

115TH CONGRESS  
2D SESSION

# S. 2461

To allow for judicial review of certain final rules relating to national emission standards for hazardous air pollutants for brick and structural clay products or for clay ceramics manufacturing before requiring compliance with the rules by existing sources.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2018

Mr. WICKER (for himself and Mr. DONNELLY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To allow for judicial review of certain final rules relating to national emission standards for hazardous air pollutants for brick and structural clay products or for clay ceramics manufacturing before requiring compliance with the rules by existing sources.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Blocking Regulatory  
5 Interference from Closing Kilns Act of 2018”.

1 **SEC. 2. EXTENSION OF EXISTING SOURCE COMPLIANCE**  
2 **DATES FOR CERTAIN FINAL RULES RELAT-**  
3 **ING TO BRICK AND STRUCTURAL CLAY PROD-**  
4 **UCTS AND CLAY CERAMICS MANUFAC-**  
5 **TURING.**

6 (a) DEFINITIONS.—In this section:

7 (1) ACTION.—

8 (A) IN GENERAL.—The term “action”  
9 means any action relating to a final rule that—

10 (i) seeks judicial review of any aspect  
11 of the final rule; and

12 (ii) is filed during the 60-day period  
13 beginning on the date on which notice of  
14 issuance of the final rule was published in  
15 the Federal Register.

16 (B) INCLUSION.—The term “action” in-  
17 cludes an action described in subparagraph (A)  
18 that is filed pursuant to section 307 of the  
19 Clean Air Act (42 U.S.C. 7607).

20 (2) CONTESTED FINAL RULE.—The term “con-  
21 tested final rule” means a final rule subject to judi-  
22 cial appeal or review on December 26, 2017.

23 (3) EXISTING SOURCE COMPLIANCE DATE.—  
24 The term “existing source compliance date”, with  
25 respect to a final rule, means the date by which an  
26 existing source (within the meaning of the final rule

1 described in paragraph (4)(A)) (including such an  
2 existing source that is a unit of State, Tribal, or  
3 local government) is first required to comply with  
4 any requirement of the final rule.

5 (4) FINAL RULE.—The term “final rule”  
6 means—

7 (A) the final rule of the Environmental  
8 Protection Agency entitled “NESHAP for  
9 Brick and Structural Clay Products Manufac-  
10 turing; and NESHAP for Clay Ceramics Manu-  
11 facturing” (80 Fed. Reg. 65470 (October 26,  
12 2015)); and

13 (B) the final rule of the Environmental  
14 Protection Agency entitled “NESHAP for  
15 Brick and Structural Clay Products Manufac-  
16 turing; and NESHAP for Clay Ceramics Manu-  
17 facturing: Correction” (80 Fed. Reg. 75817  
18 (December 4, 2015)).

19 (b) EXTENSION OF EXISTING SOURCE COMPLIANCE  
20 DATES FOR CONTESTED FINAL RULES.—The existing  
21 source compliance date for a contested final rule shall be  
22 extended until the earlier of—

23 (1) the date that is 2 years after the date on  
24 which judgment becomes final, and no longer subject

1 to further appeal or review, in all actions relating to  
2 the contested final rule; and

3 (2) December 26, 2020.

4 (c) REGULATIONS.—In the case of a judgment en-  
5 tered against the Environmental Protection Agency relat-  
6 ing to a contested final rule, the Administrator shall final-  
7 ize, by not later than 1 year after the date on which the  
8 judicial review or appeal of the judgment concludes, new  
9 regulations under section 112 of the Clean Air Act (42  
10 U.S.C. 7412) with respect to national emissions standards  
11 for hazardous air pollutants for brick and structural clay  
12 products manufacturing and clay ceramics manufacturing.

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