

National Pollutant Release Inventory (NPRI) – Mining Subgroup

ENGO Position Paper – March 2007

Prepared by John Jackson & Anna Tilman

Part A: Background

When the NPRI was originally set up, mining activities (but not the processing of mined materials) were exempted from reporting to the NPRI. ENGOs saw this as a major omission from the NPRI program, especially because the mining sector was the largest reporter to the US Toxics Release Inventory (TRI). As a result of substantial urging by the environmental community, the federal Minister of the Environment agreed to support a review of this mining exemption. As a result, in 2003, the NPRI Multi-stakeholder Work Group on Substances established a sub-group to review the exemption of pre-processing mining activities from NPRI reporting. The drivers listed by the government for this review were the need to:

- identify Criteria Air Contaminant emissions from mining sources
- harmonize the NPRI and Ontario's Regulation 127
- improve comparability with the US TRI and
- simplify and integrate greenhouse gas, Statistics Canada and NPRI reporting requirements.¹

As a result of the mining sub-group and Work Group discussions, the mining exemption was removed in a step-by-step process. Effective with the 2006-reporting year, only “mining related to pits and quarries” was exempted from reporting.² For pits and quarries, only Part 4 and 5 emissions from the combustion of fuel in stationary combustion equipment had to be reported.

The mining sub-group continued its work during 2006 on the pits and quarries exemption. As a result, effective with the 2007-reporting year, the exemption for pits and quarries was removed. However, the reporting criteria for pits and quarries are not the same as for most facilities because of concern that those thresholds, especially the employee exemption threshold, would not be effective. As a result, pits and quarries have been added to the NPRI with the criteria set as follows: “that person shall report information under this notice if production at a pit or a quarry exceeds 500 000 tonnes during 2007.” In addition, they are not to use the substances in Schedule 1 of the Gazette Notice to calculate the mass reporting thresholds for schedule 2.³

¹ Marbek Resource Consultants Ltd., *National Pollutant Release Inventory (NPRI) Mining Sub-Group: Final Report of the Mining Exemption Workshop May 17-18, 2005*, June 2, 2005, p. 1.

² *Canada Gazette Part I*, February 25, 2006, Schedule 2. 3. (1) (h).

³ *Canada Gazette Part I*, March 3, 2007, Schedule 2, 3. (3).

Part B: Outstanding Issues

For the ENGO community, three main issues remain around mining issues:

1. The threshold established for pits and quarries
2. Reporting on NPRI substances placed in tailings impoundments and waste rock piles.
3. The substances that must be reported under NPRI

1. The threshold established for pits and quarries reporting:

Effective with the 2007-reporting year, pits and quarries have to report NPRI substances if their annual production exceeds 500,000 tonnes. Based on its research on pits and quarries, Environment Canada estimated that this threshold would result in reporting for approximately 80 percent of the tonnage of production from pits and quarries. Because of the size of the larger operators, Environment Canada estimates that this will require reporting by approximately 20 percent of the facilities.⁴

Environment Canada considers this threshold to be acceptable because it reduces the burden on industry and is more likely to reach the facilities that have the capacity to report.⁵ We do not accept this rationale.

First, ENGOs have never agreed to the so-called 80 percent “rule” that industry always talks about. The prime purpose of the NPRI is to make information available to the public. Therefore, burden on industry should not be a determinant in making decisions. It can be a consideration, but not a determinant. Also the 80 percent is based on the amount of the production or in some cases NPRI substances that would have to be reported. This means that it covers only 20 percent of facilities.

Since the NPRI is supposed to be a community right-to-know tool, the minimal objective should be to ensure that at least 80 percent of facilities are required to report. In the pits and quarries case, people living near 80 percent of the pits and quarries in Canada will not be able to find out what NPRI substances are being released or disposed of in their communities. This is a very faulty approach to right to know.

Secondly, ENGOs do not accept that capacity of industry to report is an acceptable reason for setting thresholds. If a company does not have the capacity to track and estimate their releases, transfers and disposal of NPRI substances, they should not be given a permit to operate since they clearly do not have the financial and technical capacity to operate their facilities in a manner that will protect the environment and their community.

As a result, we believe that the threshold for reporting to NPRI by pits and quarries should be reduced from 500,000 tonnes production a year to 50,000 tonnes each year,

⁴ Environment Canada, Intended Changes for Pits and Quarries (Presentation #2), NPRI WG Meeting, June 19 and 20, 2006.

⁵ Ibid.

which would require reporting by approximately 80 percent of the pits and quarries operations.

2. Reporting on NPRI substances placed in tailings impoundments and waste rock piles:

For the 2006-reporting year, Environment Canada removed the mining exemption, except for pits and quarries. Therefore, it is our position that mining facilities should now be reporting releases, transfers and disposal of NPRI substances to mine tailings impoundments and waste rock dumps. This has not been the position of Environment Canada, which continues to explore this issue, and industry appears to be operating as though there is an exemption for this activity.⁶ The Gazette notice does not, however, state materials placed in mine tailings impoundments and waste rock dumps are exempt. Likewise Environment Canada's *Guide for Reporting to the National Pollutant Release Inventory 2006* does not state that this activity is exempted other than to say that they are not releases.⁷

Nevertheless, Environment Canada continued to explore this issue with the NPRI work group and sub group throughout 2005 and 2006. Since the mining industry and the ENGOs could not come to agreement on this issue, Environment Canada decided to refer the matter to the Mining Sector Sustainability Table (MSST) for consideration. The MSST held a workshop on this topic in March 2007. There was general agreement at this workshop among all sectors that there is a "need for some type of mandatory regular reporting mechanism relating to the 'core set' of information needs relating to tailings and waste rock."⁸ ENGOs stated very strongly that they believe this reporting should occur through the NPRI to ensure ease of access by the public to the data.

ENGOs continue to assert that the appropriate location for the reporting of materials going into mine tailings impoundments and waste rock dumps is through the NPRI and that it is now required by notice under the authority of the *Canadian Environment Protection Act* to be reported. NPRI substances going to these facilities should be reported under the company's disposal figures. Sometimes industry claims that these materials are going to storage not disposal because at some point they may be retrieved and, therefore, do not need to be reported.⁹ This is a specious argument. Unless there is a specific plan to remove the tailings or waste rock within a short time – maximum 2 years, it is completely unreasonable to pretend that this is storage and would not be accepted as such under any provincial government's definition of storage.

⁶ The mining industry was always supposed to report any releases of NPRI substances from their tailings ponds. Source: Environment Canada, *Guide for Reporting to the National Pollutant Release Inventory 2006*, answer to question 31, p. 88.

⁷ Ibid.

⁸ Hajo Versteeg & Menno Versteeg, *Workshop Proceedings, Information Needs Associated with the Risks & Hazards of Mine Tailings and Waste Rock*, March 21-22, 2007, p. 4.

⁹ See for example, *Report of the National Pollutant Release Inventory Multi-Stakeholder Work Group on Substances*, November 24, 2005, p. 21.

3. The substances that must be reported under NPRI

The radioactive content of tailings and waste rock has been the source of major problems around uranium mines. Natural Resources Canada estimates that there are 225 million tonnes of tailings from uranium mines in Canada.¹⁰ It is predicted that uranium mining will expand in Canada as the demand for uranium worldwide is now rising after a period during which demand had languished.¹¹ Therefore, it is essential that radionuclides be added to the NPRI.

Part C: ENGO Position and Recommendations

- The reporting threshold for pits and quarries should be lowered from 500,000 tonnes production each year to 50,000 tonnes production.
- Environment Canada should immediately enforce its February 2006 Gazette notice requiring that mining, with the exception of pits and quarries, report their release, transfer and disposal of NPRI substances.
- Environment Canada should add a statement to its Guide for Reporting that makes it clear that such reporting is required.
- Environment Canada should add radionuclides to the NPRI list of substances.

¹⁰ Natural Resources Canada, Backgrounder: Radioactive Wastes in Canada, www.nrcan.gc.ca/media/archives/newsreleases/1996/199679a_e.htm.

¹¹ See for example, "Uranium demand rises as interest in nuclear rekindles," *Financial Post*, October 14, 2005.