

CITY OF ALBUQUERQUE



October 22, 2013

Mr. Guy Donaldson,
Chief, Air Planning Section
U.S. Environmental Protection Agency, Region VI (6-RA)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Re: Albuquerque Air Quality Division's response to EPA comments regarding
proposed amendments to 20.11.66 NMAC, *Process Equipment*

Dear Mr. Donaldson,

Thank you for your review of our proposed amendments to 20.11.66 NMAC, *Process Equipment*. Please find our responses below.

PO Box 1293

General Comments:

EPA #1. "EPA appreciates the Albuquerque-Bernalillo County Air Quality efforts to make its regulations consistent with State's regulation when possible and to consider updating and clarifying older regulations."

Albuquerque

AQD Response

Thank you for your support of our proposed revision.

NM 87103

EPA #2. "We recommend the revision to 20.11.66 include a statement to the effect that if or when an affected facility is or becomes subject to applicable federal regulations, the affected facility shall comply with those applicable federal regulations, in addition to compliance with the requirements of 20.11.66."

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AQD Response

We concur, and have incorporated additional language at 20.11.66.2 NMAC, *Scope*:

20.11.66.2 SCOPE:

A. ~~[This Part]~~ 20.11.66 NMAC is applicable to owners [or] and operators of [any] process equipment capable of emitting [pollution] particulate matter emissions into the atmosphere within Bernalillo County. If a facility that is subject to 20.11.66 NMAC becomes subject to an applicable federal regulation, that facility shall comply with the applicable federal regulation in addition to complying with the requirements of 20.11.66 NMAC.

EPA # 3. "We understand that the department is considering repeal of 20.11.66.12. This section apparently covers any source of PM other than those otherwise covered in the section. In other words, it covers any source other than cement kilns, gypsum

calciners and asphaltic batch plants. We appreciate that the source coverage could be considered overbroad and that the process weight based emission limits are difficult to enforce. EPA, however, is bound by section 110(1) of the Act and cannot approve a revision to the SIP that will interfere with attainment or maintenance of any National Ambient Air Quality Standard (NAAQS). As such, we will need an explanation or demonstration of why the repeal of 20.11.66.12 will not interfere with attainment or maintenance of the PM NAAQS because there could theoretically be sources that are currently covered by the rule that will no longer be covered after the repeal. One way to approach this (for this particular revision) would be to review Title V permits and determine if there are sources that have listed this requirement as an applicable requirement. If there are no such sources found, it would be a strong argument that the repeal will not result in a significant emissions increase and therefore meet 110(1). If there are sources that list 20.11.66.12 as a requirement, it is likely that it would be found that the source is also subject to more stringent requirement under a later issued permit or Federal Rule and thus also show compliance with 110(1). In any case, the department will need to conduct an analysis to show that the repeal will not interfere with attainment or maintenance of the standard.”

AQD Response

We agree with EPA that, “the source coverage could be considered overbroad and that the process weight based emission limits are difficult to enforce.” Therefore this is one of the reasons that AQD cites in its proposal to eliminate Sections 20.11.66.12 NMAC, *Emissions Of Particulate Matter* and 20.11.66.18 NMAC, *Emissions Of Particulate Matter*. The proposed amendments would remove currently effective Sections 20.11.66.12 and 18 NMAC, which specify the general emission limits for particulate matter (i.e. maximum number of pounds of contaminants, which may be discharged into the atmosphere in any one hour) produced by any process equipment, excluding gypsum calciners (cookers) and asphalt process equipment (asphaltic batch plants), as determined by the amount of process weight per hour. This language is proposed to be deleted for the following reasons:

- 1) The State of New Mexico’s air quality regulations do not contain the same emission standards found in the currently effective Section 20.11.66.12 NMAC; *Emissions Of Particulate Matter*. The State’s regulations, do contain other particulate matter emission standards, but these standards apply only to specific types of sources with specific emissions limits that are not comparable to Section 20.11.66.12 NMAC; and since Albuquerque – Bernalillo County regulations should be consistent with State’s regulations whenever possible (see NMSA 74-2-4-C), Section 20.11.66.12 NMAC is proposed to be deleted;
- 2) It is the Air Quality Division’s opinion that the language in this section is too broad in scope, and inappropriately applies the same particulate matter emission standards to all other sources of PM even though they each have unique emission characteristics. The Air Quality Division believes that individual source categories should have their own specific particulate emission standards if it is necessary to establish such standards; and
- 3) The particulate matter emission limits for process equipment found in the currently effective Section 20.11.66.12 NMAC; *Emissions Of Particulate Matter*, are not practically enforceable.

4) The emissions standards that are proposed to be deleted conflict with established federal NSPS and NESHAPs standards.

In regards to EPA's concern regarding the weakening of emissions limits and the potential to negatively affect attainment and maintenance of the NAAQS (i.e. SIP relaxation), the proposed changes will not "interfere with attainment or maintenance of any NAAQS", as illustrated below.

Under the currently effective rule, **cement kilns** are subject to a PM emissions limit of 230 mg/m³ of exhaust gas. In addition, they are subject to the PM emission limits prescribed by Sections 12 and 18 of 20.11.66 NMAC. Also, any facility that commences construction or modification after August 17, 1971, shall be subject to 40 CFR 60, Subpart F, *Standards of Performance for Portland Cement Plants*, as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*. In addition, any new and existing Portland cement plant which is a major source or an area source, as defined in 40 CFR 63.2, shall be subject to 40 CFR 63, Subpart LLL, *National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry*.

Under the proposed rule, cement kilns will not be subject to Sections 12 and 18 of 20.11.66 NMAC, but will be subject to the aforementioned NSPS which are at least as stringent the sections proposed to be deleted.

Under the currently effective rule, **gypsum cookers (calciners) and kettles**, constructed after 12/1/1995 (i.e. effective date of 20.11.66 NMAC) are subject to the PM emission limits prescribed by Sections 12 and 18 of 20.11.66 NMAC. In addition, all gypsum cookers and kettles are subject to a PM emissions limit of 690 mg/m³ of exhaust gas. Also, any owner or operator of equipment for gypsum processing, that commences construction, modification or reconstruction after April 23, 1986, shall be subject to 40 CFR 60, Subpart UUU, *Standards of Performance for Calciners and Dryers in Mineral Industries*, as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*.

Under the proposed rule, gypsum cookers (calciners) and kettles constructed after 12/1/1995 will not be subject to Sections 12 and 18 of 20.11.66 NMAC, but will be subject to Subpart UUU, which is at least as stringent the sections proposed to be deleted.

Under the currently effective rule, **asphaltic batch plants (asphalt process equipment)** are subject to the PM emission limits prescribed by 20.11.66.19 NMAC, *Asphaltic Batch Plants*, but NOT subject to Sections 12 and 18 of 20.11.66 NMAC. In addition, any hot mix asphalt facility that commences construction or modification after June 11, 1973, shall be subject to 40 CFR 60, Subpart I, *Standards of Performance for Hot Mix Asphalt Facilities*, as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*. Also, any saturator or mineral handling and storage facility at an asphalt roofing plant; or any asphalt storage tank or blowing still that processes or stores asphalt used for roofing only or for roofing and other purposes; and that commences construction or modification after November 18, 1980, shall be subject to 40 CFR 60, Subpart UU, *Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture*, as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*; and any asphalt storage tank or blowing still (at asphalt processing plants, petroleum refineries, and asphalt roofing plants) that processes or stores only non-roofing asphalts and that commences construction or

modification after May 26, 1981, shall be subject to 40 CFR 60, Subpart UU, *Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture*, as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*.

Under the proposed rule there would be no change to these emissions limits.

Under the currently effective rule, gypsum cookers (calciners) and kettles, constructed before 12/1/1995 are not subject to Sections 12 and 18 of 20.11.66 NMAC, nor are asphaltic batch plants (asphalt process equipment). But, **any process equipment other than** these two sources, *are* subject to Sections 12 and 18 of 20.11.66 NMAC. These sections specify the general emission limits for particulate matter (i.e. maximum number of pounds of contaminants, which may be discharged into the atmosphere in any one hour) produced by any process equipment, as determined by the amount of process weight per hour.

Under the proposed rule, these emission limits are eliminated. Therefore, any process equipment other than gypsum calciners and asphalt process equipment, would no longer be subject to Sections 12 and 18 of 20.11.66 NMAC, but instead would be subject to other PM emissions limits which are at least as stringent, pursuant to: 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources* (for example such NSPSs as 40 CFR 60 Subpart OOO and Subpart IIII. Subpart OOO has PM emission limits for non-metallic crushing and screening operations and Subpart IIII has PM emission limits for diesel engines); or 20.11.64 NMAC, *Emission Standards For Hazardous Air Pollutants For Stationary Sources* (for example, 40 CFR 63 Subpart DDD which is the NESHAP for Mineral Wool Production. Subpart DDD has a PM emission limit for the equipment used in this type of industry); other Air Board regulations (e.g. 20.11.5 NMAC, *Visible Air Contaminants*; 20.11.20 NMAC, *Fugitive Dust Control*; 20.11.67 NMAC, *Equipment, Emissions, Limitations*; 20.11.68 NMAC, *Incinerators and Crematories*; or 20.11.69 NMAC, *Pathological Waste Destructors*); or an enforceable permit condition.

In response to EPA's suggestion that AQD analyze the universe of affected sources in Bernalillo County that are currently subject to 20.11.66 NMAC, but might not be once Sections 12 and 18 are repealed, and determine if these sources will either be covered by a NSPS / NESHAP which are at least as stringent, or that the source(s) are so small that the repeal "will not result in a significant emissions increase and therefore meet 110(1):" AQD's analysis of sources that include process equipment that could potentially produce significant amounts of PM (e.g. Title V and PSD sources) is shown as attachment #1.

EPA #4. "We support adoption of definition of "calciner" in proposed section 20.11.66.7(A) which is identical to EPA's definition at 49 CFR 60.731."

AQD Response

Thank you for your support of our proposed revision.

Specific comments:

EPA #1. "Section 20.11.66.16. With respect to "Measurement", the proposed revision to section 20.11.66.16 states that 'other test methods or procedures approved by the department.' EPA cannot approve a provision allowing for executive director discretion with respect to Test Methods into the SIP. This section will need to provide for EPA approval in addition to (sic) department approval. Otherwise, it would essentially be allowing the department to revise the SIP without following an appropriate process."

AQD Response

AQD concurs and has withdrawn the language referring to departmental approval discretion:

20.11.66.16 MEASUREMENT: For purposes of ~~[this Part]~~ 20.11.66 NMAC, any measurement of emissions into the atmosphere ~~[may be made by comparing the weight of materials before and after processing or by measurements taken after particulate emissions have passed through air pollution control devices or apparatus, if any,]~~ shall follow test methods found at 40 CFR Part 60, Standards Of Performance For New Stationary Sources, or [by] other [reasonably accurate] test methods or procedures approved in advance and in writing by the department EPA.

EPA #2. “Sections 20.11.66.15 and 20.11.66.19. These two sections set forth allowable PM emission limits for asphalt process equipment. The department may want to adopt PM emission limits set forth in 40 CFR 60, Subpart I - *Standards of Performance for Hot Mix Asphalt Facilities*, which applies to facilities that commence construction or modification after June 11, 1973, instead.”

AQD Response

AQD has retained the current language in order to avoid the potential problem of a source that was constructed prior to an applicable NSPS not being subject to control of PM emissions. But, AQD has added language to clarify that asphalt process equipment that is not ‘grandfathered’, is subject to both 20.11.66.15 and 19 NMAC, as well as to federal NSPS. Also, AQD has removed the proposed additional emissions limits at 20.11.66.19 NMAC, *Asphaltic Batch Plants*.

20.11.66.15 [ASPHALTIC BATCH PLANTS] ASPHALT PROCESS EQUIPMENT: ~~[20.11.66.12 NMAC shall not apply to an asphaltic batch plant. No person shall]~~ The owner or operator of an asphalt batch plant asphalt process equipment shall not permit, cause, suffer or allow the emission of particulate matter into the atmosphere in any one hour from any or all operations of [an asphaltic batch plant] asphalt process equipment in total quantities in excess of the more stringent of the amount shown in Table 2 of 20.11.66.19 NMAC, or Subsections C through E of 20.11.66.15 NMAC, if applicable.

A. For a process weight between any two consecutive process weights in Table 2 of 20.11.66.19 NMAC, the ~~[emission limitation]~~ maximum stack emission rate shall be determined by interpolation. Where the plant or operation has more than one [emission point] stack, [the emission total is the sum of emissions from all emission points] the maximum stack emission rate applies to the total of the emissions from all stacks.

B. ~~[No plant shall]~~ The owner or operator of asphalt process equipment shall not operate the equipment without a fugitive [dust] particulate matter emissions control system. [and the system shall operate and be] The fugitive dust particulate matter emissions control system shall be operated and maintained so that all particulate matter [emission is] emissions are limited to the stack outlet.

C. Any hot mix asphalt facility that commences construction or modification after June 11, 1973, shall be subject to 40 CFR 60, Subpart I, *Standards of Performance for Hot Mix Asphalt Facilities*, as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards For Stationary Sources*.

D. Any saturator or mineral handling and storage facility at an asphalt roofing plant; or any asphalt storage tank or blowing still that processes or stores asphalt used for roofing only or for roofing and other purposes; and that commences construction or modification after November 18, 1980, shall be subject to 40 CFR 60, Subpart UU,

Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture, as incorporated by reference in 20.11.63 NMAC, New Source Performance Standards For Stationary Sources.

E. Any asphalt storage tank or blowing still (at asphalt processing plants, petroleum refineries, and asphalt roofing plants) that processes or stores only non-roofing asphalts and that commences construction or modification after May 26, 1981, shall be subject to 40 CFR 60, Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture, as incorporated by reference in 20.11.63 NMAC, New Source Performance Standards For Stationary Sources.

EPA #3. “Sections 20.11.66.15 and 20.11.66.19. These two sections set forth allowable PM emission limits for asphalt process equipment. The department may want to adopt PM emission limits set forth in 40 CFR 60, Subpart UU - *Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture*, which applies to facilities that commence construction or modification after May 26, 1981, instead.”

AQD Response

AQD concurs; please see AQD response to EPA Comment #2 above.

EPA #4. “Section 20.11.66.14. The current section 20.11.66.14 establishes a particulate matter emissions standard of 690 mg/m³ of exhaust gas. This particulate matter emissions standard was approved by EPA on April 10, 1980 [45 FR 24468] and codified at 52.1620(c)(11). The department may want to adopt PM emission limits set forth in 40 CFR 60, Subpart UUU - *Standards of Performance for Calciners and Dryers in Mineral Industries*, which applies to facilities that commence construction or modification after April 23, 1986, instead.”

AQD Response

AQD concurs, and has added language so that ‘grandfathered’ sources, constructed, modified or reconstructed on or before 4/23/86 shall be subject to 20.11.66.14 NMAC, and sources constructed, modified or reconstructed after that date are subject to Subpart UUU.

20.11.66.14 GYPSUM [COOKERS] CALCINERS: ~~[20.11.66.12 NMAC shall not apply to gypsum cookers or kettles constructed prior to the effective date of these regulations. No person]~~ The owner or operator of equipment for gypsum processing constructed, modified or reconstructed on or before April 23, 1986 shall not permit, cause, suffer or allow the emission of particulate matter into the atmosphere in any one hour from gypsum [cookers] calciners or kettles [constructed prior to the effective date of these regulations] in total amounts [which] that exceed 690 mg/m³ of exhaust gas. The owner or operator of equipment for gypsum processing that commences construction, modification or reconstruction after April 23, 1986, shall be subject to 40 CFR 60, Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries, as incorporated by reference in 20.11.63 NMAC, New Source Performance Standards For Stationary Sources.

EPA #5. “Section 20.11.66.13. This section sets forth allowable PM emission limits for a cement kiln. The department may want to adopt PM emission limits set forth in 40 CFR 60, Subpart F - *Standards of Performance for Portland Cement Plants*, which applies to facilities that commence construction or modification after August 17, 1971, instead. We would expect it could be demonstrated that the NSPS limit is more stringent than the limit in 20.11.66.13 and would be more consistent with current regulations.”

AQD Response

AQD has added language so that 'grandfathered' sources, constructed or modified on or before 8/17/71 shall be subject to 20.11.66.13 NMAC, and sources constructed or modified after that date are subject to Subpart F. In addition, any new and existing Portland cement plant which is a major source or an area source, as defined in 40 CFR 63.2, shall be subject to 40 CFR 63, Subpart LLL, *National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry*.

20.11.66.13 CEMENT KILNS: ~~[No person operating or utilizing]~~ The owner or operator of a cement [kilns] kiln constructed or modified on or before August 17, 1971, shall not permit, cause, suffer or allow particulate matter emissions in excess of 230 mg/m³ of exhaust gas. Any facility that commences construction or modification after August 17, 1971, shall be subject to 40 CFR 60, Subpart F, *Standards of Performance for Portland Cement Plants, as incorporated by reference in 20.11.63 NMAC, New Source Performance Standards For Stationary Sources. Any new and existing Portland cement plant which is a major source or an area source, as defined in 40 CFR 63.2, shall be subject to 40 CFR 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.*

Should you have any questions regarding this matter, please do not hesitate to contact me at (505) 768-2660, or nbutt@cabq.gov.

Sincerely,



Neal Butt
Environmental Health Scientist
Air Quality Division

cc: John Walser, SIP Coordinator, Air Planning Section, U.S. EPA, Region 6
Danny Nevarez, Acting Deputy Director, Environmental Health Department
Margaret Nieto, Control Strategies Supervisor, AQD