AQD EXHIBIT
2b

Notices of Rulemaking and Proposed Rules

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
NOTICE OF HEARING AND REGULAR MEETING

On April 10, 2013, at 5:30 pm, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers located in the basement level of the Albuquerque-Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM.

The hearing will address: Proposal to Amend 20.11.60 NMAC, *Permitting In Nonattainment Areas*; 20.11.61 NMAC, *Prevention Of Significant Deterioration*; and 20.11.42 NMAC, *Operating Permits*. The Amendments to 20.11.42 NMAC Are Proposed As a Revision to the Title V Operating Permit Program, and the Amendments to 20.11.60 NMAC and 20.11.61 NMAC Are Proposed As a Revision to the New Mexico State Implementation Plan for Air Quality (SIP). The Air Quality Division (AQD) of the City of Albuquerque Environmental Health Department is proposing these amendments for the following reasons:

1. The provisions governing state implementation of the Nonattainment New Source Review (NNSR) permit program are contained in the CFR, Title 40, *Protection of Environment*, Part 51, *Requirements for Submittal of Implementation Plans*, Subpart I, *Review of New Sources and Modifications*, Section 165, *Permit Requirements*. Albuquerque - Bernalillo County's implementation of this program is governed by 20.11.60 NMAC, *Permitting In Nonattainment Areas*.

2. The provisions governing state implementation of the Prevention of Signification Deterioration (PSD) permit program are contained in the CFR Title 40, *Protection of Environment*, Part 51, *Requirements for Submittal of Implementation Plans*, Subpart I, *Review of New Sources and Modifications*, Section 166, *Prevention of Significant Deterioration of Air Quality*. The provisions governing direct federal implementation of PSD are found at Title 40, *Protection of Environment*, Part 52, *Approval and Promulgation of Implementation Plans*, Subpart A, *General Provisions*, Section 21, *Prevention of Significant Deterioration of Air Quality*. Albuquerque - Bernalillo County's implementation of the PSD program is governed by 20.11.61 NMAC, *Prevention of Significant Deterioration*.

3. The provisions governing major source operating permits pursuant to Title V of the Clean Air Act (CAA) are contained in 40 CFR Part 70, *State Operating Permit Programs*, and, within Albuquerque - Bernalillo County, at 20.11.42 NMAC, *Operating Permits*.

4. On **May 16, 2008**, the U.S. Environmental Protection Agency (EPA) promulgated "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)", effective 7/15/08 [Federal Register Vol. 73, No. 96, 28321-50]. These amendments affect 40 CFR 51.165, and have already been incorporated into the currently effective version of 20.11.60 NMAC. These amendments also affect 40 CFR 51.166 and 52.21, and all but one amendment has been incorporated into the currently effective version of 20.11.61 NMAC. This remaining amendment adds an additional exemption for stationary sources, and is cited as 20.11.61.18.D.(3) NMAC in the proposed draft. The department has the discretion to exempt a proposed major stationary source or major modification from *Air Quality Analysis And Monitoring Requirements*, with respect to monitoring for a particular pollutant if. . .the pollutant is **not** listed in Table 3 of 20.11.61.28 NMAC, *Significant Monitoring Concentrations*.

5. On **October 20, 2010**, the EPA promulgated "PSD for $PM_{2.5}$ - Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)", effective 12/20/10 [Federal Register Vol. 75, No. 202, 64864-907]. These amendments affect 40 CFR 51.165, and have been incorporated into the proposed draft of 20.11.60 NMAC. These amendments also affect 40 CFR 51.166 and 52.21 and have been incorporated into the proposed draft of 20.11.61 NMAC. One exception is for an amendment that would have been inserted at 20.11.61.15.B.(2) NMAC, re: "SILs" [see 40 CFR 51.166.(k)(2) & 52.21(k)(2)], but which EPA has conceded to be vacated and remanded to EPA, in response to *Sierra Club v. EPA*, another exception is the proposed SMC for $PM_{2.5}$ at 20.11.61.28 NMAC which was also vacated by the US Court of Appeals [Case No . 10-1413, decided January 22, 2013]. Incorporation of changes to the federal PSD rule into the local PSD rule are required not only to keep the local PSD program up to date, but is also required for the Infrastructure SIP for the 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standards (NAAQS) because EPA requires that any i-SIP submittal should address any new or revised PSD program requirements. The NO_2 i-SIP is anticipated to be submitted to EPA in May, 2013.

6. On **March 30, 2011**, the EPA promulgated "PSD and NNSR: Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions", effective 3/30/11 [Federal Register Vol. 76, No. 61, 17548-56]. These amendments affect 40 CFR 51.165, 51.166 and 52.21, and have been incorporated into the proposed drafts of 20.11.60 NMAC, and 20.11.61 NMAC.

7. On **July 20, 2011**, EPA promulgated "Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the PSD and Title V Programs", effective 7/20/11. "State, local, and tribal permitting authorities may adopt the deferral at their option but the deferral is effective upon publication for the PSD and Title V permit programs that are implemented by EPA." [Federal Register Vol. 76, No. 139, 43490-43508]. These amendments affect 40 CFR 51.166 and 52.21, and have been incorporated into the proposed draft of 20.11.61 NMAC. They also affect 40 CFR 70, *State Operating Permit Programs*, at 70.2, *Definitions*, and have been incorporated into the proposed draft of 20.11.42 NMAC, *Operating Permits*, at 20.11.42.7.II.(2) NMAC.

"This final action defers, for a period of three years, the application of the PSD and Title V permitting requirements to CO_2 emissions from bioenergy and other biogenic stationary sources (biogenic CO_2). Adoption of the biomass deferral provisions will allow the Division to avoid the need to determine net carbon cycle impacts for bio-energy projects until EPA has adopted a consistent and practical framework for such calculations, and avoid spending valuable time and resources evaluating sources that may have *de minimis*, neutral or positive impact on net CO_2 levels in the atmosphere.

8. On **July 12, 2012**, EPA promulgated "PSD and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits", effective 8/13/12 [Federal Register Vol. 77, No. 134, 41051-75]. These amendments affect 40 CFR 52.21, and have been incorporated into the proposed draft of 20.11.61 NMAC.

Adoption of the PAL amendments for GHGs would allow the Division to provide greater operational flexibility to permitted sources by issuing GHG PALs to GHG-only sources without requiring the sources to become a major source. GHG-only sources could obtain a GHG PAL and remain a minor source as long as their GHG emissions remain below the PAL.

9. On **October 25, 2012**, EPA promulgated "Implementation of the NSR Program for $PM_{2.5}$: Amendment to the Definition of "Regulated NSR Pollutant" Concerning Condensable Particulate Matter", **effective 12/24/12** [Federal Register Vol. 77, No. 207, 65107-19]. These amendments affect 51.166 and 52.21, and have been incorporated into the proposed draft of 20.11.61 NMAC

These amendments to EPA's rules for the CAA NSR permitting program regard the definition of "regulated NSR pollutant," clarifying when "condensable particulate matter" should be measured.

Following the hearing, the Air Board will hold its regular monthly meeting during which the Air Board is expected to consider adopting the Proposal to Amend 20.11.47 NMAC, *Emissions Inventory Requirements*, Incorporate Said Amendments into the New Mexico State Implementation Plan For Air Quality (SIP) and Repeal 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*.

The Air Board is the federally delegated air quality authority for Albuquerque and Bernalillo County. Local delegation authorizes the Air Board to administer and enforce the CAA and the New Mexico Air Quality Control Act, and to require local air pollution sources to comply with air quality standards and regulations.

Hearings and meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearing may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-5, Section 6.

Anyone intending to present technical testimony is required by 20.11.82 NMAC, *Rulemaking Procedures - AQCB*, to submit a written Notice Of Intent (NOI) before 5:00 pm on March 26, 2013 to: Attn: April Hearing Record, Mr. Neal Butt, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or in person in Suite 3023, 400 Marquette Avenue NW. The NOI shall identify the person's name, address and affiliation.

Non-technical testimony may be provided at the hearing pursuant to 20.11.82.22 NMAC, but to ensure adequate time for review of submitted testimony, the AQD requests that written comments to be incorporated into the public record be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on April 3, 2013. The comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to nbutt@cabq.gov and shall include the required name and address information.

Interested persons may obtain a copy of the proposed regulation at the Environmental Health Department Office, or by contacting Mr. Neal Butt, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or by phone 768-2660, or by e-mail at nbutt@cabq.gov , or by downloading a copy from the City of Albuquerque Air Quality Division website.

NOTICE FOR PERSON WITH DISABILITIES: If you have a disability and/or require special assistance please call (505) 768-2600 [Voice] and special assistance will be made available to you to review any public meeting documents, including agendas and minutes. TTY users call the New Mexico Relay at 1-800-659-8331 and special assistance will be made available to you to review any public meeting documents, including agendas and minutes

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD
NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on May 3, 2013 at 10:00 a.m. in Room 307 at the State Capitol in Santa Fe, New Mexico. The purpose of the hearing is to consider the matter of EIB 12-06(R), proposed revision to the New Mexico State Implementation Plan ("SIP") regarding Air Quality Control Regulation Part 98 of 20.2 New Mexico Administrative Code (Conformity of General Federal Action to the State Implementation Plan) ("20.2.98 NMAC").

The proponent of this regulatory adoption and revision 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 20.2.98 NMAC. The proposed repeal is in response to the U.S. Environmental Protection Agency's ("EPA") March 24, 2010 amendments to the federal general conformity rule, 40 CFR Part 93, Subpart B – Determining Conformity of General Federal Actions to State or Federal Implementation Plans. 40 CFR 93 Subpart B was amended to make the adoption and submittal of General Conformity SIPs optional rather than mandatory for states. Upon adoption by the Board, the repeal of 20.2.98 NMAC would be submitted to EPA for incorporation into New Mexico's SIP.

The NMED will host an informational open house on the proposed repeal of 20.2.98 NMAC at the NMED Air Quality Bureau Office, 1301 Siler Rd, Building B, Santa Fe, New Mexico 87507, from 12:00p.m.-3:00p.m. on March 20, 2013. To attend the informational open house, please contact Gail Cooke at 505-476-4319 or gail.cooke@state.nm.us.

The proposed revised regulation may be reviewed during regular business hours at the NMED Air Quality Bureau office, 1301 Siler Road, Building B, Santa Fe, New Mexico. Full text of NMED's proposed revised regulations are available on NMED's web site at www.nmenv.state.nm.us, or by contacting Gail Cooke at (505) 476-4319 or gail.cooke@state.nm.us.

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 Section, NMSA 1978,74-2-6, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. 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 that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
(3) summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;