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Senate of Pennsylvania

December 3, 2009

Thank you for the opportunity to comment on the proposed rules relating to outdoor wood-fired boilers.

I represent the 23rd Senatorial District. The demographics of this district are very important when considering the proposed rules, their necessity and their impact. The 23rd Senatorial District consists of all or part of five counties, all of Lycoming, Bradford and Sullivan, the eastern half of Union and the western half of Susquehanna counties. Those counties are made up of over 4000 square miles. The population density in these counties is very interesting: Union County--131 persons per square mile; Lycoming County--97 persons per square mile; Bradford County--54 persons per square mile; Susquehanna County--51 persons per square mile and Sullivan County--15 persons per square mile.¹ Needless to say, the district has significant open space and is quite rural.

It is informative to note that justification for the OWB regulations is based on the fact that several counties have been designated "nonattainment" for the 1997 fine particulate standards issued by the National Ambient Air Quality Standards. Those counties are: Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Greene, Indiana, Lancaster, Lawrence, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York.

The NAAQS Standards were revised in 2006, and on December 18, 2008, all or parts of the following counties were designated by EPA as nonattainment: Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Cambria, Chester, Northumberland, Dauphin, Delaware, Greene, Indiana, Lancaster, Lawrence, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York.

Obviously, none of the nonattainment counties are in the 23rd Senatorial District. It is equally obvious that the air quality standards issues are a much greater concern in an urban setting. For example of the nonattainment counties Bucks County had 984 persons

¹ Wikipedia, Demographics

per square mile, Delaware County had 2,990 persons per square mile; Montgomery County had 1,553 persons per square mile and Chester County had 573 persons per square mile.²

I am aware that DEP information states that there are 12,000 OWB units in Pennsylvania. Without question, the popularity of these furnaces in rural areas was increased by the high price of heating oil less than one year ago. In our area, firewood is either cheap or free, if the user is willing to cut their own, which many persons do. The use of OWB has a significant economic impact on many residents of the 23rd Senatorial District. That impact affects not only home owners, but also renters and sellers of OWB. Stated bluntly, taking away OWB takes away the ability of many residents to heat their homes.

In justification for the proposed regulations, at a program managers meeting for Proposed Rulemaking Outdoor Wood-Fired Boilers held October 22-23, 2009, the statement was made that DEP annually receives numerous citizen complaints related to health concerns, odors, smoke, improper fuel, short stack heights, and year round use resulting from OWB's. I do not doubt that complaints are received but how many complaints are received regarding fireplaces or barbeque grills? How many complaints are from an urban setting versus a rural setting? And, how many complaints are received about the outdoor burning of trash? If a comparison is to be made, it is only fair to present the comparable information relating to other burning activities.

I would like to address a few of the proposed regulation specifics:

- Setback---The proposal is 150' from the nearest property line. This means for practical purposes a homeowner must have a lot approaching two acres to be compliant. At a minimum, the parcel must be 300' x 300' in order to be at least 150' from each property line. If a landowner has a one acre parcel, i.e. 220' x 220', next to 1,000 acres of vacant land, an OWB would not be permitted. In a rural setting this is not logical. Further, in the smaller and less affluent villages in my district, home sites are far less than two acres but these are the situations where OWB are in prevalent use. With the setback, those who need the economic benefit offered by OWB would be denied that advantage.
- Stack Height---Under the proposed rules, height must be two feet above the highest peak within 150 feet. First, since a unit must be 150' from a property line for new installations, the provision is meaningless because there cannot be a residence within the 150' area. Further, even if the 150' somehow applies, on a sloping side hill layout, the downhill stack would need to be at least 40' to 50' in height just to be above the upside neighbor's roof line. And, when considering the 500' proposal for existing units, the stack height could be ridiculously high. Near my home is an existing OWB in a development on a significant incline.

² Wikipedia, Demographics

Within the 500' restriction, there is an elevation change of at least 100', which would mean a stack height of 100'. Moreover, according to DEP, the estimated cost for the stack required is approximately \$150 for every four feet, which would place the cost of a 100' stack at \$3,750. Are either of these consequences intended? If not, then the proposed regulations are seriously flawed.

- Seasonal Use---Some consideration is being given to a seasonal prohibition, for example, the period between May 1 and September 30. What this suggestion does not recognize is the fact that most of those who utilize an OWB use that heat source for domestic hot water year around.

I have no problems with promoting the technical advances to OWBs as set forth in the Phase 2 Partnership Agreements provided those requirements are applied prospectively from a date certain. The reduction in particulate emission is significant with the Phase 2 units. In order to be fair to dealers who have current Phase 1 inventory, however, some accommodation must be made to avoid a drastic financial impact on them.

In closing, the problems associated with OWB's arise primarily in an urban setting, not a rural setting where the use of wood as a primary heat source is common. A general statewide regulation of the type proposed does not recognize rural life styles, nor rural settings, nor rural economics. Local municipalities throughout Pennsylvania have been dealing with OWB issues for years and in a rural setting are the entity best suited to deal with this issue.

As stated by DEP in January, 2009 in its Proposed Model Ordinance for Outdoor Wood-Fired Boilers: "The Air Pollution Control Act (APCA) limits the Department's authority to regulate household heating sources. Specifically, Section 6.1 of the APCA, 35 P.S. 4006.1, states that no written approval (plan approval or permit) shall be necessary for any such source, equipment or device used solely for the supplying of heat or hot water to one structure intended as a one-family or two-family dwelling. The Department does not have regulations that specifically regulate outdoor wood boilers. Where home heating decisions are concerned, the Department believes that local municipalities can respond to and resolve these issues more effectively and swiftly than a state agency. Section 12 of the APCA, 35 P.S.4012, provides that local government bodies are authorized to enact ordinances that regulate, among other things, the selection, operation and location of outdoor wood-fired boilers. Many local governments have done so." Nothing has occurred since January, 2009 to warrant a wholesale reversal of DEP's previously stated position.

Respectfully submitted,

GENE YAW
STATE SENATOR