

## Draft

### Example Wood-Burning Appliance Replacement and Retrofit Project Consent Decree Language

#### **II. Wood-Burning Appliance Replacement and Retrofit Project**

A. Within eighteen months from the entry of this Consent Decree, Defendants shall submit to EPA for review and approval pursuant to Section VIII of this Consent Decree a plan to sponsor Wood-burning Appliance replacement and/or Retrofit Project(s) (“Project(s)”) that a state, local, or tribal air pollution control agency (“air pollution control agency”) or third-party non-profit will agree to implement by replacing or upgrading inefficient, higher polluting wood-burning or coal appliances (e.g., non-EPA certified wood stoves, fireplaces, old technology outdoor wood-fired hydronic heaters) with cleaner burning, more energy-efficient heating appliances (e.g., Energy Star natural gas furnaces, wood pellet stoves, gas stoves, EPA-certified energy efficient wood-stoves or EPA qualified fireplace and hydronic heater retrofit devices). Defendants shall implement a project for the retrofit or replacement of wood/coal-burning appliances to achieve the reduction of X tons of X pollutant and/or spend X amount of dollars. Defendants shall complete the Project(s) no later than four years after the effective date of this Consent Decree.

B. The Project(s) that Defendants sponsor shall provide incentives through rebates, discounts, and in some instances, full replacement (income qualified) of the old technology wood-burning appliances for residential homeowners (you may want to include commercial entities and/or institutions), to encourage residential homeowners to replace/retrofit their old, higher polluting and less energy efficient wood-burning appliances with cleaner burning, more energy efficient heating appliances.

C. Defendants shall sponsor the implementation of the Project(s) in areas that promise significant environmental benefit from the Project(s). In determining the specific areas to implement this Project, Defendants shall give priority to areas with high amounts of air pollution (e.g., non-attainment areas), areas located within a geography and topography that makes it susceptible to high levels of air pollution, areas that have a significant number of old and/or higher polluting wood-burning appliances, or areas with a high concentration of minority and/or low-income populations that could realize health benefits from a replacement campaign.

D. The air pollution control agency(ies) and/or non-profit(s) that Defendants select as specified in paragraph II.A of this Appendix shall ensure the recipient of the incentive receives information related to proper operation of their new appliance and the benefits (e.g., lower emissions, better efficiency) of proper operation and in particular to importance of burning dry seasoned wood. The Defendant shall provide a wood moisture meter to every project participant that purchases/receives a new wood burning appliance or retrofit device. The entity chosen to implement the project shall consult with EPA’s wood smoke team and implement the Project(s) consistent with the materials available on EPA’s website at <http://www.epa.gov/burnwise>.

E. The plan shall also satisfy the following criteria:

1. Identify the air pollution control agency(ies) and/or non-profit(s) selected to implement the Project(s).
2. Briefly describe the schedule and budgetary increments in which Defendants shall provide the necessary funding to the air pollution control agency(ies) and/or non-profits(s) to implement the Project(s). Defendants shall be obligated to provide funding beginning no later than two years after the entry of this Consent Decree, and such schedule and budgetary plan shall reflect this obligation.
3. Ensure that the air pollution control agency(ies) and/or non-profit(s) will implement the Project(s) in accordance with the requirements of this Appendix, and that the Project Dollars will be used to support

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the purchase of wood moisture meters and actual replacement, upgrade or retrofit of appliances currently used as the primary or secondary source of residential heat with a cleaner, more energy efficient appliance (e.g., wood pellet stove, gas furnace, gas stove). Defendants shall limit the use of Project Dollars for administrative and project support costs associated with implementation of the program to no greater than 10% of the Project Dollars.

4. Briefly describe all of the elements of the Project(s) that the air pollution control agency(ies) and/or non-profit(s) will implement. Defendants shall describe the number and type of cleaner burning and/or energy efficient appliances it intends to subsidize or make available, the cost per unit and the value of the rebate or incentive per unit.

Case XXXXXXXXX Document 32-1 Filed 12/12/2012 Page 49 of 55 **Appendix D to Consent Decree in *U.S. v. Acme Inc., et al.*** D-4 and/or nonprofit(s) will use to determine which residential homeowners should be eligible for actual stove replacement.

5. Identify any organizations with which the air pollution control agency(ies) and/or non-profit(s) will partner to implement the Project, including such organizations as: the Hearth, Patio, and Barbecue Association of America, the Chimney Safety Institute of America, a local chapter of the American Lung Association, weatherization offices, individual stove retailers, facilities that will dispose of old stoves so that they cannot be resold or reused, local fire departments, and local health organizations.

6. Describe how the air pollution control agency(ies) and/or non-profit(s) will ensure that the wood-burning appliances being replaced were in use at the time of replacement and were not EPA-certified. Defendants shall also describe how the air pollution control agency(ies) and/or non-profit(s) will ensure that the wood-burning appliances being replaced will be properly recycled or disposed to ensure they will be permanently incapable of creating emissions.

F. Upon EPA's approval of the plan, Defendants shall complete the Project according to the approved plan and schedule.