

Environmental Quality Board  
P. O. Box 8477  
Harrisburg, PA 17105-8477

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2009 DEC 14 PM 4:00

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Or

express mail:  
Rachel Carson State Office Building 16th Floor  
400 Market Street  
Harrisburg, PA 17101-2301

INDEPENDENT REGULATORY  
COMMISSION

NOV 30 2009

ENVIRONMENTAL QUALITY BOARD

Or

Email: [RegComments@state.pa.us](mailto:RegComments@state.pa.us).

Dear Environmental Quality Board,

I have chosen to heat my home with an outdoor wood furnace for a number of good reasons:

- With the ever changing price of home heating oil, natural gas and LPG, heating with wood is an economical option – an owner that heats with wood in an outdoor furnace can save thousands of dollars a year on home, farm and small business heating costs.
- Heating with wood is consistent with the independent practices of Americans from as far back as colonial times.
- Heating with an outdoor wood furnace eliminates the risks of fires and carbon monoxide poisoning associated with an indoor heating system because the appliance is located outside. Every year literally thousands of homes are damaged or destroyed by fires caused by indoor heating devices.
- Heating with wood results in no net increase in global warming gas emissions. Heating with oil, coal and natural gas is a significant source of global warming gas emissions.

The proposed regulation for “outdoor wood-fired boilers” has the potential to impact my ability to continue utilizing my existing appliance. I am strongly opposed to:

- Excessive chimney height requirements for existing and new furnace installations that are not based upon science.
  - Excessive chimney height requirements are costly (parts and height determination), time consuming and may prevent a large number of owners from being able to comply.
- Seasonal prohibition between May 1 and September 30. A statewide seasonal restriction for rural owners, people with their own wood lots, farming operations, greenhouse operations is unreasonable.
- Opacity requirements for residential sized appliances because opacity is a subjective visual observation.

While it is foreseeable that furnace owners creating verifiable nuisances need to increase their chimney to alleviate complaints, it is unreasonable for the Pa DEP to retroactively impose restrictions (with the exception of proper fuel use) on my existing outdoor wood furnace. My appliance was purchased, installed, and operated in good faith prior to the drafting of the regulation.

I am opposed to the excessive and retroactive requirements of the proposed regulation. If passed as currently written, I believe that the regulation will adversely impact my rights and the rights of existing outdoor wood furnace owners that use these appliances in a responsible manner. I am supportive of a state law requiring existing furnace owners to have to comply with proper fuel use requirements and for regulations regarding new installations to be reasonable.

Sincerely,



Date: 11-25-09

## IMMEDIATE ACTION REQUIRED!

Dear Outdoor Wood Furnace Owner,

The Pennsylvania Department of Environmental Protection (DEP) is proposing a rule for "outdoor wood-fired boilers." This draft, as currently written, has the potential to significantly impact your ability to continue utilizing your existing appliance in the following ways:

### Proposed chimney height requirements for existing and new installations are excessive and retroactive.

- "Extend at least two feet *above the highest peak of the highest residence located within 500 feet* of the outdoor wood-fired boiler" if you have an existing appliance that does not meet the proposed emission limit.
  - This requirement may be impossible for some owners to comply with and will essentially ban the operation of their appliance. It will also be costly and time consuming to determine this requirement.
- Even if you meet the proposed emission limit, your chimney must "extend at least two feet above the highest peak of the highest residence located within 150 feet of the outdoor wood-fired boiler."
- The Pa DEP is proposing that ALL existing furnace owners comply with requirements that DID NOT exist when they purchased these appliances.

### The seasonal prohibition under consideration is unreasonable for rural properties, etc.

- The Environmental Quality Board is requesting comments on whether a final regulation should include a seasonal prohibition on outdoor furnace operation between May 1 and September 30.
  - Even furnace owners who heat very rural homes and businesses, farming operations, greenhouse operations, and people who live on their own large wood lots may have to meet these excessive seasonal prohibition requirements unless it is contested.

### The proposed opacity limit should not be applicable to residential emission sources:

- Opacity is a subjective visual observation. Opacity was designed for large industrial emission sources. Many factors can make an opacity observation virtually impossible to conduct even for certified observers.

The Pennsylvania DEP needs to recognize the economic value that your existing outdoor wood furnace provides to you and your family. It is critical that you take the time to inform your legislators that you need their support to preserve your rights. It is foreseeable that furnace owners creating verifiable nuisances need to increase their chimney to alleviate complaints. It is not reasonable for the state to retroactively impose restrictions (with the exception of proper fuel use) on existing appliances that were purchased and installed when no statewide regulations existed. If existing furnace owners act together in a united front, the regulations could be changed to allow you the right to continue to safely and economically heat your home without being subjected to unreasonable requirements.

Information on how to identify your legislator can be found here: <http://www.legis.state.pa.us/cfdocs/legis/home/find.cfm> or by contacting the Pennsylvania General Assembly at 800-868-7672 and requesting this information.

The EQB is accepting written or electronic (email) comments on the proposed rule no later than January 4, 2010. Please contact David McDonald or Chris Williams at Central Boiler if you have questions.

Sincerely,  
Central Boiler, Inc.

Enclosures: 4

## **HOW, WHERE AND WHEN TO SUBMIT COMMENTS**

*Written Comment* - Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301).

Comments submitted by facsimile will not be accepted. **Comments, suggestions or objections must be received by the Board by January 4, 2010.** Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by January 4, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which time the final regulation will be considered.

*Electronic Comment* - Comments may be submitted electronically to the Board at [RegComments@state.pa.us](mailto:RegComments@state.pa.us) and must also be received by the Board by January 4, 2010. A subject heading of the proposal and a return name and address must be included in each transmission. If the sender does not receive an acknowledgement of electronic comments within 2 working days, the comments should be retransmitted to the Board to ensure receipt.

### *Public Hearings:*

The Board will hold four public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held as follows:

Department of Environmental Protection  
Rachel Carson State Office Building  
Conference Room 105  
400 Market Street  
Harrisburg, PA 17101  
**November 30, 2009 1 p.m.**

Department of Environmental Protection  
Northeast Regional Office  
Susquehanna Conference Rooms  
A and B  
2 Public Square  
Wilkes-Barre, PA 18711-0790  
**December 1, 2009 1 p.m.**

Cranberry Township Municipal Building  
2525 Rochester Road  
Cranberry Township, PA 16066-6499  
**December 2, 2009 1 p.m.**

Department of Environmental Protection  
Northcentral Regional Office  
Goddard Conference Room  
208 West Third Street, Suite 101  
Williamsport, PA 17701-6448  
**December 3, 2009 1 p.m.**

**Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.**

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board may accommodate their needs.

# PROPOSED REGULATIONS

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE III. AIR RESOURCES

#### CHAPTER 121. GENERAL PROVISIONS

##### § 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

*Btu—British thermal unit*—The amount of thermal energy necessary to raise the temperature of 1 pound of pure liquid water by 1° F at the temperature at which water has its greatest density (39° F).

*Clean wood*—The term includes the following:

(i) Wood that contains no paint, stains or other types of coatings.

(ii) Wood that has not been treated with preservatives, including copper chromium arsenate, creosote, pentachlorophenol or the like.

*Outdoor wood-fired boiler*—

(i) A fuel-burning device that:

(A) Is designed to burn, or is capable of burning, clean wood or other fuels listed under § 123.14(f) (relating to outdoor wood-fired boilers).

(B) The manufacturer specifies for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals, including structures like garages and sheds.

(C) Heats building space or fluid, or both, through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

(ii) The fuel-burning device may also be known as:

(A) Outdoor wood-fired furnace.

(B) Outdoor wood-burning appliance.

(C) Outdoor hydronic heater.

(D) Outdoor water stove.

**Phase 2 outdoor wood-fired boiler**—An outdoor wood-fired boiler that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million Btu output and is labeled accordingly.

## CHAPTER 123. STANDARDS FOR CONTAMINANTS

### PARTICULATE MATTER EMISSIONS

*(Editor's Note: Section 123.14 is new and printed in regular type to enhance readability.)*

#### § 123.14. Outdoor wood-fired boilers.

(a) *Applicability.*

(1) Beginning on \_\_\_\_\_ *(Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.)* this section applies to the following:

(i) A person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes an outdoor wood-fired boiler for use in this Commonwealth.

(ii) A person who installs an outdoor wood-fired boiler in this Commonwealth.

(iii) A person who purchases, receives, leases, owns, uses or operates an outdoor wood-fired boiler in this Commonwealth.

(2) This section does not apply to a person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes in this Commonwealth an outdoor wood-fired boiler that does not comply with the Phase 2 outdoor wood-fired boiler particulate matter standards if the person, manufacturer, supplier or distributor demonstrates both of the following:

(i) The outdoor wood-fired boiler is intended for shipment and use outside of this Commonwealth.

(ii) The person, manufacturer, supplier or distributor has taken reasonably prudent precautions to ensure that the outdoor wood-fired boiler is not distributed to or within this Commonwealth.

(b) *Phase 2 outdoor wood-fired boiler.*

(1) A person may not sell, offer for sale, distribute or install an outdoor wood-fired boiler for use in this Commonwealth unless it is a Phase 2 outdoor wood-fired boiler.

(2) A person may not purchase, lease or receive an outdoor wood-fired boiler for use in this Commonwealth unless it is a Phase 2 outdoor wood-fired boiler.

(c) *Setback requirements for Phase 2 outdoor wood-fired boilers.* A person may not install a Phase 2 outdoor wood-fired boiler in this Commonwealth unless the boiler is installed a minimum of 150 feet from the nearest property line.

(d) *Stack height requirements for Phase 2 outdoor wood-fired boilers.* A person may not install, use or operate a Phase 2 outdoor wood-fired boiler in this Commonwealth unless the boiler has a permanently attached stack. The stack must meet both of the following height requirements:

(1) Extend a minimum of 10 feet above the ground.

(2) Extend at least two feet above the highest peak of the highest residence located within 150 feet of the outdoor wood-fired boiler.

(e) *Stack height requirements for existing outdoor wood-fired boilers.* A person may not use or operate an outdoor wood-fired boiler that was installed before \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*) unless the boiler has a permanently attached stack.

(1) The stack must meet both of the following height requirements:

(i) Extend a minimum of 10 feet above the ground.

(ii) Extend at least 2 feet above the highest peak of the highest residence located within 500 feet of the outdoor wood-fired boiler.

(2) If the existing outdoor wood-fired boiler is a Phase 2 outdoor wood-fired boiler, subsection (d) applies.

(f) *Allowed fuels.* A person that owns, leases, uses or operates a new or existing outdoor wood-fired boiler in this Commonwealth shall use only one or more of the following fuels:

(1) Clean wood.

(2) Wood pellets made from clean wood.

(3) Home heating oil, natural gas or propane that:

(i) Complies with all applicable sulfur limits.

(ii) Is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boilers.

(4) Other fuel approved in writing by the Department.

(g) *Prohibited fuels.* A person who owns, leases, uses or operates an outdoor wood-fired boiler in this Commonwealth may not burn a fuel or material in that outdoor wood-fired boiler other than those fuels listed under subsection (f).

(h) *Regulatory requirements.* A person may not use or operate an outdoor wood-fired boiler in this Commonwealth unless it complies with all applicable Commonwealth regulations and statutes including the following:

(1) Section 121.7 (relating to prohibition of air pollution).

(2) Section 123.1 (relating to prohibition of certain fugitive emissions).

(3) Section 123.31 (relating to limitations).

(4) Section 123.41 (relating to limitations).

(5) Section 8 of the act (35 P. S. § 4008) regarding unlawful conduct.

(6) Section 13 of the act (35 P. S. § 4013) regarding public nuisances.

(i) *Written notice.*

(1) Prior to the execution of a sale or lease for a new or used outdoor wood-fired boiler, the distributor, seller or lessor shall provide the prospective buyer or lessee with a copy of this section and a written notice that includes the following:

(i) An acknowledgement that the buyer was provided with a copy of this section.

(ii) A written list of the fuels allowed under subsection (f).

(iii) A written statement that a person who owns, leases, uses or operates an outdoor wood-fired boiler in this Commonwealth may not burn a fuel or material in that outdoor wood-fired boiler other than those fuels listed under subsection (f).

(iv) A written statement that even if the requirements set forth in this section are met, the installation and operation of the outdoor wood-fired boiler may be subject to other applicable Commonwealth regulations and statutes including the regulations and statutes listed under subsection (h).

(v) A written statement that even if the requirements set forth in this section are met, the installation and operation of the outdoor wood-fired boiler may be subject to local regulations or local stack height or setback requirements that will further limit or prohibit the use of the purchased or leased outdoor wood-fired boiler.

(vi) A written statement that the stack height and setback requirements provided under this section may not be adequate in some areas of this Commonwealth due to terrain that could render the operation of the outdoor wood-fired boiler a nuisance or public health hazard.

(2) The written notice must be signed and dated by the buyer or lessee and the distributor, seller or lessor when the sale or lease of the outdoor wood-fired boiler is completed. The written notice must include the following:

(i) The name, address and telephone number of the buyer or lessee.

(ii) The name, address and telephone number of the distributor, seller or lessor.

(iii) The location where the outdoor wood-fired boiler will be installed.

(iv) The make, model name or number and date of manufacture of the outdoor wood-fired boiler.

(j) *Recordkeeping requirements.* The distributor, seller or lessor shall keep the records required under subsection (i) onsite for 5 years and provide the records to the Department upon request.