

**BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD**

**IN THE MATTER OF THE PETITION TO AMEND
20.11.1 NMAC, *GENERAL PROVISIONS*, AND 20.11.8 NMAC, *AMBIENT AIR QUALITY
STANDARDS*, AND SUBMIT AMENDMENTS TO EPA AS A REVISION TO THE
STATE IMPLEMENTATION PLAN (SIP)**

AQCB Petition No. 2009-3

**Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner**

**CITY OF ALBUQUERQUE'S NOTICE OF INTENT TO PRESENT TECHNICAL
TESTIMONY**

Pursuant to 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*, The City of Albuquerque Environmental Health Department, Air Quality Division (“the Division”) hereby submits its Notice of Intent (NOI) to present technical testimony in this proceeding.

1. The person for whom the witnesses will testify.

City of Albuquerque Environmental Health Department, Air Quality Division

2. The name and qualifications of each technical witness.

Neal T. Butt. Environmental Health Scientist, Control Strategies Section, Air Quality Division. M.S. Biology (Wildlife Biology), University of North Dakota; B.S. Biology (Zoology), University of New Mexico; A.A.S. Criminal Justice, Central New Mexico Community College; A.A.S. Environmental Protection Technology, CNM; WERC Waste Management Certificate, UNM Chemical & Nuclear Engineering Department. Employed by the City of Albuquerque’s Environmental Health Department for 12 + years; the last eight of which have been with the Air Quality Division. Chief responsibility is the promulgation of air quality regulations for implementation within the County of Bernalillo.

Fabian Macias. Air Quality Assurance Manager, Air Quality Division. B.S. Chemistry, New Mexico Highlands University. Employed by the City of Albuquerque’s Environmental Health Department, Air Quality Division for 8 years. Previously employed by the State of New Mexico’s, Air Quality Bureau (1995-2001), as Ambient Air Monitoring Network Manager. Chief responsibility is to manage the resources of the Air Quality Assurance Program within the

Air Quality Division, including both the Ambient Air Monitoring and Quality Assurance Sections. Air Quality Assurance Program operations include data acquisition and validation of ambient air pollution measurements within Bernalillo County.

Ken Lienemann. Air Monitoring Supervisor, Air Quality Division. M.S. Remote Sensing, B.S. Mechanical Engineering. Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 3 years. Previously employed by the State of New Mexico's Air Quality Bureau (2001 - 2006). Responsible for the operation of the Albuquerque Bernalillo County air monitoring network, which consists of approximately 100 instruments at 10 distributed sites.

3. Summary and Estimated Duration of Testimony

Mr. Butt's written testimony is attached as AQD Exhibit # 8. Mr. Butt will testify that the proposed amendments to 20.11.1 NMAC and 20.11.8 NMAC and concomitant revisions to the New Mexico State Implementation Plan for Air Quality (SIP) should be approved.

The Division is petitioning the Board to amend 20.11.1 NMAC, *General Provisions*, and 20.11.8 NMAC, *Ambient Air Quality Standards* for the following reasons:

1. The currently effective version of 20.11.1 NMAC, *General Provisions*, contains an error. Section 20.11.1.14 NMAC, *Interpretation*, belongs at 20.11.8.14 NMAC, *Interpretation*, and was left in 20.11.1 NMAC by mistake when these two rules were amended in 2004. The proposed amendment deletes this section.

#2. The proposed amendments will align language codified at 20.11.1.7 NMAC, *Definitions* with language in: 40 CFR Part 51.100(s), *Definitions*; The New Mexico Air Quality Control Act; and the 6/23/09 Public Review Draft for the proposed new rule, 20.11.49 NMAC, *Excess Emissions*.

#3. The proposed amendments will align local ambient air quality standards codified at 20.11.8.13 NMAC, *Summary of Federal and State Ambient Air Quality Standards*; with federal

standards codified at 40 CFR 50.4, 50.5, 50.6, 50.7, 50.8, 50.9, 50.10, 50.11, 50.12, 50.13, 50.15, and 50.16.

#4. The proposed amendments will correct style and formatting.

It is anticipated that the hearing will take approximately 1 hour or less.

4. Text of Recommended Revisions to the New Mexico State Implementation Plan

The Division recommends the amendments to 20.11.1 NMAC, *General Provisions*, and 20.11.8 NMAC, *Ambient Air Quality Standards*, as proposed in the Public Review Drafts shown as AQD Exhibit #1a and #1b respectively, be adopted by the Board, and that these amendments shall be submitted to EPA as a revision to the State Implementation Plan (SIP).

5. List and Description of Exhibits

The Division has attached the following exhibits to this Notice of Intent:

| <u>Exhibit Number</u> | <u>Title of Exhibit</u> |
|-----------------------|--|
| AQD Exhibit 1 | 'Petition to Amend' filed on May 22, 2009; |
| AQD Exhibit 1a | Public Review Draft {attached to AQD Exhibit 1} showing proposed amendments to 20.11.1 NMAC, <i>General Provisions</i> ; |
| AQD Exhibit 1b | Public Review Draft {attached to AQD Exhibit 1} showing proposed amendments to 20.11.8 NMAC, <i>Ambient Air Quality Standards</i> ; |
| AQD Exhibit 2 | August 3, 2005 Federal Register Notice which revoked the 1-hour ambient air quality standard for ozone; |
| AQD Exhibit 3 | October 17, 2006 Federal Register Notice which stipulates changes made to the federal ambient air quality standards for PM 2.5 [Electronic]; |
| AQD Exhibit 4 | March 27, 2008 Federal Register Notice which stipulates changes made to the federal ambient air quality standard for Ozone, 8-hour average; |

- AQD Exhibit 5 November 12, 2008 Federal Register Notice which stipulates changes made to the federal ambient air quality standard for lead [Electronic];
- AQD Exhibit 6 a/b/c Public notices of hearing, including the legal advertisement of this hearing in the Albuquerque Journal {6a} and the New Mexico Register {6b}, as well as the 'Notice of Availability of the Public Review Draft' which was sent to the Air Quality Announce List Serve as well as a list of those individuals' e-mail addresses {6c}
- AQD Exhibit 7 Comments received from EPA
- AQD Exhibit 8 Direct Testimony and PowerPoint slides
- AQD Exhibit 9 Draft Agenda, Air Quality Control Board, for August 12, 2009.

6. Reservation of Rights

This Notice of Intent to Present Technical Testimony is based on the Division's Petition *to Amend*. The Division reserves the right to call any person to testify and to present any exhibit in response to another Notice Of Intent or public comment filed in this matter or to any testimony or exhibit offered at the public hearing. The Division also reserves the right to call any person as a rebuttal witness and to present any exhibit in support thereof.

Respectfully submitted,

Isreal Tavarez
Environmental Engineering Manager
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Suite 3047
Albuquerque, New Mexico 87103
(505) 768-1965

CERTIFICATION

I hereby certify that on July 28, 2009, an original and nine copies of this Notice of Intent to present technical testimony (NOI), with attached exhibits were delivered to the following person for filing.

Janice Amend
Air Quality Control Board Liaison / Hearing Clerk
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103

And that on July 28, 2009, a copy of this NOI with attached exhibits was sent to the Attorney for the Board, Bill Grantham, at the following e-mail address:

Bill.grantham@state.nm.us

Isreal Tavarez
Environmental Engineering Manager
Air Quality Division