



United States
Department of
Agriculture

Forest
Service

Cibola National Forest
and National Grasslands

2113 Osuna Road, NE, Suite A
Albuquerque, NM 87113-1001
(505) 346-3900 FAX: 346-3901

File Code: 2580-1

Date: July 3, 2007

RECEIVED
 AIR QUALITY DIVISION
 JUL 3 11 41 AM '07

RECEIVED

Billy Gallegos
Fugitive Dust Issue/Air Quality Enforcement
Environmental Health Department/Air Quality Division
City of Albuquerque/Bernalillo County
PO Box 1293, One Civic Plaza NW
Albuquerque, NM 87103

Dear Mr. Gallegos:

On November 9, 2005 the Forest Service published the final regulations governing Off-Highway Vehicles (OHVs) and other motor vehicle use on national forests and grasslands (Travel Management; Designated, Routes and Areas for Motor Vehicle Use, Federal Register / Vol. 70, No. 216 / 36 CFR Parts 212, 251, 261, and 295). This Travel Management Rule requires each national forest and grassland to designate those roads, trails, and areas open to motor vehicle use. The Forest Service is analyzing motor vehicle use on the Sandia Ranger District to identify the designated motorized route system.

Motor vehicle use on the Sandia Ranger District has increased in recent years as the Albuquerque and East Mountain communities population continues to grow. This increased use has led to the proliferation of unauthorized (user-created) routes; increased conflict between motorized and non-motorized users; complaints about noise, trespass, and dust from adjacent landowners; and, areas of degraded soil, water, vegetation, and wildlife habitat conditions. One of the objectives of Travel Management planning is to help avoid these conflicts and mitigate damage to natural resources.

Public involvement and coordination with other government representatives has been integral to development of this proposed action. During these meetings and workshops members of the public have inquired about the Bernalillo County Fugitive Dust Control regulation (Title 20.11.20 NMAC) and its applicability to the Travel Management planning process. Currently the Travel Management planning process for the Sandia Ranger District of the Cibola National Forest is in the initial scoping phase where we are requesting comments on our initial proposed action (see attached Scoping Documents).

The Cibola National Forest acknowledges the regulations exist but are uncertain of their status with respect to the actions of the County following the three year exemption period (i.e. are the exemptions extended until a hearing is held or are the exemptions expired). We would appreciate clarification on the regulations and the temporary exemptions as they currently stand. Furthermore, the Forest is uncertain as to how these regulations will apply to existing and future management activities including roads and trails being evaluated during the Travel Management planning process. We would appreciate any clarification on how the Bernalillo County Fugitive Dust Control regulations apply to management activities, including the existence of unpaved roads and trails, both motorized and non-motorized, on the Cibola National Forest.



We would be more than happy to have a dialogue, including a meeting if you so desire, concerning the above stated requests for clarification on the Bernalillo County Fugitive Dust Control regulations. Thank you for your time. We look forward to a positive healthy working relationship between Bernalillo County Air Quality Control Board and the Cibola National Forest. If you have questions regarding this request or would like to meet to discuss this request or any air quality concerns related to the Cibola National Forest please contact Edward Huffman at 505-346-3908 or elhuffman@fs.fed.us.

Sincerely,



NANCY ROSE
Forest Supervisor

cc: Wayne A Robbie, Edward L Huffman, Jeanne Hoadley, Isreal Tavaréz - Environmental Engineering Manager, City of Albuquerque

-----Original Message-----

From: Deborah U Potter [<mailto:ulinski@unm.edu>]

Sent: Monday, July 16, 2007 4:45 PM

To: Butt, Neal T.

Subject: fugitive dust regulations

Dear Neal,

I received an email from Tedd Huffmann of the Cibola National Forest asking for a discussion of making some of the temporary exemptions relating to the Forest Service either permanent or extending the time of exemption until a hearing could be held.

The sent a letter to the Bernalillo County/City of Albuquerque Air Quality Division discussing their Travel Management Process on the Sandia Ranger District and requesting clarification on the fugitive dust regulations applicability and the current status of the temporary exemptions (see attached letter).

Should this be an agenda item for the August Board meeting?

His email said the following:

"I thought it may be enlightening to look at the impact the Fugitive Dust Control Regulations could have on management of the Cibola National Forest, Sandia Ranger District. There are about 106 miles of trails on the National Forest used exclusively for purposes other than travel by motor vehicles in Bernalillo County. Additionally we are proposing designating 33 miles of dirt bike trail, 8 miles of ATV (less than 50 inches wide) trail and 14 miles of full-size off-road vehicle trails for a total of 55 miles of newly designated trail. While these motorized trails would be newly designated most all of them already exist on the ground though with minimal best management practices applied. New trail construction is limited to a few reroutes of existing trail routes that are through sensitive areas. Our travel management information for the Sandia Ranger District is at (<http://www.fs.fed.us/r3/cibola/travel-management/index.shtml>) There are also approximately 92 miles of aggregate or native surfaced roads on the District in Bernalillo County. Many of these roads (~29 miles) are indicated as decommissioned so they are not open to public use, but they may still have bare soil on the road bed. Additionally some of these roads may be on National Forest land withdrawn and administered

by the Department of Defense (aka Military Withdraw lands). We have not yet done any analysis to determine how many of these roads are less than ¼ mile in length or how many are within ¼ mile of an occupied residence.

After reviewing the Fugitive Dust Control Regulations again focusing on the exemptions section (20.11.20.2.C). We would like to recommend extending or making permanent the following exemptions (2) bicycle trails, hiking paths, and pedestrian paths, horse trails or similar paths used exclusively for purposes other than travel by motor vehicles, (4) unpaved roadways less than one-quarter mile in length that are not short-cuts, and (6) unpaved roadways on United States Department of Agriculture Forest Service or United States Department of Interior Park Service lands if the roadways are more than one-quarter of a mile from an occupied residence. Additionally we would like to recommend the adoption of two other exemptions. First, we would like to recommend an exemption for trails used by motorized vehicles or in lieu of that extending the exemption in 20.11.20.2.C(2) to include all trail motorized and un-motorized. Second we would like to recommend extending the exemption in 20.11.20.2.C(6) to include all roads on Forest Service and NPS lands even those within one-quarter mile of an occupied residence. These two exemptions in themselves would cover all roads and trails on the Cibola National Forest, Sandia Ranger District.

(See attached file:
bernalillo_co_fugitive_dust_letter.doc)

Edward (Tedd) Huffman
Soil, Water and Air Program Manager
Cibola National Forest and National Grasslands
2113 Osuna Rd NE
Albuquerque NM 87113
505-346-3908
elhuffman@fs.fed.us "

Sincerely,

-- Debby

Dr. Deborah Ulinski Potter
1019 Guadalupe Ct., N.W.
Alameda, NM 87114-2325
(505) 897-8621
ulinski@unm.edu

From: Liberatore, John J.
Sent: Wednesday, August 22, 2007 4:31 PM
To: 'elhuffman@fs.fed.us'
Cc: Tavarez, Isreal L.; Albrecht, Christopher P.; Nieto, Margaret ; Butt, Neal T.
Subject: Response to fugitive dust stakeholder comments

Mr. Huffman,

Attached are the responses from the Air Quality Division's subcommittee concerning the fugitive dust control regulation stakeholder comments received by the AQD from Ms. Nancy Rose and from your email exchange with Albuquerque/Bernalillo County Air Quality Control Board member, Dr. Potter.



USDA Forest
Service stakeholde...



USDA Forest
Service stakeholde...

08/17/2007

Albuquerque Environmental Health Department
Air Quality Division (AQD)

Re: Regulatory and Policy Advisory Committee (RPAC) written responses to Stakeholders, concerning proposed amendments to the Albuquerque-Bernalillo County Air Quality Control Board Regulation 20.11.20 NMAC – Fugitive Dust Control (Part 20).

The current version of Part 20, implemented in March 2004, required that the board hold a public hearing regarding a decision on continuation or expiration of eight sources that had been given a three year exemption to Part 20. The status of the sources exempt for three years was to be considered after review of an emission inventory of the eight source types. On June 6, 2007, the AQD announced (through an electronic listserve of stakeholders previously involved with fugitive dust control) the availability of a draft of Part 20 amendments for review and comment. The request for written comments by stakeholders was to be received by close of business on 7/9/07. The following are the responses to stakeholders by the Part 20 subcommittee after review and discussion during the time period of 7/17/07 to 8/17/07.

The responses were sent by electronic mailing (email) to each of the stakeholders.

File Code: 2580-1
Date: July 3, 2007

United States Department of Agriculture
Forest Service
Cibola National Forest and National Grasslands
Nancy Rose
Forest Supervisor

On November 9, 2005 the Forest Service published the final regulations governing Off-Highway Vehicles (OHVs) and other motor vehicle use on national forests and grasslands (Travel Management; Designated, Routes and Areas for Motor Vehicle Use, Federal Register / Vol. 70, No. 216 / 36 CFR Parts 212, 251, 261, and 295). This Travel Management Rule requires each national forest and grassland to designate those roads, trails, and areas open to motor vehicle use. The Forest Service is analyzing motor vehicle use on the Sandia Ranger District to identify the designated motorized route system.

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Furthermore, the Forest is uncertain as to how these regulations will apply to existing and future management activities including roads and trails being evaluated during the Travel Management planning process. We would appreciate any clarification on how the Bernalillo County Fugitive Dust Control regulations apply to management activities, including the existence of unpaved roads and trails, both motorized and non-motorized, on the Cibola National Forest.

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RPAC response: The Albuquerque/Bernalillo County Air Quality Control Board Regulation 20.11.20 NMAC

– Fugitive Dust Control (Part 20), has been through department revisions and a proposed amended version is tentatively expected to go to public hearing before the board in December 2007. A stakeholders draft was made available the first week of June 2007 and requested comments were asked to be submitted to the department by the second week of July 2007. The next steps after review of stakeholder comments will be to submit a draft to EPA Region VI (September 2007) for comments and then a final public review draft (PRD) in October 2007 prior to the hearing.

The current Part 20, as implemented in March 2004, provided for a three year exemption to eight sources of fugitive dust in Bernalillo County. A board hearing, scheduled to be heard prior to the end of the three year exemption period, to review an emission inventory of these eight source exemptions to decide if the exemption would continue, was delayed. The department wished to address the entire Part 20 regulation for additional suggested amendments and clarification of current language and the board approved an extension of time.

One of the current eight exemptions includes USDA Forest Service lands, if the roadways are more than one quarter of a mile from an occupied residence. Suggested amendments propose allowing a conditionally exempt status for Forest Service lands if the public does not have motor vehicle access to the roads.

The USDA letter (File Code: 2580-1 ; Date: July 3, 2007) referred to attached Scoping Documents. Such documents were not included with the letter for department review. Nonetheless, it appears that a conflict may exist regarding the USDA Travel Management plan and Part 20 regarding the use of unpaved roads by motor vehicles if accessible to the public.

It appears appropriate, as suggested in the USDA letter, to open a dialogue and conduct a meeting between USDA and City of Albuquerque Air Quality Division staff to attempt adopting language that can satisfy the requirements and goals of each agency that can be proposed for public review and the board hearing. This type of coordinated effort would appear to be a requirement of the Travel Management Plan as addressed in 36 CFR Part 212. The AQD intends on contacting the USDA Forest Service in an effort to discuss alternative language.

08/17/2007

Albuquerque Environmental Health Department
Air Quality Division (AQD)

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The responses were sent by electronic mailing (email) to each of the stakeholders.

(Received by the AQD as a forwarded email from Dr. Deborah U. Potter to Mr. Neal Butt)

Cibola National Forest and National Grasslands
Soil, Water and Air Program Manager
Edward (Tedd) Huffman

"I thought it may be enlightening to look at the impact the Fugitive Dust Control Regulations could have on management of the Cibola National Forest, Sandia Ranger District. There are about 106 miles of trails on the National Forest used exclusively for purposes other than travel by motor vehicles in Bernalillo County. Additionally we are proposing designating 33 miles of dirt bike trail, 8 miles of ATV (less than 50 inches wide) trail and 14 miles of full-size off-road vehicle trails for a total of 55 miles of newly designated trail. While these motorized trails would be newly designated most all of them already exist on the ground though with minimal best management practices applied. New trail construction is limited to a few reroutes of existing trail routes that are through sensitive areas. Our travel management information for the Sandia Ranger District is at <http://www.fs.fed.us/r3/cibola/travel-management/index.shtml>) There are also approximately 92 miles of aggregate or native surfaced roads on the District in Bernalillo County. Many of these roads (~29 miles) are indicated as decommissioned so they are not open to public

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After reviewing the Fugitive Dust Control Regulations again focusing on the exemptions section (20.11.20.2.C). We would like to recommend extending or making permanent the following exemptions (2) bicycle trails, hiking paths, and pedestrian paths, horse trails or similar paths used exclusively for purposes other than travel by motor vehicles, (4) unpaved roadways less than one-quarter mile in length that are not short-cuts, and (6) unpaved roadways on United States Department of Agriculture Forest Service or United States Department of Interior Park Service lands if the roadways are more than one-quarter of a mile from an occupied residence. Additionally we would like to recommend the adoption of two other exemptions. First, we would like to recommend an exemption for trails used by motorized vehicles or in lieu of that extending the exemption in 20.11.20.2.C(2) to include all trail motorized and un-motorized. Second we would like to recommend extending the exemption in 20.11.20.2.C(6) to include all roads on Forest Service and NPS lands even those within one-quarter mile of an occupied residence. These two exemptions in themselves would cover all roads and trails on the Cibola National Forest, Sandia Ranger District.

(See attached file:
bernalillo_co_fugitive_dust_letter.doc)

RPAC response: The current requirement for forest service roads in Part 20 only allows for an exemption to those roads that are one quarter mile or greater from an occupied residence. There is no condition for forest service roads allowing for an exemption dependent on length of roadway.

Section 20.11.20.2C.(2), allowing for an exemption for ‘bicycle trails, hiking paths and pedestrian paths, horse trails or similar paths used exclusively for purposes other than travel by motor vehicles’ is proposed in the amended Part 20 to maintain exempt status as Conditionally Exempt sources, unless fugitive dust emitted from such sources is determined by the department as adversely affecting public safety.

Section 20.11.20.2C.(4), allowing for an exemption for ‘unpaved roadways less than one quarter mile in length that are not short cuts’ is proposed to be removed from the newly-proposed “Conditionally Exempt” section and proposed to be addressed at Section 20.11.20.19 – Public and Private Unpaved Roadways, Short-Cuts and Unpaved Parking Areas.

Section 20.11.20.19A proposes that unpaved roadways greater than one quarter of a mile on publicly-owned land and privately-owned real property will require a fugitive dust control permit (either a construction permit or a programmatic permit).

Section 20.11.20.19B proposes to require that all unpaved roadways (not limited by length) to comply with the general provisions established in 20.11.20.12 NMAC. The general provisions provide for each person using reasonably available control measures during active operations or on inactive disturbed surface areas to prevent the release of fugitive dust that crosses or is carried beyond a property line, whether or not a permit is required, if the fugitive dust may injure human health or animal or plant life; interfere with the public welfare, visibility or the reasonable use of property; or be visible for a total of fifteen minutes or more during any consecutive one hour observation period.

Current Section 20.11.20.2C.(6), allows for an exemption for ‘unpaved roadways on USDA forest service and US department of interior park service lands if the roadways are more than one quarter mile from an occupied residence’. The department is proposing under 20.11.20.2C.(4) to eliminate the one quarter of a mile distance wording and proposes to include all of these unpaved roadways as “Conditionally Exempt”, but only if the public does not have motor vehicle access.

As proposed by the department, amended Part 20 would not provide for exemptions for forest service, park service, DOE or DOD unpaved roadways if the public has motor vehicle access. Unpaved roadways is defined as an unpaved route traveled by a motorized vehicle, so it is not necessary to distinguish between paths, trails, roads, etc.

As mentioned in the department’s response to the letter submitted by Nancy Rose, Forest Supervisor of the Cibola National Forest and National Grasslands (July 3, 2007), it appears that a conflict exists between the USDA Travel Management plan and Part 20 regarding the use of unpaved roads by motor vehicles if accessible to the public. Therefore, the department agrees it is appropriate to open a dialogue and conduct a meeting between USDA and City of Albuquerque Air Quality Division staff.