

**U.S. House of Representatives, Committee on Energy and Commerce,**

**On H.R. 2681, the Cement Sector Regulatory Relief Act of 2011**

**Testimony of Dan Harrington, President and CEO, Lehigh Hanson, Inc.**

**September 8, 2011**

Thank you Mr. Chairman, my name is Dan Harrington. I serve as President and CEO of Lehigh Hanson, Inc., one of North America's largest suppliers of heavy building materials to the construction industry. Our products include cement; aggregates in the form of sand, stone and gravel; ready-mixed concrete; precast pipe and concrete; and asphalt. We have over 500 operations in 34 states and approximately 10,000 employees in the US. I presently chair the Government Affairs Council of the Portland Cement Association (PCA). The association represents more than 97 percent of US cement manufacturing capacity with nearly 100 plants in 36 states and distribution facilities in all 50. I am here today to express strong support for H.R. 2681, the "Cement Sector Regulatory Relief Act of 2011."

The current recession has been far too long and far too deep, and it has left the cement industry in its weakest economic conditions since the 1930s. Domestic demand for cement has dropped by more than 35 percent in the past four years, causing the cement industry to shed over four thousand high-wage jobs. Although 13,000 well-paying cement manufacturing jobs remain – with an average compensation of \$75,000 – there are three EPA rules in particular which could force the loss of an additional 4,000 jobs. I'm talking specifically about the National Emission Standards for Hazardous Air Pollutants rule, or NESHAP, for the Portland cement industry, the commercial and industrial solid waste incinerator (CISWI) rule, and the Agency's change in the definition of "solid waste." In addition to the regulatory uncertainties posed by these EPA rules, the broader state of the economy now presents new challenges that were not foreseeable earlier this year. These new hurdles include: volatility in the stock market and the recent downgrade of America's nearly century-old AAA credit rating.

In the face of all this economic uncertainty, the industry welcomes the introduction of H.R. 2681. This much-needed legislation will mitigate regulatory uncertainty and place these rules on a more reasonable schedule. This bill will enable the industry to continue to make capital investments in the U.S. market that will preserve jobs that serve as the anchor of dozens of American communities. It will also give industry the time to resolve its differences with EPA on rulemaking details that hopefully will result in regulations that are fair, balanced and, importantly, achievable. Moreover, it will provide the time necessary for the economy to recover to a point where the industry is able to invest in plant upgrades once again.

Earlier this year, PCA completed an analysis of the economic and environmental impacts of several final and proposed EPA rules, including those addressed by H.R. 2681. The study concluded that one rule alone, the Portland Cement NESHAP, would impose a \$3.4 billion price tag on an industry that generated only \$6.5 billion in revenues 2010. It is interesting to note that EPA did its own cost analysis, and it was also in the billions--\$2.2 billion to be exact. Unfortunately, they were wrong by a significant margin. Simply put, the multi-billion dollar investment that must be made before the compliance date of September 2013 represents more than 50 percent of the industry's total 2010 revenues.

One other important consequence of this rule is that NESHAP, as currently crafted, could force the closure of 18 out of the nearly 100 U.S. cement plants. EPA downplays the consequence of these job losses, but the realities are that these jobs will not be readily absorbed in the communities where most plants are located. The Agency also does not account for the impact of these closures outside the cement sector. Disruptions to the availability of domestic supplies will have adverse impacts on the nation's beleaguered construction sector, which is currently suffering from an unemployment rate of nearly 20 percent. As the economy hopefully rebounds, a decrease in domestic production will require an increase in imported cement to meet demand. The result will be increased costs in revitalizing the

nation's waterways, bridges, highways and tunnels which, in turn, will only place more burdens on the nation's already stressed state and municipal budgets.

Two other rules, the so-called "CISWI" and related definition of solid waste, would force an additional four plant closures and add another \$2 billion in compliance costs by 2015. Ironically, the CISWI and solid waste rules actually undermine environmental quality by creating barriers to the combustion and reuse of 12 million tons of other industries' byproducts in cement kilns, byproducts which would otherwise be land-filled. This includes the re-use of millions of used tires as a non-hazardous and high-BTU fuel—which is in direct contrast to the many years of Agency support and encouragement of the beneficial use of scrap tires as a fuel in cement kilns.

In addition to creating perverse disincentives to recycle, the EPA rules would actually worsen the global environment. By exporting emissions along with high wage jobs, the U.S. will be dependent on imports of foreign cement, as much as 56 percent of domestic needs by 2025. By shifting supply needs to countries with limited environmental protections, the U.S. will actually experience a degradation of the air quality gains provided by the Clean Air Act through transport of emissions of key pollutants. EPA knows this, but apparently and ironically ignores the significance of it.

Fortunately, a bipartisan group of lawmakers is demonstrating leadership on this vital jobs and environment issue by drafting legislation that forces EPA to redo these rules. This will create the opportunity for the issuance of reasonable and balanced regulations, and impose a five-year moratorium on compliance, thereby giving the domestic industry time to get back on its feet financially. These basic elements of the Cement Sector Regulatory Relief Act – a re-proposal of the rules, followed by an extension of the compliance deadline – provide a win-win opportunity for American workers and the nation's environment. This bipartisan bill is also consistent with the President's executive order issued earlier this year calling for reasonable regulations.

PCA views H.R. 2681 as an acknowledgement that members of Congress can work with the Administration in a collaborative manner to craft policies that balance environmental protection and economic growth. We strongly support this legislation and plan to work closely with Congress and the Administration to ensure its passage.

Thank you for this opportunity to testify. I would be happy to answer your questions.