

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:

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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 OR CHEMICALS, including copper, chromium arsenate, creosote [,] AND pentachlorophenol [or the like].

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NEW PHASE 2 OUTDOOR WOOD-FIRED BOILER—A PHASE 2 OUTDOOR WOOD-FIRED BOILER THAT IS INSTALLED ON OR AFTER _____ (EDITOR'S NOTE: THE BLANK REFERS TO THE EFFECTIVE DATE OF ADOPTION OF THIS PROPOSED RULEMAKING.).

* * * * *

NON-PHASE 2 OUTDOOR WOOD-FIRED BOILER—AN OUTDOOR WOOD-FIRED BOILER THAT HAS NOT BEEN CERTIFIED OR QUALIFIED BY THE EPA AS MEETING A PARTICULATE MATTER EMISSION LIMIT OF 0.32 POUNDS PER MILLION BTU OUTPUT OR LOWER AND IS LABELED ACCORDINGLY.

* * * * *

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) HAS A RATED THERMAL OUTPUT OF LESS THAN 350,000 BTU PER HOUR.

(C) The manufacturer DESIGNS OR 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)]~~ (D) 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 AN:

(A) Outdoor wood-fired furnace.

(B) Outdoor wood-burning appliance.

(C) Outdoor hydronic heater.

~~[(D) Outdoor water stove.]~~

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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 OR LOWER and is labeled accordingly.

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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)]~~ (1) 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)]~~ (2) A person who installs an outdoor wood-fired boiler in this Commonwealth.

~~[(iii)]~~ (3) A person who purchases, receives, leases, owns, uses or operates an outdoor wood-fired boiler in this Commonwealth.

(b) EXEMPTIONS.

~~[(2)]~~ (1) This section does not apply to a person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes in this Commonwealth ~~[an] A NON-PHASE 2~~ 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]~~ **THE NON-PHASE 2** 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.~~]

(2) SUBSECTIONS (c), (d) AND (e) DO NOT APPLY TO A PERMANENTLY INSTALLED OUTDOOR WOOD-FIRED BOILER THAT WAS INSTALLED PRIOR TO (EDITOR’S NOTE: THE BLANK REFERS TO THE EFFECTIVE DATE OF ADOPTION OF THIS PROPOSED RULEMAKING.) AND IS TRANSFERRED TO A NEW OWNER AS A RESULT OF A REAL ESTATE TRANSACTION.

(3) SELL-THROUGH EXEMPTION. A PERSON MAY NOT SELL, OFFER FOR SALE, DISTRIBUTE OR LEASE A NON-PHASE 2 OUTDOOR WOOD-FIRED BOILER IN THIS COMMONWEALTH UNLESS THE OUTDOOR WOOD-FIRED BOILER WAS MANUFACTURED, DISTRIBUTED, PURCHASED OR LEASED AND RECEIVED IN THIS COMMONWEALTH BEFORE MAY 31, 2011.

(i) THIS EXEMPTION SHALL REMAIN IN EFFECT UNTIL MAY 31, 2011.

(ii) A NON-PHASE 2 OUTDOOR WOOD-FIRED BOILER PURCHASED DURING THE SELL-THROUGH PERIOD SHALL MEET THE FOLLOWING REQUIREMENTS:

(A) THE NON-PHASE 2 OUTDOOR WOOD-FIRED BOILER MUST BE INSTALLED A MINIMUM OF 150 FEET FROM THE NEAREST PROPERTY LINE.

(B) A PERMANENTLY ATTACHED STACK MUST MEET THE FOLLOWING REQUIREMENTS:

(I) EXTEND A MINIMUM OF 10 FEET ABOVE THE GROUND.

(II) BE INSTALLED ACCORDING TO THE MANUFACTURER’S SPECIFICATIONS.

~~[(b)]~~ **(c) Phase 2 outdoor wood-fired boiler. EXCEPT AS PROVIDED UNDER SUBSECTION (b):**

(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.

~~[(e)]~~ **(d) Setback requirements for NEW Phase 2 outdoor wood-fired boilers.** A person may not install a **NEW** Phase 2 outdoor wood-fired boiler in this Commonwealth unless the boiler is installed a minimum of ~~[150]~~ **50** feet from the nearest property line.

~~[(d)]~~ **(e) Stack height requirements for NEW Phase 2 outdoor wood-fired boilers.** A person may not install, use or operate a **NEW** 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]~~ **BE INSTALLED ACCORDING TO THE MANUFACTURER'S SPECIFICATIONS.**

~~[(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] AN** 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 **TYPES OF** fuel approved in writing by the Department **UPON RECEIPT OF A WRITTEN REQUEST.**

(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) **APPLICABLE LAWS AND** *Regulatory requirements.* A person may not use or operate an outdoor wood-fired boiler in this Commonwealth unless it complies with all applicable Commonwealth, **COUNTY AND LOCAL LAWS AND** regulations **[and statutes including the following: ADOPTED THEREUNDER.**

~~—(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;~~
 - ~~—(i) *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]~~