Air Quality Standards
EPA Proposal Would Give Cement Industry Two More Years to Comply With Standards

By Jessica Coomes

The Environmental Protection Agency would give the cement industry two additional years to comply with air toxics emissions standards under a proposed rule released June 25.

Existing cement kilns would have until September 2015 to comply, a delay that environmental advocates characterized as excessive but that the cement industry said is needed to construct pollution controls.

EPA also changed the particulate matter emissions limits for cement kilns. It said updated technical information requires a change to the way particulate emissions are monitored, and that also requires the emissions limits to change.

The proposed rule is a reconsideration of final rules EPA issued in August 2010 that set air toxics standards and performance standards for cement kilns (75 Fed. Reg. 54,970; 41 ER 1813, 8/13/10).

The changes are expected to save industry $12.2 million in annualized costs. The 2010 rule was projected to reduce particulate emissions by 11,500 tons per year, but the changes would lessen the benefit by 135 tons per year.

And in calculating the emissions limits, EPA specifically excluded data from cement kilns that burn nonhazardous solid waste in response to a 2011 federal appeals court ruling.

The proposed rule does not change the mercury, total hydrocarbons, and hydrochloric acid emissions limits that were set in 2010.

Deadline Extended

The proposed amendments, which EPA signed June 22, would extend the compliance deadline for the air toxics standards for existing kilns by two years, to Sept. 9, 2015, from Sept. 9, 2013.

EPA said the additional time would allow industry to change its control strategies based on the new particulate limits.

Republicans on Capitol Hill had been working to delay the cement kiln rule. In October 2011, the House approved the Cement Sector Regulatory Relief Act (H.R. 2681), which would block EPA from issuing the revised standards for 15 months after enactment.

Andy O'Hare, vice president of regulatory affairs for the Portland Cement Association, told BNA June 25 that the industry has been hit hard by the economic recession, and it would have been burdensome to spend $3.4 billion over three years to comply with the 2010 rule when the industry's annual revenues have been $6.5 billion.

“It's been a very dire time,” O'Hare said. “The industry's not making any money.”
Earthjustice said the 2010 rule was projected to prevent as many as 2,500 premature deaths and 17,000 asthma attacks each year, and the delay will harm public health. It said only coal-fired power plants emit more mercury in the United States than cement kilns.

“The delay in itself is a very bad decision in terms of health protection,” Earthjustice attorney James Pew told BNA June 25. “It’s allowing people to die unnecessarily, and it’s completely voluntary.”

**Particulate Limits Changed**

The rule sets particulate matter emissions limits as a surrogate for toxic metals other than mercury. The 2010 particulate limit for existing kilns was 0.04 pound per ton of clinker, averaged over 30 days. The proposed limit would be 0.07 pound per ton of clinker, based on manual stack testing every three years. Clinker is the solid material produced by kilns.

The 2010 particulate limit for new kilns, which were built after June 16, 2008, was 0.01 pound per ton of clinker, averaged over 30 days. The proposed limit would be 0.02 pound per ton of clinker, based on manual stack testing.

The 2010 rule required continuous emissions monitoring systems, but EPA said that technology may not meet a specific performance specification. Therefore, EPA proposed requiring manual stack testing. In addition, EPA would require continuous parametric monitoring.

The proposed monitoring change also necessitated changing the averaging time and emissions limits for the standards, EPA said.

However, Pew said continuous emissions monitoring systems have been used internationally on cement kilns and could be used on American cement plants.

“It’s doable,” Pew said about continuous emissions monitoring systems. “Continuous emissions monitoring has been around for decades. Industry has never wanted them put on because it doesn't want people to know what it's emitting in real time.”

**Incinerator Data Excluded**

The final rule excluded data from cement kilns that burn nonhazardous solid waste when calculating emissions limits.

The U.S. Court of Appeals for the District of Columbia Circuit in December 2011 remanded the 2010 rule to EPA, saying the agency improperly issued emissions standards for cement kilns without considering the effects of a related ongoing rulemaking to define solid waste incinerators (Portland Cement Ass’n v. EPA, D.C. Cir., No. 10-1358, 12/9/11; Portland Cement Ass’n v. EPA, D.C. Cir., No. 10-1359, 12/9/11; 42 ER 2813, 12/16/11).

When EPA was developing the cement kilns rule, it simultaneously was developing the solid waste incinerators rule. Facilities can be subject to either cement kiln standards or solid waste standards but
not both. When setting the 2010 emissions standards for cement kilns, EPA considered performance
data from units that later would be classified as solid waste incinerators.

In addition, the proposed rule revises open clinker pile standards to allow work practice standards to
control fugitive emissions.

Finally, the proposed rule would increase the alternative emissions limit for organic air toxics, which
kilns can meet instead of the total hydrocarbons limit, to 12 parts per million from 9 ppm.

**Final Rule Due Expected Dec. 20**

A final rule is due Dec. 20, based on a settlement agreement between EPA and industry petitioners who
challenged the 2010 rule in the D.C. Circuit.

EPA will publish the proposed rule in an upcoming issue of the Federal Register.

The agency will accept public comments for 30 days after publication at http://www.regulations.gov in
Docket ID No. EPA-HQ-OAR-2011-0817.