

PROHIBITED EMISSIONS

040.051 WOOD-BURNING DEVICES (Amended 9/23/98; Revised 6/19/02, Effective 1/1/03; Revised 2/23/06, 8/22/13; Revised and Renamed 5/26/16)

SECTION A – GENERAL:

1. PURPOSE: To limit particulate matter emissions and other pollutants discharged into the ambient air from wood-burning devices (devices) by:
 - a. Setting emission standards and certifying devices;
 - b. Requiring removal of devices that are not EPA-certified upon property transfer;
 - c. Restricting materials that can be burned; and
 - d. Limiting the number of devices that are not deemed low-emitting.
2. APPLICABILITY: The provisions of this regulation apply to any:
 - a. Person who advertises, except when restrictions are noted, sells, offers for sale or resale, supplies, installs, or transfers any wood-burning devices within the Health District;
 - b. Person that completes, or allows the completion of any:
 - (1) escrow transaction;
 - (2) title change on a residential property;
 - (3) title change on a commercial property that contains a wood-burning device.
 - c. Person that operates a wood-burning device within the Health District.

SECTION B – DEFINITIONS: For the purpose of this regulation, the following definitions shall apply.

1. Antique wood stove. Means a wood stove built before 1940 that has an ornate construction and a current market value substantially higher than a common wood stove manufactured in the same time period.
2. Certificate of Compliance. Means a permit issued for a specific location by the Control Officer for a wood-burning device deeming the device EPA-certified and in compliance in accordance with this regulation.
3. Commercial Property. Means any structure used to conduct business including public or private offices, retail, industrial, institutional, or multi-unit residential having more than four dwelling units.

4. Cook Stove. Means a wood stove installed in the kitchen, which is primarily designed for cooking and has a stovetop and an oven. It may also be equipped with gas burners. This wood stove is exempt from the emission standards and requirements of **Section 040.051**.
5. Development. Means a group of multifamily dwelling structures built on a parcel of land with common amenities. Examples of a development include but are not limited to: condominiums, apartments, and townhouses. (Adopted 5/23/90).
6. EPA-Certified. Means a wood-burning device that has been certified in accordance with current standards adopted by the U.S. EPA (40 CFR 60, subpart AAA and subpart QQQQ).
7. Fireplace. Means an open hearth or fire chamber or similarly prepared place in which a fire may be made and that is built in conjunction with a chimney. It may have doors, provided they are not designed with gaskets, air intake controls or other modifications, which create an air starved operating condition. Wood-burning devices initially classified as a wood heater may not be modified to meet the fireplace definition. (Amended 11/16/94).
8. Garbage. Means putrescible animal or vegetable waste.
9. Hydronic Heater. Means a wood-burning device designed:
 - a. to burn primarily wood but may also be equipped to burn biomass such as corn or wood pellets;
 - b. not to be located inside structures ordinarily occupied by humans; and
 - c. to heat spaces or water by the distribution through pipes of a fluid, typically water, heated in the device.
10. Low-emitting device. Means a wood-burning device certified by the manufacturer, to meet an emission rate of 1.0 gram or less of particulate matter per hour.
11. Notice of Exemption (NOE). Means a form approved by the Control Officer, containing the notarized signatures of both the buyer and seller, attesting to the fact that the previously occupied residential or commercial property:
 - a. does not have any wood-burning device;
 - b. has a fireplace that does not have doors that are gasketed to make the device airtight; or
 - c. had an uncertified wood stove removed from the property prior to sale.
12. NSPS. Means New Source Performance Standards. Section 111 of the Clean Air Act authorizes the EPA to develop technology based standards, which apply to specific categories of stationary sources. These standards are referred to as New Source Performance Standards (NSPS) and are found in 40 CFR 60. The NSPS apply to new, modified and reconstructed affected facilities in specific source categories, such as New

Residential Wood Heaters (40 CFR 60, subpart AAA) and New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR 60, subpart QQQQ).

13. Particulate Matter (PM). Means any material, except uncombined water such as water vapor and water droplets, which exists in a finely divided form as a solid or liquid at reference conditions.
14. Pellet Stove. Means a wood-burning device designed to heat the interior of a building. It is a forced draft heater with an automatic feed, which supplies appropriately sized feed material or compressed pellets of wood, or other biomass material to the firebox.
15. Removed or Removal. Means a wood-burning device is physically taken off the real property. Furthermore, the device shall not be stored at any other location on the real property or elsewhere within the Health District without the approval of the Control Officer.
16. Residential Property. Means any structure used as a dwelling including mobile, manufactured, single, multifamily homes of four or fewer units, and/or land with outbuildings, including but not limited to, barns, sheds, and garages.
17. Seasoned Wood. Means firewood with a moisture content not exceeding 20%.
18. Smoke. Means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other combustible material present in sufficient quantity to be observable or, as a suspension in gas of solid particles in sufficient quantity to be observable.
19. Wood-Burning Device (device). Means a device that burns wood, or any other solid fuel that contains wood. The device is used for aesthetic or space-heating purposes including, but not limited to, a fireplace, wood stove, pellet stove, or hydronic heater.
20. Stack or Chimney. Means any flue, conduit, or duct arranged to conduct any smoke, air contaminant or emission to the atmosphere.
21. Treated Wood. Means wood of any species that has been chemically impregnated, painted, or similarly modified.
22. Uncertified. Means a wood-burning device that cannot be verified as meeting the current standards adopted by the U.S. EPA (40 CFR 60, subpart AAA and subpart QQQQ) and/or does not appear on the Washoe County Health District Official List of Certified.
23. Waste Petroleum Products. Means hydrocarbon-based or contaminated materials.
24. Wood Heater. Means an enclosed, wood-burning-appliance capable of and intended for residential space heating or space heating and domestic water heating. These devices include, but are not limited to, adjustable burn rate wood heaters, single burn rate wood heaters, and pellet stoves. Wood heaters may or may not include air ducts to deliver some portion of the heat produced to areas other than the space where the wood heater is located. Wood heaters include, but are not limited to:

- (1) Free-standing wood heaters – Wood heaters that are installed on legs, on a pedestal or suspended from the ceiling. These products generally are safety listed under UL-1482, UL-737 or ULC-S627.
- (2) Fireplace insert wood heaters – Wood heaters intended to be installed in masonry fireplace cavities or in other enclosures. These appliances generally are safety listed under UL-1482, UL-737 or ULC-S628.
- (3) Built-in wood heaters – Wood heaters that are intended to be recessed into the wall. These appliances generally are safety listed under UL-1482, UL-737, UL-127 or ULC-S610.

25. Wood Stove. Means a(n):

- a. former name for one of the devices currently defined as a wood heater;
- c. prefabricated, zero clearance fireplace or a fireplace heat form with doors or other accessories, which cause the fireplace to function as a wood heater; or
- d. wood heater inserted in a fireplace.

Wood stoves do not include open masonry fireplaces, barbecue devices, portable fire pits, gas-fired fireplaces or cook stoves. (Revised 9/23/98).

SECTION C – STANDARDS:

1. PARTICULATE MATTER EMISSION STANDARDS:

The following emission standards apply to the following new devices manufactured, imported into the United States, and/or sold at retail on or after May 15, 2015, per U.S. EPA Standards of Performance for New Residential Wood Heaters (40 CFR 60, subpart AAA) and New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR 60, subpart QQQQ).

a. Wood Heaters

(1) Step 1 Emission Limits - effective May 15, 2015 through May 14, 2020:

(a) 4.5 grams of PM per hour.

(2) Step 2 Emission Limits - effective May 15, 2020:

a) 2.0 grams of PM per hour (if tested using crib wood); or

(b) 2.5 grams of PM per hour (if tested using cord wood, with approved method).

b. Hydronic Heater

(1) Step 1 Emission Limits - effective May 15, 2015 through May 14, 2020:

- (a) 0.32 pounds of PM per million BTU heat output (weighted average), with a cap of 18 grams per hour for individual test runs.
- (2) Step 2 Emission Limits - effective May 15, 2020:
 - (a) 0.10 pounds of PM per million BTU heat output for each burn rate; or
 - (b) 0.15 pounds of PM per million BTU heat output for each burn rate (if emissions are tested using cordwood, with approved method).

The old NSPS limits of 7.5 grams or less of PM per hour continue to apply to existing wood stoves until they are either replaced with EPA-certified wood heaters or when the property changes ownership.

If the U.S. EPA adopts a more stringent emission standard, that emission standard supersedes the standard in this section and becomes effective for all new devices on the date that the U.S. EPA standard becomes effective.

2. LIMITATION ON NUMBER OF WOOD-BURNING DEVICES:

a. Wood Heater

(1) New Installations:

- (a) Only EPA-certified wood heaters shall be installed on any residential or commercial property located within the Health District.
- (b) The number of EPA-certified wood heaters to be installed on any residential or commercial property for which a building or set-up permit is issued shall not exceed one on a parcel of one or more acres.

(2) Existing Property:

Installation of additional wood-burning device is prohibited in existing residential or commercial properties, unless it is a low-emitting device as defined in **Section B.10**.

(3) Existing Wood-burning Device(s):

- (a) Upon the transfer or conveyance of any residential or commercial property, each wood heater that is uncertified shall be removed or replaced with an EPA-certified wood heater, or other low-emitting device, prior to the completion of any:
 - (i.) escrow transaction; and/or

(ii.) title change.

Rendering a device inoperable is not acceptable in lieu of removal.

(b) The Control Officer, on a case-by-case basis, may approve an exemption from Section C.3.a. for an antique wood stove. Persons requesting the exemption must provide proof that the wood stove is an antique wood stove, as defined in 040.051.B.1.

(4) Renovation/Remodel:

(a) If a residential or commercial property is undergoing a renovation/remodel that requires the temporary relocation of the wood heater(s), and there is no change of ownership, the existing wood heater(s) may be:

(i) re-installed; or

(ii) replaced with EPA-certified wood heater(s).

(b) Additional wood heaters are prohibited in accordance with the limitations set forth in Section C.2.a.(1) of this regulation.

b. Fireplace

(1) New Installations:

(a) Installation of any fireplace is prohibited on any residential or commercial property located within a particulate matter or carbon monoxide non-attainment area as defined in 40 CFR 81.329.

(b) The number of fireplaces to be installed on any residential or commercial property for which a building or set-up permit is issued shall not exceed one on a parcel of one or more acres located outside of a particulate matter or carbon monoxide non-attainment area as defined in 40 CFR 81.329, and no such fireplaces shall be installed on parcels less than one acre.

(2) Existing Property:

Installation of additional fireplaces is prohibited in existing residential or commercial properties.

(3) Existing Devices:

(a) Upon the transfer or conveyance of any residential or commercial property, existing fireplace(s) are exempt from

removal to avoid potentially compromising the structural integrity of the building prior to the completion of any:

- (i) escrow transaction; and/or
- (ii) title change.

(4) Renovation/Remodel:

- (a) If a residential or commercial property is undergoing a renovation/remodel, and there is no change of ownership, the existing fireplace(s) can only be replaced with EPA-certified wood heater(s).
- (b) In the event that an incident occurred beyond the owner's control that renders the residential or commercial property uninhabitable, and the property is being rebuilt and not changing ownership, the damaged fireplace(s) may be replaced with EPA qualified fireplace(s) similar in capacity to the damaged fireplace(s).
- (c) Additional fireplaces are prohibited in accordance with the limitations set forth in Section C.2.b.(1) of this regulation.

c. Hydronic Heater

(1) New Installations:

- (a) Only EPA-certified hydronic heaters as defined in Section C.1.b. of this regulation shall be installed on any residential or commercial property located within the Health District.
- (b) The number of EPA-certified hydronic heaters to be installed on any residential or commercial property for which a building or set-up permit is issued shall not exceed one on a parcel of forty (40) or more acres located outside of a particulate matter or carbon monoxide non-attainment area as defined in 40 CFR 81.329.
- (c) Any additional wood-burning device(s) to be installed on any residential or commercial property that contains an EPA-certified hydronic heater must be low-emitting as defined in Section B.10 of this regulation.

(2) Existing Property:

Installation of any hydronic heater is prohibited on existing residential or commercial properties.

(3) Existing Devices:

- (a) Upon the transfer or conveyance of any residential or commercial property, existing hydronic heater(s) that are uncertified shall be removed or replaced with EPA-certified or low-emitting hydronic heater(s) prior to the completion of any:
 - (i) escrow transaction; and/or
 - (ii) title change.

Rendering a hydronic heater inoperable is not acceptable in lieu of removal.

(4) Renovation/Remodel:

- (a) If a residential or commercial property is undergoing a renovation/ remodel that requires the temporary relocation of the hydronic heater(s), and there is no change of ownership, the existing hydronic heater(s) may be:
 - (i) re-installed; or
 - (ii) replaced with qualified hydronic heater(s) that meet(s) EPA standards.
- (b) New or additional hydronic heaters are prohibited in accordance with the limitations set forth in Section C.2.c.(1) of this regulation.

3. **VISIBLE EMISSIONS:** No person may permit emissions from the stack or chimney of a wood-burning device to exceed an opacity reading no greater than 20% for a period or periods aggregating more than three (3) minutes in any one-hour period. Emissions created during a fifteen (15) minute start-up period are exempt. All other provisions in this regulation, including the prohibition on burning fuels specified in Section C.4 or the curtailment of burning during pollution alerts in Section E.7, apply during all modes of operation, including startup.

4. **PROHIBITED FUELS:** A person shall not cause or allow any of the following materials to be burned in a wood-burning device:

- a. asphaltic products;
- b. books and magazines;
- c. garbage;
- d. paints;
- e. colored/wrapping paper;
- f. plastic;
- g. rubber products;
- h. treated wood;
- i. waste petroleum products;
- j. fuel wood that is not seasoned;
- k. coal; or
- l. any other material not intended by a manufacturer for use as a fuel in a solid fuelwood-burning device.

5. CONDITIONS FOR SELLING WOOD: A person selling wood for use in a wood-burning device shall comply with the following:
 - a. Seasoned wood (wood with a moisture content of 20 percent or less) may be sold for immediate use in a wood-burning device.
 - b. Wood with a moisture content of greater than 20 percent may be sold with a disclosure of the excessive moisture content and a recommended seasoning period to obtain a moisture content of 20 percent or less.

SECTION D – ADMINISTRATIVE REQUIREMENTS:

1. No local government authority within the Health District may issue a building permit to any person to install:
 - a. an uncertified wood-burning device;
 - b. an EPA-certified wood-burning device or a low-emitting device without receiving a Certificate of Compliance from the Control Officer.
2. WOOD-BURNING DEVICE INSPECTORS: A person may be approved by the Control Officer to inspect and certify that wood heaters are currently EPA-certified.
 - a. To obtain approval, an application shall be submitted to the Control Officer. Approval will be issued upon satisfactory completion of an initial training course provided and set forth by the Control Officer with payment of the fee established by the Board of Health. Annual approval may be renewed upon meeting all the requirements of the Control Officer and payment of the renewal fee.
 - b. An approved inspector shall report the result of each inspection on a form provided by the Control Officer after the fee established by the Board of Health is paid. The approved inspector shall indicate:
 - (1) whether the residential property contains any wood-burning device;
 - (2) the number of wood-burning devices that are EPA-certified;
 - (3) the number of wood-burning devices that are not EPA-certified.
3. EXISTING WOOD-BURNING DEVICES AND CHANGE OF OWNERSHIP: Prior to the completion of any escrow transaction, and/or title change on any residential or commercial property, the current property owner shall obtain either a Certificate of Compliance or a Notice of Exemption:
 - a. The Control Officer shall issue a Certificate of Compliance:
 - (1) within fourteen (14) calendar days after receipt of a completed inspection report from an approved Wood-burning Device Inspector, unless:

- (a) the report indicates that a wood-burning device is uncertified. In which case, the device must be removed from the property and re-inspection performed by an approved Wood-burning Device Inspector before a Certificate of Compliance can be issued.
 - (b) the Control Officer fails to act within the fourteen (14) calendar day period. After such time, any escrow transaction and/or title change that requires a Certificate of Compliance may be completed in lieu of issuance of said Certificate.
- b. A Notice of Exemption shall be submitted to the Control Officer within fourteen (14) calendar days after the close of escrow and/or title change, if:
 - (1) the residential or commercial property does not contain a wood-burning device.
 - (2) an uncertified wood-burning device has been removed from any residential or commercial property prior to the close of escrow and/or title change. The removal of any uncertified wood-burning device is subject to a verification inspection for a period not to exceed 30 calendar days from the date of close of escrow.

The buyer and seller of any residential or commercial property shall observe any disclosure statements supplied by the real estate agents relating to the requirement under this regulation for the inspection of any wood-burning device.

SECTION E – COMPLIANCE AND RECORDS:

1. The installation of any wood-burning device without a Dealer's Affidavit of Sale shall constitute a major violation and be subject to civil or criminal penalties.
2. LIMITATIONS OF SALE:
 - a. New wood-burning devices to be sold shall be in compliance with the emission standards set forth in **Section C.1.** of this regulation.
 - b. New wood-burning devices sold at retail shall have a permanent label indicating they are certified to meet emission limits in **Section C.1.** of this regulation.
3. DEALERS AFFIDAVIT OF SALE:
 - a. A person who sells a wood-burning device for use within the Health District shall report the sale to the Control Officer within thirty (30) calendar days from the date of sale on the form provided by the Control Officer.
 - b. The form shall be provided by the Control Officer after the person pays the fee established by the Board of Health for that form.
 - c. Any person who fails to notify the Control Officer of the sale of a wood-burning device will be subject to penalties.

4. CERTIFICATE OF COMPLIANCE: A Certificate of Compliance issued pursuant to this section:
 - a. remains valid until the property is transferred or conveyed to a new owner or 270 calendar days, whichever comes sooner.
 - b. does not constitute a warranty or guarantee by the approved inspector or the Control Officer that the wood-burning device meets any other standards of operation, efficiency, or safety, except the emission standards contained in these regulations.
5. FALSIFICATION OF INFORMATION: Any person who falsifies any information associated with a:
 - a. Wood-burning Device Inspection;
 - b. Certificate of Compliance;
 - c. Notice of Exemption; or
 - d. Dealer's Affidavit of Sale will be subject to penalties.
6. VIOLATION OF VISIBLE EMISSIONS OR PROHIBITED FUELS STANDARDS: A person who violates Sections C.3., C4., or C.5. of this regulation shall be issued a warning for the first violation and shall be provided information on proper wood-burning techniques. Subsequent violations would be subject to penalties.
7. CURTAILMENT OF BURNING DURING POLLUTION ALERTS: If the concentrations of an air contaminant/pollutant reach or are predicted to reach levels that constitute a Stage 1 alert as defined in **Section 050.001.C**, operation of any wood-burning device shall be suspended in accordance with the requirements of **Section 050.001.C**.