State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking for

**Small and Mid-size solid fuel boilers**

**DRAFT Rule Implementation Plan**

Background

Adopted in March, 2011, the Heat Smart rules[[1]](#footnote-1) required small scale solid fuel-fired boilers (those with maximum heat output capacities below 1 MMBTU per hour) to meet EPA’s New Source Performance Standards (NSPS) for residential wood heating appliances[[2]](#footnote-2) in order to be sold in Oregon. The Heat Smart rules primarily address residential wood heating devices, however, they unintentionally affected small-scale commercial, industrial and institutional biomass boilers by restricting the sale of these units.

In June of 2011, the EQC adopted temporary rule amendments to exempt small-scale commercial and industrial solid fuel-fired boilers from the Heat Smart certification requirements for solid fuel burning devices subject to National Emission Standards for Hazardous Air Pollutants (NESHAP). In February of 2012, the EQC adopted permanent rule amendments to exempt such boilers from Heat Smart if they are subject to National Emission Standards for Hazardous Air Pollutants (NESHAP) and obtain construction approval from DEQ. The primary objective of the permanent rulemaking was to allow the sale of small-scale solid fuel-fired boilers used in commercial, industrial and institutional applications while ensuring that such boilers comply with applicable federal air toxics and state visibility standards. Under the adopted rules, owners and operators of affected boilers are required to register their boiler with DEQ upon written request.

Adopted Rule Amendments

**Heat Smart Exemption:** As adopted, the permanent rule amendments exempt all commercial, industrial and institutional solid fuel-fired boilers with maximum heat output capacities below 1 MMBtu per hour which are located at unpermitted facilities from the Heat Smart rules if they are subject to the Area Source NESHAP and have obtained construction approval from DEQ.

**Registration and Source Testing Requirements:** The amendments also allow DEQ to require small-scale solid fuel-fired boilers that are subject to a NESHAP[[3]](#footnote-3) to register with DEQ upon written request and to maintain such registration over time. The rule amendments also clarify that DEQ may require source testing and/or registration as a condition of construction approval. Registration of a boiler does not authorize its operation like an air quality permit; however, it does provide DEQ with information about the location and compliance status of boilers that are not required to obtain permits.

Outreach to Businesses Potentially Affected by the Rulemaking

**Stakeholder Meeting:** DEQ held a stakeholder meeting at DEQ headquarters in June 2011 to discuss the proposed temporary rule amendments prior to their adoption. The temporary rule amendments were broader in scope than the permanent amendments adopted in February 2012, therefore DEQ did not hold a stakeholder meeting during the permanent rulemaking process.

**Public Notice**: In July 2011, DEQ posted the Notice of Proposed Rulemaking on DEQ’s website. The notice summarized the proposed rule amendments and described how to obtain more information and submit public comment. The notice also provided details of the public hearing held during the rulemaking process. The notice describe the purpose of and need for an alternative compliance pathway for small-scale solid fuel-fired boilers, as well as the conditions under which such boilers are exempt from the Heat Smart requirements. The notice also described how the rule amendments clarified DEQ’s existing authority to require unpermitted sources to register with DEQ. The notice described the fiscal impact of the proposed rule amendments. To minimize the fiscal impact on affected sources, many of which are small businesses or institutional facilities, the rules do not impose any fees associated with registration or the Heat Smart exemption.

**Public Hearings:** DEQ held a public hearing at DEQ headquarters on August 18, 2011. No one from the public attended the hearing.

**Public Comment:** DEQ’s public comment period for the proposed permanent rule amendments was open July 15 to August 25, 2011. DEQ received written comments from one commenter during the comment period.

Rulemaking Implementation

The rule amendments will be implemented primarily through DEQ’s Small Business Assistance program. DEQ will implement communication and outreach activities and technical assistance efforts to aid owners and operators of affected solid fuel-fired boilers in obtaining construction approval, meeting the applicable requirements, and registration of boilers (if required). Anticipated efforts are categorized by the following headings:

**Affected Facility Identification:** DEQ has partnered with EPA to provide informational materials to potentially affected sources. EPA Region 10 sent letters to owners and operators of boilers that are affected by the area source NESHAP rules in August of 2011. Included with this mailing was a post-card size insert from DEQ notifying recipients of the proposed Oregon permanent rulemaking affecting small-scale and mid-size commercial, industrial and institutional solid fuel-fired boilers. DEQ intends to continue working with EPA to identify NESHAP affected boilers in Oregon and provide owners and operators guidance in meeting the NESHAP and the adopted rule amendments.

**Outreach:** DEQ will work with the Oregon Department of Energy, the state Boiler Codes Division, the Lane Regional Air Protection Agency, our Regional Solutions Team members, the Oregon Boiler and Pressure Vessel Association, and other stakeholders and interested entities to provide outreach and education to affected boiler owners and operators.

**Communication:** DEQ staff will develop informational materials to disseminate to stakeholders and other interested parties that will address the following:

* Heat Smart Exemption
* Notice to Construct requirements
* NESHAP requirements
* Registration requirements

**Online Tool/Database Development:** DEQ Headquarters - Air Quality staff will work with DEQ’s Business Services Division to develop a web-based construction approval and registration tool for use by owners and operators of small commercial, industrial and institutional solid fuel-fired boilers.

**Technical Assistance:** DEQ will provide technical assistance to affected sources in the construction approval and registration processes. General outreach and education efforts, as well as assistance with registration will be provided by headquarters planning staff. . Construction approval assistance will be provided by regional permitting staff.

Outreach/Technical Assistance Team: Carrie Ann Capp (project lead), Rebecca Hillwig (small business assistance coordinator), Jerry Ebersole (air toxics specialist)

Outreach Tasks:DEQ’s Air Quality Division will provide outreach to owners and operators of small-scale biomass boilers. The communication and outreach tasks are listed below. DEQ will create a communication and outreach plan that describes staff responsibilities and specific due dates for each task listed.

* Identify businesses and institutions affected by the rule amendments
* Develop fact sheets, notification forms and other outreach materials
* Develop informational website
* Mail information packages to potentially affected businesses
* Develop form letter to send to owners/operators of existing small-scale solid fuel-fired boilers to inform them of registration requirements (if required/when requested in writing)

Technical Assistance Tasks

* Develop online tool/database for NC approval and registration and instructions for use
* Develop guidance for permit staff for NC approval considerations
* Track and log Heat Smart exemptions for eligible businesses and institutions

Identified outreach and implementation tasks and who will perform them are summarized below:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Respective roles and associated deadlines | | |
|  |  |  |  |
| Outreach and Implementation Tasks | Primary | With assistance from | Due by |
|  |  |  |  |
|  |  |  |  |
| Affected Facility Identification |  |  |  |
| Outreach |  |  |  |
| Communication |  |  |  |
| Online Tool/Database Development |  |  |  |
| Technical Assistance |  |  |  |
| * NC approval |  |  |  |
| * Registration |  |  |  |

1. OAR chapter 340 division 262 [↑](#footnote-ref-1)
2. 40 CFR Part 60, Subpart AAA [↑](#footnote-ref-2)
3. **“Major source boiler NESHAP”** – Section 112 NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters (Subpart DDDDD of part 63) [Boilers at large (“major”) sources of HAP]

   **“Area source boiler MACT”** – Section 112 NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters (Subpart JJJJJJ of part 63) [Boilers at small (“area”) sources of HAP ] [↑](#footnote-ref-3)