



Legislative Bulletin.....October 4, 2011

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H.R. 2250—EPA Regulatory Relief Act of 2011

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Order of Business: The bill is scheduled to be considered on Wednesday, October 5, 2011, under a modified open rule ([H.Res.419](#)) that allows for one hour of general debate, the consideration of amendments made pre-printed in the Congressional Record, and allows for one motion to recommit.

Summary: H.R. 2250 would block the implementation of four EPA proposed regulations on industrial boilers, process heaters, and incinerators and requires the EPA Administrator to produce new rules that will be achievable for industry within 15 months of enactment. Once the EPA produces the new rules, industry would have five years to reach compliance. Specifically, the bill would block the following EPA rules:

- ◆ National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters', published at 76 Fed. Reg. 15608 (March 21, 2011).
- ◆ National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers', published at 76 Fed. Reg. 15554 (March 21, 2011).
- ◆ Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units', published at 76 Fed. Reg. 15704 (March 21, 2011).
- ◆ Identification of Non-Hazardous Secondary Materials That Are Solid Waste', published at 76 Fed. Reg. 15456 (March 21, 2011).

The bill requires the EPA administrator to propose regulations, within 15 months of enactment, for industrial, commercial, and institutional boilers and process heaters, and commercial and industrial solid waste incinerator units to establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129 of the Clean Air Act. Additionally, the new regulation must also address hazardous secondary materials that, when used as fuels or ingredients in combustion, are considered solid waste under the Solid Waste Disposal Act to meet the emissions standards under section 112 or section 129 under the Clean Air Act. The bill requires the Administrator to apply the definition of “commercial and industrial solid waste incineration unit,” “commercial and industrial waste,” and “contained gaseous material,” as those adopted under a rule issued in 2000. The EPA must also define non-hazardous secondary material to be solid waste only if the material meets the definition of

commercial and industrial waste or the material is a gas and meets the definition of a contained gaseous material.

For each regulation the EPA promulgates, H.R. 2250 requires the EPA Administrator to establish compliance standards and allow at least five years for an effective date and take into account:

- ◆ the costs of achieving emissions reductions;
- ◆ any non-air quality health and environmental impact and energy requirements of the standards and requirements;
- ◆ the feasibility of implementing the standards and requirements, including the time needed to obtain necessary permit approvals and procure, install, and test control equipment;
- ◆ the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Environmental Protection Agency; and
- ◆ potential net employment impacts.

Finally, the bill requires emissions standards to be consistent with standards for all other air pollutants regulated by the rule for a source category. The administrator is also required to take into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

Additional Background: Some conservatives have expressed concerns about the cumulative effect on the utility sector of the over dozen EPA rules that have been enacted or proposed during the Obama administration. Many conservatives argue these rules will force utilities to shut down coal fired power plants, threaten the reliability of the electricity grid, raise the cost of energy on American consumers, and cost American jobs.

Boiler MACT: The EPA has finalized rules to reduce pollution from industrial boilers used at oil refineries, chemical plants, paper mills and other factories. The final rules would require costly new pollution controls, Maximum Achievable Control Technology (MACT), on large boilers and new periodic tune-ups for smaller boilers. These new rules have an [EPA estimated](#) cost of \$2.1 billion a year, which will have an immediate impact on companies' bottom lines and ability to retain workers during this period of sustained unemployment. However, outside analysts at IHS Global Insight calculated that an earlier version of the rules would have cost [\\$20 billion](#). The EPA has announced that it is delaying implementation of the final rules in order to reconsider aspects of them, and it will be promulgating updated proposed rules in October 2011.

Related Rules:

[*National Emission Standards for Hazardous Air Pollutants from Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters*](#) [76 Fed. Reg. 15608 – March 21, 2011]

[*National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers*](#) [76 Fed. Reg. 15554 – March 21, 2011]

Solid Waste Incinerators: The EPA also finalized rules setting performance standards with emissions limitations for commercial and industrial solid waste incinerators. EPA expects the rule to impact 97% of the existing incinerators (85 of 88) and cost [\\$232 million annually](#). The EPA also established a new definition of solid waste under the Resource Conservation and Recovery Act that broadens the definition to include waste used as fuel in the regulations on solid waste incinerators instead of the boiler rules they were previously regulated under. The

American Wood Council reports that the incinerator rules are three times as stringent as the boiler rules and that sawmills could be forced to pay to put their wood byproducts in a landfill and [pay for a new energy source](#) instead of burning those byproducts on site to provide their own energy.

Related Rules:

[Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units](#) [76 Fed. Reg. 15704 – March 21, 2011]

[Identification of Non-Hazardous Secondary Materials That Are Solid Waste](#) [76 Fed. Reg. 155456 – March 21, 2011]

Committee Action: The bill was introduced on June 21, 2011, and referred to the Committee on Energy and Commerce. On September 21, 2011, the full Committee held a mark-up and ordered the bill to be reported favorably by a vote of [36-14](#).

Administration Position: A statement of Administration policy is unavailable at press time.

Cost to Taxpayers: According to CBO, “enacting this legislation would have a net cost of \$1 million over the 2012-2016 period, subject to the availability of appropriated funds.” The CBO goes on to say, “the new regulations would be based on emissions limits that can be achieved in practice by facilities using available technology. At this time, EPA is uncertain how it would interpret this requirement for the new regulations and cannot say what the cost to develop the new rules would be. For this estimate, CBO assumes that rulemaking costs for the new rules would be similar to those for the prior effort (\$2 million) to issue regulations. CBO estimates that implementing and enforcing the new regulations required under H.R. 2250 would have an additional cost of about \$1 million over the 2012-2016 period.”

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? Committee Report [112-225](#) states H.R. 2250 is in compliance with clause 9(e), 9(f), and 9(g) of rule XXI, and contains no earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: The Congressional Record sites the Commerce Clause, Article I, Section 8, Clause 3 (commerce) of the Constitution to enact H.R. 2250.

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