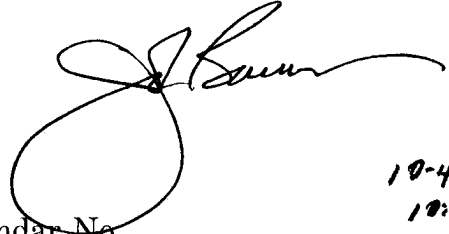


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AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: To provide additional time for the Administrator of the Environmental Protection Agency to promulgate achievable standards for cement manufacturing facilities.

IN THE SENATE OF THE UNITED STATES—112th Cong. 1st Sess.

**AMENDMENT NO. 672**

To p	By <u>Barrasso</u>	ire
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GPO: 2010 68-070 (mac)

AMENDMENT intended to be proposed by Mr. BARRASSO

Viz:

- 1 At the end, add the following:
- 2 **TITLE \_\_\_\_\_—STANDARDS FOR**
- 3 **CEMENT MANUFACTURING**
- 4 **SEC. \_\_\_\_ 01. SHORT TITLE.**
- 5 This title may be cited as the “Cement Sector Regu-
- 6 latory Relief Act of 2011”.
- 7 **SEC. \_\_\_\_ 02. LEGISLATIVE STAY.**
- 8 (a) ESTABLISHMENT OF STANDARDS.—In lieu of the
- 9 rules specified in subsection (b), and notwithstanding the
- 10 date by which those rules would otherwise be required to
- 11 be promulgated, the Administrator of the Environmental

1 Protection Agency (referred to in this title as the “Admin-  
2 istrator”) shall—

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

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

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

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

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

1 (B) such later date as may be determined  
2 by the Administrator.

3 (b) STAY OF EARLIER RULES.—

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

10 (A) of no force or effect;

11 (B) treated as though the rule had never  
12 taken effect; and

13 (C) replaced in accordance with subsection  
14 (a).

15 (2) OTHER RULES.—

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

21 (i) of no force or effect;

22 (ii) treated as though the rules had  
23 never taken effect; and

24 (iii) replaced in accordance with sub-  
25 section (a).

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

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

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

13 **SEC. \_\_\_03. COMPLIANCE DATES.**

14 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For  
15 each regulation promulgated pursuant to section \_\_02(a),  
16 the Administrator—

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

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

24 (A) the costs of achieving emission reduc-  
25 tions;

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

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

7 (i) to obtain necessary permit approv-  
8 als; and

9 (ii) to procure, install, and test con-  
10 trol equipment;

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

15 (E) potential net employment impacts.

16 (b) NEW SOURCES.—The date on which the Adminis-  
17 trator proposes a regulation pursuant to section  
18 \_\_02(a)(1) establishing an emission standard under sec-  
19 tion 112 or 129 of the Clean Air Act (42 U.S.C. 7412,  
20 7429) shall be treated as the date on which the Adminis-  
21 trator first proposes such a regulation for purposes of ap-  
22 plying—

23 (1) the definition of the term “new source”  
24 under section 112(a)(4) of that Act (42 U.S.C.  
25 7412(a)(4)); or

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

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

7           **SEC. \_\_\_ 04. ENERGY RECOVERY AND CONSERVATION.**

8           Notwithstanding any other provision of law, and to  
9           ensure the recovery and conservation of energy consistent  
10          with the Solid Waste Disposal Act (42 U.S.C. 6901 et  
11          seq.), in promulgating regulations under section \_\_02(a)  
12          addressing the subject matter of the rules specified in sec-  
13          tion \_\_02(b)(2), the Administrator shall—

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

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

1 (A) the material meets that definition of  
2 commercial and industrial waste; or

3 (B) if the material is a gas, the material  
4 meets that definition of contained gaseous ma-  
5 terial.

6 **SEC. \_\_\_ 05. OTHER PROVISIONS.**

7 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN  
8 PRACTICE.—In promulgating regulations under section  
9 \_\_\_02(a), the Administrator shall ensure, to the maximum  
10 extent practicable, that emission standards for existing  
11 and new sources established under section 112 or 129 of  
12 the Clean Air Act (42 U.S.C. 7412, 7429), as applicable,  
13 can be met under actual operating conditions consistently  
14 and concurrently with emission standards for all other air  
15 pollutants covered by regulations applicable to the source  
16 category, taking into account—

- 17 (1) variability in actual source performance;  
18 (2) source design;  
19 (3) fuels;  
20 (4) inputs;  
21 (5) controls;  
22 (6) ability to measure the pollutant emissions;  
23 and  
24 (7) operating conditions.

1           (b) REGULATORY ALTERNATIVES.—For each regula-  
2 tion promulgated under section \_\_02(a), from among the  
3 range of regulatory alternatives authorized under the  
4 Clean Air Act (42 U.S.C. 7401 et seq.), including work  
5 practice standards under section 112(h) of that Act (42  
6 U.S.C. 7412(h)), the Administrator shall impose the least  
7 burdensome, consistent with the purposes of that Act and  
8 Executive Order 13563 (76 Fed. Reg. 3821 (January 21,  
9 2011)).