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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
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May 8, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1301 Constitution Ave. NW
Washington, DC 20460

Dear Administrator Wheeler:

I write to request information regarding a proposed rule that the Environmental Protection Agency (EPA) reportedly sent to OMB for review on April 30, 2020. This proposal is titled, “Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces Amendment.” According to press reports,¹ EPA is considering using the COVID-19 pandemic as a pretext to continue to allow retailers to sell residential wood heating systems that fail to meet the latest clean air standards (known as Step 1 wood heaters). The press accounts state that EPA is considering allowing the sale of these Step 1 heaters for six additional months and possibly allowing manufacturers to continue to make these dirtier wood heaters for an extended amount of time. I am not insensitive to the unique time in which we are living, but I find it concerning that EPA is considering this action despite the agency’s determination a month ago, *during the COVID-19 pandemic*, that such extensions were not warranted.² If these press reports are true, EPA’s actions could result in increased air pollution. Worse, that additional pollution would come at a time when Americans are facing a respiratory pandemic that is likely exacerbated by air pollution. Moreover, allowing continued sale of older dirtier wood heaters could adversely impact manufacturers that have already made investments to manufacture products that meet cleaner standards.

Collectively, older, dirtier residential wood heaters (such as woodstoves, pellet stoves and wood furnaces) are a major source of air pollution in the United States, especially in rural areas. More than 11 million homes across the country, mostly in rural areas, are using residential wood heaters today. Most of these heaters are inefficient and lack the proper emission control technology. Smoke from uncontrolled residential wood heaters can produce a deadly mix of particulate matter (PM), carbon monoxide, volatile organic compounds, and air toxics that builds up inside and outside the home.³ This pollution can trigger asthma attacks and is linked to lung damage, cancer and other significant health problems, including death. Nation-wide, residential wood heaters emit five times more PM pollution than the U.S. petroleum refineries, cement

¹ Sean Reilly, *Pandemic prompts EPA rollback on wood stove standards*, Greenwire (May 4, 2020), <https://www.eenews.net/greenwire/stories/1063047959/search>; Stuart Parker, *In Reversal, EPA May Extend Wood Stove Air Rule Deadline Due To Virus*, InsideEPA (May 4, 2020), <https://insideepa.com/daily-news/reversal-epa-may-extend-wood-stove-air-rule-deadline-due-virus?s=em1>

² <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-05961.pdf>

³ U.S. EPA, “Basic Information about Residential Wood Heaters” (October 2018) <https://www.epa.gov/residential-wood-heaters/basic-information-about-residential-wood-heaters#why>

manufacturers and pulp and paper plants combined⁴ and cause some areas in the country to be in, or close to, nonattainment for EPA's national ambient air quality standards (NAAQS) for PM.⁵

Fortunately, new wood heaters made and sold in the U.S. are dramatically cleaner and more energy efficient than older wood heaters. These cleaner burning wood heaters are due in part to EPA's issuance of the New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces on February 3, 2015. These emissions standards, which only apply to new wood heaters sold and manufactured in the United States, required improvements to be made in two steps. Step 1 emission reductions, for the most part, went into effect in 2015. Much cleaner Step 2 emission reductions are scheduled to take effect on May 15, 2020. EPA estimated that, in total, the 2015 standards would reduce PM and volatile organic compound emissions by 70% and carbon monoxide emissions by 62%. These pollution reductions would save up to 810 lives every year and result in annual health benefits of up to \$7.6 billion.⁶ During the public comment period on the 2015 standards, many state and local governments commented on the need for the Step 2 standards to be implemented at a faster rate to help communities meet their PM NAAQS.⁷

However, instead of listening to the states, EPA has attempted to delay the implementation of the Step 2 standards. On November 30, 2018, EPA proposed allowing retailers to continue to sell certain higher-polluting Step 1 residential wood heating units for an additional two years beyond the May 15, 2020 compliance date. However, in its Final Rule published on April 2, 2020,⁸ EPA changed its mind,⁹ saying that, "Insufficient data were provided by manufacturers and retailers to justify a sell-through [allowing sales of Step 1 units beyond May 15, 2020], especially in light of the fact that in every residential wood heating device category, there are model lines certified to meet the [less polluting] Step 2 standards that are already available, and have been available for considerable time."¹⁰ EPA also noted that "manufacturers have had since May 2015 to develop Step 2-compliant wood heating devices, and that retailers have had since May 2015 to manage their inventory of Step 1-compliant wood heating devices and replace them with Step 2-compliant wood heating devices ahead of the May 2020 deadline."¹¹

Despite EPA's April decision, a May 4, 2020 Greenwire article, *Pandemic prompts EPA rollback on wood stove standards*,¹² reported that, "As part of a Trump administration policy to fast-track requests for regulatory relief due to the COVID-19 crisis" OMB review of EPA's wood heater rule "is set for completion this week" and "an EPA spokeswoman confirmed that the draft rule is aimed at addressing the 'commercial disruption' caused to small businesses by the virus-borne illness by temporarily [until November 30, 2020] permitting the sale of models that don't meet the stricter Obama-era emissions limits."

⁴ EPA 2001 National Emissions Inventory

⁵ U.S. EPA, "Regulatory Impact Analysis (RIA) for Residential Wood Heaters NSPS Revision, Final Report," (February 2015), <https://www.epa.gov/sites/production/files/2015-02/documents/20150204-residential-wood-heaters-ria.pdf>. Hereinafter, "Final Rule RIA."

⁶ Final Rule RIA

⁷ Congressional Research Service (CRS), "EPA's Wood Stove / Wood Heater Regulations: Frequently Asked Questions" (March 12, 2018), <https://fas.org/sgp/crs/misc/R43489.pdf>.

⁸ <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-05961.pdf>

⁹ <https://www.govinfo.gov/content/pkg/FR-2015-03-16/pdf/2015-03733.pdf>

¹⁰ Id.

¹¹ Id.

¹² <https://www.eenews.net/greenwire/stories/1063047959/search>

If the press reports are true, EPA appears to have made a 180-degree reversal of its April decision to keep the wood heater Step 2 deadline intact with no apparent justification for doing so. This reversal is made even more mystifying in light of industry testimony before the U.S. Senate Environment and Public Works Committee observing that the peak selling time for wood heater retailers is from September to March.¹³ This raises questions as to how EPA could have concluded that COVID-19 has resulted in ‘commercial disruption’ and severely impacted retailers’ ability to meet the new standards set to be implemented next week. Manufacturers and retailers have had five years to comply with these new standards, and many in the industry took steps years ago to meet the new standards. Delays in the Step 2 standards could disadvantage retailers and manufactures that took seriously the 5-year time period to meet the tighter standard.

As EPA calls this week for a “month-long celebration of our nation’s progress in improving air quality,”¹⁴ I hope this means the agency will re-think any plans it has to purposelessly delay implementation of the Step 2 standards. Wood heaters can last up to fifty years. Even a six month delay in Step 2 could result in an increase in PM and other air pollutants that will be compounded over decades. At the same time, recent studies have found that Americans living in areas with higher levels of PM pollution may be more likely to die from COVID-19 than those living in areas with cleaner air.¹⁵ Allowing Americans at this time to buy, and bring into their homes, wood heaters that may exacerbate COVID-19 symptoms is not a decision the agency should take lightly.

While the country responds to the COVID-19 crisis, I know that industry and businesses across the country are hurting and struggling to survive. I believe there are things we can – and must – do to help lift up our fellow Americans and that includes helping the wood heater retailers and manufacturers. However, we must be sure that the actions that lift up some Americans do not push other Americans down. We must find a balance between protecting public health and our economy. Further delaying the important Step 2 wood heater air standards does not achieve such a balance.

As I noted in my April 1 and April 29 letters to you,^{16, 17} I am concerned if unnecessary, permanent relaxations of environmental requirements are ultimately finalized using COVID-19 as a pretext and completed without public input. The prepublication draft of the proposed rule is not yet posted in the rulemaking docket¹⁸ as required by the Clean Air Act,¹⁹ making it impossible for Congress and the public to evaluate or provide input on EPA’s actions. Therefore, I request:

¹³ <https://www.epw.senate.gov/public/cache/files/b/6/b6e0f779-2204-4586-ade2-b6bdcaea7341/B767516456C2FFCAF391126CFB88BF66.williams-testimony-11.14.2017.pdf>

¹⁴ <https://www.epa.gov/newsreleases/epa-celebrates-air-quality-awareness-week-may-4-may-8-2020>

¹⁵ <https://www.nytimes.com/2020/04/07/climate/air-pollution-coronavirus-covid.html>

¹⁶ <https://www.epw.senate.gov/public/cache/files/6/6/6612fe54-451c-491c-9ebf-b94acc1f197/DA9BF82AB71666433E7ECA4A1842D038.04-01-20-tc-et-al-continuity-of-operations-letter-to-epa.pdf>

¹⁷ <https://www.epw.senate.gov/public/cache/files/9/7/9704cdcc-e62b-4183-8a47-7d3adcd23ed4/326BC15EAD82DCA1179799CC2B03A49A.04-29-20-tc-cems-rule-letter-to-wheeler.pdf>

¹⁸ <https://www.reginfo.gov/public/do/eoDetails?rrid=130457>

¹⁹ 42 U.S.C. § 7607

1. A copy and summary of the “*Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces Amendment*” rule being reviewed at OMB.
2. A commitment that EPA will promptly take all steps necessary to publish in the rulemaking docket all prepublication and other rulemaking materials as required by the Clean Air Act and will allow a robust public comment period during the rulemaking process.
3. A statement describing EPA’s intentions regarding the rule, including the public involvement process it intends to follow and whether it would consider another extension beyond November 30, 2020.
4. Copies of all documents supporting, opposing, analyzing, or otherwise discussing, the above-noted rule, including, but not limited to, emails or other documents related to the decision to reverse the agency’s April decision, analyses of economic impacts, analysis of the long term air pollution effects and the legal basis for the extension.
5. A robust explanation of why a six month extension is needed at this time, given COVID-19 impacts have been experienced during the industry’s off-season, and what changed since April. In your answer, please describe why six months, and not a shorter time period, is necessary.
6. An explanation of how EPA plans to enforce the current compliance Step 2 deadline while EPA is proposing and taking public comment on a decision to extend it. For example, will retailers be required to meet the May 15th deadline, while EPA goes through the rulemaking process?
7. A description of any planned or ongoing new research that EPA’s Air, Climate and Energy Centers are doing related to air pollution, in particular PM air pollution, and its effects on COVID-19 morbidity and mortality. Recent studies have found that COVID-19 may be similar to SARS²⁰, in that there might be a link between COVID-19 fatalities and air pollution. More research from your agency is needed on this subject.

Please provide answers to these questions and records responsive to these document requests by May 15, 2020. If you have any questions, please feel free to ask the appropriate member of your staff to contact Laura Gillam (Laura_Gillam@epw.senate.gov) or Michal Freedhoff (Michal_Freedhoff@epw.senate.gov) of the Environment and Public Works Committee staff. Thank you for your attention to this matter.

With best regards, I am,

Sincerely yours,



Thomas R. Carper
Ranking Member

²⁰ <https://ehjournal.biomedcentral.com/articles/10.1186/1476-069X-2-15>