

# Executive Summary

## Amendments to 25 Pa. Code Chapters 121 and 123

### Outdoor Wood-Fired Boilers

#### **Purpose of the Final-Form Rulemaking**

The Department of Environmental Protection recommends final amendments to Chapters 121 and 123 (relating to general provisions; and standards for contaminants) for consideration by the Environmental Quality Board (Board) for the purpose of limiting the emissions of fine particulate matter (PM<sub>2.5</sub>) from the use and operation of outdoor wood-fired boilers (OWBs).

The final-form amendments add requirements under new § 123.14 (relating to outdoor wood-fired boilers) for a person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes an OWB for use in this Commonwealth and for a person who installs, purchases, receives, leases, owns, uses or operates an OWB in this Commonwealth.

There are no Federal limits for OWBs that are proposed for regulation. The additional particulate matter (PM) emission reductions that will occur as a result of the adoption of these amendments are reasonably necessary as part of this Commonwealth's efforts to attain and maintain the 1997 and 2006 health-based 24-hour National Ambient Air Quality Standard for fine particulates. The final-form rulemaking, if adopted as final-form regulation, will be submitted to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan.

#### **Summary of the Final-Form Rulemaking**

The final-form rulemaking amends § 121.1 (relating to definitions) to add six new terms and definitions.

Final-form § 123.14(a) establishes that beginning on the effective date of adoption of this final-form rulemaking, the requirements of § 123.14 apply to a person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes an OWB for use in this Commonwealth or a person who installs, purchases, receives, leases, owns, uses or operates an OWB in this Commonwealth.

Final-form § 123.14(b)(1) establishes that this section does not apply to a person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes in this Commonwealth a non-Phase 2 OWB if the person, manufacturer, supplier or distributor demonstrates that the non-Phase 2 OWB is intended for shipment and use outside of this Commonwealth.

Final-form § 123.14(b)(2) establishes that subsections (c), (d) and (e) do not apply to a permanently installed OWB that was installed prior to the effective date of adoption of this final-form rulemaking and is transferred to a new owner as a result of a real estate transaction.

Final-form § 123.14(b)(3) establishes that a person may not sell, offer for sale, distribute or lease a non-Phase 2 OWB in this Commonwealth unless the OWB was manufactured, distributed, purchased or leased and received in this Commonwealth before May 31, 2011. A non-Phase 2 OWB purchased during the sell-through period shall be installed a minimum of 150 feet from the nearest property line, with a permanently attached stack that extends a minimum of 10 feet above the ground and is installed according to the manufacturer's specifications.

Final-form § 123.14(c) establishes that, except as provided in § 123.14(b), a person may not sell, offer for sale, distribute, install, purchase, lease or receive an OWB for use in this Commonwealth unless it is a Phase 2 OWB.

Final-form § 123.14(d) establishes that a person may not install a new Phase 2 OWB unless the boiler is installed a minimum of 50 feet from the nearest property line.

Final-form § 123.14(e) establishes that a person may not install, use or operate a new Phase 2 OWB unless the boiler has a permanently attached stack that extends a minimum of 10 feet above the ground and is installed according to the manufacturer's specifications.

Final-form § 123.14(f) establishes that a person that owns, leases, uses or operates a new or existing OWB in this Commonwealth shall use only certain fuels in that OWB.

Final-form § 123.14(g) establishes that a person who owns, leases, uses or operates an OWB in this Commonwealth may not burn a fuel or material in that OWB other than those fuels listed under § 123.14(f).

Final-form § 123.14(h) establishes that a person may not use or operate an OWB in this Commonwealth unless it complies with all applicable Commonwealth, county and local laws and regulations.

### **Affected Parties**

The final amendments would affect manufacturers, suppliers, distributors, sellers, receivers, lessors, lessees, owners and operators of OWBs.

### **Advisory Groups**

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) about the final-form rulemaking on April 29, 2010. The AQTAC unanimously concurred with the Department's recommendation to seek Board approval of the final-form rulemaking, with the following concerns:

- All OWBs should have a minimum stack height of 10 feet.
- New Phase 2 OWBs should be set back 150 feet from the nearest occupied structure not within the property boundaries.
- Non-Phase 2 OWBs not used as the sole source of heat or hot water should not be operated after May 15 of each year or before September 30 of each year.

- Each year, retailers of OWBs should report to the Department the model of OWBs sold and the zip code of the buyers.
- The Department should consider a buy-back program for non-Phase 2 OWBs.

The Department consulted with the Small Business Compliance Advisory Committee (SBCAC) about the final-form rulemaking on April 28, 2010. The SBCAC unanimously concurred with the Department's recommendation to seek Board approval of the final-form rulemaking, with the following recommendations:

- The written notice and recordkeeping provisions of the proposed subsections 123.14(i) and (j) should be reinstated in the final-form rulemaking.
- SBCAC supports providing grant monies for the purchase and installation of Phase 2 OWBs to replace non-Phase 2 OWBs.

The Department also consulted with the Agricultural Advisory Board on April 21, 2010, and the Citizens Advisory Council on March 16, 2010, and May 6, 2010.

### **Public Comments and Board Hearings**

The proposed OWB rulemaking was approved by the Environmental Quality Board at its meeting on September 15, 2009, for publication for public comment. The public comment period opened October 17, 2009, and closed on February 12, 2010, for a 119-day public comment period. Public hearings were held in five locations, including Harrisburg on November 30, 2009; Wilkes-Barre on December 1, 2009; Cranberry Township on December 2, 2009; Williamsport on December 3, 2009; and Coudersport on January 13, 2010 (39 PaB 6068, October 17, 2009; and 39 PaB 7012, December 12, 2009). The Board received comments from over 2,000 commentators during the public comment period.