AQD Ex. #1s

Tavarez, Isreal L.

From: Butt, Neal T.
Sent: Thursday, August 16, 2012 2:29 PM
To: Kearny, Adelia W.; Lopez, Angela; Reyes, Damon R.; Gates, Dan E.; Rocha, Dario W.; Griffin, Donna J.; Dennis, Glen ; Lienemann, Kenneth A.; Jaramillo, Louis ; Macias, Fabian ; Nieto, Margaret ; Stebleton, Matt B.; Tavarez, Isreal L.; Westmoreland, Bill
Subject: FW: Valero - Repeal and replacement - 20.11.41 NMAC 08-2012
Attachments: Valero - Repeal and replacement - 20.11.41 NMAC 08-2012.pdf

Regulatory Development Committee,

please see comments

Thanks,

Neal

"Après moi le déluge"
('after me, the flood')
King Louis XV

From: Dominguez, Martin [mailto:Martin.Dominguez@valero.com]
Sent: Thursday, August 16, 2012 2:06 PM
To: Butt, Neal T.
Subject: Valero - Repeal and replacement - 20.11.41 NMAC 08-2012

Good afternoon Mr. Butt,

The attached letter are Valero's comments on the proposed repeal of 20.11.41 NMAC, *Authority – to – Construct* and replacement with 20.11.41 NMAC, *Construction Permits*.

Thank you for allowing us the opportunity to review and share our comments on this important regulation.

Please feel free to contact me if you have any questions.

Sincerely,

Martin Dominguez
Compliance Specialist
Valero Retail Holdings, Inc.

Valero Retail Holdings, Inc.

August 16, 2012

CABQ Environmental Health Department
1st Amended Public Review Draft (PRD)
nbutt@cabq.gov
P.O. Box 1293
One Civic Plaza RM 3047
Albuquerque, NM 87103

Re: Repeal of 20.11.41 NMAC, Authority-to-Construct and Replacement with 20.11.41 NMAC, Construction Permits.

Dear Mr. Neal Butt:

Valero Retail Holdings, Inc. operates approximately 20 retail fueling facilities in the County of Bernalillo. Upon review of the proposed replacement of Authority-to-Construct published on the CABQ EHD Division website at http://cabq.gov/airquality/regulations-development/stakeholder-review-drafts, Valero's comments are detailed below.

As a general comment, before getting into the specifics below, Valero would like the CABQ Environmental Health Department (CABQ EHD) to be aware that several of their proposed revisions, such as limiting the Air Quality Permit's lifespan to 10 years, may actually penalize the owners/operators whom have already built and installed expensive technological equipment. Furthermore, limiting the life of an Air Quality Permit would deter any future/new growth in the County of Bernalillo.

Valero believes replacing the existing regulations with the proposed would further complicate the re-permitting process, not to mention increase the associated fees, time, and etc. by approximately 4-fold for the same facility. Although not intended, these proposed regulations would create a never ending permit process.

1) 20.11.41.19 NMAC Subsection E - Air Quality Permit would be valid for 10 years and must be renewed.

Valero has significant concerns regarding this proposal, which would require the Air Quality Permit to expire after a 10 year lifespan thus requiring owners/operators to initiate the entire permitting process once again.

a) If CABQ EHD limits the life of a permit to 10 years this would significantly limit future upgrades and remodels to a facility governed by this type of permit. In other words if a remodel were to occur, by any owner/operator, close to the end of the permit's lifespan, the remodel may not take place due to the possibility of a new permit not being reissued.

b) Prospective and current owners/operators seeking to expand within the county may be deterred due to the proposed 10 year lifespan thus limiting future growth.

c) A historically fully compliant owner/operator would run the risk of losing their permit on a facility due to this process.

CABQ EHD states that the 10 year lifespan of the permit would enable the CABQ EHD to incorporate any new air quality requirements and remove old, outdated requirements from the Air Quality Permit; however, CABQ EHD currently incorporates any new regulations and removes any outdated regulations during any modifications to the allowable VOC's the permit carries. With this being said, since there is currently an existing method in place, such proposals would not justify limiting the permit's lifespan.

In the proposed regulations, the CABQ EHD does not state if this new 10 year permit would still be governed by permitted VOC's as it is currently nor is there any mention of any associated fees owners/operators would incur during each permit modification under this proposed regulation.

Valero's suggestion is to keep in place VOC's as the primary contributing factor which governs the Air Quality Permit. We believe any modification to a permit should be enacted by the permit holder for the purpose of updating new facility information, as opposed to every 10 years or every time there is a change in regulations. If VOC's will continue to be the primary contributing factor for the permit, Valero does not see a motive as to why the permit would necessitate an expiration period.

2) **20.11.41.2 NMAC Subsection D - Owner/operator to apply for and obtain an air quality permit when the source becomes subject to a new federal standard or National Emission Standards for Hazardous Air Pollutants.**

This proposal would require owners/operators to go through the renewal permitting process yet again. CABQ EHD states that this would enable the CABQ EHD to more efficiently incorporate new federal standards into the permits as required by federal law.

CABQ EHD does not state if these new federal standards or NESHAP requirements would again override the VOC's as the primary contributing factor for the permit. Again, CABQ EHD currently incorporates all new regulations simultaneously when permitted VOC's are modified.

Valero's suggestion is to keep in place VOC's as the primary contributing factor which governs the Air Quality Permit, as any updates to the permit would simultaneously incorporate any NESHAP requirements and new federal standards as referenced in 20.11.41.2(2)(B).

3) **20.11.41.28 NMAC Subsection B - Technical permit revisions can be requested by the permittee and approved by the Department.**

This addition allows for changes to be made to the Air Quality Permit which do not increase emissions and do not reduce the enforceability of the permit.

CABQ EHD currently has in place such procedures where a permittee may request a voluntary reduction of an emissions limitation or request to retire an emissions unit as referenced in 20.11.41.2(2)(4).

Again, Valero believes the passage of the proposed regulations would further complicate the re-permitting process, not to mention increase the associated fees, preparation time and department review time, for each permit or each re-permitting occurrence. These proposals, we believe, were not produced with the intent of creating a never ending permit process; however, this is the direction of the proposed regulations.

Valero appreciates the opportunity to share its comments on these proposed regulations. Should you like to discuss these comments, please do not hesitate to contact me.

Sincerely,

Martin Dominguez
Compliance Specialist
Valero Retail Holdings, Inc.
4748 Osborne St.
El Paso, TX 79922
(915) 833-7740 Option 3
Martin.Dominguez@valero.com

Tavarez, Isreal L.

From: Tavarez, Isreal L.
Sent: Thursday, September 20, 2012 3:54 PM
To: 'Martin.Dominguez@valero.com'
Subject: Albuquerque EHD Response to Valero's Comments Regarding Proposed 20.11.41 NMAC, Construction Permits

Attachments: EHD Response 9-20-12 to Valero Comments on 20 11 41 NMAC_8-16-12.pdf

Dear Mr. Dominguez:

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 16, 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 Valero...

CITY OF ALBUQUERQUE

Environmental Health Department
Mary Lou Leonard, Director

September 20, 2012

Martin Dominguez
Compliance Specialist
Valero Retail Holdings, Inc.
4748 Osborne St.
El Paso, TX 79922

Sent via e-mail to Martin.Dominquez@valero.com

RE: Albuquerque Environmental Health Department Response to Valero'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 Mr. Dominguez:

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 e-mail dated August 16, 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.

1. ***20.11.41.19 NMAC Subsection E - Air Quality Permit would be valid for 10 years and must be renewed.***
   Valero has significant concerns regarding this proposal, which would require the Air Quality Permit to expire after a 10 year lifespan thus requiring owners/operators to initiate the entire permitting process once again.

   a) If CABQ EHD limits the life of a permit to 10 years this would significantly limit future upgrades and remodels to a facility governed by this type of permit. In other words if a remodel were to occur, by any owner/operator, close to the end of the permit's lifespan, the remodel may not take place due to the possibility of a new permit not being reissued.

   b) Prospective and current owners/operators seeking to expand within the county may be deterred due to the proposed 10 year lifespan thus limiting future growth.

   c) A historically fully compliant owner/operator would run the risk of losing their permit on a facility due to this process.

CABQ EHD states that the 10 year lifespan of the permit would enable the CABQ EHD to incorporate any new air quality requirements and remove old, outdated requirements from the Air Quality Permit; however, CABQ EHD currently incorporates any new regulations and removes any outdated regulations during any modifications to the allowable VOC's the permit carries. With this being said, since there is currently an existing method in place, such proposals would not justify limiting the permit's lifespan.

In the proposed regulations, the CABQ EHD does not state if this new 10 year permit would still be governed by permitted VOC's as it is currently nor is there any mention of any associated fees owners/operators would incur during each permit modification under this proposed regulation.

Valero's suggestion is to keep in place VOC's as the primary contributing factor which governs the Air Quality Permit. We believe any modification to a permit should be enacted by the permit holder for the purpose of updating new facility information, as opposed to every 10 years or every time there is a change in regulations. If VOC's will continue to be the primary contributing factor for the permit, Valero does not see a motive as to why the permit would necessitate an expiration period.

The Department has removed the 10 year permit term and permit renewal provision in the proposed 20.11.41 NMAC, *Construction Permits.* However, the Department notes that under the current definition of a "modification" an upgrade or remodel may require the permittee to submit an application for modification.

2. ***20.11.41.2 NMAC Subsection D - Owner/operator to apply for and obtain an air quality permit when the source becomes subject to a new federal standard or National Emission Standards for Hazardous Air Pollutants.***
This proposal would require owners/operators to go through the renewal permitting process yet again. CABQ EHD states that this would enable the CABQ EHD to more efficiently incorporate new federal standards into the permits as required by federal law.

   CABQ EHD does not state if these new federal standards or NESHAP requirements would again override the VOC's as the primary contributing factor for the permit. Again, CABQ EHD currently incorporates all new regulations simultaneously when permitted VOC's are modified.

   Valero's suggestion is to keep in place VOC's as the primary contributing factor which governs the Air Quality Permit, as any updates to the permit would simultaneously incorporate any NESHAP requirements and new federal standards as referenced in 20.11.41.2(2)(B).

   Proposed Subsection D of 20.11.41.2 NMAC would require an owner/operator to go through the permitting process when the source becomes subject to a "new" federal New Source Performance Standard (NSPS) or a federal National Emissions Standards for Hazardous Air Pollutants (NESHAP), but had non been

required to obtain a Part 41 permit previously. "New" means any NSPS or NESHAP that becomes effective after the effective date of proposed 20.11.41 NMAC, *Construction Permits.*

Regarding the statement that VOC's are the primary contributing factor requiring a Part 41 permit versus the NESHAP requirement, it is correct that, when a permit is updated, the VOC requirements are kept and simultaneously any applicable NESHAP requirements are incorporated into the permit.

3. ***20.11.41.28 NMAC Subsection B - Technical permit revisions can be requested by the permittee and approved by the Department.***
This addition allows for changes to be made to the Air Quality Permit which do not increase emissions and do not reduce the enforceability of the permit.

   CABQ EHD currently has in place such procedures where a permittee may request a voluntary reduction of an emissions limitation or request to retire an emissions unit as referenced in 20.11.41.2(2)(4).

   Again, Valero believes the passage of the proposed regulations would further complicate the re-permitting process, not to mention increase the associated fees, preparation time and department review time, for each permit or each re-permitting occurrence. These proposals, we believe, were not produced with the intent of creating a never ending permit process; however, this is the direction of the proposed regulations.

   The current regulation, 20.11.41 NMAC, *Authority-to-Construct*, does not address technical revisions. The Department has encountered situations that required permittees to go through the entire permitting process because technical revisions are not currently allowed. The new process proposed address technical revisions will allow both the permittees and the Department to more efficiently and economically process changes to the air quality permits if the proposed revision does not involve an increase in emissions and does not reduce the enforceability of the permit.

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