AQD Ex. #1t

Butt, Neal T.

From: Williams, Mark A. [Mark.Williams@pnmresources.com]
Sent: Friday, August 17, 2012 1:19 PM
To: Butt, Neal T.
Cc: Nieto, Margaret ; DeLapp, Robin; Horn, Claudette; Gannon, Maureen
Subject: RE: Stakeholder Review Draft 20.11.41 NMAC

Neal....Thanks for sending the email with the proposed 20.11.41 NMAC regulations. Following are PNM's comments on the proposed regulation changes:

- Proposed regulation NMAC 20.11.41.2 (F)(2)(g) states,

"(2) The following sources and activities shall not be reported in the permit application.
g) use of portable construction support equipment such as power generation equipment, compressors, heaters, air conditioning and lighting equipment if the equipment is used in direct support of the construction 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);"

NMAC 20.11.41.2 (K) states *"Construction" means fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources"*, thus does not appear to include "maintenance and repair". A suggestion would be to add "maintenance and repair" to construction support to clarify such equipment is exempt if used for these activities. Also, note, all diesel engine "power generation equipment" is subject to at some minimal requirements under the Federal RICE NESHAP regulations, therefore, are considered a regulated "source". For example, PNM stores a ~400 hp diesel generator at its Service Center. The generator is subject to NESHAP Subpart ZZZZ. The generator is temporarily used at various locations for maintenance and repair work. It appears the ~400 hp generator would be exempt from permitting under this section. Please confirm.

PNM also suggests adding standby emergency generators to the list of equipment exempt from stationary source permits consistent with the State Construction Permit exemption in NMAC 20.2.72.202(B)(3), which exempts:

" Standby generators which are:
(a) Operated only during the unavoidable loss of commercial utility power;
(b) Operated less than 500 hours per year; and
(c) Either are:
i. The only source of air emissions at the site; or
ii. Accompanied by sufficient record keeping to verify that the standby generator is operated less than 500 hours per year;"

- Proposed regulation NMAC 20.11.41.13 (B)(3) states,

"until the department makes a final decision regarding 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. The applicant shall list on the sign all information required by Subsection E of 20.11.41.13 NMAC."

A suggestion would be to use the same wording as the NMED does in NMAC 20.2.72.303(B)(2): *"Post the notice at the proposed or existing facility entrance on the property on which the facility is, or is proposed to be located prior to submittal of the application and remaining posted until the Department takes final action on the permit."*

The post would be the same as the notification to the neighborhood groups.

- Proposed regulation NMAC 20.11.41.19 (E) states,

E. All permits issued pursuant to 20.11.41 NMAC after the XXXXX ##, #### effective date of 20.11.41 NMAC shall be valid for no longer than 10 years. Applications for a permit renewal shall be submitted to the department, with the required fee, one year before the permit expiration date.
[20.11.41.19 NMAC – Rp, 20.11.41.19 NMAC, 1/15/09 ##/##/##]

As required by NMAC 20.11.41.2 (D), if a permitted facility becomes subject to a new federal standard or proposes a modification subject to the NMAC regulations, the facility would be required to get a permit modification. Otherwise, the facility should not be required to get a new construction permit, therefore, PNM opposes this proposed requirement because of the cost to prepare a construction permit renewal application and the City fee to process the application.

- Proposed regulation NMAC 20.11.41.23 (A) states,

A. The permittee of a portable stationary source previously included in a permit issued pursuant to 20.11.41 NMAC may submit a written request to the department seeking approval to temporarily relocate and operate the portable stationary source at a proposed location. Temporary relocations shall not exceed at a total of 365 consecutive days.

All stationary diesel engines including temporary use diesel engines used in construction, maintenance and repair to power generators, compressors, pumps, lighting, etc. are subject to NESHAP RICE regulations, thus are stationary sources. It would be impractical to require the engines that are used in construction, maintenance and repair to submit a relocation request 45 days in advance before being allowed to move/operate the equipment at the new location. Also, if a facility wanted to rent a diesel engine power piece of equipment, would the rental company be require to obtain written approval from the City before renting the equipment to the facility? To avoid this impractical situation, NMAC 20.11.41.23 must be revised to made it clear that diesel engines and other equipment listed as exempt in NMAC 20.11.41.2 (F)(2)(g) are not subject to the temporary relocation requirements.

If you have any questions regarding these comments on the proposed regulatory changes, please contact me by return email or phone.

Regards

Mark Williams
Air Quality Services Manager
Environmental Services Dept.
PNM Resources
Mail Stop: 2104
Alvardo Square
Albuquerque, NM 87158-2104
(505) 241-2003 (office)
(804) 632-9627 (cell)
mark.williams@pnmresources.com

From: Butt, Neal T. [mailto:NButt@cabq.gov]
Sent: Thursday, August 16, 2012 8:59 AM
To: Williams, Mark A.
Cc: Nieto, Margaret
Subject: Stakeholder Review Draft 20.11.41 NMAC

Mark,

Thank you for your call. I will pass along your comments to the team working on this rule, and look forward to your written comments as well.

regards

Neal Butt

Environmental Health Scientist
Air Quality Division
(505) 768-2660

<<Comparison-of-Current-to-Proposed-20_11_41_NMAC_7-17-12.pdf>> <<20_11_41_NMAC-1st-Amended-PRD-For-Stakeholder-Review_7-18-12.pdf>>

"The world is full of magic things, patiently waiting for our senses to grow sharper."
-- W.B. Yeats

Tavarez, Isreal L.

From: Tavarez, Isreal L.

Sent: Thursday, September 20, 2012 3:48 PM

To: 'mark.williams@pnmresoruces.com'

Subject: Albuquerque EHD Response to PNM's Comments Regarding Proposed 20.11.41 NMAC, Construction Permits

Attachments: EHD Response 9-20-12 to PNM 20_11_41 NMAC comments 8-17-12.pdf

Dear Mr. Williams:

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 PNM 20_11_41 NMAC comments 8-17-12.pdf>>

CITY OF ALBUQUERQUE

Environmental Health Department
Mary Lou Leonard, Director

September 20, 2012

Mark Williams
Air Quality Services Manager
Environmental Services Dept.
PNM Resources
Mail Stop: 2104
Alvarado Square
Albuquerque, NM 87158-2104

Sent via e-mail to mark.williams@pnmresources.com

RE: **Albuquerque Environmental Health Department Response to PNM'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. Williams:

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

1. *Proposed regulation NMAC 20.11.41.2 (F)(2)(g) states,*

   "(2) The following sources and activities shall not be reported in the permit application. g) use of portable construction support equipment such as power generation equipment, compressors, heaters, air conditioning and lighting equipment if the equipment is used in direct support of the construction 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);"

   NMAC 20.11.41.2 (K) states "Construction" means fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources", thus does not appear to include "maintenance and repair". A suggestion would be to add "maintenance and repair" to construction support to clarify such equipment is exempt if used for these activities. Also, note, all diesel engine "power generation equipment" is subject to at some minimal requirements under the

Federal RICE NESHAP regulations, therefore, are considered a regulated "source". For example, PNM stores a ~400 hp diesel generator at its Service Center. The generator is subject to NESHAP Subpart ZZZZ. The generator is temporarily used at various locations for maintenance and repair work. It appears the ~400 hp generator would be exempt from permitting under this section. Please confirm.

PNM also suggests adding standby emergency generators to the list of equipment exempt from stationary source permits consistent with the State Construction Permit exemption in NMAC 20.2.72.202(B)(3), which exempts:

" Standby generators which are:

(a) Operated only during the unavoidable loss of commercial utility power;

(b) Operated less than 500 hours per year; and

(c) Either are:

i. The only source of air emissions at the site; or

ii. Accompanied by sufficient record keeping to verify that the standby generator is operated less than 500 hours per year;"

The Department concurs with PNM's comments regarding including repair and maintenance in the exemption for portable support equipment. Based on PNM's comments and other comments received, 20.11.41.2(F)(2)(g) NMAC in the proposed regulation has been changed. Proposed 20.11.41.2(F)(2)(g) NMAC now states the following 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

Regarding PNM's suggestion to add standby emergency generators to the list of equipment exempt from stationary source permits to be consistent with the State (New Mexico) Construction Permit exemption, due the urban nature of Albuquerque and Bernalillo County, the Department has decided to not recommend exempting standby emergency generators.

2. *Proposed regulation NMAC 20.11.41.13 (B)(3) states,*

"until the department makes a final decision regarding 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. The applicant shall list on the sign all information required by Subsection E of 20.11.41.13 NMAC."

A suggestion would be to use the same wording as the NMED does in NMAC 20.2.72.303(B)(2): "Post the notice at the proposed or existing facility entrance on the property on which the facility is, or is proposed to be located prior to submittal of the application and remaining posted until the Department takes final action on the permit."

The post would be the same as the notification to the neighborhood groups.

The Department agrees with the context of the suggested changes to 20.11.41.13(B)(3) NMAC. Proposed 20.11.41.13(B)(3) NMAC now states the following 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."

3. *Proposed regulation NMAC 20.11.41.19 (E) states,*

   E. All permits issued pursuant to 20.11.41 NMAC after the XXXXX ##, #### effective date of 20.11.41 NMAC shall be valid for no longer than 10 years. Applications for a permit renewal shall be submitted to the department, with the required fee, one year before the permit expiration date.
   [20.11.41.19 NMAC – Rp, 20.11.41.19 NMAC, 1/15/09 ##/##/##]

   As required by NMAC 20.11.41.2 (D), if a permitted facility becomes subject to a new federal standard or proposes a modification subject to the NMAC regulations, the facility would be required to get a permit modification. Otherwise, the facility should not be required to get a new construction permit, therefore, PNM opposes this proposed requirement because of the cost to prepare a construction permit renewal application and the City fee to process the application.

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

4. *Proposed regulation NMAC 20.11.41.23 (A) states,*

   A. The permittee of a portable stationary source previously included in a permit issued pursuant to 20.11.41 NMAC may submit a written request to the department seeking approval to temporarily relocate and operate the portable

stationary source at a proposed location. Temporary relocations shall not exceed at a total of 365 consecutive days.

All stationary diesel engines including temporary use diesel engines used in construction, maintenance and repair to power generators, compressors, pumps, lighting, etc. are subject to NESHAP RICE regulations, thus are stationary sources. It would be impractical to require the engines that are used in construction, maintenance and repair to submit a relocation request 45 days in advance before being allowed to move/operate the equipment at the new location. Also, if a facility wanted to rent a diesel engine power piece of equipment, would the rental company be require to obtain written approval from the City before renting the equipment to the facility? To avoid this impractical situation, NMAC 20.11.41.23 must be revised to made it clear that diesel engines and other equipment listed as exempt in NMAC 20.11.41.2 (F)(2)(g) are not subject to the temporary relocation requirements.

The Department has made changes to 20.11.41.23 to clarify that diesel engines and other equipment listed as exempt in 20.11.41.2(F)(2)(f) NMAC and 20.11.41.2(F)(2)(g) NMAC are not subject to the requirements of 20.11.41.23 NMAC, Temporary Relocation of Portable Stationary Sources. A new 20.11.41.23(A) has been added to the proposed regulation and states the following:

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."

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