

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** April 7, 2010  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Director  
**Subject:** Agenda item O, Informational item: Heat Smart rules  
April 29-30, 2010 EQC meeting

**Purpose of item** This item informs the Environmental Quality Commission about an upcoming rulemaking regarding the implementation of Senate Bill 102, a measure to protect Oregonians from wood smoke by accelerating the turnover of older uncertified woodstoves. EQC will not be asked to take any action at this meeting, but the discussion will help inform staff in developing the rulemaking proposal.

**Background** **Concerns about wood smoke**  
Wintertime residential wood burning is a significant source of air pollution, including fine particulate and air toxics. Smoke from wintertime residential burning can be a primary reason that communities such as Klamath Falls and Oakridge do not meet federal health standards for fine particulate matter. Residential wood burning is also a significant source of emissions in a dozen other communities that are at risk from elevated fine particulate levels. This rulemaking is a long-term strategy that will help improve air quality by replacing the older, uncertified stoves with newer, cleaner-burning heating systems.

**Senate Bill 102 requirements**

Senate Bill 102 requires EQC to establish a program to remove any noncertified woodstoves upon home sale. It also authorizes EQC to set emission standards for a broader range of home wood-heating devices, including outdoor wood-fired boilers and other uncontrolled wood burning devices that are currently exempt from the U.S. Environmental Protection Agency's woodstove emissions certification requirements. Senate Bill 102 also makes it clear that materials, such as garbage or other prohibited materials may not be burned in a woodstove or fireplace.

**Regulated devices under DEQ's new woodstove rules**

In 1984, Oregon was the first state in the nation to require emissions certification of wood burning stoves. EPA quickly followed with national emission standards in 1988 but has not revised the 20-year-old woodstove standard since then. At that time, only a handful of woodstoves were exempt from emission standards. Today, EPA's exemption list has over 260 devices

because EPA's current definition of "woodstove" is too narrow. This allows hundreds of other uncontrolled residential wood burning devices, such as outdoor residential wood boilers, to be sold because they are technically exempt by EPA. The Heat Smart rules will expand the definition of "woodstove" to "solid fuel burning device," preventing these exempt devices to be sold in Oregon unless they meet EPA certification standards.

Additionally, Senate Bill 102 gives DEQ the authority to set more stringent standards for solid fuel burning devices. EPA plans to issue a revised emission standard for wood stoves within the next few years. DEQ will continue to rely on EPA's emission standards for wood heating devices. DEQ does not see the need to set a separate Oregon emission standard unless EPA fails to do so.

#### **DEQ advisory committee**

DEQ convened an advisory committee in April 2010 to discuss a number of practical issues regarding the implementation of the woodstove removal requirement upon home sale. The committee included a local government representative, real estate brokers, woodstove dealers, contractors and a metal recycler. Four of the committee members were from Klamath Falls and Medford, areas that have had a local woodstove removal upon home sale program in place. These committee members provided insight on the successes and challenges of their programs. A list of committee members is provided in Attachment A.

The committee discussed options regarding notification, removal and destruction requirements. This included how DEQ would establish procedures for the homeowner to notify DEQ that an uncertified stove has been removed and properly destroyed. The committee also provided input on implementation of the rules. The committee reviewed outreach materials and made recommendations for how to inform the public, realtors, dealers, recyclers and any other affected parties.

#### **Key issues**

##### **Wood burning devices subject to emission standards**

The Heat Smart rules will incorporate a broader range of home wood-heating devices, including outdoor wood-fired boilers and other uncontrolled wood burning devices, and subject them to the federal emission standards for woodstoves. One stakeholder, the Hearth, Patio, and Barbecue Association, indicated DEQ should not regulate the outdoor wood boilers but allow them to be addressed under EPA's voluntary certification program. EPA has indicated in its upcoming review of the federal emission standards that it intends to include currently exempt stoves and is still assessing whether to include outdoor wood boilers to meet its federal requirements. EPA plans to issue rulemaking by early 2012. However, because of concerns about wood smoke from the EPA-exempt devices the state of Washington currently requires these devices to meet the EPA standards. DEQ also plans to require the EPA-exempt devices, including outdoor wood boilers, to meet certification standards. DEQ

will conduct outreach to affected stove and residential boiler manufacturers and dealers informing them of the new restrictions.

### **Uncertified stove removal upon home sale**

A key component of the Heat Smart rules includes establishing procedures to verify that an uncertified stove has been removed and destroyed. One of the challenges in implementing these requirements is helping the home seller determine whether the stove is uncertified and must be removed. DEQ plans to provide informational pamphlets to realtors and sellers on how to verify whether the home seller has an uncertified stove and how to dispose and destroy the old stove. The pamphlet would clearly identify what is considered a certified stove and provide example pictures. DEQ also will provide information on its website, providing technical assistance and an electronic form the home seller can submit to notify DEQ that the stove was removed and destroyed.

Another issue is ensuring that the uncertified stove has been removed upon home sale. While the real estate agents will not be asked to enforce these regulations, they will play a critical role in providing information to their clients about the removal requirements. Compliance with these rules will occur primarily through education and awareness, which is similar to how DEQ currently enforces the sale of uncertified woodstoves. Based on the experience in other communities where this requirement is already in effect, this approach is successful.

### **Statutory deadlines**

Senate Bill 102, which the proposed rulemaking would implement, includes a delayed effective date of Aug. 1, 2010, for requiring the removal and destruction of uncertified stoves upon home sale. During the development of the bill, DEQ promised realtors that it would develop rules as quickly as possible to establish removal requirements to eliminate confusion over how to remove and notify DEQ of the destruction of the stove.

### **Next steps**

DEQ plans to proceed with rulemaking to propose Heat Smart rules in June 2010, with final rules proposed to EQC likely in October 2010. Because the uncertified stove removal requirements are effective Aug. 1, 2010, DEQ plans to work with the realtors and home sellers in issuing guidance and providing technical assistance until formal rules are adopted. DEQ will provide a training module for realtors and home inspectors, and be available to answer their questions. DEQ will provide email notifications to woodstove dealers, building codes departments and chimney sweeps, providing information through the project website and answer questions as needed.

DEQ plans to hold at least five hearings throughout the state, possibly in Pendleton, Lakeview, Burns, Baker City, Medford, Eugene and Portland.

**EQC involvement** EQC requested this informational item to learn more about the upcoming Heat Smart rules, specifically regarding the broader range of home heating devices that could be subject to emissions requirements. The purpose of this item is to provide an opportunity for early EQC involvement before DEQ begins formal rulemaking.

**Attachments** A. Heat Smart Advisory Committee Members

**Available upon request** Senate Bill 102:  
<http://www.leg.state.or.us/09reg/measpdf/sb0100.dir/sb0102.en.pdf>

Approved:

Section: \_\_\_\_\_

Division: \_\_\_\_\_

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**DEQ Heat Smart Advisory Committee Members  
April 2010**

<b>Committee Member</b>	<b>Organization</b>
Corey Bailey	Schnitzer Steel Industries - Regional Environmental Manager
Delbert Bell	Klamath County Health Department - Environmental Health Manager
Steve Blaha	Esbey Construction Co. – Home inspector
Adam Bogle	Coldwell Banker – Medford-Ashland realtor
Robert Daggett	Coldwell Banker – Klamath Falls realtor
Shaun Jillions	Oregon Association of Realtors - Legislative Policy Director
Geoff McPherson	Homeowner - Ashland
Tim Nissen	Home Fire Stove - Hearth products dealer
Kent Swanson	Mt. Tabor Chimney Company – Chimney sweep