6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2018-0856; FRL-10011-09-Region 6]

Air Plan Approval; New Mexico; Repeal of State Regulations for Particulate Matter for Lime Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve a New Mexico State Implementation Plan (SIP) revision for the repeal of State regulations titled 20.2.20 NMAC (Title 20: *Environmental Protection*, Chapter 2: *Air Quality (Statewide)*, Part 20: *Lime Manufacturing Plants – Particulate Matter* of the New Mexico Administrative Code) that cover particulate matter emission standards for lime manufacturing plants and lime hydrators in the State of New Mexico. EPA is proposing to approve the repeal of the regulations based on the CAA section 110(l) demonstration contained in the New Mexico submittal, which provides that the SIP revision will not interfere with attainment and maintenance of the NAAQS or any other CAA requirement.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2018-0856, at *https://www.regulations.gov* or via email to *ruan-lei.karolina@epa.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Ms. Karolina Ruan Lei, (214) 665-7346, *ruan-lei.karolina@epa.gov*. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov*. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Karolina Ruan Lei, (214) 665-7346, *ruan-lei.karolina@epa.gov*. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via *https://www.regulations.gov*, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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I. Background

A. Clean Air Act Section 110(l)

Section 110(l) of the Clean Air Act (CAA) provides that ". . . The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in [CAA section 171]) or any other applicable requirement of [the CAA]." 42 U.S.C. 7410(*l*). Section 110(l) applies to all requirements of the CAA and to all areas of the country, whether attainment, nonattainment, unclassifiable or maintenance for one or more of the six criteria pollutants. Section 110(l) applies to all NAAQS that are in effect, including those for which SIP submissions have not been made and addresses any interference with CAA requirements that would occur as a result from a SIP

revision. In general, the level of rigor needed for any CAA section 110(l) demonstration will vary depending on the nature of the revision.

Additionally, a state may substitute equivalent emissions reductions to compensate for any change to a plan to ensure actual emissions to the air are not increased and thus preserve status quo air quality. "Equivalent" emissions reductions are reductions that are equal to or greater than those reductions achieved by the control measure approved into the plan. To show that compensating emissions reductions are equivalent, adequate justification must be provided. The compensating, equivalent reductions should represent actual emissions reductions achieved in a contemporaneous time frame to the change of the existing control measure in order to preserve the status quo air quality. If the status quo is preserved, noninterference is demonstrated. In addition to being contemporaneous, the equivalent emissions reductions should also be permanent, enforceable, quantifiable, and surplus.

Each noninterference demonstration submitted by a state requesting a SIP revision is evaluated on a case-by-case basis, considering the circumstances of the revision. EPA may approve a noninterference demonstration based on an evaluation of the SIP revision on air quality and/or the information provided in the noninterference demonstration.

Some control measures may not be removed from a SIP even if doing so would not interfere with the CAA's air quality goals. These measures are often referred to as "mandatory" measures because the CAA requires that they be included in the SIP for an area based on the area's designation status and classification. Measures not tied to an area's classification and not mandated by the CAA are often referred to as "discretionary" measures. States can remove discretionary measures from an attainment, nonattainment or maintenance plan. However, a section 110(l) demonstration of noninterference would still be required.

B. State Implementation Plans (SIPs)

A SIP is a set of statutes, air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the state to ensure that the state meets the NAAQS. The SIP is required by section 110 and other provisions of the CAA. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each state must submit these regulations and control strategies to EPA for approval and incorporation into the federally enforceable SIP. Each federally approved SIP protects air quality primarily by addressing air pollution at its point of origin.

C. The National Ambient Air Quality Standards (NAAQS)

Section 108 of the CAA requires EPA to establish NAAQS for pollutants that "may reasonably be anticipated to endanger public health and welfare," and to develop a primary and secondary standard for each NAAQS. The primary standard is designed to protect human health with an adequate margin of safety, and the secondary standard is designed to protect public welfare and the environment. EPA has set NAAQS for six common air pollutants, referred to as criteria pollutants. These pollutants are: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. These standards present state and local governments with the minimum air quality levels they must meet to comply with the CAA. Additionally, these standards provide information to residents of the United States about the quality of the air in their communities.

D. History of Reviews of the NAAQS for Particulate Matter

Section 109 of the CAA requires EPA to complete a thorough review of the NAAQS every five years and make such revisions in such criteria and standards as may be appropriate. On

April 30, 1971, EPA promulgated the first NAAQS for particulate matter with the indicator set to total suspended particulate (TSP) (36 FR 8186). TSP was measured by the EPA reference method in 40 CFR part 50, Appendix B. The primary TSP standards were set at 260 micrograms per cubic meter of air ($\mu g/m^3$) averaged over a 24-hour period, not to be exceeded more than once per year, and 75 $\mu g/m^3$ annual geometric mean, while the secondary TSP standards were set to 150 $\mu g/m^3$ for the 24-hour average and 60 $\mu g/m^3$ for the annual mean.

On July 1, 1987, the EPA published revisions to the NAAQS for particulate matter (52 FR 24634). The principle revisions to the 1971 NAAQS included replacing TSP as the indicator for the ambient standards with a new indicator that includes particles with an aerodynamic diameter less than or equal to a nominal 10 μm (PM_{10}, or coarse particulate matter), replacing the 24-hour primary TSP standard with a 24-hour PM_{10} standard of 150 $\mu g/m^3$, replacing the annual primary TSP standard with an annual PM_{10} standard of 50 $\mu g/m^3$, and replacing the secondary TSP standard with 24-hour and annual PM_{10} standards identical in all respects to the primary standards.

On July 18, 1997, the EPA promulgated a new NAAQS for fine particulate matter ($PM_{2.5}$), which were defined as particles with an aerodynamic diameter less than or equal to a nominal 2.5 μm (62 FR 38652). EPA promulgated a 24-hour and an annual standard for $PM_{2.5}$. For the 1997 particulate matter NAAQS, the annual $PM_{2.5}$ standard was set to 15 $\mu g/m^3$ and the 24-hour standard was set to 65 $\mu g/m^3$. On October 17, 2006, EPA published revised standards for particulate matter (71 FR 61144). For $PM_{2.5}$, the annual standard of 15 $\mu g/m^3$ was retained, and the 24-hour standard was revised to 35 $\mu g/m^3$. For PM_{10}, the annual standard of 50 $\mu g/m^3$ was revoked, while the 24-hour standard of 150 $\mu g/m^3$ was retained. On January 15, 2013, EPA promulgated a new NAAQS for $PM_{2.5}$ (78 FR 3086). The newly promulgated primary annual

$PM_{2.5}$ standard was set to 12 µg/m^3, while the remainder of the standards were retained. The secondary annual $PM_{2.5}$ standard was retained at 15 µg/m^3, the primary and secondary 24-hour standards were retained at 35 µg/m^3, the PM_{10} primary and secondary 24-hour standards were retained at 150 µg/m^3.[1]

II. New Mexico's Submittal

On February 13, 2019, the New Mexico Environment Department (NMED) submitted a SIP revision for the repeal of 20.2.20 NMAC, certifying that the State of New Mexico has evaluated its air programs and the New Mexico SIP and found that the current federal and state regulations are sufficient to meet CAA requirements after the repeal of 20.2.20 NMAC. The submittal includes a noninterference demonstration, which contains information regarding allowable emissions and a modeling demonstration showing that the repeal will not interfere with attainment or maintenance of the NAAQS or any other applicable requirement of the Act. EPA has evaluated NMED's noninterference demonstration and proposes to conclude that approval of the revision will not interfere with attainment or maintenance of the NAAQS or any other applicable CAA requirement. The Technical Support Document (TSD), found in the docket for this action, provides additional details of certain aspects of the section 110(l) noninterference demonstration and EPA's evaluation that are not included in this notice.

A. The Regulation Proposed for Repeal

The regulation proposed for repeal in New Mexico's February 13, 2019, submittal is Title 20, Chapter 2, Part 20, of the NMAC (20.2.20 NMAC, *Lime Manufacturing Plants – Particulate*

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[1] *See* https://www3.epa.gov/ttn/naaqs/standards/pm/s_pm_history.html for a table of the history of the particulate matter NAAQS. The particulate matter NAAQS can also be found at 40 CFR part 50.

Matter or Part 20), which covers particulate matter emissions from lime manufacturing plants and lime hydrators in New Mexico, excluding Albuquerque-Bernalillo County. Part 20 of 20.2 NMAC was first adopted by the New Mexico Environmental Improvement Board (EIB) as the Air Quality Control Regulation 509 on November 15, 1978, and was approved by EPA and adopted into the New Mexico SIP on April 10, 1980 (45 FR 24460). Since its promulgation, Part 20 has been reformatted twice, but no substantive changes were made (62 FR 50514, September 26, 1997).

Part 20 was adopted to establish control measures to address potential exceedances of the TSP NAAQS in an area near Hurley, New Mexico, located in Grant County. That portion of Grant County was designated as a nonattainment area for TSP, and the State was required to submit a plan to meet CAA Part D requirements for the attainment and maintenance of the 1971 TSP NAAQS (43 FR 8962, March 3, 1978). Part 20 incorporated the provisions of 40 CFR Part 60, Subpart HH, *Standards of Performance for Lime Manufacturing Plants* (NSPS Subpart HH), promulgated by the EPA on March 7, 1978, (43 FR 9452). The TSP NAAQS and the TSP area designations are no longer in place (61 FR 53639, October 15, 1996). As discussed in a previous section, the TSP NAAQS were replaced by the PM_{10} NAAQS. NSPS Subpart HH was also revised on April 26, 1984, with the particulate matter emission standards becoming less stringent (49 FR 18076), but New Mexico did not revise its SIP to incorporate these changes. The 1984 revision of NSPS Subpart HH eliminated the performance standards for lime hydrators that were in the original rule. Part 20 continues to be based on the 1978 version of the NSPS Subpart HH.

B. Particulate Matter Designated Areas in New Mexico

New Mexico has one particulate matter nonattainment area in Doña Ana County. The City of Anthony, New Mexico in Doña Ana County was designated a “moderate” nonattainment area for

the 1987 PM_{10} NAAQS (56 FR 56694, November 6, 1991). NMED determined that all point and area sources of PM_{10} in or affecting the area to be de minimis, except for unpaved roads, unvegetated and sparsely vegetated areas, and range lands. The paving of roads was determined to be economically infeasible, the enhancement of ground cover in the region to be technologically infeasible, and emissions from range lands to be nonanthropogenic (58 FR 18190, April 8, 1993).[2] This area is still impacted by blowing dust from high winds, and NMED is developing a dust mitigation plan for both Doña Ana and Luna counties, as required by EPA's national Exceptional Events Rule codified at 40 CFR 50.14 (81 FR 68216, October 3, 2016). In addition to the dust mitigation plan, NMED is developing a fugitive dust rule that will be applicable in areas of the state requiring a mitigation plan in accordance with 40 CFR 51.930. The rest of the State of New Mexico is designated attainment/unclassifiable for PM_{10}, and there are no areas designated nonattainment under the $PM_{2.5}$ NAAQS (40 CFR 81.332).

As mentioned in the previous section, there was a TSP nonattainment area based on the 1971 TSP NAAQS within Grant County, which covered a 4.5-mile radius around the Kennecott Copper Smelter, located near the town of Hurley, New Mexico (44 FR 46895, August 9, 1979). Since then, the federal TSP standard has been revoked and the smelter has been closed.

C. Affected Facilities

There is only one lime facility (Lhoist North America) in New Mexico, operating with a lime hydrator and no lime kiln, located in the City of Belen in Valencia County that is subject to Part 20. See Figure 1 in the TSD for a map of New Mexico which portrays the locations of the Lhoist

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[2] On September 9, 1993, the EPA granted approval of the Anthony, New Mexico, moderate nonattainment area PM_{10} SIP, submitted November 8, 1991, including the waiver of the moderate area attainment date for Anthony, New Mexico (58 FR 47383).

North America facility and the particulate matter nonattainment area. The Lhoist North America facility ("Lhoist Belen Chemical Lime Plant") in Valencia County is shown to be a long distance (287 kilometers [km]) away from the only particulate matter nonattainment area in New Mexico, which is the PM_{10} nonattainment area in Anthony, Doña Ana County. Lhoist impacts are negligible on the distant Anthony nonattainment area, and, as a point of reference, AERMOD[3] (dispersion model typically used in PM_{10} modeling) is only used to model out to 50 km from the source. Likewise, because of the location of Lhoist in central New Mexico, Lhoist impacts on air quality in other states are negligible.

III. The EPA's Evaluation of the State's Submittal and Noninterference Demonstration

The repeal of Part 20 eliminates measures for the control of particulate matter from lime manufacturing plants. While the rule was instituted to reduce TSP, we must consider the repeal's potential impact on attainment or maintenance of the current NAAQS for PM_{10} and $PM_{2.5}$. The repeal will only potentially impact particulate matter emissions. Based upon evaluation of the permit, no increases in potential to emit of other criteria pollutants at the Lhoist facility are expected from the repeal of Part 20. The rule is considered a discretionary measure, as this term was discussed previously, because TSP measures included in Part 20 are no longer tied to an area's classification and no longer mandated by the CAA, and therefore the control of lime manufacturing is not required to be included in the New Mexico SIP. Therefore, the rule may be repealed so long as a demonstration of non-interference is made.

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[3] AERMOD is the air quality dispersion model developed by Environmental Protection Agency (EPA), in conjunction with American Meteorological Society (AMS) to be used as the AMS/EPA Regulatory Model (AERMOD) promulgated by EPA in 2005 as the preferred regulatory dispersion model for predicting near-surface pollutant concentrations within 50 km of an emission source.

Section 110(l) prohibits EPA from approving a revision to the SIP if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. The repeal of this rule will not impact any other applicable requirement. For example, this measure was not part of New Mexico's SIP to address Regional Haze (77 FR 70693, November 27, 2012; 79 FR 60985, October 9, 2014). In the following sections, we will address the repeal's potential impact on CAA requirements, including the attainment of the PM_{10} and $PM_{2.5}$ NAAQS.

A. Potential Impact on Emissions

While this rule was initially adopted to address multiple facilities, there is currently only one facility subject to Part 20 in the State of New Mexico. The one subject facility is owned by Lhoist North America of Arizona (Lhoist) and is located in the City of Belen, in Valencia County. Lhoist's Belen Chemical Lime Plant does not operate a lime kiln and only operates a lime hydrator. The facility receives quick lime (calcium oxide) and converts it to hydrated lime (calcium hydroxide) and is an emission source for PM_{10} and $PM_{2.5}$. The Lhoist lime plant has a New Source Review permit with the State of New Mexico (Permit No. 1652 M2-R7) issued under the state's SIP-approved permitting program. NSPS Subpart HH and NESHAP Subpart AAAAA do not cover the Lhoist facility, as the facility does not operate a lime kiln. Permit provisions for the Lhoist facility, which include numerical emissions limitations reflected in pounds per hour (lbs/hr), will remain unchanged if Part 20 is repealed from the State SIP. These lbs/hr limits are consistent with the limit in Part 20, which is a rate-based limit of 0.15 lbs/ton. NMED provided modeling based on the allowable emissions in the permit to show that the particulate matter NAAQS would remain protected. This modeling demonstration is discussed in a later section.

The Lhoist facility has a minor New Source Review permit. State regulations at 20.2.72 NMAC, *Construction Permits*, (Part 72) have been incorporated into the New Mexico SIP and was most recently approved on March 11, 2013 (78 FR 15296). Under the SIP permitting rules, regardless of the repeal of Part 20, a permit is still required for the facility, as the particulate matter emissions from the lime hydrator are estimated to be greater than the 10 lbs/hr or 25 tons/year permitting thresholds prescribed under Part 72 for minor New Source Review. Additionally, a permit is required to limit emissions for quick lime and hydrated lime as those are considered toxic air pollutants that need to be specifically controlled as required under Part 72 (20.2.72.200.A.(4), 400, 402, and 502 NMAC). If Lhoist decides to apply for a permit revision to remove the Part 20 requirements, Lhoist North America would have to show that their facility would still be able to comply with the NAAQS as required by their permit and Part 72. Permit Condition #l(f) of the Lhoist permit states that: "Changes in plans, specifications, and other representations stated in the application documents shall not be made if they cause a change in the method of control of emissions or in the character of emissions, or will increase the discharge of emissions. Any such proposed changes shall be submitted as a revision or modification ... of this permit." NMED stated in the submittal that should Lhoist apply for a permit revision in response to the repeal of Part 20 (e.g. to remove Permit Condition #l(e) which cites to Part 20), Part 72 still requires the applicant to show compliance with the NAAQS through modeling.

Please see the State's submittal for this action for the complete text of the regulation proposed for repeal. Table 1 of the TSD provides a description and citations of the individual sections of Part 20, as well as applicable portions of the State and federal regulations for comparison purposes.

The New Mexico rules at Part 20 cover both facilities with lime kilns and those with lime hydrators. Currently, there are no lime manufacturing facilities that operate lime kilns in New Mexico. New lime manufacturing facilities in New Mexico subject to the applicable requirements would be required to apply for a permit with enforceable emissions limits, pursuant to Part 72. Currently, the only facility subject to Part 20 is Lhoist North America, which operates a lime hydrator, but does not operate a lime kiln. Even with the repeal of Part 20, Lhoist North America will still be subject to Part 72.

B. Air Quality Modeling Demonstration for Lhoist North America

As part of its noninterference demonstration, NMED submitted a modeling demonstration showing how the only lime facility in New Mexico subject to Part 20, Lhoist North America's Belen Chemical Lime Plant, does not interfere with attainment of the NAAQS at its full potential to emit. The facility is a baseline source for both PM_{10} and $PM_{2.5}$ prevention of significant deterioration (PSD) increment.[4] Therefore, most of the facility emissions do not consume increment (just emissions above the baseline emission rate), and the facility has minimal impacts on both Class I and Class II increment consumption.[5] We are providing a brief summary of our

[4] PSD increment consumption occurs when emissions increases occur after the major source baseline date for major sources (PSD sources) and after the minor source baseline date for minor sources. The Lhoist facility is a minor source (for PSD purposes) in Air Quality Control Region 152. Lhoist's facility was in place (constructed in 1995) and had emissions prior to the minor source baseline date for PM_{10} (March 26, 1997) and $PM_{2.5}$ (February 11, 2013). Since the Lhoist facility emissions were in existence prior to the minor source baseline dates, only increases in Lhoist facility emissions above the emissions that were emitted at the time of the minor source baseline date would consume increment.

[5] Given the relatively small permitted emission rates and relatively low maximum modeled values (30-35% of the NAAQS for the permitted emission rates), small changes over baseline emission rates would not create increment consumption issues since the increment for PM_{10} (30 $\mu g/m^3$) is 20% of the PM_{10} NAAQS, the increment for 24-hour $PM_{2.5}$ (9 $\mu g/m^3$) is 26% of the 24-hour $PM_{2.5}$ NAAQS and increment for annual $PM_{2.5}$ (4 $\mu g/m^3$) is 33% of the annual $PM_{2.5}$ NAAQS. As can be seen in Table 1 of this *Federal Register* action, Lhoist's maximum impacts from all permitted emissions are below the increment levels, so any smaller emission changes from the baseline emissions would be even lower and would not be near PSD increment levels.

analysis of New Mexico's modeling supporting this proposal; please see the TSD for this notice for our more detailed analysis and review.

The modeling included in the SIP submittal for this action was performed in 2017. In the modeling, NMED used the most current version of AERMOD at the time (AERMOD version 16216) and modeled using meteorological data from 2013. NMED's modeled values are based on permitted allowable emissions for Lhoist so they represent the highest possible emissions allowed by their existing permit. Recent actual emissions are lower. NMED also included surrounding sources within 35 km and used monitoring data to represent background concentrations which was added to the maximum design value model values. NMED's modeling indicated that the maximum modeled design values (with background concentrations added) were below the NAAQS (see Table 1).

Table 1: NMED Modeling Results

Pollutant	Period	Maximum Lhoist Facility concentration (µg/m^3) *	Maximum Cumulative Concentration (µg/m^3)	Background Concentration (µg/m^3)	Cumulative plus background Concentration (µg/m^3)	Standard	Value of Standard (µg/m^3)	Percent of Standard
PM_{10}	24-hour	20.6	47.4	21.0	68.4	NAAQS	150	45.6
$PM_{2.5}$	24-hour	8.4	11.4	12.6 **	24.3	NAAQS	35	69.1
$PM_{2.5}$	Annual	2.4	4.6	5.6	10.2	NAAQS	12	85.2

* This is the maximum Lhoist Facility concentration at any receptor and is not necessarily the same receptor as the Maximum Cumulative Concentration.

** Note NMED's analysis indicated the 2013-2015 24-hour design value at Las Cruces monitor (AQS #35-013-0025) was 12.8 µg/m^3. EPA's Air Quality System indicates the design value is 12.6 µg/m^3.

EPA has performed additional modeling as part of the review of the submitted SIP revision. We utilized the most recent version of AERMOD (version 19191 issued in 2019). NMED used one year of meteorology for their modeling analysis and the 2016 AERMOD version (which was the current AERMOD version when New Mexico performed the modeling in 2017). EPA performed additional modeling with the 2019 AERMOD (which is the current version) and five years of meteorological data to confirm NMED's conclusion that removal of the New Mexico lime regulations in Part 20 would not interfere with NAAQS and PSD increments. EPA's Guideline on Air Quality Models (40 CFR part 51, Appendix W) indicates that, when available, five consecutive years of meteorology should be utilized when performing AERMOD modeling. Using the same background monitoring data that NMED used in its submitted modeling demonstration, EPA's 5-year modeling results (see Table 2) resulted in similar values to NMED's 1-year modeling results. Specifically, EPA's modeling indicated that the maximum cumulative concentrations (from Lhoist and other modeled sources within 35 km) with monitored background concentrations added for the 24-hour PM_{10} concentration is 58.9 $\mu g/m^3$ which is 39.3% of the PM_{10} 24-hour NAAQS of 150 $\mu g/m^3$; the maximum cumulative with monitored background added for $PM_{2.5}$ 24-hour is 23.3 $\mu g/m^3$ which is 66.6% of the $PM_{2.5}$ 24-hour NAAQS of 35 $\mu g/m^3$; and the maximum cumulative with monitored background added for $PM_{2.5}$ Annual is 10.5 $\mu g/m^3$ which is 87.5% of the Annual $PM_{2.5}$ NAAQS of 12 $\mu g/m^3$. EPA's modeling demonstrated that Lhoist contributions, using linear scaling, would allow for more than a 55% increase in emissions and still be below the annual and 24-hour $PM_{2.5}$ NAAQS and 24-hour PM_{10} NAAQS. Even with the potential changes in emissions from the Lhoist facility that could occur below permitting thresholds, the changes would not be expected to exceed the 24-hour PM_{10} and $PM_{2.5}$ NAAQS (annual and 24-hour). In addition, small changes in emissions

would also trigger review pursuant to the existing permit limit discussed previously (Permit Condition #1(f)). Larger emission changes would require additional permitting including modeling to confirm that the NAAQS and PSD increments are not exceeded and the change in emissions would not interfere with NAAQS or PSD increments.

Table 2: EPA Maximum Modeling Results (2011-2015)

Pollutant	Period	Maximum Lhoist Facility concentration ($\mu g/m^3$) *	Maximum Cumulative Concentration ($\mu g/m^3$)	Background Concentration ($\mu g/m^3$)	Cumulative plus background Concentration ($\mu g/m^3$)	Standard	Value of Standard ($\mu g/m^3$)	Percent of Standard
PM_{10}	24-hour	20.7	37.9	21.0	58.9	NAAQS	150	39.3
$PM_{2.5}$	24-hour	8.4	10.7	12.6 **	23.3	NAAQS	35	66.6
$PM_{2.5}$	Annual	2.69	4.9	5.6	10.5	NAAQS	12	87.5

* This is the maximum Lhoist Facility concentration at any receptor and is not necessarily the same receptor as the Maximum Cumulative Concentration.

** Note NMED's analysis indicated the 2013-2015 24-hour design value at Las Cruces monitor was 12.8 $\mu g/m^3$. EPA's Air Quality System indicates the design value is 12.6 $\mu g/m^3$.

EPA's modeling results, like NMED's modeling results,[6] demonstrate that: (1) maximum impact levels near the Lhoist facility are below the NAAQS, and (2) the higher impacts from the facility are near the facility and quickly drop off to less than 50% of the maximum impact levels at a range of 300 meters or less from the facility. New Mexico modeled Lhoist's emissions with a 4 km square grid centered around Lhoist to determine the maximum distance from the Lhoist

[6] See TSD for EPA's detailed analysis of NMED's modeling and modeling results.

fenceline that Lhoist has a significant impact to confirm that the receptor grid captured all the area that Lhoist's emissions had a significant impact (the area where the Lhoist emissions model to be above the PSD Significant Impact Level [PSD SIL] and potentially have a significant impact on the 24-hour PM_{10}, 24-hour $PM_{2.5,}$ or annual $PM_{2.5}$ NAAQS). NMED and EPA then evaluated the modeling of the Lhoist facility and all other particulate matter sources within 35 km from Lhoist, added background monitoring values, and compared the results to the NAAQS and PSD increment. No areas within the modeled area (4 km square grid centered on Lhoist) were identified in this analysis that were above the PSD increment or that were near or above the NAAQS, including where Lhoist emissions contributed significantly to the maximum modeled design values near the Lhoist facility. Therefore, Lhoist emissions will not interfere with continued attainment of the NAAQS nor with PSD increment.

C. Air Monitoring Data for New Mexico

NMED and EPA have reviewed monitoring data to consider whether the repeal of the Part 20 rules could cause potential NAAQS attainment issues based on measured data. New Mexico's Statewide Air Quality Surveillance Network was approved into the New Mexico SIP by EPA on August 6, 1981 (46 FR 40005). New Mexico's air quality surveillance network undergoes recurrent annual review by EPA, as required by 40 CFR 58.10. On July 9, 2019, NMED submitted its 2019 Annual Air Monitoring Network Plan (AMNP) that included plans for the particulate matter NAAQS. In our letter to the NMED dated October 31, 2019, we approved the 2019 New Mexico AMNP with comments, and in our comments, we stated that the NMED is currently meeting the network design requirements for ambient air quality monitoring for particulate matter. The NMED operates a network of six sites with PM_{10} State or Local Air

Monitoring Stations (SLAMS) monitors, one site with a PM_{10} Special Purpose Monitor station, and seven sites with a total of nine $PM_{2.5}$ SLAMS monitors.

NMED stated in its submittal that past monitoring data for New Mexico for years 2010-2015 show that all counties are well below the $PM_{2.5}$ NAAQS, and except for Doña Ana County, are below the NAAQS for PM_{10} as well. Exceedances measured for this period for PM_{10} in Doña Ana, Luna and San Juan counties were all flagged by NMED in the EPA's Air Quality System as exceptional events (high winds or wildfire). As stated earlier in the notice, Anthony, New Mexico in Doña Ana County was designated nonattainment for the 1987 PM_{10} NAAQS. NMED concluded that since elevated PM_{10} levels in Doña Ana County are nonanthropogenic and not due to lime manufacturing or lime hydrators, they would be unaffected by the repeal of Part 20. We agree with NMED that the repeal of Part 20 will not affect ongoing efforts to reduce PM_{10} levels in Anthony, New Mexico.

Since the SIP submission, additional monitoring data is available. In the following paragraphs, EPA evaluates the most recent monitoring data for New Mexico.

Quality-assured and certified particulate matter monitoring data for years 2016-2018 contained the following design values for $PM_{2.5}$ and PM_{10}, shown in Table 3.[7] Additional information on the monitors is provided in the TSD.

Table 3: 2016-2018 Particulate Matter Design Value Concentrations for New Mexico

[7] *See* docket for the 2016-2018 monitoring data containing the design values for New Mexico that has been retrieved from EPA's Air Quality System and has been quality-assured and certified by the EPA. The information taken from these reports and in these tables is intended for informational use only and does not constitute a regulatory determination by EPA as whether an area has attained a NAAQS.

Location (County)	$PM_{2.5}$ Design Value (Annual, $\mu g/m^3$)[8]	$PM_{2.5}$ Design Value (24-Hour, $\mu g/m^3$)[9]	PM_{10} Design Value (Average Estimated Exceedances)[10]
Bernalillo	7.8	20	0.7
Doña Ana	8.3	27	2.1
Lea	7.6	16	
Luna			1

Monitoring data for $PM_{2.5}$ show that all of the listed New Mexico counties with monitors have design values well below the annual and 24-hour $PM_{2.5}$ NAAQS for the years 2016-2018. Monitoring data for PM_{10} show that Bernalillo County and Luna County were at or below the annual PM_{10} NAAQS for the 2018 design values for years 2016-2018. As a result, measured values of particulate matter indicate that repeal of Part 20 will not interfere with attainment of the NAAQS.

D. Summary of EPA's Evaluation

The requirements of 20.2.20 NMAC are a discretionary requirement of the New Mexico SIP and not required to be included in the SIP. After evaluating the State's submittal, we propose to find that the removal of 20.2.20 NMAC from the New Mexico SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We base our finding on the following:

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[8] The level of the 2012 annual NAAQS for $PM_{2.5}$ is 12.0 $\mu g/m^3$. The design value for the annual $PM_{2.5}$ NAAQS is the 3-year average annual mean concentration.

[9] The level of the 2006 24-hour NAAQS for $PM_{2.5}$ is 35 $\mu g/m^3$. The design value for the 24-hour $PM_{2.5}$ NAAQS is the 3-year average 98th percentile concentration.

[10] The level of the 1987 24-hour NAAQS for PM_{10} is 150 $\mu g/m^3$. The NAAQS metric for the PM_{10} NAAQS is the 3-year average expected number of exceedances. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one.

- This rule, while originally intended to apply to multiple sources, now only applies to one source.
- The one source is also governed by a permit issued under the SIP-approved permitting requirements of Part 72 that requires compliance with CAA requirements, including the NAAQS.
- Modeling that shows that this one source at its full potential to emit emissions will not cause an exceedance of the NAAQS or PSD increment.
- The nearest particulate matter nonattainment area is 287 km away from this source, and its nonattainment issues are primarily caused by nonanthropogenic sources. Therefore, the one subject source will not have an impact on that area.
- Likewise, the one source is located centrally in New Mexico and will therefore have a negligible impact on any surrounding state's air quality.
- Finally, review of recent monitoring data does not indicate particulate matter nonattainment problems to which the source might contribute.
- There are no other applicable requirements, such as the New Mexico Regional Haze Plan, with which emissions from the source could interfere.

If new sources or modification at the existing source occur, these changes will have to be approved under NMED's SIP-approved permitting program to ensure that the changes will not interfere with attainment and maintenance of the NAAQS.

IV. Proposed Action

We are proposing to approve New Mexico's February 13, 2019, SIP submittal that provides modifications to State regulations and update the federally approved New Mexico SIP accordingly. The SIP revision, if approved by EPA, will remove 20.2.20 NMAC, *Lime*

Manufacturing Plants – Particulate Matter, from the New Mexico SIP, codified at 40 CFR part 52, subpart GG, 52.1620, and we propose to find that such a revision will not adversely affect the attainment of applicable CAA requirements.

V. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the Proposed Action section above, the EPA is proposing to remove 20.2.20 NMAC from the New Mexico SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Authority: 42 U.S.C. 7401 *et seq*.

Dated: June 29, 2020.

Kenley McQueen,
Regional Administrator, Region 6.
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