

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

Heat Smart Rules

A rulemaking to subject a broader range of home wood-heating devices to emission standards and require the removal of noncertified woodstoves upon home sale.

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Heat Smart Rules, OAR 340-262
Statutory Authority or other Legal Authority	ORS 468A.460
Statutes Implemented	ORS 468A.465, 468A.467, 468A.485, 468A.500, 468A.505
Need for the Rule(s)	This rulemaking would implement the requirements of Senate Bill 102 (2009), a measure to protect Oregonians from uncontrolled wood smoke by accelerating the turnover of older uncertified woodstoves. The rulemaking establishes rules to implement a program requiring the removal of an uncertified woodstove upon home sale. The rulemaking will also subject a broader range of home wood-heating devices (including outdoor wood-fired boilers and other uncontrolled wood burning devices) to the federal emission standards for woodstoves.
Documents Relied Upon for Rulemaking	U.S. EPA List of Exempt Appliances: http://www.epa.gov/Compliance/resources/publications/monitoring/caa/woodstoves/exemptwood.pdf The Great American Wood Stove Changeout Program (U.S. EPA): http://www.epa.gov/burnwise/pdfs/wc_are_happening.pdf
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule’s substantive goals while reducing negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	<p>General Public – some fiscal impact due to the cost of removing a stove, but these costs could be recouped during the sale of a home. Overall impact is beneficial, because removing the old, polluting stoves will provide health benefits.</p> <p>Small businesses – woodheating device manufacturers and retail stores will no longer be able to sell EPA-exempt wood burning devices, thereby affecting their overall sales. However, woodstove installers, chimney sweeps, contractors and some woodstove retail stores will see a positive impact because they could be contracted to remove uncertified stoves and in some cases sell and install a new certified device in the home.</p> <p>Large businesses – manufacturers and retail stores will see a negative impact because they will no longer be able to sell EPA-exempt stoves. Metal recyclers and landfill operators may see a potential positive impact because they may have increased traffic of stoves being dropped off for destruction. The metal recyclers could get value for the scrap metal and landfill operators may charge drop-off fees.</p> <p>Several local governments have ordinances requiring the removal of uncertified stoves upon home sale. DEQ’s rule will replace these ordinances with a statewide requirement. These local governments will see a decrease in workload because they will no longer be responsible for tracking the removal of</p>

	<p>noncertified stoves. The State Building Code department will need to incorporate any relevant sections of DEQ’s new rules into the state building code. DEQ will see an increased workload to develop and implement the rules, but over the long run these requirements should decrease workload as the program is intended to prevent communities from becoming air quality areas of concern.</p>
<p>Impacts on the General Public</p>	<p>Home Sellers – may have some fiscal impact because the seller may choose to have a chimney sweep, woodstove installer, or contractor remove an uncertified stove. There may be some additional home repair costs after stove removal, such as patching holes in the ceiling or fixing the chimney once the stove has been removed. However, these costs could be recouped and included in the costs of the home sale.</p> <p>Additional costs may be incurred if the home seller decides to replace the old stove with a new certified device or other heating system. The cost of replacing an uncertified stove with a new certified wood or pellet stove can range between \$1000 and \$3000. The installation costs for a new stove, depending on the condition of the hearth and whether new venting pipes are needed can range from \$500 to \$2000. These costs would be at the seller’s discretion and could be recouped and included in the costs of the home sale. Overall, removing the old stove would benefit public health in the neighborhood by reducing air pollution from that home, which could result in savings of \$3,900 in health benefits each year¹, and improve home safety and reduce the risk of fire by replacing old, potentially unsafe stove installations.</p> <p>DEQ’s rules also implement another provision of SB102 banning the burning of garbage and other prohibited materials in a woodstove or fireplace. It is possible that some homeowners who currently burn these items will have to spend money to dispose of these materials properly. DEQ did not estimate this cost but wants to recognize the possibility of this potential fiscal impact.</p>
<p>Impacts to Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>Smaller manufacturers of EPA-exempt stoves would now have to get their stoves EPA-certified in order for the device to be sold in Oregon. DEQ has estimated there are approximately 64 manufacturers nationally that produce EPA-exempt stoves, but only about 10 of these manufacturers may sell EPA-exempt stoves in Oregon, and some of these manufacturers may be large businesses (this information was not available to DEQ). This rulemaking will affect certain wood heating device manufacturers’ ability to sell some or all of their devices in Oregon. A similar prohibition on the sale of these types of devices is currently in effect in Washington state. In addition, the U.S. EPA has indicated it is looking to require certification of a wider variety of solid fuel burning devices, including the exempt stoves, within the next few years. Many manufacturers of EPA-exempt stoves appear to be slowly discontinuing their exempt models in anticipation of EPA’s new stove standards². That being the case, Oregon’s rules are expected to have less of an impact on these manufacturers because the types of exempt stoves are already being targeted for certification requirements and may ultimately be phased out.</p> <p>Some of the small business retailers, such as hardware stores and woodstove retailers will be affected because it will restrict the sale of these devices, but based on an informal DEQ inquiry, these stores sell about 3 devices a year and most of the exempt devices are sold by the “big-box” stores, i.e., large businesses such as Home Depot or Lowes. It is not a significant part of the store’s inventory and is not expected to have much of a detrimental effect on their business. Most woodstove retailers sell certified devices and other devices such as natural gas stoves that would not be subject to DEQ’s regulations, and these devices make up the bulk of their retail sales.</p> <p>Wood stove installers, contractors, home inspectors, and chimney sweeps could see a potential positive impact to their businesses because homeowners may utilize their services to help remove and destroy the uncertified stove. For example, chimney sweeps may see an increase in business because of the need to clean out an existing chimney to make structural repairs after the removal of the old uncertified device or to prepare for a new woodstove installation. Additionally, hearth products dealers and installers could see a benefit because some homeowners may choose to replace their old, uncertified device with a new stove. This provides revenue and jobs for the dealers as well as installers.</p> <p>Real estate agents will need to become familiar with the rules and requirements in order to educate their clients during a real estate transaction. Realtors may need to invest some time in training to educate</p>

¹ U.S. EPA calculation of projected health benefits from changing out an uncertified stove:
http://www.epa.gov/burnwise/pdfs/wc_are_happening.pdf

² Based on discussions with representatives from the Hearth, Patio, and Barbecue Association.

	themselves of the requirements, but this training could be part of their continuing education credits to maintain their license.	
Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number of small businesses subject to the proposed rule	<ul style="list-style-type: none"> - Up to 64 potential woodstove manufacturers nationally, but it is currently estimated there may be 10 manufacturers that sell EPA exempt devices in Oregon that will now be subject to regulations. - Over 1,000 real estate agencies - At least 45 woodstove dealers and retailers - At least 25 chimney sweeps - Up to 3,500 independent contractors
	b) Types of businesses and industries with small businesses subject to the proposed rule	Woodstove manufacturers Hearth products dealers Woodstove installers Chimney sweeps Home inspectors Realtor agencies
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	If the homeowner contracts out the work to have the uncertified device removed and destroyed from the home, hearth product dealers, installers, chimney sweeps, and contractors may have to complete the DEQ notification forms on behalf of the homeowner.
	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	Manufacturers of exempt stoves will have to get their stoves certified by an accredited lab in order to sell the stove in Oregon. Cost of getting a stove certified will be around \$10,000 - \$15,000 to the manufacturer. Whether or not to incur this expense is a decision each manufacturer of exempt stoves will need to make.
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	DEQ convened an advisory committee that included members from the hearth products association, realtors, home inspectors, and chimney sweeps to provide input on the rules. DEQ also contacted local retailers who sell EPA-exempt stoves (stoves subject to regulation under the rules) to determine the impact on their sales if they were no longer able to sell these devices.
Impacts on Large Business (all businesses that are not “small businesses” under ORS183.310(10))	<p>Larger manufacturers of EPA-exempt stoves would now have to get their stoves EPA-certified in order for the device to be sold in Oregon. DEQ has estimated there are approximately 64 manufacturers nationally (both small and large businesses) that produce EPA-exempt stoves, but only about 10 of these manufacturers appear to sell EPA-exempt stoves in Oregon. The rulemaking will affect the manufacturers’ ability to sell some or all of their devices in Oregon. A similar prohibition on the sale of these types of devices is currently in effect in Washington state. In addition, the U.S. EPA has indicated it is looking to require certification of a wider variety of solid fuel burning devices, including the exempt stoves, within the next few years. Many manufacturers of EPA-exempt stoves appear to be slowly discontinuing their exempt models in anticipation of EPA’s new stove standards³. That being the case, Oregon’s rules are expected to have less of an impact on these manufacturers because the types of exempt stoves are already being targeted for certification requirements and may ultimately be phased out.</p> <p>Currently, there are large retail stores that sell the EPA-exempt devices. DEQ estimates there were about 100 EPA-exempt devices sold in Oregon. While the loss of sales from these devices will have some effect, most of the retail stores are already in the process of phasing out the sale of the devices and are not currently selling them in the stores. There are only a small number of stores still selling these devices, and they typically sell an average of five devices a year.</p> <p>Landfills and metal recyclers will see an increased number of uncertified wood burning devices being</p>	

³ Based on discussions with representatives from the Hearth, Patio, and Barbecue Association.

	<p>dropped off for destruction. The metal recyclers could see an economic benefit as they may get value for the scrap metal and landfill operators may charge drop-off fees. These businesses may also be asked to participate in collection events for rural communities, which could involve providing a drop box for homeowners to deposit their uncertified device. A potential negative impact could be through the increased paperwork, as the landfills and metal recyclers will also need to provide a receipt to the homeowner, so the homeowner can provide proof of destruction to DEQ.</p>
Impacts on Local Government	<p>The cities of Bend, Lakeview, Medford, Klamath County, Deschutes County, as well as Jackson County have existing ordinances requiring the removal of uncertified stoves upon home sale. DEQ's rule will replace these ordinances with a statewide requirement. DEQ's rules will decrease the workload for these local governments, because they will no longer have to process notification forms for woodstove removal. Local building codes departments may see an increased number of permit applications because of homeowners who are removing old, uncertified devices may choose to replace it with a new, certified stove. Installation permits are required under the state building code. Local building departments charge for installation permits, so this will be a normal cost of business to anyone wishing to install a woodstove. This increased use of permits and inspections will result in safer stove installations.</p>
Impacts on State Agencies other than DEQ	<p>These rules may have an impact on the State Building Codes Department. DEQ's rules will change the definition of woodstove to "solid fuel burning device", thus expanding the universe of devices that must be subject to certification requirements. DEQ will encourage the state building codes department to update their rules to make the installation of a wood burning device definition consistent with what the state requires to be a certified device. The building codes department updates their rules annually, and DEQ's new definition of wood heating device can be incorporated during the next update.</p>
Impacts on DEQ	<p>This rulemaking will have fiscal and economic impacts because DEQ will need to develop rules and an electronic database, conduct outreach, and implement the rules. It will cost 0.4 FTE (over 9 months) to develop rules and implement the program. After the initial start up and implementation, it will cost 0.1 FTE to maintain the program, provide additional assistance, and maintain the database and filing of notification forms. In the long term, however, the rule changes will make it easier for DEQ to do business because it will help clean up the air in communities throughout Oregon that have elevated particulate matter levels. If any of these communities violates the federal health standard, DEQ has to spend at least three to five years utilizing staff resources to develop a plan to bring the area back into compliance. This program helps act as a preventative measure to address wood smoke and maintain healthy air.</p>
Assumptions	<p>DEQ contacted a number of retailers (e.g., Home Depot, Lowe's, Harbor Freight, Sears and small hardware stores in Oregon) to determine how many of the EPA-exempt devices were sold in Oregon each year. The sales figures are based on estimates provided by the retailers, although not all retailers were willing to share sales information.</p> <p>Other assumptions were based on conversations with representatives from the hearth products industry, chimney sweeps, contractors, and metal recyclers.</p>
Housing Costs	<p>DEQ has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.</p> <p>It would only affect an existing single family dwelling with an uncertified stove on the premises.</p>
Administrative Rule Advisory Committee	<p>DEQ convened an Advisory Committee on April 8, 2010 to discuss the development of the rules. DEQ convened the Advisory Committee again, on June 30, 2010 to provide input on the fiscal impact statement.</p>

Prepared by _____

Printed name _____

Date _____

Approved by DEQ Budget Office _____

Printed name _____

Date _____