

## **House Republican Introduces Bill to Block EPA Rules on Pollutants from Cement Kilns**

A Republican House member introduced a bill Jan. 6 to overturn two Environmental Protection Agency rules requiring cement kilns to control emissions of several air pollutants, including mercury.

Rep. John Carter (R-Texas) introduced the measure (H. J. Res. 9) under the Congressional Review Act to block EPA from implementing the national emissions standards for hazardous air pollutants (NESHAP) and new source performance standards rules for portland cement manufacturing. The rules were issued in September 2010.

Under the Congressional Review Act, Congress can nullify a major rule, defined as one with more than \$100 million in economic impact, by passing a joint resolution of disapproval within 60 legislative days of the rule's publication.

Carter had introduced a similar bill in November 2010 (H.J. Res. 100).

### **Economic Impact Stressed**

In a letter to colleagues asking them to co-sponsor the bill, Carter said the rules could force 12 cement kilns to close, eliminating as many as 1,200 jobs.

“Now is not the time to impose new regulations that kill American jobs and ship them overseas. Industry analysts say the regulation could lead to the complete collapse of American cement production by 2013, severely undermining the overall U.S. economic recovery,” Carter said in the letter. “While we must be concerned about the costs to the environment which this regulation is intended to protect, the EPA acknowledges that jobs lost in America would result in an increase of cement imports, likely from China or other countries with fewer emission controls than those that exist in this country today.”

Andrew O'Hare, vice president of regulatory affairs at the Portland Cement Association, told BNA Jan. 6 EPA's rules could have significant impact on the domestic cement industry.

“We very much appreciate the Congressman's concern over the viability of the U.S. cement manufacturing industry and his acknowledgment of the significant challenges posed by the cement NESHAP and its potential to force the closure of 18 cement plants, sacrificing hundreds of well paying, sought after jobs at a time when the country cannot afford to lose them,” O'Hare said via e-mail.

Environmental groups opposed the bill, saying EPA was already several years overdue to issue the rules under the Clean Air Act.

“The House resolution places thousands of American families at risk,” Jennifer Peterson, an attorney with the Environmental Integrity Project, said in a statement. “Cement kilns are among the top mercury polluters in many states, and the long overdue EPA rules will protect Americans by drastically reducing mercury and other harmful pollution.”

## Rules Set Toxics Standards

EPA's rules, issued in September, set both national emissions standards for hazardous air pollutants and new source performance standards for the portland cement industry at 40 C.F.R. Parts 60 and 63 (75 Fed. Reg. 54,970; [41 ER 1813, 8/13/10](#)).

The rules require both major-source cement kilns and the smaller area-source kilns to control emissions of mercury, total hydrocarbons, and particulate matter. Under the rules, measurement of particulate matter is used as a surrogate for toxic metals, including arsenic, cadmium, beryllium, and lead. Total hydrocarbons are used as a surrogate for polycyclic organic matter and polychlorinated biphenyls.

The rules also establish an emissions limit for hydrochloric acid for kilns that are major sources of that pollutant.

Major sources of air toxics are those that emit 10 tons a year or more of one hazardous air pollutant or 25 tons or more per year of any combination of hazardous air pollutants. Major sources also are subject to maximum available control technology standards.

EPA estimates the rules will result in a 92 percent reduction in mercury emissions from cement kilns, an 83 percent reduction in total hydrocarbons, a 92 percent reduction in particulate matter, a 97 percent reduction in hydrochloric acid, a 78 percent reduction in sulfur dioxide, and a 5 percent reduction in nitrogen oxides.

Installing the needed controls is expected to cost the cement industry between \$926 million and \$950 million annually, according to EPA.

Lawsuits Pending

Cement industry groups, including the Portland Cement Association, filed lawsuits in the U.S. Court of Appeals for the District of Columbia Circuit in November challenging the emissions standards as too stringent. The Sierra Club and other environmental groups filed their own challenges to provisions that exempt the kilns from civil penalties for violating the emissions standards if they can demonstrate it was the result of malfunctioning equipment (*Portland Cement Ass'n v. EPA*, D.C. Cir., No. 10-1358, 11/5/10; *Portland Cement Ass'n v. EPA*, D.C. Cir., 10-1359, 11/5/10; [41 ER 2501, 11/12/10](#)).

*By Andrew Childers*