County of Brown

NOTARY PUBLIC

3/20/2022

My Commission Expires

Ad#:0001250875
P O : 29214
of Affidavits :0.00



**NEW MEXICO ENVIRONMENTAL
IMPROVEMENT BOARD**
NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on September 28, 2018, at 9:30 a.m., at the New Mexico Farm and Ranch Heritage Museum, 4100 Dripping Springs Rd., Las Cruces, New Mexico. The purpose of the hearing is to consider the matter of EIB 18-04(R), proposed revisions to the New Mexico State Implementation Plan ("SIP") regarding the Air Quality Control Regulation codified in the New Mexico Administrative Code (NMAC) at 20.2.3 NMAC, Ambient Air Quality Standards.

The proponent of this regulatory amendment is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from NMED to repeal the New Mexico Ambient Air Quality Standards for total suspended particulate (TSP) contained in 20.2.3.109 NMAC. The U.S. Environmental Protection Agency replaced the national ambient air quality standards (NAAQS) for TSP with PM10 in 1987. The Air Quality Bureau ceased ambient monitoring for TSP in 1998. The Air Quality Bureau has conducted a thorough analysis of these standards and has concluded that the repeal of the standards will not result in a relaxation of emissions controls or an adverse effect on air quality, and is not necessary to maintain the NAAQS for particulate matter in New Mexico. If adopted by the Board, the repeal of 20.2.3.109 NMAC would be submitted to EPA for removal from New Mexico's SIP.

The full text of NMED's proposed regulation repeal is available on the Air Quality Bureau's web site at <https://www.env.nm.gov/air-quality/proposed-regs/> or by contacting Kervin Singleton at 505-476-4350 or kervin.singleton@state.nm.us. The proposed regulation repeal may also be examined during office hours at the Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

The hearing will be conducted in accordance with: 20.1.1 NMAC, Rulemaking Procedures - Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; the Air Quality Control Act, NMSA 1978, Section 74-2-6; and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written Notice of Intent to do so. The Notice of Intent shall:

- (1) Identify the person for whom the witness(es) will testify;
- (2) Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- (3) Include a copy of the direct testimony of each technical witness in narrative form;
- (4) Include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of Intent to present technical testimony at the hearing must be received in the Office of the Board not later than 5:00 pm on September 7, 2018, and should reference the docket number, EIB 18-04 (R), and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
o/o New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castañeda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing.

ing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help to participate in this hearing process should contact Pam Castañeda, Administrator for Boards & Commissions, at least ten days prior to the meeting or as soon as possible at the above address or e-mail pam.castañeda@state.nm.us. TDY users please access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed regulation repeal at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

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. Part 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:

Kristine Pintado, 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@state.nm.us

If you believe that you have been discriminated against with respect to an 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.

**JUNTA DE MEJORA AMBIENTAL
DE NUEVO MÉXICO
NOTIFICACIÓN DE AUDIENCIA
PÚBLICA DE REGLAMENTACIÓN**

La Junta de Mejora Ambiental de Nuevo México (Junta) celebrará una audiencia pública el 28 de septiembre, 2018, a las 9:30 a.m., en New Mexico Farm and Ranch Heritage Museo, 4100 Dripping Springs Road, Las Cruces, New Mexico. El motivo de la audiencia pública es considerar el asunto del BEI 18-04 (R), revisiones propuestas al Plan de Implementación Estatal de Nuevo México (SIP, por su sigla en inglés) con respecto al Reglamento de Control de la Calidad del Aire codificado en el Código Administrativo de Nuevo México (NMAC, por su sigla en inglés), en 20.2.3 NMAC, Estándares de Calidad Ambiental del Aire.

El proponente de esta enmienda regulatoria es el Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés).

El motivo de la audiencia pública es considerar y posiblemente tomar medidas en una petición de NMED para revocar los estándares de calidad ambiental del aire de Nuevo México para partículas suspendidas totales (TSP, por su sigla en inglés) contenidas en 20.2.3.109 NMAC. La Agencia de Protección Ambiental de EE. UU. reemplazó los estándares nacionales de calidad ambiental del aire (NAAQS, por su sigla en inglés) por TSP con PM10 en 1987. La Oficina de Calidad del Aire dejó de monitorear el ambiente para TSP en 1998. La Oficina de Calidad del Aire realizó un análisis exhaustivo de estos estándares y concluyó que la revocación de los estándares no dará como resultado una relajación de los controles de emisiones o un efecto adverso en la calidad del aire, y que no es necesario mantener los NAAQS para material particulado en

Nuevo México. Si la Junta lo adopta, la revocación del 20.2.3.109 NMAC será presentada a EPA para su eliminación del SIP de Nuevo México.

El texto completo de la revocación del reglamento propuesto por NMED está disponible en el sitio web de la Oficina de Calidad del Aire en <https://www.env.nm.gov/alr-quality/proposed-regs/> o comunicándose con Kerwin Singleton al 505-476-4350 o kerwin.singleton@state.nm.us. La revocación del reglamento propuesto también se puede examinar durante horas hábiles en Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505.

La audiencia se llevará a cabo en acuerdo con: 20.1.1 NMAC, Procedimientos de Reglamentación - Junta de Mejora Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; la Ley de Control de Calidad del Aire, NMSA 1978, Sección 74-2-6; y otros procedimientos aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia pública para presentar pruebas, datos, puntos de vista y argumentos relevantes, oralmente o por escrito, para presentar pruebas y para examinar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar ante la Junta, por escrito, una Notificación de Intención de hacerlo. La Notificación de Intención deberá:

- (1) identificar a la persona para la cual testificará el/los testigo/s;
- (2) identificar a cada testigo técnico que la persona tiene la intención de presentar y declarar las calificaciones de ese testigo, incluida una descripción de su histórico educativo y laboral;
- (3) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- (4) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto;
- (5) hacer una lista y adjuntar todas las pruebas anticipadas que ofrecerá esa persona en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Las Notificaciones de Intención de presentar testimonio técnico en la audiencia deben ser recibidas en la Oficina del Consejo antes de las 5:00 p.m. del 7 de septiembre de 2018, y deben hacer referencia al número de expediente, EIB 18-04 (R), y la fecha de la audiencia. Las Notificaciones de Intención para presentar un testimonio técnico deben ser enviadas a:

Pam Castañeda, Administrator for Boards & Commissions
Environmental Improvement Board
c/o New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-1628
email: pam.castañeda@state.nm.us

Cualquier miembro del público puede testificar en la audiencia. No se requiere notificación previa para presentar un testimonio no técnico en la audiencia. Cualquiero de estos miembros también pueden ofrecer pruebas técnicas en relación con su testimonio, siempre y cuando las pruebas no sean excesivamente repetitivas del testimonio.

Un miembro del público que desee presentar una declaración escrita para el registro, en lugar de proporcionar un testimonio oral en la audiencia, deberá presentar la declaración escrita antes de la audiencia o presentarla durante la audiencia.

Las personas que tienen una discapacidad y necesitan ayuda para participar en este proceso deben comunicarse con Pam Castañeda, Administradora de Juntas y Comisiones, al menos diez días antes de la reunión o tan pronto como sea posible a la dirección anterior o enviar un correo electrónico a pam.castañeda@state.nm.us. Los usuarios de TTY pueden acceder a su número a través de la Red de Retransmisión de Nuevo México llamando al 1-800-659-8331.

La Junta puede tomar una decisión sobre la revocación del reglamento propuesto al final de la audiencia, o la Junta puede convocar una reunión después de la audiencia para considerar acciones sobre la propuesta.

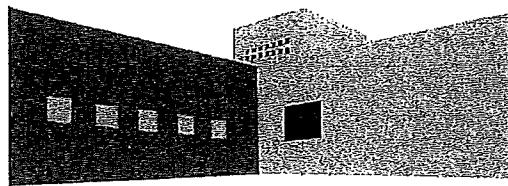
El Departamento de Medio Ambiente de Nuevo México (NMED, por su sigla en inglés) no discrimina por motivos de raza, color, origen nacional,

discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación:

Kristine Pintado, 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@state.nm.us

Si usted piensa que ha sido discriminado con respecto a un programa o actividad de NMED, usted puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.envr.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación.

Pub#125085 Run Date: June 15, 2018



NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, NM 87507 US
(505) 476-7902

Invoice

BILL TO
ED-Air Quality Bureau
525 Camino de los Marquez,
Ste 1
Santa Fe, NM 87505

INVOICE #	DATE	TOTAL DUE	DUE DATE	ENCLOSED
3333	06/26/2018	\$444.00	06/26/2018	

VOLUME ISSUE P.O. NUMBER
XXIX 12 66700-0000029410

DATE	ACTIVITY	QTY	RATE	AMOUNT
06/26/2018	NM Register - 431902 Notice of Rulemaking Hearing on 9/28/2018.	35	3.00	105.00
06/26/2018	NM Register - 431902 Notificación de Audiencia Pública de Reglamentación el 9/28/2018.	39	3.00	117.00
06/26/2018	NM Register - 431902 Notice of Rulemaking Hearing on 9/28/2018.	35	3.00	105.00
06/26/2018	NM Register - 431902 Aviso de Audiencia Sobre Reglamentación el 9/28/2018.	39	3.00	117.00

Thank you for your business!

BALANCE DUE

\$444.00

From: [Singleton,Kerwin, NMENV](#)
To: [lcs@nmlegis.gov](#)
Cc: [Knight, Andrew, NMENV](#)
Subject: Notice of Rulemaking Hearing
Date: Wednesday, June 27, 2018 11:49:41 AM
Attachments: [AQB_Spanish_TSP_NMAQS Repeal Hearing Notice.pdf](#)
[TSP_NMAQS Repeal Hearing Notice English 5-21-18.pdf](#)

Good afternoon:

Please find the English and Spanish version of a public notice of rulemaking hearing attached to this email. These notices have been published in the NM Register and in newspapers of general circulation for the areas of the state affected by the rulemaking.

Please let me know if you have any questions regarding this matter.

Respectfully,

Kerwin C. Singleton
Manager, Control Strategies
NMED-AQB
505.476.4350

From: [Singleton,Kerwin_NMENV](#)
To: [Portal,Sunshine_DoIT](#)
Cc: [Knight, Andrew_NMENV](#)
Subject: Notice of Rulemaking Hearing
Date: Wednesday, June 27, 2018 11:48:35 AM
Attachments: [AQB Spanish TSP NMAQS Repeal Hearing Notice.pdf](#)
[TSP NMAQS Repeal Hearing Notice English 5-21-18.pdf](#)

Good afternoon:

Please find the English and Spanish version of a public notice of rulemaking hearing attached to this email. These notices have been published in the NM Register and in newspapers of general circulation for the areas of the state affected by the rulemaking.

Please let me know if you have any questions regarding this matter.

Respectfully,

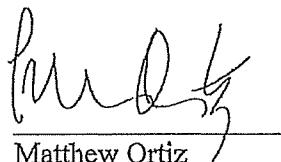
Kerwin C. Singleton
Manager, Control Strategies
NMED-AQB
505.476.4350

NEW MEXICO 
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

Affidavit of Publication in New Mexico Register

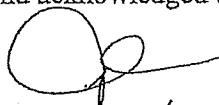
I, Matthew Ortiz, certify that the agency noted on Invoice # 3333 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXIX, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 3333, and that Invoice # 3333 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

Affiant:



Matthew Ortiz

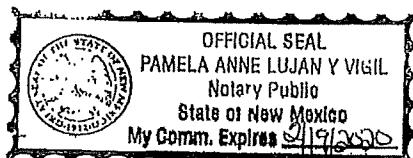
Subscribed, sworn and acknowledged before me this 26 day of June, 2018.



Notary Public:

My Commission Expires:

9/14/2020



1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Robert J. Tórrez
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Wayne Johnson
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Ned Fuller
General Services Department

Lynne S. Rhys
State Law Librarian

Exhibit 7



State of New Mexico
ENVIRONMENT DEPARTMENT



Office of General Counsel

SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

Harold Runnels Building
1190 Saint Francis Drive, PO Box 5469
Santa Fe, NM 87502-5469
Telephone (505) 827-2990 Fax (505) 827-1628
www.env.nm.gov

BUTCH TONGATE
Cabinet Secretary

J. C. BORREGO
Deputy Secretary

August 30, 2018

Via E-mail

Small Business Regulatory Advisory Commission
c/o Johanna Nelson
New Mexico Economic Development Department
1100 St. Francis Drive
Santa Fe, New Mexico 87501

Re: Proposed Repeal of Regulations 20.2.3.109 NMAC – *Particulate Standards*

Dear Chairman and Members of the Small Business Regulatory Advisory Commission:

The New Mexico Environment Department (“Department”) hereby provides notice to the Small Business Regulatory Advisory Commission, pursuant to NMSA 1978, Section 14-4A-1, *et. seq.* that the Department’s Air Quality Bureau (“AQB”) is proposing to repeal the standards for total suspended particulate matter (“TSP”) found at 20.2.3.109 NMAC (“Regulations”).

This repeal is being done because the TSP standards are outdated, and have been superseded by other regulations. The repeal will be done in conjunction with AQB’s proposal of a fugitive dust rule for the state. This repeal is expected to have no effect on small businesses in New Mexico.

The hearing before the Environmental Improvement Board will take place on September 28, 2018, in Las Cruces. If you have further questions, comments, or would like to meet and discuss this rule change, please feel free to contact me directly at (505) 222-9540 or at andrew.knight@state.nm.us.

Sincerely,

Andrew P. Knight, *Esq.*
Assistant General Counsel

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED AMENDMENTS TO
20.2.3 NMAC – *Ambient Air Quality Standards***

Air Quality Bureau **No. EIB 18-04 (R)**
Environmental Protection Division
New Mexico Environment Department,

Petitioner.

**ENVIRONMENTAL IMPROVEMENT BOARD'S
FINAL ORDER AND STATEMENT OF REASONS**

1. The Board met with a quorum on September 28, 2018 to conduct a hearing on amendments to 20.2.3 NMAC – *Ambient Air Quality Standards* (the “Rule”) proposed by the New Mexico Environment Department (“Department”). The hearing was conducted in accordance with the procedures found at 20.1.1 NMAC and was transcribed by Kathy Townsend Court Reporters.

2. The public notice requirements of 20.1.1 NMAC were met through publication of notices in English and Spanish in the Albuquerque Journal, the Las Cruces Sun News, the Deming Headlight, and the New Mexico Register, informing the public of the proposed changes and the date, time and location of the public hearing.

3. During the hearing, the Board heard technical testimony from and questioned the Department’s witnesses and admitted the Department’s exhibits. No other party filed a Notice of Intent to Present Technical Testimony pursuant to 20.1.1 NMAC.

4. After Deliberation, the Board voted ____ to ____ to adopt the amendments as proposed by the Department in Exhibit 1 of the Petition.

5. The Environmental Improvement Act NMSA 1978, Section 74-1-8 (2000) and the Air Quality Control Act, NMSA 1978, Section 74-2-5 (2007) provide authority to the Board to amend the air quality regulations after proper public notice and a hearing.

6. The purpose of the proposed revision to 20.2.3 NMAC is to remove Section 109 of the regulation, containing ambient air quality standards for total suspended particulate matter that are no longer consistent with modern air quality regulation.

7. The Air Quality Bureau has conducted a thorough analysis of the particulate standards in 20.2.3.109 NMAC and has concluded that the standards can be repealed without a relaxation of emissions controls or an adverse effect on air quality.

8. The Air Quality Bureau has concluded that the particulate standards in 20.2.3.109 NMAC are not necessary to maintain the National Ambient Air Quality Standards for particulate matter in New Mexico.

9. Repeal of the standards in Section 109 will not impact the attainment status of the New Mexico's particulate matter (PM) attainment areas or any other Clean Air Act (CAA) requirement.

10. The New Mexico ambient air quality standards for total suspended particulates have not been revised since their original promulgation.

11. The current federal air quality standards using PM₁₀ (particulate matter 10 microns or less in diameter) and PM_{2.5} (particulate matter 2.5 microns or less in diameter) as indicators are better suited to address health concerns than standards based on total suspended particulates, such as 20.2.3.109 NMAC.

12. The U.S. EPA has not made any nonattainment designations related to total suspended particulates for many years.

13. Section 20.2.3.109 NMAC is an artifact that is no longer consistent with modern air quality regulation.

14. Many other air quality rules are currently in place that limit and control emissions of particulate matter. These rules include enforceable emission limits, control measures, permits, fees, and compliance schedules.

15. The Department discontinued ambient monitoring for total suspended particulates in April 1998.

16. The Department is developing a fugitive dust rule that will be applicable in areas of the state requiring a mitigation plan in accordance with federal regulations found at 40 CFR Part 51.930.

17. The New Source Review and Title V permitting programs include source-specific emission limits and stringent operating, monitoring, recordkeeping and reporting requirements designed to minimize fugitive emissions of particulates.

18. The General Construction Permits issued under 20.2.72 NMAC for the aggregate handling and construction industries all include best management practice conditions limiting fugitive emissions, including restrictions on visible emissions crossing the perimeter of the Restricted (non-publicly accessible) Area, material handling requirements to limit the generation of fugitive emissions, control requirements for haul roads, and a requirement to cease operations during atmospheric conditions under which emissions cannot be controlled.

19. New Source Review permits issued under 20.2.72 NMAC for mineral processing facilities include conditions requiring control of fugitive emissions from material storage and handling and haul roads, general housekeeping, and fugitive dust control plans.

20. Similarly, permits issued under 20.2.70 NMAC for solid waste landfills include conditions to control fugitive dust from actively used cells and cells under construction, to control fugitive dust from haul roads, and a requirement to develop fugitive dust plans.

21. The conditions limiting total suspended particulates that are contained in existing permits will remain in force following this repeal until the permittee requests a permit revision.

22. The Department has concluded that sufficient rules and procedures other than Section 109 are in place to assure compliance with the particulate matter national ambient air quality standards and to address nuisance particulate matter.

WHEREFORE, the Board hereby adopts the amendments to 20.2.3 NMAC as proposed by the Department in Exhibit 1 to the Petition.

IT IS SO ORDERED.

JOHN VOLKERDING
Chair, New Mexico Environmental Improvement Board