AQD Ex. #1u

Jones, Elizabeth A.

From: Butt, Neal T.
Sent: Thursday, December 20, 2012 10:44 AM
To: Jones, Elizabeth A.
Subject: FW: UNM Comments on Proposed Revisions to 20.11.41 NMAC
Attachments: UNM Comments on ATC Permit reg revisions.pdf

From: Vernon Hershberger [mailto:hershber@unm.edu]
Sent: Friday, August 17, 2012 1:47 PM
To: Butt, Neal T.
Cc: Carla Prando
Subject: UNM Comments on Proposed Revisions to 20.11.41 NMAC

Hi Neal,

Thank you for informing UNM of the proposed repeal of 20.11.41 NMAC, Authority-to-Construct (ATC) and replacement with 20.11.41 NMAC Construction Permits. From your related communications, today is the deadline to submit stakeholder comments to you.

Please see UNM's related comments and questions in the attached pdf file. Please email confirmation of your receipt of this.

Thx, Vern

Vernon Hershberger, CHMM, LEED AP
Environmental Health Manager
UNM, Dept. SRS
277-9756

UNM Comments and Questions on proposed 20.11.41 NMAC Revisions

1. Citation: Regulation title and 20.11.41.2 A.
   Comment: The title and applicability language clearly state that the revised regulation still applies to permitting stationary sources. At later points in the new revised portable source language prior definition of "stationary" is blurred. The newly proposed broader regulation of non-stationary portable sources may go beyond the current existing permit language and the equivalent NMED and Federal New Source Review (NSR) regulations.
2. Citations: Subsection F. of 20.11.41.2 NMAC, and definitions K. and GG. of Subparagraph (10) of Subsection J of 20.11.41.2 NMAC.
   Comments: It may be simpler to draft a short list of the portable source types that are currently regulated as if they were stationary (because of their high air quality impacts and generally longer deployment times), such as portable asphalt plant equipment, portable concrete batch plant equipment, portable sand & gravel plant equipment, portable crushing plant equipment, or other sources subject to NSPS Subpart OOO. Further, the potential situation that may arise if the use of a trailer-mounted electrical power generator is needed for a disaster recovery application such as powering a building after a fire damages part of it is not addressed. It is unclear whether an unlisted different application of a portable power generator would still be exempted from stationary source permitting regulation.
3. Citation: Subsection HH. of 20.11.41.7 NMAC
   Comment: It is not clear whether the new "potential emission rate" allows the reduction of emissions from attached (as compared to inherently built-in) control equipment to be considered in calculating whether equipment emits at the regulatory thresholds for NSR permitting (10lb/hr or 25 tpy) or not?
4. Citation: Subsection E of 20.11.41.19 NMAC.
   Comments: Limiting NSR type permitting duration to 10 years is more restrictive than federal and state requirements. A 10-year limit on permit duration may create uncertainty for UNM when considering investing in costly emissions equipment because the calculated payback period and equipment longevity is normally more than 10 years.
5. Citation: Subsection D of 20.11.41.23 NMAC.
   Comment: Additional clarification is needed regarding whether owners of mobile sources, e.g., UNM's trailer-mounted emergency generators, would need to apply for a new NSR permit (or to modify it) to legally operate or relocate such portable equipment to temporarily provide backup electricity to campus facilities for a host various applications besides exempted construction or maintenance. This revision may make ownership and relocation of various portable/mobile emissions equipment subject to stationary source type NSR permitting which may be more stringent than state and federal requirements. Perhaps it would be simpler to clearly state that the revised regulation is intended to apply only to portable gravel/sand, crushing, asphalt batch and concrete batch plant equipment.

Tavarez, Isreal L.

From: Tavarez, Isreal L.
Sent: Thursday, September 20, 2012 3:51 PM
To: 'Vernon Hershberger'
Cc: 'CPrado@salud.unm.edu'
Subject: Albuquerque EHD Response to UNM's Comments Regarding Proposed 20.11.41 NMAC, Construction Permits

Attachments: EHD Response 9-20-12 to UNM Comments on ATC Permit reg revisions 8-17-12.pdf

Dear Mr. Hershberger:

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
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CITY OF ALBUQUERQUE

Environmental Health Department
Mary Lou Leonard, Director

September 20, 2012

Vernon Hershberger, CHMM, LEED AP
Environmental Health Manager
UNM, Dept. SRS

Sent via e-mail to hershber@unm.edu

RE: Albuquerque Environmental Health Department Response to UNM'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. Hershberger:

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 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.

1. *Citation: Regulation title and 20.11.41.2 A.*
   Comment: The title and applicability language clearly state that the revised regulation still applies to permitting stationary sources. At later points in the new revised portable source language prior definition of "stationary" is blurred. The newly proposed broader regulation of non-stationary portable sources may go beyond the current existing permit language and the equivalent NMED and Federal New Source Review (NSR) regulations.

   Other comments submitted raised similar points. Clarifying language has been added to both the exemption provision for portable support equipment (20.11.41.2(F)(2)(g) NMAC) and the relocation of portable stationary source section (20.11.41.23 NMAC). The changes for each section are provided below.

   20.11.41.2(F)(2)(g) NMAC:
   "**(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);"

20.11.41.23 NMAC:
"**A.** Portable aerospace ground equipment referenced in Subparagraph (f) of Paragraph 2 of Subsection F of 20.11.41.2 NMAC and portable support equipment referenced in Subparagraph (g) of Paragraph 2 of Subsection F of 20.11.41.2 NMAC are not subject to the requirements of 20.11.41.23 NMAC."

2. *Citations: Subsection F. of 20.11.41.2 NMAC, and definitions K. and GG. of Subparagraph (10) of Subsection J of 20.11.41.2* (23) *NMAC.*
Comments: It may be simpler to draft a short list of the portable source types that are currently regulated as if they were stationary (because of their high air quality impacts and generally longer deployment times), such as portable asphalt plant equipment, portable concrete batch plant equipment, portable sand & gravel plant equipment, portable crushing plant equipment, or other sources subject to NSPS Subpart OOO. Further, the potential situation that may arise if the use of a trailer-mounted electrical power generator is needed for a disaster recovery application such as powering a building after a fire damages part of it is not addressed. It is unclear whether an unlisted different application of a portable power generator would still be exempted from stationary source permitting regulation.

   Regarding the comment to provide a short list of the portable sources types that are currently regulated, the Department has decided to not provide an inclusive list of portable stationary source types, but to instead provide some examples. See the definition at 20.11.41.7.GG NMAC of the proposed regulation.

   Regarding the scenario involving the use of trailer-mounted electrical power generator needed for a disaster recovery application such as powering a building after a fire damages part of the building: without knowing specifics, the Department is unable to determine what if any air quality permit requirements would apply, such as proposed 20.11.41.24 NMAC, Emergency Permits. Therefore, scenarios like the one described would have to be addressed by the Department on a case by case basis. The Department encourages the University of New Mexico and all regulated entities to inform the Department as soon as possible to discuss situations that may require an air quality permit.

   The Department has added clarifying language to the exemption provision that applies to portable support equipment (20.11.41.2(F)(2)(g) NMAC) as discussed in the Department's response to UNM question #1 above.

3. *Citation: Subsection HH. of 20.11.41.7 NMAC*
Comment: It is not clear whether the new "potential emission rate" allows the reduction of emissions from attached (as compared to inherently built-in) control equipment to be considered in calculating whether equipment emits at the regulatory thresholds for NSR permitting (10lb/hr or 25 tpy) or not?

The proposed definition of "potential emission rate" in 20.11.41.7.HH NMAC does not make a distinction between attached or inherently built-in control equipment. Once the limitation of attached control equipment, inherently built-in control equipment, or some other limitation (i.e., restriction on operating hours) has been established in an air quality construction permit, both the emissions limits (maximums) and the controls or limitations (i.e., fuel usage restrictions, operating hour restrictions) become enforceable parts of the issued permit. Once the permit issued the pre-controlled emissions are the emission limits (maximums) established in the permit.

For a new source of air emissions without an air quality permit, the pre-controlled emissions will typically be based on year round (8,760 hours) operation of the equipment or activity with no controls or limitations. Once an air quality permit is issued the permitted emissions become the pre-controlled emissions because the air quality permit will include enforceable requirements for any controls and/or other limitations.

4. *Citation: Subsection E of 20.11.41.19 NMAC. Comments: Limiting NSR type permitting duration to 10 years is more restrictive than federal and state requirements. A 10-year limit on permit duration may create uncertainty for UNM when considering investing in costly emissions equipment because the calculated payback period and equipment longevity is normally more than 10 years.*

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

5. *Citation: Subsection D of 20.11.41.23 NMAC.*
   Comment: Additional clarification is needed regarding whether owners of mobile sources, e.g., UNM's trailer-mounted emergency generators, would need to apply for a new NSR permit (or to modify it) to legally operate or relocate such portable equipment to temporarily provide backup electricity to campus facilities for a host various applications besides exempted construction or maintenance. This revision may make ownership and relocation of various portable/mobile emissions equipment subject to stationary source type NSR permitting which may be more stringent than state and federal requirements. Perhaps it would be simpler to clearly state that the revised regulation is intended to apply only to portable gravel/sand, crushing, asphalt batch and concrete batch plant equipment.

   The Department has added clarifying language to the exemption provision for portable support equipment (20.11.41.2(F)(2)(g) NMAC). Additional language has been added to the relocation of portable stationary sources to clarify that relocation requirements do not apply to portable aerospace ground equipment and portable support equipment (20.1.41.23(A) NMAC). These two points are discussed in the Department's response to UNM question #1 above.

6. *Citation: Subsection C of 20.11.41.24 NMAC. Comments: Similar comments & concerns for portable/mobile as those for the proposed stationary source site*

posting requirements above. For stationary or portable emission units needed to respond to true emergencies, e.g., earthquakes, fires, severe cold, etc. creating new air quality posting, paperwork or other new regulatory requirements may detract from the more critical immediate needs of saving lives and protecting property.

The Department has added clarifying language to the exemption provision for portable support equipment (20.11.41.2(F)(2)(g) NMAC). Additional language has been added to the language regarding relocation of portable stationary sources to clarify that relocation requirements do not apply to portable aerospace ground equipment and portable support equipment (20.1.41.23(A) NMAC). These two points are discussed in the Department's response to UNM question #1 above.

If equipment is not portable support equipment and there is an immediate need to operate the equipment than an emergency permit could be requested. If the request and situation met the requirements of an emergency permit, the Department would issue and emergency 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: Carla Prado, CPrando@salud.unm.edu
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