



December 2011

House Republican Extenders Bill: EPA Provisions **Committee on Energy and Commerce, Democratic Staff**

Title I, Section B

Section B nullifies EPA rules that require industrial boilers and incinerators to reduce their emissions of toxic air pollutants, including mercury; threatens EPA's ability to issue replacement standards; and delays reductions in toxic air pollution from these sources until 2018 at the earliest.

The EPA Rules. Industrial boilers and waste incinerators are among the largest sources of airborne mercury pollution in the United States. Mercury is a powerful neurotoxin that damages the ability of infants and children to think and learn. Industrial boilers and incinerators also emit lead, arsenic, and other toxic metals, which can cause cancer, damage to the nervous system, and other serious health effects.

EPA issued standards to reduce hazardous air pollution from these sources more than a decade late on February 21, 2011. After listening to concerns raised by numerous stakeholders, EPA reconsidered the rules and proposed revised standards on December 2, 2011. These proposed rules would require incinerators and the largest, most polluting boilers to reduce their emissions of toxic air pollution to the levels already achieved by the best-performing facilities. Less than 1% of all boilers in the United States would have to meet these emission limits. Approximately 86% of the boilers are not covered by the rules at all; the rest would have to perform periodic tune-ups to reduce their emissions. The new rules also clarified which wastes can be burned as fuel in boilers and incinerators.

According to EPA, the pollution reductions required by the rules will yield \$12 to \$30 in health benefits for every dollar spent to meet the standards and prevent up to 8,100 premature deaths, 52,000 asthma attacks, and 5,100 heart attacks each year.

The industry reaction to EPA's new proposal has been favorable. Randy Rawson, President and CEO of the American Boiler Manufacturers Association stated: "There appears to be nothing in the EPA proposals that cannot be handled in a timely and cost-effective way by the types of existing, state-of-the-art, technologically-advanced and fuel-flexible products and equipment supplied by the U. S. boiler manufacturing industry, in combination with innovatively-engineered applications." Similarly, Joseph Seymour, Executive Director of the Biomass Thermal Energy Council stated: "We are pleased that the EPA's revised standards look to achieve major public health benefits while further adjusting the rules to meet real world boiler operating conditions."

Nullifying and Delaying the EPA Rules. Section B nullifies air toxics rules for boilers and incinerators and prohibits EPA from finalizing new standards until 15 months after enactment. This section also prohibits EPA from requiring facilities to comply with any new standards for at least an additional five years and sets no final compliance deadline, allowing for indefinite delay. Industrial boilers and incinerators will not need to reduce their emissions before 2018, at the earliest, three years later than EPA's current plan for boilers.

Undermining the Clean Air Act. Since 1990, EPA has set numeric emissions limits under section 112 of the Clean Air Act on a pollutant-by-pollutant basis for more than 100 industrial source categories. This approach has been a success, reducing emissions of carcinogens and other highly toxic chemicals by 1.7 million tons each year. Section B would effectively rewrite sections 112 (for boilers) and 129

(for incinerators) to require EPA to select the regulatory option that is least burdensome to industry, even if another option is feasible, cost-effective, and offers better public health protections. This section also abandons the proven pollutant-by-pollutant approach in favor of an untried methodology that would require EPA to make subjective decisions about whether emitting more mercury but less lead is better or worse for public health than the reverse. These statutory changes are not workable and guarantee years of litigation.