



July 27, 2017

Ms. Cassandra Vail  
Document Control Office (7407M)  
Office of Pollution Prevention and Toxics (OPPT)  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

**EPA-HQ-TRI-2017-0057**

Dear Ms. Vail:

The National Lime Association (NLA) submits the following comments on EPA's Information Collection Request (ICR) titled: "*Toxic Chemical Release Reporting and Renewals of Form R, Form A, and Form R Schedule I*" identified by EPA ICR No. 1363.26 and OMB Control No. 2025-0009. NLA is a trade association that represents U.S. and Canadian commercial lime companies, as well as suppliers to the lime industry. NLA's members produce more than 98% of domestic lime.

Lime is an integral ingredient in many other manufacturing processes and industries. It is an important part of the steel manufacturing process, road building, and the creation of other building products like mortar and plaster. Lime is also integral in environmental compliance of many industries, as it is used to purify water and scrub pollutants from air stack emissions.

Lime manufacturing facilities are subject to TRI reporting requirements because they are within NAICS code 3274 (Lime). While "stand alone" limestone quarries are NOT subject to TRI reporting requirements (because their NAICS code, 2123, is not covered by the program), EPA has stated that multi-establishment facilities (such as lime plants with co-located limestone quarries) must make threshold determinations and must report on releases, waste management activities, and source reduction activities for the entire facility, even including establishments that are not in covered SIC codes.

The metal mining sector enjoys an exemption from reporting TRI chemicals contained in their overburden. Overburden is the unconsolidated material that overlies a deposit of useful materials or ores. It does not include any portion of the ore itself, or the waste rock that is created by processing the ore. As EPA stated, this exemption is based on the fact that:

"overburden contains EPCRA § 313 chemicals in negligible amounts, and that reporting is unlikely to provide the public with any valuable information." 62 Fed. Reg. 23,859 (May 1, 1997).

EPA should establish a similar exemption from TRI reporting obligations for overburden from non-metal mining operations, including multi-establishment facilities such as lime plants with co-located limestone mines. The rationale for exempting TRI reporting in overburden is the same for our industry as it was for the metal mining sector. The only reason that an exemption does not exist is because the agency never contemplated that such material would be reported in the first place, given that limestone quarries are not themselves covered under the TRI reporting program.

Under the Paperwork Reduction Act, federal agencies like EPA must ensure that collections of information are: (1) necessary for the proper functioning of the agency; (2) have “practical utility;” and (3) minimize the burden on those providing the information. In this case, requiring TRI reporting of overburden from non-metal limestone mines violates all three of those statutory requirements.

Such information isn’t necessary for the agency’s TRI program. Not only is the reporting of overburden “unlikely to provide the public with any valuable information” (as EPA explained regarding metal mining overburden), but it may have the potential of *misleading* the public into believing that large quantities of TRI chemicals are being “released” into the environment, when in fact such reporting involves nothing more than moving large amounts of rocks and dirt.

This information also lacks practical utility. Practical utility is defined as the ability of an agency to use the information. Clearly, if such information is unlikely to provide the public with any valuable information, it is likewise of little use to the agency.

By recognizing a parallel exemption for the reporting of overburden, both EPA and OMB would fulfill their mission under the Act of minimizing the burden on those providing the information. Moreover, such a clarification would simultaneously further the Presidential Memorandum *Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing*. This memo instructs all agencies, including EPA, to reduce regulatory burdens affecting domestic manufacturing. Creating an exemption for overburden in TRI reporting would reduce such burdens on this important manufacturing sector.

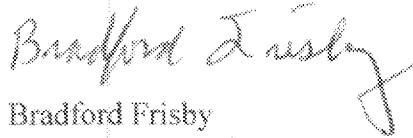
NLA initially made this request over 13 years ago. Although the agency sent a reply letter three months later which admitted that: “EPA believes that unconsolidated overburden at limestone quarries, as well as other mineral mines, may be similar to that at metal facilities” and that “the Agency will consider a proposed rule to expand the metal mining overburden exemption to any mineral mining facility,” EPA never followed up on this action — it never proposed a rule and did not change its policies in this regard.

NLA believes that EPA should correct this error and issue a written clarification in the form of a letter, policy or guidance that overburden from non-metal mines is exempt from threshold consideration and reporting under the TRI program, even if such facilities are co-located with a lime plant that may be reporting TRI chemicals for other reasons.

Attached are copies of the NLA letter to EPA and the agency response from 2004, as well as our May 15, 2017 comments submitted regarding EPA’s request for input on regulations that may be appropriate for repeal, replacement, or modification. 82 Fed. Reg. 17,793 (April 13, 2017).

We look forward to your response. If you would like to contact me regarding this matter, please feel free to call me at Ex. 6 email me at [bfrisby@lime.org](mailto:bfrisby@lime.org).

Sincerely,



Bradford Frisby  
Deputy General Counsel  
National Lime Association

cc: Wendy Cleland-Hamnett  
Acting Assistant Administrator  
Office of Chemical Safety and Pollution Prevention

Kevin Bromberg  
Office of Advocacy  
U.S. Small Business Administration

Danielle Jones  
Office of Information & Regulatory Affairs  
Office of Management and Budget