



December 7, 2017

Ms. Brittany Bolen
Deputy Associate Administrator
Office of Policy
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Room 3513E WJC-North MC-1804A
Washington, D.C. 20460

Dear Ms. Bolen,

It was a pleasure hearing you speak on November 30th at Hunton & Williams' program: *Insights into Environmental Law and Policy: A Conversation with Key Regulators*. By virtue of your position on the EPA regulatory reform task force, I wanted to bring an issue to your attention that merits action by the agency, and ask for your help in arranging a meeting with the appropriate EPA staff to discuss it.

Under the toxic release inventory (TRI) program, chemical lime manufacturers are required to report releases of TRI chemicals into the environment. Limestone quarries, which supply the raw materials for making lime in lime plants, are appropriately not covered under the program. However, many lime plants are co-located with limestone quarries, and in this circumstance the agency requires them to report to the agency all TRI chemicals "released" by both the lime plant and the quarry.

This is a problem because many of the TRI chemicals that are reported as "released" by a limestone quarry involve nothing more than trace elements contained within millions of pounds of unconsolidated overburden (aka rocks and dirt) that are simply picked up and moved from point A to point B to gain access to the bedrock limestone formations below. As EPA has acknowledged in a closely analogous context (unconsolidated overburden from metal mines), "overburden contains EPCRA § 313 [TRI] chemicals in negligible amounts, and that reporting is unlikely to provide the public with any valuable information." Worse, even though such chemicals exist in small quantities relative to the overburden, the sheer quantity of material that is moved can mislead the public and EPA into believing that lime plants are releasing large quantities of toxic chemicals into the environment when they are not.

When EPA added metal mining to the TRI program in 1997, they wisely created a broad exemption for unconsolidated overburden for the reasons quoted above. However, there was never any reason for an overburden exemption for non-metal mines (like limestone quarries)

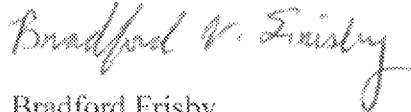
because they were not included in the TRI program in the first place. No thought was given to the possibility of co-located facilities.

We raised this issue with the Bush Administration in 2004, and although they seemed to agree that it should be corrected, no action was taken. We have likewise included this in our comments to EPA and the Department of Commerce in the regulatory reform effort by the Trump Administration earlier this year. Most recently, we raised the issue with both EPA and the Office of Management and Budget (OMB) because EPA's authority to collect this information is currently expired, and its information collection request (ICR) must be renewed by OMB under the Paperwork Reduction Act. In its response to comments filed with OMB, although EPA declined our invitation to correct the problem in the ICR process, EPA acknowledged our requested relief and stated that: "EPA is open to dialogue with NLA and any other stakeholder on this topic..."

We would greatly appreciate the opportunity to take EPA up on this invitation and meet with you or someone else on your staff to discuss this issue and how the agency can reform this policy to improve the TRI program, decrease the burden on manufacturers, and benefit the public by providing more useful and accurate information.

Attached are copies of the relevant documents: our 2004 letter to EPA and the agency's reply; our comments to EPA on regulatory reform; and our comments to EPA and OMB on the information collection request. Please let me know if we can provide any additional information. We look forward to hearing from you.

Sincerely,



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