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Environmental Improvement Board

STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED REVISIONS TO: **No. EIB 14-02 (R)**
20.2.12 NMAC – *Cement Kilns*

PETITION FOR REGULATORY CHANGE

The New Mexico Environment Department ("Department"), pursuant to 20.1.1 NMAC - Rulemaking Procedures, petitions the Environmental Improvement Board ("Board") to repeal 20.2.12 NMAC – *Cement Kilns* ("Part 12"). The statement of reasons is attached. The Board is authorized to repeal these regulations by the Air Quality Control Act, NMSA 1978 § 74-2-5.

The Department requests that the Board schedule the hearing for July, 2014, in conjunction with a regular meeting. The Department anticipates that its testimony regarding the Part 12 revisions will require less than one hour.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
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STATEMENT OF REASONS

On February 12, 2013, the U.S. Environmental Protection Agency (EPA) amended the federal New Source Performance Standard (NSPS) regulations, 40 CFR Part 60, Subpart F (Part 60, Subpart F).[1] The amendments to Part 60, Subpart F implement Clean Air Act provisions establishing emission standards for cement kilns that cause, or contribute significantly to, air pollution which may endanger public health or welfare.

EPA's amendments to Part 60, Subpart F require cement plants to limit emissions of nitrogen oxides (NOx), sulfur dioxide (SO_2) and particulate matter (PM). As part of the State Implementation Plan, Part 12 of 20.2 NMAC-*Cement Kilns* (Part 12) only sets an emission limit standard for PM, leaving other pollutants subject to the NSPS. Currently, the major differences between Part 12's PM emission limits and the NSPS are the format and level of allowable emissions. The amended NSPS PM emission limit uses a normalized parameter of lb/ton of clinker based on the output of a cement plant. Currently, Part 12 uses a form based on PM concentration contained in the gas leaving the cement kiln stack (mg/m^3). This difference may cause undue confusion for regulated entities during the permitting process.

The amended NSPS also addresses emission limits for NOx and SO_2, which may undergo chemical reactions in the air to form other air pollutants. Most notably, NOx contributes to the formation of ozone and particle pollution; similarly, SO_2 contributes to particle pollution. Repealing Part 12 would strengthen air quality management by clearly outlining emission limits for businesses while taking a multi-pollutant approach and retaining the public health protections afforded by the federal rule.

Finally, there currently are no cement kilns under New Mexico's jurisdiction. Due to this and the outdated emission limits now contained in Part 12, the New Mexico Environment Department believes repeal of Part 12 would benefit the state by removing potential confusion regarding the emission limit and provide a mechanism to protect public health through the federal regulations should a cement kiln be constructed within New Mexico.

[1] See 78 Fed. Reg. 10006 (February 12, 2013).

~~**TITLE 20 ENVIRONMENTAL PROTECTION**~~
~~**CHAPTER 2 AIR QUALITY (STATEWIDE)**~~
~~**PART 12 CEMENT KILNS**~~

~~**20.2.12.1 ISSUING AGENCY:** Environmental Improvement Board.~~
~~[11/30/95; 20.2.12.1 NMAC - Rn, 20 NMAC 2.12.100 10/31/02]~~

~~**20.2.12.2 SCOPE:** All geographic areas within the jurisdiction of the Environmental Improvement Board.~~
~~[11/30/95; 20.2.12.2 NMAC - Rn, 20 NMAC 2.12.101 10/31/02]~~

~~**20.2.12.3 STATUTORY AUTHORITY:** Environmental Improvement Act, NMSA 1978, section 74-1-8(A)(4) and (7), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-5(A), (B) and (C).~~
~~[11/30/95; 20.2.12.3 NMAC - Rn, 20 NMAC 2.12.102 10/31/02]~~

~~**20.2.12.4 DURATION:** Permanent.~~
~~[11/30/95; 20.2.12.4 NMAC - Rn, 20 NMAC 2.12.103 10/31/02]~~

~~**20.2.12.5 EFFECTIVE DATE:** November 30, 1995.~~
~~[11/30/95; 20.2.12.5 NMAC - Rn, 20 NMAC 2.12.104 10/31/02]~~
~~[The latest effective date of any section in this Part is 10/31/02.]~~

~~**20.2.12.6 OBJECTIVE:** The objective of this Part is to establish particulate matter emission standards for cement kilns.~~
~~[11/30/95; 20.2.12.6 NMAC - Rn, 20 NMAC 2.12.105 10/31/02]~~

~~**20.2.12.7 DEFINITIONS:** In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this Part: "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.~~
~~[11/30/95; 20.2.12.7 NMAC - Rn, 20 NMAC 2.12.107 10/31/02]~~

~~**20.2.12.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS:** This Part amends and supersedes Air Quality Control Regulation ("AQCR") 502 -- Cement Kilns last filed January 27, 1970.~~
~~**A.** All references to AQCR 502 in any other rule shall be construed as a reference to this Part.~~
~~**B.** The amendment and supersession of AQCR 502 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 502.~~
~~[11/30/95; 20.2.12.8 NMAC - Rn, 20 NMAC 2.12.106 10/31/02]~~

~~**20.2.12.9 to 20.2.12.107** [RESERVED]~~

~~**20.2.12.108 EMISSION LIMITATIONS:** The owner or operator of a cement kiln shall not permit, cause, suffer or allow particulate matter emissions in excess of the 230 mg/m3 of exhaust gas.~~
~~[11/30/95; 20.2.12.108 NMAC - Rn, 20 NMAC 2.12.108 10/31/02]~~

HISTORY OF 20.2.12 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives.
HSSD 70-1, Ambient Air Quality Standards And Air Quality Control Regulations, 01/27/70.

History of Repealed Material: [RESERVED]

Other History:
20.2.12 NMAC 2
HSSD 70-1, Ambient Air Quality Standards And Air Quality Control Regulations, (relating to that portion numbered 502) filed 01/27/70, was **renumbered** into first version of the New Mexico Administrative Code as 20

NMAC 2.12, Cement Kilns, filed 10/30/95.
20 NMAC 2.12, Cement Kilns, filed 10/30/95, was **renumbered, reformatted and replaced** by 20.2.12 NMAC, Cement Kilns, effective 10/31/02.