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## ECCI REGULATORY ALERT NEW EPA RULES FOR BOILERS AND INDUSTRIAL HEATERS

On February 23, 2011, EPA Administrator, Lisa Jackson, signed four new regulations which establish new requirements for industrial, commercial and institutional boilers, and process heaters. The rules are interrelated and quite lengthy. Most small boilers with greater than 10 million BTU/hr. of heat input capacity that use liquid or solid fuels will have new requirements by March of 2012. Most large boilers will have to achieve compliance with new requirements by March of 2014. One of the new rules provides a new definition for solid wastes used as a fuel. New Source Performance Standards (NSPS) were also signed to establish requirements for those units.

EPA estimates 187,000 boilers at universities, hospitals, hotels, and commercial buildings may be covered by the rules. Standards for larger boilers at facilities classified as major sources for Hazardous Air Pollutants (HAPs), are expected to apply to approximately 13,800 boilers.

Because of the compressed court-ordered schedule for publication of these rules, EPA will also accept comments on the standards.

The remainder of this summary is intended to help managers and owners of facilities achieve two things:

- 1) Determine in general if and when new requirements would apply, and be able to factor those requirements into capital and operational budgetary plans; and
- 2) Determine whether resources should be assigned to prepare comments during the next 60 days to submit to EPA to influence specific requirements.

There are four attachments intended to help guide you quickly through this process. Actual compliance dates will be tied to publication of the rules in the *Federal Register*. That official publication is expected to be in mid-March.

1<sup>st</sup> Attachment: Standards for new and existing boilers at facilities which are major sources for HAPs will require careful planning to determine whether to take steps to achieve compliance with the standards within three years, or possibly modify systems instead to limit fuel choices, or be able to change to alternative fuels prior to the rule compliance date in March of 2014. New boilers will be required to comply with even stricter emission limits. New boilers are those where construction began after June 4, 2010.

2<sup>nd</sup> Attachment: New and existing small industrial, commercial, and institutional boilers >10 million BTU/hr. capacity will be regulated if they use liquid or solid fuels. These rules apply to boilers even at facilities not otherwise regulated by Clean Air Act requirements or permits. The rules establish Clean Air Act requirements for all new boilers which use liquid or solid fuels if construction started after June 4, 2010.

3<sup>rd</sup> Attachment: The new definition for which fuels are regulated as solid wastes when combusted determines whether specific combustion units are regulated under the boiler rules, or as solid waste incinerators. This new definition is based upon whether the waste-like fuels are handled as a valuable commodity, stored with containment, have a meaningful heating value, and whether emission-producing contaminants are as low as fuels for which each specific combustion unit was designed to burn.

4<sup>th</sup> Attachment: Issues for reconsideration (accepting comments for 60 days) are more easily addressed following managers and owners understanding how their combustion units are regulated under the new rules. It is critical that comments be submitted to correct or alter requirements, especially where there are flaws in the rules. The rules were published under a strict court-ordered deadline, and such fast regulation development processes often contain errors, or even sometimes unachievable requirements.

We have not included an executive summary for the NSPS rules which will apply to solid waste incinerators, as now redefined under the Solid Waste Act (see attachment 3), because EPA estimates there are only 88 facilities which will be regulated by these standards.

We have prepared these executive summaries very quickly to allow managers and owners to evaluate capital and operational cost impacts, and to assess whether to submit comments during the very short 60-day reconsideration period.

Each regulated facility will need to assess the choices available to attain compliance. or alter processes or fuel use to be able to continue to use existing combustion units without additional air pollution controls, monitoring, or testing. If needed, please contact your ECCI professional to obtain clarification for your equipment, or contact R. Stan Jorgensen, ECCI's President at (501) 975-8100, or [sjorgensen@eccci.com](mailto:sjorgensen@eccci.com)