



Legislative Bulletin.....October 4, 2011

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H.R. 2681—Cement Sector Regulatory Relief Act of 2011

H.R. 2681—Cement Sector Regulatory Relief Act of 2011 (Rep. Sullivan, R-OK)

Order of Business: The bill is scheduled to be considered on Wednesday, October 5, 2011, under a modified open rule ([H.Res.419](#)) that allows for one hour of general debate, the consideration of amendments pre-printed in the Congressional Record, and allows for one motion to recommit.

Summary: H.R. 2681 would block the implementation of three EPA proposed regulations on cement manufacturing facilities and requires the EPA Administrator to produce new rules that will be achievable for industry within 15 months of enactment. Once the EPA produces the new rules, industry would have five years to reach compliance. Specifically, the bill would block the following EPA rules:

- ◆ National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants, published at 75 Fed. Reg. 54970 (September 9, 2010).
- ◆ Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units, published at 76 Fed. Reg. 15704 (March 21, 2011).
- ◆ Identification of Non-Hazardous Secondary Materials That Are Solid Waste, published at 76 Fed. Reg. 15456 (March 21, 2011).

The bill requires the EPA administrator to propose regulations within 15 months of enactment for the Portland cement manufacturing industry and Portland cement plants that establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129 of the Clean Air Act. Additionally, the new regulation must also address hazardous secondary materials that, when used as fuels or ingredients in combustion, are considered solid waste under the Solid Waste Disposal Act to meet the emissions standards under the Clean Air Act. The bill requires the Administrator to apply the definition of “commercial and industrial solid waste incineration unit,” “commercial and industrial waste,” and “contained gaseous material,” as those adopted under a rule previously issued in 2000. The EPA must also define non-hazardous secondary material to be solid waste only if the material meets the definition of commercial and industrial waste or the material is a gas and meets the definition of a contained gaseous material.

For each regulation the EPA promulgates, H.R. 2861 requires the EPA Administrator to establish compliance standards, allow at least five years for an effective date, and take into account the following:

- ◆ the costs of achieving emissions reductions;
- ◆ any non-air quality health and environmental impact and energy requirements of the standards and requirements;
- ◆ the feasibility of implementing the standards and requirements, including the time needed to obtain necessary permit approvals and procure, install, and test control equipment;
- ◆ the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Environmental Protection Agency; and
- ◆ potential net employment impacts.

Finally, the bill requires emissions standards to be consistent with standards for all other air pollutants regulated by the rule for a source category. The administrator is also required to take into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

Additional Background: Some conservatives have expressed concerns about the cumulative effect on the utility sector of the over dozen EPA rules that have been enacted or proposed during the Obama administration. Many conservatives argue these rules will force utilities to shut down coal fired power plants, threaten the reliability of the electricity grid, raise the cost of energy on American consumers, and cost American jobs.

Portland Cement Regulations: Portland cement is a type of cement, created by grinding base materials and heating them in kilns to a high temperature. Although the cement industry is already one of the most regulated industries in the country, the EPA has proposed seven new rules on kiln emissions which would severely impact the industry. These rules, which limit emissions to levels nearly unachievable using the best known technology, would force the industry to shut down 18 plants (11% of production) and cost [\\$3.4 billion](#) over 3 years (half the industry's annual revenues), directly destroying at least [4,000 jobs](#) and the ability of American cement producers to compete with their global competitors. The rules would also result in increased costs of [\\$1.2 to \\$2 billion](#) to state and local governments for road projects.

Related Rules:

[*National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants*](#) [75 Fed. Reg. 54970 – September 09, 2011]

Groups in Support: Americans for Prosperity, Chamber of Commerce, International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, National Association of Manufacturers, National Taxpayers Union, Transportation Construction Coalition

Committee Action: The bill was introduced on July 28, 2011, and referred to the Committee on Energy and Commerce. On September 21, 2011, the full Committee held a mark-up and ordered the bill to be reported favorably by a vote of [33-12](#).

Administration Position: A statement of Administration policy is unavailable at press time.

Cost to Taxpayers: According to CBO, “enacting this legislation would have a net cost of \$1 million over the 2012-2016 period, subject to the availability of appropriated funds.”

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? Committee Report [112-227](#) states H.R. 2681 is in compliance with clause 9(e), 9(f), and 9(g) of rule XXI, and contains no earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: The Congressional Record cites the Commerce Clause, Article I, Section 8, Clause 3 (commerce) of the Constitution to enact H.R 2681.

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