

118TH CONGRESS  
2D SESSION

# H. R. 9136

To strengthen and enhance the competitiveness of cement, concrete, asphalt binder, and asphalt mixture production in the United States through the research, development, demonstration, and commercial application of technologies to reduce emissions from cement, concrete, asphalt binder, and asphalt mixture production, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2024

Mrs. FOUSHEE (for herself and Mr. MILLER of Ohio) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To strengthen and enhance the competitiveness of cement, concrete, asphalt binder, and asphalt mixture production in the United States through the research, development, demonstration, and commercial application of technologies to reduce emissions from cement, concrete, asphalt binder, and asphalt mixture production, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “IMPACT Act 2.0”.

3 **SEC. 2. FEDERAL HIGHWAY ADMINISTRATION.**

4 (a) PERFORMANCE-BASED LOW-EMISSIONS TRANS-  
5 PORTATION MATERIALS GRANTS.—

6 (1) PURPOSE.—The purpose of this subsection  
7 is to encourage States to improve State-level cement,  
8 concrete, asphalt binder, and asphalt mixture speci-  
9 fications and standards to facilitate the purchase of  
10 low-emissions cement, concrete, asphalt binder, or  
11 asphalt mixtures.

12 (2) ESTABLISHMENT.—The Administrator of  
13 the Federal Highway Administration (referred to in  
14 this section as the “Administrator”) shall provide to  
15 States—

16 (A) reimbursement for the additional cost  
17 of using low-emissions cement, concrete, asphalt  
18 binder, and asphalt mixtures used in highway  
19 projects of the State;

20 (B) incentives for the acquisition of low-  
21 emissions cement, concrete, asphalt binder, and  
22 asphalt mixtures for use in highway projects of  
23 the State; and

24 (C) technical assistance to update the spec-  
25 ifications and standards of the State to be per-  
26 formance-based specifications and standards.

1           (3) ELIGIBILITY.—To be eligible to receive re-  
2       imbursement or incentives under this subsection, a  
3       State shall have in effect, as appropriate, special  
4       provisions, specifications, or standards, such as engi-  
5       neering performance standards, that facilitate the  
6       purchase of low-emissions cement, concrete, asphalt  
7       binder, and asphalt mixtures.

8           (4) COORDINATION.—In carrying out this sub-  
9       section, the Administrator shall leverage the Every  
10      Day Counts Initiative of the Department of Trans-  
11      portation to promote the commercialization of low-  
12      emissions cement, concrete, asphalt binder, and as-  
13      phalt mixtures.

14          (5) AUTHORIZATION OF APPROPRIATIONS.—  
15      There is authorized to be appropriated to the Sec-  
16      retary to carry out this subsection \$15,000,000 for  
17      the period of fiscal years 2025 through 2027.

18          (b) TIMELY APPROVAL OF CEMENT, CONCRETE, AS-  
19      PHALT BINDER, OR ASPHALT MIXTURES.—

20          (1) IN GENERAL.—Not later than 180 days  
21      after the date of enactment of this Act, the Adminis-  
22      trator shall establish a procedure under which States  
23      may submit new low-emissions cement, concrete, as-  
24      phalt binder, or asphalt mixtures for timely approval  
25      for use in highways projects of the State.

1           (2) SUBMISSION.—To be considered for ap-  
 2           proval under the procedure established under para-  
 3           graph (1), a State shall submit an application to the  
 4           Administrator at such time, in such manner, and  
 5           containing such information as the Administrator  
 6           determines to be necessary.

7           (3) DECISION DEADLINE.—Not later than 180  
 8           days after the date on which the Administrator re-  
 9           ceives an application under paragraph (2), the Ad-  
 10          ministrator shall—

11                   (A) approve the application; or

12                   (B) deny the application.

13          (4) APPROVAL.—Low-emissions cement, con-  
 14          crete, asphalt binder, or asphalt mixtures approved  
 15          under paragraph (3)(A) may be used in any highway  
 16          project of the State.

17          (5) WRITTEN REASONS FOR DENIAL.—If the  
 18          Administrator denies an application under para-  
 19          graph (3)(B), the Administrator shall provide the  
 20          State a written explanation for the denial.

21 **SEC. 3. ADVANCE PURCHASE COMMITMENT AUTHORITY.**

22          (a) PURPOSE.—The purposes of this section are—

23                  (1) to authorize the Secretary to directly pur-  
 24          chase or contractually guarantee the direct purchase

1 of conforming low-emissions cement, concrete, as-  
2 phalt binder, or asphalt mixtures; and

3 (2) to encourage continuous innovation and  
4 long-term emissions reductions in the production of  
5 concrete, cement, asphalt binder, and asphalt mix-  
6 tures.

7 (b) DEFINITIONS.—In this section:

8 (1) ADVANCE PURCHASE COMMITMENT.—The  
9 term “advance purchase commitment” means a  
10 binding commitment from the Department of Trans-  
11 portation to purchase, 3 or more years in the future,  
12 from a private entity, a specified minimum quantity  
13 of conforming low-emissions cement, concrete, as-  
14 phalt binder, or asphalt mixtures at a specified min-  
15 imum price with the objective of establishing market  
16 demand for the conforming low-emissions cement,  
17 concrete, asphalt binder, or asphalt mixtures.

18 (2) CONFORMING LOW-EMISSIONS CEMENT,  
19 CONCRETE, ASPHALT BINDER, OR ASPHALT MIX-  
20 TURE.—The term “conforming low-emissions ce-  
21 ment, concrete, asphalt binder, or asphalt mixture”  
22 means a low-emissions cement, concrete, asphalt  
23 binder, or asphalt mixture that—

24 (A) meets or exceeds the threshold estab-  
25 lished by the Secretary of Energy under section

1           458(i)(2) of the Energy Independence and Se-  
2           curity Act of 2007 that is in effect on the date  
3           on which the applicable advance purchase com-  
4           mitment is awarded under the program; and

5                   (B) meets all applicable technical specifica-  
6           tions established by the Secretary.

7           (3) PROGRAM.—The term “program” means  
8           the program established under subsection (c).

9           (4) SECRETARY.—The term “Secretary” means  
10          the Secretary of Transportation.

11          (c) ESTABLISHMENT OF PROGRAM.—Not later than  
12          180 days after the date of enactment of this Act, the Sec-  
13          retary shall establish a program for awarding, on a com-  
14          petitive basis, advance purchase commitments.

15          (d) REQUIREMENT.—An advance purchase commit-  
16          ment shall be awarded under the program only after—

17                  (1) a private entity submits to the Secretary—

18                          (A) a statement describing the quantity  
19                          and cost of the conforming low-emissions ce-  
20                          ment, concrete, asphalt binder, or asphalt mix-  
21                          ture for which the advance purchase commit-  
22                          ment is sought; and

23                          (B)(i) an environmental product declara-  
24                          tion; or

1           (ii) in cases in which a private entity does  
2           not have sufficient production to generate an  
3           environmental product declaration, a lifecycle  
4           assessment consistent with ISO 21930 of the  
5           International Organization for Standardization;

6           (2) the Secretary, based on those submissions—

7                 (A) confirms that the embodied greenhouse  
8                 gas emissions of the conforming low-emissions  
9                 cement, concrete, asphalt binder, or asphalt  
10                mixture meet or exceed the threshold described  
11                in subsection (b)(2)(A); and

12               (B) based on the submission under para-  
13               graph (1)(B) otherwise verifies that the low-  
14               emissions cement, concrete, asphalt binder, or  
15               asphalt mixture is a conforming low-emissions  
16               cement, concrete, asphalt binder, or asphalt  
17               mixture; and

18           (3) in the case of any submission under para-  
19           graph (1)(B)(ii), the private entity shall be required  
20           to—

21                 (A) achieve verifiable interim milestones,  
22                 as established in an advanced purchase commit-  
23                 ment, to demonstrate material steps towards  
24                 sufficient commercial production of conforming

1 low-emissions cement, concrete, asphalt binder,  
2 or asphalt mixtures; and

3 (B) obtain an environmental product dec-  
4 laration within 18 months of production.

5 (e) PENALTY.—Failure to meet an interim milestone  
6 under subsection (d)(3)(A) as established in an advance  
7 purchase commitment, or a material negative deviation be-  
8 tween a submitted lifecycle assessment and subsequent en-  
9 vironmental product declaration obtained pursuant to sub-  
10 section (d)(3)(B), may result in termination of a portion  
11 or all of the advance purchase commitment at the sole dis-  
12 cretion of the Secretary.

13 (f) PREFERENCE CRITERIA.—In carrying out the  
14 program, the Secretary shall prioritize the award of ad-  
15 vance purchase commitments based on the following fac-  
16 tors:

17 (1) The degree of greenhouse gas emissions re-  
18 duced during or in connection with the production of  
19 the applicable conforming low-emissions cement, con-  
20 crete, asphalt binder, or asphalt mixture.

21 (2) The anticipated suitability of the con-  
22 forming low-emissions cement, concrete, asphalt  
23 binder, or asphalt mixture for its intended use.

24 (3) The potential of the advance purchase com-  
25 mitment to increase the availability of, or increasing



1 investment in, conforming low-emissions cement,  
2 concrete, asphalt binder, or asphalt mixtures.

3 (4) The utilization or mineralization of carbon  
4 dioxide in the conforming low-emissions cement, con-  
5 crete, or asphalt mixture, subject to the condition  
6 that the utilization or mineralization of the carbon  
7 dioxide does not lead to positive net carbon dioxide  
8 emissions.

9 (5) The operational capacity of the manufac-  
10 turer, its partners, or its distributors, including with  
11 respect to logistics, planned material storage and  
12 handling capacities, and delivery mechanisms, and,  
13 as applicable, decarbonization and carbon capture,  
14 transportation, and storage technologies, to deliver  
15 conforming low-emissions cement, concrete, asphalt  
16 binder, or asphalt mixtures.

17 (g) ASSIGNABILITY.—A contract entered into or ma-  
18 terial purchased pursuant to this section may be assigned  
19 to a State department of transportation or a local trans-  
20 portation authority at the discretion of the Secretary.

21 (h) CLARIFICATION.—Any update or revision to the  
22 threshold established by the Secretary of Energy under  
23 section 458(i)(2) of the Energy Independence and Secu-  
24 rity Act of 2007 shall not affect or otherwise apply to any

1 advance purchase commitment awarded under the pro-  
2 gram before the date of that update or revision.

3 (i) FUNDING.—The Secretary shall carry out this sec-  
4 tion using amounts otherwise available to the Secretary.

5 **SEC. 4. INTERAGENCY TASK FORCE FOR CONCRETE AND**  
6 **ASPHALT INNOVATION.**

7 (a) IN GENERAL.—The Secretary, in coordination  
8 with the Secretary of Transportation, the Administrator  
9 of General Services, the Secretary of Defense, the Director  
10 of the National Institute of Standards and Technology,  
11 and the Administrator of the Environmental Protection  
12 Agency, shall establish a task force, to be known as the  
13 “Interagency Task Force for Concrete and Asphalt Inno-  
14 vation”.

15 (b) OBJECTIVES.—In carrying out the duties of the  
16 Task Force, the Task Force shall consider strategies for—

17 (1) improving the durability and performance of  
18 low-emissions cement, concrete, asphalt binder, or  
19 asphalt mixtures;

20 (2) reducing the cost of low-emissions cement,  
21 concrete, asphalt binder, or asphalt mixtures;

22 (3) supporting continuous innovation and emis-  
23 sions reductions in the production of low-emissions  
24 cement, concrete, asphalt binder, or asphalt mix-  
25 tures;

1           (4) increasing employment in fields related to  
2           the domestic production of low-emissions cement,  
3           concrete, asphalt binder, or asphalt mixtures; and

4           (5) ensuring a trained workforce in fields re-  
5           lated to the domestic production and use of low-  
6           emissions cement, concrete, asphalt binder, or as-  
7           phalt mixtures.

8           (c) COMPOSITION.—The Task Force shall be com-  
9           posed of 2 members from each of—

10           (1) the Department of Energy;

11           (2) the Department of Transportation;

12           (3) the General Services Administration;

13           (4) the Department of Defense;

14           (5) the National Institute of Standards and  
15           Technology; and

16           (6) the Environmental Protection Agency.

17           (d) CONSULTATION.—In carrying out the duties of  
18           the Task Force, the Secretary shall consult with the fol-  
19           lowing stakeholders, who shall reflect regional diversity to  
20           the maximum extent practicable:

21           (1) Entities in the cement, concrete, asphalt  
22           binder, and asphalt mixture sectors, including—

23                   (A) ready-mix or site-mixed concrete pro-  
24                   ducers;

25                   (B) precast concrete producers;

1 (C) portland cement and other cement pro-  
2 ducers;

3 (D) aggregate producers;

4 (E) asphalt binder producers;

5 (F) asphalt mixture producers;

6 (G) producers of emerging cement, con-  
7 crete, asphalt binder, or asphalt mixture solu-  
8 tions; and

9 (H) distributors and users of cement, con-  
10 crete, asphalt binder, or asphalt mixture pro-  
11 duction.

12 (2) Contracting companies with at least 1 Fed-  
13 eral Government contract awarded in the preceding  
14 5 years.

15 (3) Contracting companies with at least 1 pri-  
16 vate sector contract awarded in the preceding 5  
17 years.

18 (4) Experts, including from nongovernmental  
19 organizations, on the environmental impact of ce-  
20 ment, concrete, asphalt binder, and asphalt mixture  
21 production in architectural and nonarchitectural ap-  
22 plications, with expertise in—

23 (A) developing codes, specifications, and  
24 standards for cement, concrete, asphalt binder,  
25 and asphalt mixtures;

1 (B) conducting performance tests on ce-  
2 ment, concrete, asphalt binder, and asphalt  
3 mixtures;

4 (C) working with the National Institute of  
5 Building Sciences;

6 (D) working for State departments of  
7 transportation from different regions of the  
8 United States; and

9 (E) developing benchmarks for embodied  
10 greenhouse gas emissions.

11 (5) Stakeholders in any other relevant indus-  
12 tries, as determined by the Secretary.

13 (e) RESPONSIBILITIES.—The Task Force shall—

14 (1) provide recommendations to the Secretary  
15 on—

16 (A) the use of engineering performance  
17 standards for low-emissions cement, concrete,  
18 asphalt binder, and asphalt mixtures, including  
19 taking into account lessons learned from the re-  
20 imbursement and incentives provided under sec-  
21 tion 1(a)(2);

22 (B) creating guidelines and best practices  
23 for the testing and evaluation of low-emissions  
24 cement, concrete, asphalt binder, and asphalt  
25 mixtures, including taking into account lessons

1 learned from the Manufacturing USA institutes  
2 under section 34 of the National Institute of  
3 Standards and Technology Act (15 U.S.C.  
4 278s);

5 (C) improving the product category rules  
6 governing the creation of relevant environ-  
7 mental product declarations for low-emissions  
8 cement, concrete, asphalt binder, and asphalt  
9 mixture, including taking into account lessons  
10 learned from the technical assistance program  
11 established under section 458(h) of the Energy  
12 Independence and Security Act of 2007; and

13 (D) incentives that would encourage the  
14 use of low-emissions cement, concrete, asphalt  
15 binder, and asphalt mixtures, including taking  
16 into account lessons learned from the advance  
17 purchase commitment program established  
18 under section 2(c);

19 (2) coordinate meetings and facilitate discus-  
20 sions through forums such as roundtables, work-  
21 shops, or conferences to inform the recommenda-  
22 tions provided under paragraph (1); and

23 (3) host briefings and provide updates to—

24 (A) the Committee on Energy and Natural  
25 Resources of the Senate; and

1 (B) the Committee on Science, Space, and  
2 Technology of the House of Representatives.

3 (f) REPORT.—Once every 2 years, the Secretary, in  
4 consultation with the Task Force, shall submit to Con-  
5 gress a report that describes—

6 (1)(A) each of the recommendations made  
7 under subsection (e)(1); and

8 (B) the response of the Secretary to each of  
9 those recommendations, including how best to imple-  
10 ment each recommendation;

11 (2) the determinations made by the Secretary  
12 under section 458(i)(1) of the Energy Independence  
13 and Security Act of 2007;

14 (3) the threshold established under section  
15 458(i)(2) of the Energy Independence and Security  
16 Act of 2007, including a justification for that  
17 threshold;

18 (4) changes to State and local codes and speci-  
19 fications facilitated by the Task Force during the  
20 period covered by the report; and

21 (5) meetings with cement, concrete, asphalt  
22 binder, and asphalt mixture producers, contractors,  
23 engineers, academics, State and local government of-  
24 ficials, or any other relevant stakeholders coordi-

1 nated by the Task Force during the period covered  
2 by the report.

3 (g) TERMINATION.—The Secretary may terminate  
4 the Task Force if the Secretary determines that sufficient  
5 low-emissions cement, concrete, asphalt binder, and as-  
6 phalt mixtures are commercially available domestically at  
7 a price comparable to the price of cement, concrete, as-  
8 phalt binder, and asphalt mixtures produced through tra-  
9 ditional methods of production.

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