112TH CONGRESS  
1ST Session

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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 SENATE OF THE UNITED STATES

Ms. COLLINS (for herself, Mr. WYDEN, Mr. ALEXANDER, Ms. LANDRIEU, Mr. TOOMEY, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on ________________

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.

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

SECTION 1. SHORT TITLE.

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

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SEC. 2. LEGISLATIVE STAY.

(a) Establishment of Standards.—In place of the rules specified in subsection (b), and notwithstanding the date by which such rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (in this Act referred to as the “Administrator”) shall—

(1) propose regulations for industrial, commercial, and institutional boilers and process heaters, and commercial and industrial solid waste incinerator units, subject to any of the rules specified in subsection (b)—

(A) establishing maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identifying non-hazardous secondary materials that, when used as fuels or ingredients in combustion units of such boilers, process heaters, or incinerator units are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the “Resource Conservation and Recovery Act”) for purposes of determining the extent to which such combustion units are required to meet the
emissions standards under section 112 of the Clean Air Act (42 U.S.C. 7412) or the emission standards under section 129 of such Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of the enactment of this Act, or on such later date as may be determined by the Administrator.

(b) Stay of Earlier Rules.—The following rules are of no force or effect, shall be treated as though such rules had never taken effect, and shall be replaced as described in subsection (a):


(3) “Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste


(c) Inapplicability of Certain Provisions.—

With respect to any standard required by subsection (a) to be promulgated in regulations under section 112 of the Clean Air Act (42 U.S.C. 7412), the provisions of subsections (g)(2) and (j) of such section 112 shall not apply prior to the effective date of the standard specified in such regulations.

SEC. 3. COMPLIANCE DATES.

(a) Establishment of Compliance Dates.—For each regulation promulgated pursuant to section 2, the Administrator—

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

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

(A) the costs of achieving emissions reductions;
(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

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

(i) obtain necessary permit approvals;

and

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

(D) 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

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section 2(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying the definition of a new source under section 112(a)(4) of such Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid
waste incineration unit under section 129(g)(2) of such Act (42 U.S.C. 7429(g)(2)).

(c) Rule of Construction.—Nothing in this Act shall be construed to restrict or otherwise affect the provisions of paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. 4. ENERGY RECOVERY AND CONSERVATION.

(a) In General.—Notwithstanding any other provision of law, to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the “Resource Conservation and Recovery Act of 1976”), in promulgating regulations under section 2(a) that address the subject matter of the regulations described in paragraphs (3) and (4) of section 2(b), the Administrator shall—

(1) adopt the definitions of the terms “commercial and industrial solid waste incineration unit”, “commercial and industrial waste”, and “contained gaseous material” contained in the regulation entitled “Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (65 Fed. Reg. 75338 (December 1, 2000)); and
(2) identify nonhazardous secondary material as not to be solid waste for purposes of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) if—

(A) the material—

(i) does not meet the definition of commercial and industrial waste; and

(ii) is on the list published by the Administrator under subsection (b); or

(B) in the case of the material that is a gas, the material does not meet the definition of contained gaseous material.

(b) List of Nonhazardous Secondary Materials.—

(1) In General.—Not later than 120 days after the date of enactment of this Act, the Administrator shall publish a list of nonhazardous secondary materials that are not solid waste when combusted in units designed for energy recovery, including—

(A) without limitation, all forms of biomass, including—

(i) agricultural and forest-derived biomass;

(ii) biomass crops, vines, and orchard trees;
(iii) bagasse and other crop and tree
residues, including—

(I) hulls and seeds;

(II) spent grains;

(III) byproducts of cotton;

(IV) corn and peanut production;

(V) rice milling and grain elevator operations;

(VI) cellulosic biofuels; and

(VII) byproducts of ethanol natural fermentation processes;

(iv) hogged fuel, including wood pallets, sawdust, and wood pellets;

(v) wood debris from forests and urban areas;

(vi) resinated wood and other resinated biomass-derived residuals, including trim, sanderdust, offcuts, and wood-working residuals;

(vii) creosote-treated, borate-treated, sap-stained, and other treated wood;

(viii) residuals from wastewater treatment by the manufacturing industry, including process wastewater with significant British thermal unit ("Btu") value;
(ix) paper and paper or cardboard recycling residuals, including paper-derived fuel cubes, paper fines, and paper and cardboard rejects;

(x) turpentine, turpentine derivatives, pine tar, rectified methanol, glycerine, lumber kiln condensates, and wood char;

(xi) tall oil and related soaps;

(xii) biogases or bioliquids generated from biomass materials, wastewater operations, or landfill operations;

(xiii) processed biomass derived from construction and demolition debris for the purpose of fuel production; and

(xiv) animal manure and bedding material;

(B) solid and emulsified paraffin;

(C) petroleum and chemical reaction and distillation byproducts and residues, alcohol, ink, and nonhalogenated solvents;

(D) tire-derived fuel, including factory scrap tire and related material;

(E) foundry sand processed in thermal reclamation units;
(F) coal refuse and coal combustion residuals;

(G) shredded cloth and carpet scrap;

(H) latex paint water, organic printing dyes and inks, recovered paint solids, and non-metallic paint sludges;

(I) nonchlorinated plastics;

(J) all used oil that qualifies as recycled oil under section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903);

(K) process densified fuels that contain any of the materials described in this paragraph; and

(L) any other specific or general categories of material that the Administrator determines the combustion of which is for use as a fuel pursuant to paragraph (2).

(2) ADDITIONS TO THE LIST.—

(A) IN GENERAL.—To provide greater regulatory certainty, the Administrator may, after public notice and opportunity to comment, add nonhazardous secondary materials to the list published under paragraph (1)—

(i) as the Administrator determines necessary; or
(ii) based on a petition submitted by any person.

(B) RESPONSE.—Not later than 120 days after receiving any petition under subparagraph (A)(ii), the Administrator shall respond to the petition.

(C) REQUIREMENTS.—In making a determination under this paragraph, the Administrator may decline to add a material to the list under paragraph (1) if the Administrator determines that regulation under section 112 of the Clean Air Act (42 U.S.C. 7412) would not reasonably protect public health with an ample margin of safety.

SEC. 5. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating rules under section 2(a), the Administrator shall ensure that emissions standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability
to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section 2(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of such Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of such Act and Executive Order 13563 published at 76 Fed. Reg. 3821 (January 21, 2011).