

ENVIRONS

**EPA Issues Final and Less Costly Rules for
Air Toxic Emissions From Industrial,
Commercial and Institutional Boilers**

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Breaking Developments In Environmental Law

The U.S. Environmental Protection Agency ("EPA") has released its final Clean Air Act standards for industrial, commercial and institutional boilers, and they are a substantial departure from draft rules proposed nearly a year ago. The final rules apply to approximately 200,000 boilers at large and small facilities across the country. Instead of requiring compliance with numeric standards and maximum available control technology, the new rules require primarily the use of work practice standards and routine maintenance to achieve air toxic emissions standards. This represents a significant reduction in the potential cost of compliance from the draft rules.

A September 2009 court order required the EPA to promulgate the final rules. The EPA issued draft rules in April 2010 that affected businesses felt had the potential to make the cost of compliance prohibitively expensive. In the final rules issued on February 23, 2011, the EPA backed away from the requirements in the draft rules. Instead, consistent with President Obama's recent executive order on regulatory review, the EPA focused its final rules on achieving environmental and health benefits, while also promoting the use of cost-effective techniques and flexibility for industry compliance.

The new rules are intended to reduce air toxic emissions (including mercury, soot, dioxins, organic air toxic, lead and other metals) from industrial, commercial and institutional boilers. The facilities covered by the rules include boilers at small or large sources of air emissions and solid waste incinerators. Different requirements apply to each based on criteria, such as: (1) the size of the boiler; (2) the boiler's heat input capacity; (3) the fuel burned in the boiler (i.e., natural gas, refinery gas, coal, oil or biomass); (4) whether the boiler is existing or new; and (5) whether the boiler is only put to limited use.

The most significant changes from the draft rules include: (1) not requiring certain facilities to meet numeric emission limits, instead allowing them to use a "work practice standard" for compliance; and (2) allowing certain facilities to achieve compliance by using generally available control technology, instead of the more difficult to attain maximum achievable control technology standard.

The EPA believes that the rules will provide significant health benefits, while reducing the cost of compliance by 50 percent more than the draft rules it proposed last spring. Because the final

rules differ significantly from the earlier proposed rules, the EPA will seek additional public review and comment on its final rules in the coming months. The EPA, the Department of Energy, and the Department of Agriculture will also be working to provide facilities covered by the regulations with the technical assistance they need to ensure their boilers are running cleanly and efficiently.

Further information on the final rules can be found on the [EPA's website](#).

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