

May 8, 2023

The Honorable Michael Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20004

RE: Docket No. EPA-HQ-OAR-2017-0015

Dear Administrator Regan:

I am writing to express my strong concerns regarding the proposed regulation titled: “*National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants*,” 88 Fed. Reg. 805 (January 5, 2023) (“Lime Rule”). I am very concerned that this rulemaking will have an unnecessarily burdensome economic impact on the lime industry without any significant environmental benefits. I have been informed that the Lime Rule will have a particularly significant impact on a lime plant owned and operated by a small business in my home state of West Virginia.

It is also my understanding that the U.S. Environmental Protection Agency (EPA) has already found that the risks from lime plant emissions are acceptable without any modifications to existing regulations at all. Specifically, the EPA’s own prior statement in the *Federal Register* provides:

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.**

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

Now, less than three years after this comprehensive risk assessment of all hazardous air pollutant (HAP) emissions found the current emissions standards acceptable, the EPA’s Lime Rule proposes significant reductions in emissions for hydrogen chloride (HCl), mercury, organics, and dioxins and furans (D/F). This sudden and unprovoked urgency to promulgate strict additional emission standards appears both unnecessary and unreasonable.

Given EPA’s prior findings, I strongly urge the agency to use maximum flexibility in promulgating standards for the lime industry. For example, Congress specifically authorized EPA to issue health-based standards to address pollutants, such as HCl, for which a health

threshold has been established. *See* 42 U.S.C. § 7412(d)(4). Likewise, EPA has significant discretion to mitigate the impacts of this rule through other means, including: using a more appropriate surrogate for organic HAPs; adopting an “intra-quarry variability factor” for mercury (as it has done for other industry sectors like brick and cement); and by ensuring that there is adequate data supporting the agency’s emissions standard for D/F before finalizing the rule.

I would appreciate the agency answering some basic questions about this rulemaking:

- (1) What new data or other information informs the agency’s desire to promulgate strict new standards for the lime industry when EPA’s own risk assessment demonstrates that risks from lime emissions are already acceptable with an ample margin of safety?
- (2) Notwithstanding the existence of such new data or other information, if EPA believes that more stringent emissions standards for the lime industry are necessary, given the agency’s prior findings of acceptable risks, why hasn’t the agency proposed rules with more flexibility (as reflected in the public comments) such as using a health-based standard for HCl, an intra-quarry variability factor for mercury, and an alternative o-HAP standard for organic emissions?

We look forward to your prompt response to our continued concerns about the impact of the Lime Rule on West Virginia and the nation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Manchin III", with a long horizontal flourish extending to the right.

JOE MANCHIN III  
U.S. Senator