PENGAD 800-631-6989
AQD EXHIBIT
9

[Direct Testimony for Hearing regarding amendments to 20.11.21 NMAC, *Open Burning*]

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Caption

Thank you, Mr. Hearing Officer, Chairman Deichman, and members of the Board. My name is Neal Butt. I am an Environmental Health Scientist with the Air Quality Division, Control Strategies Section. I am here

IN THE MATTER OF THE PETITION TO AMEND 20.11.21 NMAC, *OPEN BURNING*, AND INCORPORATE SAID AMENDMENTS INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN FOR AIR QUALITY(SIP)

AQCB Petition No. 2010-6

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Why amend Open Burning?

The last time that major amendments were made to the Open Burning rule was in 2003. Those amendments were required by the Regional Haze Rule, specifically at 40 CFR 51.309(k)(6)(i), which requires that:

Prescribed fire programs must address visibility impairment from smoke, in planning and application. The Rule requires that a smoke management program manage smoke from prescribed fires by: taking actions to minimize emissions; evaluating smoke dispersion; considering alternatives to fire; notification of public regarding prescribed fires; using of air quality monitoring; conducting surveillance and enforcement; and performing program evaluation. The amended rule was submitted to EPA as a revision to the SIP, but due to court appeal, EPA never acted upon it. The majority of issues stemming from these court appeals were addressed in 2008, when the Air Board adopted amendments to the Regional Haze SIP. The Open Burning rule was not amended in this action. The amended Regional Haze SIP was submitted to EPA for approval with the understanding that they would approve the amended Open Burning Rule along with the Regional Haze SIP. Unfortunately, EPA was not satisfied with some details of the 2003/2008 Regional Haze SIP, and required that "309" states amend their SIP again to address concerns with the SO2 milestones. The AQD is planning on proposing amendments to the Regional Haze SIP to address these concerns, at a hearing this summer. Unfortunately, this delay in approval by EPA of the Regional Haze SIP has delayed the approval of the amended Open Burning Rule. This being the case, the AQD decided to use the delay in approval of the Open Burning Rule by EPA, to make some changes to the Open Burning Rule to make it better. The AQD is anticipating that the proposed amendments to the Open Burning Rule will be reviewed and approved by the EPA at the same time that they review and approve the Regional Haze SIP, and 20.11.46 NMAC, *Sulfur Dioxide Emissions Inventory Requirements; Western Backstop Sulfur Dioxide Trading Program.*

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Proposed Amendments to 20.11.21 NMAC, *Open Burning*

The proposed amendments include:

1. Adding a new definition for "Broadcast Burn" to clarify the usage of this term within the rule;

2. Clarifying language to differentiate requirements for "multiple event" permits from those requirements for "single event" open burn permits, thereby distinguishing a large significant event from more 'run-of-the-mill' multiple events;

3. Removing the requirement that the department acknowledge receipt of an applicant's request for permit within 24 hours, to relieve an administrative burden;

4. Decreasing the amount of time that a 'single-event permit' shall remain valid, from 1 year down to 1 month, unless stipulated otherwise in the permit;

5. Clarifying language to alert potential burners to the additional restrictions placed upon them by the Bernalillo County Fire Department, the Albuquerque Fire Department and the International Fire Code;

6. Restricting the burning of dead and dry weeds to only that amount allowed by the Bernalillo County Fire Department, the Albuquerque Fire Department and the International Fire Code;

7. Adding "Small-Scale Fire Extinguisher Training" to the list of 'Conditionally Allowed Open Burning' in Table II;

8. Deleting redundant language found at 20.11.21.21 NMAC that is now codified in 20.11.81 NMAC, *Adjudicatory Procedures - AQCB*; and

9. Making stylistic and formatting changes to improve clarity and readability.

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This hearing has been legally noticed as shown by AQD Exhibits 7a, 7b and 7c. Comments were received from stakeholders and the Division has responded to these comments as shown by AQD Exhibits 5a, 5b, 5c, 5d, 5e, 5f and 5g.

Therefore, the Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division (AQD), respectfully requests the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) adopt amendments to **20.11.21 NMAC, *Open Burning***, shown as AQD Exhibit 1a, as amended by Staff Proposed Floor Amendments, shown as AQD Exhibit 8, and submit said amendments to EPA as a revision to the SIP.

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Questions

That concludes my testimony, and I would like to move exhibits 1 through 10 into the record, and I stand for questions.