

Air Quality Bureau's Responses to Comments Received on 3/12/18 from EPA, Regarding Draft 110(l) Demonstration for proposed repeal of 20.2.20 NMAC, *Lime Manufacturing Plants – Particulate Matter*.

Comment 1a. Will the permit conditions contained in the current active air permit for the Lhoist facility, which are linked to/based on the current Part 20 requirements, “live on” and remain enforceable following a repeal of Part 20?

AQB Response:

Yes, the permit conditions that control emissions of particulate matter will “live on” after Part 20 is repealed. Permit condition #1(d) stipulates that: “the hydrated lime production rate shall not exceed 25 tons per hour.” This rate will be unaffected by the repeal. Also, permit condition #2(a), shown below, sets specific emission rates for PM₁₀, TSP, CaO and Ca(OH)₂ that are enforceable without any reliance upon Part 20. 20.2.72.210 NMAC, *Permit Conditions*, stipulates that: “The contents of the application specifically identified by the department shall become terms and conditions of the permit or permit revision.” Therefore, the Department can set any reasonable permit conditions upon a source. “Any term or condition imposed by the department on a permit or permit revision is enforceable to the same extent as a regulation of the board.” (20.2.72.210.D NMAC). This condition is not reliant upon Part 20.

The other relevant permit condition is #1(e), which states that: “This facility is subject to 20 NMAC 2.20 and shall comply with Section(s) 109 B and 111, 112, and 113.” With the elimination of Part 20, these references would no longer refer to existing requirements for lime hydrating plants. However, Permit condition #1(e) subjecting Lhoist to requirements in Section(s) 109B, 111, 112 and 113 will still apply just as if Part 20 were never repealed. This is because enforcement actions rely upon the version of the rule or permit that a source was subject to at the time the permit was issued, even if the rule has been repealed or amended since then. In addition, as illustrated in Table 2 of the Draft 110(l) Demonstration, there are other protections unaffected by the repeal that can serve the same or similar functions as Part 20. If the permit is modified in the future, demonstration of compliance with NAAQS will be required in accordance with 20.2.72 NMAC.

NSR Permit No. 1652-M2

CONDITIONS (p. 2)

1. Modification and Operation (p. 2)

2. Emission Rates (p. 4)

The facility shall not exceed the emission rates for PM₁₀ & TSP including CaO and Ca(OH)₂ as specified by the table below:

Unit #	Control	Mfg.	Ducted Unit's	lb/hr	tpy
505	Baghouse	WAM M# FJA-135	500, 501, 502, 502A, 503, 503B, 504, 507, 507A, 508, 509, 531, & 553	0.1	0.413
522	Baghouse	Mikro-pulse M# 144S1020B	514, 517, 518, 519, 520, 526, & 528	0.8	3.4
534	Baghouse	Mikro-pulse M#ICI	529, 530, 532, 535, 537, 538, 562, 563, 564, 571, 572, 577, 579, 580, 583 & 584	0.2226	1.0
542	Baghouse	WAM M# FJA-135	539, 540, 541, 545, 561, 567 & 568	0.1	0.4
548	Baghouse	Midwest Intl. MV-75-3	546, 551, & 552	0.1	0.413
558	Baghouse	Midwest Intl. MV-75-3	547, 555, 556, 557, & 585	0.1	0.413
565	Baghouse	Mikro-pulse	539, 540, 541, 545, 561, 567, & 568	0.15	0.65
581	Baghouse		573, 574, 575, 576, & 578	1.9	8.1233
598	Baghouse	WAM M# FJA-135	503A, 510, 511, 512, 553, & 570	0.1	0.413
610	Baghouse		551 & 552	0.1	0.413
Totals				3.7	15.64

Comment 1b. If the source were to want to remove or modify these permit conditions in the future (after the underlying rule was repealed), the source would be subject to the applicable permitting requirements to make that change to their permit – including the NAAQS compliance demonstration requirement, correct?

AQB Response

Yes. Should Lhoist apply for a permit revision in response to the repeal of 20.2.20 NMAC (e.g., to remove Permit Condition #1(e) which cites to 20.2.20.109.B, 111, 112, & 113 NMAC), 20.2.72 NMAC requires that the applicant show compliance with the NAAQS. In addition, their Permit Condition #1(f), 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.” Therefore, a repeal of 20.2.20 NMAC would not enable emissions from the facility to interfere with attainment or maintenance of the NAAQS.

Comment 2. Could we set up a time to discuss Table 2, which is contained in the current draft 110(l) demonstration? I don’t anticipate a lengthy discussion and want to just get a better understanding of the information contained in the table and how it fits into the 110(l) demonstration.

AQB Response

AQB discussed this issue with EPA on 3/13/18. EPA requested clarification regarding the use of the word “backstop” (found on page 5 of the Draft 110(l) Demonstration) in reference to the “Protections Unaffected by Repeal” listed in column three of Table 2 of the Draft 110(l) Demonstration. There could be some confusion by using this term when some of the State standards are more restrictive than the Federal standards due to the remand by the Court of Appeals (e.g. 20.2.20.109.A NMAC). However, if Part 20 is repealed, ambient air quality will continue to be protected by 20.2.72 NMAC, *Construction Permits*, NSPS Subpart HH and NESHAP Subpart AAAAA, which serve as a “backstop”. To avoid any confusion, AQB agrees to remove the word “backstop” from the Draft 110(l) Demonstration.