

112TH CONGRESS
1ST SESSION

H. R. 2681

To provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for cement manufacturing facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2011

Mr. SULLIVAN (for himself, Mr. ROSS of Arkansas, Mr. KINZINGER of Illinois, Mr. LATTA, Mr. WALDEN, Mr. BARTON of Texas, Mr. CARTER, Mr. DENT, Mr. BOREN, and Mr. ALTMIRE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for cement manufacturing facilities, 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 “Cement Sector Regu-
5 latory Relief Act of 2011”.

1 **SEC. 2. LEGISLATIVE STAY.**

2 (a) ESTABLISHMENT OF STANDARDS.—In place of
3 the rules specified in subsection (b), and notwithstanding
4 the date by which such rules would otherwise be required
5 to be promulgated, the Administrator of the Environ-
6 mental Protection Agency (in this Act referred to as the
7 “Administrator”) shall—

8 (1) propose regulations for the Portland cement
9 manufacturing industry and Portland cement plants
10 subject to any of the rules specified in subsection
11 (b)—

12 (A) establishing maximum achievable con-
13 trol technology standards, performance stand-
14 ards, and other requirements under sections
15 112 and 129, as applicable, of the Clean Air
16 Act (42 U.S.C. 7412, 7429); and

17 (B) identifying non-hazardous secondary
18 materials that, when used as fuels or ingredi-
19 ents in combustion units of such industry and
20 plants are solid waste under the Solid Waste
21 Disposal Act (42 U.S.C. 6901 et seq.; com-
22 monly referred to as the “Resource Conserva-
23 tion and Recovery Act”) for purposes of deter-
24 mining the extent to which such combustion
25 units are required to meet the emissions stand-
26 ards under section 112 of the Clean Air Act (42

1 U.S.C. 7412) or the emission standards under
2 section 129 of such Act (42 U.S.C. 7429); and
3 (2) finalize the regulations on the date that is
4 15 months after the date of the enactment of this
5 Act, or on such later date as may be determined by
6 the Administrator.

7 (b) STAY OF EARLIER RULES.—

8 (1) The following rule is of no force or effect,
9 shall be treated as though such rule had never taken
10 effect, and shall be replaced as described in sub-
11 section (a): “National Emission Standards for Haz-
12 ardous Air Pollutants from the Portland Cement
13 Manufacturing Industry and Standards of Perform-
14 ance for Portland Cement Plants”, published at 75
15 Fed. Reg. 54970 (September 9, 2010).

16 (2) The following rules are of no force or effect,
17 shall be treated as though such rules had never
18 taken effect, and shall be replaced as described in
19 subsection (a), insofar as such rules are applicable
20 to the Portland cement manufacturing industry and
21 Portland cement plants:

22 (A) “Standards of Performance for New
23 Stationary Sources and Emission Guidelines for
24 Existing Sources: Commercial and Industrial

1 Solid Waste Incineration Units”, published at
2 76 Fed. Reg. 15704 (March 21, 2011).

3 (B) “Identification of Non-Hazardous Sec-
4 ondary Materials That are Solid Waste”, pub-
5 lished at 76 Fed. Reg. 15456 (March 21,
6 2011).

7 **SEC. 3. COMPLIANCE DATES.**

8 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For
9 each regulation promulgated pursuant to section 2, the
10 Administrator—

11 (1) shall establish a date for compliance with
12 standards and requirements under such regulation
13 that is, notwithstanding any other provision of law,
14 not earlier than 5 years after the effective date of
15 the regulation; and

16 (2) in proposing a date for such compliance,
17 shall take into consideration—

18 (A) the costs of achieving emissions reduc-
19 tions;

20 (B) any non-air quality health and environ-
21 mental impact and energy requirements of the
22 standards and requirements;

23 (C) the feasibility of implementing the
24 standards and requirements, including the time
25 needed to—

1 (i) obtain necessary permit approvals;

2 and

3 (ii) procure, install, and test control

4 equipment;

5 (D) the availability of equipment, sup-

6 pliers, and labor, given the requirements of the

7 regulation and other proposed or finalized regu-

8 lations of the Environmental Protection Agency;

9 and

10 (E) potential net employment impacts.

11 (b) NEW SOURCES.—The date on which the Adminis-

12 trator proposes a regulation pursuant to section 2(a)(1)

13 establishing an emission standard under section 112 or

14 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall

15 be treated as the date on which the Administrator first

16 proposes such a regulation for purposes of applying the

17 definition of a new source under section 112(a)(4) of such

18 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid

19 waste incineration unit under section 129(g)(2) of such

20 Act (42 U.S.C. 7429(g)(2)).

21 (c) RULE OF CONSTRUCTION.—Nothing in this Act

22 shall be construed to restrict or otherwise affect the provi-

23 sions of paragraphs (3)(B) and (4) of section 112(i) of

24 the Clean Air Act (42 U.S.C. 7412(i)).

1 **SEC. 4. ENERGY RECOVERY AND CONSERVATION.**

2 Notwithstanding any other provision of law, and to
3 ensure the recovery and conservation of energy consistent
4 with the Solid Waste Disposal Act (42 U.S.C. 6901 et
5 seq.; commonly referred to as the “Resource Conservation
6 and Recovery Act”), in promulgating rules under section
7 2(a) addressing the subject matter of the rules specified
8 in section 2(b)(2), the Administrator—

9 (1) shall adopt the definitions of the terms
10 “commercial and industrial solid waste incineration
11 unit”, “commercial and industrial waste”, and “con-
12 tained gaseous material” in the rule entitled “Stand-
13 ards for Performance of New Stationary Sources
14 and Emission Guidelines for Existing Sources: Com-
15 mercial and Industrial Solid Waste Incineration
16 Units”, published at 65 Fed. Reg. 75338 (December
17 1, 2000); and

18 (2) shall identify non-hazardous secondary ma-
19 terial to be solid waste only if—

20 (A) the material meets such definition of
21 commercial and industrial waste; or

22 (B) if the material is a gas, it meets such
23 definition of contained gaseous material.

24 **SEC. 5. OTHER PROVISIONS.**

25 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
26 PRACTICE.—In promulgating rules under section 2(a), the

1 Administrator shall ensure that emissions standards for
2 existing and new sources established under section 112 or
3 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as ap-
4 plicable, can be met under actual operating conditions con-
5 sistently and concurrently with emission standards for all
6 other air pollutants regulated by the rule for the source
7 category, taking into account variability in actual source
8 performance, source design, fuels, inputs, controls, ability
9 to measure the pollutant emissions, and operating condi-
10 tions.

11 (b) REGULATORY ALTERNATIVES.—For each regula-
12 tion promulgated pursuant to section 2(a), from among
13 the range of regulatory alternatives authorized under the
14 Clean Air Act (42 U.S.C. 7401 et seq.) including work
15 practice standards under section 112(h) of such Act (42
16 U.S.C. 7412(h)), the Administrator shall impose the least
17 burdensome, consistent with the purposes of such Act and
18 Executive Order 13563 published at 76 Fed. Reg. 3821
19 (January 21, 2011).

○