

RELIEF FROM NEW SOURCE PERFORMANCE STANDARDS
ACT OF 2017

JANUARY 10, 2018.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. WALDEN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 453]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 453) to deem the Step 2 compliance date for standards of performance for new residential wood heaters, new residential hydronic heaters, and forced-air furnaces to be May 15, 2023, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 453, Relief from New Source Performance Standards Act of 2017, was introduced by Representative Collin Peterson (D–MN) on January 11, 2017.

BACKGROUND AND NEED FOR LEGISLATION

On March 16, 2015, the Environmental Protection Agency (EPA) finalized its Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, which uses a two phase framework to reduce emissions.¹ The first phase of this rule took effect in 2015 and has reduced emissions by up to 90 percent with minimal economic interruption. However, the second phase of this rule, ordered to take effect in 2020, is proving to be much more burdensome for manufactures to implement. Manufacturers, most of which are small businesses, are having great difficulty designing compliant models in the short timeframe allowed by the EPA. As a result, some companies have already laid off workers, and others fear they will not be able to stay in business after 2020. Wood heater users, many of which are low-income households, face the likelihood of more expensive wood heaters and reduced product choice if the second phase is implemented as scheduled. To provide more flexibility to manufactures and to reduce the potential cost burden on wood heater users, H.R. 453 extends by three years the deadlines for the second phase of New Source Performance Standards (NSPS) for new residential wood heaters.

COMMITTEE ACTION

On September 13, 2017, the Subcommittee on Environment held a hearing on H.R. 453. The Subcommittee received testimony from:

- Ryan Parker, President and CEO, Endicott Clay Products;
- Vincent Brisini, Director of Environmental Affairs, Olympus Power, LLC, *on behalf of* Anthracite Region Independent Power Producers Association (ARIPPA);
- Frank Moore, President, Hardy Manufacturing Company, Inc.;
- Steve Page, President and General Manager, Sonoma Raceway;
- Alexandra E. Teitz, Principal, AT Strategies, LLC, *on behalf of* Sierra Club; and
- Rebecca Bascom, Professor, Penn State College of Medicine, *on behalf of* American Thoracic Society.

On November 15, 2017, the Subcommittee on Environment met in open markup session and forwarded H.R. 453, without amendment, to the full Committee by a record vote of 12 yeas and 10 nays. On December 6, 2017, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 453, without amendment, favorably reported to the House by a record vote of 32 yeas and 21 nays.

¹ See *Final Rule*, 80 FR 13671

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE -- 115TH CONGRESS
ROLL CALL VOTE # 61**

BILL: H.R. 453, Relief from New Source Performance Standards Act of 2017

AMENDMENT: A motion by Mr. Walden to order H.R. 453 favorably reported to the House, without amendment.
(Final Passage)

DISPOSITION: AGREED TO, by a roll call vote of 32 yeas and 21 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Walden	X			Mr. Pallone		X	
Mr. Barton	X			Mr. Rush		X	
Mr. Upton	X			Ms. Eshoo		X	
Mr. Shimkus	X			Mr. Engel		X	
Mr. Burgess	X			Mr. Green		X	
Mrs. Blackburn	X			Ms. DeGette		X	
Mr. Scalise	X			Mr. Doyle		X	
Mr. Latta	X			Ms. Schakowsky		X	
Mrs. McMorris Rodgers	X			Mr. Butterfield		X	
Mr. Harper	X			Ms. Matsui		X	
Mr. Lance	X			Ms. Castor		X	
Mr. Guthrie	X			Mr. Sarbanes		X	
Mr. Olson	X			Mr. McNerney		X	
Mr. McKinley	X			Mr. Welch		X	
Mr. Kinzinger	X			Mr. Lujan		X	
Mr. Griffith	X			Mr. Tonko		X	
Mr. Bilirakis	X			Ms. Clarke		X	
Mr. Johnson	X			Mr. Loeb sack	X		
Mr. Long	X			Mr. Schrader	X		
Mr. Bucshon	X			Mr. Kennedy			
Mr. Flores	X			Mr. Cardenas		X	
Mrs. Brooks	X			Mr. Ruiz		X	
Mr. Mullin	X			Mr. Peters		X	
Mr. Hudson	X			Ms. Dingell		X	
Mr. Collins	X						
Mr. Cramer	X						
Mr. Walberg	X						
Mrs. Walters	X						
Mr. Costello	X						
Mr. Carter							
Mr. Duncan	X						

12/06/2017

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 453 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 21, 2017.

Hon. GREG WALDEN,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 453, the Relief from New Source Performance Standards Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 453—Relief from New Source Performance Standards Act of 2017

H.R. 453 would delay the requirement for compliance with the Environmental Protection Agency's (EPA's) performance standards for new residential wood heaters, hydronic heaters, and forced-air furnaces from 2020 until 2023. The EPA finalized the new regulations, which primarily affect manufacturers of those heating devices, in 2015.

Using information from the EPA about its current activities related to implementing the regulations, CBO estimates that enacting the legislation would not have a significant net effect on the agency's workload or spending. CBO expects that extending the date would result in more resources being spent on assistance with compliance than on enforcement.

Enacting H.R. 453 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 453 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 453 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to extend by three years the deadlines for the second phase of New Source Performance Standards (NSPS) for new residential wood heaters.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 453 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 453 contains no earmarks, limited tax benefits, or limited tariff benefits.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the Committee finds that the following directed rule makings are contained in H.R. 453:

Section 2(b): Not later than 60 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall make such technical and conforming changes to rules and guidance documents as may be necessary to implement the Step 2 compliance date of May 15, 2023 (as such term is used in the final rule entitled “Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces” published at 80 Fed. Reg. 13672 (March 16, 2015)).

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited as the “Relief from New Source Performance Standards Act of 2017”.

Section 2. Step 2 compliance date for standards of performance for new residential wood heaters, new residential hydronic heaters, and force-air furnaces

Section 2(a) extends the deadlines for the second phase of New Source Performance Standards (NSPS) to May 15, 2023, for new residential wood heaters, new residential hydronic heaters, and new residential forced-air furnaces.

Section 2(b) directs the Administrator of the Environmental Protection Agency to make technical and conforming changes to rules and guidance documents as necessary to implement subsection (a) not later than 60 days after the date of enactment of this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

DISSENTING VIEWS

H.R. 453 delays implementation of the Step 2 emissions standards for three categories of new wood-fueled heaters: residential wood stoves, hydronic heaters, and forced-air furnaces. The current Step 2 compliance date for these appliances is 2020, which the bill extends until May 15, 2023. No delay of these new standards is justified, and any delay will result in a significant cost to the public's health. Wood heaters are long-lived appliances; once installed, they operate for 25 years or more. So, any delay of the standards translates into more decades of added pollution and adverse health effects.

During winter months in regions of the country where wood fuel is used predominantly, the majority of particulate matter comes from wood heaters. Because the emissions are released close to ground level at their homes, there is insufficient dispersion of particle pollution, resulting in significant human exposure. Wood smoke from these appliances contains considerable amounts of fine particle pollution and carbon monoxide, as well as benzene, formaldehyde, and other toxic pollutants, all of which are harmful to public health. Wood heater pollution is associated with irritation of the eyes and the respiratory system, increased asthma attacks, aggravation of heart or respiratory conditions, changes in lung function and premature death.¹

The federal emissions standards for wood stoves have not been updated since they were first established in 1988, nearly 30 years ago. In March 2015, the Environmental Protection Agency (EPA) finalized the wood heaters rule update in response to a 2005 petition from seven states and the Northeast States for Coordinated Air Use Management (NESCAUM). In their petition, the parties requested that EPA list outdoor wood boilers as a category of stationary sources and promulgate standards of performance for these appliances under section 111 of the Clean Air Act.² The 2015 rule strengthened the standards for residential wood stoves, and also established the first standards for products that came onto the market since the 1988 rule, including hydronic heaters, forced-air furnaces, and masonry heaters. These performance standards were set based on existing technology representing the “best system of emissions reduction” currently available in the industry. EPA’s

¹Environmental Protection Agency, *Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces*, 80 Fed. Reg. 13672 (Mar. 16, 2015) (Final Rule).

²Petitions from the states of New York, Connecticut, Maryland, Massachusetts, Michigan, New Jersey and Vermont, and the Northeast States for Coordinated Air Use Management (NESCAUM) to the U.S. Environmental Protection Agency for a rulemaking under 42 U.S.C. §7411(b)(1) Regarding Outdoor Wood Boilers (Aug. 11, 2005).

2015 rule does not affect existing appliances or require anyone to replace their current stove or heater with a new appliance.³

Manufacturers of outdoor wood boilers have been aware of pollution problems associated with their appliances since the late 1990s. Outdoor wood heater installation expanded during that time in response to higher prices for conventional heating fuels. The number of nuisance complaints from neighbors downwind of those who installed these appliances increased along with the number of installations of these heating appliances.

New York State issued a report in 2005 documenting the pollution and health problems associated with outdoor wood heaters. It found these appliances emitted far higher particle pollution than that produced by conventional wood stoves. And, the report found outdoor wood heaters to emit 1000 times more particle pollution than oil furnaces and 1800 times more than gas furnaces.⁴ As the numbers of complaints continued to grow, local communities adopted ordinances to regulate, restrict, and in some cases prohibit the installation and operation of these devices.

EPA initiated a voluntary partnership program with manufacturers of hydronic heaters (e.g. outdoor wood heaters) in 2007, and then took an additional seven years before issuing proposed standards for wood heaters as required under the Clean Air Act. During that period the emission performance of these appliances improved substantially. In fact, there are currently models in each category, other than masonry heaters, that already meet the Step 2 standards EPA finalized in 2015.

The additional three year delay proposed in this bill serves only to punish companies that invested in research and development of cleaner, more efficient appliances. For example, Lamppa Manufacturing, a small Minnesota manufacturer, received certification of its wood furnace for the Step 2 standards. In fact, the Lamppa furnace exceeds the Step 2 emissions standard by 40 percent.⁵ Seeing these developments as an opportunity to gain additional market share, Lamppa is planning to expand production.

Wood heaters that meet the new emission standards will also be more efficient, providing more heat per unit of wood burned. Once in place, the greatest on-going expense for these appliances is the fuel cost, an important consideration for low-income households in the decision about whether to make the significant investment required to purchase and install these systems. Delaying improvements to these appliances will translate into decades of unnecessary, additional fuel expenditures for families that are least able to afford higher fuel costs, undermining the primary benefit of investing in a wood heating system.

Manufacturers have until 2020 to produce wood heating devices that meet the Step 2 standards. Contrary to industry claims, EPA reports there are sufficient numbers of independent laboratories

³Environmental Protection Agency, *Overview of Final Updates to Air Emissions Requirements for New Residential Wood Heaters* (Mar. 16, 2015) (www.epa.gov/sites/production/files/2015-02/documents/20150204fs-overview.pdf).

⁴New York State Office of the Attorney General, Environmental Protection Bureau, *Smoke Gets in Your Lungs: Outdoor Wood Boilers in New York State* (Aug. 2005).

⁵*Iron Range wood-furnace factory needs room to grow*, The Duluth News Tribune (Sept. 17, 2017) (www.duluthnewtribune.com/news/4329352-iron-range-wood-furnace-factory-needs-room-grow); *Poised for growth: Lamppa Manufacturing achieves highest certification*, The Timberjay (Aug. 23, 2017) (www.timberjay.com/stories/poised-for-growth,13580).

that can certify compliant wood heating appliances. Assertions of a testing “backlog” at these laboratories have also been rejected.⁶

The industry has been aware of the need to innovate and produce cleaner, more efficient products for at least 15 years. No further delay is necessary. H.R. 453 punishes innovative manufacturers, undermines consumers’ fuel economy benefits, and jeopardizes public health.

For the reasons stated above, we dissent from the views contained in the Committee’s report.

FRANK PALLONE, JR.

Ranking Member.

PAUL D. TONKO

Ranking Member, Subcommittee on Environment.

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⁶Letter from OMNI-Test Laboratories, Inc. to the Environmental Protection Agency regarding test lab capacity and future backlogs impacting wood heaters (Nov. 14, 2017).