

Union Calendar No. 146

112TH CONGRESS
1ST SESSION

H. R. 2250

[Report No. 112-225]

To provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2011

Mr. GRIFFITH of Virginia (for himself, Mr. BUTTERFIELD, Mr. OLSON, Mr. BARROW, Mrs. McMORRIS RODGERS, Mr. ROSS of Arkansas, Mr. SCALISE, and Mr. MATHESON) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 26, 2011

Additional sponsors: Mr. KINZINGER of Illinois, Mr. HERGER, Mr. BOREN, Mr. HOLDEN, Mr. RIBBLE, Mr. MICHAUD, Mr. GIBBS, Ms. HERRERA BEUTLER, Mr. WHITFIELD, Mrs. MYRICK, Mr. CARTER, Mr. FLORES, Mr. DUFFY, Mr. BENISHEK, Mr. SOUTHERLAND, Mr. GRIFFIN of Arkansas, Mr. PLATTS, Mr. GUTHRIE, Mrs. BLACKBURN, Mr. MCINTYRE, Mr. ROE of Tennessee, Mr. SIMPSON, Mr. BOSWELL, Mr. LATTA, Mrs. ELLMERS, Mr. ROGERS of Alabama, Mr. BOUSTANY, Mr. NUNNELEE, Mr. BISHOP of Georgia, Mr. DUNCAN of South Carolina, Mr. PETRI, Mr. FLEMING, Mr. ALEXANDER, Mr. HURT, Mrs. EMERSON, Mrs. ROBY, Mr. ROKITA, Mrs. HARTZLER, Mr. JONES, Mr. THOMPSON of Mississippi, Mr. CRAVAACK, Mr. HULTGREN, Mr. OWENS, Mr. WALDEN, Mr. MCKINLEY, Mr. LANDRY, Mr. GIBSON, Mr. JOHNSON of Ohio, Mr. CARDOZA, Mr. DUNCAN of Tennessee, Mr. HUIZENGA of Michigan, Mr. DAVID SCOTT of Georgia, Mr. CASSIDY, Mr. GOWDY, Mr. PETERSON, Mr. BISHOP of Utah, Mr. FINCHER, Mr. BONNER, Mr. DESJARLAIS, Mrs. CAPITO, Mrs. NOEM, Mr. LONG, Mr. WALBERG, Mr. MILLER of Florida, Mr. SCOTT of South Carolina, Mr. KELLY, Mrs. BACHMANN, Mr. GOHMERT, Mr. WOMACK, Mr. SULLIVAN, Mr. DEFazio, Mr. SCHRADER, Mr. STIVERS, Mr. SHUSTER, Mr. MULVANEY, Mr. COBLE, Mr. CRITZ, Mr. MCHENRY, Mr. KISSELL, Mr. REHBERG, Mr. COSTA, Mr. BARTON of Texas, Ms. SE-

WELL, Mr. SHIMKUS, Mr. FORBES, Mrs. LUMMIS, Mr. LABRADOR, Mr. PERLMUTTER, Mr. BRADY of Texas, Mr. FARENTHOLD, Mr. HASTINGS of Washington, Mr. COSTELLO, Mr. BROOKS, Mr. MURPHY of Pennsylvania, Mr. GOODLATTE, Mrs. BLACK, Mr. SCHILLING, Mr. WEST, Mr. BACHUS, Mr. ADERHOLT, Mr. HALL, Mr. GOSAR, Mr. SMITH of Nebraska, Mr. POMPEO, Mr. ROSKAM, Mr. GARDNER, Mr. TIPTON, Mr. ALTMIRE, Mr. WOODALL, Mr. BUCSHON, Mr. CUELLAR, Mr. MANZULLO, Mr. FLAKE, Mr. ROONEY, Mr. FLEISCHMANN, Mr. KINGSTON, Mr. THOMPSON of Pennsylvania, Mr. DENHAM, and Mr. WITTMAN

SEPTEMBER 26, 2011

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 21, 2011]

A BILL

To provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “EPA Regulatory Relief*
5 *Act of 2011”.*

6 **SEC. 2. LEGISLATIVE STAY.**

7 *(a) ESTABLISHMENT OF STANDARDS.—In place of the*
8 *rules specified in subsection (b), and notwithstanding the*
9 *date by which such rules would otherwise be required to be*
10 *promulgated, the Administrator of the Environmental Pro-*
11 *tection Agency (in this Act referred to as the “Adminis-*
12 *trator”)* shall—

13 *(1) propose regulations for industrial, commer-*
14 *cial, and institutional boilers and process heaters,*
15 *and commercial and industrial solid waste inciner-*
16 *ator units, subject to any of the rules specified in sub-*
17 *section (b)—*

18 *(A) establishing maximum achievable con-*
19 *trol technology standards, performance stand-*
20 *ards, and other requirements under sections 112*
21 *and 129, as applicable, of the Clean Air Act (42*
22 *U.S.C. 7412, 7429); and*

23 *(B) identifying non-hazardous secondary*
24 *materials that, when used as fuels or ingredients*
25 *in combustion units of such boilers, process heat-*

1 *ers, or incinerator units are solid waste under*
2 *the Solid Waste Disposal Act (42 U.S.C. 6901 et*
3 *seq.; commonly referred to as the “Resource Con-*
4 *servation and Recovery Act”) for purposes of de-*
5 *termining the extent to which such combustion*
6 *units are required to meet the emissions stand-*
7 *ards under section 112 of the Clean Air Act (42*
8 *U.S.C. 7412) or the emission standards under*
9 *section 129 of such Act (42 U.S.C. 7429); and*
10 *(2) finalize the regulations on the date that is 15*
11 *months after the date of the enactment of this Act.*

12 *(b) STAY OF EARLIER RULES.—The following rules*
13 *are of no force or effect, shall be treated as though such rules*
14 *had never taken effect, and shall be replaced as described*
15 *in subsection (a):*

16 *(1) “National Emission Standards for Haz-*
17 *ardous Air Pollutants for Major Sources: Industrial,*
18 *Commercial, and Institutional Boilers and Process*
19 *Heaters”, published at 76 Fed. Reg. 15608 (March 21,*
20 *2011).*

21 *(2) “National Emission Standards for Haz-*
22 *ardous Air Pollutants for Area Sources: Industrial,*
23 *Commercial, and Institutional Boilers”, published at*
24 *76 Fed. Reg. 15554 (March 21, 2011).*

1 (3) “Standards of Performance for New Sta-
2 tionary Sources and Emission Guidelines for Exist-
3 ing Sources: Commercial and Industrial Solid Waste
4 Incineration Units”, published at 76 Fed. Reg. 15704
5 (March 21, 2011).

6 (4) “Identification of Non-Hazardous Secondary
7 Materials That Are Solid Waste”, published at 76
8 Fed. Reg. 15456 (March 21, 2011).

9 (c) *INAPPLICABILITY OF CERTAIN PROVISIONS.*—With
10 respect to any standard required by subsection (a) to be
11 promulgated in regulations under section 112 of the Clean
12 Air Act (42 U.S.C. 7412), the provisions of subsections
13 (g)(2) and (j) of such section 112 shall not apply prior to
14 the effective date of the standard specified in such regula-
15 tions.

16 **SEC. 3. COMPLIANCE DATES.**

17 (a) *ESTABLISHMENT OF COMPLIANCE DATES.*—For
18 each regulation promulgated pursuant to section 2, the Ad-
19 ministrator—

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

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

3 (A) *the costs of achieving emissions reduc-*
4 *tions;*

5 (B) *any non-air quality health and envi-*
6 *ronmental impact and energy requirements of*
7 *the standards and requirements;*

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

11 (i) *obtain necessary permit approvals;*

12 *and*

13 (ii) *procure, install, and test control*
14 *equipment;*

15 (D) *the availability of equipment, suppliers,*
16 *and labor, given the requirements of the regula-*
17 *tion and other proposed or finalized regulations*
18 *of the Environmental Protection Agency; and*

19 (E) *potential net employment impacts.*

20 (b) *NEW SOURCES.—The date on which the Adminis-*
21 *trator proposes a regulation pursuant to section 2(a)(1) es-*
22 *tablishing an emission standard under section 112 or 129*
23 *of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated*
24 *as the date on which the Administrator first proposes such*
25 *a regulation for purposes of applying the definition of a*

1 *new source under section 112(a)(4) of such Act (42 U.S.C.*
2 *7412(a)(4)) or the definition of a new solid waste inciner-*
3 *ation unit under section 129(g)(2) of such Act (42 U.S.C.*
4 *7429(g)(2)).*

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

9 **SEC. 4. ENERGY RECOVERY AND CONSERVATION.**

10 *Notwithstanding any other provision of law, and to*
11 *ensure the recovery and conservation of energy consistent*
12 *with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.;*
13 *commonly referred to as the “Resource Conservation and*
14 *Recovery Act”), in promulgating rules under section 2(a)*
15 *addressing the subject matter of the rules specified in para-*
16 *graphs (3) and (4) of section 2(b), the Administrator—*

17 *(1) shall adopt the definitions of the terms “com-*
18 *mercial and industrial solid waste incineration*
19 *unit”, “commercial and industrial waste”, and “con-*
20 *tained gaseous material” in the rule entitled “Stand-*
21 *ards of Performance for New Stationary Sources and*
22 *Emission Guidelines for Existing Sources: Commer-*
23 *cial and Industrial Solid Waste Incineration Units”,*
24 *published at 65 Fed. Reg. 75338 (December 1, 2000);*
25 *and*

1 (2) *shall identify non-hazardous secondary mate-*
2 *rial to be solid waste only if—*

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

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

7 **SEC. 5. OTHER PROVISIONS.**

8 (a) *ESTABLISHMENT OF STANDARDS ACHIEVABLE IN*
9 *PRACTICE.—In promulgating rules under section 2(a), the*
10 *Administrator shall ensure that emissions standards for ex-*
11 *isting and new sources established under section 112 or 129*
12 *of 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 regulated by the rule for the source category, tak-*
16 *ing into account variability in actual source performance,*
17 *source design, fuels, inputs, controls, ability to measure the*
18 *pollutant emissions, and operating conditions.*

19 (b) *REGULATORY ALTERNATIVES.—For each regula-*
20 *tion promulgated pursuant to section 2(a), from among the*
21 *range of regulatory alternatives authorized under the Clean*
22 *Air Act (42 U.S.C. 7401 et seq.) including work practice*
23 *standards under section 112(h) of such Act (42 U.S.C.*
24 *7412(h)), the Administrator shall impose the least burden-*
25 *some, consistent with the purposes of such Act and Execu-*

1 *tive Order 13563 published at 76 Fed. Reg. 3821 (January*
2 *21, 2011).*

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