

May 12, 2004

Hunter L. Prillaman  
National Lime Association  
200 N. Glebe Road  
Arlington, Virginia 22203

Dear Mr. Prillaman:

Thank you for your letter of February 23, 2004, requesting guidance regarding the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, you want to know if the metal mining overburden exemption provided for at 40 CFR 372.38(h) can be applied to activities at facilities other than metal mines in Standard Industrial Classification (SIC) code 10.

According to your letter, some lime manufacturing facilities have on-site limestone quarries. As you know, stand alone limestone quarries are not subject to the Toxics Release Inventory (TRI) reporting requirements because they are in SIC code 1422 which is not covered for EPCRA section 313 reporting purposes. If, however, a limestone quarry is located at a multi-establishment facility with a primary SIC code that is covered by EPCRA section 313, then the entire facility has met the SIC code criterion and must report to the Environmental Protection Agency (EPA) if the other reporting criteria are met. As you state in your letter, when EPA expanded the number of industries that are subject to the TRI reporting requirements (62 FR 23834, May 1, 1997) it provided the metal mining overburden exemption for facilities in SIC code 10. This exemption allows metal mining facilities to disregard toxic chemicals in overburden as defined at 40 CFR 372.3 (hereafter unconsolidated overburden) from the processing and otherwise use thresholds and release and other waste management calculations.

As you know, the Agency created the exemption because it determined that unconsolidated overburden at metal mining facilities in SIC code 10 contains EPCRA section 313 chemicals in negligible amounts and that reporting these chemicals is unlikely to provide the public with any valuable information. EPA believes that unconsolidated overburden at limestone quarries, as well as other mineral mines, may be similar to that at metal mining facilities. In light

of the situation at your member facilities, the metal mining overburden exemption may have been drafted too narrowly in scope and perhaps should have included unconsolidated overburden from other types of mineral mining facilities. Accordingly, the Agency will consider a proposed rule to expand the metal mining overburden exemption to any mineral mining facility.

I hope this information is helpful. If you have any other questions, or desire further information, please call Marc Edmonds, of my staff, at Ex. 6

Sincerely,

Michael J. Petruska, Director  
TRI Program Division