



New York Farm Bureau • 159 Wolf Road P.O. Box 5330 • Albany, New York 12205 • (518) 436-8495 Fax: (518) 431-5656

June 28, 2010

John Barnes, P.E.
New York State Department of Environmental Conservation
Division of Air Resources
625 Broadway, 2nd Floor
Albany, New York 12233-3251

Re: Proposed Part 247, Outdoor Wood Boilers, and Part 200, General Provisions

Dear Mr. Barnes:

Thank you for the opportunity to officially comment on the Department of Environmental Conservation's (DEC) proposed regulations to strictly regulate the use of outdoor wood boilers (OWB) in New York State. New York Farm Bureau opposes DEC's one-size-fits-all initiative that serves to punish literally thousands of owners with costly mandates on outdoor wood boilers that have never received one complaint from a neighbor.

If enacted, the proposed regulations would force thousands of owners of OWB units to take their units out of service well before the end of their useful life and therefore lose a major investment that can cost upwards of \$10,000 (including installation). These owners must then purchase either a new, more expensive unit or return to non-renewable petroleum-based fuels or natural gas. With the considerable challenges facing the upstate economy and volatile oil prices, this would have an enormously disadvantageous economic impact on many homeowners and agricultural operations across the state.

As you can imagine, many homeowners and farm operations have installed OWB units in response to the high costs of heating oil and natural gas. Many upstate, rural landowners have the ability to harvest wood from their land to fuel the units to heat their homes, businesses and hot water.

No other state that is regulating OWBs has required a phase-out of currently installed units. If the proposed regulations were to be finalized and existing OWB units are taken out of service before their useful life is completed, we believe that New York State should compensate OWB unit owners for their economic losses.

Below, I have outlined our concerns with the proposed regulation. These concerns are delineated by specific provision.

Requirements for Existing Outdoor Wood Boilers

Proposed language

By October 1, 2011, all existing outdoor wood boilers shall be equipped with a permanent stack extending a minimum of two feet above the peak of any roof structure located within 150 feet of the outdoor wood boiler and no less than 18 feet above ground level.

NYFB Concerns:

- *The proposal requires a retrofit of noncompliant smoke stacks. DEC estimates the cost for stack extensions is \$200 for each four foot section. According to DEC, a typical cost for extending an OWB stack is expected to be \$600 but could be more if a stack needs to be higher than 18 feet high. This cost is extremely high for farmers or landowners to retrofit their OWB.*
- *Given the height requirement, stack heights may have to approach 40-60 feet if a structure within 150 feet of the OWB unit is a three story house. This would be the requirement even if it were a barn, silo, garage, or your own residence. This requirement may cause OWB owners to seek zoning approval based on height of the smoke stack.*
- *Stabilizing these smoke stacks is also a concern, especially in high wind areas. Guy wires may help to a certain extent, but OWB unit owners will have difficulties affixing the wires if there are no structures nearby or to the ground in a safe manner.*

Phase Out of Existing Wood Boilers

Proposed language

An existing wood boiler that commenced operation prior to *September 1, 2005* must be replaced with a new outdoor wood boiler meeting the new DEC emissions requirements or must be permanently removed from service no later than *August 31, 2015*

An existing wood boiler that commenced operation between *September 1, 2005* and *April 14, 2011* must be replaced with a new wood boiler or must be permanently removed from service within ten years of the commence-operation date, but not later than *August 31, 2020*

NYFB Concerns:

- *Useful life for some OWB units can approach 15 to 25 years. These proposed phase-out requirements are too short and essentially create a private taking that could cost unit owners thousands of dollars.*
- *The regulations do not recognize that the VAST majority of OWB units operate in areas where there are no neighbor complaints and no human or environmental impacts.*

Restrictions on Summer Use of Outdoor Wood Boilers

Proposed language

No person shall operate an existing outdoor wood boiler in the Northern Heating Zone between May 15 and August 31 of each year or between April 15 and September 30 of each year elsewhere in the State, except as follows:

- An existing outdoor wood boiler that is a model certified by the department and sited 100 feet or more from the nearest property boundary line is not subject to this requirement
- An existing outdoor wood boiler sited 500 feet or more from the nearest property boundary line and 1000 feet or more from a school is not subject to this subdivision
- An existing outdoor wood boiler located on contiguous agricultural lands larger than five acres and sited 500 feet or more from the nearest residence not served by the existing outdoor wood boiler or 500 feet or more from a property boundary line that is not on agricultural land and 1000 feet or more from a school is not subject to this subdivision.

Definition of “northern heating zone” includes Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Saratoga, Warren and Washington counties.

Definition of “agricultural lands” is the land and on-farm buildings, equipment, manure processing and handling facilities, and practices that contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a ‘commercial horse boarding operation’ and ‘timber processing’. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

NYFB Concerns:

- *The summer time use restrictions are way too short both inside and outside the “Northern Heating Zone.” For example, the average low in Allegany County in April is about 25 degrees, yet OWB units could not be used after April 15th if setback requirements are not met. Another example, on April 27th of this year, it was snowing and 30 degrees in Rensselaer County.*

If setback requirements were not met, homeowners could not use their OWB unit. Furthermore families would be forced to use cold water for laundry, showers and dishwashing for months at a time if the OWB is used for hot water in the household.

- *For the vast majority of OWB units (except those on adjoining “agricultural lands”) setbacks are measured from the OWB unit to the nearest property line, not nearest residence. This requirement ignores that in upstate New York, many landowners, not just farmers, own large lots and distances between neighboring residences can be great. This minimizes any impact from OWB units. In many cases, measuring to property lines is an artificial standard.*

New Wood Boilers
Proposed language

New OWB's are defined as a wood boiler commencing operation after April 15, 2011 that meet DEC emission requirements.

- Residential Wood Boilers (<250,000 BTUs)
- Commercial Wood Boilers (>250,000 BTUs)

NYFB Concerns

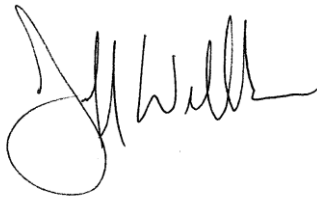
- *Very few manufactures have OWB units that currently meet DEC's emissions requirements for compliant units.*
- *It is uncertain whether manufacturers can meet this deadline for production and sale of DEC-compliant units.*
- *Manufactures that produce OWB units that meet DEC's requirements can cost thousands of dollars more and are more difficult to maintain.*

In closing, New York Farm Bureau is not opposed to wise regulation of outdoor wood boilers. We support regulations mandating the burning of clean wood stocks and the ability of local governments to set sensible parameters for the using and siting of OWBs within their municipal borders, for example.

These proposed regulations, however, place unreasonable economic requirements on the residents of rural New York State. New York Farm Bureau believes that this is a case of too narrow regulatory limits and too short deadlines for compliance.

Thank you for your review of these comments. As always, New York Farm Bureau would certainly like to continue discussions on this issue and work with the Department of Environmental Conservation to develop regulations that will not harm the economic environment of New York State. Should you have any questions regarding this information, please do not hesitate to contact me at (518) 431-5618 or jwilliams@nyfb.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Williams". The signature is fluid and cursive, with a large initial "J" and "W".

Jeff Williams, Deputy Director
Division of Public Policy
New York Farm Bureau