

## **RULE 431. PARTICULATE EMISSIONS**

Adopted: 12/07/90 Revised: 11/06/91, 12/04/06

### A. PURPOSE

The purpose of this rule is to improve and maintain the level of air quality of the Town of Mammoth Lakes and other communities in the Great Basin Unified Air Pollution Control District (District) so as to protect and enhance the health of its citizens by controlling the emissions of particulate matter.

### B. DEFINITIONS

1. "EPA" shall mean the United States Environmental Protection Agency.
2. "EPA-Certified Appliance" means any wood or other solid fuel burning appliance utilized for space or water heating or cooking that meets the performance and emission standards as set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988. Phase I appliances must meet the emission requirements of no more than 5.5 grams per hour particulate matter emissions for catalytic and 8.5 grams per hour for non-catalytic appliances. Phase II requirements are 4.1 and 7.5 grams per hour respectively. Pellet fueled wood heaters shall be considered as meeting Phase II requirements. For existing appliances, Oregon Department of Environmental Quality (DEQ) certification shall be equivalent to EPA certification. All other solid fuel appliances, including fireplaces, shall be considered non-certified.
3. "High Road Dust Areas" means those communities where the Board of the Great Basin Unified Air Pollution Control District has determined that re-entrained dust from winter-time sand or cinders on paved roads contributes to monitored exceedances of the state or federal 24-hour PM 2.5 or PM 10 standards.
4. "HRDA agency" means the governmental or public agency having jurisdiction over a community or area designated as a High Road Dust Area.
5. "High Wood Smoke Areas" means those communities where the Board of the Great Basin Unified Air Pollution Control District has determined that residential wood combustion contributes to monitored exceedances of the state or federal 24-hour PM 2.5 or PM 10 standards.
6. "HWSA agency" means the governmental or public agency having jurisdiction over a community or area designated as a High Wood Smoke Area.
7. "Pellet Fueled Wood Heater" means any wood heater designed to heat the interior of a building that operates on pelletized wood and has an automatic feed.
8. "Permanently Inoperable" means modified in such a way that the appliance can no longer function as a solid fuel heater or easily be remodified to function as a solid fuel heater. Conversion to other fuels, such as gas, is permitted.
9. "Solid Fuel Burning Appliance, Heater, or Device" means any fireplace, wood heater, or coal stove or structure that burns wood, coal, or any other nongaseous

or nonliquid fuels, or any similar device burning any solid fuel used for aesthetic, water heating, or space heating purposes. Pellet stoves are not a part of or included herein.

C. STANDARDS FOR REGULATION OF SOLID FUEL APPLIANCES

1. After December 7, 1990 (the effective date of this ordinance), no solid fuel burning appliance shall be permitted to be installed within the Town of Mammoth Lakes unless said device is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification.
2. After January 1, 2007, no solid fuel burning appliance shall be permitted to be sold or installed within District boundaries unless said device is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification.
3. The restrictions of this rule shall apply to all solid fuel devices including unregulated fireplaces. Exceptions will be made for fireplaces supplied with gas and fitted with artificial logs and for one fireplace located in a hotel/motel lobby or similar common area lobby or in the common area of a condominium project. Said common area fireplaces shall be subject to burning curtailment episodes as administered under Section I.
4. For the purposes of enforcing this rule, the Town shall keep a record of all certified appliances installed in Mammoth Lakes in accordance with this rule and of properties which have been determined to conform to the requirements of this rule.
5. For the purposes of enforcing this rule, after the Board of the Great Basin Unified Air Pollution Control District has determined that a community is a high wood smoke area, the HWSA agency shall keep a record of all certified appliances installed in their HWSA community in accordance with this rule and of properties which have been determined to conform to the requirements of this rule.

D. DENSITY LIMITATIONS – TOWN OF MAMMOTH LAKES and HIGH WOOD SMOKE AREAS

1. No more than one solid fuel appliance may be installed in any new dwelling or nonresidential property. Existing properties with one or more existing solid fuel appliances may not install additional solid fuel appliances. One pellet fueled wood heater per dwelling shall be excepted from the provisions of this paragraph.
2. Solid fuel appliances shall not be considered to be the primary form of heat in any new construction.
3. Within the Town of Mammoth Lakes, all new and replacement solid fuel burning appliances shall not be installed without first obtaining a building permit from the Town of Mammoth Lakes. All installations shall require an inspection and approval by the Building Division prior to operation.

4. Within all High Wood Smoke Areas, all new and replacement solid fuel burning appliances shall not be installed without first obtaining a building permit from the HWSA agency. All installations shall require an inspection and approval by the HWSA agency prior to operation.
5. Verification of compliance may be certified by an inspector of the Mammoth Lakes Building Division, by an inspection of the HWSA agency, by an individual certified by the Wood Heating Education and Research Foundation for the installation of solid fuel appliances, by individuals approved in writing by the District, or by individuals possessing equivalent certification. The inspector of record shall verify in writing that the appliance complies with the required emissions standards and shall file said certification with the Town of Mammoth Lakes or HWSA agency. Inspectors independent of the Town or HWSA agency, shall verify their qualifications with the Town Building Division or HWSA agency before appliance certification will be accepted by the Town or HWSA agency.

E. REPLACEMENT OF NON-CERTIFIED APPLIANCES UPON SALE OF PROPERTY – TOWN OF MAMMOTH LAKES and HIGH WOOD SMOKE AREAS

1. Prior to the completion of the sale or transfer of a majority interest in any real property within the Town of Mammoth Lakes or in High Wood Smoke Areas, all existing non-certified solid fuel appliances shall be replaced, removed, or rendered permanently inoperable. If the buyer assumes responsibility, in writing on a form approved by the Town air quality manager or HWSA agency respectively, for appliance replacement or removal, the deadline for such action shall be extended to 60 calendar days from the date of completion of the sale or transfer. The Town Building Department, HWSA agency, or a qualified inspector as designated by the Town Building Department or HWSA agency, shall inspect the appliance(s) in question to assure that they meet the requirements of this rule. Within five working days from the date of the inspection, the Town Building Department or HWSA agency, shall issue a written certification of compliance or non-compliance for the affected property. If the inspection reveals that the subject property does not comply with the requirements of this rule, all non-complying solid fuel appliances shall be replaced, removed, or rendered permanently inoperable. In this event re-inspection shall be required prior to certification of compliance.
2. If real property is to be sold which does not contain a solid fuel burning appliance, a form approved by the Town Building Department, District or HWSA agency, containing the notarized signatures of the seller, the buyer, and the listing real estate agent attesting to the absence of any solid fuel device, may be accepted in lieu of an inspection. A written exemption shall be issued by the Town Building Department or HWSA agency.
3. No solid fuel burning appliances removed under the provisions of this Section may be replaced except as provided by this rule.
4. This section shall not be applicable to sales or other transfers of real property which have been completed prior to February 15, 1991, nor shall this section apply to National Forest permittees located west of Old Mammoth Rd. in sections

4 and 9 of Township 4 S., Range 27 E., MDBM, or National Forest permittees located above 8500 feet elevation above sea level.

F. SOLID FUEL BURNING APPLIANCE REPLACEMENT SCHEDULE

The Town shall review emissions levels by January 1, 1993. Should emissions not have reached attainment of the NAAQS, as determined by monitoring by the Great Basin Air Pollution Control District or the Town, by January 1, 1993, all non-certified solid fuel appliances within the Town shall be replaced by November 1, 1994.

G. OPACITY LIMITS

No person shall cause or permit emissions from a solid fuel appliance to be readily visible, for a period or periods aggregating more than three minutes in any one hour period. Emissions created during a 15 minute start-up period are exempt from this regulation. Readily visible may be equated with an opacity limit of 20% or greater as designated by the shade number one on the Ringelmann Chart.

H. PERMITTED FUELS

Burning of any fuels or materials other than the following fuels within the Town of Mammoth Lakes shall be in violation of this ordinance:

1. Untreated wood
2. Uncolored paper
3. Manufactured logs, pellets, and similar manufactured fuels

I. MANDATORY CURTAILMENT – TOWN OF MAMMOTH LAKES and HIGH WOOD SMOKE AREAS

1. The Mammoth Lakes Town Council shall appoint an Air Quality Manager. The duty of the Air Quality Manager shall be to determine when curtailment of solid fuel combustion in the Town of Mammoth Lakes is necessary, to notify the community that curtailment is required, and to make such other determinations as are necessary to carry out the objectives of this rule.
2. Communities designated as High Wood Smoke Areas shall appoint a member from their respective governing body to determine when curtailment of solid fuel combustion in the area is necessary, to notify the community that curtailment is required, and to make such other determinations as are necessary to carry out the objectives of this rule.
3. Determination that curtailment is required shall be made when PM-10 levels have reached 130 micrograms/m<sup>3</sup> or when adverse meteorological conditions are predicted to persist. Should it be determined that 130 micrograms/m<sup>3</sup> is not a low enough threshold to prevent the Town of Mammoth Lakes or High Wood Smoke Areas from violating the state or National Ambient Air Quality Standard for particulate matter, that threshold may be lowered by resolution of the Town

Council of the Town of Mammoth Lakes or by the governing body of High Wood Smoke Areas.

4. Upon the determination that curtailment is required, the Town of Mammoth Lakes Air Quality Manager or the Designee of a HWSA agency, shall contact all radio stations and television stations in Mammoth Lakes or High Wood Smoke Areas and have them broadcast that it is required that there be no wood or other solid fuel burning. The Air Quality Manager or Designee of a HWSA agency shall also record a notice on a telephone line dedicated to this purpose and post a notice in the Town Offices or other appropriate governmental office. Upon such notice, all wood and other solid fuel combustion shall cease.
5. All dwelling units being rented on a transient basis which contain a non-certified solid fuel burning appliance shall post, in a conspicuous location near said appliance, a notice indicating that no-burn days may be called and informing the tenants about sources of information on no-burn days.
6. All persons renting units with solid fuel burning appliances for transient occupancy shall inform their tenants that solid fuel burning may be prohibited on certain days and that the person signing the rental agreement shall be responsible for assuring that the no-burn requirements are obeyed during the rental period identified on the rental agreement.
7. For residences where a solid fuel burning appliance is the sole means of heat, these curtailment regulations do not apply. For a residence to be considered as having solid fuel as its sole source of heat, the owner must apply to the HWSA agency for an exemption and the respective governing authority must inspect the residence and certify that, in fact, no other adequate source of heat is available to the structure. Adequate source shall mean that the alternate source of heat cannot produce sufficient heat for the residence without causing a hazard. A written exemption will then be granted. Where an adequate alternate source of heat is determined to have been removed from the structure in violation of building codes, a sole source exemption shall not be issued. Sole source exemptions shall not be granted for non-residential uses. The owner's sole source exemption shall expire one year from the date of initial issuance.
8. Households with very low income levels as defined by the Department of Housing and Urban Development may apply to the Air Quality Manager or HWSA agency Designee for exemption from no-burn days.

#### J. VOLUNTARY CURTAILMENT – HIGH WOOD SMOKE AREAS

1. Communities designated as High Wood Smoke Areas shall appoint a member from their respective governing body to determine when voluntary curtailment of solid fuel combustion in the area is necessary, to notify the community that curtailment is recommended, and to make such other determinations as are necessary to carry out the objectives of this rule.
2. Determination that voluntary curtailment is recommended shall be made when PM-10 levels have reached 100 micrograms/m<sup>3</sup> or when adverse meteorological conditions are predicted to persist. Should it be determined that 100

micrograms/m<sup>3</sup> is not a low enough threshold to prevent the High Wood Smoke Areas from potentially violating the state or National Ambient Air Quality Standard for particulate matter, that threshold may be lowered by resolution of the governing body of High Wood Smoke Areas.

3. Upon the determination that curtailment is recommended, the Designee of a HWSA agency, shall contact all radio stations and television stations in High Wood Smoke Areas and have them broadcast that it is recommended that there be no wood or other solid fuel burning. The Designee of a HWSA agency shall also record a notice on a telephone line dedicated to this purpose and post a notice in the appropriate governmental office.
4. All dwelling units being rented on a transient basis which contain a non-certified solid fuel burning appliance shall post, in a conspicuous location near said appliance, a notice indicating that recommended no-burn days may be called and informing the tenants about sources of information on no-burn days.
5. All persons renting units with solid fuel burning appliances for transient occupancy shall inform their tenants that solid fuel burning may not be recommended on certain days and that the person signing the rental agreement shall be responsible for assuring that the no-burn requirements are considered during the rental period identified on the rental agreement.

#### K. POLLUTION REDUCTION EDUCATION PROGRAMS

The APCO (or Town Manager for the Town of Mammoth Lakes) is hereby directed to undertake such public education programs as are reasonably calculated to reduce particulate air pollution within the District (or the Town of Mammoth Lakes, respectively) including particulate emissions from sources other than solid fuel burning devices. In addition to the notification measures listed in Section I.4, the public education programs shall include additional measures to inform the public of burning curtailment requirements.

#### L. PAVED ROAD DUST REDUCTION MEASURES

1. The Town of Mammoth Lakes and each city, town, county or state agency with primary responsibility for any existing paved road within a community that has been determined by the Board of the Great Basin Unified Air Pollution Control District (Board) to be a High Road Dust Area due to exceedances of State or federal ambient particulate matter standards caused by winter-time re-entrained road dust from paved roads shall take the following actions:
  - a. Undertake a vacuum street sweeping program to reduce particulate matter emissions resulting from excessive accumulations of winter-time cinders, sand and dirt from paved roads and to remove the material from the entire road surface, including travel lanes as soon as practicable.
  - b. Effective January 1, 2007 for the Town of Mammoth Lakes, or the date that the Board determines a community is a High Road Dust Area, all purchases of street sweeper equipment by the HRDA agency or their contractor(s) shall be only PM10-efficient street sweepers that are

certified under Rule 1186 of the South Coast Air Quality Management District.

- c. All PM10-efficient street sweepers shall be operated and maintained according to manufacturer specifications.
2. The Town of Mammoth Lakes (Town) shall, in its review of proposed development projects, incorporate such measures which reduce projected total vehicle miles traveled. Examples of such measures include, but are not limited to, circulation system improvements, mass transit facilities, private shuttles, and design and location of facilities to encourage pedestrian circulation. The goal of the Town's review shall be to limit projected peak vehicle miles traveled to 106,600 on any given day.

#### M. FEES

1. A fee shall be charged for the inspection and permitting services of the Town of Mammoth Lakes. Said fee shall be established in the Town Master Fee Schedule.
2. A fee for inspections and permitting services may be imposed by the HWSA agencies for the purpose of implementing the solid fuel burning appliance requirements of this rule.

#### N. PENALTIES FOR VIOLATIONS IN THE TOWN OF MAMMOTH LAKES

1. It is illegal to violate any requirements of this rule. Any owner of any property which is in violation of the requirements of this rule shall be guilty of an infraction. Any person operating a solid fuel appliance in violation of this rule is guilty of an infraction. The third violation by the same person within a 12 month period shall constitute a misdemeanor. Prosecution of any violation of Subsection 1.6 and 7, relating to exemptions from curtailment, may be against the property owner, the occupant, or both.
2. Violation of any portion of this rule may result in assessment of civil penalties against the property and against an individual person or persons as follows:
  - First violation within a 12 month period, \$50.
  - Second violation within a 12 month period, \$100.
  - Third violation within a 12 month period, \$250.
  - Four or more violations within a 12 month period \$500 per violation.
3. Each and every day a violation exists is a new and separate violation. Right of appeal, hearings, and collection of civil penalties shall be pursuant to the procedures set forth in Chapter 7.20, "Nuisances," of the Municipal Code of the Town of Mammoth Lakes.

4. Nothing in this section shall prevent the Town from pursuing criminal penalties or using any other means legally available to it in addressing violations of this rule.
5. Whenever necessary to make an inspection to enforce any of the provisions of this rule, or whenever the Air Quality Manager or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which violates the provisions of this rule, the Air Quality Manager or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Air Quality Manager by this rule, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if the owner or person having charge or control of the building or premises cannot be contacted, the Air Quality Manager or his authorized representative shall have recourse to every remedy provided by law to secure entry.

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