AQD Ex. #1v

Jones, Elizabeth A.

From: Butt, Neal T.
Sent: Thursday, December 20, 2012 10:44 AM
To: Jones, Elizabeth A.
Subject: FW: Kirtland AFB Comments to 20.11.41 NMAC Stakeholder Review Draft 7/18/12

Attachments: KAFB Comments on 20.11.41 NMAC_71812draft.pdf

KAFB Comments on 20.11.41 NMAC...

-----Original Message-----
From: Clark, Melissa B Civ USAF AFMC 377 MSG/CEANC [mailto:Melissa.Clark@kirtland.af.mil]
Sent: Friday, August 17, 2012 2:55 PM
To: Butt, Neal T.
Cc: Shupe, James Civ USAF AFMC AFNWC/J; John.Pike@kirtland.af.mil; Montano, Patrick A Civ USAF AFMC 377 MSG/CEANQ
Subject: Kirtland AFB Comments to 20.11.41 NMAC Stakeholder Review Draft 7/18/12

Good afternoon Neal,

Attached please find Kirtland AFB comments for the 20.11.41 NMAC 1st Amended Public Review Draft (PRD) for Stakeholder Review dated 7/18/12.

Please let me know if you have any questions.

Melissa

//SIGNED//

Melissa Clark
Air Program Manager
377 MSG/CEANC
Phone: (505) 853-1588
DSN: 263-1588
Fax: (505) 853-6970
email: melissa.clark@kirtland.af.mil

Kirtland AFB Comments
20.11.41 NMAC Stakeholder Review Draft (7/18/12)
17 August 2012

General Comments:

1. Page 1, line 11 (20.11.41.2.A NMAC) – should reference to Subsection D be Subsection B?
2. Page 2, line 16 (20.11.41.2.C NMAC) – Suggest the addition of a comma after "permit".
3. Page 2, lines 19-21 (20.11.41.2.C(1) NMAC) – Because all internal combustion engines, regardless of size, are now regulated under both 20.11.63 NMAC and 20.11.64 NMAC, this portion of the regulation would require permitting for sometimes very small emergency standby power engines with insignificant emissions, that operate only a handful of hours per year. A requirement to obtain a permit, with the accompanying $1,792 application review fee, for such small emission sources is overly burdensome. If the intent of the Department is to ensure that all sources with applicable Federal requirements are tracked to demonstrate compliance, this could be more appropriately addressed by requiring stationary sources to simply report these emission units, and not their emissions, similar to the requirements in the equivalent New Mexico Environment Department regulation (20.2.72 NMAC).
4. Page 2, line 48 through Page 3, line 24 (20.11.41.2.F(2) NMAC) – Small portable generators are not included in the exemptions. Requiring permitting for small temporary and/or portable generators would be overly burdensome and would be contrary to direction received by the Department.
5. Page 2, line 48 through Page 3, line 24 (20.11.41.2.F(2) NMAC) – Why was a more comprehensive exemption list eliminated from consideration? Could either the NMED exemption list be used, or the Department's existing Operating Permit Program List of Insignificant Activities (January 2, 1996)? Use of such an exemption list would eliminate burdensome review and permitting requirements, and consistency between insignificant sources in the Construction Permit requirements and Title V Permit requirements would simplify both programs.
6. Page 3, lines 25-31 (20.11.41.2.F(3) NMAC) – The inventory of this fuel burning equipment is already being tracked for sources regulated under 20.11.42 NMAC Operating Permits, can these sources be exempt from this requirement? Will this be an annual submittal or every time a permit application is submitted? For proposed facilities, the exact fuel burning equipment specifications may not be known at the time of the permit application.
7. Page 8, lines 19-24 (20.11.41.13.A NMAC) – Will a formal waiver process for the pre-application meeting be established? Would an email to Department staff be adequate?
8. Page 8, line 25 (20.11.41.13.B NMAC) – Would the Department consider waiving the applicant's public notice requirements for small standard sources such as NSPS generators under a certain horsepower threshold?
9. Page 8, lines 37-40 (20.11.41.13.B(3) NMAC) - For proposed emission sources for Kirtland AFB, Department of Energy/Sandia National Laboratories, and other tenants, if the facility

entrance/property boundary is considered to be the Kirtland AFB fenceline, it may not be possible to post signage meeting the Department's qualifications for security reasons.

10. Page 8, lines 37-40 (20.11.41.13.B(3) NMAC) – What is the required size of the sign? Would it meet the intent of the proposed rule to have a visible pamphlet holder with informational sheets that include the required information?
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12. Page 8, line 55-56 (20.11.41.13.D.(4) NMAC) – May a facility submit one modeling protocol for multiple future modeling activities?
13. Page 9, lines 15-16 (20.11.41.13.D(7) NMAC) – Request the insertion an exemption in § 20.11.41.2(F)(2) for Federal agencies and/or Departments involved in National Defense and/or National Security. In the alternative, insert language granting waivers for national defense and/or national security activities.
14. Page 10, line 36 (20.11.41.13.G NMAC) – Request the insertion of an exemption at § 20.11.41.13.G (6) for the release of confidential data contained in permit application that pertain(s) to national defense and/or national security.
15. Page 12, line 15 (20.11.41.15 NMAC) – In addition to notifying neighborhoods and the public, the Department should also notify the applicant of the public information hearing.
16. Page 13, line 28 (20.11.41.16.A(2) NMAC) - § 20.11.2.11 NMAC requires payment of the total fee for review at the time the document is submitted. The proposed assessment of additional fees is inconsistent with § 20.11.2.11 NMAC. If the existing fee schedule is unreasonable, it should be amended instead of inserting arbitrary tack on fees.
17. Page 15, lines 14-15 (20.11.41.19.A NMAC) – Suggested rewording of this condition for clarification: *The contents of a permit application specifically identified <u>in the permit</u> shall become terms and conditions of the permit.*
18. Page 15, lines 52-54 (20.11.41.19.E NMAC) – The justification for including an expiration date for all permits in the *Comparison Summary of Current and Proposed Albuquerque-Bernalillo County Air Quality Control Board Regulation for Minor Air Quality Permitting Actions July 17, 2012* is to ensure new requirements are incorporated. However, a construction permit modification is already required under 20.11.41.2 NMAC when a source becomes subject to new requirements. Requiring a permit renewal at a given permit expiration date is redundant. Suggest a reference to submitting the Department's *request to cancel permit form* when a permit is no longer necessary.
19. Page 17, line 3 (20.11.41.22 NMAC) – If there is an exceedance of permit terms during initial source testing, will there be any provision to allow technical revision to the permit without having to pay for the permit application fee again? For example, current NMED policy allows for this as long as the source testing does not exceed the original proposed permit emission rates by more than 10%. Will the Department recognize in this regulation

the internal policy regarding size of units (specifically, generators) that require initial performance testing?

20. Page 17, line 16 (20.11.41.22.A NMAC) – The test protocol, required to be submitted 30 days before the test date, includes the performance test schedule. The draft rule is also requiring notification to the Department 10 business days prior to the testing. If there are no changes to the test schedule, can the test protocol also act as the 10 business day notification of the test?
21. Page 17, line 29 (20.11.41.22.C NMAC) – The requirement to deliver a written request for a number of items described in this section no fewer than 60 days before the test is very stringent and at times not possible. Request that these requests are included in the test protocol and delivered to the Department no fewer than 30 days before the test date.
22. Page 17, line 34 (20.11.41.23 NMAC) – The requirements of this section are overly burdensome for the relocation of portable generators. Kirtland AFB again requests that exemption for these sources from this regulation be considered. If the Department will not consider this exemption, relief from these requirements will need to be provided for portable generators, as many of them are mounted in the backs of trucks. (Refer to Kirtland Comment #3)
23. Page 20, line 45 (20.11.41.28.A(2)(d) NMAC) – This section references a revision form provided by the Department. Will a draft of the form be available for review?
24. Page 26, line 34 (20.11.41.32 NMAC) – What is the schedule for issuance of a permit in the accelerated review process?
25. Page 28, line 30 (20.11.41.32.E(2) NMAC) – This section references 20.11.41.32.D(1)(a)-(c) NMAC, however, (a)-(c) are not in the stakeholder review draft.
26. Page 28, line 42 (20.11.41.32.F.(2) NMAC) - This provision fails to indentify whether the applicant can challenge an adverse ruling from the accelerated review. Recommend inserting a clause allowing a challenge of an adverse ruling under the provisions of 20.11.41.16 NMAC.

Butt, Neal T.

From: Shupe, James Civ USAF AFMC AFNWC/J [James.Shupe@kirtland.af.mil]
Sent: Friday, August 24, 2012 9:32 AM
To: Butt, Neal T.
Cc: Pike, John S Civ USAF AFMC 377 MSG/CEAN; Montano, Patrick A Civ USAF AFMC 377 MSG/CEANQ; Clark, Melissa B Civ USAF AFMC 377 MSG/CEANC
Subject: RE: Kirtland AFB Comments to 20.11.41 NMAC Stakeholder Review Draft 7/18/12
Signed By: There are problems with the signature. Click the signature button for details.

Follow Up Flag: Follow up
Flag Status: Yellow

Neal:

Melissa requested that I forward any additional review comments that I might
receive from Headquarters. I received an e-mail from them this morning stating that they had no additional comments to supplement Melissa's initial
submission on 17 Aug 2012. Accordingly, Kirtland AFB has no additional comments on the Draft 20.11.41 to submit for consideration.
I would like to thank you for accommodating Melissa's request.

v/r

//Signed//
J. Barry Shupe
AFNWC/JAE
2000 Wyoming Blvd., SE
Kirtland AFB, NM 87117
DSN: 246-4596 COMM: (505) 846-4596
james.shupe@us.af.mil

-----Original Message-----
From: Clark, Melissa B Civ USAF AFMC 377 MSG/CEANC
Sent: Friday, August 17, 2012 2:55 PM
To: Butt, Neal T. (NButt@cabq.gov)
Cc: Shupe, James Civ USAF AFMC AFNWC/J; Pike, John S Civ USAF AFMC 377 MSG/CEAN; Montano, Patrick A Civ USAF AFMC 377 MSG/CEANQ
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Air Program Manager
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Tavarez, Isreal L.

From: Tavarez, Isreal L.
Sent: Thursday, September 20, 2012 3:17 PM
To: 'melissa.clark@kirtland.af.mil'
Subject: FW: Albuquerque EHD Response to KAFB's Comments Regarding Proposed 20.11.41 NMAC, Construction Permits

Attachments: EHD Response 9-20-12 to KAFB Comments on 20 11 41 NMAC_8-17-12.pdf

Ms. Clark:

I inadvertently left off the attachment in the previous e-mail. Please find the attachment in this e-mail.

Respectfully,

Isreal Tavarez

EHD Response
9-20-12 to KAFB C..

From: Tavarez, Isreal L.
Sent: Thursday, September 20, 2012 3:12 PM
To: 'melissa.clark@kirtland.af.mil'
Subject: Albuquerque EHD Response to KAFB's Comments Regarding Proposed 20.11.41 NMAC, Construction Permits

Dear Ms. Clark:

Thank you for submitting your comments regarding the proposed repeal and replacement of 20.11.41 NMAC which is the minor stationary source air quality regulation. Please find attached a response to the comments you submitted in your letter dated August 17, 2012, sent to Neal Butt of the Air Quality Division.

Respectfully,

Isreal L. Tavarez, P.E.
Environmental Health Manager
Permitting Division
Air Quality Programs
City of Albuquerque Environmental Health Department

CITY OF ALBUQUERQUE

Environmental Health Department
Mary Lou Leonard, Director

September 20, 2012

Melissa Clark
Air Program Manager
377 MSG/CEANC
Kirtland Air Force Base

Sent via e-mail to melissa.clark@kirtland.af.mil

RE: Albuquerque Environmental Health Department Response to KAFB's Comments Regarding Repeal of 20.11.41 NMAC Authority to Construct and Replacement with 20.11.41 NMAC, Construction Permits

Environmental Health Dept.

Air Quality Division

PO Box 1293

Albuquerque, NM 87103

www.cabq.gov

Dear Ms. Clark:

Thank you for submitting your comments regarding the proposed repeal and replacement of 20.11.41 NMAC which is the minor stationary source air quality regulation. Please find below a response to the comments you submitted in your letter dated August 17, 2012, sent to Neal Butt of the Air Quality Division. The City of Albuquerque Environmental Health Department (Department) has provided a response to your e-mail.

General Comments

1. *Page 1, line 11 (20.11.41.2.A NMAC) – should reference to Subsection D be Subsection B?*

   Yes, the reference to Subsection D should be Subsection B. The Department has corrected the reference.

2. *Page 2, line 16 (20.11.41.2.C NMAC) – Suggest the addition of a comma after "permit".*

   Agreed. A comma has been added after "a construction permit".

3. *Page 2, lines 19-21 (20.11.41.2.C(1) NMAC) – Because all internal combustion engines, regardless of size, are now regulated under both 20.11.63 NMAC and 20.11.64 NMAC, this portion of the regulation would require permitting for sometimes very small emergency standby power engines with insignificant emissions, that operate only a handful of hours per year. A requirement to obtain a permit, with the accompanying $1,792 application review fee, for such small emission sources is overly burdensome. If the intent of the Department is to ensure that all sources with applicable Federal requirements are tracked to*

demonstrate compliance, this could be more appropriately addressed by requiring stationary sources to simply report these emission units, and not their emissions, similar to the requirements in the equivalent New Mexico Environment Department regulation (20.2.72 NMAC).

Due to the urban nature of the Albuquerque – Bernalillo County air shed, the Department requires construction air quality permits for sources that are subject to federal requirements, such as diesel fired back up emergency generators, which are subject to the requirements of 40 CFR 60 Subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.

4. *Page 2, line 48 through Page 3, line 24 (20.11.41.2.F(2) NMAC) – Small portable generators are not included in the exemptions. Requiring permitting for small temporary and/or portable generators would be overly burdensome and would be contrary to direction received by the Department.*

   The Department has modified the proposed regulation to allow portable generators to be exempted. Proposed 20.11.41.2.F(2)(g) NMAC now states with the changes:

   (g) use of portable ~~construction~~ support equipment such as power generation equipment, compressors, heaters, air conditioning and lighting equipment used for activities that include, but are not limited to maintenance and repair if the equipment is used ~~in direct support of the construction~~ fewer than 12 consecutive months at the same location and the equipment does not directly support an otherwise regulated portable stationary source (such as a screening plant, sand and gravel processing equipment, hot asphalt plant, ~~or~~ concrete plant or soil vapor extraction system); and

5. *Page 2, line 48 through Page 3, line 24 (20.11.41.2.F(2) NMAC) – Why was a more comprehensive exemption list eliminated from consideration? Could either the NMED exemption list be used, or the Department's existing Operating Permit Program List of Insignificant Activities (January 2, 1996)? Use of such an exemption list would eliminate burdensome review and permitting requirements, and consistency between insignificant sources in the Construction Permit requirements and Title V Permit requirements would simplify both programs.*

   The Department reviewed the New Mexico Environment Department exemption list provided in the State's Construction Regulation, Exemptions, at 20.2.72.202 NMAC when developing the Exemptions in 20.11.41.2.F NMAC of the proposed regulation. The Department decided to not include as many exemptions as allowed by the State of New Mexico due to the urban nature of the Albuquerque – Bernalillo County air shed. The purpose of the Operating Permit Program List of Insignificant Activities (January 2, 1996) is to provide a list of activities that will not be included in a Title V Operating permits for large sources of air emission, greater than 100 tons per year of criteria pollutants or 10 tons per of an individual hazardous air pollutant or 25 tons per year of

combined hazardous air pollutants). The list of exemptions in the proposed Construction Permits regulation is for small, medium and large sources of air pollutants. Therefore, because the purposes of the lists are different, the lists will not necessarily be consistent.

6. *Page 3, lines 25-31 (20.11.41.2.F(3) NMAC) – The inventory of this fuel burning equipment is already being tracked for sources regulated under 20.11.42 NMAC Operating Permits, can these sources be exempt from this requirement? Will this be an annual submittal or every time a permit application is submitted? For proposed facilities, the exact fuel burning equipment specifications may not be known at the time of the permit application.*

   Sources regulated under 20.11.42 NMAC, Operating Permits will **not** be exempted from the requirement in 20.11.41.2.F(3). The submittal will be required every time a permit application is submitted.

7. *Page 8, lines 19-24 (20.11.41.13.A NMAC) – Will a formal waiver process for the pre-application meeting be established? Would an email to Department staff be adequate?*

   A formal waiver process for the pre-application meeting will not be established. An e-mail to Department staff will be adequate. Following a receipt of an email request for waiver, the Department will sent an email regarding the Department's decision.

8. *Page 8, line 25 (20.11.41.13.B NMAC) – Would the Department consider waiving the applicant's public notice requirements for small standard sources such as NSPS generators under a certain horsepower threshold?*

   The Department will evaluate establishing general permits for such source categories as back up emergency generators and gasoline dispensing facilities if the proposed *Construction Permits* regulation is approved by the Albuquerque – Bernalillo County Air Quality Control Board. See proposed 20.11.41.31 NMAC.

9. *Page 8, lines 37-40 (20.11.41.13.B(3) NMAC) - For proposed emission sources for Kirtland AFB, Department of Energy/Sandia National Laboratories, and other tenants, if the facility entrance/property boundary is considered to be the Kirtland AFB fenceline, it may not be possible to post signage meeting the Department's qualifications for security reasons.*

   The Department has modified the proposed regulation to allow for applicants to post the sign at another location if the change is approved in advance by the Department. Additionally, if the applicant can establish to the department's satisfaction that the applicant is prohibited by law from posting at the facility entrance or another location the Department may waive the posting requirement and may impose additional notification requirements. Proposed 20.11.41.13.B(3) NMAC now states with the changes:

(3) ~~until the department makes a final decision regarding the application,~~ prior to submitting the application, post and maintain a weather-proof sign provided by the department, posted at the more visible of either the proposed or existing facility entrance or another location on the property ~~boundary~~ that is accessible to the public, if approved in advance and in writing by the department. The applicant shall list on the sign all information required by Subsection E of 20.11.41.13 NMAC. The applicant shall keep the sign posted until the department takes final action on the permit application. If an applicant can establish to the department's satisfaction that the applicant is prohibited by law from posting, at either location required by Paragraph (3) of Subsection B of 20.11.41.13 NMAC, the department may waive the posting requirement and may impose additional notification requirements.

10. *Page 8, lines 37-40 (20.11.41.13.B(3) NMAC) – What is the required size of the sign? Would it meet the intent of the proposed rule to have a visible pamphlet holder with informational sheets that include the required information?*

    The sign will be provided by the Department as stated in the proposed language in 20.11.41.13.B(3) NMAC: "until the department makes a final decision regarding the application, post and maintain a weather-proof sign provided by the department…" A visible pamphlet holder would not meet the sign requirement. However, if the Department waives the posting requirement of the sign the Department may impose additional notification requirements as proposed in 20.11.41.13.B(3) NMAC.

11. *Page 8, line 41 (20.11.41.13.C NMAC) – "authority-to-construct" should be "construction"*

    The department has made the correction.

12. *Page 8, line 55-56 (20.11.41.13.D.(4) NMAC) – May a facility submit one modeling protocol for multiple future modeling activities?*

    No, a facility may not submit one modeling protocol for multiple future modeling activities because modeling is evaluated on a case-by-case basis. However, a modeling protocol approved for a past project can be resubmitted for a future project if the projects are sufficiently similar.

13. *Page 9, lines 15-16 (20.11.41.13.D(7) NMAC) – Request the insertion an exemption in § 20.11.41.2(F)(2) for Federal agencies and/or Departments involved in National Defense and/or National Security. In the alternative, insert language granting waivers for national defense and/or national security activities.*

    The Department has modified the proposed regulation to allow for exemption for federal agencies involved in national defense or national security. Proposed 20.11.41.13.D(7) NMAC now states with the changes:

(7) an aerial photograph showing the proposed location of each process equipment unit involved in the proposed construction, modification, relocation or technical revision of the source except for federal agencies or departments involved in national defense or national security as confirmed and agreed to by the department in writing;

14. *Page 10, line 36 (20.11.41.13.G NMAC) – Request the insertion of an exemption at § 20.11.41.13.G (6) for the release of confidential data contained in permit application that pertain(s) to national defense and/or national security.*

    The Department has modified the proposed regulation to allow an exemption for the release of confidential data contained in permit applications that pertains to national defense or national security. 20.11.41.13.G(1) NMAC states with the changes:

    "**(1)** All records, reports or information relating to permit applications obtained by the department or the board from any person shall be available to the public for inspection and copying, except if a person has made a satisfactory showing to the department or the board that specific items or information or parts thereof, if made public, would divulge confidential business records ; ~~or~~ methods or processes entitled to protection as trade secrets; pertaining to national defense; or pertaining to national security as confirmed and agreed to by the department in writing. If the items or information are specifically marked by the person as confidential at the time of submittal, the department or the board shall then protect the following as confidential and not to be made a part of any public record unless the person expressly agrees, in writing, to its inspection, copying, or publication:"

15. *Page 12, line 15 (20.11.41.15 NMAC) – In addition to notifying neighborhoods and the public, the Department should also notify the applicant of the public information hearing.*

    The department has made the addition to the proposed language in 20.11.41.15 NMAC.

16. *Page 13, line 28 (20.11.41.16.A(2) NMAC) - § 20.11.2.11 NMAC requires payment of the total fee for review at the time the document is submitted. The proposed assessment of additional fees is inconsistent with § 20.11.2.11 NMAC. If the existing fee schedule is unreasonable, it should be amended instead of inserting arbitrary tack on fees.*

    The department will only require additional review fees if additional review fees are required by 20.11.2 NMAC. Additional language has been added to 20.11.41.16.A(2) NMAC in the proposed regulation.

17. *Page 15, lines 14-15 (20.11.41.19.A NMAC) – Suggested rewording of this condition for clarification: The contents of a permit application specifically identified in the permit shall become terms and conditions of the permit.*

The Department has considered your comments. The currently-proposed wording of 20.11.41.19.A NMAC is:

"The contents of the a permit application specifically identified by the department shall become terms and conditions of the permit~~, permit modification or permit revision~~."

18. *Page 15, lines 52-54 (20.11.41.19.E NMAC) – The justification for including an expiration date for all permits in the Comparison Summary of Current and Proposed Albuquerque-Bernalillo County Air Quality Control Board Regulation for Minor Air Quality Permitting Actions July 17, 2012 is to ensure new requirements are incorporated. However, a construction permit modification is already required under 20.11.41.2 NMAC when a source becomes subject to new requirements. Requiring a permit renewal at a given permit expiration date is redundant. Suggest a reference to submitting the Department's request to cancel permit form when a permit is no longer necessary.*

    The Department has removed the 10 year permit term requirement in 20.1.41.19.E NMAC of the proposed regulation.

19. *Page 17, line 3 (20.11.41.22 NMAC) – If there is an exceedance of permit terms during initial source testing, will there be any provision to allow technical revision to the permit without having to pay for the permit application fee again? For example, current NMED policy allows for this as long as the source testing does not exceed the original proposed permit emission rates by more than 10%. Will the Department recognize in this regulation the internal policy regarding size of units (specifically, generators) that require initial performance testing?*

    No, the Department will not add a provision to the proposed regulation to allow for technical revision to the permit without having to pay the permit application fee again if there is an exceedance of the permit terms during initial source testing because an increase in emissions does not qualify as a technical revision and review by the Department will be required.

    No, the Department will not incorporate in the proposed regulation the Department's internal policy regarding the size of units that require initial performance testing.

20. *Page 17, line 16 (20.11.41.22.A NMAC) – The test protocol, required to be submitted 30 days before the test date, includes the performance test schedule. The draft rule is also requiring notification to the Department 10 business days prior to the testing. If there are no changes to the test schedule, can the test protocol also act as the 10 business day notification of the test?*

Yes, as long as there are no changes to the testing schedule, the 30 day protocol submittal can also be used for the 10 business day notification test date notification.

21. *Page 17, line 29 (20.11.41.22.C NMAC) – The requirement to deliver a written request for a number of items described in this section no fewer than 60 days before the test is very stringent and at times not possible. Request that these requests are included in the test protocol and delivered to the Department no fewer than 30 days before the test date.*

    The 60 day notification is required so that the Division has time to adequately review the requests, which in a number of cases takes significant time to review due to the complexity of the request. The Division understands that situations may arise when a 60 day notification may not be possible. Those instances will be reviewed on a case-by-case basis following the Department's receipt of a written request.

22. *Page 17, line 34 (20.11.41.23 NMAC) – The requirements of this section are overly burdensome for the relocation of portable generators. Kirtland AFB again requests that exemption for these sources from this regulation be considered. If the Department will not consider this exemption, relief from these requirements will need to be provided for portable generators, as many of them are mounted in the backs of trucks. (Refer to Kirtland Comment #3)*

    The Department has modified the proposed regulation to allow for portable generators to be exempted. Proposed 20.11.41.2.F(2)(g) NMAC states with the changes:

    (g) use of portable ~~construction~~ support equipment such as power generation equipment, compressors, heaters, air conditioning and lighting equipment used for activities that include, but are not limited to maintenance and repair if the equipment is used ~~in direct support of the construction~~ fewer than 12 consecutive months at the same location and the equipment does not directly support an otherwise regulated portable stationary source (such as a screening plant, sand and gravel processing equipment, hot asphalt plant, ~~or~~ concrete plant or soil vapor extraction system); and

23. *Page 20, line 45 (20.11.41.28.A(2)(d) NMAC) – This section references a revision form provided by the Department. Will a draft of the form be available for review?*

    No, a draft form will not be available for review, but the Department encourages input on forms and documents that will be developed by the Department.

24. *Page 26, line 34 (20.11.41.32 NMAC) – What is the schedule for issuance of a permit in the accelerated review process?*

The schedule for issuance of a permit in the accelerated review process for a minor permitting action is within 90 days of ruling the application complete unless the Department Director approves up to an additional 90 days, such as for additional time to allow the Department to conduct a public information hearing. This process is required by the New Mexico Air Quality Control Act at NMSA 74-2-7(B)(8) and (9).

25. *Page 28, line 30 (20.11.41.32.E(2) NMAC) – This section references 20.11.41.32.D(1)(a)-(c) NMAC, however, (a)-(c) are not in the stakeholder review draft.*

    The reference should be to Subsection E (20.11.41.32.E(1)(a)-(c) NMAC). The Department has corrected the incorrect citation.

26. *Page 28, line 42 (20.11.41.32.F.(2) NMAC) - This provision fails to identify whether the applicant can challenge an adverse ruling from the accelerated review. Recommend inserting a clause allowing a challenge of an adverse ruling under the provisions of 20.11.41.16 NMAC.*

    Excluding a reference to 20.11.41.16 NMAC in 20.11.41.32.A NMAC was an oversight. The Department has included the reference to 20.11.41.16 NMAC in 20.11.41.32.A NMAC of the proposed regulation and renumbered the paragraph numbers thereafter.

Thank you again for providing your comments. If you would like to discuss the information in this response please contact me at 768-1965 or at itavarez@cabq.gov.

Respectfully,

Isreal L. Tavarez, P.E.
Environmental Health Manager
Permitting Division
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cc: File