

114TH CONGRESS  
1ST SESSION

# S. 1425

To promote new manufacturing in the United States by providing for greater transparency and timeliness in obtaining necessary permits, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 21, 2015

Mrs. CAPITO 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 promote new manufacturing in the United States by providing for greater transparency and timeliness in obtaining necessary permits, 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 “Promoting New Manu-  
5 facturing Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) BEST AVAILABLE CONTROL TECH-  
5           NOLOGY.—The term “best available control tech-  
6           nology” has the meaning given the term in section  
7           169 of the Clean Air Act (42 U.S.C. 7479).

8           (3) LOWEST ACHIEVABLE EMISSION RATE.—  
9           The term “lowest achievable emission rate” has the  
10          meaning given the term in section 171 of the Clean  
11          Air Act (42 U.S.C. 7501).

12          (4) MAJOR EMITTING FACILITY; MAJOR STA-  
13          TIONARY SOURCE.—The terms “major emitting fa-  
14          cility” and “major stationary source” have the  
15          meaning given those terms in section 302 of the  
16          Clean Air Act (42 U.S.C. 7602).

17          (5) NATIONAL AMBIENT AIR QUALITY STAND-  
18          ARD.—The term “national ambient air quality  
19          standard” means a national ambient air quality  
20          standard for an air pollutant under section 109 of  
21          the Clean Air Act (42 U.S.C. 7409) that is finalized  
22          on or after the date of enactment of this Act.

23          (6) PRECONSTRUCTION PERMIT.—

24                 (A) IN GENERAL.—The term “precon-  
25                 struction permit” means a permit that is re-

1           required under part C or D of title I of the Clean  
 2           Air Act (42 U.S.C. 7470 et seq.) for the con-  
 3           struction or modification of a major emitting  
 4           facility or major stationary source.

5           (B) INCLUSIONS.—The term “precon-  
 6           struction permit” includes any permit described  
 7           in subparagraph (A) that is issued by—

8                       (i) the Environmental Protection A-  
 9                       gency; or

10                      (ii) a State, local, or tribal permitting  
 11                      authority.

12           (7) RACT/BACT/LAER CLEARINGHOUSE  
 13           DATABASE.—The term “RACT/BACT/LAER Clear-  
 14           inghouse database” means the central database of  
 15           air pollution technology information that is posted  
 16           on the Internet website of the Environmental Pro-  
 17           tection Agency.

18 **SEC. 3. BUILDING AND MANUFACTURING PROJECTS DASH-**  
 19 **BOARD.**

20           (a) IN GENERAL.—For fiscal year 2008 and each fis-  
 21           cal year thereafter, the Administrator shall publish in a  
 22           readily accessible location on the Internet website of the  
 23           Environmental Protection Agency an estimate by the Ad-  
 24           ministrator of, with respect to the applicable fiscal year—

1           (1) the total number of preconstruction permits  
2 issued by the Environmental Protection Agency;

3           (2) the percentage of those preconstruction per-  
4 mits issued by the date that is 1 year after the date  
5 of filing of completed applications for the permits;  
6 and

7           (3) the average length of time required for the  
8 Environmental Appeals Board of the Environmental  
9 Protection Agency to issue a final decision regarding  
10 petitions appealing decisions to grant or deny a  
11 preconstruction permit application.

12       (b) INITIAL PUBLICATION; UPDATES.—The Adminis-  
13 trator shall—

14           (1) make the publication required by subsection  
15 (a) for fiscal years 2008 through 2014 by not later  
16 than 60 days after the date of enactment of this  
17 Act; and

18           (2) update that publication not less frequently  
19 than annually.

20       (c) SOURCES OF INFORMATION.—

21           (1) FISCAL YEARS 2008 THROUGH 2014.—In car-  
22 rying out this section with respect to the information  
23 required to be published for fiscal years 2008  
24 through 2014, the estimates of the Administrator  
25 shall be based on information in the possession of

1 the Administrator as of the date of enactment of  
2 this Act, including information in the RACT/BACT/  
3 LAER Clearinghouse database.

4 (2) NO REQUIREMENT TO COLLECT ADDI-  
5 TIONAL INFORMATION.—Nothing in this section re-  
6 quires the Administrator to seek or collect any infor-  
7 mation in addition to the information that is volun-  
8 tarily provided by States and local air agencies for  
9 the RACT/BACT/LAER Clearinghouse database  
10 with respect to the information required to be pub-  
11 lished under this section for any fiscal year.

12 **SEC. 4. TIMELY ISSUANCE OF REGULATIONS AND GUID-**  
13 **ANCE TO ADDRESS NEW OR REVISED NA-**  
14 **TIONAL AMBIENT AIR QUALITY STANDARDS**  
15 **IN PRECONSTRUCTION PERMITTING.**

16 (a) PROPOSED REGULATIONS.—In publishing any  
17 final rule establishing or revising a national ambient air  
18 quality standard, the Administrator shall, as the Adminis-  
19 trator determines to be necessary and appropriate to as-  
20 sist States, permitting authorities, and permit applicants,  
21 concurrently publish proposed regulations and guidance  
22 for implementing the standard, including information re-  
23 lating to submission and consideration of a preconstruct-  
24 ion permit application under the new or revised standard.

1 (b) APPLICABILITY OF STANDARD TO  
2 PRECONSTRUCTION PERMITTING.—A new or revised  
3 national ambient air quality standard shall not apply to  
4 the review and disposition of a preconstruction permit ap-  
5 plication until the Administrator publishes final implemen-  
6 tation regulations and guidance that include information  
7 relating to submission and consideration of a precon-  
8 struction permit application under the standard.

9 (c) EFFECT OF SECTION.—

10 (1) IN GENERAL.—After publishing regulations  
11 and guidance for implementing national ambient air  
12 quality standards under subsection (a), nothing in  
13 this section precludes the Administrator from  
14 issuing subsequent regulations or guidance to assist  
15 States and facilities in implementing those stand-  
16 ards.

17 (2) REQUIREMENTS OF APPLICANTS.—Nothing  
18 in this section eliminates the obligation of a  
19 preconstruction permit applicant to install best avail-  
20 able control technology and lowest achievable emis-  
21 sion rate technology, as applicable.

22 (3) STATE, LOCAL, AND TRIBAL AUTHORITY.—  
23 Nothing in this section limits the authority of a  
24 State, local, or tribal permitting authority to impose  
25 emission requirements pursuant to State, local, or

1 tribal law that are more stringent than the applica-  
2 ble Federal national ambient air quality standards  
3 established by the Environmental Protection Agency.

4 **SEC. 5. REPORT TO CONGRESS REGARDING ACTIONS TO**  
5 **EXPEDITE REVIEW OF PRECONSTRUCTION**  
6 **PERMITS.**

7 (a) IN GENERAL.—Not later than 180 days after the  
8 date of enactment of this Act, and annually thereafter,  
9 the Administrator shall submit to Congress a report that,  
10 with respect to the period covered by the report—

11 (1) identifies the activities carried out by the  
12 Environmental Protection Agency to increase the ef-  
13 ficiency of the preconstruction permitting process;

14 (2) identifies the specific reasons for delays in  
15 issuing—

16 (A) preconstruction permits required under  
17 part C of the Clean Air Act (42 U.S.C. 7470  
18 et seq.) beyond the 1-year deadline mandated  
19 by section 165(c) of that Act (42 U.S.C.  
20 7475(c)); or

21 (B) preconstruction permits required under  
22 part D of the Clean Air Act (42 U.S.C. 7501  
23 et seq.) beyond the 1-year period beginning on  
24 the date on which the permit application is de-  
25 termined to be complete;

1           (3) describes the means by which the Adminis-  
2           trator is resolving—

3                   (A) delays in making completeness deter-  
4                   minations for preconstruction permit applica-  
5                   tions; and

6                   (B) processing delays for preconstruction  
7                   permits, including any increases in communica-  
8                   tion with State and local permitting authorities;  
9                   and

10           (4) summarizes and responds to public com-  
11           ments received under subsection (b) concerning the  
12           report.

13           (b) PUBLIC COMMENT.—Before submitting a report  
14           required by subsection (a), the Administrator shall—

15                   (1) publish on the Internet website of the Envi-  
16                   ronmental Protection Agency a draft of the report;  
17                   and

18                   (2) provide to the public a period of not less  
19                   than 30 days to submit comments regarding the  
20                   draft report.

21           (c) SOURCES OF INFORMATION.—Nothing in this sec-  
22           tion compels the Environmental Protection Agency to seek  
23           or collect any information in addition to the information



1 that is voluntarily provided by States and local air agen-  
2 cies for the RACT/BACT/LAER Clearinghouse database.

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