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THE SENATE
STATE OF NEW YORK



JAMES L. SEWARD
SENATOR, 51ST DISTRICT
December 20, 2010

Acting Commissioner Peter Iwanowicz
NYS Department of Environmental Conservation
625 Broadway
Albany, New York 12226

Dear Commissioner Iwanowicz:

I am writing to express my concerns with the proposed outdoor wood boiler (OWB) regulations that are expected to be approved by the Environmental Review Board on December 22.

While I am pleased to see that the new proposed regulations primarily apply only to new OWBs, I remain concerned that the new rules will still be devastating to those in rural areas or to anyone who seeks a wood alternative to oil or gas units for heat or hot water. They represent a burdensome, unfunded mandate on families and farms that people can ill afford.

DEC should already have on file a copy of my letter dated May 20, 2010 which fully explained the concerns I have with the proposed OWB regulations. While it is not necessary to re-iterate my comments in their entirety, I would like to highlight the main concerns I have with the new revised regulations.

First, it appears that the smoke opacity standard still applies to both new and existing OWBs. This could be problematic because it is often difficult to determine opacity readings for OWBs, particularly for homeowners and small businesses. Does DEC have a specific method/process for accurately determining these readings?

Additionally, I have concerns with the setback requirement for new boilers. For residential and commercial OWBs, measuring setbacks to property lines may not always be the best method. It is not uncommon in rural areas for an OWB to be placed 50 feet from a property line but half a mile or more from the nearest house. Setbacks should be measured from neighboring dwellings, not from property lines.

The stack height requirement for new boilers is of additional concern. The revised regulations call for a minimum chimney stack height of 18 feet, which can be potentially dangerous in some parts of the state where high winds are common. Further, what if local zoning laws prohibit structures greater than 18 feet? I would suggest that, as an alternative, stack heights should simply mirror industry standards to the greatest extent possible.

Finally, I must also express my profound disappointment with the lack of transparency and public input surrounding the new proposed regulations. To highlight the secretiveness of the process, as of December 20, just two days before the planned vote, the new revised regulations were not even posted on the DEC website.



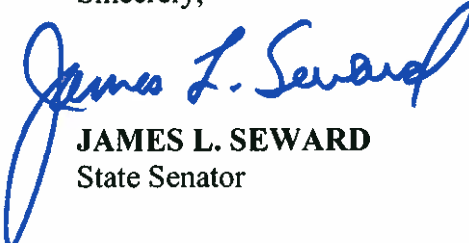
It is my understanding that, during the October meeting of the Environmental Review Board, DEC promised to hold a new public comment period before a set of revised regulations would be enacted. DEC failed to follow through on this promise. Instead, they have chosen to push the new regulations through without giving both legislators and the public the opportunity to review the proposal and provide comment.

I do share your concerns about emissions and believe that they can – and should – be modified. However, I firmly believe it should be done in a manner that will not unduly burden families and businesses in rural areas and those who prefer to use renewable, non-fossil fuels for their heat and hot water.

I am sure you will agree with me that it is critically important that those who will be directly impacted by the regulations are given the opportunity to have their voices heard. As such, I urge you to suspend consideration of the revised regulations until a complete review and public comment period is held.

Thank you for your attention to this matter. Please do not hesitate to contact me directly if you have any questions or need additional information.

Sincerely,



JAMES L. SEWARD
State Senator

JLS:acjt