.....

(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R. _____

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

M__. _____ introduced the following bill; which was referred to the Committee on _____

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cement Sector Regulatory Relief Act of 2011''.

SEC. 2. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In place of the rules specified in subsection (b), and notwithstanding the date by which such rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (in this Act referred to as the ''Administrator'') shall—

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

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

(B) identifying non-hazardous secondary materials that, when used as fuels or ingredients in combustion units of such industry and plants are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ''Resource Conservation and Recovery Act'') for purposes of determining the extent to which such combustion units are required to meet the emissions standards under section 112 of the Clean Air Act (42

U.S.C. 7412) or the emission standards under section 129 of such Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of the enactment of this Act, or on such later date as may be determined by the Administrator.

(b) STAY OF EARLIER RULES.—

(1) The following rule is of no force or effect, shall be treated as though such rule had never taken effect, and shall be replaced as described in subsection (a): ''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).

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

(A) ''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).

(B) ''Identification of Non-Hazardous Secondary Materials That are Solid Waste'', published at 76 Fed. Reg. 15456 (March 21, 2011).

SEC. 3. COMPLIANCE DATES.

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

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

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

(A) the costs of achieving emissions reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

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

(i) obtain necessary permit approvals; and

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

(D) 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

(E) potential net employment impacts.

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

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

SEC. 4. ENERGY RECOVERY AND CONSERVATION.

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

(1) shall adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' in the rule entitled ''Standards for Performance of New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'', published at 65 Fed. Reg. 75338 (December 1, 2000); and

(2) shall identify non-hazardous secondary material to be solid waste only if—

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

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

SEC. 5. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating rules under section 2(a), the

Administrator shall ensure that emissions standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section 2(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of such Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of such Act and Executive Order 13563 published at 76 Fed. Reg. 3821 (January 21, 2011).