

# Congress of the United States

Washington, DC 20515

December 8, 2023

Hon. Michael S. Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Hon. Shalanda Young  
Director  
Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

Dear Administrator Regan and Director Young:

We are writing to you about a proposed regulation titled: “National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants, 88 Fed. Reg. 805 (January 5, 2023) (“Lime Rule”). We are very concerned that this rulemaking will have an unnecessary, substantial, and detrimental economic impact on the lime industry without any significant environmental benefits. Lime plants supply products (such as quicklime, dolomitic lime, and hydrated lime) essential for the proper functioning of critical activities in the national interest including steel production, road construction, power generation, pollution abatement, and drinking water treatment.

EPA’s technical experts have analyzed lime plant emissions on several occasions over the past twenty years. In 2020, the agency’s latest scientific assessment again found that risks from lime plant air emissions are acceptable and with an ample margin of safety even without the use of any add-on control technology.

The EPA proposed no changes to 40 CFR part 63, subpart AAAAA NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination **that risks from the source category are acceptable, the standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect.** The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not making any revisions to the existing standards under CAA section 112(f), and we are readopting the existing standards.

85 Fed. Reg. 44,963 (July 24, 2020).

Despite this finding (and a similar finding in 2004), the agency is now proposing stringent new emissions standards for the lime industry requiring the installation of costly, unproven, and unnecessary controls for hydrogen chloride, mercury, organics, and dioxins and furans. In the 2023 proposed rule, the agency claims that:

In setting standards for major source categories under CAA 112(d), EPA has the obligation to address all HAP listed under CAA 112(b). In the *Louisiana Environmental Action Network v. EPA (LEAN)* decision issued on April 21, 2020, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) held that the EPA has an obligation to address unregulated emissions from a major source category when the Agency conducts the 8-year technology review. This proposed rule addresses currently unregulated emissions of HAP from the lime manufacturing source category.

88 Fed. Reg. 808 (January 5, 2023).

Although Congress did direct EPA to issue emissions standards under § 112(d)(2) and (d)(3) for all hazardous air pollutants (HAPs) listed in the Clean Air Act over three decades ago, this was done because at the time the agency was slow to establish standards for HAP emissions. Congress was explicit in stating these standards exist to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

However, unlike that situation in 1990, in this case EPA has already performed a full risk assessment of all HAP emissions from the lime industry and found that the risks are acceptable with an ample margin of safety, and more stringent standards are not necessary to prevent an adverse environmental effect. Congress was clear (as articulated in Clean Air Act § 112(f)) that additional emission standards are only necessary if required to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect:

\*\*\* the Administrator shall, within 8 years after promulgation of standards for each category or subcategory of sources pursuant to subsection (d), promulgate standards for such category or subcategory **if promulgation of such standards is required in order to provide an ample margin of safety to protect public health** in accordance with this section \*\*\* or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

42 U.S.C. § 7412(f)(2)(emphasis added).

Since EPA has already found that such standards are not required to provide an ample margin of safety, new regulations are not “necessary.” EPA should withdraw the proposed rule and reiterate

that new regulations are not necessary in this instance to comply with the LEAN v. EPA decision and §112 of the Clean Air Act. Thank you for your prompt attention to these important concerns.

Sincerely,



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Gary Palmer  
Member of Congress



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Andy Barr  
Member of Congress



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Larry Bucshon, M.D.  
Member of Congress



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Kat Cammack  
Member of Congress



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Eric A. "Rick" Crawford  
Member of Congress



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Dan Crenshaw  
Member of Congress




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John Duarte  
Member of Congress



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Mike Gallagher  
Member of Congress



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Lance Gooden  
Member of Congress

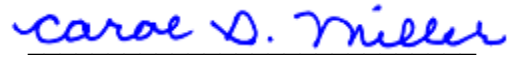


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Glenn Grothman  
Member of Congress



Robert E. Latta  
Member of Congress



Carol D. Miller  
Member of Congress



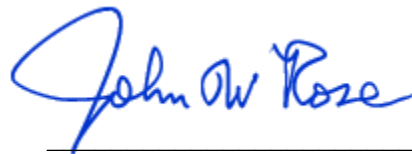
Jay Obernolte  
Member of Congress



Greg Pence  
Member of Congress



Scott Perry  
Member of Congress



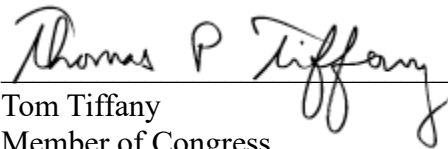
John Rose  
Member of Congress



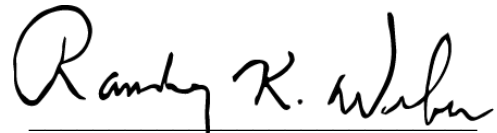
Matt Rosendale  
Member of Congress



Glenn "GT" Thompson  
Member of Congress



Tom Tiffany  
Member of Congress



Randy Weber  
Member of Congress

cc: Joseph Goffman, Principal Deputy Assistant Administrator, Office of Air and Radiation