

## Calendar No. 192

112TH CONGRESS  
1ST SESSION**H. R. 2681**

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IN THE SENATE OF THE UNITED STATES

OCTOBER 11, 2011

Received; read the first time

OCTOBER 12, 2011

Read the second time and placed on the calendar

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**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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. LEGISLATIVE STAY.**

7 (a) ESTABLISHMENT OF STANDARDS.—In place of  
8 the rules specified in subsection (b), and notwithstanding

1 the date by which such rules would otherwise be required  
2 to be promulgated, the Administrator of the Environ-  
3 mental Protection Agency (in this Act referred to as the  
4 “Administrator”) shall—

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

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

14 (B) identifying non-hazardous secondary  
15 materials that, when used as fuels or ingredi-  
16 ents in combustion units of such industry and  
17 plants are solid waste under the Solid Waste  
18 Disposal Act (42 U.S.C. 6901 et seq.; com-  
19 monly referred to as the “Resource Conserva-  
20 tion and Recovery Act”) for purposes of deter-  
21 mining the extent to which such combustion  
22 units are required to meet the emissions stand-  
23 ards under section 112 of the Clean Air Act (42  
24 U.S.C. 7412) or the emission standards under  
25 section 129 of such Act (42 U.S.C. 7429); and

1           (2) finalize the regulations on the date that is  
2           15 months after the date of the enactment of this  
3           Act.

4           (b) STAY OF EARLIER RULES.—

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

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

19                (A) “Standards of Performance for New  
20                Stationary Sources and Emission Guidelines for  
21                Existing Sources: Commercial and Industrial  
22                Solid Waste Incineration Units”, published at  
23                76 Fed. Reg. 15704 (March 21, 2011).

24                (B) “Identification of Non-Hazardous Sec-  
25                ondary Materials That Are Solid Waste”, pub-

1           lished at 76 Fed. Reg. 15456 (March 21,  
2           2011).

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

4           (a) ESTABLISHMENT OF COMPLIANCE DATES.—For  
5 each regulation promulgated pursuant to section 2, the  
6 Administrator—

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

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

14           (A) the costs of achieving emissions reduc-  
15 tions;

16           (B) any non-air quality health and environ-  
17 mental impact and energy requirements of the  
18 standards and requirements;

19           (C) the feasibility of implementing the  
20 standards and requirements, including the time  
21 needed to—

22           (i) obtain necessary permit approvals;

23           and

24           (ii) procure, install, and test control  
25 equipment;

1 (D) the availability of equipment, sup-  
2 pliers, and labor, given the requirements of the  
3 regulation and other proposed or finalized regu-  
4 lations of the Environmental Protection Agency;  
5 and

6 (E) potential net employment impacts.

7 (b) NEW SOURCES.—The date on which the Adminis-  
8 trator proposes a regulation pursuant to section 2(a)(1)  
9 establishing an emission standard under section 112 or  
10 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall  
11 be treated as the date on which the Administrator first  
12 proposes such a regulation for purposes of applying the  
13 definition of a new source under section 112(a)(4) of such  
14 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid  
15 waste incineration unit under section 129(g)(2) of such  
16 Act (42 U.S.C. 7429(g)(2)).

17 (c) RULE OF CONSTRUCTION.—Nothing in this Act  
18 shall be construed to restrict or otherwise affect the provi-  
19 sions of paragraphs (3)(B) and (4) of section 112(i) of  
20 the Clean Air Act (42 U.S.C. 7412(i)).

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

22 Notwithstanding any other provision of law, and to  
23 ensure the recovery and conservation of energy consistent  
24 with the Solid Waste Disposal Act (42 U.S.C. 6901 et  
25 seq.; commonly referred to as the “Resource Conservation

1 and Recovery Act”), in promulgating rules under section  
2 2(a) addressing the subject matter of the rules specified  
3 in section 2(b)(2), the Administrator—

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

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

15 (A) the material meets such definition of  
16 commercial and industrial waste; or

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

19 **SEC. 5. OTHER PROVISIONS.**

20 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN  
21 PRACTICE.—In promulgating rules under section 2(a), the  
22 Administrator shall ensure that emissions standards for  
23 existing and new sources established under section 112 or  
24 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as ap-  
25 plicable, can be met under actual operating conditions con-

1 sistently and concurrently with emission standards for all  
2 other air pollutants regulated by the rule for the source  
3 category, taking into account variability in actual source  
4 performance, source design, fuels, inputs, controls, ability  
5 to measure the pollutant emissions, and operating condi-  
6 tions.

7 (b) REGULATORY ALTERNATIVES.—For each regula-  
8 tion promulgated pursuant to section 2(a), from among  
9 the range of regulatory alternatives authorized under the  
10 Clean Air Act (42 U.S.C. 7401 et seq.) including work  
11 practice standards under section 112(h) of such Act (42  
12 U.S.C. 7412(h)), the Administrator shall impose the least  
13 burdensome, consistent with the purposes of such Act and  
14 Executive Order No. 13563 published at 76 Fed. Reg.  
15 3821 (January 21, 2011).

Passed the House of Representatives October 6,  
2011.

Attest:

KAREN L. HAAS,

*Clerk.*

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