

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

From: Kordzi.Joe@epamail.epa.gov [<mailto:Kordzi.Joe@epamail.epa.gov>]

Sent: Friday, January 05, 2007 12:45 PM

To: Butt, Neal T.

Subject: RE: Public Review Draft of proposed amendments to 20.11.20 NMAC, Fugitive Dust

So why is the three yr exemption becoming permanent? I thought the original thinking was that after three years, the affected sources would have had enough time to get used to the idea of having to control their dust?

Regards,

Joe

" ... and miles to go before I sleep."

-- Robert Frost

"Butt, Neal T."
<NButt@cabq.gov>

01/05/2007 01:31
PM

Joe Kordzi/R6/USEPA/US@EPA

"Nieto, Margaret "
<mnieto@cabq.gov>

Subject
RE: Public Review Draft of
proposed amendments to 20.11.20
NMAC, Fugitive Dust

To

cc

Yes we intend to submit it as a SIP revision; but we will have to see how the hearing and public comment go. If it goes well the SIP submittal might be ready by the end of February, if not who knows.

NB

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

From: Kordzi.Joe@epamail.epa.gov [<mailto:Kordzi.Joe@epamail.epa.gov>]

Sent: Friday, January 05, 2007 12:27 PM

To: Butt, Neal T.

Subject: Re: Public Review Draft of proposed amendments to 20.11.20 NMAC, Fugitive Dust

Hi Neal,

I'm still trying to get out attny to focus on this SIP action, which left my desk a long time ago. However, now that you're revision the rule to delete the 3-year exemption, I guess you shortly thereafter submit it as a SIP revision?

Regards,

Joe

" ... and miles to go before I sleep."
-- Robert Frost

"Butt, Neal T."
<NButt@cabq.gov>

01/05/2007 01:08
PM

Joe Kordzi/R6/USEPA/US@EPA

Thomas Diggs/R6/USEPA/US@EPA,
Alan Shar/R6/USEPA/US@EPA,
"Nieto, Margaret "
<mnieto@cabq.gov>, "Macias,
Fabian " <FMacias@cabq.gov>,
"Tavarez, Isreal L."
<ITavarez@cabq.gov>

To

cc

Subject

Public Review Draft of proposed
amendments to 20.11.20 NMAC,
Fugitive Dust

Good Afternoon Joe,

I have attached the PRD for our proposed amendments to our Fugitive Dust
reg. Could you please review and provide comments by February 7, 2007?
We will present it to the Board on February 14, 2007. Thanks,

Neal

<<20.11.20 NMAC PRD 12-30-07.doc>> (See attached file: 20.11.20 NMAC PRD
12-30-07.doc)

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

From: Butt, Neal T.

Sent: Friday, December 07, 2007 2:16 PM

To: 'Kordzi.Joe@epamail.epa.gov'

Cc: Liberatore, John J.; Nieto, Margaret ; Stebleton, Matt B.; Gallegos, Billy A.; Kearny, Adelia W.; Amend, Janice C.; Shar.Alan@epamail.epa.gov; Aragon, Charles A.; Tavaréz, Isreal L.; Olszewski.Joshua@epamail.epa.gov

Subject: FW: Response to EPA Comments on EPA Review Draft of Fugitive Dust Control, 20.11.20 NMAC

Joe,

Below you will find the response to your comments on the proposed amendments to Fugitive Dust Control, 20.11.20 NMAC. Since the time that you last reviewed it, some changes have been made; these are called out in the attached draft entitled 'second EPA Review Draft with updated changes'. A copy of the Stakeholder Review Draft is also attached for your reference. I also have attached a revised executive summary to aid in your review. If you have any additional comments, could you please provide them to me by January 9, 2008? We anticipate going to hearing on February 13, 2008.

Regards,

Neal

"Sunshine is delicious, rain is refreshing, wind braces us up, snow is exhilarating; there is really no such thing as bad weather, only different kinds of good weather".
-- John Ruskin

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

From: Liberatore, John J.

Sent: Friday, December 07, 2007 11:59 AM

To: Butt, Neal T.

Subject: RE: Response to EPA Comments on EPA Review Draft of Fugitive Dust Control, 20.11.20 NMAC

The decision to fully exempt all of the sources that were placed in the three year exemption status was dropped by the division, and the air board agreed to allow additional time for a complete review and amending of Part 20.

We are proposing to change the eight - three year exempted sources to six sources having conditional exemptions. The unpaved roadway areas serving six or fewer residential dwellings, and the unpaved roadways less than one-quarter mile in length that are not short cuts would no longer be exempt.

The remaining six sources under a conditional exemption means that the sources are not required to have a dust permit, unless certain conditions exist for use of their unpaved roads or fugitive dust generated at any of the six source's would be determined to adversely and significantly affect human health. These sources shall comply with the Objective and General Provisions of Part 20 which state that all sources shall utilize measures to control fugitive dust, whether or not they require a permit. A PM10 study conducted for the division in 2004-06 has led us to conclude that these source types would be insignificant contributors to particulate emissions in Bernalillo county if compliant with the conditionally exempt requirements.

We hope that this response has proved sufficient to address your comments.

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

From: Butt, Neal T.

Sent: Tuesday, October 30, 2007 8:24 AM

To: Adelia W. Kearny (akearny@cabq.gov); Christopher P. Albrecht (CAlbrecht@cabq.gov); Dan E. Gates (dgates@cabq.gov); Dario W. Rocha (DRocha@cabq.gov); Duran, Angela ;

Gallegos, Billy A.; Janice C. Amend (jamend@cabq.gov); Jaramillo, Louis; John J. Liberatore (JLiberatore@cabq.gov); Lienemann, Kenneth A.; Macias, Fabian (FMacias@cabq.gov); Margaret Nieto (mnieto@cabq.gov); Matt B. Stebleton (MStebbleton@cabq.gov); Ray, Doug K.; Stephanie A. Summers (ssummers@cabq.gov); Tavarez, Isreal (ITavarez@cabq.gov)

Subject: FW: EPA Comments on EPA Review Draft of Fugitive Dust Control, 20.11.20 NMAC

RPAC,

FYI

Regards,

Neal

"Another glorious day, the air as delicious to the lungs as nectar to the tongue".

-- John Muir

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

From: Kordzi.Joe@epamail.epa.gov [<mailto:Kordzi.Joe@epamail.epa.gov>]

Sent: Tuesday, October 30, 2007 7:10 AM

To: Butt, Neal T.

Cc: Olszewski.Joshua@epamail.epa.gov

Subject: Re:

Hi Neal,

Sorry we didn't get you a response by your requested deadline. The only comment I had was the one sent back in January about why the three year extension became permanent? I thought the original thinking was that after three years, the affected sources would have had enough time to get used to the idea of having to control their dust?

Regards,

Joe

" ... and miles to go before I sleep."

-- Robert Frost

"Butt, Neal T."
<NButt@cabq.gov>

09/26/2007 12:08
PM

Joe Kordzi/R6/USEPA/US@EPA

Alan Shar/R6/USEPA/US@EPA,
<akearny@cabq.gov>,
<Calbrecht@cabq.gov>, "Duran,
Angela " <aduran@cabq.gov>,
"Gallegos, Billy A."
<bagallegos@cabq.gov>, "Gates,
Dan E." <dgates@cabq.gov>,
<jamend@cabq.gov>, "Jaramillo,
Louis" <vljaramillo@cabq.gov>,
<JLiberatore@cabq.gov>,

To

cc

"Lienemann, Kenneth A."
<klienemann@cabq.gov>,
<FMacias@cabq.gov>,
<mnieto@cabq.gov>, "Ray, Doug K."
<DRay@cabq.gov>, "Rocha, Dario
W." <DRocha@cabq.gov>,
"Stebbleton, Matt B."
<MStebbleton@cabq.gov>,
<ssummers@cabq.gov>,
<ITavarez@cabq.gov>

Subject

Joe,

Here is the EPA review draft for 20.11.20 NMAC, Fugitive Dust Control. If you could please review and provide comments by October 26, 2007, that would be very helpful. We plan on releasing the draft to the public on 10/27/07, and proposing the rule amendments to the Board on December 12, 2007. Thanks

Neal Butt
Environmental Health Scientist
Air Quality Division
(505) 768-2660

'Live in the sunshine, swim the sea, drink the wild air'.

Ralph Waldo Emerson

<<USEPA REVIEW DRAFT 9-26-07.pdf>> (See attached file: USEPA REVIEW DRAFT 9-26-07.pdf)

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

From: Kordzi.Joe@epamail.epa.gov [<mailto:Kordzi.Joe@epamail.epa.gov>]

Sent: Monday, January 07, 2008 2:59 PM

To: Butt, Neal T.

Subject: Re: Availability of a "Stakeholder Review Draft" of proposed amendments to 20.11.20 NMAC, Fugitive Dust Control ('Part 20')

Hi Neal,

Other than the previous comment concerning the withdrawal of the exemption, we do not have any additional comments.

Regards,

Joe

" ... and miles to go before I sleep."

-- Robert Frost

"Butt, Neal T."
<NButt@cabq.gov>

12/07/2007 03:22
PM

To
"Announce, Air Quality"
<air-quality-announce@lists.cabq.gov>

cc

Subject
Availability of a "Stakeholder
Review Draft" of proposed
amendments to 20.11.20 NMAC,
Fugitive Dust Control ('Part 20')

DO NOT REPLY DIRECTLY TO THIS LISTSERVE ANNOUNCEMENT.

TO: Fugitive Dust Control Stakeholders
FROM: Albuquerque Air Quality Division
SUBJECT: Availability of a "Stakeholder Review Draft" of proposed
amendments to 20.11.20 NMAC,
Fugitive Dust Control ('Part 20')

The Air Quality Division (AQD) is proposing to amend the

Albuquerque-Bernalillo County Air Quality Control Board (Air Board) regulation, 20.11.20 NMAC, Fugitive Dust Control. A hearing before the Air Board to address this proposal is scheduled for February 13, 2008. Interested persons may obtain a copy of the "Stakeholder Review Draft, 12/6/07" showing the proposed regulation amendments, at the Albuquerque Environmental Health Department Office, One Civic Plaza NW, PO Box 1293, Albuquerque, NM 87103, or by contacting Mr. Neal Butt electronically at NButt@cabq.gov or by phone (505) 768-2660, or Ms. Janice Amend, 768-2601, Jamend@cabq.gov. Alternatively, interested persons may also download the Stakeholder Review Draft from the Air Quality Division website, <http://www.cabq.gov/airquality/>. Written comments should be sent to Mr. Butt or Ms. Amend by COB, December 28, 2007.

These proposed amendments were developed in response to the requirement of 20.11.20.2(C) NMAC, which states:

"20.11.20.2 SCOPE:

C. Exempt for three years: The following eight sources of fugitive dust in Bernalillo County shall be exempt from the requirements of this part for three years from the effective date of this part. Before the three-year exemption expires, the board shall hold a hearing that includes a review of an emissions inventory of the eight sources and other significant sources of fugitive dust in Bernalillo County and decide if the exemptions shall be continued. If one or more of the three-year exemptions expire, the board shall also review the fugitive dust control fees to determine if they are adequate to support the fugitive dust control program.

(1) Areas zoned for agriculture and used for growing a crop; and
(2) bicycle trails, hiking paths, and pedestrian paths, horse trails or similar paths used exclusively for purposes other than travel by motor vehicles; and

(3) unpaved roadways serving six residential dwellings or fewer; and
(4) unpaved roadways less than one-quarter mile in length that are not short-cuts; and
(5) unpaved roadways on private easements serving residential uses that are in existence at the time this part becomes effective; 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; and

(7) lots occupied by dwellings used solely for residential purposes or solely for non-commercial livestock operations smaller than three quarters of an acre, not including lots smaller than three-quarters of acre used for other purposes; and

(8) unpaved roadways within properties used for ranching and unpaved roadways within properties owned or controlled by the United States department of energy or department of defense. However, this exemption only applies if the public does not have motor vehicle access to the roadways".

The Air Quality Control Board has extended their deadline to hold a hearing and reach a decision on whether or not to continue the aforementioned exemptions. The time extension also allowed the AQD to submit additional proposed amendments to 20.11.20 NMAC, Fugitive Dust Control. A summary of all proposed amendments to 20.11.20 NMAC, Fugitive Dust Control, follows:

Major Proposed Changes

Changing the eight, three-year exemptions to six "conditionally exempt sources" which would only be subject to 20.11.20 NMAC if the Department determines the fugitive dust emitted may adversely and significantly affect human health within Bernalillo county. Unpaved roads serving six or fewer residential dwellings and unpaved roads less than ¼ mile in length that are not short cuts - would no longer be exempt.
All lots smaller than ¾ acre used for any purpose would be conditionally exempt
New conditions available for claiming a high wind affirmative defense
Mandatory perimeter fencing specifications and entry/exit apron device as control measures for all fugitive dust control construction permits

Proposed New Definitions

"Business Day"
"Greenwaste"
"Stockpile"
"Transfer of Permit"

Proposed Modifications to Current Definitions

"Dust suppressant" (removing the word 'water' from the definition)
"Fugitive Dust Control Permit" to "Fugitive Dust Control Construction Permit"
"High Wind Event" (removing the 5 minute - 30 mph average and adding new language with input from staff meteorologist)
"Paved" or "paving" or "paved roadway" (adding routinely-maintained asphalt millings)
"Silt" (New ASTM citation from city testing lab document)
"Stabilized" (include tie-in to an exceedance of a standard, not just violation)
"Visible Fugitive Dust" (replacing anthropogenic with airborne)
"Visible Fugitive Dust Detection Method" (correction for section citation)

Proposed Clarification to Current Definitions

"Disturbed Surface Area"
"Earth Moving Activity"
"Fugitive Dust"
"Fugitive Dust Control Plan"
"Large Area Disturbance"
"Permittee"

"Programmatic Permit"
"Reasonably Available Control Measures"
"Responsible Person"
"Short Cut"
"Track-Out"

Proposed Repeal of Definitions

"High Wind Event Threshold Level" (no longer applicable to high wind event situation)

Proposed Elimination of Language No Longer Applicable or Redundant

Fugitive dust control permits in existence prior to March 2004
Large Scale Interim Status Permits
Observer breaks during visible fugitive dust detection method
Repetitive statements concerning >3/4 acre to 25 acres ; and >25 acre requirements for permits
'Hearing before the Board' language removed because the Board has recently adopted 20.11.81 NMAC, Adjudicatory Procedures - Air Quality Control Board
Method for determining soil moisture content in the field for high wind event affirmative defense
Requirement for providing universal property code (UPC), latitude and longitude, or UTM coordinates

Proposed New Language

Stockpile RACM
Non-Refundable filing and review fees
Project signs for all permits issued
Filing and review fee requirement for demolition greater than 75,000 cubic feet
Greenwaste control instead of mechanical leaf blower control
Re-application or other control for long term native grass seeding that fails
Specify manager, supervisor, scientist, field operations officer or health specialist as signature authorities for permits issued in lieu of authorized Department representative
Requirements for active operations during an announced high wind event
Soil moisture standards for high wind event affirmative defense
Use of local regulation, 20.11.7 NMAC, Variance Procedure in lieu of State Act variance procedure.
Immediate attempt to contact of a responsible person by an observer during a visual determination of fugitive dust if danger to health or safety is evident.

Proposed Rewording of General Language (Clarification And Modification)

Consolidate operator under owner (will mainly be specific in the permit application to eliminate an extra signature section)
Separate sections for programmatic permits and construction permits

High wind event

Continuance or re-initiation of active operations during a declared high wind event

Requirements for staff to be certified for visual determination of fugitive dust (by Method 9 ground school at a minimum)

Scope, Objective, and General Provisions

Enforcement terminology

Re-align paragraphs for permits, permit application processing, and enforcement under each appropriate heading
Streamlined and clarified minimum application requirements for fugitive dust control construction permits

Informal review meeting possible during permit application process

Informal review meeting possible upon issuance of an administrative compliance order

Public outreach & Training

Proposed Additional Requirements Necessary

Amend 20.11.2 NMAC, Fees, in order to correct fugitive dust programmatic fee charges, and to add a demolition fee charge on facilities larger than 75,000 cubic feet that require a fugitive dust construction permit

Develop new application forms for fugitive dust control permits