

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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**Opening Statement of Rep. Henry A. Waxman**  
**Ranking Member, Committee on Energy and Commerce**  
**H.R. 2250, the "EPA Regulatory Relief Act of 2011," and H.R. 2681, the "Cement Sector**  
**Regulatory Relief Act of 2011"**  
**Subcommittee on Energy and Power**  
**September 8, 2011**

Cancer. Birth defects. Brain damage. We have long known that toxic air pollutants such as mercury, arsenic, dioxin, lead, and PCBs can cause these serious health effects.

So when Congress passed the Clean Air Act in 1970, we included section 112 to address the public health threat posed by hazardous air pollutants. EPA was required to regulate substances that even at low levels of exposure cause cancer, reproductive disorders, neurological effects, or other serious illnesses.

Unfortunately, over the next 20 years, it became clear that the 1970 law wasn't working. Out of the scores of known toxic air pollutants, only eight pollutants were listed as hazardous and only seven were regulated. In 1986, industry reported that more than 70% of pollution sources were using no pollution controls.

In 1990, we fixed section 112 on a bipartisan basis to deliver the public health protection the American people wanted. The new program was designed to make EPA's job simpler. Instead of requiring laborious pollutant-by-pollutant risk assessments, Congress listed 187 toxic air pollutants and directed EPA to set standards for categories of sources. The standards have to require use of the maximum achievable control technology. For existing sources, this means that the emission standard has to be at least as clean as the average emissions levels achieved by the best performing 12% of similar sources.

This approach has worked well. EPA will testify today that industrial emissions of carcinogens and other highly toxic chemicals have been reduced by 1.7 million tons each year through actions taken by more than 170 industries. EPA has reduced pollution from dozens of industrial sectors – from boat manufacturing to fabric printing, from lead smelters to pesticide manufacturing.

But a few large source categories still have not been required to control toxic air pollution due to delays and litigation. These include utilities, industrial boilers, and cement plants. EPA's efforts to finally reduce toxic air pollution from these sources are long, long overdue.

The bills we consider today would block and indefinitely delay EPA's efforts to make good on a 40-year-old promise to the American people that toxic air pollutants will be controlled. They would also rewrite the MACT standards once again, this time to weaken the protections and set up new hurdles for EPA rules.

We're told that these bills simply give EPA the time they requested to get the rules right. That's nonsense.

EPA asked the court to allow them until April 2012 to issue the boiler rules. The boiler bill nullifies the existing rules and prohibits EPA from issuing new rules before March 2013 or later, assuming enactment this year. The bill also allows an indefinite delay after that by eliminating the Clean Air Act deadlines for rulemaking and setting no new deadlines. The cement bill contains the same nullification of existing rules, prohibition on rulemaking, and indefinite delay of new rules . . . even though the cement rules are already final and in effect, and EPA never asked for additional time for those rules.

On top of these delays, the bills would delay air quality improvements for at least 5 years after any rules were issued and potentially far longer. In fact there is no limit in the bill for how long sources may have to comply. That means that infants and children in our communities will continue to be exposed to mercury and carcinogens from these facilities until 2018 or later.

And we're told that these bills provide direction and support for EPA to add flexibility and make the rules achievable. In fact, the language is ambiguous, and an argument could be made that section 5 of the bills overrides the existing criteria for setting air toxics standards. If so, those changes are dramatic. Instead of setting numeric emissions limits, EPA could be required to set only work practice standards. And EPA might be prohibited from setting a standard if it couldn't be met by every existing source, even if all of the better-performing similar sources were meeting it. At a minimum, these changes guarantee substantial additional uncertainty and litigation, which benefits only the lawyers.

Forty years ago, Congress determined that we must control toxic air pollution to protect Americans from cancer, neurological effects, and birth defects. Today, EPA is working to finally implement that directive for some of the largest uncontrolled sources of mercury and other toxic air pollution. These bills would stop those efforts, allowing Americans to continue to breathe toxics for years or decades. That would be shameful.