

118TH CONGRESS
2D SESSION

H. R. 10304

To direct the Administrator of the Environmental Protection Agency to revise section 61.206 of title 40, Code of Federal Regulations, to approve certain distribution or use of phosphogypsum, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2024

Mr. FROST (for himself and Mrs. CHERFILUS-McCORMICK) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To direct the Administrator of the Environmental Protection Agency to revise section 61.206 of title 40, Code of Federal Regulations, to approve certain distribution or use of phosphogypsum, and for other purposes.

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 “No Radioactive Roads
5 Act of 2024”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Since 1992, the Environmental Protection
2 Agency (hereinafter referred to as the “EPA”) has
3 prohibited the use of phosphogypsum in road con-
4 struction, citing numerous scenarios that would ex-
5 pose the public, and especially road construction
6 workers, to an unacceptable risk of cancer.

7 (2) EPA prohibited use of phosphogypsum in
8 roads because it contains uranium and radium that
9 produce radionuclides linked to higher risks of can-
10 cer and genetic damage. The Clean Air Act was
11 amended in 1977 after finding that exposure to ra-
12 dioactive materials can cause serious harm to health,
13 and that exposures to radioactivity are cumulative,
14 which means each new or additional exposure in-
15 creases the risk of serious illness.

16 (3) EPA found that phosphogypsum used in
17 roads could contaminate nearby surface and ground-
18 water quality through leaching, and that radioactive
19 material could be resuspended into the air by wind
20 and vehicle traffic.

21 (4) EPA found that stacking of phosphogypsum
22 presented a lifetime cancer risk of 9.1 in 100,000,
23 meaning that any alternative distribution of
24 phosphogypsum must meet this same protective
25 threshold.

1 (5) The Director of EPA’s Office of Radiation
2 and Indoor Air has testified that use of
3 phosphogypsum as “road building material could not
4 meet the EPA’s risk criteria”.

5 (6) EPA has further acknowledged it cannot
6 authorize categorical approvals and requires case-by-
7 case consideration of other uses.

8 **SEC. 3. CLARIFICATION OF OTHER PURPOSE.**

9 (a) IN GENERAL.—Not later than 2 years after the
10 date of the enactment of this Act, the Administrator of
11 the Environmental Protection Agency shall promulgate a
12 final rule revising section 61.206 of title 40, Code of Fed-
13 eral Regulations, to ensure the following:

14 (1) Any request that Administrator approve dis-
15 tribution or use of phosphogypsum for any purpose
16 not expressly specified in section 61.204 or 61.205
17 of title 40, Code of Federal Regulations, shall in-
18 clude—

19 (A) the maximum individual risk imposed
20 on a person due to exposure to a pollutant; and

21 (B) a description of measures to minimize,
22 to the greatest extent possible, exposure to any
23 individual who may be directly or indirectly ex-
24 posed to phosphogypsum, in furtherance of the
25 other purpose, including a—

- 1 (i) construction worker;
- 2 (ii) utility worker;
- 3 (iii) user of any final product that in-
- 4 cludes phosphogypsum; or
- 5 (iv) nearby resident of an area of ex-
- 6 posure to phosphogypsum.

7 (C) a description of both surfacewater and
8 groundwater exposure pathways and a moni-
9 toring program to eliminate potential exposure
10 to contaminants within the water pathways that
11 includes—

12 (i) an estimate of the amount and
13 composition of leachate from
14 phosphogypsum expected from the
15 phosphogypsum application throughout the
16 product's lifecycle;

17 (ii) an estimate of ecotoxicity impacts
18 from potential leachate contamination of
19 nearby or downstream environments (soil,
20 vegetation, waterways, and aquatic life);
21 and

22 (iii) a written plan approved by the
23 Administrator for quarterly leachate and
24 ecotoxicity monitoring of the nearby and
25 immediately downstream environments, in-

1 including soil, vegetation, waterways, and
2 aquatic life.

3 (2) Any approval for distribution or use of
4 phosphogypsum for any purpose not expressly speci-
5 fied in sections section 61.204 or 61.205 of title 40,
6 Code of Federal Regulations—

7 (A) shall be determined on a case-by-case
8 basis; and

9 (B) may not exceed a maximum individual
10 risk of 9.1 in 100,000.

11 (3) Any request that the Administrator ap-
12 proves distribution or use of phosphogypsum for any
13 purpose not expressly specified in section 61.204 or
14 61.205 of title 40, Code of Federal Regulations, in-
15 cluding the results of any required testing specified
16 in paragraph (1)(C) shall be made publicly available
17 on the public website of the Environmental Protec-
18 tion Agency.

19 (b) MAXIMUM INDIVIDUAL RISK.—In this Act, the
20 term “maximum individual risk” means the highest in-
21 crease in lifetime cancer risk an individual faces in a popu-
22 lation that is exposed to the highest concentration of
23 phosphogypsum over a 70-year period.

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