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

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**IN THE MATTER OF THE PETITION TO AMEND 20.11.63 NMAC, *NEW SOURCE PERFORMANCE STANDARDS FOR STATIONARY SOURCES,* AND 20.11.64 NMAC *EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR STATIONARY SOURCES,* AND REQUEST UPDATED DELEGATION OF AUTHORITY FROM EPA**

**AQCB Petition No. 2013-7**

**Air Quality Program,**
**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 Program ("the Program") submits its Notice of Intent to present technical testimony in this proceeding.

1. **<u>The person for whom the witness will testify.</u>**

City of Albuquerque Environmental Health Department, Air Quality Program.

2. **<u>The name and qualifications of each technical witness.</u>**

**Neal T. Butt**. Environmental Health Scientist, Control Strategies Section, Air Quality Program. M.S. Biology (Wildlife Biology), University of North Dakota; B.S. Biology (Zoology), University of New Mexico; B.A. Environmental Planning & Design, UNM; 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. Mr. Butt has been employed by the City of Albuquerque's Environmental Health Department for more than 16 years. He has worked for the Air Program for the last 12 years. Mr. Butt's primary responsibility is to develop proposed air quality

regulations, amendments and state implementation plans to be presented before the Albuquerque – Bernalillo County Air Quality Control Board for implementation within the County of Bernalillo.

**Isreal Tavarez**. Environmental Health Manager, Permitting Section, Air Quality Program. M.S. Chemical Engineering, New Mexico State University; B.S. Chemical Engineering, NMSU. Registered Professional Engineer (New Mexico). Mr. Tavarez has been employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for more than 17 years. He was previously employed by the State of New Mexico, Air Quality Bureau (1994-1996).

Mr. Tavarez primary responsibility is to manage the air quality stationary source permitting program which includes reviewing and approving all air quality stationary source permits to ensure the permits are issued in accordance with local, state, and federal regulations.

**Dario Rocha**. Environmental Health Supervisor, Vehicle Pollution Management Division, Air Quality Program. B.S. Mechanical Engineering, New Mexico State University. Mr. Rocha has been employed by the City of Albuquerque's Environmental Health Department, Air Quality Program for 13 years. He was previously employed by the State of New Mexico, Air Quality Bureau (1997-2000).

Prior to Mr. Rocha's recent transfer from the Air Quality Program to the Vehicle Pollution Management Division, his chief responsibility was to (1) supervise and direct staff in the Permitting & Technical Analysis Section for the Air Quality Program, (2) assign air quality permit applications for NSR and Title V air permitting programs, (3) make applicability determinations for air quality permitting, review and approve portable stationary source relocations within Bernalillo County, and (4) prepare air quality permits for minor and major stationary sources. Mr. Rocha was responsible for ensuring that all air quality permits for minor

and major stationary sources were issued or denied within their respective regulatory or statutory timeframes, and for ensuring that stationary source air quality emissions inventories were prepared in accordance with 40 CFR 51 Subpart A.

**3. <u>Summary and Estimated Duration of Testimony</u>**

Mr. Butt's written testimony is attached as AQP Exhibit # 5. Mr. Butt will testify that these proposed amendments should be adopted so that the Program can remain up to date on new and modified standards promulgated at the federal level. In addition, the Program proposes to request that the EPA update its delegation of authority to the Program to locally administer and enforce the standards referenced above throughout Albuquerque and Bernalillo County. Local delegation authorizes the Program to require local air pollution sources to comply with these standards. Mr. Butt's testimony is anticipated to take approximately 30 minutes.

Mr. Tavarez and Mr. Rocha do not intend to provide technical direct testimony but the Program is offering them as technical witnesses to respond to any questions that may arise within their respective areas of expertise at the hearing.

**4. <u>Text of Proposed Regulatory Change</u>**

The Program recommends adoption of the proposed amendments to 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources* to incorporate by reference new and modified New Source Performance Standards published through September 13, 2013, at 40 CFR 60, *New Source Performance Standards* (NSPS); and the proposed amendments to 20.11.64 NMAC, *Emission Standards For Hazardous Air Pollutants For Stationary Sources* to incorporate by reference new and modified standards published through September 13, 2013, at

40 CFR 61, *National Emission Standards For Hazardous Air Pollutants* (NESHAP), and at 40 CFR 63, *National Emission Standards For Hazardous Air Pollutants By Source Category* (NESHAP by Source Category); as proposed in the Public Review Drafts shown as AQD Exhibit #1a, and AQD Exhibit #1b respectively, which are attached to the Petition to Amend, filed September 13, 2013, shown as AQD Exhibit # 1. Proposed amendments would change the incorporation by reference date from "August 29, 2011" to "September 13, 2013."

## 5. List and Description of Exhibits

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

| Exhibit Number | Title of Exhibit |
|---|---|
| AQD Exhibit # 1 | Petition to Amend 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*, and 20.11.64 NMAC, *Emission Standards For Hazardous Air Pollutants For Stationary Sources*, and request for updated delegation of authority from EPA |
| AQD Exhibit # 1a | Public Review Draft 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources* {attached to AQD Exhibit 1} |
| AQD Exhibit # 1b | Public Review Draft 20.11.64 NMAC, *Emission Standards For Hazardous Air Pollutants For Stationary Sources* {attached to AQD Exhibit 1} |
| AQP Exhibit # 1c | List of NSPS & NESHAPs promulgated since August 29, 2011 (last update) and through September 13, 2013, proposed to be incorporated by reference. Also includes an electronic copy of referenced Federal Register notices. |
| AQP Exhibit # 2 | Legal advertisement of hearing originally scheduled for 12/11/13, but then rescheduled for 1/8/14, as published in the Albuquerque Journal on 10/13/13 |
| AQP Exhibits # 3a, 3b, 3c | Notice of Proposed Rulemaking: Air Quality Announce List Serve 11/4/13 {3a}; Albuquerque Journal, 11/6/13 {3b}; and the NM Register 11/14/13 {3c} |

AQP Exhibit # 4 Most recent approval by EPA of delegation of authority to the Program to enforce NSPS and NESHAPs through July 1, 2004, as published in the Federal Register on 12/9/2005

AQP Exhibit # 5 Direct Testimony of Neal T. Butt

## 6. Reservation of Rights

This Notice of Intent to Present Technical Testimony is based on the Department's Petition. The Department 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 Department also reserves the right to call any person as a rebuttal witness and to present any exhibit in support thereof.

Respectfully submitted,

Neal T. Butt
Environmental Health Scientist
Air Quality Program
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103
(505) 768-2660

## CERTIFICATION

I hereby certify that on December 20, 2013, an original and 15 copies of this Notice of Intent to present technical testimony (NOI) with attached exhibits were delivered to the following person for filing.

Margaret Nieto
Secretary to the Air Quality Control Board / Environmental Health Supervisor, AQP
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103

And that on December 20, 2013, a copy of this NOI with attached exhibits was sent to the Attorney for the Air Board, Bill Grantham at the following email address:
wggrantham@gmail.com

Neal T. Butt
Environmental Health Scientist
Air Quality Program
Environmental Health Department