

Calendar No. **201**

112TH CONGRESS
1ST SESSION

H. R. 2250

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2011

Received; read the first time

OCTOBER 18, 2011

Read the second time and placed on the calendar

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “EPA Regulatory Relief
3 Act of 2011”.

4 **SEC. 2. LEGISLATIVE STAY.**

5 (a) ESTABLISHMENT OF STANDARDS.—In place of
6 the rules specified in subsection (b), and notwithstanding
7 the date by which such rules would otherwise be required
8 to be promulgated, the Administrator of the Environ-
9 mental Protection Agency (in this Act referred to as the
10 “Administrator”) shall—

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

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

21 (B) identifying non-hazardous secondary
22 materials that, when used as fuels or ingredi-
23 ents in combustion units of such boilers, proc-
24 ess heaters, or incinerator units are solid waste
25 under the Solid Waste Disposal Act (42 U.S.C.
26 6901 et seq.; commonly referred to as the “Re-

1 source Conservation and Recovery Act”) for
2 purposes of determining the extent to which
3 such combustion units are required to meet the
4 emissions standards under section 112 of the
5 Clean Air Act (42 U.S.C. 7412) or the emission
6 standards under section 129 of such Act (42
7 U.S.C. 7429); and

8 (2) finalize the regulations on the date that is
9 15 months after the date of the enactment of this
10 Act.

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

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

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

24 (3) “Standards of Performance for New Sta-
25 tionary Sources and Emission Guidelines for Exist-

1 ing Sources: Commercial and Industrial Solid Waste
2 Incineration Units”, published at 76 Fed. Reg.
3 15704 (March 21, 2011).

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

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

14 **SEC. 3. COMPLIANCE DATES.**

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

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

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

1 (A) the costs of achieving emissions reduc-
2 tions;

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

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

9 (i) obtain necessary permit approvals;

10 and

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

13 (D) the availability of equipment, sup-
14 pliers, and labor, given the requirements of the
15 regulation and other proposed or finalized regu-
16 lations of the Environmental Protection Agency;
17 and

18 (E) potential net employment impacts.

19 (b) NEW SOURCES.—The date on which the Adminis-
20 trator proposes a regulation pursuant to section 2(a)(1)
21 establishing an emission standard under section 112 or
22 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall
23 be treated as the date on which the Administrator first
24 proposes such a regulation for purposes of applying the
25 definition of a new source under section 112(a)(4) of such

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

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

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

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

17 (1) shall adopt the definitions of the terms
18 “commercial 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
22 and Emission Guidelines for Existing Sources: Com-
23 mercial and Industrial Solid Waste Incineration
24 Units”, published at 65 Fed. Reg. 75338 (December
25 1, 2000); and

1 (2) shall identify non-hazardous secondary ma-
2 terial 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
11 existing and new sources established under section 112 or
12 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as ap-
13 plicable, can be met under actual operating conditions con-
14 sistently and concurrently with emission standards for all
15 other air pollutants regulated by the rule for the source
16 category, taking into account variability in actual source
17 performance, source design, fuels, inputs, controls, ability
18 to measure the pollutant emissions, and operating condi-
19 tions.

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

1 burdensome, consistent with the purposes of such Act and
2 Executive Order No. 13563 published at 76 Fed. Reg.
3 3821 (January 21, 2011).

Passed the House of Representatives October 13,
2011.

Attest:

KAREN L. HAAS,

Clerk.

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