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Resolve
123rd Legislature
Second Regular Session

Chapter 190
H.P. 1393 - L.D. 2009

Resolve, Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Adoption. Resolved: That final adoption of portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a provisionally adopted major substantive rule of the Department of Environmental Protection, Bureau of Air Quality Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows:

1. The provision identified in the rule as Section 3, paragraph F regarding sell-through exemptions must be amended to add language indicating that the provision applies to outdoor wood boilers that were purchased and paid for in full before April 1, 2008 in addition to being received in the State before April 1, 2008;

2. The setback requirements for new outdoor wood boilers identified in the rule in Section 3, paragraph B must be amended to authorize installation of new outdoor wood boilers with setbacks from the nearest dwelling as follows:

A. The provision in the rule identified as subparagraph (1) regarding outdoor wood boilers with limits greater than 0.60 lbs/MMBtu heat input or with no certification must be amended to authorize installation at least 250 feet from the nearest property line or at least 270 feet from the nearest dwelling that is not on the same property as the boiler;

B. The provision in the rule identified as subparagraph (2) regarding outdoor wood boilers certified to meet particulate emission limits of 0.60 lbs/MMBtu heat input must be amended to authorize installation at least 100 feet from the nearest property line or at least 120 feet from the nearest dwelling that is not on the same property as the boiler; and

C. The provision in the rule identified as subparagraph (3) regarding outdoor wood boilers certified to meet particulate emission limits of 0.32 lbs/MMBtu heat output must be amended to authorize installation at least 50 feet from the nearest property line or at least 70 feet from the nearest dwelling that is not on the same property as the boiler; and

3. The setback provision, identified in the rule in Section 3, paragraph B, subparagraph (4), for the installation of an outdoor wood boiler next to a state licensed school, daycare or healthcare facility must be amended to conform to the general setback requirements identified in Section 3, paragraph B, subparagraphs (1), (2) and (3) as amended by section 1, subsection 2 of this resolve.

The Department of Environmental Protection is not required to hold hearings or conduct other formal proceedings prior to finally adopting the rule in accordance with section 1 of this resolve; and be it further

Sec. 2 Report. Resolved: That, by January 1, 2009, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report detailing the implementation of the rule authorized by section 1 of this resolve. The report must include an evaluation of any unintended consequences of the rule and recommendations for improvement of the rule; and be it further

Sec. 3 Rules regarding outdoor wood boilers that combust biomass pellets. Resolved: That, by April 1, 2009, the Board of Environmental Protection shall adopt rules to control the sale, installation, use and siting at residences and businesses of outdoor wood boilers that combust biomass pellets as a fuel source. The rules must establish minimum standards of performance for units sold, purchased and installed in the State. The initial rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. An amendment to a rule adopted pursuant to this section is considered a major substantive rule and is subject to legislative review in accordance with Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.