EAGLE MATERIALS INC
Form 10-K
May 23, 2014
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the Fiscal Year Ended

March 31, 2014

Commission File No. 1-12984

EAGLE MATERIALS INC.

(Exact name of registrant as specified in its charter)

Delaware

(State of Incorporation)

75-2520779

(I.R.S. Employer Identification No.)

3811 Turtle Creek Blvd, Suite 1100, Dallas, Texas 75219

(Address of principal executive offices)

(214) 432-2000

(Registrant s telephone number)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock (par value $.01 per share)	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. YES x NO ¨

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES ¨ NO x

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES x NO ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES x NO ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

x Large accelerated filer ¨ Accelerated filer

¨ Non-accelerated filer (Do not check if a smaller reporting company) ¨ Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES ¨ NO x

The aggregate market value of the voting stock held by nonaffiliates of the Company at September 30, 2013 (the last business day of the registrants most recently completed second fiscal quarter) was approximately $3.5 billion.

As of May 20, 2014, the number of outstanding shares of common stock was:

Class	Outstanding Shares
Common Stock, $.01 Par Value	50,046,850

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement for the Annual Meeting of Stockholders of Eagle Materials Inc. to be held on August 7, 2014 are incorporated by reference in Part III of this Report.

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PART I

ITEM 1. BUSINESS

OVERVIEW

Eagle Materials Inc. (the Company or EXP which may be referred to as we , our or us) was founded in 1963 as a building materials subsidiar Centex Corporation (Centex), and we operated as a public company under the name Centex Construction Products, Inc. from April 1994 to January 30, 2004, at which time Centex completed a tax-free distribution of its shares in EXP to its shareholders (the Spin-off). Since the date of the Spin-off, we have no longer been affiliated with Centex. Our primary businesses are the manufacture and distribution of gypsum wallboard and the manufacture and sale of cement. Gypsum wallboard is distributed throughout the U.S. with particular emphasis in the geographic markets nearest to our production facilities. We sell cement in six regional markets, including northern Nevada and California, the greater Chicago area, the Rocky Mountain region, the Central Plains region and Texas. Our gypsum wallboard business is supported by our recycled paperboard business, while our cement business is supported by our concrete and aggregates business.

Our products are commodities that are essential in the construction and renovation of houses, roads, bridges, commercial and industrial buildings and other, newer generation structures like wind farms. Demand for these products is generally cyclical and seasonal, depending on economic and geographic conditions. Our operations are geographically diverse, which subject us to the economic conditions in each such geographic market as well as the national construction market. General economic downturns or localized downturns in the regions where we have operations could have a material adverse effect on our business, financial condition and results of operations. Our gypsum wallboard and paperboard operations are more national in scope and shipments are made throughout the continental U.S., except for the northeast, and therefore are more impacted by national downturns. The markets of our cement companies are more regional due to the low value-to-weight ratio of cement, which generally limits shipments to a 150 mile radius of the plants by truck and up to 300 miles by rail. Concrete and aggregates are primarily local businesses that serve the areas immediately surrounding Austin, Texas, the greater Kansas City area and north of Sacramento, California, while frac sand is currently sold in Texas. Cement, concrete and aggregates demand is more sensitive to change in local and regional markets and economies than the national market, as well as being more susceptible to seasonal impact due to adverse weather.

On November 30, 2012, the Company completed the acquisition (the Acquisition) of certain assets of Lafarge North America Inc. (Lafarge North America or the Sellers), primarily two cement plants in Missouri and Oklahoma and a concrete and aggregates business in Kansas City, Missouri (the Acquired Assets). The Acquired Assets are used to produce, market and sell portland cement, aggregates and concrete in Kansas, Missouri, Nebraska and Oklahoma. The acquisition of the Acquired Assets expanded the Company s market into the central part of the United States and, together with our existing markets, created a network of cement plants and distribution terminals stretching from Chicago, Illinois to northern California, and south to Texas.

During fiscal 2012 and 2013, we purchased land with mineral reserves in the Midwest for the purpose of developing a business to provide sand for hydraulic fracturing (frac sand) to oil services and other industrial end markets. During fiscal 2013, we constructed a drying and screening plant in Corpus Christi, Texas to process and market the sand in Texas, and we began selling third-party purchased sand out of this facility during fiscal 2014, as we have not yet opened our own mine. The results of operations from our frac sand operations have been included in our concrete and aggregates segment. We continue to pursue other frac sand deposits and distribution sites that are geographically supportive to our frac sand operations, and anticipate additional capital expenditures related to frac sand in the range of $30 million to $40 million in fiscal 2015.

Our goal, through relentless and disciplined continuous improvement, is to be the lowest cost producer in each of the markets in which we compete. As such, we will continue to focus on reducing costs and improving our operations, recognizing that being the lowest cost producer is a key to our success.

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At March 31, 2014, we operated six cement plants (one of which belongs to our joint venture company), five gypsum wallboard plants, one recycled paperboard plant, seventeen concrete batching plants, four aggregates facilities and one frac sand processing and drying plant. The gypsum wallboard plant in Bernalillo, New Mexico has been temporarily idled since 2009, pending market demand improvement.

Recently demand for our two major product lines has begun to recover, as underlying economic fundamentals in the U.S. began to show improvement in calendar 2012 and continued to improve through calendar 2013. Cement consumption in the United States, as estimated by the Portland Cement Association, increased 4% to 87.8 million short tons in calendar 2013 as compared to 84.1 million short tons in calendar 2012, with imported cement consumption consistent at approximately 9% of total sales in both calendar 2013 and 2012. The increase in consumption benefited EXP, as our cement sales volumes, excluding volumes from the Acquired Assets, increased approximately 6%, in fiscal 2014, as compared to fiscal 2013. The increases occurred in all of our markets, with the largest increases in our Mountain and Illinois markets. Demand for gypsum wallboard continues to improve as well, as industry shipments of gypsum wallboard increased approximately 8% to 20.5 billion square feet in calendar 2013, as compared to 18.9 billion square feet in calendar 2012, primarily due to the increase in residential home construction.

We continue to pursue opportunities in businesses which are naturally adjacent to our existing core businesses and would allow us to leverage our core competencies and existing infrastructure and customer relationships. The entry into any such new businesses requires capital expenditures and the investment of management time and other resources, and is subject to the risks associated with any new business development. See Management s Discussion and Analysis of Financial Condition and Results of Operations Executive Summary .

We will also continue to focus on growth through acquisitions or expansion of existing facilities that we believe provide an opportunity to realize an appropriate return on investment and increased profitability for our shareholders.

INDUSTRY SEGMENT INFORMATION

While our businesses are separated into four segments, these four segments are generally related to two businesses, and are therefore discussed as follows: Cement and Concrete and Aggregates, and Gypsum Wallboard and Recycled Paperboard. A description of these business segments can be found on pages 2-14.

We conduct one of our six cement plant operations through a joint venture, Texas Lehigh Cement Company LP, which is located in Buda, Texas. We own a 50% interest in the joint venture and account for our interest using the equity method of accounting. However, for segment reporting purposes, we proportionately consolidate our 50% share of the cement joint venture s revenues and operating earnings, which is consistent with the way management organizes the segments within the Company for making operating decisions and assessing performance. Revenues from external customers, operating earnings, identifiable assets, depreciation, depletion and amortization, and capital expenditures by segment are presented in Note (G) of the Notes to Consolidated Financial Statements on pages 65-68.

CEMENT, CONCRETE AND AGGREGATES OPERATIONS

Company Operations

Cement. Our cement production facilities are located in or near Buda, Texas; LaSalle, Illinois; Laramie, Wyoming; Sugar Creek, Missouri; Tulsa, Oklahoma and Fernley, Nevada. All of our cement subsidiaries are wholly-owned except the Buda, Texas plant, which is owned by Texas Lehigh Cement Company LP, a limited partnership joint venture owned 50% by us and 50% by Lehigh Cement Company LLC, a subsidiary of Heidelberg Cement AG. Our LaSalle, Illinois plant operates under the name Illinois Cement Company; the Laramie, Wyoming plant operates under the name Mountain Cement Company; the Fernley, Nevada plant operates under the name of Nevada Cement Company and our Sugar Creek, Missouri and Tulsa, Oklahoma plants operate under the name Central Plains Cement Company.

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Cement is the basic binding agent for concrete, a primary construction material. Our modern cement plants utilize dry process technology and, at present, approximately 75% of our clinker capacity is from preheater or preheater/pre-calciner kilns. The following table sets forth certain information regarding these plants:

Location	Rated Annual Clinker Capacity (M short tons)[1]	Manufacturing Process	Number of Kilns	Kiln Dedication Date	Estimated Minimum Limestone Reserves (Years)
Buda, TX	1,300[2]	Dry 4 Stage Preheater/ Pre-calciner	1	1983	50+[5]
LaSalle, IL	1,000	Dry 5 Stage Preheater/ Pre-calciner	1	2006	33[5]
Sugar Creek, MO	1,000	Dry 5 Stage Preheater/ Pre-calciner	1	2002	50+[5]
Laramie, WY	650	Dry 2 Stage Preheater	1	1988 1996	50+[6]
		Dry Long Dry Kiln	1		
Tulsa, OK	650	Dry Long Dry Kiln	2	1961 1964	50+[5]
Fernley, NV	500	Dry Long Dry Kiln	1	1964 1969	50+[6]
		Dry 1 Stage Preheater	1		
Total-Gross [3]	5,100				
Total-Net [3][4]	4,450				

(1) One short ton equals 2,000 pounds.
(2) The amount shown represents 100% of plant capacity and production. This plant is owned by a separate limited partnership in which the Company has a 50% interest.
(3) Generally, a plant s cement grinding production capacity is greater than its clinker production capacity.
(4) Net of partner s 50% interest in the Buda, Texas plant.
(5) Owned reserves.

(6) Includes both owned and leased reserves.

Our net cement production, including our 50% share of the cement Joint Venture production, totaled 4.0 million short tons in fiscal 2014 and 3.1 million short tons in fiscal 2013. Total net cement sales, including our 50% share of cement sales from the Joint Venture, were 4.6 million short tons and 3.3 million short tons in fiscal 2014 and fiscal 2013, respectively. Cement production and sales related to the Acquired Assets totaled 1.4 million tons and 1.4 million tons, respectively, in fiscal 2014 and 0.3 million tons and 0.3 million tons, respectively, in fiscal 2013, and have been included in the fiscal 2014 and 2013 amounts above. The Joint Venture also owns a minority interest in an import terminal in Houston, Texas and can purchase up to 495,000 short tons annually from this cement terminal.

***Concrete and Aggregates*.** Readymix concrete is a versatile, low-cost building material used in almost all construction. The production of readymix concrete involves the mixing of cement, sand, gravel, or crushed stone and water to form concrete, which is then sold and distributed to numerous construction contractors. Concrete is produced in batch plants and transported to the customer s job site in mixer trucks.

The construction aggregates business consists of the mining, extraction, production and sale of crushed stone, sand, gravel and lightweight aggregates such as expanded clays and shales. Construction aggregates of suitable characteristics are employed in virtually all types of construction, including the production of readymix concrete and asphaltic mixes used in highway construction and maintenance. In addition to construction aggregates, in fiscal 2013, we completed our plant in Corpus Christi, Texas that is used to screen and dry frac sand used by oil services companies. We began selling third-party purchased frac sand in the Texas market during fiscal 2014.

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We produce and distribute readymix concrete from company-owned sites north of Sacramento, California; Austin, Texas and the greater Kansas City area. The following table sets forth certain information regarding these operations:

Location	Number of Plants	Number of Trucks
Northern California	3	25
Austin, Texas	6	74
Kansas City Area	8	66
Total	17	165

We conduct aggregate operations near our concrete facilities in northern California; Austin, Texas and the greater Kansas City area. We did not mine any frac sand from our Utica, Illinois quarry during fiscal 2014. All of our frac sand sales were in south Texas, with sand purchased from third parties. Aggregates are obtained principally by mining and extracting from quarries owned or leased by the Company, and we expect to begin mining frac sand out of our Utica, Illinois quarry during the latter half of fiscal 2015. The following table sets forth certain information regarding these operations:

Location	Types of Aggregates	Estimated Annual Production Capacity (Thousand tons)	Estimated Minimum Reserves (Years)
Northern California	Sand and Gravel	4,000	100+[1]
Austin, Texas	Limestone	3,000	46[2]
Kansas City Area	Limestone	900	50+[1]
Utica, Illinois	Frac Sand	2,500[3]	50+[1]
Total		10,400	

(1) Owned reserves through various subsidiaries.
(2) Leased reserves.
(3) Our plant in Utica is currently under construction.

Our total net aggregate sales, excluding frac sand sales, were 3.2 million tons in fiscal 2014 and 2.6 million tons in fiscal 2013. Total aggregates production, excluding frac sand, was 3.0 million tons and 2.4 million tons for fiscal 2014 and fiscal 2013, respectively. Included in the fiscal 2014 and fiscal 2013 information above are 0.7 million tons and 0.1 million tons, respectively, in both sales and production attributable to the Acquired Assets. A portion of our total aggregates production is used internally by our readymix concrete operations in Texas, the greater Kansas City area and California. Our total net frac sand sales and production were 0.2 million tons and 0.3 million tons, respectively, during fiscal 2014, with all sales originating from our Corpus Christi facility.

Raw Materials and Fuel Supplies

Cement. The principal raw material used in the production of portland cement is calcium carbonate in the form of limestone. Limestone is obtained principally through mining and extraction operations conducted at quarries that we own or lease and are located in close proximity to our plants. We believe that the estimated recoverable limestone reserves owned or leased by us will permit each of our plants to operate at our present production capacity for at least 30 years. Other raw materials used in substantially smaller quantities than limestone are sand, clay, iron ore and gypsum. These materials are readily available and can either be obtained from Company-owned or leased reserves or purchased from outside suppliers. All of the limestone reserves are deemed to be probable under the definition provided by Industry Guide 7.

Coal and petroleum coke are the primary fuels used in our cement plants, but the plants are equipped to burn natural gas as an alternative. The cost of delivered coal and petroleum coke declined in fiscal 2014 as compared to fiscal 2013, primarily due to the increase of petroleum coke as a percentage of total fuel. The Tulsa

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plant currently burns alternative fuels, as well as coal and petroleum coke, and the Sugar Creek plant currently burns alternative fuels and petroleum coke. When we acquired Sugar Creek and Tulsa in late 2012 both plants had existing alternative fuels programs managed by a company that supplies alternative fuels and materials to the cement plants. In keeping with Eagle s commitment to sustainability and to cost management, we continued these programs to manage our alternative fuels and materials at those plants.

Electric power is also a major cost component in our manufacturing process and we have sought to diminish overall power costs by adopting interruptible power supply agreements at certain locations. These agreements may expose us to some production interruptions during periods of power curtailment.

***Concrete and Aggregates*.** We supply from our cement plants approximately 5%, 100% and 15% of the cement requirements for our Austin, greater Kansas City and northern California concrete operations, respectively. We supply approximately 35%, 60% and 85%, respectively, of our aggregates requirements for our Austin, greater Kansas City and northern California concrete operations. We obtain the balance of our cement and aggregates requirements from multiple sources in each of these areas.

We mine and extract limestone, sand and gravel, the principal raw materials used in the production of aggregates, from quarries owned or leased by us and located near our plants. The northern California quarry is estimated to contain over one billion tons of sand and gravel reserves. The Austin, Texas quarry is covered by a lease which expires in 2060. Based on its current production capacity, we estimate our northern California and Austin, Texas quarries contain over 100 years and approximately 50 years of reserves, respectively. Our Kansas City quarry currently has over 50 years of reserves, and we are actively seeking additional reserves to extend the life of the quarry. We currently own a quarry in Utica, Illinois with approximately 50+ years of frac sand reserves. We expect to begin mining our quarry in Utica, Illinois after all required permits have been received.

Sales and Distribution

***Cement*.** The principal sources of demand for cement are infrastructure, commercial construction and residential construction, with public works infrastructure comprising over 50% of total demand. Cement consumption increased approximately 4% during calendar 2013 from calendar 2012, and the Portland Cement Association predicts cement consumption will increase another 8% in calendar 2014. Demand for cement is seasonal, particularly in northern states where inclement winter weather often affects construction activity. Cement sales are generally greater from spring through the middle of autumn than during the remainder of the year. The impact to our business of regional construction cycles may be mitigated to some degree by our geographic diversification.

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The following table sets forth certain information regarding the geographic areas served by each of our cement plants and the location of our distribution terminals in each area. We have a total of 16 cement storage and distribution terminals that are strategically located to extend the sales areas of our plants.

Plant Location	Principal Geographic Areas	Distribution Terminals
Buda, Texas	Texas and western Louisiana	Corpus Christi, Texas
		Houston, Texas
		Roanoke (Ft. Worth), Texas
		Waco, Texas
		Houston Cement Company (Joint Venture), Houston, Texas
LaSalle, Illinois	Illinois and southern Wisconsin	Hartland, Wisconsin
Sugar Creek, Missouri	Western Missouri, eastern Kansas and northern Nebraska	Sugar Creek, Missouri
		Iola, Kansas
		Wichita, Kansas
		Omaha, Nebraska
Laramie, Wyoming	Wyoming, Utah, Colorado and western Nebraska	Salt Lake City, Utah
		Denver, Colorado
		North Platte, Nebraska
Tulsa, Oklahoma	Oklahoma, western Arkansas and southern Missouri	Oklahoma City, Oklahoma
		Springfield, Missouri
Fernley, Nevada	Northern Nevada and northern California	Sacramento, California

Cement is distributed directly to our customers mostly through customer pickups, as well as by common carriers from our plants or distribution terminals. We transport cement principally by rail to our storage and distribution terminals. No single customer accounted for 10% or more of our cement segment sales during fiscal 2014. Sales are made on the basis of competitive prices in each market and, as is customary in the industry, we do not typically enter into long-term sales contracts.

The cement industry is extremely competitive as a result of multiple domestic suppliers and the importation of foreign cement through various terminal operations. Approximately 80% of the U.S. cement industry is owned by foreign international companies. Competition among producers and suppliers of cement is based primarily on price, with consistency of quality and service to customers being important but of lesser significance. Price competition among individual producers and suppliers of cement within a geographic area is intense because of the fungible nature of the product. Because of cement s low value-to-weight ratio, the relative cost of transporting cement on land is high and limits the geographic area in which each company can market its products profitably; therefore, the U.S. cement industry is fragmented into regional geographic areas rather than a single national selling area. No single cement company has a distribution of plants extensive enough to serve all geographic areas, so profitability is sensitive to shifts in the balance between regional supply and demand.

Cement imports into the U.S. occur primarily to supplement domestic cement production or to supply a particular region. Cement is typically imported into deep water ports or transported on the Mississippi River system near major population centers to take advantage of lower waterborne freight costs versus higher truck and rail transportation costs that U.S. based manufacturers incur to deliver into the same areas.

The Portland Cement Association estimates that imports represented approximately 9% of cement used in the U.S. during each of the calendar years 2013, 2012 and 2011. Based on the normal distribution of cement into the market, we believe that approximately 5% to 10% of the total consumption will consistently be served by imported cement.

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***Concrete and Aggregates*.** Demand for readymix concrete and aggregates largely depend on local levels of construction activity. Construction activity is also subject to weather conditions, the availability of financing at reasonable rates and overall fluctuations in local economies, and therefore tends to be cyclical. We sell readymix concrete to numerous contractors and other customers in each plant s selling area. Our batch plants in Austin, the greater Kansas City area and northern California are strategically located to serve each selling area. Concrete is delivered from the batch plants primarily by company-owned trucks, as well as third party contractors in certain markets.

We sell aggregates to building contractors and other customers engaged in a wide variety of construction activities. Aggregates are delivered from our aggregate plants by common carriers and customer pick-up. None of our customers accounted for 10% or more of our segment revenues during fiscal 2014. We are continuing our efforts to secure a rail link from our principal aggregates deposit north of Sacramento, California to supply extended markets in northern California.

Both the concrete and aggregates industries are highly fragmented, with numerous participants operating in each local area. Because the cost of transporting concrete and aggregates is very high relative to product values, producers of concrete and aggregates typically can profitably sell their products only in areas within 50 miles of their production facilities. Barriers to entry in each industry are low, except with respect to environmental permitting requirements for new aggregates production facilities and zoning of land to permit mining and extraction of aggregates.

The frac sand proppant business continues to show signs of growth throughout the central United States. Proppants are used to prop open hydraulic fractures, enabling hydrocarbons to be extracted from oil and gas shale formations. The United States is the single largest consumer of proppants, followed by Canada. The 2014 USGS Minerals Yearbook Summary, published in February 2014, reports that approximately 32.5 million tons of frac sand were consumed in the United States in 2013, compared to 25.7 million tons in 2012, a 26% increase. This follows frac sand consumption increasing approximately 58% in 2012 to approximately 25.7 million tons, as compared to approximately 16.3 million tons in 2011.

Environmental Matters

***Cement*.** Our cement operations are subject to numerous federal, state and local laws and regulations pertaining to health, safety and the environment. Some of these laws, such as the federal Clean Air Act and the federal Clean Water Act (and analogous state laws) impose environmental permitting requirements and govern the nature and amount of emissions that may be generated when conducting particular operations. Some laws, such as the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (and analogous state laws) impose obligations to clean up or remediate spills of hazardous materials into the environment. Other laws require us to reclaim certain land upon completion of extraction and mining operations in our quarries. We believe that we have obtained all the material environmental permits that are necessary to conduct our operations. We further believe that we are conducting our operations in substantial compliance with these permits. In addition, none of our manufacturing sites is listed as a CERCLA Superfund site.

Six environmental issues involving the cement manufacturing industry deserve special mention.

The first environmental issue involves cement kiln dust or CKD. The federal Environmental Protection Agency (EPA) has been evaluating the regulatory status of CKD under the Resource Conservation and Recovery Act (RCRA) for a number of years. In 1999, the EPA proposed a rule that would allow states to regulate properly-managed CKD as a non-hazardous waste under state laws and regulations governing solid waste. In contrast, CKD that was not properly managed would be treated as a hazardous waste under RCRA. In 2002, the EPA confirmed its intention to continue to exempt properly-managed CKD from the hazardous waste requirements of RCRA. The agency announced that it would collect additional data over the next three to five years to determine if the states regulation of CKD is effective. Although the EPA had previously indicated that it continues to consider an approach whereby it would finalize its 1999 proposal to exempt properly-managed CKD wastes and establish protective CKD management standards, as of May 2013 the EPA still has not finalized the 1999 proposal. Based on currently available information, it is uncertain whether or when this proposal will be finalized. Nevertheless, in the interim many state environmental agencies have been using the EPA s 1999 proposed CKD management standards as general industry guidelines.

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Currently, substantially all CKD produced in connection with our ongoing operations is recycled, and therefore such CKD is not viewed as a waste under RCRA. However, CKD was historically collected and stored on-site at our Illinois, Nevada, Missouri, Oklahoma and Wyoming cement plants and at a former plant site in Corpus Christi, Texas, which is no longer producing cement. If either the EPA or the states decide to reclassify or impose new management standards on this CKD at some point in the future, we could incur additional costs to comply with those requirements with respect to our historically collected CKD. CKD that comes in contact with water might produce a leachate with an alkalinity high enough to be classified as hazardous and might also leach certain hazardous trace metals therein.

The second environmental issue involves the historical disposal of refractory brick containing chromium. Such refractory brick was formerly used widely in the cement industry to line cement kilns. We currently do not use refractory brick containing chromium, and we crush spent refractory brick which is then used as raw feed in the kiln.

The third environmental issue involves the potential regulation of our emission of greenhouse gasses (GHGs), including carbon dioxide, under the Clean Air Act (CAA). The consequences of GHG emission reduction regulations for our cement operations will likely be significant because (1) the cement manufacturing process requires the combustion of large amounts of fuel to generate very high kiln temperatures, and (2) the production of carbon dioxide is a byproduct of the calcination process, whereby carbon dioxide is removed from calcium carbonate to produce calcium oxide.

In response to the Supreme Court s ruling in *Massachusetts v. EPA*, 127 S. Ct. 1438 (2007), that GHGs are air pollutants and, thus, potentially subject to regulation under the CAA, the EPA has taken steps to regulate GHG emissions from mobile and stationary sources. On September 22, 2009, the EPA issued a Mandatory Reporting of Greenhouse Gases final rule, which took effect December 29, 2009. This rule establishes a new comprehensive scheme requiring operators of stationary sources in the United States emitting more than established annual thresholds of GHGs to inventory and report their GHG emissions annually on a facility-by-facility basis. On December 15, 2009, the EPA published a final rule finding that current and projected concentrations of six key GHGs in the atmosphere threaten public health and welfare. Based on this finding, on May 7, 2010, the EPA promulgated a final rule establishing GHG emission standards for new motor vehicles under Title II of the CAA. According to the EPA, the motor vehicle rule triggered construction and operating permit requirements for large stationary sources of GHGs, including cement plants, under Title I of the CAA. On May 13, 2010, the EPA promulgated a final rule, known as the Tailoring Rule, addressing the thresholds at which stationary sources of GHGs trigger prevention of significant deterioration (PSD) and Title V permitting requirements. Under the Tailoring Rule, beginning January 1, 2011, any major modification of our existing plants or construction of a new plant that triggered PSD review for non-GHG emissions also triggered PSD review for GHG emissions if the proposed major modification or construction would result in a GHG emissions increase of 75,000 tons or more per year. Beginning July 1, 2011, any modification or expansion of our existing plants that would result in an increase in GHG emissions of 75,000 tons or more per year or any construction of a new plant that would result in an increase in GHG emissions of 100,000 tons or more per year requires PSD review even if PSD is not triggered for any other pollutant. PSD review requires an analysis of possible GHG controls and, potentially, the installation of GHG controls or emission limitations. The EPA has committed to periodically reviewing the Tailoring Rule tonnage thresholds and may lower them in the future.

On June 26, 2012, the U.S. Court of Appeals for the D.C. Circuit issued an opinion in *Coalition for Responsible Regulation, Inc. v. E.P.A.*, 684 F.3d 102 (2012) rejecting challenges to the Tailoring Rule and related rulemakings. Various parties filed petitions for *certiorari* with the Supreme Court of the United States for review of the D.C. Circuit s opinion on a multitude of issues, but the Supreme Court granted *certiorari* on the limited question of [w]hether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the CAA for stationary sources that emit greenhouse gases. The Supreme Court heard oral argument on this issue on February 24, 2014. The Supreme Court is not under any deadline to issue a ruling.

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Several states have individually implemented measures to reduce emissions of GHGs, primarily through the planned development of GHG inventories or registries or regional GHG cap and trade programs. California s AB 32 program is the most advanced of such state initiatives. States also have joined together to form regional initiatives to reduce GHG emissions, most notably the Regional Greenhouse Gas Initiative in the Northeast.

It is not possible at this time to predict how any future legislation that may be enacted or regulations that may be adopted to address GHG emissions would impact our business. However, any imposition of raw materials or production limitations, fuel-use or carbon taxes, or emission limitations or reductions could have a significant impact on the cement manufacturing industry and a material adverse effect on us and our results of operations.

The fourth environmental issue is the EPA s promulgation on September 9, 2010 of final regulations establishing national emissions standards for hazardous air pollutants (NESHAP) for portland cement plants pursuant to Section 112 of the CAA. For specific hazardous air pollutants (HAPs), the final rule requires cement plants to meet certain emission and operating standards. The new rule sets limits on mercury emissions from existing portland cement kilns and increases the stringency of emission limits for new kilns. The rule sets emission limits for total hydrocarbons, and also sets emission limits for particulate matter as a surrogate for non-volatile metal HAPS, from cement kilns of all sizes, and reduces hydrochloric acid emissions from kilns that are large emitters. As a result of industry challenges to the regulations, in December 2011, the U.S. Court of Appeals for the D.C. Circuit issued its opinion in *Portland Cement Ass n v. EPA*, 665 F.3d 177 (D.C. Cir. 2011), remanding certain provisions of the regulations to the EPA for review. In May 2012, the EPA proposed a settlement agreement with industry petitioners that would require the EPA to agree to reconsider certain other provisions of the regulations. The EPA concluded reconsideration of the regulations and issued a revised rule on February 12, 2013. The revised rule made two notable changes to the 2010 HAP regulations. First, the rule established less stringent emission standards for total hydrocarbons and particulate matter. Second, the rule extended to September 9, 2015, the deadline for existing sources to comply with the HAP regulations. We do not believe we would be placed at a competitive disadvantage by the revised rule.

On October 24, 2013, the U.S. Court of Appeals for the D.C. Circuit issued a decision in *Natural Res. Def. Council v. EPA*, No. 10-1371, 2014 WL 1499825 (D.C. Cir. Apr. 18, 2014), upholding the emissions-related provisions of the revised rule. However, the court also vacated the portion of the rule that established an affirmative defense to penalties for non-compliance during well documented malfunction events. The court declined to address whether it is permissible for individual states to adopt a similar affirmative defense.

The fifth environmental issue is EPA s promulgation pursuant to Section 129 of the CAA of revised regulations for Commercial and Industrial Solid Waste Incineration (CISWI) units. Clean Air Act Section 129 requires the EPA to set standards for solid waste incineration units. The EPA promulgated CISWI regulations in 2000. The regulations were challenged and remanded to the EPA, without being vacated, for review of the definitions of commercial and industrial waste and commercial or industrial solid waste incineration unit. The EPA published revised definitions in 2005; the rulemaking was referred to as the CISWI Definitions Rule. The CISWI Definitions Rule defined these terms so that only units that combusted commercial or industrial waste and were not designed to, or did not operate to, recover thermal energy from the combustion were subject to the CISWI regulations. The CISWI Definitions Rule was challenged, and in 2007 the U.S. Court of Appeals for the D.C. Circuit issued its decision in *Natural Resources Defense Council v. EPA*, 489 F. 3d 1250 (D.C. Cir. 2007), vacating the rule. The Court he