

United States Senate

WASHINGTON, DC 20510

March 21, 2024

Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Regan,

We urge the Environmental Protection Agency (EPA) to make important, additional changes to the methodology and compliance standards in the supplemental *National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants Amendments* (“Lime NESHAP”) proposed on February 9, 2024. The EPA proposes to amend the emission limits based on maximum achievable control technology for control of hazardous air pollutants (HAPs) from kilns at new and existing lime manufacturing plants. The EPA must make additional changes to the Lime NESHAP, particularly to address its foreseeable and preventable negative impacts on small businesses.¹

While the lime manufacturing industry is relatively small, generating around \$2.3 billion in annual revenues according to the most recent publicly available data,² it is vital to many U.S. industries. For instance, lime is a necessary input for steel production, power generation, and road and other infrastructure construction funded by the Infrastructure Investment and Jobs Act (IIJA). It is also a critical substance for drinking water treatment and pollution-reduction processes. In fact, operations in West Virginia produce quicklime and hydrated products that are fundamental to the technology used for drinking water and wastewater treatment in the Washington, DC area.

If finalized as currently proposed, the Lime NESHAP would have destructive economic consequences for the American lime industry with negligible environmental benefits, imposing significant costs that far exceed any potential benefits to the public. The EPA determined the original Lime NESHAP proposal would have a significant economic impact on small businesses in the source category and, without further changes, the supplemental proposal would still put some facilities at risk of shutting down. The EPA’s supplemental proposed Lime NESHAP regulation would require many facilities to install regenerative thermal oxidizers (RTO) to control organic HAPs. An RTO is a costly combustion device that controls HAPs by converting the emissions into carbon dioxide and water through the use of heat, and then releasing the carbon dioxide into the atmosphere.³

¹ National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments, 89 Fed. Reg. 9,088 (Feb. 9, 2024) (supplemental proposal); 88 Fed. Reg. 805 (Jan. 5, 2023) (original proposal).

² U.S. Department of the Interior and U.S. Geological Survey, *Mineral Commodity Summaries 2023* 106, <https://pubs.usgs.gov/periodicals/mcs2023/mcs2023.pdf>.

³ U.S. Environmental Protection Agency, *Monitoring by Control Technique – Thermal Oxidizer*, <https://www.epa.gov/air-emissions-monitoring-knowledge-base/monitoring-control-technique-thermal-oxidizer> (last visited March 11, 2024).

The EPA’s regulatory impact analysis (RIA) forecasts that compliance with the Lime NESHAP will impose somewhere between \$2 billion and \$2.4 billion in total costs.⁴ Worse yet, the EPA is imposing these crushing costs on the sector without even attempting to monetize any benefits in the rule’s RIA because the EPA claims it lacks “sufficient” methods to monetize benefits associated with HAP reductions and risk reductions from this rulemaking.⁵ As a result, the EPA has proposed a rule with billions of dollars in compliance costs, but no quantifiable benefits to justify those costs.

While the most recent, comprehensive, and best available science demonstrates that the current lime emissions standards protect public health and environmental risks, the EPA is proposing new emissions standards anyway. The lack of quantifiable benefits from the Lime NESHAP proposal confirms the 2020 determination by EPA scientists that “risks from the source category [lime manufacturing plants] 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.”⁶ The EPA must adequately consider and address the imbalance of cost-benefit analysis in the Lime NESHAP proposal and the EPA’s prior determination that further expansive regulation of this source category is not warranted.

Further, the EPA must adopt meaningful changes in the final rule to address the real costs imposed and the lack of quantifiable benefits, and create a viable rule for small businesses. While the EPA acknowledges that the Lime NESHAP proposal would have a significant economic impact on small entities, the supplemental does little to address the concerns of the small businesses that will have to comply with the rule. On November 6, 2023, the Small Business Advocacy Review (SBAR) Panel identified multiple regulatory flexibility alternatives for the EPA to consider.⁷ However, the supplemental only takes comment on the flexibilities that address the most burdensome parts of the proposed Lime NESHAP rule, and proposes to outright deny flexibilities for D/F before it has even taken comment.

We recommend that the EPA adopt the regulatory flexibility alternatives that the SBAR Panel identified.⁸ We urge EPA to establish a health-based standard for hydrogen chloride, and maintain the proposed inclusion of an Intra-Quarry Variability factor in the mercury standard and an aggregate organic HAP emission limit in a final rule. The EPA must also correct the flawed methodology used to calculate the aggregate organics standard, which has resulted in an organics standard that is significantly lower than what is justified. Finally, the EPA should include a work practice standard for D/F due to a significant percentage of the data showing emissions are below the method detection limit, and ensure that the final Lime NESHAP minimizes burden on

⁴ U.S. Environmental Protection Agency, *Regulatory Impact Analysis for the Supplemental Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants 25* (Jan. 2024), https://www.epa.gov/system/files/documents/2024-02/ria_lime_manufacturing_neshap_supplemental_proposal.pdf.

⁵ 89 Fed. Reg. at 9,099.

⁶ National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Residual Risk and Technology Review, 85 Fed. Reg. 44,963 (July 24, 2020).

⁷ Small Business Advocacy Review Panel, U.S. Environmental Protection Agency, *EPA’s Proposed Rule: National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments 12-13* (Nov. 6, 2023), <https://www.epa.gov/system/files/documents/2024-02/lime-neshap-panel-report-508.pdf>.

⁸ *Id.*

sources that already meet standards with an ample margin of safety that are protective of both public health and the environment.

Sincerely,



Shelley Moore Capito
Ranking Member
Environment & Public Works Committee



Joe Manchin III
Chairman
Energy & Natural Resources Committee