

PROPOSED AMENDED RULE 445. WOOD-BURNING DEVICES

(a) Purpose

The purpose of this rule is to reduce the emission of particulate matter from wood-burning devices and establish contingency measures for applicable ozone standards for the reduction of volatile organic compounds.

(b) Applicability

The provisions of this rule shall apply to specified persons or businesses within the South Coast Air Basin (SoCAB) and, if the provisions of the ozone contingency measure in paragraph (g)(2) are triggered, the Riverside county portion of the Salton Sea Air Basin (SSAB) which includes the Coachella valley area portions of the South Coast Air Quality Management District:

- (1) Any person that manufacturers, sells, offers for sale, or installs a wood-burning device;
- (2) Any commercial firewood seller that sells, offers for sale, or supplies wood or other wood-based fuels intended for burning in a wood-burning-device or portable outdoor wood-burning device; and
- (3) Any property owner or tenant that operates a wood-burning device or portable outdoor wood-burning device.

(c) Definitions

- (1) COMMERCIAL WOOD-BASED FUEL SELLER means any operation that has a business license that sells, or offers for sale, or supplies packaged, bundled or bulk firewood, manufactured firelogs, or wood pellets.
- (2) COOKSTOVE means any wood or wood-based fuel-fired device that is designed and used for cooking food and has the following characteristics as defined in Title 40 of the Code of Federal Regulations Section 60.531, March 16, 2015, or any subsequent revision:
 - (A) An oven, with a volume of 0.028 cubic meters (1 cubic foot) or greater, and an oven rack;
 - (B) A device for measuring oven temperatures;
 - (C) A flame path that is routed around the oven;
 - (D) A shaker grate;

- (E) An ash pan;
 - (F) An ash clean-out door below the oven; and
 - (G) The absence of a fan or heat channels to dissipate heat from the appliance.
- (3) DAILY MAXIMUM 8-HOUR OZONE AIR QUALITY FORECAST means the maximum predicted ambient average ozone concentration, during any rolling eight (8) hour time period for the entire consecutive 24-hour period, beginning at midnight of the current day and ending upon the subsequent midnight.
 - (4) DAILY PM_{2.5} AIR QUALITY FORECAST means the predicted ambient average PM_{2.5} concentration, for the entire consecutive 24-hour period, beginning at midnight of the current day and ending upon the subsequent midnight.
 - (5) DEDICATED GASEOUS-FUELED FIREPLACE means any indoor or outdoor fireplace, including, but not limited to, a gas log fireplace, either constructed on-site, or factory built, fueled exclusively with a gaseous fuel such that the burner pan and associated equipment are affixed to the masonry or metal base of the fireplace.
 - (6) FIREPLACE means any permanently installed indoor or outdoor masonry or factory-built device used for aesthetic or space-heating purposes and designed to operate with an air-to-fuel ratio greater than or equal to 35-to-1.
 - (7) LOW INCOME HOUSEHOLD means any household that receives financial assistance through reduced electric or gas bills from an electric or natural gas utility based on household income levels.
 - (8) MANUFACTURED FIRELOG means a commercial product expressly manufactured for use to simulate a wood burning fire in a wood-burning device.
 - (9) MASONRY HEATER means any permanently installed device that meets the definition of a masonry heater in ASTM E 1602-03.
 - (10) NEW DEVELOPMENT means residential or commercial, single or multi-building unit, which begins construction on or after March 9, 2009. For the purposes of this definition, construction has begun when the building permit has been approved or when the foundation for the structure is started, whichever occurs first.
 - (11) PELLET-FUELED WOOD-BURNING HEATER means any wood-burning heater that is operated on any pellet fuel, and is either U.S. EPA Phase II-certified or exempted under U.S. EPA requirements as defined in Title 40 Code

of Federal Regulations, Part 60, Subpart AAA, March 16, 2015, or any subsequent revision.

- (12) PERMANENTLY INSTALLED means any device built or installed in such a manner that the device is attached to the ground, floor, or wall, and is not readily moveable. A free standing stove that is attached to an exhaust system that is built into or through a wall is considered permanently installed.
- (13) PM2.5 means particulate matter with an aerodynamic diameter less than 2.5 microns.
- (14) PORTABLE OUTDOOR WOOD-BURNING DEVICE means any portable outdoor device burning any wood-based fuel for aesthetic or space heating purposes including, but not limited to, fireplaces, burn bowls, and chimineas located on property zoned for residential uses.
- (15) RECONSTRUCTION means rebuilding or reinstalling a wood-burning device irreparably damaged due to fire, wildfire, flood, earthquake or other soil or geologic movements, where the wood-burning device was not the cause of the damage or destruction.
- (16) REPAIR means restoring a wood-burning device to proper working order by replacing or servicing worn or damaged components, including cracked, damaged or worn masonry, crumbling mortar or other components. Repairs shall not increase the dimensions, throughput capacity or emissions potential of the existing wood-burning device. Repair for the purposes of this rule does not include solely aesthetic remodeling.
- (17) SALTON SEA AIR BASIN (SSAB) means for the purposes of this rule only that portion of the Salton Sea Air Basin that is contained within Riverside county, and which also includes the Coachella Valley Area as defined in Rule 103.
- (15) SEASONED WOOD means wood of any species that has been sufficiently dried so as to contain 20 percent or less moisture content by weight as determined by
 - (A) ASTM Test Method D 4442-92, Standard Test Method for Use and Calibration of Hand-Held Moisture Meters; or
 - (B) A hand-held moisture meter operated in accordance with ASTM Test Method D 4444-92, Standard Test Methods for Use and Calibration of Hand-Held Moisture Meters; or
 - (C) An alternative method approved by the Executive Officer, the California Air Resources Board, and the U.S. Environmental Protection Agency.
- (16) SOLE SOURCE OF HEAT means the only permanent source of heat that is capable of meeting the space heating needs of a household.

- (~~17~~20) SOURCE RECEPTOR AREA (SRA) means any of the numbered areas in the ~~map Basin~~ as shown ~~on the map~~ in Attachment 1. SRA's 1 through 13, 15 through 29, and 32 through 38 are in the South Coast Air Basin (SoCAB). SRA 30 is in the Salton Sea Air Basin (which includes the Coachella Valley Area).
- (~~18~~21) SOUTH COAST AIR BASIN (SoCAB) means the non-desert portions of Los Angeles, Riverside, and San Bernardino counties and all of Orange County as defined in California Code of Regulations, Title 17, Section 60104.
- (~~19~~22) TREATED WOOD means wood of any species that has been chemically impregnated, painted, coated or similarly modified to improve resistance to insects, wood rot and decay, or weathering.
- (~~20~~23) U.S. EPA CERTIFIED WOOD-BURNING HEATER means any device certified by the U.S. EPA to meet the performance and emission standards as defined in Title 40 Code of Federal Regulations, Part 60, Subpart AAA, March 16, 2015, or any subsequent revision.
- (~~21~~24) WOOD-BASED FUEL means any wood, wood-based product, or non-gaseous or non-liquid fuel, including but not limited to manufactured firelogs, wood or pellet products. For the purpose of this rule, charcoal used for cooking is not considered a wood-based fuel.
- (~~22~~25) WOOD-BURNING DEVICE means any fireplace, wood-burning heater, pellet-fueled wood-burning heater, or any similarly open or enclosed, permanently installed, indoor or outdoor device burning any wood-based fuel for aesthetic purposes, which has a heat input of less than one million British thermal units per hour (Btu/hr).
- (~~23~~26) WOOD-BURNING HEATER means an enclosed, wood-burning device capable of space heating that meets all the criteria defined in Title 40 Code of Federal Regulations Section 60.531, March 16, 2015, or any subsequent revision including, but not limited to, wood stoves and wood-burning fireplace inserts.
- (~~24~~27) WOOD-BURNING SEASON means for:
- (A) PM_{2.5}, the consecutive entire four (4) months of November, December, January, and February.
 - (B) Ozone, upon triggering any one of the ozone contingency provisions in subparagraph (g), the consecutive entire eight (8) months of September, October, November, December, January, February, March and April.
- (~~25~~28) WOOD-FIRED COOKING DEVICE means any cookstove, wood-fired oven or grill, or any device designed for burning any wood-based fuel for cooking purposes.

(d) Requirements

- (1) No person shall permanently install a wood-burning device into any new development.
- (2) Notwithstanding the requirements of paragraph (d)(1), no person shall sell, offer for sale, supply, or install, a new or used permanently installed indoor or outdoor wood-burning device or gaseous-fueled device unless it is one of the following:
 - (A) A U.S. EPA Certified wood-burning heater; or
 - (B) A pellet-fueled wood-burning heater; or
 - (C) A masonry heater; or
 - (D) A dedicated gaseous-fueled fireplace.
- (3) Notwithstanding the requirements of paragraph (d)(1) or (d)(2), a wood-burning device may be repaired or, if irreparable, reconstructed as defined in this rule. There shall be no increase in the dimensions, throughput capacity or emissions potential of the reconstructed wood-burning device.
- ~~(3)~~ No person shall burn any product not intended for use as fuel in a wood-burning device including, but not limited to, wood unless it is seasoned wood, garbage, treated wood, particle board, plastic products, rubber products, waste petroleum products, paints, coatings or solvents, or coal.
- ~~(4)~~ A commercial firewood seller shall only sell seasoned wood from July 1 through the end of ~~February~~ April of the following year. Any commercial firewood seller may sell seasoned as well as non-seasoned wood during the remaining months.
- ~~(5)~~ Labeling and Sell-Through Provision

No commercial firewood seller shall sell, offer for sale, or supply wood-based fuel without first attaching a permanently affixed indelible label to each package or providing written notice to each buyer at the time of purchase of bulk firewood that at a minimum that states the following:

Use of this and other solid fuel products may be restricted at times by law. Please check (1-877-4NO-BURN) or (www.8774NOBURN.org) before burning.

- (A) Alternative language, toll-free telephone number or web address for the information specified in subdivision (j) may be used, subject to Executive Officer approval.
- (B) The Executive Officer shall specify guidelines for the aforementioned labeling requirements.

(e) SoCAB Wood-Burning Season PM2.5 Mandatory Burning Curtailment (No-Burn ~~d~~Day)
No person shall operate an indoor or outdoor wood-burning device, portable outdoor wood-burning device, or wood-fired cooking device on a calendar day during the wood-burning season for PM2.5 so declared to the public by the Executive Officer to be a mandatory wood-burning curtailment day (No-Burn Day) ~~day~~-based on the specified geographic area below 3,000 feet above mean sea level and applicable daily PM2.5 air quality forecast as follows:

- (1) Basin-wide if the daily PM2.5 air quality forecast for any source receptor area exceeds $30 \mu\text{g}/\text{m}^3$ in the SoCAB, or
- (2) subsequent to a determination by U.S. EPA, pursuant to 40 CFR § 51.1014(a) of a failure to comply with either a referenced PM2.5 standard or reporting requirement; the applicable daily PM2.5 air quality forecast as set forth in subdivision (f) PM2.5 Contingency Measures.

(f) SoCAB PM2.5 Contingency Measures

- (1) Upon the issuance of a final determination by U.S. EPA, pursuant to 40 CFR § 51.1014(a), that the ~~South Coast Air Basin~~ SoCAB has failed to comply with the following requirements by the applicable date to:
 - (A) meet any Reasonable Further Progress (RFP) requirement in an attainment plan approved in accordance with § 51.1012;
 - (B) meet any quantitative milestone in an attainment plan approved in accordance with § 51.1013;
 - (C) submit a quantitative milestone report required under § 51.1013(b); or,
 - (D) attain the applicable PM2.5 NAAQS by the applicable attainment date, the contingency measure(s) specified in paragraph (f)(2) shall be implemented, sequentially and in the order of stringency.
- (2) A Basin-wide, mandatory wood-burning curtailment during the wood-burning season if the daily PM2.5 air quality forecast for any SRA exceeds:
 - (A) $29 \mu\text{g}/\text{m}^3$ PM2.5, upon a final determination of a failure to comply with any of the provisions of paragraph (f)(1);
 - (B) ~~28-27~~ $\mu\text{g}/\text{m}^3$ PM2.5, upon a final determination of a failure to comply with any two of the provisions in paragraph (f)(1);
 - (C) ~~27-26~~ $\mu\text{g}/\text{m}^3$ PM2.5, upon a final determination of a failure to comply with any three of the provisions in paragraph (f)(1); and
 - (D) ~~26-25~~ $\mu\text{g}/\text{m}^3$ PM2.5, upon a final determination of a failure to comply with any four of the provisions in paragraph (f)(1).

(g) SoCAB and SSAB Ozone Contingency Measures

(1) For the SoCAB: Upon the issuance of a final determination by U.S. EPA, that the ~~South Coast Air Basin~~ SoCAB has failed to comply with the following requirements by the applicable date to:

- (A) meet a Reasonable Further Progress (RFP) requirement in an approved attainment plan for an applicable SoCAB ozone NAAQS; or
- (B) attain an applicable SoCAB ozone NAAQS by the applicable attainment date.

For the SoCAB only, the applicable contingency measure(s) specified in paragraph (g)(23) shall be implemented, sequentially and in the order of stringency.

(2) For the SSAB: Upon the issuance of a final determination by U.S. EPA, that the SSAB has failed to comply with the following requirements by the applicable date to:

- (A) meet a Reasonable Further Progress (RFP) requirement in an approved attainment plan for an applicable SSAB ozone NAAQS; or
- (B) attain an applicable SSAB ozone NAAQS by the applicable attainment date.

For the SSAB only, the applicable contingency measure(s) specified in paragraph (g)(3) shall be implemented, sequentially and in the order of stringency.

(23) Basin-wide, in the applicable air basin only (SoCAB or SSAB), below 3,000 feet above mean sea level, no person shall operate an indoor or outdoor wood-burning device, portable outdoor wood-burning device, or wood-fired cooking device on a calendar day during the wood-burning season for ozone, so declared by Executive Officer to be a wood-burning curtailment day (No-Burn Day) day due to forecasted ambient ozone concentration levels, if the daily maximum 8-hour ozone air quality forecast for any SRA in the applicable Basin (SoCAB or SSAB) exceeds:

- (A) 80 ppb ozone, upon a final determination of a first failure to comply with any of the provisions of paragraph (g)(1) or (g)(2), as applicable;
- (B) 75 ppb ozone, upon a final determination of a second failure to comply with any of the applicable provisions of paragraph (g)(1) or (g)(2), as applicable; and

- (C) 70 ppb ozone, upon a final determination of a third failure to comply with any of the applicable provisions of paragraph (g)(1) or (g)(2), as applicable.
- (h) Prohibitions on Permissive Burn Days as described in Rule 444(c)(25)(C) or restrictions on Marginal Burn Days as described in Rule 444 (c)(21)(D) shall be in effect only if a No-Burn ~~d~~Day is declared during any of the consecutive months of November, December, January or February.
- (i) Exemptions
- (1) The provisions of this rule shall not apply to wood-fired cooking devices designed and used for commercial purposes.
 - (2) The provisions of paragraph (d)(1) shall not apply to new developments where there is no existing infrastructure for natural gas service within 150 feet of the property line or those 3,000 or more feet above mean sea level.
 - (3) The provisions of paragraph (d)(2) shall not apply to an indoor or outdoor wood-burning device that is permanently installed and included in the sale or transfer of any existing development.
 - (4) The provisions of (d)(2) shall not apply to properties that are registered as a historical site, or are contributing structures located in a Historic Preservation Overlay Zone, as determined by the applicable, federal, State, or local agency. Contributing structures are those buildings which are examples of the predominate styles of the area, built during the time period when the bulk of the structures were built in the Historic Preservation Overlay Zone.
 - (5) The provisions of (d)(~~34~~) shall not apply to manufactured firelogs.
 - (6) The provisions of (d)(~~56~~) shall not apply to wood-based fuel intended for the cooking, smoking, or flavoring of food.
 - (7) The provisions of subdivisions (e), (f), and (g), shall not apply under the following circumstances:
 - (A) Residential or commercial properties where a wood-burning device is the sole source of heat; or
 - (B) A low income household; or
 - (C) Residential or commercial properties where there is no existing infrastructure for natural gas service within 150 feet of the property line; or

- (D) Residential or commercial properties located 3,000 or more feet above mean sea level; or
- (E) Ceremonial fires exempted under Rule 444 - Open Burning.

(j) **Administrative Requirements**

The Executive Officer will provide public notice of a mandatory wood-burning curtailment (No-Burn Day) through one or more of the following methods:

- (1) A recorded telephone message;
- (2) An interactive map showing the areas where burning is prohibited;
- (~~2~~3) Messages posted on the South Coast Air Quality Management District web site;
- (~~3~~4) Electronic mail messages to persons or entities that have requested such notice;
- (~~4~~5) Notifying broadcast and print media operating within the boundaries of the ~~South Coast Air Basin~~ SoCAB and the SSAB; and
- (~~5~~6) Any additional method that the Executive Officer determines is appropriate.

(k) **Penalties**

Any person that violates the provisions of subdivision (e), (f) or (g) is subject to the following:

- (1) For first time violators during each wood-burning season, completion of a wood smoke awareness course that has been approved by the Executive Officer or payment of a penalty of \$50;
- (2) For second time violators during each wood-burning season, payment of a penalty of \$150 or submission of proof of installation of a dedicated gaseous-fueled fireplace within 90 days after receiving the Notice of Violation; and
- (3) For third time violators during each wood-burning season, payment of a penalty of \$500 or implementation of an environmentally beneficial project as derived through the mutual settlement process.

(l) **Severability**

If any provision of this rule is held by judicial order to be invalid, or invalid or inapplicable to any person or circumstance, such order shall not affect the validity of the remainder of this rule, or the validity or applicability of such provision to other persons or circumstances.

Attachment 1 – Source Receptor Areas (SRAs) in the South Coast Air Basin (SoCAB) and the Salton Sea Air Basin (SSAB).
Note: (unshaded areas are outside the Basin not subject to Rule 445)

