

STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD



IN THE MATTER OF PROPOSED REPEAL OF:

20.2.20 NMAC – *Lime Manufacturing Plants – Particulate Matter*

No. EIB 18-07(R)

FINAL ORDER AND STATEMENT OF REASONS
FOR REPEAL OF 20.2.20 NMAC

This matter comes before the New Mexico Environmental Improvement Board (“Board”) upon a petition filed by the Air Quality Bureau of the New Mexico Environment Department (“Department”) proposing the repeal of 20.2.20 NMAC – *Lime Manufacturing Plants – Particulate Matter* (“Part 20”). The Board heard testimony from the Department and admitted exhibits into the record. On January 25, 2019, the Board deliberated and voted to repeal the Rule for the following reasons:

STATEMENT OF REASONS

1. The Department filed a Petition to repeal Part 20 on July 5, 2018, in accordance with 20.1.1.300 NMAC.
2. At a meeting conducted in compliance with the Open Meetings Act and other applicable requirements, the Board granted the Department’s request for a hearing and set the hearing for November 30, 2018.
3. The Department complied with all the applicable legal notice requirements by publishing notice of the hearing in English and Spanish in the New Mexico Register and the Albuquerque Journal, publishing in the Velencia County New Bulletin, as well as with the

Legislative Council Service and on the New Mexico Sunshine Portal. *See* First Amended NOI, Exhibit 6.

4. The Department also sent notice to the applicable listserv, to Indian tribes, pueblos, and nations, to land grants within a 4-mile radius of the Lhoist facility, to NMED field offices, to previous commenters, and to Belen and Valencia County administrations. *See* First Amended NOI, Exhibit 6.

5. On September 14, 2018, in compliance with the Small Business Regulatory Relief Act, NMSA 1978, Sections 14-4A-1 to -6, the Department sent a letter to the Small Business Advisory Commission requesting comment on the proposed repeal of Part 20. *See* First Amended NOI, Exhibit 12.

6. The Department filed a Notice of Intent to Present Technical Testimony on November 9, 2018 in accordance with 20.1.1.302 NMAC.

7. The Department filed a First Amended Notice of Intent to Present Technical Testimony on November 19, 2018.

8. The Board met on November 30, 2018 to conduct a hearing on the proposed repeal. The hearing was conducted in accordance with the procedures found at 20.1.1 NMAC, and was transcribed.

9. During the hearing, the Board heard technical testimony from and questioned the Department's witnesses and admitted the Department's exhibits. No other party filed a Notice of Intent to Present Technical Testimony pursuant to 20.1.1 NMAC.

10. The Board has the authority to repeal Part 20 pursuant to NMSA 1978, Section 74-2-5(B).

11. The proposed repeal satisfies the statutory requirements of the Air Quality Control Act, NMSA 1978, Section 74-2-5(E).

12. The notice and hearing requirements of NMSA 1978, Sections 74-2-6 and 14-4-5.2 and 20.1.1 and 20.1.9 NMAC were satisfied in this rulemaking process.

13. Part 20 was one of several State rules identified in the *Improving Environmental Permitting* report as ones that should be evaluated for potential repeal. See First Amended NOI, Exhibit 2, p. 1.

14. Repeal of Part 20 would eliminate a rule that is outdated and inconsistent with federal performance standards regulating lime manufacturing. *Id.*

15. Lime manufacturing would continue to be regulated by the respective New Source Performance Standard (NSPS), and National Emission Standard for Hazardous Air Pollutants (NESHAP), as well as through continued federally enforceable permit conditions. *Id.*

16. Repeal of Part 20 is not expected to relax emissions controls or negatively affect air quality in New Mexico. *Id.*

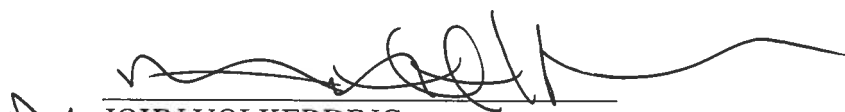
17. The Department has made the required demonstration under Section 110(l) of the federal Clean Air Act that the proposed repeal and subsequent removal of Part 20 from New Mexico's State Implementation Plan will not interfere with the attainment or maintenance of any National Ambient Air Quality Standard, or other applicable federal air quality standard.

18. Part 20 is repealed for any or all of the reasons stated above.

ORDER

By 4-0 vote of a quorum of the Board members, the Rule was repealed by the Board on January 25, 2019. A statement of repeal of 20.2.20 NMAC shall be filed with the New Mexico State Records Center as expeditiously as possible by the Department.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'John Volkerding', written over a horizontal line.

JOHN VOLKERDING
Chair, New Mexico Environmental Improvement Board

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **Final Order and Statement of Reasons for Repeal of 20.2.20 NMAC** was sent via the stated methods below on February 13, 2019:

Via hand delivery and email:

Andrew P. Knight
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Ave. NE, Ste. 1000
Albuquerque, New Mexico 87102-3400
email: Andrew.Knight@state.nm.us
Counsel for the New Mexico Environment Department

Via First Class U.S. Mail and email:

Gideon Elliot
New Mexico Attorney General's Office
P.O. Drawer 1508
Santa Fe, New Mexico 87504
email: gelliot@nmag.gov
Counsel for the Environmental Improvement Board



Pam Castañeda, Board Administrator