

## **REGULATION 4.1**

### **PARTICULATE EMISSIONS REDUCTION MEASURE FOR WOOD BURNING APPLIANCES**

#### **RULE 4.1-100 – AUTHORITY**

This regulation is adopted pursuant to the provisions of Division 26 of the Health and Safety Code of the State of California and shall be known as Regulation 4.1 of the Mendocino County Air Quality Management District.

#### **RULE 4.1-105 – JURISDICTION**

- (a) The jurisdiction of the Mendocino County Air Quality Management District shall be coterminous with the existing boundaries of Mendocino County.
- (b) The Mendocino County Air Quality Management District lies within the North Coast Air Basin.

The North Coast Air Basin is comprised of the Counties of Del Norte, Trinity, Humboldt, Mendocino, and that region of Sonoma County designated as the Northern Sonoma County Air Pollution Control District.

#### **RULE 4.1-110 – PURPOSE**

The purpose of this regulation is to reduce the impact of particulate emissions from wood burning appliances on public health and air quality in the Mendocino County Air Quality Management District.

#### **RULE 4.1-120 – ADMINISTRATION**

The procedures and restrictions set forth in these rules and regulations shall be administered by the Mendocino County Air Quality Management District within its area of jurisdiction as authorized by Section 40002 of the California Health and Safety Code; Chapter 3, Part 3, Division 26 of said code; or by contractual agreements between Air Districts in accordance with the provisions of Section 40701 of said code, and further described in Section 90120 of Title 17 of the California Administrative Code.

#### **RULE 4.1-130 - APPLICABILITY**

This Regulation shall apply to all wood burning appliances installed after the effective date of this regulation as described in Rule 4.1-180, including;

- (a) All wood burning appliances installed in new residential units, commercial buildings, and public buildings.
- (b) All wood burning appliances installed during renovation or remodeling of an existing residential, commercial or public building.
- (c) All wood burning appliances installed in accessory buildings related to a residential, commercial or public building.
- (d) All wood burning appliances installed to replace existing wood burning appliances.
- (e) All wood burning appliances installed outdoors for the purpose of providing heat, hot water, and/or power to a residence, commercial building, or public building.
- (f) All new and used wood burning appliances offered for sale to the public within the area of jurisdiction of the Mendocino County Air Quality Management District.
- (g) Major subdivisions that file a tentative map after the effective date of this regulation are subject to its provisions.

#### **RULE 4.1-140 – DEFINITIONS**

**(a1) Accessory Building:**

Any building that is not a residence, commercial building or public building as defined by this regulation, but is located on property which contains a residence, commercial building or public building as the primary structure.

**(a2) Air Pollution Control Officer (APCO):**

The Executive Officer of the Mendocino County Air Quality Management District.

**(a3) Approved Appliances:**

Appliances that are approved by the District for use as wood burning appliances include;

- (1) Pellet-fueled wood heaters,
- (2) EPA certified wood heaters,
- (3) EPA certified fireplace inserts,
- (4) Devices approved by a California air pollution control agency under a program designed to reduce emissions from residential heating devices.

**(a4) Approved Fuel:**

Clean dry wood, wood pellets or any other wood based product excluding pressure-treated or painted wood of any type.

**(c1) Commercial Building:**

Any building that does not contain a dwelling unit. For purposes of this definition, area separator walls, as defined in the Uniform Building Code as published by International Conference of Building Officials, shall not create separate buildings. Hotels are considered commercial buildings, as defined by this Regulation.

**(e1) EPA:**

United States Environmental Protection Agency.

**(e2) EPA Certified Wood Heater:**

Any wood heater that meets the standards in Title 40, Part 60, Subpart AAA, of the Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations.

**(f1) Fireplace:**

Any permanently installed masonry or factory built device designed to burn wood indoors and with an air-to-fuel ratio greater than or equal to 35-to-1.

**(g1) Gas Fireplace:**

Any device designed to burn only gaseous fuel in a manner that simulates the appearance of a wood burning fireplace.

**(h1) Hotel:**

Any 'business' that provides rooms for rent on a daily or weekly basis. For the purposes of this regulation 'hotel' includes bed and breakfast establishments, cottage rentals, motels, vacation home rentals and all other daily and weekly room rental businesses.

**(i1) Insert Device:**

Any EPA certified or pellet-fueled wood heater specifically designed to convert a fireplace to a useful wood-heating appliance.

**(l1) Local Building Official:**

The representative of the local government authorized under California law to verify compliance with building codes and sign 'Certificates of Occupancy' for commercial buildings.

**(m1) Major Subdivision:**

Any subdivision of land that requires the filing of a tentative and final map with the local land-use agency under the requirements of California Government Code, Section 66426 or any locally adopted ordinances.

**(m2) Multi-family Residence:**

A single building with four or more residential units, including apartments, town homes and condominiums.

**(p1) Pellet-fueled Wood Heater:**

A wood burning appliance that meets all of the following criteria:

- (1) The manufacturer does not refer to burning cordwood in advertising or other literature,
- (2) The appliance is safety listed for pellet fuel only,
- (3) The operating and instruction manual for the appliance must state that the use of cordwood is prohibited by federal law, and
- (4) The hopper and auger combination must be manufactured and sold as integral parts of the appliance.

**(p2) Person:**

An individual, private corporation, public entity, partnership, co-partnership, firm, association, trust or estate, or any other private or public legal entity whatsoever that is recognized in law as the subject of rights and duties.

**(p3) Public Building:**

Any building owned, leased or operated by a local, state or federal governmental agency.

**(r1) Residence:**

Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the International Building Code as published by International Conference of Building Officials. 'Residence' includes all long-term (more than weekly) rental properties.

**(s1) Solid Fuel:**

Wood or any other non-gaseous or non-liquid fuel.

**(s2) Subdivision Map Act:**

The Subdivision Map Act of the State of California and any local implementing ordinances adopted by local government.

**(w1) Wood Burning Appliance:**

Any wood-fired furnace, boiler, or wood-fired heater that burns wood, pelleted wood or any other wood based solid fuel used for aesthetic, water heating, or space heating purposes and that has a rated heat output of less than one million British thermal units (Btu's) per hour.

**(w2) Wood-fired Outdoor Boiler:**

Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the purpose of combustion of wood fuel, including devices which may burn other fuels, to produce heat or energy used as a component of a heating system designed or operated to provide heat or hot water for any interior space.

**RULE 4.1-180 – IMPLEMENTATION**

This Regulation shall become effective 180 days after adoption by the Mendocino County Air Quality Management District Board.

**RULE 4.1-190 – VALIDITY**

- (a)** If any provisions of these rules and regulations shall be rendered void or unconstitutional by judicial or other determination, all other parts of these rules and regulations that are not expressly held to be void or unconstitutional shall continue in full force and effect.
- (b)** These rules and regulations are not intended to permit any practice that is in violation of any statute, ordinance, order, or regulation of the United States, State of California, county, or incorporated city; and no provisions contained in these rules and regulations are intended to impair or abrogate any civil remedy or process, whether legal or equitable, that might otherwise be available to any person.
- (c)** These rules and regulations shall be liberally construed for the protection of the health, safety and welfare of the residents of the Mendocino County Air Quality Management District.

**RULE 4.1-260 – EXEMPTIONS**

Wood burning appliances exempt from this regulation include:

- (a)** Wood burning appliances in existing residential, commercial or public buildings designated as a historical site by any one of the following:
  - (1)** The County of Mendocino or any incorporated city therein,
  - (2)** The State Department of Parks and Recreation,
  - (3)** The United States Forest Service,
  - (4)** The United States Bureau of Indian Affairs,

- (5) The United States Bureau of Land Management,
  - (6) The Federal Register of Historic Places, and/or
  - (7) Listed on the California list of Landmarks or in the California Points of Historic Interest, or
  - (8) Listed by any other governmental programs as approved by the Air Pollution Control Officer.
- (b) The installation of wood burning appliances on display at a retail business whose purpose is the sale of wood burning appliances to the public.
  - (c) Fireplaces and wood burning appliances installed on railroad equipment that is owned and/or operated by an active railroad or public museum.
  - (d) Wood burning appliances used primarily in the preparation of food.
  - (e) Wood burning appliances used in compliance with all other local, state and District regulations for recreational outdoor heating.

**RULE 4.1-300 – REQUIREMENTS**

- (a) A local building official or his or her designee shall not issue a Certificate of Occupancy or approve a final building inspection until compliance with this Regulation has been documented by any one of the following;
  - (1) The authorized local building official observes and documents that no wood burning appliances have been installed, or;
  - (2) The project is a residential dwelling of three units or less and not part of a new major subdivision subject to Rule 4.1-400 (e) and;
    - (A) The authorized local building official observes and documents the presence of EPA certification labels on all installed wood burning appliances on the premises, or;
    - (B) The authorized local building official observes and documents that only pellet fueled wood burning appliances have been installed, or;
  - (3) The Air Pollution Control Officer has issued a statement, in writing, that the project is exempt from this Regulation, or
  - (4) The Air Pollution Control Officer has issued a statement, in writing, that the project is in compliance with this Regulation.

## **RULE 4.1-400 – PROHIBITIONS**

- (a) No person shall install an open wood burning fireplace in any new residential, commercial or public building or accessory building, or as part of a renovation of any residential, commercial or public building or accessory building.
- (b) No person shall install a wood-fired outdoor boiler to provide heat for any residential, commercial or public building or accessory building.
- (c) No person shall install wood burning appliances in any new, remodeled or renovated multi-family residence, commercial or public building or accessory building, except as a replacement for an existing wood burning appliance.
- (d) No person shall install wood burning appliances in any new or remodeled residential dwelling of three units or less, or any accessory building, that is not an approved device as defined in Rule 4.1-140(a3).
- (e) No person shall replace non-wood burning appliances with wood burning appliances in any building.
- (f) No person shall install any wood burning appliances in any residential dwelling or accessory building that is included as part of a major subdivision, which filed a tentative map after the effective date of this regulation.
- (g) No person shall use any wood burning appliance to dispose of residential or commercial waste.
- (h) No person shall use any wood burning appliance to burn a wood-based product that is not defined as an approved fuel in Rule 4.1-140 (a4).

## **RULE 4.1-500 - ENFORCEMENT**

- (a) No person shall violate any provision of these rules and regulations; or any order, rule, or regulation of the California Air Resources Board; or any provisions of the California Health and Safety Code.
- (b) Any person who violates these rules and regulations; or any order, rule, or regulation of the California Air Resources Board; or any provisions of the California Health and Safety Code is guilty of a misdemeanor and/or is liable for a civil penalty or imprisonment in the county jail for a period not exceeding six months, or both. Each day during any portion of which the violation occurs constitutes a separate offense.

(Health and Safety Code, Section 42400 et. seq.)

## **RULE 1-520 - CIVIL PENALTIES**

- (a) Any person who violates any order, permit, rule or regulation of the District or of the District's Hearing Board, including any Airborne Toxic Control Measure adopted as part of Regulation 3 of the Air Quality Management District, may be liable for civil penalties in accordance with Health and Safety Code, Section 42400 et. seq.

[Adopted December 5, 2006]