



Public Hearing – February 9, 2011  
Environment Committee

Testimony Submitted by:

Commissioner Amey W. Marrella, Department of Environmental Protection (DEP)

AND

Commissioner Jewel Mullen, MD, Department of Public Health (DPH)

**Senate Bill No. 830 – AN ACT PROHIBITING THE USE OF CERTAIN OUTDOOR WOOD-BURNING FURNACES (OWF)**

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Thank you for the opportunity to present joint testimony on Senate Bill No. 830 - AN ACT PROHIBITING THE USE OF CERTAIN OUTDOOR WOOD-BURNING FURNACES. The Department of Environmental Protection and the Department of Public Health (Departments) offer the following joint testimony. Our Departments recognize that additional action is called for to address the ongoing concerns associated with outdoor wood-burning furnaces (OWF).

Raised Bill 830 seeks to prohibit the operation of OWFs except for the purpose of agriculture or farming or providing heat to the home of any person engaged in agriculture or farming (on and after October 1, 2011).

Connecticut has recognized the benefits of renewable resources that can be produced or grown locally. As a State, we have worked hard to balance energy, air quality, and agricultural policies. As we examine the State's policy on OWFs, all efforts should be made to minimize air quality impacts on public health and Connecticut's quality of life. The existing law in Connecticut with respect to OWFs is inadequate. In 2005, responding to concerns about air pollution and health, Connecticut enacted restrictions on the siting and operation of outdoor wood-burning furnaces. This legislation complemented existing regulations to address citizens' complaints. Such complaints include respiratory irritation, asthma aggravation, burning eyes and headaches. Since 2005, complaints and field investigations indicate that Connecticut's OWF laws remain inadequate and together DEP and local health officials have recorded hundreds of complaints about OWFs. These instances have resulted in formal enforcement actions and referrals to the Office of the Attorney General (see Attachment #1 for DEP Enforcement statistics).

In some cases, siting restrictions make compliance impossible while in others, the cost of coming into compliance is beyond the means of the owner. There are additional situations in which an OWF owner, having expended significant funds for purchase and installation, combined with additional sums in unsuccessful attempts to comply with the regulations, may still be left with no recourse but to discontinue operation. On the other hand, when properly sited (so as not to cause nuisance problems to neighbors) and combusting only non-treated wood (which is a renewable energy resource), a properly operated, cleaner burning OWF can be an important source of heat energy for agriculture and other rural needs.

Yet, regardless of where they are used, OWF operation produces emissions that impact the OWF owner, nearby neighbors, and the local and regional airshed. OWFs, like all other wood-burning devices, release fine particulates into the air which, when inhaled into the lungs, can aggravate existing heart and lung

diseases to cause cardiovascular symptoms, asthma attacks and bronchitis. OWF design generally leads to incomplete combustion, resulting in frequent periods of excessive smoking and much higher quantities of particulate matter than other wood-burning devices.

In addition, while fireplaces and wood stoves, used seasonally, may operate for only a few hours a day, OWFs can operate all day and all year when used for both space heating and hot water applications. The negative impacts from OWFs are greatly exacerbated when, contrary to both the 2005 statute and manufacturers' instructions, materials such as household garbage, tires or pressure treated wood (containing arsenic) are combusted.

Maine, Massachusetts, Maryland, New Hampshire, New York, Pennsylvania and Vermont have adopted more stringent rules covering OWFs. Rhode Island is in the process of adopting more stringent regulations covering OWFs. Many of these states have required that only OWFs meeting federal Environmental Protection (EPA) voluntary emission standards be installed (see Attachment #2). Connecticut is at risk of becoming the only state in the region to not adopt more stringent rules on OWFs: a situation that could exacerbate problems with OWFs in the near future as we could become a dumping ground for units too dirty to be installed in other states.

With nearly 10 years experience and new information, we are finding the existing statute is insufficient to address the problem and has created implementation challenges.

At a minimum, the Department recommends a statutory provision that requires only units that qualify under EPA's Phase II voluntary program be installed at this time. The application of EPA's Phase II program would serve as a starting point. The current statute (subsection (b)) is coupled to EPA's promulgation of regulations concerning OWFs. Rather than rely on the federal government to solve this problem, we recommend a provision to grant discretionary authority to the Commissioner of Environmental Protection, in consultation with the Department of Public Health, to promulgate regulations.

Should the State policy continue to rely on the existing statute as a matter of drafting, the Departments suggest the following changes to CGS 22a-174:

Add in subsection (a) "hot air" as a heat transfer medium, in the definition of outdoor wood burning furnace. This ensures that hot air designs that operate in a cyclical manner similar to hydronic units are subject to the statute. These units are increasing in popularity and are causing problems in neighboring states.

Add definitions for: "residence", "installation", and "installed" to add clarity for enforcement purposes.

Revise subsection (c) requiring that the legal installation of OWFs be enforced by the municipal building officials or zoning enforcement officers.

Establishment of a bright line test, chimney height requirement for siting purposes. Defining requirements for setback distance and chimney height would help to ensure that newly purchased OWFs are sited in such a manner that protects neighbors' health. Setback requirements could be statutorily defined based on the distance of the unit from either the owner's property line or the neighbor's residence.

Clarify that the setback and chimney height requirements in (b)(A) and (b)(B) are based on the date that the unit is installed. E.g., if a new home is constructed within the setback distance and above the chimney height after an OWF is legally installed, the OWF would not have to be relocated/reconfigured to comply with setback distance and chimney height requirements.

Clarify the applicability provisions in subsection (b) to make it clear that any unit installed, established, modified or relocated after July 8, 2005 is subject to the setback and chimney height requirements.

Add a provision in subsection (b)(C) allowing the use of wood pellets that are commercially available for use in residential indoor heating appliances.

Add a requirement in subsection (b)(C) that all units, regardless of the date of installation, burn wood that has not been chemically treated and are installed and operated in accordance with the manufacturer's specifications.

Add a provision prohibiting the use of OWFs during the non-heating season except at commercial farms provided that the use is in approved by Dept. of Ag. The units do not operate efficiently during period of low heat demand such as in the warmer months or when used only to heat domestic hot water. Use during these periods tends to create elevated particulate emissions from these units. This elevated particulate occurring during the same time of year as high ground level ozone concentrations could pose a great threat to public health.

We welcome the opportunity to work with the Environment Committee, local and state public health officials, municipalities, agricultural interests and the OWF industry to find a solution to this difficult problem. If you should require any additional information, please contact Karen Buckley-Bates, DPH legislative liaison, at 883-0836 or [kmbates@ct.gov](mailto:kmbates@ct.gov) or Robert LaFrance, DEP's legislative liaison, at 424-3401 or [Robert.LaFrance@ct.gov](mailto:Robert.LaFrance@ct.gov)

**Attachment #1**

State of Connecticut

Department of Environmental Protection

Enforcement Actions related to Outdoor Wood-Burning Furnaces, July 2005 – December 2010

Type of Enforcement Action	Number of Enforcement Actions
<b>Notice of Violation:</b>  <i>Documentation that alleges a violation of a regulation or statute applicable to the OWF and offering the Respondent 30 days to remedy the situation.</i>	<b>105</b>
<b>Consent Orders to Remove or Relocate and modify the OWF to comply with applicable regulations and statutes:</b>  <i>Consensual Agreement to remedy violations that is typically issued when Respondent fails to remedy violations within the time frame stipulated in a Notice of Violation. This order is filed on the land records for the property on which the violation occurred.</i>	<b>23 Drafted</b>  <b>14 Issued</b>  <i>In some instances Respondents remedy the violation shortly after receiving the draft consent order and becoming aware of the fact that the issued order would be filed on the land records for the residential property; consequently those orders don't proceed to full issuance.</i>
<b>Administrative Order to Remove or Relocate and modify the OWF to comply with applicable regulations and statutes:</b>  <i>Unilateral Order compelling Respondent to remedy the violation by a date certain by either removing or relocating and modifying the OWF to comply with the applicable regulations and statutes.</i>	<b>2</b>
<b>Referral to the Office of the Attorney General resulting in filing a civil law suit:</b>  <i>Results when Respondent fails to comply with Consent Order or Administrative Order.</i>	<b>2</b>

Towns that Regulate Installation or Limit Use of Outdoor Wood-Burning Furnaces	
Town	Conditions
Bethel	Installation prohibited.
Cheshire	Use prohibited.
Granby	Use prohibited.
Haddam	Use prohibited.
Hebron	Use prohibited.
Norfolk	Use prohibited.
Portland	Use prohibited.
Ridgefield	Installation prohibited.
Somers	Operation prohibited from April 15 - October 15.
South Windsor	Use prohibited.
Tolland	Use prohibited.
Washington	Operation prohibited from May 1 - September 30.
West Hartford	Use prohibited.
Woodbridge	Use prohibited.
Hamden	Use prohibited.
North Haven	Use prohibited.
Avon	Use prohibited.
New Hartford	6-Month Moratorium starting 12/8/10.
New Fairfield	Moratorium on new installations from 2/3/11 to 2/2/12.
Salisbury	Requires special permit for OWF installation.





