REGULATORY BACKGROUND

EPA's regulation of hazardous air pollutants ("HAPs") from lime manufacturing started two decades ago when, in 2004, EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants. (40 CFR §§ 63.7080-7083.) In so doing, EPA noted that: "the purpose of the final NESHAP is to protect public health by reducing emissions of HAP from lime manufacturing plants." 69 Fed. Reg. 394, 395 (Jan. 5, 2004). EPA carefully evaluated the lime manufacturing sector and regulated HAP emissions by establishing a particulate matter ("PM") standard as a surrogate for non-volatile and semi-volatile metal HAPs. As part of this evaluation EPA addressed all four of the additional HAPs emitted by the lime industry: HCl, mercury, oHAP, and D/F. Based on this evaluation, EPA found that new regulations were not necessary for any of those additional HAPs based on the best available science. EPA's 2004 rule was not challenged by the lime industry or any environmental groups.

In 2020, EPA issued a final rule to fulfill its obligations under CAA sections 112(d)(6) and (f)(2), or the "risk and technology review" ("RTR"). Here, EPA found that "risks are acceptable and that the current NESHAP provides an ample margin of safety to protect public health," and therefore found that it was unnecessary to set standards for HCl, mercury, organics, or D/F, fulfilling its 112(f)(2) obligation. *National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Residual Risk and Technology Review*, 85 Fed. Reg. 44960 (July 24, 2020). EPA further determined that "[t]here are no developments in practices, processes, or control technologies that necessitate revisions to the standards," fulfilling its 112(d)(6) obligation. *Id.*

EPA's findings were based on solid scientific analysis finding that both cancer and noncancer risks from the lime industry are exceedingly low. In the agency's own words, "EPA's estimated baseline maximum inhalation cancer risk (MIR) posed by the source category is 1-in-1 million based on actual emissions, and 2-in-1 million based upon MACT- allowable emissions. The total estimated cancer incidence based on actual emission levels is 0.001 excess cancer cases per year, or one case every 1,000 years. The total estimated cancer incidence based on allowable emission levels is 0.003 excess cancer cases per year, or one case every 333 years." EPA also noted: "The maximum chronic noncancer TOSHI [Target Organ-Specific Hazard Index] values for the source category were estimated to be less than 1 (0.04) based on actual emissions and less than 1 (0.05) based upon allowable emissions."[1]

In the rulemaking process that led to EPA's 2024 Lime Rule, EPA performed a full risk assessment for all four pollutants (HCl, mercury, oHAP, and D/F), and yet again determined that emissions of all these pollutants from the lime industry presented an acceptable risk with an ample margin of safety, *without any additional controls*. NLA provided detailed comments explaining why EPA should decline to set new standards, or in the alternative, should set standards that were reasonable, less costly and more likely achievable by the industry. Nevertheless, EPA promulgated the final Lime Rule imposing onerous, unreasonable and

[1] *National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Residual Risk and Technology Review* 84 Fed. Reg, 48722, 48723 (Sept 16, 2019).