Jones, Elizabeth A.

AQD Ex. #1p

From: Butt, Neal T.
Sent: Thursday, December 20, 2012 10:45 AM
To: Jones, Elizabeth A.
Subject: FW: Comments on 20.11.41 Construction permit
Attachments: NMGC comments Aug2012 construction permit.pdf

From: Marcelle Fiedler [mailto:Marcelle.Fiedler@nmgco.com]
Sent: Thursday, August 16, 2012 10:24 AM
To: Butt, Neal T.
Subject: Comments on 20.11.41 Construction permit

Neil
Attached are comments from NMGC on the proposed Construction permit regulations.
Thanks

Marcelle Fiedler
NMGC, Senior Environmental Scientist
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New Mexico
GAS COMPANY

Sent via email: nbutt@cabq.gov

Neal Butt
City of Albuquerque
Environmental Health Department
PO Box 1293
Albuquerque, NM 87103

August 16, 2012

RE: Comments to proposed 20.11.41 NMAC Construction Permits

These comments are filed on behalf of the New Mexico Gas Company (NMGC) in response to the City of Albuquerque (CABQ) Proposed repeal of 20.11.41 Authority to Construct and replacement with 20.11.41 Construction Permits. Thank you for this opportunity to comment on the proposed rule.

20.11.41.2 Scope

- In the first paragraph of 20.11.41.2 Scope, it refers to Subsection D of 20.11.41.2 for the emission thresholds. Subsection D does not discuss emission thresholds. Did CABQ mean to refer to Subsection B?

- In 20.11.41.2.D it says that sources that become subject to new NSPS or NESHAP must obtain a construction permit. There are two things confusing about this. First what does "new" mean? Is that NSPS or NESHAP's effective after a certain date? And second if a source is subject to NSPS or NESHAP but does not meet the emission thresholds in 20.11.41.2.B must a permit be obtained? This section does not make sense. The way this section is written all new sources need a construction permit regardless of emission threshold because most new sources and subject to NSPS.

20.11.41.13. Application for a permit

- In 20.11.41.13.A, CABQ added a requirement for a pre-application meeting with the Department. Although this can be waived by the Department, it seems excessive to require this for all applications.
- The new public notice requirement in 20.11.41.13.B is redundant with the Department's public notice requirement in 20.11.41.14.B.6. Why do both the applicant and the Department need to submit a copy of the public notice to the neighborhood association and coalition? Once is adequate.
- In Subsection C, the text refers to "authority to construct" permit. Should this now say "construction" permit?

P.O. Box 97500 • Albuquerque, NM 87199-7500 • p: 888 NMGASCO • www.nmgco.com

20.11.41.19 Permit Conditions

- In 20.11.41.19.E CABQ has added a term limit to the permit and permits must be renewed every 10 years. NMGC understands the need to renew the operating permit, but renewing the construction permit is an unnecessary burden, especially for small sources like emergency generators which are considered insignificant (and do not require a permit) in the rest of the state. This term limit should be removed from the regulation.

20.11.41.22 Performance Testing

- In subsection A, CABQ changed the performance testing requirements. Specifically, the applicant must submit a test protocol 30 days prior to performing the test and the Department must approve the protocol for the test to be valid. However, the applicant has between 60 and 180 days to conduct the test. To ensure that the applicant obtain the necessary approval to do the test within the required timeline, the regulation should include a deadline for the Department to approve the protocol. Otherwise the applicant could miss their deadline because they are waiting for the Department's approval.

20.11.41.28 Administrative and Technical Permit Revisions

- In Subsection A.1, (c) was deleted from the actions that can be done as an Administrative Revision. Retiring an emission source should be allowable as an administrative revision.
- In the Technical Revision Section (Subsection B), CABQ does not include adding equipment that has a 1 pound per hour or less emission rate. NMGC suggests that the list of activities that can occur as a technical revision match the State's list in 20.2.72.

NMGC appreciates CABQ's consideration of our comments.

Sincerely,

Marcelle Fiedler
NMGC Senior Environmental Scientist

marcelle.fiedler@nmgco.com

Tavarez, Isreal L.

From: Tavarez, Isreal L.
Sent: Thursday, September 20, 2012 3:19 PM
To: 'marcelle.fiedler@nmgco.com'
Subject: Albuquerque EHD Response to New Mexico Gas Company's Comments Regarding Proposed 20.11.41 NMAC, Construction Permits

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

Dear Ms. Fielder:

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

EHD Response
9-20-12 to NM Gas..

CITY OF ALBUQUERQUE

Environmental Health Department
Mary Lou Leonard, Director

September 20, 2012

Marcelle Fiedler
NMGC Senior Environmental Scientist
New Mexico Gas Company
P.O. Box 97500
Albuquerque, NM 87199-7500

Sent via e-mail to marcelle.fiedler@nmgco.com

RE: **Albuquerque Environmental Health Department Response to New Mexico Gas Company'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. Fielder:

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 letter and has numbered your comments in order to better identify each comment and response.

2.11.41.2 Scope

1. *In the first paragraph of 20.1.41.2 Scope, it refers to Subsection D of 20.11.41.2 for the emission thresholds. Subsection D does not discuss emission thresholds. Did CABQ mean to refer to Subsection B?*

   Yes, the Department meant to refer to Subsection B. The proposed regulation has been corrected.

2. *In 20.11.41.2.D it says that sources that become subject to new NSPS or NESHAP must obtain a construction permit. There are two things confusing about this. First what does "new" mean? Is that NSPS or NESHAP's effective after a certain date? And second if a source is subject to NSPS or NESHAP but does not meet the emission thresholds in 20.11.41.2.B must a permit be obtained? This section does not make sense. The way this section is written all*

new sources need a construction permit regardless of emission threshold because most new sources are subject to NSPS.

"New" means any NSPS or NESHAP that is published in the Federal Register and becomes effective after the effective date of adoption by the Albuquerque – Bernalillo County Air Quality Control Board of the proposed 20.11.41 NMAC, *Construction Permits.* Yes, if a source is subject to a NSPS or NESHAP, but does not meet the emission thresholds in 20.11.41.2.B NMAC, that source must obtain an air quality construction permit pursuant to Paragraph D of 20.11.41.2 NMAC. This is a federal requirement and already a requirement of the current *Authority to Construct* regulation at 20.11.41.2.B(2)(a) NMAC.

2.11.41.13 Application for a permit

3. *In 20.11.41.13.A, CABQ added a requirement for a pre-application meeting with the Department. Although this can be waived by the Department, it seems excessive to require this for all applications.*

   The purpose of the pre-application meeting with the Department is to allow the applicant to ask questions regarding the requirements of the permitting process so that the application package submitted to the Department will be complete. The meeting with the Department can occur via a telephone conference call, and the applicant can ask the Department to waive the pre-application meeting.

4. *The new public notice requirement in 20.11.41.13.B is redundant with the Department's public notice requirement in 20.11.41.14.B.6. Why do both the applicant and the Department need to submit a copy of the public notice to the neighborhood association and coalition? Once is adequate.*

   The applicant's public notice requirement provides notice to the community and interested individuals regarding the fact that the applicant is submitting an air quality permit application. This notice allows the community and interested individuals an opportunity to be aware of proposed projects. The Department's public notice to the public occurs after the Department has determined the application is administratively complete and ready for review by the Department and interested members of the public can decide whether to provide pubic comments. Public participation involvement in the air quality permitting process is required under the federal Clean Air Act, the State of New Mexico Air Quality Control Act, the Bernalillo County Joint Air Quality Control Board Ordinance and the parallel City of Albuquerque Ordinance. Additionally, the Environmental Protection Agency Environmental Justice draft guidance encourages agencies to provide opportunities for the public to be engaged in proposed permitting actions, which is also the Department's policy.

5. *In Subsection C, the text refers to "authority to construct" permit. Should this now say "construction" permit?*

   Yes, the text should refer to "construction" permit. The Department has made the change to the proposed language.

2.11.41.13 Application for a permit

6. *In 20.11.41.19.E CABQ has added a term limit to the permit and permits must be renewed every 10 years. NMGC understands the need to renew the operating permit, but renewing the construction permit is an unnecessary burden, especially for small sources like emergency generators which are considered insignificant (and do not require a permit) in the rest of the state. This term limit should be removed from the regulation.*

   The Department has removed the 10 year permit term provision from the proposed 20.11.41 NMAC, *Construction Permits.*

2.11.41.22 Performance Testing

7. *In subsection A, CABQ changed the performance testing requirements. Specifically, the applicant must submit a test protocol 30 days prior to performing the test and the Department must approve the protocol for the test to be valid. However, the applicant has between 60 and 180 days to conduct the test. To ensure that the applicant obtain the necessary approval to do the test within the required timeline, the regulation should include a deadline for the Department to approve the protocol. Otherwise the applicant could miss their deadline because they are waiting for the Department's approval.*

   The intent of the test protocol is to ensure that the permittee is following the Code of Federal Regulations (CFR) Test Methods and the testing requirements listed in the permit. The proposed language in the event that the source does not/will not follow the testing requirements as required in the permit and CFR Test Methods, in which case the Department will not accept the test results. This is not a change in approach and is consistent with federal and current 20.11.41 NMAC requirements. This part of the proposed regulation does not authorize the Department to deny testing results from tests that were done in compliance with the permit and CFR Test Methods. It is only a tool to ensure that protocols submitted in advance of testing meet the testing requirements.

2.11.41.28 Administrative and Technical Permit Revisions

8. *In Subsection A.1, (c) was deleted from the actions that can be done as an Administrative Revision. Retiring an emission source should be allowed as an administrative revision.*

   The Department has revised 20.11.41.28.A(1)(c) NMAC in proposed 20.11.41 NMAC, *Construction Permits*, to include retiring an emission source as an administrative revision.

9. *In the Technical Revision Section (Subsection B), CABQ does not include adding equipment that has a 1 pound per hour or less emission rate. NMGC*

suggests that the list of activities that can occur as a technical revision match the State's list in 20.2.72.

An increase in emissions is a "modification" as defined in 20.11.41 NMAC and federal regulations so adding equipment that increases emissions from a source must be evaluated through the air quality permitting process. The Department takes this approach to air quality permitting because Bernalillo County and Albuquerque is a more urban area than the rest of the State of New Mexico.

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

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

cc: File