

## **REGULATION II**

### **PROHIBITIONS**

#### **RULE 231**

#### **Wood Burning and Open Burning Rule**

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# 1 GENERAL

## 1.1 Purpose

This rule is enacted for the purpose of improving the air quality and protecting public health within the Portola nonattainment area, a portion of Plumas County designated nonattainment for the 2012 annual PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). The District recognizes the need to reduce harmful emissions from wood burning and open burning by limiting when these activities are permitted and by strengthening regulations to support a faster transition to cleaner home heating technologies.

**1.1.1** The District will declare a mandatory burn curtailment when PM<sub>2.5</sub> levels are forecast to exceed thresholds specified in Section 3.

**1.1.2** Mandatory burn curtailment and prohibition of open burning on curtailment days will affect residents within the Zone 1 (Exhibit A) region of the Portola nonattainment area. Unless specified otherwise, all other aspects of this rule affect the entire Portola nonattainment area, both Zone 1 and Zone 2 (Exhibit A).

## 1.2 Applicability

**1.2.1** This rule applies to owners, operators, sellers, and installers of wood burning devices, any person selling or transferring a real property, and any person performing an open burn of natural vegetation or other material within Portola nonattainment area.

**1.2.2** Mandatory Curtailment and prohibition of open burning on curtailment days apply only to Zone 1.

**1.2.3** The provisions of this rule shall take effect on January 1, 2026.

## 1.3 Exemptions: The following are exempt from the provisions of this rule:

**1.3.1** Home heating devices operating on electricity or gaseous fuels.

**1.3.2** EPA-certified wood or pellet heaters registered with District are allowed to operate during wood burning curtailment but are subject to Section 4.4, Visible Emissions Limitations.

**1.3.3** The Mandatory burn curtailment provisions of this rule do not apply to households experiencing a temporary service outage of their primary heating source, as determined by the gas, propane, or electrical utility service provider.

## 2 DEFINITIONS

- 2.1 **District:** The Northern Sierra Air Quality Management District
- 2.2 **APCO:** The Air Pollution Control Officer of the Northern Sierra Air Quality Management District.
- 2.3 **Building:** Any residence, mobile home, commercial property, or other structure.
- 2.4 **CARB:** The California Air Resources Board, or any person authorized to act on its behalf.
- 2.5 **Certificate of Compliance** means a document issued by the Air Pollution Control Officer or designee certifying that a building has no more than two wood burning devices which are EPA certified and no uncertified wood burning devices.
- 2.6 **City:** means the City of Portola.
- 2.7 **Criteria Pollutant:** An air pollutant regulated by a National Ambient Air Quality Standard contained within 40 CFR Part 50.
- 2.8 **Curtailment Day:** A day during the designated wood burning season on which the District publicly declares a mandatory curtailment due to forecasted PM<sub>2.5</sub> concentrations exceeding the thresholds specified in Section 3.
- 2.9 **Emission:** The act of releasing or discharging air contaminants into the ambient air from any source.
- 2.10 **Enforceable:** Verifiable and legally binding.
- 2.11 **EPA:** The United States Environmental Protection Agency.
- 2.12 **EPA Certified Wood Burning Device:** Any wood burning device certified by the EPA to comply with the performance and emissions standards as defined in Title 40 Code of Federal Regulations, Part 60, Subpart AAA, February 28, 1988, or any subsequent revisions and labeled pursuant to those regulations.
- 2.13 **Natural Vegetation:** All plants, including but not limited to grasses, forbs, trees, branches, shrubs, flowers, or vines that grow in the wild or under cultivation.
- 2.14 **New Construction:** Any single or multi-family housing unit for which permit submissions are complete on or after the effective date of this ordinance.
- 2.15 **NSPS:** New Source Performance Standard. For purposes of this rule the NSPS is the Code of Federal Regulations, Title 40, Part 60, Subpart AAA.
- 2.16 **Open Burning:** The outdoor burning of combustible material of any type including natural vegetation.
- 2.17 **Outdoor Wood-fired Boiler or Hydronic Heater:** A fuel burning device designed: (1) to burn primarily wood or wood pellet fuel; (2) not to be located inside structures ordinarily occupied by humans; and (3) to heat spaces or water by the distribution through pipes of a fluid, typically water or water and antifreeze mixture, heated in the device.
- 2.18 **Particulate Matter or PM<sub>2.5</sub>:** Particulate Matter less than 2.5 microns in diameter.

- 2.19 **Pellet Heater:** A heating device designed to use pellets or chips fuel-burning device defined as pellet stove in 40 CFR 60.531.
- 2.20 **Permanently Inoperable:** Modified in such a way that the wood burning device can no longer function as a wood burning device or easily be remodified to function as a wood burning device. Conversion to other fuels, such as propane, is permitted.
- 2.21 **Portola nonattainment area:** Portion of Plumas County designated nonattainment by the EPA for the 2012 annual PM2.5 NAAQS or any other PM2.5 NAAQS.
- 2.22 **Nonattainment area:** "Any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the primary or secondary National Ambient Air Quality Standards (NAAQS)
- 2.23 **Sole Source:** The only permanent source of heat capable of meeting the space heating demands of a residence.
- 2.24 **Source:** Any machine, equipment, apparatus, device, process, or combination thereof, which emits or may emit air contaminants to the atmosphere through a common duct or vent to a single emission point.
- 2.25 **Uncertified Wood Burning Device:** Any fireplace or wood stove that has not been certified by the EPA to comply with the performance and emission standards as defined in Title 40 Code of Federal Regulations, Part 60, Subpart AAA, February 28, 1988, or any subsequent revisions. Uncertified wood burning devices do not include wood-fired residential or commercial barbecue devices, wood-fired fire pits, or wood-fired cookstoves.
- 2.26 **Wood Burning Device:** Any wood-burning stove or heater, pellet-fueled device, fireplace, or any indoor permanently installed device used to burn any solid fuel for space-heating or aesthetic purposes. This definition does not include wood-burning devices intended exclusively for cooking food, such as wood-fired cookstoves or barbecues.
- 2.27 **Wood Burning Season:** For the purposes of this rule, the months of January, February, March, April, September, October, November and December.
- 2.28 **Wood-Fired Cookstove:** a wood-fired appliance that is designed primarily for cooking food and that has the characteristics listed in 40 CFR 60.531.
- 2.29 **Zone 1:** Encompasses the Portola, CA Sphere of Influence as well as communities of Delleker, Iron Horse, the Portola city limits, and the southern edge of Lake Davis due to their proximity to Portola and their population densities. See Exhibit A.
- 2.30 **Zone 2:** The remaining portion of the Portola nonattainment area not in Zone 1. See Exhibit A.

### 3 STANDARDS

- 3.1 **Mandatory Wood Burning Curtailment:** The requirements of this section shall be in effect annually during the wood burning season in Zone 1. is;

**3.1.1** The District shall declare a mandatory wood burning curtailment for Zone 1 of the Portola nonattainment area whenever the District forecasts that the 24-hour average PM<sub>2.5</sub> concentration will exceed 20 µg/m<sup>3</sup> at the Portola monitoring station.

**3.1.1.1** As part of the contingency provision in the Portola Serious PM<sub>2.5</sub> Plan, effective 60 days after the issuance of a final determination by EPA that the Portola nonattainment area failed to attain the 12µg/m<sup>3</sup> annual PM<sub>2.5</sub> NAAQS by the attainment deadline of December 31, 2025, failed to meet a Reasonable Further Progress or quantitative milestone or failed to submit a quantitative milestone report, the curtailment threshold will be lowered from 20 ug/m<sup>3</sup> to 12 ug/m<sup>3</sup>.

**3.1.2** No person may operate a wood burning device or wood-fired cookstove when mandatory wood burning curtailment is in effect unless the device is exempt per Section 1.3.2, 1.3.3, or the residence has a Sole Source Hardship Verification in place (section 4.2).

**3.1.3** No person within Zone 1 shall conduct open burning of natural vegetation or any other material on a day when a mandatory wood burning curtailment has been declared by the District.

### **3.2 Requirements for Wood Burning Devices**

**3.2.1** Wood Burning Devices: No person shall advertise, sell, offer for sale, supply, transfer or install in any residence or other structure any wood burning device within the Portola nonattainment area unless it is an EPA certified wood burning device meeting New Source Performance Standards (NSPS) in effect at the time of sale, transfer, or installation.

**3.2.2** No local government authority within the boundaries of the Portola nonattainment area may issue a building permit to any person to install a wood burning device unless it meets the NSPS in effect at the time of the application.

**3.2.3** Certified devices shall have a label permanently affixed to them from the EPA which states that the stove is certified to comply with the performance and emission standards as defined in Title 40 Code of Federal Regulations, Part 60, Subpart AAA, February 28, 1988, or any subsequent revisions.

**3.2.4** Wood Burning Fireplaces: No local government authority within the Portola nonattainment area may issue a building permit to any person to install a wood burning fireplace.

### **3.3 Transfer of Ownership**

**3.3.1** Upon a change of ownership, no uncertified wood stove may remain in any property within the Portola nonattainment area. Any uncertified

wood stove removed from the property must be destroyed/recycled at an approved scrappage/recycling facility.

**3.3.2** Upon change of ownership, no more than two EPA certified wood burning devices per building may remain in any property within the Portola nonattainment area.

3.4 If a residential or commercial property within the Portola nonattainment area is to be sold and does not contain any wood burning devices, a Notice of Exemption form must be submitted to the Air Pollution Control Officer or designee, containing the signatures of both the buyer and seller, attesting to that fact. The completed form shall be submitted to the District within ten days of the close of escrow

3.5 **New Construction and Remodeling**

**3.5.1** The number of EPA certified wood burning devices installed on any residential or non-residential property within Portola nonattainment area for which a building permit is required shall not exceed one per unit.

**3.5.2** The EPA certified wood burning devices must be certified to the NSPS in effect at the time of the installation.

**3.5.3** Installation of a fireplace on any residential or non-residential property for which a building permit is required is prohibited.

**3.5.4** Wood burning devices shall not be the sole source of heat in any new construction within Zone 1.

**3.5.5** Installation or re-installation of outdoor wood-fired boilers is prohibited within the Portola nonattainment area.

**3.5.6** Re-installation of an uncertified wood burning device is prohibited within the Portola nonattainment area.

**3.5.7** The above limitations do not apply to EPA certified pellet heaters.

3.6 **Permitted Fuels:** Burning of any fuels or materials in a wood burning device other than the following fuels in the Portola nonattainment area shall be a violation:

**3.6.1** Seasoned wood (less than twenty percent moisture content).

**3.6.2** Uncolored paper.

**3.6.3** Manufactured logs, pellets, and similar manufactured products (i.e. processed fire starters).

3.7 **Open Burning Provisions**

**3.7.1** All open burning of natural vegetation and other material shall be prohibited within the city limits of the City of Portola.

**3.7.2** During a mandatory wood burning curtailment day, residents within the Zone 1 region as shown in Exhibit A are prohibited from open burning.

**3.7.3** Nothing in this rule shall be construed as prohibiting open outdoor fires used only for cooking food for human consumption, for recreational

fires, or for ceremonial fires, except for when the California Department of Forestry and Fire Protection (CalFire) or the United States Forest Service (USFS) has issued a fire restriction or has suspended burning on lands adjacent to the Zone 1 boundary, or when the Fire Chief issues a fire restriction for land within the Zone 1 boundary. Open flame from wood burning or charcoal burning fires for food, ceremonial, or recreation use is not allowed when a restriction is in place.

**3.7.4** Training Burns: Fire Department training burns may be permitted with prior written approval of the Fire Chief and the District APCO or designee.

**3.7.5** The Fire Chief and the District may issue special burn permits to authorize the burning of combustibles for the health and safety of the public.

## **4 ADMINISTRATIVE REQUIREMENTS**

### **4.1 Notification of Mandatory Wood Burning Curtailment**

**4.1.1** Mandatory wood burning curtailment will be triggered when District determines that meteorological and air quality data support a forecast that the 24-hour average PM<sub>2.5</sub> will exceed 20 ug/m<sup>3</sup>.

**4.1.1.1** As part of the contingency provision in the Portola Serious PM<sub>2.5</sub> Plan, effective 60 days after the issuance of a final determination by EPA that the Portola nonattainment area failed to attain the 12µg/m<sup>3</sup> annual PM<sub>2.5</sub> NAAQS by the attainment deadline of December 31, 2025, failed to meet a Reasonable Further Progress or quantitative milestone or failed to submit a quantitative milestone report, the curtailment threshold will be lowered from 20 ug/m<sup>3</sup> to 12 ug/m<sup>3</sup>.

**4.1.2** Upon determination that mandatory wood burning curtailment is required, the District shall notify the public through one or more of the following methods:

- a. A recorded telephone message.
- b. Messages posted on the District website.
- c. Electronic mail messages to persons or entities that have requested such notice.
- d. Notifying broadcast, print or social media operating within the boundaries of the Portola nonattainment area if available.
- e. Any additional method that the District determines is appropriate.

**4.2 Sole Source Hardship Verification:** An owner or operator of an uncertified wood burning device that serves as the sole source of heat in a residence may request an exemption from mandatory wood burning curtailment requirements. Exemptions

may be granted when replacing the uncertified wood burning device is not feasible due to structural integrity risks to the residence, or demonstrated financial hardship.

- 4.2.1 To request an exemption, the applicant must submit a written application to the District. The application must clearly state the compelling reasons for the exemption and include any supporting documentation.
- 4.2.2 The APCO or designee will grant or deny the exemption, in writing, within 10 working days of receipt of the application.
- 4.2.3 Approved exemptions will remain valid for three curtailment seasons. To extend the exemption beyond this period, the applicant must submit a new application demonstrating that the original conditions justifying the exemption still apply.
- 4.2.4 The APCO or designee may rescind an exemption at any time if it is determined that the information provided in the application was inaccurate, misleading, or no longer applicable.

#### 4.3 **Records**

- 4.3.1 The District will keep a database and retain records of all registered wood burning devices subject to this rule.
- 4.3.2 Persons applying to register a wood burning device shall submit a request to the District to schedule an inspection of the wood burning device.
- 4.3.3 Verification from the District that the wood burning device is certified by the EPA to comply with the performance and emissions standards as defined in Title 40 Code of Federal Regulations, Part 60, Subpart AAA, February 28, 1988, or any subsequent revisions and labeled pursuant to those regulations is required to operate wood burning device during mandatory wood burning curtailment.

#### 4.4 **Enforcement Visible Emissions Limitations**

- 4.4.1 Under normal operating conditions, no person shall cause or allow from a wood burning device a visible emission of any air contaminant, other than uncombined water vapor that exceeds 20 percent opacity or a No. 1 on the Ringelmann Chart for a period or periods aggregating more than 3 minutes in any-one (1) hour. This limitation does not apply during the startup of a new fire not to exceed 15 consecutive minutes in any four-hour period.

#### 4.5 **Educational Materials-** Educational materials shall be provided by the seller at time of sale of a wood burning device. The information shall include:

- 4.5.1 Proper installation, operation, and maintenance of the wood burning device.
- 4.5.2 Proper fuel selection and use.
- 4.5.3 Health effects from wood smoke.

- 4.5.4 Weatherization methods for the home.
- 4.5.5 Proper sizing of wood burning devices.
- 4.5.6 Mandatory wood burning curtailment information as defined in Section 3.1.

## 5 COMPLIANCE AND ENFORCEMENT

- 5.1 Failure to comply with any provision of this rule shall constitute a violation of this rule. The exceedance of the allowable emissions for any compliance period shall constitute a separate violation for each day of the compliance period.
- 5.2 Any person that violates the provisions of Rule 231 is subject to penalties.
- 5.3 The APCO or designee may conduct audits after properties have closed escrow and have been recorded under the new owner's name to determine compliance with this rule.
  - 5.3.1 If the Air Pollution Control Officer or designee finds that there is an uncertified wood burning device in the building, the Air Pollution Control Officer or designee shall require that the uncertified wood burning device be destroyed/recycled at an approved scrappage/recycling facility or agency within thirty days of notifying the current property owner. A financial penalty may be assessed if noncompliance has been identified or if the current property owner fails to destroy/recycle the device within the time prescribed in the notice.
  - 5.3.2 If noncompliance has been identified or if the current property owner fails to destroy/recycle the device within the time prescribed in the notice the District will act in accordance with District enforcement policy.
  - 5.3.3 On any subsequent sale, a new Notice of Exemption is required.

# EXHIBIT A

## Zone Map

