



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
Attorney General

DIVISION OF PUBLIC ADVOCACY
ENVIRONMENTAL PROTECTION BUREAU

August 11, 2005

VIA OVERNIGHT MAIL

The Honorable Stephen L. Johnson
Administrator, Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Petition for rulemaking under 42 U.S.C. § 7411(b)(1)
Regarding Outdoor Wood Boilers

Dear Administrator Johnson:

The States of New York, Connecticut, Maryland, Massachusetts, Michigan, New Jersey and Vermont, and the Northeast States for Coordinated Air Use Management (NESCAUM) hereby petition the U.S. Environmental Protection Agency (EPA) to use its authority under section 111(b)(1) of the Clean Air Act (the "Act"), 42 U.S.C. § 7411(b)(1), to list outdoor wood boilers (OWBs) as a category of stationary sources under section 111(b)(1)(A) and to promulgate standards of performance for OWBs under 42 U.S.C. § 7411(b)(1)(B). In the alternative, after listing OWBs as a category of stationary sources under section 111(b)(1)(A), EPA could revise the existing standards for residential wood heaters, at 40 CFR §§ 60.530-60.539b, to include standards for OWBs.

As explained in the attached report of the New York Attorney General's Office, Environmental Protection Bureau, entitled, *Smoke Gets in Your Lungs: Outdoor Wood Boilers in New York State* (the "New York Report"), OWBs are becoming increasingly common in rural and suburban towns and villages throughout much of the nation. Emissions of fine particulate matter (particulate matter with a diameter less than 2.5 microns [PM 2.5]) and toxic materials from OWBs exceed those from indoor wood stoves (called wood heaters by EPA), both on a per-device basis and in proportion to the energy created. Despite polluting at a significantly higher rate than residential wood heaters, OWBs are exempt from the standard applicable to residential wood heaters and are not required to meet any testing, performance, or emission standards.

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Notable findings of the New York Report include:

- While advertised as a clean economical way to heat one's house and water, OWBs may be among the dirtiest and least economical modes of residential heating, especially when improperly used;
- Even when used properly, OWBs emit, on an average per hour basis, about 4 times as much PM 2.5 as conventional wood stoves, about 12 times as much PM 2.5 as EPA-certified wood stoves, 1000 times more PM 2.5 than oil furnaces, and 1800 times more PM 2.5 than gas furnaces;
- When OWBs are used improperly to burn wet or treated wood, scrap, or garbage, they generate even more smoke and emit additional toxic chemicals;
- The pollutants emitted by OWBs can cause or contribute to short-term health harms such as eye, nose, throat, and lung irritation, coughing and shortness of breath, and long-term health effects such as asthma, heart and lung disease, and cancer;
- The generally short chimneys and reduced draft of OWBs fail to disperse emissions adequately and can cause smoky conditions at or near ground level;
- OWBs are generally more expensive to install than comparable heating sources using oil, or gas, or indoor wood stoves, and may be more expensive to operate depending on the availability and price of dry seasoned wood;
- OWBs do not currently have to meet federal or state performance emission standards;
- The absence of any federal regulations has led to various state and local efforts to regulate OWBs.

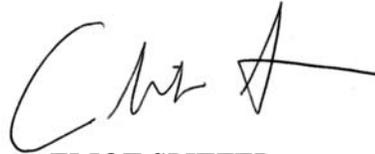
Since the problems associated with OWBs are widespread and exist across much of the northern U.S., it is sensible for the federal government to enact federal standards of performance, as it has with respect to indoor wood heaters, so as to avoid the development of a patchwork of state and local regulations.

Section 111(b)(1)(A) requires EPA to include in the listing of categories of stationary sources under section 111 a category that "causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health and welfare." The findings in the New York Report establish that OWBs should be listed. Accordingly, the EPA should promulgate regulations for OWBs under section 111(b)(1)(B), establishing standards of performance that reflect the degree of emission limitation achievable through the best system of emission reduction that has been adequately demonstrated. 42 U.S.C. § 7411(a)(1). Consistent with the general framework of the Act, such federal regulations should serve as a "floor," allowing states or municipalities to enact more stringent regulations as necessary to combat particularized local air quality problems.

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The time has come for EPA to regulate emissions from OWBs in order to protect public health and the environment. Therefore, please consider this letter to be a formal request pursuant to the Administrative Procedure Act, 5 U.S.C. § 553(e), for a rulemaking to list OWBs as a category of stationary sources and to establish standards for emissions from new OWBs.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eliot Spitzer', with a stylized flourish at the end.

ELIOT SPITZER
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On behalf of:

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