

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of the Environment**
(DLS Control No. 17-060)

Overview and Legal and Fiscal Impact

The regulations repeal Regulation .11 under COMAR 26.11.09: Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations to make State regulations consistent with federal regulations adopted in 2015 to regulate residential hydronic heaters. The regulations also alter specified definitions and remove cross-references to Regulation .11 in the same chapter.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of the Environment:

Air Quality: Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations: COMAR 26.11.09.01, .04, .06, and .11

Legal Analysis

Background

In 2007, the U.S. Environmental Protection Agency (EPA) established a voluntary program to encourage manufacturers of wood boilers (also known as hydronic heaters) to make emissions cleaner. Through the voluntary program, manufacturers of hydronic heaters redesigned some models to release emissions that are 90% cleaner on average than other models.

In 2009, the Department of the Environment adopted COMAR 26.11.09.11: Control of Particulate Matter from Small Wood Boilers, which established stringent particulate matter limits for small wood boilers, and fuel and labeling requirements that are consistent with EPA's voluntary program. In 2015, EPA finalized new regulations that established first-ever federal emissions limits for hydronic heaters, phased in over a five-year period. These standards apply only to new hydronic heaters and not those already in use.

According to the department, COMAR 26.11.09.11 is no longer necessary in light of the 2015 federal emissions regulations, and repealing this regulation will make State regulations

consistent with federal regulations. Additionally, the new federal emissions limits for hydronic heaters are already required in the State through the application of COMAR 26.11.06.12.

Summary of Regulations

The regulations repeal COMAR 26.11.09.11: Control of Particulate Matter from Small Wood Boilers. The regulations also clarify definitions in Regulation .01 and remove cross-references to Regulation .11 in Regulations .04 and .06.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 1-101, 1-404, 2-101 through 2-103, 2-301 through 2-303, 10-102, and 10-103 of the Environment Article as statutory authority for the regulation. The Secretary of the Environment has broad authority under § 1-404 to adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary, including reviewing and revising regulations of the department. Section 2-103 provides the department with “jurisdiction over emissions into the air and ambient air quality in this State.” Further, § 2-301 authorizes the department to adopt regulations for the “control of air pollution in this State” and requires the department to adopt regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition. Finally, § 2-302 requires the department to adopt regulations that set emission standards and ambient air quality standards for each of the air quality control areas in the State, and § 2-303 requires the department to follow the requirements of the Administrative Procedure Act when adopting regulations for ambient air quality control. The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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