

Union Calendar No. 148

112TH CONGRESS
1ST SESSION

H. R. 2681

[Report No. 112-227]

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

SEPTEMBER 26, 2011

Additional sponsors: Mr. RAHALL, Mr. RIVERA, Mr. WEST, Mr. BACHUS, Mr. KISSELL, Mr. HOLDEN, Mr. MCKINLEY, Mr. POSEY, Mr. DIAZ-BALART, Mr. GOSAR, Mr. TERRY, Mr. BUCSHON, Mr. FORBES, Mr. COBLE, Mr. NUNNELEE, Mr. ROONEY, Mr. WOMACK, Mr. BENISHEK, Ms. JENKINS, Mr. WOODALL, Mr. ROGERS of Alabama, Mr. CRITZ, Mr. POMPEO, Mr. SOUTHERLAND, Mrs. EMERSON, Mr. AUSTRIA, Mr. BISHOP of Georgia, Mr. GUTHRIE, Mr. CHABOT, Mr. SMITH of Nebraska, Mrs. HARTZLER, and Mr. DAVIS of Kentucky

SEPTEMBER 26, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 28, 2011]

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”.*

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

7 *(a) ESTABLISHMENT OF STANDARDS.—In place of the*
8 *rules specified in subsection (b), and notwithstanding the*
9 *date by which such rules would otherwise be required to be*
10 *promulgated, the Administrator of the Environmental Pro-*
11 *tection Agency (in this Act referred to as the “Adminis-*
12 *trator”) shall—*

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

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

22 *(B) identifying non-hazardous secondary*
23 *materials that, when used as fuels or ingredients*
24 *in combustion units of such industry and plants*
25 *are solid waste under the Solid Waste Disposal*

1 *Act (42 U.S.C. 6901 et seq.; commonly referred*
2 *to as the “Resource Conservation and Recovery*
3 *Act”)* for purposes of determining the extent to
4 *which such combustion units are required to*
5 *meet the emissions standards under section 112*
6 *of the Clean Air Act (42 U.S.C. 7412) or the*
7 *emission standards under section 129 of such Act*
8 *(42 U.S.C. 7429); and*

9 *(2) finalize the regulations on the date that is 15*
10 *months after the date of the enactment of this Act.*

11 ***(b) STAY OF EARLIER RULES.—***

12 *(1) The following rule is of no force or effect,*
13 *shall be treated as though such rule had never taken*
14 *effect, and shall be replaced as described in subsection*
15 *(a): “National Emission Standards for Hazardous*
16 *Air Pollutants from the Portland Cement Manufac-*
17 *turing Industry and Standards of Performance for*
18 *Portland Cement Plants”, published at 75 Fed. Reg.*
19 *54970 (September 9, 2010).*

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

1 (A) “Standards of Performance for New
2 Stationary Sources and Emission Guidelines for
3 Existing Sources: Commercial and Industrial
4 Solid Waste Incineration Units”, published at
5 76 Fed. Reg. 15704 (March 21, 2011).

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

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

10 (a) *ESTABLISHMENT OF COMPLIANCE DATES.*—For
11 each regulation promulgated pursuant to section 2, the Ad-
12 ministrators—

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

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

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

22 (B) any non-air quality health and envi-
23 ronmental impact and energy requirements of
24 the 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, suppliers,
9 and labor, given the requirements of the regula-
10 tion and other proposed or finalized regulations
11 of the Environmental Protection Agency; and

12 (E) potential net employment impacts.

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

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

1 sions of paragraphs (3)(B) and (4) of section 112(i) of the
2 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 seq.;
7 commonly referred to as the “Resource Conservation and
8 Recovery Act”), in promulgating rules under section 2(a)
9 addressing the subject matter of the rules specified in section
10 2(b)(2), the Administrator—

11 (1) shall adopt the definitions of the terms “com-
12 mercial 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 and
16 Emission Guidelines for Existing Sources: Commer-
17 cial and Industrial Solid Waste Incineration Units”,
18 published at 65 Fed. Reg. 75338 (December 1, 2000);
19 and

20 (2) shall identify non-hazardous secondary mate-
21 rial 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 ex-*
5 *isting and new sources established under section 112 or 129*
6 *of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable,*
7 *can be met under actual operating conditions consistently*
8 *and concurrently with emission standards for all other air*
9 *pollutants regulated by the rule for the source category, tak-*
10 *ing into account variability in actual source performance,*
11 *source design, fuels, inputs, controls, ability to measure the*
12 *pollutant emissions, and operating conditions.*

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

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