

Appendix A

Proposed New Rule 208 – *Mandatory Wood Burning Curtailment Periods*

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(Draft 10/16/08, Second Draft December 4, 2008, Third Draft June 18, 2009,
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- 1 **APPLICABILITY:** This Rule shall apply to any person who operates a wood burning device in the Chico Sphere of Influence (SOI) as identified in the attached Chico Sphere of Influence Map adopted by the Butte County Local Agency Formation Commission (LAFCO) on January 23, 2008.
- 2 **DEFINITIONS:** Except as noted below, the definitions of Rule 101 *Definitions* and Rule 207 *Wood Burning Devices* shall apply.
 - 2.1 **Curtailment Period** means any period so declared to the public by the Air Pollution Control Officer (APCO) when a negative impact to public health is anticipated, resulting from ambient PM 2.5 levels forecast by the APCO to exceed 25 micrograms per cubic meter (ug/m^3), averaged over a 24 hour period.
 - 2.2 **Interior Space** means any indoor area which is designed and used for human occupancy.
 - 2.3 **Ringelmann Chart:** A numerical ranking system whereby graduated shades of gray varying by five equal steps between white and black are visually compared to the density of smoke. The chart, as distributed by the United States Bureau of Mines provides the graduated shades 1, 2, 3, 4 and 5, which are known a Ringelmann No. 1, 2, 3, 4 and 5, respectively. The system is used to determine whether emissions of smoke are within limits or standards of opacity.
 - 2.4 **Sole Source:** The only permanent source of heat that is capable of meeting the space heating demands of a residence.
 - 2.5 **Solid Fuel** means any wood, wood-based product, non-gaseous or non-liquid fuel, including but not limited to: manufactured logs, wood or other pellet products. This does not include solid fuel used in cooking food, such as charcoal.
 - 2.6 **U.S. EPA:** The United States Environmental Protection Agency.
 - 2.7 **U. S. EPA Phase II Certified:** Any appliance certified by the U.S. EPA to meet the performance and emission standards set forth in Title 40 CFR, Part 60, Subpart AAA.

- 2.8 Visible Emissions:** Emissions which are visually perceived by an observer. Restrictions on visible emissions in District regulations are expressed as numbers on the Ringelmann Chart, as published by the United States Bureau of Mines.
- 3 REQUIREMENTS:** Effective November 1, 2009, during the months of November through February, no person shall operate (combust wood or solid-fuel products in) any wood burning device during a curtailment period.
- 4 EXEMPTIONS**
- 4.1** This rule shall not apply to any person who operates a U.S.EPA Phase II certified wood burning device provided the visible emissions do not exceed No. 1 on the Ringelmann Chart or 20 percent opacity for a period or periods aggregating more than six consecutive minutes in any one-hour period. Visible emissions from the startup of a new fire for a period not to exceed twenty consecutive minutes in any consecutive four-hour period are not subject to this provision.
- 4.2** This rule shall not apply to any person where natural gas service is not available, as determined by the gas utility service to an area or household. A person may qualify for this exemption even though propane fuel is available for space heating purposes.
- 4.3** This rule shall not apply to any person where electrical power service is not available (which includes temporary service outages), as determined by electrical utility service to an area or household.
- 4.4** This rule shall not apply to any person whose only source of heat for interior space heating is a wood burning device. An interior space with an electric or gaseous or liquid system designed and used for human occupancy is not eligible for this exemption.
- 4.5 Hardship Waiver:** The APCO may issue a waiver from this rule if there are compelling economic reasons to do so and the waiver will not have adverse impacts. A written application must be submitted by anyone requesting a waiver.
- 4.5.1 Application Information:** The application must state the compelling reason for the waiver and must include the following information:
- 4.5.1.1** Address of the household where the wood burning device is located;
- 4.5.1.2** Total gross monthly income for all persons living in the household;

- 4.5.1.3 Total number of persons living in the household;
 - 4.5.1.4 Type of dwelling and age;
 - 4.5.1.5 Types of fuel and the devices used for heating;
 - 4.5.1.6 Copy of utility bill(s) paid;
 - 4.5.1.7 Identification of all wood burning devices being used;
 - 4.5.1.8 Estimate of the amount of wood or other solid fuel that will be burned on a Mandatory No Burn day;
 - 4.5.1.9 Certification by the applicant that the information contained in the application is accurate to the best of their knowledge under penalty of perjury under the laws of the State of California; and
 - 4.5.1.10 Other information requested by the APCO.
- 4.5.2 **Waiver Approval Process:** Before granting the waiver, the APCO will consider the above information and any other information that he or she deem appropriate.
- 4.5.2.1 The APCO will grant or deny the waiver, in writing, within 10 working days of the receipt of the application. If the APCO does not respond, the request is deemed denied. The APCO's decision is final.
 - 4.5.2.2 The waiver is only valid for one season. A person must apply for a waiver each season.
 - 4.5.2.3 The APCO may rescind the granting of a waiver at any time if an adverse impact is identified, or if information relied upon to grant the waiver is incorrect.
 - 4.5.2.4 The APCO shall consider an applicant to have a compelling economic hardship if the monthly household income is less than the federal low income guidelines.

5 ADMINISTRATIVE REQUIREMENTS

- 5.1 The APCO has sole authority over determining compliance with the requirements of this rule.
- 5.2 The burden of proof of eligibility for an exemption pursuant to paragraph 4.4 is on the claimant, including whether the situation is temporary or permanent.
- 5.3 The District Governing Board shall review the effectiveness of this rule within one-year from the implementation date to determine whether EPA certified Phase II wood burning devices should be phased into the prohibition of paragraph 3.
- 5.4 **Notification of Mandatory Curtailment:** The APCO will provide public notice of a Mandatory Curtailment by all of the following methods:

- 5.4.1 A recorded telephone message for which the telephone number is published in the telephone directory or newspapers of general circulation within Butte County.
 - 5.4.2 Messages posted on the District website, www.bcaqmd.org .
 - 5.4.3 Electronic mail messages to persons or entities that have requested electronic notice and provided accurate address information. The District is not responsible for the failure to receive notices, and failure to receive does not excuse violations of Section 3.
 - 5.4.4 Notifying radio and television stations operating in Butte County and newspapers of general circulation within Butte County.
 - 5.4.5 Any other such methods that the APCO determines are appropriate.
- 5.5 **Penalties:** Any person who violates Section 3 of this rule is subject to the following penalties:
- 5.5.1 For first-time violations, the person shall pay an administrative civil penalty of \$50 or shall complete a wood smoke awareness course that has been approved by the APCO.
 - 5.5.2 For subsequent violations, the penalty will be determined in accordance with the District's Mutual Settlement Program.