

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2681

---

## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cement Sector Regu-  
3 latory Relief Act of 2011”.

4 **SEC. 2. LEGISLATIVE STAY.**

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

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

15 (A) establishing maximum achievable con-  
16 trol technology standards, performance stand-  
17 ards, and other requirements under sections  
18 112 and 129, as applicable, of the Clean Air  
19 Act (42 U.S.C. 7412, 7429); and

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

1 mining the extent to which such combustion  
2 units are required to meet the emissions stand-  
3 ards under section 112 of the Clean Air Act (42  
4 U.S.C. 7412) or the emission standards under  
5 section 129 of such Act (42 U.S.C. 7429); and

6 (2) finalize the regulations on the date that is  
7 15 months after the date of the enactment of this  
8 Act.

9 (b) STAY OF EARLIER RULES.—

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

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

24 (A) “Standards of Performance for New  
25 Stationary Sources and Emission Guidelines for

1 Existing Sources: Commercial and Industrial  
2 Solid Waste Incineration Units”, published at  
3 76 Fed. Reg. 15704 (March 21, 2011).

4 (B) “Identification of Non-Hazardous Sec-  
5 ondary Materials That Are Solid Waste”, pub-  
6 lished at 76 Fed. Reg. 15456 (March 21,  
7 2011).

8 **SEC. 3. COMPLIANCE DATES.**

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

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

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

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

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

1 (C) the feasibility of implementing the  
2 standards and requirements, including the time  
3 needed to—

4 (i) obtain necessary permit approvals;

5 and

6 (ii) procure, install, and test control  
7 equipment;

8 (D) the availability of equipment, sup-  
9 pliers, and labor, given the requirements of the  
10 regulation and other proposed or finalized regu-  
11 lations of the Environmental Protection Agency;  
12 and

13 (E) potential net employment impacts.

14 (b) NEW SOURCES.—The date on which the Adminis-  
15 trator proposes a regulation pursuant to section 2(a)(1)  
16 establishing an emission standard under section 112 or  
17 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall  
18 be treated as the date on which the Administrator first  
19 proposes such a regulation for purposes of applying the  
20 definition of a new source under section 112(a)(4) of such  
21 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid  
22 waste incineration unit under section 129(g)(2) of such  
23 Act (42 U.S.C. 7429(g)(2)).

24 (c) RULE OF CONSTRUCTION.—Nothing in this Act  
25 shall be construed to restrict or otherwise affect the provi-

1 sions of paragraphs (3)(B) and (4) of section 112(i) of  
2 the Clean Air Act (42 U.S.C. 7412(i)).

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

4 Notwithstanding any other provision of law, and to  
5 ensure the recovery and conservation of energy consistent  
6 with the Solid Waste Disposal Act (42 U.S.C. 6901 et  
7 seq.; commonly referred to as the “Resource Conservation  
8 and Recovery Act”), in promulgating rules under section  
9 2(a) addressing the subject matter of the rules specified  
10 in section 2(b)(2), the Administrator—

11 (1) shall adopt the definitions of the terms  
12 “commercial and industrial solid waste incineration  
13 unit”, “commercial and industrial waste”, and “con-  
14 tained gaseous material” in the rule entitled “Stand-  
15 ards of Performance for New Stationary Sources  
16 and Emission Guidelines for Existing Sources: Com-  
17 mercial and Industrial Solid Waste Incineration  
18 Units”, published at 65 Fed. Reg. 75338 (December  
19 1, 2000); and

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

22 (A) the material meets such definition of  
23 commercial and industrial waste; or

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

1 **SEC. 5. OTHER PROVISIONS.**

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

14 (b) REGULATORY ALTERNATIVES.—For each regula-  
15 tion promulgated pursuant to section 2(a), from among  
16 the range of regulatory alternatives authorized under the  
17 Clean Air Act (42 U.S.C. 7401 et seq.) including work  
18 practice standards under section 112(h) of such Act (42  
19 U.S.C. 7412(h)), the Administrator shall impose the least  
20 burdensome, consistent with the purposes of such Act and

- 1 Executive Order No. 13563 published at 76 Fed. Reg.
- 2 3821 (January 21, 2011).

Passed the House of Representatives October 6,  
2011.

Attest:

*Clerk.*





112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2681**

---

**AN ACT**

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