

Mountain View Coalition

Mountain View Neighborhood Association • Mountain View Community Action •
Friends of Valle de Oro National Wildlife Refuge



Health, Environment & Equity Impacts Regulation FAQs

How will this regulation improve the lives of Bernalillo County Residents?

The new rule will allow the City of Albuquerque Environmental Health Department (EHD) and the Air Quality Control Board to address the disparate impacts of air pollution negatively impacting the health and quality of life of Bernalillo County residents by denying air pollution permits to facilities proposed in communities already bearing the **disproportionate burden of air pollution**. This will also contribute to better air quality county-wide and provide for a healthier Bernalillo County overall. Additionally, the regulation will have the effect of attracting clean industries to Bernalillo County, stimulating pollution control technology innovation and businesses, and saving the County many millions of dollars in health care costs related to air pollution.

What does this regulation do and how does it do it?

The regulation requires EHD to **deny a permit application if it will be located in an overburdened community and negatively impact the health of residents in that community**. Specifically, EHD and the permit applicant will work together to first identify whether the proposed polluting facility will be located in an **overburdened** community, meaning a community that is already facing the disparate impacts of **existing** air pollution.

If the facility is proposed to be located in an overburdened community, the applicant must perform a **Disparate Impact Screening** and evaluate nine identified Health Indicators.¹ The permit application will be denied if any one of nine health indicators in the area already exceeds the county average for those indicators.

If the permit application is not denied based on the nine Health Indicators, but the facility will be located in an overburdened community, the permit applicant must provide a **Health, Environment and Equity Impacts Analysis and Report** (HEE Report) to EHD. If this HEE Report indicates that the proposed facility will violate certain conditions identified in the rule, the permit application will be denied. If the permit application is not denied by EHD, the EHD may issue the permit, subject to mitigation measures informed by the Health, Equity and Environment Report and the community.

How is the public able to participate in the process?

If EHD does not deny the permit application based on the Disparate Impacts Screening, the applicant will have to provide a Health, Environment and Equity Impacts Report to the Department. EHD

¹ The nine identified Health Indicators are: 1) adult asthma rate, 2) child asthma rate, 3) the percentage of adults over age 65, 4) the percentage of children under age 18, 5) emergency department admission rate, 6) cancer rate or cancer mortality rate, 7) cardiovascular disease incidence or mortality rate, 8) autoimmune disease incidence or mortality rate, and 9) overall mortality rate.

must hold a public hearing on that Report in which the public will be able to participate. Importantly, the new rule also allows for **community testimony and community-based participatory research to be given the same weight as the technical expertise and testimony provided by the applicant and EHD**. This testimony may influence whether EHD will deny a permit application and may be used to inform any mitigation measures included in an issued permit.

If EHD issues a permit to an applicant for a facility located in an overburdened community, EHD must also establish a **Resident Advisory Committee**, made up of self-selected residents from the community. This committee will meet twice per year with EHD to provide feedback on the facility's compliance with permit conditions.

When will a permit application be denied?

There are two instances when EHD may deny a permit application based on this rule. The first occurs when the applicant performs a **Disparate Impact Screening** and any one of the nine health indicators listed exceeds the Bernalillo County average. If a permit is not denied based on the Disparate Impact Screening, EHD will deny a permit application if, based on the Health, Environment and Equity Impacts Report, the facility is shown to: 1) violate air quality standards, 2) result in the total emission of ten tons per year of Hazardous Air Pollutants in the overburdened community, or 3) the applicant has a facility that is not in compliance with existing permit conditions or is currently or in the last ten years has violated any environmental law of any state.

Important Definitions

- *Overburdened Community*: A census tract and all contiguous census tracts where the combined permitted emissions from all sources are 10 tons per year of Hazardous Air Pollutants or 25 tons per year of combined criteria pollutants and Hazardous Air Pollutants
- *Disparate Impact Screening*: The process by which a permit applicant evaluates a census tract in which its operation is proposed and all contiguous census tracts to determine whether the proposed facility will impact an overburdened community.
- *Cumulative Impacts*: The exposures, public health, and environmental effects from the combined emissions and discharges in a geographic area, including air emissions from all existing and reasonably foreseeable sources, routinely, accidentally or otherwise released and non-chemical stressors. Cumulative Impacts shall take into account sensitive populations and socio-economic factors.