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ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
NOTICE OF HEARING

On April 13, 2011, 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, One Civic Plaza NW, Albuquerque, NM. The hearing will address:

Proposal to adopt amendments to 20.11.46 NMAC, *Sulfur Dioxide Emissions Inventory Requirements; Western Backstop Sulfur Dioxide Trading Program*, and to incorporate an amended 20.11.46 NMAC into the New Mexico State Implementation Plan (SIP) for air quality.

On November 12, 2003, the Albuquerque - Bernalillo County Air Quality Control Board (Air Board) adopted 20.11.46 NMAC, which implements the Western Backstop (WEB) Sulfur Dioxide (SO_2) Trading Program provisions as required by the federal Clean Air Act, the federal Regional Haze Rule, 40 CFR § 51.309 (Section 309), and the concomitant Albuquerque-Bernalillo County element of the State of New Mexico's regional haze implementation plan. Section 309 of the federal Regional Haze Rule establishes mandatory requirements that must be incorporated into the SIP, including regional SO_2 milestones, SO_2 emissions tracking requirements and a backstop regional cap-and-trade program for SO_2. 20.11.46 NMAC includes emissions inventory requirements for tracking compliance with the SO_2 milestones. The emissions inventory and tracking requirements for SO_2 were included as enforceable provisions in 20.11.46 NMAC. 20.11.46 NMAC contains the requirements that would apply to major industrial sources (i.e. 100 tons or more per year) of SO_2 emissions as a "backstop" regulatory program if specified SO_2 milestones were exceeded. If the milestones are exceeded, numerous mandatory requirements of 20.11.46 NMAC will be triggered, including the procedures and compliance requirements for sources in the trading program. However, the mandatory provisions that will be triggered by exceeding the milestones may never be implemented if the goal of meeting the regional SO_2 milestones through voluntary means is achieved.

Continued compliance with 40 CFR § 51.309 and associated legal challenges has necessitated revisions to the Regional Haze SIP and 20.11.46 NMAC. After first being adopted by the Air Board in 2003, 20.11.46 NMAC was subsequently amended on August 13, 2008, after a public review period and corresponding public hearings held on November 14, 2007 and August 13, 2008. These amendments became effective locally on September 15, 2008, but have not been approved by EPA. In order for the backstop trading rules to be approved by EPA, they must be consistent across all "309 states" (i.e. New Mexico, Utah, and Wyoming). Therefore, EPA is requiring that 20.11.46 NMAC be amended again, in order to bring it into alignment with the model rule language utilized by the other "309 states".

Therefore, the following amendments to 20.11.46 NMAC are being proposed:

1. Removing definitions for: "Allowance Tracking System"; "Allowance Tracking System Account"; and" Emissions Tracking Database";

2. Adding definitions for: "WEB Emissions and Allowance Tracking System" / "WEB EATS"; and "WEB EATS Account";

3. Clarifying that "retirement" of a source must be "permanent";

4. Modifying language at 20.11.46.14 NMAC, *Allowance Allocations*; 20.11.46.15 NMAC, *Establishment of Accounts*; 20.11.46.16 NMAC, *Monitoring, Record Keeping and Reporting*; 20.11.46.18 NMAC, *Use Of Allowances From A Previous Year;* and 20.11.46.20 NMAC, *Special Penalty Provisions For Year 2018 Milestone*; to align with Utah's trading rule (*Western Backstop Sulfur Dioxide Trading Program*, R307-250-6);

5. Modifying language at 20.11.46.21 NMAC, *SO_2 Monitoring of Fuel Gas Combustion Devices* and 20.11.46.22 NMAC, *Predictive Flow Monitoring Systems For Kilns With Positive Pressure Fabric Filter*, to align with Wyoming's trading rule (Appendix A: WEB Chapter 14, Section 2, Monitoring Protocols); and

6. Correcting cross-references, improving style, and increasing readability.

Following the hearing, the Air Board will hold its regular monthly meeting during which the Air Board is expected to consider adopting the aforementioned proposed amendments. 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, and 20.11.82 NMAC, *Rulemaking Procedures -- Air Quality Control Board.*

Anyone intending to present technical testimony at this hearing is required by 20.11.82.20 NMAC to submit a written Notice Of Intent to testify (NOI) before 5:00pm on March 29, 2011, to: "Attn: Hearing Clerk, Ms. Janice Wright, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103", or to deliver the NOI to the Environmental Health Department, Suite 3023, 3rd Floor, One Civic Plaza (400 Marquette Avenue NW), Albuquerque, NM 87102. The NOI shall: 1. identify the person for whom the witness or witnesses will testify; 2. identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational 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; 4. include the text of any recommended modifications to the proposed regulatory change; and 5. list and describe, or attach, all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

In addition, written comments to be incorporated into the public record for this hearing should be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on April 6, 2011. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to jcwright@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 Ms. Janice Wright electronically at jcwright@cabq.gov or by phone (505) 768-2601, or by downloading a copy from the City of Albuquerque Air Quality Division website http://www.cabq.gov/airquality/aqcb/public-review-drafts .

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