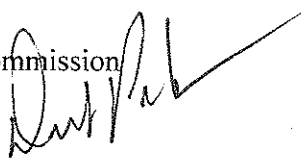


State of Oregon

Department of Environmental Quality

Memorandum

Date: May 26, 2011

To: Environmental Quality Commission 

From: Dick Pedersen, Director

Subject: Agenda item J, Action item, Temporary rule adoption: Small biomass boilers
June 15-17, 2011, EQC meeting

Why this is important

DEQ's 2011 Heat Smart rules prohibit the sale of small solid fuel-burning devices unless they are certified by DEQ. The Heat Smart Program is designed to reduce air pollution from residential wood heating, including woodstoves and small outdoor residential wood-fired boilers.

The Heat Smart rules are causing unintended difficulties for several small-scale commercial, industrial and institutional biomass boiler projects currently in development as part of the state's biomass initiative. This proposed temporary rule exempts these biomass boilers from the Heat Smart rules, and establishes a pathway to ensure that uncertified boilers meet all other existing state and federal air quality standards, including particulate matter, opacity and air toxics standards.

DEQ proposes a temporary rule, followed by regular rulemaking with public comment to make this rule permanent, to enable these small-scale commercial and industrial biomass projects to continue as planned and meet critical federal and state funding deadlines.

DEQ recommendation and EQC motion

DEQ recommends that the commission adopt the statement of need and justification for temporary rules as shown in attachment B, and adopt amendments to OAR 340, Divisions 200, 210, 212, 228, and 262 as shown in attachment A.

Background and need for rulemaking

EQC adopted the most recent version of the Heat Smart rules in February 2011, which specifically require any solid fuel-burning device with a heat output of less than one million Btu per hour to be certified by DEQ before it can be sold in Oregon. The goal of the Heat Smart rules is to protect public health from air pollution, particularly particulate matter emissions. Certified solid fuel burning devices have much lower emissions than uncertified devices, and the certification program is a central element of DEQ's efforts to protect public health from air pollution. Pursuant to the rules, DEQ certifies devices as

meeting EPA emission standards. At this time, there are no outdoor wood boilers or small biomass boilers that are certified by the EPA, so they cannot be sold in Oregon.

Clarifying

biomass boilers

Because certified solid fuel devices with a heat output of less than one million Btu per hour have low emissions, they may be installed in residential and commercial buildings with no further air quality assessment. In contrast, larger boilers are not required to be certified because they must comply with state and federal limits on particulate matter emissions, opacity and air toxics. However, the current rules do not allow the use of boilers with a heat output of less than one million Btu per hour that are uncertified but able to meet the emission standards that already apply to larger boilers.

Effect of rule

The proposed temporary rule revision would allow the use of uncertified small-scale boilers at commercial, industrial and institutional facilities if the boilers meet existing state and federal particulate, opacity and air toxics standards. This includes a limit of 0.1 grains per dry standard cubic feet (OAR 340-228-0210), an opacity limit of 20 percent except for three minutes per hour (OAR 340-208-0110), and National Emission Standards for Hazardous Air Pollutants (OAR 340-244-0220).

If the boilers are located at a facility with an air quality permit, compliance would be demonstrated through the permitting process. For boilers not located at a facility required to have an air quality permit, the proposed temporary rules would create a simple registration process through which the registrant would confirm compliance. The registration process would be an option for biomass boilers with a heat input equal to or less than 10 million Btu per hour, as larger boilers are subject to the Air Contaminant Discharge Permit program. There would be no fee for the registration, but there could be costs for source testing necessary to demonstrate compliance with the grain loading standard.

**Commission
authority**

The commission has authority to take this action under ORS 468, ORS 468.020, ORS 468A, ORS 468A.025, ORS 468A.050, ORS 468A.070, and ORS 468A.460 to 468A.515.

Key issues

Several small-scale commercial, industrial and institutional biomass boiler projects are in development across the state as part of Governor Kitzhaber's statewide biomass initiative. These projects are relying on congressional and Oregon Department of Energy funding, and there are project timelines critical to the successful outcome of these projects. Some of these projects, those with boilers of less than one million Btu per hour heat output, would be prohibited without an exemption from the Heat Smart rules. The proposed temporary rules would exempt

these projects; while at the same time help ensure compliance with other state and federal emissions standards.

These proposed temporary rules establish registration requirements for uncertified small-scale commercial, industrial and institutional boilers with a heat input equal to or less than 10 million Btu per hour. Certified boilers would not need to register. Boilers larger than 10 million Btu per hour heat input are subject to existing permitting requirements.

Using simple, web-based self-registration is an efficient and cost-effective way for DEQ to document compliance for the potentially large number of small-scale commercial, industrial and institutional boilers in Oregon. Boiler operators would not be charged a registration fee, and they could self-certify that their boilers comply with the applicable emission standards.

- Public outreach** DEQ will hold a meeting with stakeholders to discuss the proposed biomass boiler rule changes on June 3, 2011. Stakeholders include manufacturers of small boilers who are affected by the rules and are part of the affected biomass projects currently in development. A temporary rulemaking does not require a public comment period. DEQ plans to conduct a normal public involvement process as part of the follow-up regular rulemaking to make the temporary rules permanent.
- Next steps** If adopted, the proposed temporary rule amendments would become effective upon filing with the Secretary of State and would be effective for no more than 180 days. DEQ plans to propose a regular, follow-up rulemaking for consideration by EQC in December 2011.
- Attachments** A. Proposed rules with amendments shown in redline format
B. Statement of Need and Justification
- Available upon request** 1. Summary of June 3, 2011 stakeholder meeting

Approved:

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