

*State of New Mexico*  
**ENVIRONMENTAL IMPROVEMENT BOARD**  
*Harold Runnels Building, N-2150*  
*1190 St. Francis Drive, P. O. Box 5469*  
*Santa Fe, New Mexico 87502*

**Environmental Improvement Board Meeting**  
**November 2, 2010 1:00 p.m.**  
**New Mexico State Capitol, Room 322**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

**Members Present:**

Gay Dillingham, Chair  
Gregory Green, Vice-Chair  
Frank Simms, Secretary  
Abbas Ghassemi, Member  
Leland Gould, Member  
James Gollin, Member  
John Horning, Member

**Members Absent:**

None

**Others Present:**

**Please see attached meeting sign-in sheets**

The Chair called the meeting to order at 1:00 p.m.

**Item 1. Roll Call**

Roll was called and it was noted that a quorum was present.

**Item 2. Approval of Agenda**

**Action: Mr. Green moved Board approval of the agenda. Mr. Gould seconded.**

**The motion passed unanimously.**

**Item 3. Approval of October 4, 2010 meeting minutes.**

**Action:** Mr. Green moved Board approval of the minutes. Mr. Gould seconded.  
The motion passed unanimously.

**Item 4. Public Comment**

None.

**Item 5. Request for hearing in re: Petition to amend 20.3.3, 20.3.4, 20.3.10 and 20.3.12 NMAC, Radiation Protection Regulations, EIB 10-12 (R). Jennifer Hower, NMED/OGC; Michael Ortiz, NMED/RCB, and Daniela Bowman, NMED/RCB.**

Ms. Hower explained the Bureau's need to amend the rules in order to comply with those of the U.S. Nuclear Regulatory Commission. Additionally, she noted several grammatical and style matters to be revised.

There was a brief Board discussion regarding scheduling.

**Action:** Mr. Green moved that the Board approve scheduling a hearing in EIB 10-12 (R), Radiation Protection Regulations, on the April 4, 2011 meeting agenda. Mr. Gould seconded.

The motion passed unanimously.

**Item 6. Board deliberations and possible decision in re: EIB 10-04 (R), In the Matter of Proposed New Regulations, 20.2.350 NMAC, Greenhouse Cap and Trade Provisions.**

The Chair opened the deliberations in EIB 10-04 (R), .

Kathy Townsend Court Reporters transcribed the deliberations which are available for review in the office of the Environmental Improvement Board Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room 2150, Santa Fe, New Mexico 87505.

The Board proposed, deliberated and voted on three amendments to the proposed rule.

**Action:** Chair Dillingham moved to amend Section 20.2.350.17(H) to require the Department to return to the Board with cost containment proposals if the price per metric ton for offsets and allowances reaches an average \$45 for a period of six continuous months adjusted for inflation. Board Member Ghassemi suggested allowing Board counsel to make any grammatical changes necessary so the amendment reads properly. Mr. Green seconded.

**Roll call vote:**

Mr. Gould	no
Mr. Horning	yes
Mr. Simms	yes
Mr. Gollin	yes
Mr. Ghassemi	yes
Mr. Green	yes
Ms. Dillingham	yes

The motion passed, 6 in the affirmative; 1 in the negative.

**Action:** Mr. Horning moved to amend 20.2.350.7(N) NMAC by striking the final sentence which reads: "This definition does not aggregate facilities." Mr. Green seconded for discussion purposes.

**Roll call vote:**

Mr. Gollin	no
Mr. Simms	no
Mr. Horning	yes
Mr. Gould	no
Mr. Ghassemi	no
Mr. Green	no
Ms. Dillingham	no

The motion failed, 1 in the affirmative; 6 in the negative.

**Action:** Mr. Green moved to amend 20.2.350.7(E) NMAC (with the friendly amendment of Mr. Gollin) to read "A cap facility is any facility subject to the obligation to surrender compliance instruments pursuant to Section 20.2.350.300 NMAC, other than existing Class A municipal utilities that emit less than 210,000 metric tons within their boundaries."

**Roll call vote:**

Mr. Ghassemi	no
Mr. Green	yes
Mr. Gollin	yes
Mr. Simms	yes
Mr. Horning	no
Mr. Gould	yes
Ms. Dillingham	no

The motion passed, 4 in the affirmative; 3 in the negative.

Following lengthy deliberations, the Board took the following action:

**Action:** Mr. Green moved to pass the rule as amended. Mr. Horning seconded. A lengthy discussion followed. Chair Dillingham called the question and another lengthy discussion ensued. Mr. Ghassemi and Mr. Green called for a vote. Chair Dillingham proposed a friendly amendment which Mr. Green suggested should be a substitute motion. Chair Dillingham made a substitute motion to approve the rule with only the amendment to Section 20.2.350.17(H). Mr. Horning seconded. Chair Dillingham asked for a roll call on the substitute motion.

**Roll call vote:**

Mr. Gould	no
Mr. Ghassemi	yes
Mr. Green	no
Mr. Simms	no
Mr. Horning	yes
Mr. Gollin	yes
Ms. Dillingham	yes

The substitute motion passed, four votes in the affirmative; three votes in the negative.

  
Gay Dillingham, Board Chair