

112TH CONGRESS
1ST SESSION

S. 1610

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2011

Mr. BARRASSO (for himself, Mr. MANCHIN, Mr. BLUNT, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide additional time for the Administrator of the Environmental Protection Agency to promulgate 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 lieu of the
8 rules specified in subsection (b), and notwithstanding the

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

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

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

14 (B) identify nonhazardous secondary mate-
15 rials that, when used as fuels in combustion
16 units of that industry and those plants, qualify
17 as solid waste under the Solid Waste Disposal
18 Act (42 U.S.C. 6901 et seq.) for purposes of
19 determining the extent to which the combustion
20 units are required to meet the emission stand-
21 ards under section 112 or 129 of the Clean Air
22 Act (42 U.S.C. 7412, 7429); and

23 (2) promulgate final versions of those regula-
24 tions by not later than—

1 (A) the date that is 15 months after the
2 date of enactment of this Act; or

3 (B) such later date as may be determined
4 by the Administrator.

5 (b) STAY OF EARLIER RULES.—

6 (1) PORTLAND-SPECIFIC RULES.—The final
7 rule entitled “National Emission Standards for Haz-
8 ardous Air Pollutants from the Portland Cement
9 Manufacturing Industry and Standards of Perform-
10 ance for Portland Cement Plants” (75 Fed. Reg.
11 54970 (September 9, 2010)) shall be—

12 (A) of no force or effect;

13 (B) treated as though the rule had never
14 taken effect; and

15 (C) replaced in accordance with subsection
16 (a).

17 (2) OTHER RULES.—

18 (A) IN GENERAL.—The final rules de-
19 scribed in subparagraph (B), to the extent that
20 those rules apply to the Portland cement manu-
21 facturing industry and Portland cement plants,
22 shall be—

23 (i) of no force or effect;

24 (ii) treated as though the rules had
25 never taken effect; and

1 (iii) replaced in accordance with sub-
2 section (a).

3 (B) DESCRIPTION OF RULES.—The final
4 rules described in this subparagraph are—

5 (i) the final rule entitled “Standards
6 of Performance for New Stationary
7 Sources and Emission Guidelines for Ex-
8 isting Sources: Commercial and Industrial
9 Solid Waste Incineration Units” (76 Fed.
10 Reg. 15704 (March 21, 2011)); and

11 (ii) the final rule entitled “Identifica-
12 tion of Non-Hazardous Secondary Mate-
13 rials That Are Solid Waste” (76 Fed. Reg.
14 15456 (March 21, 2011)).

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

16 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For
17 each regulation promulgated pursuant to section 2(a), the
18 Administrator—

19 (1) shall establish a date for compliance with
20 standards and requirements under the regulation
21 that is, notwithstanding any other provision of law,
22 not earlier than 5 years after the effective date of
23 the regulation; and

24 (2) in proposing a date for that compliance,
25 shall take into consideration—

1 (A) the costs of achieving emission reduc-
2 tions;

3 (B) any non-air quality health and environ-
4 mental impact and energy requirements of the
5 standards and requirements;

6 (C) the feasibility of implementing the
7 standards and requirements, including the time
8 necessary—

9 (i) to obtain necessary permit approv-
10 als; and

11 (ii) to procure, install, and test con-
12 trol equipment;

13 (D) the availability of equipment, sup-
14 pliers, and labor, given the requirements of the
15 regulation and other proposed or finalized regu-
16 lations of the Administrator; and

17 (E) potential net employment impacts.

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

1 (1) the definition of the term “new source”
2 under section 112(a)(4) of that Act (42 U.S.C.
3 7412(a)(4)); or

4 (2) the definition of the term “new solid waste
5 incineration unit” under section 129(g)(2) of that
6 Act (42 U.S.C. 7429(g)(2)).

7 (c) **RULE OF CONSTRUCTION.**—Nothing in this Act
8 restricts or otherwise affects paragraphs (3)(B) and (4)
9 of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

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

11 Notwithstanding any other provision of law, and to
12 ensure the recovery and conservation of energy consistent
13 with the Solid Waste Disposal Act (42 U.S.C. 6901 et
14 seq.), in promulgating regulations under section 2(a) ad-
15 dressing the subject matter of the rules specified in section
16 2(b)(2), the Administrator shall—

17 (1) adopt the definitions of the terms “commer-
18 cial and industrial solid waste incineration unit”,
19 “commercial and industrial waste”, and “contained
20 gaseous material” in the rule entitled “Standards
21 for Performance of New Stationary Sources and
22 Emission Guidelines for Existing Sources: Commer-
23 cial and Industrial Solid Waste Incineration Units”
24 (65 Fed. Reg. 75338 (December 1, 2000)); and

1 (2) identify nonhazardous secondary material to
2 be solid waste (as defined in section 1004 of the
3 Solid Waste Disposal Act (42 U.S.C. 6903) only if—

4 (A) the material meets that definition of
5 commercial and industrial waste; or

6 (B) if the material is a gas, the material
7 meets that definition of contained gaseous ma-
8 terial.

9 **SEC. 5. OTHER PROVISIONS.**

10 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
11 PRACTICE.—In promulgating regulations under section
12 2(a), the Administrator shall ensure, to the maximum ex-
13 tent practicable, that emission standards for existing and
14 new sources established under section 112 or 129 of the
15 Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can
16 be met under actual operating conditions consistently and
17 concurrently with emission standards for all other air pol-
18 lutants covered by regulations applicable to the source cat-
19 egory, taking into account—

20 (1) variability in actual source performance;

21 (2) source design;

22 (3) fuels;

23 (4) inputs;

24 (5) controls;

1 (6) ability to measure the pollutant emissions;

2 and

3 (7) operating conditions.

4 (b) REGULATORY ALTERNATIVES.—For each regula-
5 tion promulgated under section 2(a), from among the
6 range of regulatory alternatives authorized under the
7 Clean Air Act (42 U.S.C. 7401 et seq.), including work
8 practice standards under section 112(h) of that Act (42
9 U.S.C. 7412(h)), the Administrator shall impose the least
10 burdensome, consistent with the purposes of that Act and
11 Executive Order 13563 (76 Fed. Reg. 3821 (January 21,
12 2011)).

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