



Procedure for Receiving Written Comments for the Albuquerque-Bernalillo County Air Quality Control Board

Effective Date: November 2021

Policy Owner: Environmental Health Department/Air Quality Program

Policy Contact: Mara Elana Burstein, Deputy Director, mburstein@cabq.gov

1. Authority

The Albuquerque-Bernalillo County Joint Air Quality Program (“AQP”), administered by the City of Albuquerque’s Environmental Health Department (“EHD”), is authorized to implement and enforce clean air laws to protect public health within the boundaries of the City and Bernalillo County.

The Albuquerque-Bernalillo County Joint Air Quality Control Board (“Air Board”) is an appointed, volunteer citizen board created to carry out duties to prevent or abate air pollution under the New Mexico Air Quality Control Act and the federal Clean Air Act. The Air Board serves as a joint local authority acting on behalf of both the City of Albuquerque and Bernalillo County.

The Air Board’s Bylaws state:

“Duties and Powers of the Secretary of the Board. The Director of the City of Albuquerque Environmental Health Department, or designee, shall be the Secretary of the Board. The Secretary shall supply such staff support, as necessary, to assist the Board in meeting its duties. Support staff for the Board will record all transactions and proceedings of the Board and shall perform duties required by the Air Quality Control Act.”

Air Board Bylaws, ARTICLE V-OFFICERS, Section D (as amended July 14, 2021); *see* Revised Ordinances of the City of Albuquerque (“ROA”), § 9-5-1-3(D) (“The Director of the Department shall record all transactions and proceedings of the Board and shall perform the duties required by the Air Quality Control Act. The Director is the custodian of all files and records of the Board . . .”); 20.11.1.7(S)-(T) NMAC (defining “department” as EHD and “director” as the EHD Director); Bernalillo County Ordinances, Article II, § 30-32(d) (same); ROA § 9-5-1-5(A) (“The staff for the Board shall be provided by the city”); Bernalillo County Ordinances, Article II, § 30-34(a) (same); 20.11.1.7(D) NMAC (“EHD serves as staff to the [Air Board]”). The EHD Director has delegated this responsibility to the EHD Deputy Director for Air Quality, who manages the AQP, which provides staff support for the Air Board.

One way that the AQP supports the Air Board is by receiving written public comments on behalf of the Air Board and keeping the minutes for Air Board proceedings. This policy identifies internal procedures for the AQP to manage written comments submitted to the Air Board.

Written public comments submitted to the AQP for the Air Board are public records, *see* NMSA 1978, § 74-2-11, and not confidential. Under the Inspection of Public Records Act, NMSA 1978, 14-2-1 to -12 (1947, as amended through

2019) (“IPRA”), every person has the right to inspect public records maintained by the City of Albuquerque. In accordance with IPRA, the City to make public records available for inspection.

Additionally, nothing in this policy is intended to, or does, supersede requirements in applicable law or the Air Board Bylaws for accepting public comment or recording public comment in the meeting minutes. In the event of a conflict, applicable law, including the Bylaws, shall govern. Moreover, nothing in this policy is intended to, or does, create a private right of action based upon compliance or noncompliance with its provisions.

2. Policy Scope

The AQP will proceed in accordance with this policy when it receives written comments on behalf of the Air Board. Written comments do not include comments received pursuant to the Air Board’s adjudicatory and rulemaking processes, which are set forth in NMAC 20.11.81.14(l) and 20.11.82.22, respectively. Comment will be filed in accordance with applicable law.

3. Definitions

Terms specific to this policy.

| | |
|--------------------------|--|
| AQP | Albuquerque-Bernalillo County Joint Air Quality Program, administered by the City of Albuquerque Environmental Health Department |
| Air Board | Albuquerque-Bernalillo County Air Quality Control Board |
| Air Board Liaison | Air Board Liaison, staff of the AQP |

4. Procedures

Persons desiring to submit written comments to the Air Board may do so at any time. The AQP will accept written comments for the Air Board by email, mail, in-person delivery, or other verifiable communication means.

Email: Stephanie Apodaca, seapodaca@cabq.gov

Mailing Address: Environmental Health Department
Attn: Air Board
P.O. Box 1293
Albuquerque, NM 87103

Physical Address: Environmental Health Department
Attn: Air Board
3rd Floor Room 3023
1 Civic Plaza NW, Albuquerque, NM 87102

Within the AQP, the Air Board Liaison is responsible for handling written comments to the Air Board.

Written comments must be received by the AQP at least two (2) hours before an Air Board meeting for the Air Board Liaison to provide the comments the Air Board before the meeting. Written comments that are not timely received will be provided to the Air Board members no later than one (1) hour before the subsequent meeting.

| Written Comments for the Air Board | |
|---|--|
| Acknowledge Receipt | <p>Upon receipt of a written comment that includes an email address, the Air Board Liaison will respond by email to the commenter to confirm that the AQP has received the written comments.</p> <p>If an email address is not provided, commenters will not receive confirmation of the AQP's receipt of written comments.</p> |
| Forward to Air Board | <p>The Air Board Liaison will strive to provide the written comments to Air Board members soon after receiving them but will provide the written comments to Air Board members at least one (1) hour before each Air Board meeting.</p> |
| Record via Meeting Minutes | <p>If written comments are received at least two (2) hours before an Air Board meeting and have been provided to Air Board members before the meeting, the Air Board Liaison will identify and summarize the comments in that meeting's minutes.</p> <p>If written comments are received within two (2) hours of an Air Board meeting, the comments will be identified and summarized in the meeting minutes for the next Air Board meeting if the comments have been provided to Air Board members before such meeting.</p> |

DRAFT