



**NOTICE OF ADOPTION OF AMENDMENTS TO 20.3.3 NMAC, 20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, AND 20.3.15 NMAC OF THE RADIATION PROTECTION REGULATIONS
EIB 22-35**

New Mexico is an agreement state under 42 U.S.C. § 2021 and NMSA 1978, Section 74-3-15 (1977). As an agreement state, New Mexico's state regulations must be compatible to the United States Nuclear Regulatory Commission's ("NRC") regulations. 42 U.S.C. § 2021(d)(2). The compatibility requirement is met through the promulgation of state regulations when necessary.

The New Mexico Environment Department ("NMED") has a duty to maintain, develop and enforce New Mexico's radiation regulations to align with their federal counterparts. NMSA 1978, § 74-1-7(A)(5) (2000). The Environmental Improvement Board ("EIB") has the authority to promulgate radiation control rules and standards pursuant to NMSA 1978, Section 74-1-8(A)(5) (2020), NMSA 1978, Section 74-1-9 (1985), and NMSA 1978, Section 74-3-5(A) (2000).

Pursuant to Section 74-3-5(A), the proposed amendments were provided to the Radiation Technology Advisory Council ("RTAC") at its June 21, 2022 meeting. The RTAC consented to the amendments as proposed.

Pursuant to 20.1.1.300(A) NMAC, any person may petition the EIB to adopt, amend, or repeal any regulation within the jurisdiction of the EIB. On July 27, 2022, NMED filed a petition with the EIB for a public hearing to consider proposed amendments to align certain provisions within the state regulations with the federal NRC regulations. On August 26, 2022, at a meeting conducted in compliance with the Open Meetings Act and other applicable requirements, the EIB granted NMED's request for a hearing and scheduled the hearing for December 16, 2022, and continuing thereafter as necessary.

In considering the proposed amendments, the EIB is required, by Section 74-1-9, to give the weight it deems appropriate to all facts and circumstances, including but not limited to: (1) character and degree of injury to or interference with health, welfare, animal and plant life, property, and the environment; (2) the public interest, including the social, economic, and cultural value of the regulated activity and the social, economic, and cultural effects of environmental degradation; and, (3) technical practicability, necessity for and economic reasonableness of reducing, eliminating or otherwise taking action with respect to environmental degradation.

A public hearing was held on December 16, 2022, with a quorum of the EIB present during the hearing. The notice requirements for a public rulemaking were properly met pursuant to NMSA 1978, Section 14-4-5.2 (2017), Section 74-1-9, and 20.1.1.301 NMAC. As required by NMSA 1978, Section 14-4A-4 (2005), the public notice was also provided to the Small Business Regulatory Advisory Commission.

On December 16, 2022, the EIB deliberated and voted to adopt the amendments as proposed. The EIB considered all facts and circumstances and concluded that the proposed amendments do not cause injury to or interfere with health, welfare, animal, and plant life, property, and the environment. The EIB found the proposed amendments to be technically practical, economically reasonable, and in the public interest. The EIB concluded that the factors specified by Section 74-1-9 all weigh in favor of adopting the proposed revisions. Adoption of the amendments to 20.3.3 NMAC, 20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, and 20.3.15 NMAC will allow New Mexico to become compatible with the current federal regulations and will provide consistency between the federal and state regulations.

The EIB adopted the amendments and signed the Order on January 26, 2023. The adopted amendments will become effective on February 14, 2023, unless a later date is cited at the end of a section. The adopted amendments may be found at the following link:
<https://www.env.nm.gov/opf/docketed-matters/>.

STATEMENT OF NON-DISCRIMINATION

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations.

NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kathryn Becker, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855,
nd.coordinator@state.nm.us.

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.