

Dirty Air is Not the Key to Economic Growth

Congressman Carter gets it wrong: Don't relax Clean Air Act standards for plants

Representative Carter is asking you to support a resolution to roll back Clean Air Act standards for cement plants. The rules he wants to block would save an estimated 960 to 2,500 deaths every year, according to the USEPA, and reduce exposure to mercury, a potent neurotoxin especially dangerous to children and nursing mothers.

Congressman Carter argues that we cannot afford those protections because they would cost the industry too much. But he has seriously misrepresented the facts in an effort to win your support. We need real solutions for America's economic distress, which ought not to be manipulated to win loopholes for corporate polluters. More specifically:

Representative Carter says that "industry analysts" warn that Clean Air rules could result in the "complete collapse" of the American cement industry by 2013.

- ***In fact, a November, 2010 analysis by the Portland Cement Association (PCA) predicts that domestic cement production will increase more than 25% from today's levels by 2013, and more than 50% by 2015.***

Representative Carter suggests that we will lose market share to "overseas competitors."

- ***In fact, imports are at their lowest level since 1992, according to the US Geological Survey, and the Portland Cement Association's 11/2010 report projects that imports will remain flat through 2013, and remain well below 2000-2007 levels by 2015.***

Representative Carter says that EPA has "conceded" that the emission standards will cost 15,000 jobs.

- ***In fact, EPA has done no such thing, finding instead that employment impacts will range from a potential loss of 600 to a net gain of 1,300 jobs.***

Representative Carter says that the rule will close US plants and shrink production capacity.

- ***In fact, US capacity is at its highest level ever, and the trade press reports last winter (after the EPA rule was published) report that major expansions are still underway in states like Texas, California, Oklahoma, and New York.***

Representative Carter's office has suggested that his resolution would merely postpone implementation of controls on cement plants toxic pollution, not eliminate them.

- ***In fact, the resolution would effectively prevent EPA from ever limiting emissions of mercury and other toxic pollutants from cement plants. This even though cement plants are among the nation's worst toxic polluters and the absence of federal limits on their emissions of mercury and other hazardous air pollutants directly violates federal law.***

In the words of John Adams, one of the original Tea Party patriots: "Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of the facts and evidence." The facts show that there is no real economic argument for weakening Clean Air Act standards and exposing the public to higher levels of mercury and fine particle pollution. We have attached our analysis and provided citations so that you may judge for yourselves.

Cement Plants and the Clean Air Act

Analysis of Representative Carter's Claims

Rep. Carter: "This new regulation proposed by the EPA would cripple the cement industry in the United States... 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."

The Portland Cement Association's "Fall Forecast" for 2010 predicts that domestic production of Portland and masonry cement will increase from 64.2 million tons in 2010 to an estimated 80.7 million tons in 2013, the year in which new Clean Air Act standards for cement plants take effect.¹ By 2015, PCA's forecast predicts domestic production of nearly 98 million tons per year, just shy of the record set in 2005.² These relatively conservative projections assume that the economic recovery will proceed at a 2 to 2.5% growth rate over the next year or longer, and that public spending on infrastructure projects will be limited due to tight budgets.³

While the recession has obviously taken a toll, the industry's November, 2010 economic forecast pulls the rug out from under Representative Carter's statement that new Clean Air Act standards would "cripple" the industry. As the November report makes clear, cement manufacturing will regain the ground it has lost when the market for private and public housing, highway, and infrastructure projects begins to recover.⁴ As explained below, several major expansion projects are underway, anticipating that recovery. The PCA analysis focuses on these critical factors in projecting future growth rates, and does not even mention the new EPA emission standards announced in August of 2010.

Rep. Carter: "The EPA's own estimates place the total cost of the final regulation at \$926-950 million, closing or idling 18 cement kilns, costing close to 1,800 jobs and a loss of up to 9 million tons of domestic production capacity. The EPA also concedes that their new regulation would cost over 15,000 jobs to overseas competitors."

Representative Carter's claims about cost, closed plants and lost jobs are addressed separately below.

Cost to Industry: Representative Carter's description of EPA's "social cost" estimates as "total cost" is deeply misleading. EPA has estimated that the total annual cost of the rule to the entire cement industry will be between \$350 and \$377 million, on average about \$3.5 to \$3.8 million per plant.⁵ This industry, which is dominated by huge multinational corporations -- 80% of the cement manufacturing capacity in America is foreign-owned -- has ample resources to pay for the emission controls the Clean Air Act requires.⁶ Indeed, some individual cement companies generate more profits in six months than EPA's rule will cost the entire cement industry in a year.⁷

EPA never suggested that the \$926-950 million figure reflects the rule's cost to industry, but made clear that it is an attempt to model what the "social cost" of the rule would be. That term combines the rule's cost to industry with assumptions about the larger cost to society of reduced cement production and higher cement prices if domestic cement consumption drops substantially in 2013 while imports rise.⁸ As shown above, the Portland Cement Association forecasts just the opposite: that domestic cement production will substantially increase while imports remain flat.⁹ Furthermore, while the EPA acknowledges that prices may rise by as much as 5%, cement prices have fluctuated much more greatly in the past, ranging from \$75 to \$104 per ton during the peak of the housing boom, without any obvious impact on the economy.¹⁰

Even more misleading is Representative Carter's invocation of social cost without any mention of the rule's social benefits. EPA calculates that by saving lives and reducing health care costs, the rule will provide between \$6.4 and

* U.S. cement production calculated by subtracting imports from consumption.

\$18 billion in social benefits every year.¹¹ Thus the social benefits outweigh the estimated social costs by between 6-to-1 and 18-to-1. Moreover, because EPA calculates only the benefit of reducing cement plants' emissions of fine particulate matter and assigns no value at all to controlling their emissions of mercury, arsenic, lead, and other highly toxic pollutants, the agency's estimate substantially understates the rule's true benefits.¹²

Effect on Capacity: EPA estimated that the final rule could *potentially* cause up to ten cement plants per year to temporarily idle until market conditions improve¹³. One of the ten plants (Essroc in Buckeystown, Maryland) closed before EPA even proposed its new emission standards, because the company chose to consolidate operations in its expanded operation in Martinsburg, West Virginia.¹⁴ Another one, in New Braunfels, Texas, announced last month that it would complete a major expansion that had been shelved in 2009:

"Texas Industries, Inc. has resumed the Hunter cement plant expansion project near New Braunfels, Texas...The project is currently about 85% complete, with most of the equipment purchased and at the site. " TXI expects the new kiln line to begin operating within 24 months."¹⁵

The industry has also expanded rapidly in recent years, adding an estimated 9.8 million tons of additional clinker capacity between 2004 and 2009, according to data available on the Portland Cement Association website.⁺¹⁶ While the recession may have slowed some expansions, at least three more companies are proposing to add new production lines in 2010, according to articles appearing in the trade press this winter after publication of EPA's final rule.¹⁷ These include planned expansions in California, Texas, Oklahoma, and New York. While demand dropped sharply during the recession, the industry's total capacity is higher than it has ever been, and will remain so even in the highly unlikely event that the remaining eight plants identified by EPA temporarily idle their kilns.¹⁸

Effect on Employment: EPA does not project that the final rule will cost the cement industry 1,800 jobs, much less 15,000, as Representative Carter claims. Rather, EPA predicts employment impacts that range from a loss of 600 to a *gain* of 1,300 jobs.¹⁹ Employment gains are possible as the rule is expected to leave some cement plants in a stronger competitive position, while creating opportunities for product substitution in certain markets.²⁰ Additionally, EPA estimates that jobs will be created from the installation, running, and maintenance of pollution abatement equipment."²¹ If PCA is correct that production will increase and imports will stay flat, the rule's UUnonly effect will be to create jobs.

It is important to note as well that in the past, expansions in capacity have not led to increased employment. In fact, the decline of jobs in cement manufacturing will likely continue even as capacity expands, as the industry invests in more efficient processes that require significantly less labor. For example, total US cement production rose 37% between 1992 and 2007, while employment dropped nearly 10% over the same fifteen year time span.²² The Portland Cement Association notes that,

"Employment in the U.S. cement industry has declined dramatically during the past 20 years. In 2005, the cement industry employed 16,877 workers – a 23% reduction compared to 1985 levels. This drop in employment is the result of industry efforts to increase efficiency by automating production and closing small kilns."²³

Representative Carter: "The EPA acknowledges that jobs lost in America would result in an increase of cement imports."

The EPA makes no such claim. The Agency's model, which makes no mention of jobs lost leading to increased imports, projects an increase in imports of only 3 million metric tons, or about 3.4% of the cement consumption

⁺ Total clinker capacity was calculated by taking the state increased capacity data for each state and summing the values.

the Portland Cement Association predicts for 2013, the year the new Clean Air Act rules take effect.^{24,25} Notably, the PCA itself projects that imports will not increase at all in 2013 even as domestic production jumps by more than 25%.²⁶

Additional data can help put EPA estimates in perspective. Between 2000 and 2006, the go-go years of the housing boom, cement imports averaged between 19 and 26% of total US consumption.²⁷ Cement imports today are at their lowest levels since 1993, and the Portland Cement Association predicts that imports will increase only gradually, rising to less than 16% of consumption by 2015, well below more recent averages.^{28,29}

Rep. Carter's spokesman, John Stone, said "We're not objecting to an increase in the standards... But we are concerned about the EPA's unilateral decision and the timing to do this now..."³⁰

Aside from the inaccurate claims about the industry shutting down (addressed above), Stone's point that Carter is simply concerned about the timing is disingenuous. First, the rules go into effect in 2013, not now. Second, if Rep. Carter's resolution under the Congressional Review Act (CRA) were passed, it would bar EPA from issuing a rule that is substantially similar to the current one.³¹ Because the substance of the current rule is expressly mandated by the Clean Air Act, **Rep. Carter's action would effectively prevent EPA from ever regulating cement plants' emissions of mercury and other toxic pollutants.** Right now there is no limit on the amount of mercury that cement plants emit. Nor are there limits on cement plants' emissions organic carcinogens like benzene, or toxic acids like chlorine gas, hydrogen chloride and hydrogen cyanide. Rep. Carter's resolution would preserve this dangerous status quo despite its known cost in American lives and health -- even though the Clean Air Act unambiguously required EPA to establish federal limits on cement plants' toxic emissions more than a decade ago.^{32,33}

¹ Portland Cement Association, Fall Forecast 2010 (Nov. 2, 2010)

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ 75 Fed. Reg. 54,970, 55024 (September 9, 2010)

⁶ Portland Cement Association, Cement Industry Overview, available at <http://www.cement.org/econ/industry.asp> (last visited January 18, 2011)

⁷ *E.g.*, Lafarge, Interim Report at September 30, 2010, at 12; Holcim, Third Quarter Interim Report 2010 Holcim Ltd, at 3.

⁸ 75 Fed. Reg. at 55,026.

⁹ Portland Cement Association, Fall Forecast 2010 (Nov. 2, 2010)

¹⁰ USGS, Mineral Commodity Summaries: Cement, available at <http://minerals.usgs.gov/minerals/pubs/commodity/cement/> (last visited January 18, 2011).

¹¹ EPA, Regulatory Impact Analysis: Amendments to the National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry 6-24 (Aug. 2010).

¹² 75 Fed. Reg. at 55,026.

¹³ EPA, Regulatory Impact Analysis: Amendments to the National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry 1-2 (Aug. 2010).

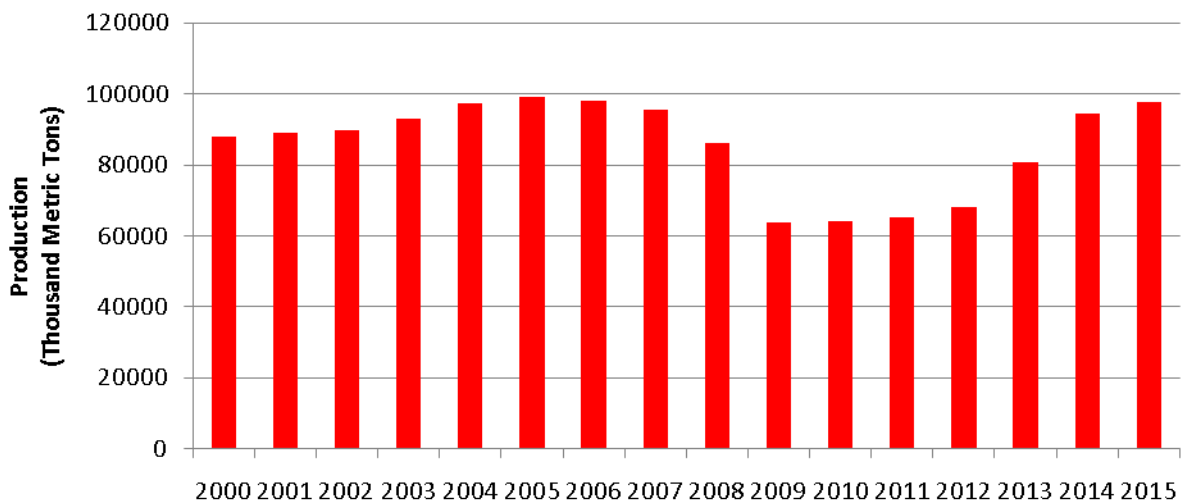
¹⁴ Ed Waters Jr., *ESSROC to Cut 83 Jobs by Year's End*, Frederick News Post, Oct. 22, 2008, <http://www.fredericknewspost.com/sections/news/display.htm?storyID=81739>

¹⁵ Press Release, Texas Industries, Inc., Texas Industries, Inc. Announces Resumption of the Hunter Cement Expansion Project in Central Texas (Oct. 15, 2010), available at http://files.shareholder.com/downloads/TXI/1126463211x0x410192/2ee7f22b-9aa2-470f-bec6-a868c322e4a5/TXI_News_2010_10_15_General.pdf (last visited January 18, 2010)

¹⁶ Portland Cement Association, Cement Industry Overview: Economic Statistics by State, available at http://www.cement.org/econ/ind_stats.asp (last visited January 19, 2011).

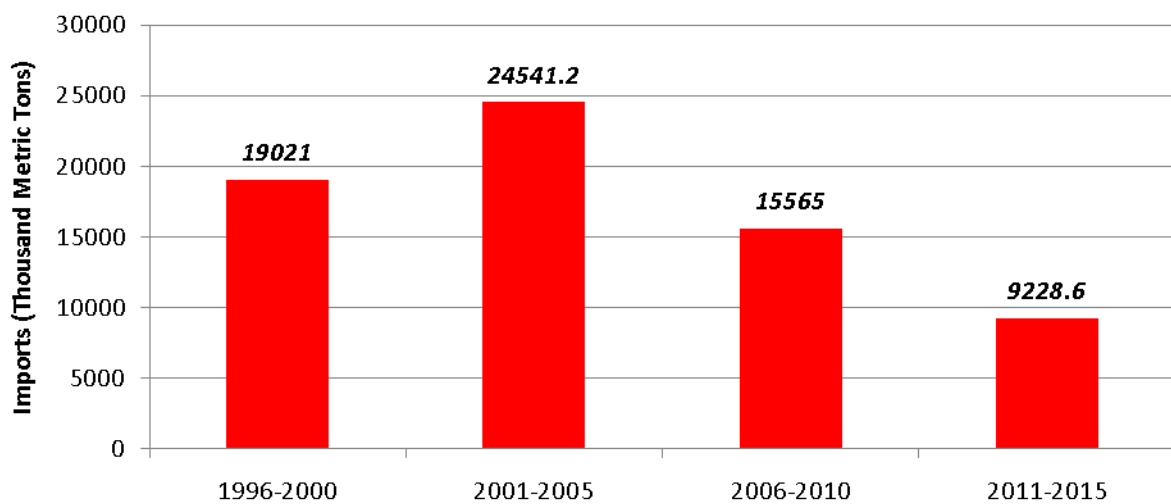
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- ¹⁷ CemWeek, Plant Expansions, *available at* <http://www.cemweek.com/news/expansions> (last visited January 18, 2011)
- ¹⁸ USGS, Mineral Commodity Summaries: Cement, *available at* <http://minerals.usgs.gov/minerals/pubs/commodity/cement/> (last visited January 18, 2011).
- ¹⁹ EPA, Regulatory Impact Analysis: Amendments to the National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry 1-2 (Aug. 2010).
- ²⁰ *Id.* at 3-15
- ²¹ *Id.* at 3-16 & 3-17
- ²² USGS, Mineral Commodity Summaries: Cement, *available at* <http://minerals.usgs.gov/minerals/pubs/commodity/cement/> (last visited January 18, 2011).
- ²³ Portland Cement Association, Cement Industry Overview, *available at* <http://www.cement.org/econ/industry.asp> (last visited January 18, 2011)
- ²⁴ EPA, Regulatory Impact Analysis: Amendments to the National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry 3-9(Aug. 2010).
- ²⁵ Portland Cement Association, Fall Forecast 2010 (Nov. 2, 2010)
- ²⁶ *Id.*
- ²⁷ USGS, Mineral Commodity Summaries: Cement, *available at* <http://minerals.usgs.gov/minerals/pubs/commodity/cement/> (last visited January 18, 2011).
- ²⁸ *Id.*
- ²⁹ Portland Cement Association, Fall Forecast 2010 (Nov. 2, 2010)
- ³⁰ Lawmaker leads effort to undo pollution limits on cement plants," Jan. 7, 2011. <http://www.starnewsonline.com/article/20110107/ARTICLES/110109781/-1/sports01?Title=Lawmaker-leads-effort-to-undo-pollution-limits-on-cement-plants-&tc=ar>
- ³¹ 5 U.S.C. § 801(b).
- ³² 75 Fed. Reg. at 55026-55027 (summarizing premature deaths and adverse health impacts caused by cement plants each year).
- ³³ *See National Lime Ass'n v. EPA*, 233 F.3d 625, 634 (D.C. Cir. 2000) (EPA has "clear statutory obligation" to set emission standards for each listed hazardous air pollutant that cement plants emit).

The Portland Cement Association Predicts Increasing U.S. Cement Production as Economy Recovers



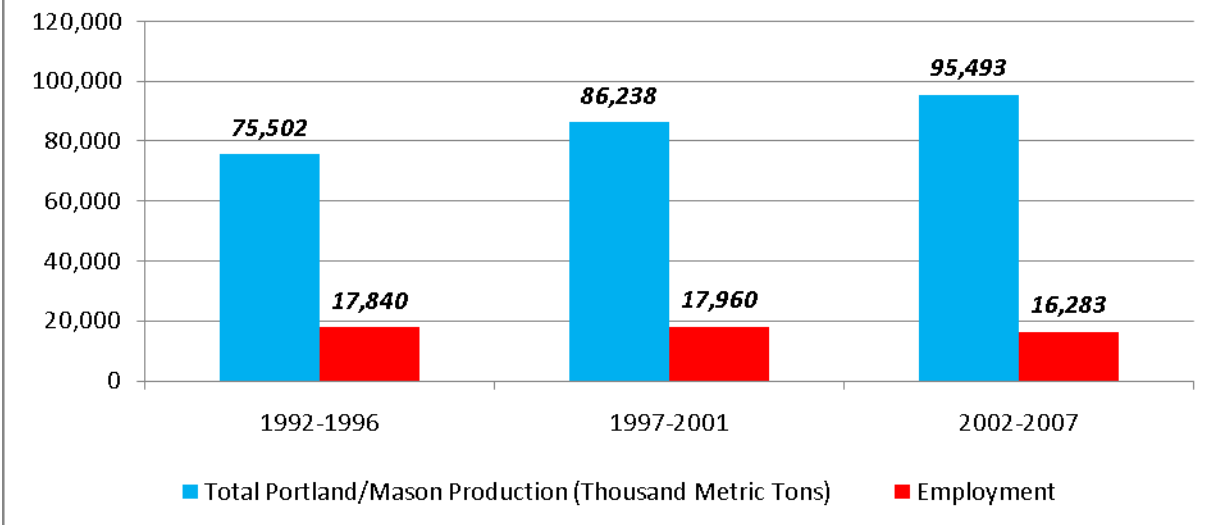
Source: Portland Cement Association, Fall Forecast 2010 (Nov. 2 2010) & USGS, Mineral Commodity Summaries: Cement

Imports Are at Their Lowest Levels and Not Expected to Increase to Previous Highs in Next Five Years



Source: Portland Cement Association, Fall Forecast 2010 (Nov. 2 2010) & USGS, Mineral Commodity Summaries: Cement

Increases in Cement Production Have Not Produced More Jobs



Source: USGS, Mineral Commodity Summaries: Cement