

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2019 - 14

**A Resolution of the Board of Directors of the
Bay Area Air Quality Management District
Amending District Regulation 5: Open Burning and Regulation 6, Rule 3: Wood
Burning Devices**

WHEREAS, public hearings have been properly noticed in accordance with the provisions of the California Health & Safety Code § 40725;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District (“Air District”) has determined that a need exists to amend Air District rules and regulations by amending Regulation 5: Open Burning and Regulation 6, Rule 3: Wood Burning Devices; as set forth in Attachment A hereto (“Proposed Amendments”);

WHEREAS, the need to amend the Air District’s Regulation 5 and Regulation 6, Rule 3 exists because California has recently experienced some of the deadliest and most destructive wildfires in its history and new wildfire prevention and protection initiatives and actions are urgently needed, and for other reasons as addressed in the Staff Report for the Proposed Amendments and discussed at the public hearing held to consider the Proposed Amendments;

WHEREAS, the Board of Directors of the Air District obtains its authority to adopt, amend or repeal rules and regulations from Sections 40000, 40001, 40702, and 40725 through 40728.5, of the California Health & Safety Code;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments are written and displayed so that their meaning can be easily understood by the persons directly affected by the rules;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments are in harmony with and not in conflict with or contradictory to existing statutes, court decisions, and state and federal regulations;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments do not impose the same requirements as any existing state or federal regulation, and are necessary and proper to execute the power and duties granted to, and imposed upon, the Air District;

WHEREAS, the Board of Directors of the Air District, by adopting the Proposed Amendments, is implementing, interpreting or making specific the provisions of Health & Safety Code § 40001 (rules to achieve ambient air quality standards), and § 40702 (rulemaking actions that are necessary and proper to execute the powers and duties granted to it);

WHEREAS, the Air District prepared initial draft amendments, published them for comment, and held a public workshop in San Francisco on July 24, 2019, to discuss the draft amendments with interested parties and the public;

WHEREAS, subsequent to the public workshop, Air District staff revised the draft amendments based on comments provided by the public and on September 23, 2019 published the Proposed Amendments for comment in advance of the public hearing to consider adoption by the Board of Directors;

WHEREAS, on September 23, 2019 the Air District published in newspapers and distributed and published on the Air District's website a notice of a public hearing on the Proposed Amendments (to be held on November 6, 2019). On October 16, 2019, the Air District published a revised notice in newspapers and distributed and published on the Air District's website a revised notice of public hearing on the Proposed Amendments (to be held on November 20, 2019), and the notices included a request for public comments and input on the Proposed Amendments;

WHEREAS, on September 24, 2019 and October 18, 2019, the Air District transmitted the text of the Proposed Rules to the California Air Resources Board;

WHEREAS, the Board of Directors of the Air District held a public hearing on November 20, 2019 to consider the Proposed Amendments in accordance with all provisions of law ("Public Hearing");

WHEREAS, at the Public Hearing, the subject matter of the Proposed Amendments was discussed with interested persons in accordance with all provisions of law;

WHEREAS, Air District staff has prepared and presented to the Board of Directors a detailed Staff Report regarding the Proposed Amendments, which Staff Report has been considered by this Board and is incorporated herein by reference;

WHEREAS, the Board of Directors finds and determines that the Proposed Amendments are considered a "project" pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 *et seq.*);

WHEREAS, the Air District is the CEQA lead agency for this project pursuant to the CEQA Guidelines (Title 14 of the California Code of Regulations, sections 15000 *et seq.*) ("CEQA Guidelines"), section 15050;

WHEREAS, District staff has evaluated the proposed amendments to Regulation 5 and has determined that the proposed rulemaking project is statutorily exempt from the requirements of CEQA pursuant to Public Resources Code section 21080, subparagraph (b)(8) (the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies); Public Resources Code section 21080, subparagraph (b)(4) (necessary to prevent or mitigate an emergency); CEQA Guidelines section 15307 (action to assure the maintenance, restoration, or enhancement of a natural resource); CEQA Guidelines section 15308 (action to assure the maintenance, restoration,

enhancement or protection of the environment); and CEQA Guidelines section 15061, subdivision (b)(3) (no possibility that the activity in question may have a significant adverse effect on the environment);

WHEREAS, District staff has evaluated the proposed amendments to Regulation 6, Rule 3 and has also determined that the proposed rulemaking project is statutorily exempt from the requirements of CEQA pursuant to Public Resources Code section 21080, subparagraph (b)(4) (necessary to prevent or mitigate an emergency); CEQA Guidelines section 15307 (action to assure the maintenance, restoration, or enhancement of a natural resource); CEQA Guidelines section 15308 (action to assure the maintenance, restoration, enhancement or protection of the environment); and CEQA Guidelines section 15061, subdivision (b)(3) (no possibility that the activity in question may have a significant adverse effect on the environment);

WHEREAS, in the alternative, and in an abundance of caution, District staff has determined that, if the amendments to Regulation 6, Rule 3 are not exempt from CEQA, there is no substantial evidence, in light of the whole record before the Air District, that the adoption and implementation of the amendments to Regulation 6, Rule 3 could have a significant effect on the environment;

WHEREAS, the Air District incorporates the Final Environmental Impact Report (“Final EIR”) for Regulation 6, Rule 3, certified by this Board of Directors on July 9, 2008, into the record and continues to rely on the Final EIR pursuant to section 21166 of CEQA because no substantial changes to the project, circumstances or new information available would change the analysis of the Final EIR which determined that there is no substantial evidence that the adoption and implementation of the proposed amendments to Regulation 6, Rule 3, which include the prohibition of wood burning on days of projected particulate matter exceedance of the national ambient air quality standard, could have a significant effect on the environment.

WHEREAS, the members of the Board of Directors voting on this Resolution have reviewed and considered the Final EIR;

WHEREAS, the Board of Directors finds and determines that in light of the whole record before it (which specifically includes the Final EIR), that the amendments to Regulation 6, Rule 3 will not have any significant effect on the environment, and the Final EIR reflects the Air District’s independent judgment and analysis;

WHEREAS, the Board of Directors, pursuant to the requirements of Health & Safety Code § 40728.5, has actively considered the socioeconomic impacts of the Proposed Amendments and has reviewed and considered the reports entitled “Socio-Economic Impact Study of Proposed Amendments to Regulation 5: Open Burning” and the “Socio-Economic Impact Study of Proposed Amendments to Regulation 6: Particulate Matter and Visible Emissions, Rule 3: Wood Burning Devices,” prepared for the Air District by BAE Urban Economics of Berkeley, California, which conclude that the Proposed Amendments will have no significant impacts on small businesses selling firewood and no other significant economic impact;

WHEREAS, the Board of Directors has determined that the Proposed Amendments represent a good faith effort to minimize adverse socioeconomic impacts as defined in Health & Safety Code § 40728.5 while achieving an appropriate level of emissions reductions;

WHEREAS, District staff has determined that an incremental cost-effectiveness analysis of the Proposed Amendments pursuant to Health & Safety Code section 40920.6 is not required because the amendments do not impose best available retrofit control requirements;

WHEREAS, the Air District has prepared, pursuant to the requirements of Health & Safety Code § 40727.2, a written analysis of federal, state, and Air District requirements applicable to this source category and has found that the Proposed Amendments would not be conflict with any federal, state, or other Air District rules, and the Board of Directors has agreed with these findings;

WHEREAS, the documents and other materials that constitute the record of proceedings on which this rulemaking project is based are located at the Bay Area Air Quality Management District, 375 Beale Street, San Francisco, 94105, and the custodian for these documents is Marcy Hiratzka, Clerk of the Boards;

WHEREAS, Air District staff recommends adoption of the Proposed Amendments, and the filing of a Notice of Exemption for Regulation 5 and Regulation 6, Rule 3, and, in the alternative and in an abundance of caution, a Notice of Determination for Regulation 6, Rule 3;

WHEREAS, the Board of Directors concurs with Air District staff's recommendations and desires to adopt the Proposed Amendments and to file a Notice of Exemption and Notice of Determination for the Proposed Amendments to comply with CEQA;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby adopt the Proposed Amendments, pursuant to the authority granted by law, as set forth in Attachment A hereto, and discussed in the Staff Report (including Appendices) with instructions to Air District staff to correct any typographical or formatting errors before final publication of the Proposed Amendments.

BE IT FURTHER RESOLVED, that the Board of Directors of the Bay Area Air Quality Management District does hereby approve the filing of a Notice of Exemption pursuant to CEQA for the Proposed Amendments, and, in an abundance of caution, the filing of a Notice of Determination pursuant to CEQA for the proposed amendments to Regulation 6, Rule 3.

The foregoing Resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of DIRECTOR HUDSON, seconded by DIRECTOR GROOM, on the 20th day of November, 2019 by the following vote of the Board:

AYES: CANEPA, CHAVEZ, GIOIA, GROOM, HAGGERTY, HUDSON, HURT, JUE, KNISS, MITCHOFF, RICE, ROSS, SINKS, WALTON, ZANE.

NOES: NONE.

ABSENT: ABE-KOGA, BARRETT, BAUTERS, CUTTER, MAR, MILEY, SPERING, WAGENKNECHT, WILSON.

ABSTAIN: NONE.



Katie Rice
Chairperson of the Board of Directors

ATTEST:



Cindy Chavez
Secretary of the Board of Directors

REGULATION 5 OPEN BURNING

INDEX

5-100 GENERAL

- 5-101 Description
- 5-110 Exemptions
- 5-111 Special Conditions for Allowable Fires
- 5-112 Limited Exemption, Recreational Fires
- 5-113 Limited Exemption, Public Agency Wildfire Prevention

5-200 DEFINITIONS

- 5-201 Agricultural Fire
- 5-202 Fire
- 5-203 Flue
- 5-204 Gainful Occupation
- 5-205 Deleted December 19, 1990
- 5-206 Permissive Burn Day
- 5-207 Treated Brush
- 5-208 Hazardous Material
- 5-209 Public Fire Official
- 5-210 Contraband
- 5-211 Deleted March 6, 2002
- 5-212 Stubble
- 5-213 Prescribed Burning
- 5-214 Backfiring
- 5-215 Stripfiring
- 5-216 'X' or Crossfiring
- 5-217 Property
- 5-218 APCO
- 5-219 ARB
- 5-220 District
- 5-221 Forest
- 5-222 Marshland
- 5-223 Mandatory Burn Ban
- 5-224 Recreational Fires
- 5-225 Public Agency

5-300 STANDARDS

- 5-301 Prohibition of Fires
- 5-302 Mandatory Burn Ban for Recreational Fires

5-400 ADMINISTRATIVE REQUIREMENTS

- 5-401 Allowable Fires
- 5-402 Deleted November 2, 1994
- 5-403 Agricultural Land Use
- 5-404 Emergency Waivers
- 5-405 Deleted March 6, 2002
- 5-406 Prior District Notification; Disease and Pest, Crop Replacement, Orchard Pruning and Attrition, Double Cropping Stubble, Forest Management, Flood Debris, Fire Training, Flood Control, Irrigation Ditches, Range Management, Hazardous Material, and Contraband
- 5-407 Deleted November 2, 1994
- 5-408 Wildland Vegetation Management (Prescribed Burning) Burn Requirements

- 5-409 Filmmaking and Public Exhibition Burn Petitions
- 5-410 Marsh Management Burn Requirements
- 5-411 Open Burning Operation Fees

5-500 MONITORING AND RECORDS

- 5-501 Open Burning Records

5-600 MANUAL OF PROCEDURES

- 5-601 Appraisal of Field Crop Fuel Moisture; The "Crackle" Test

REGULATION 5 OPEN BURNING

5-100 GENERAL

5-101 Description: This Regulation forbids open burning within the District with certain exceptions.

(Amended November 2, 1994)

5-110 Exemptions: The following fires are exempt from this Regulation:

- 110.1 Fires set only for cooking of food for human beings.
- 110.2 Fires burning as safety flares or for the combustion of waste gases.
- 110.3 The use of flame cultivation when the burning is performed with LPG or natural gas-fired burners designed and used to kill seedling grass and weeds and the growth is such that the combustion will not continue without the burner.
- 110.4 Fires set for the purposes of fire training using one gallon or less of flammable liquid per fire.

(Amended 12/19/90; 11/2/94; 3/6/02; 7/9/08)

5-111 Special Conditions for Allowable Fires: The following special conditions must be met for fires allowed by subsections 5-401.1 through 401.17 unless specifically exempted, altered, or further restricted in that subsection, or unless otherwise waived in writing by the APCO prior to burning, and these conditions shall be complied with during any burning permitted under those subsections. In addition, a condition, requirement, or parameter stated in or imposed by a smoke management plan approved by the APCO may supersede any one of these conditions.

- 111.1 No burning shall take place before 10:00 a.m. local time on any day.
- 111.2 No additional materials or fuel shall be ignited, nor shall any material or fuels be added to any fire after two hours before sunset on any day.
- 111.3 No material or fuel shall be ignited, nor shall any material or fuel be added to any fire when the wind velocity is less than five (5) miles per hour except for crossfiring, or when the wind direction at the site shall be such that the direction of smoke drift is toward a populated area in order to minimize local nuisances caused by smoke and particulate fallouts.
- 111.4 Prior to ignition, all piled material shall have dried for a minimum of 60 days, and be managed to ensure that burning the material does not produce smoke after sunset on any day.
- 111.5 All material to be burned shall be reasonably free of dirt or soil.
- 111.6 Piled material shall be limited to a base area not to exceed 25 square yards and the height shall be at least 2/3 of the average width of the pile.
- 111.7 Ignition material shall be limited to those listed by the State Director of Forestry, as follows: orchard torches; drip torches; pressurized diesel torches; propane or LPG torches; commercial petroleum gel materials, pressurized or solid (napalm or blivets); commercial safety fuses; commercial type ignition grenades, e.g. Fenner, etc.; fuses; commercial fuse lighters and matches. All fires shall be ignited so as to burn as rapidly as possible within conditions of safety and minimum pollution.
- 111.8 Ignition shall be initiated at or near the top of the piled material. No additional material, except ignition material, shall be added to the fire.
- 111.9 Tonnage, volume or acreage of material burned on any given day and/or at any specified site is subject to limitations set by the APCO, but may not exceed any limits set by the ARB.

(Amended 12/19/90; 11/2/94; 3/6/02, 11/20/19)

5-112 Limited Exemption, Recreational Fires: A fire set for recreational purposes is exempt from the requirements of Section 301.

(Adopted July 9, 2008)

5-113 Limited Exemption, Public Agency Wildfire Prevention: Any public agency conducting a prescribed burn for the purpose of wildfire prevention, pursuant to a smoke management plan approved by the APCO, is exempt from the operation fees requirement of Section 5-411. A public agency seeking to rely on this exemption shall

request that it be applicable upon submittal of the smoke management plan required by Section 5-401.15.

(Adopted November 20, 2019)

5-200 DEFINITIONS

5-201 Agricultural Fire: A fire used for the purpose of initiating, continuing or maintaining agriculture as a gainful occupation. Fuels are limited to materials grown on the site and shall not include feed or fertilizer containers, finished or treated wood, plastic or rubber products, plumage, hides, fur, offal or fecal material or refuse from plant or animal processing other than from initial crop harvesting, pruning or attrition of fruit and nut trees, vines and cane crops.

(Amended 11/2/94; 3/6/02)

5-202 Fire: Any combustion of combustible materials of any type outdoors.

(Amended July 9, 2008)

5-203 Flue: Any duct or passages for air, gases, or the like, such as a stack or chimney.

5-204 Gainful Occupation: Any occupation from which there is proof of gross profit or loss as evidenced by tax receipts, sales slips or other such documents.

5-205 Deleted December 19, 1990

5-206 Permissive Burn Day: Any day that is so declared by the APCO when, in his opinion, air pollution caused by open burning will not adversely affect ambient air quality or downwind population. In declaring such permissive burn days, the meteorological criteria established by the ARB for the San Francisco Bay Area Air Basin shall be used as a guideline.

(Amended November 2, 1994)

5-207 Treated Brush: Material which has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicide.

5-208 Hazardous Material: Any combustible or flammable material which may pose a fire or explosion hazard including but not limited to, natural vegetation or other native growth cleared away to create or maintain a firebreak around any building or structure on a property as required to comply with Section 4291 of the State Public Resources Code to reduce the risk of a wildfire.

(Adopted 3/17/82; Amended 12/19/90; 11/2/94; 3/6/02, 11/20/19)

5-209 Public Fire Official: An officer of a public agency charged with the responsibilities of setting or allowing fires. Public fire official includes but is not limited to, local, state, and federal officers.

(Adopted December 19, 1990)

5-210 Contraband: Any illegal or prohibited good that has been confiscated by a public law enforcement agency, including but not limited to explosives, pyrotechnics and illegal drugs.

(Adopted 12/19/90; Amended 11/2/94)

5-211 Deleted March 6, 2002

5-212 Stubble: The remaining stalk, stem, or trunk of a herbaceous plant or cereal grass (primarily oats, wheat and hay) after harvest of a field crop.

(Adopted November 2, 1994)

5-213 Prescribed Burning: The planned, controlled application of fire to vegetation to achieve a specific natural resource management objective(s) on land areas selected in advance of that application. The fire is conducted within the limits of a plan and prescription that describes both the acceptable range of weather, moisture, fuel, and fire behavior parameters to achieve the desired effects. For the purposes of this regulation, prescribed burning also means any Forest Management fire, Range Management fire, Hazardous Material fire not related to Public Resources Code Section 4291, or any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land, that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land. These specific fire types shall be regulated as Wildland Vegetation Management fires and subjected to all of the requirements applicable to subsection 5-401.15. In addition, prescribed burning includes any naturally-ignited wildland fire managed for resource benefits that is subject to the applicable requirements in Section 5-408.

(Adopted 11/2/94; Amended 3/6/02)

- 5-214 Backfiring:** A field crop burn ignition technique where the fire is ignited at the downwind side of the burn area, so that the fire must burn into the wind towards the fuel source.
(Adopted November 2, 1994)
- 5-215 Stripfiring:** A field crop burn ignition technique where the fire is ignited in parallel strips by walking straight through the burn area into the wind.
(Adopted November 2, 1994)
- 5-216 'X' or Crossfiring:** A field crop burn ignition technique where the fire is ignited in two semi-circle arch patterns that almost intersect in the middle of the burn area. The first fire is lit by walking into the wind from the downwind side. The second fire is lit by walking with the wind from the headwind side of the field. This technique is used during light (less than five miles per hour) and variable winds only.
(Adopted November 2, 1994)
- 5-217 Property:** A single parcel of real property, as determined by the County Assessor. The term also includes contiguous parcels under the same ownership.
(Adopted November 2, 1994)
- 5-218 APCO:** The Air Pollution Control Officer of the Bay Area Air Quality Management District or the designee thereof.
(Adopted November 2, 1994)
- 5-219 ARB:** The Air Resources Board of the State of California.
(Adopted November 2, 1994)
- 5-220 District:** The Bay Area Air Quality Management District.
(Adopted November 2, 1994)
- 5-221 Forest:** A vegetation type or plant community covering a tract of land, which is named and described as a series, habitat or unique stand according to the California Native Plant Society (CNPS) classification system set forth in the most current edition of *A Manual of California Vegetation* published by CNPS, and dominated by trees growing more or less closely together. For the purposes of this regulation, the dominant vegetation form must be described as a broadleaf deciduous, broadleaf evergreen, conifer, or mixed broadleaf-conifer forest. Forest does not include chaparral, scrub and grassland communities, or the eucalyptus series, as these vegetation types are described in the CNPS classification system.
(Adopted March 6, 2002)
- 5-222 Marshland:** A type of wetland ecosystem periodically or permanently inundated to a depth of up to 2 meters (6.6 feet) that supports a cover of low or tall emergent vegetation. Habitats within these water-land areas include diked, seasonally managed wetlands, unmanaged tidal wetlands, open bays, sloughs, and associated upland grasslands.
(Adopted March 6, 2002)
- 5-223 Mandatory Burn Ban:** Any period so declared to the public by the APCO when negative impact upon public health is anticipated from burning, as defined in Regulation 6, Rule 3: Wood-Burning Devices, Section 6-3-211.
(Adopted 7/9/08, Amended 11/20/19)
- 5-224 Recreational Fires:** A fire used for social, cultural or other activities including, but not limited to, campfires, bonfires, ceremonial fires, handwarming fires, raku or pit pottery curing fires, or fires conducted as part of an unusual event such as fire walking provided only clean dry wood and fire starter is used, and the activity is not part of a business for gainful occupation.
(Adopted July 9, 2008)
- 5-225 Public Agency:** Any agency, political subdivision, or unit of local, state or federal government.
(Adopted November 20, 2019)
- 5-300 STANDARDS**
- 5-301 Prohibition of Fires:** Except as provided in this regulation:
- 301.1 A person shall not ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any fires within the District.
- 301.2 No burning shall take place within the District on other than a permissive burn day, or in excess of any acreage burning allocation or limitation.

301.3 A person shall not violate any condition, requirement, or parameter stated in or imposed by a smoke management plan approved by the APCO, or any special condition or administrative requirement in this regulation.
(Amended 11/94; 3/6/02)

5-302 Mandatory Burn Ban for Recreational Fires: No person shall ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any recreational fires during mandatory burn ban periods.
(Adopted 7/9/08; Amended 11/20/19)

5-400 ADMINISTRATIVE REQUIREMENTS

5-401 Allowable Fires: The following fires may be allowed on permissive burn days:

401.1 Disease and Pest: Agricultural fires set for the purpose of disease and pest prevention. The fire must be set or allowed by the Agricultural Commissioner of the County in the performance of official duty. Prior reporting pursuant to Section 5-406 must be made to the APCO, by the person setting the fire.
(Amended 12/19/90; 11/2/94; 3/6/02)

401.2 Crop Replacement: Agricultural fires set for the purpose of establishing an agricultural crop in a location that formerly contained another type of agricultural crop or on previously uncultivated land. The fire must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be necessary for the crop replacement to proceed.

2.1 Fires 10 acres or smaller: Small Crop Replacement fires are limited to a period beginning October 1 and ending April 30; however, upon the determination of the APCO that heavy winter rainfall has prevented such burning, the burn period may be extended to no later than June 30. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

2.2 Fires larger than 10 acres: Any Crop Replacement fire set for the purpose of establishing an agricultural crop on previously uncultivated land that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land, is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire and subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.
(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

401.3 Orchard Pruning and Attrition: Agricultural fires set for the purpose of disposal of periodic prunings and attrition losses from fruit trees, nut trees, vineyards and cane fruits. Fires must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be necessary to maintain and continue the growing of the fruit trees, vineyards and cane fruits as a gainful occupation. Fires are limited to a period beginning November 1 and ending April 30; however, upon the determination of the APCO that heavy winter rainfall has prevented such burning, the burn period may be extended to no later than June 30. When pruning is performed between February 15 and April 30 for integrated pest management purposes, the following minimum drying time periods shall apply: trees and branches over six inches in diameter: 30 days; for grape vines and branches less than or equal to six inches in diameter: 15 days. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.
(Amended 3/15/81; 12/19/90; 11/2/94; 3/6/02)

401.4 Double Cropping Stubble: Agricultural fires set for the purpose of disposal of grain stubble from agricultural land from which both grain and vegetable crops are harvested during the same calendar year. Fires must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must be necessary to remove the grain stubble and straw before a field vegetable crop can be planted. All material to be burned shall

be free of visible surface moisture. No fires shall take place before 10:00 a.m. local time on any day. Fires are limited to a period beginning June 1 and ending August 31. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

- 401.5 Stubble: Agricultural fires set for the purpose of disposal of stubble and straw. Fires must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must be necessary to maintain and continue the growing of field crops as a gainful occupation. Fire ignition techniques shall be limited to backfiring, stripfiring, and 'X' or crossfiring unless an alternate technique is approved by the APCO in writing where a specific field condition is determined not to lend itself to these techniques in a given year. All material to be burned shall be free of visible surface moisture. After 0.15 inches or more rainfall, the material must pass the "crackle" test pursuant to Section 5-601 prior to burning. No fires shall take place before 10:00 a.m. local time on any day. Fires are limited to a period beginning September 1 and ending December 31. Outside of Sonoma County, no more than 100 acres of any property shall be burned in a single day. Within Sonoma County, no person shall conduct a burn without receiving an acreage burning allocation from the APCO and no more than 500 acres total of all properties shall be burned in a single day. In addition, no more than 100 acres of any property shall be burned in a single day. If by 12:00 p.m. local time the daily 500-acre burn acreage limitation has not been allocated, up to 200 acres of any property may be burned in a single day provided:
- 5.1 the additional acreage burning allocation has been approved verbally by the APCO; and
 - 5.2 no more than two fields exceeding 100 acres total are burned simultaneously on the same property.

(Amended 12/19/90; 11/2/94; 3/6/02; Renumbered 11/20/19)

- 401.6 Hazardous Material: Any fire set for the purpose of the prevention or reduction of a fire hazard, including the disposal of dangerous materials. The fire must be set or allowed by any public fire official having jurisdiction, in the performance of official duty. The fire must, in the opinion of such officer, be necessary, and the fire hazard not able to be abated by any other means.
- 6.1 Fires 10 acres or smaller: Small Hazardous Material fires are not subject to the requirements of subsection 5-111.1. No fires involving piled material shall be ignited or take place before 9:30 a.m. local time on any day. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.
 - 6.2 Fires larger than 10 acres: Any Hazardous Material fire not related to Public Resources Code Section 4291 that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land, is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire and subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.
 - 6.3 Public Resources Code Section 4291 fires: Hazardous Material fires conducted to dispose of materials generated to comply with an order or notice issued by a fire official pursuant to Section 4291 of the State Public Resources Code are permitted. Public Resources Code Section 4291 fires are not subject to the requirements of subsection 5-111.1. No fires involving piled material shall be ignited or take place before 9:30 a.m. local time on any day. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire. All of the following conditions must also be satisfied:
 - 3.1 only natural vegetation or other native growth may be burned;
 - 3.2 the amount of material to be burned shall be greater than 5 cubic yards cleared annually from a single property;

- 3.3 the material is burned where it was grown without being moved to a different location unless approved by the APCO;
- 3.4 the material is inaccessible for removal by vehicle and available alternatives to burning such as shredding, chipping, composting, disking, plowing, and harrowing are not feasible; and
- 3.5 the material, if ignited accidentally, would result in a fire of such magnitude as to immediately threaten life or adjacent improved property or resources and require an excessive fire suppression effort.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

401.7 Fire Training: Fires set for the exclusive purpose of instruction of either public or industrial employees in fire fighting methods. The fire must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be, in his opinion, necessary. Notwithstanding contrary provisions of Section 5-111, a fire fighting agency may set one fire per quarter calendar year for the purpose of training volunteer or seasonal fire fighters. This may be done on other than a permissive burn day if the APCO is notified in writing or facsimile at least two weeks in advance. Fires may be conducted outside of the burn hour limits in subsections 5-111.1 and 111.2 if the APCO is notified in writing or facsimile at least seven calendar days in advance. Prior reporting pursuant to Section 5-406 must also be made to the APCO for other fire training by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.8 Flood Debris: Agricultural fires set for the purpose of removing wood and vegetation debris deposited by floodwaters. The fire must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be necessary for the continuing or maintaining of agriculture as a gainful occupation. Fires are limited to a period beginning October 1 and ending May 31. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.9 Irrigation Ditches: Agricultural fires set for the purpose of controlling growth of vegetation in irrigation ditches and canals. The fire must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must, in the opinion of such officer, be necessary to avoid interference with water flow or drainage into irrigated land. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.10 Flood Control: Fires set for the purpose of disposal of material which is lying or growing within natural channels or flood control channels. The fire must be set or allowed by a public official in charge of flood control activities. The fire must, in the opinion of such official, be a necessary incident to the clearing and maintenance of water courses and flood control channels for preventing or eliminating a flood hazard. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94)

401.11 Range Management: Fires set for the purpose of range management and grazing. The fire must be set or allowed by the State Director of Forestry, or public fire official having jurisdiction, in the performance of official duty, and must be necessary to maintain and continue the grazing of animals as a gainful occupation. Brush to be burned shall be treated at least six months prior to burn if determined to be technically feasible by the State Director of Forestry or public fire official. Unwanted trees over 6 inches in diameter shall be felled prior to burn and dried for a minimum of six months. Feasibility shall be subject to the approval of the APCO.

11.1 Fires 10 acres or smaller: Small Range Management fires are limited to a period beginning July 1 and ending April 30. Subsections 5-111.1 and 5-111.6 may be waived by the State Director of Forestry or fire official when determined necessary in the public interest. Prior

reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

- 11.2 Range Management fires larger than 10 acres: Any Range Management fire that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

- 401.12 Forest Management: Fires set for the purpose of removing forest debris and for forest management. The fire must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must, in his opinion, be necessary.

- 12.1 Fires 10 acres or smaller: Small Forest Management fires are limited to a period beginning November 1 and ending April 30. Subsections 5-111.1 and 5-111.6 may be waived by the fire official when deemed necessary in the public interest. All materials shall be piled or windrowed unless deemed poor practice by the fire official. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

- 12.2 Fires larger than 10 acres: Any Forest Management fire that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

- 401.13 Marsh Management: Fires set for the purpose of improvement of marshland for wildlife habitat. The fire must be declared necessary by the California Department of Fish and Wildlife. No such fire may be allowed on a given piece of land more than once in any 2-year period. The California Department of Fish and Wildlife shall provide the APCO such information as may be deemed necessary by the APCO to verify the necessity of each burn and land area burning frequencies. Any person seeking to set fires under this provision shall also comply with the requirements of Section 5-410 and receive written APCO approval of the smoke management plan prior to any burn. No fires shall take place before 10:00 a.m. or after 3:00 p.m. local time, nor shall any existing burning be allowed to continue after 3:00 p.m. local time on any day. Fires are limited to a Spring burning period beginning March 1 and ending April 15, and a Fall burning period beginning September 1 and ending October 15. Outside of the Suisun Resource Conservation District (SRCD), no person shall conduct a burn without receiving an acreage burning allocation from the APCO and no more than 100 acres of any property shall be burned in a single day. For fires conducted within the boundaries of the SRCD:

- 13.1 no person shall conduct a burn without receiving an acreage burning allocation from the APCO; and

- 13.2 total daily acreage to be burned shall be determined by the APCO, but in no case shall the total acreage burning allocation exceed 300 acres/day during the Fall burning period and 600 acres/day during the Spring burning period. In addition, no more than 100 acres of any property and no more than 100 acres of all properties designated by the same SRCD hundred-series ownerships shall be burned in a single day during the Fall or Spring burning period.

(Amended 3/15/81; 5/20/81; 8/3/83; 11/2/94; 3/6/02, 11/20/19)

401.14 Contraband: Fires set for the purpose of disposing of contraband. The fire must be set or allowed by any peace officer or public fire official, in the performance of official duty. The fire must, in the opinion of such officer, be necessary and the material not be able to be disposed of by any other means. Prior reporting must be made to the APCO by the person setting the fire pursuant to Section 5-406.

(Adopted 12/19/90; Amended 11/2/94)

401.15 Wildland Vegetation Management (Prescribed Burning): Prescribed burning by a public agency, or through a cooperative agreement or contract involving a public agency. Any prescribed burning shall comply with the requirements of Section 5-408 and receive written approval of the smoke management plan by the APCO prior to any burn and comply with the smoke management plan during the burn. Prescribed burns are permissible year-round. Fires may only be conducted on a permissive burn day.

(Adopted 11/2/94, Amended 11/20/19)

401.16 Filmmaking: Fires set as part of commercial film or video production activities for motion pictures and television. The fire shall be set or allowed by the public fire official having jurisdiction, in the performance of official duty. Any person seeking to set fires under this provision shall comply with the requirements of Section 5-409 and receive APCO approval in writing at least 10 working days prior to the burn. This fire may be done on other than a permissive burn day, as defined in Section 5-206, if approved by the APCO pursuant to subsection 5-409.2.

(Adopted November 2, 1994)

401.17 Public Exhibition: Fires set as part of a planned civic event designed to educate or otherwise benefit the public. The fire shall be set or allowed by the public fire official having jurisdiction, in the performance of official duty. Any person seeking to set fires under this provision shall comply with the requirements of Section 5-409 and receive APCO approval in writing at least 10-working days prior to the burn. This fire may be conducted on other than a permissive burn day, as defined in Section 5-206, if approved by the APCO pursuant to subsection 5-409.2.

(Adopted 11/2/94; Amended 3/6/02)

5-402 Deleted November 2, 1994

5-403 Agricultural Land Use: Debris from land clearing shall not qualify under subsections 5-401.1, 5-401.2, 5-401.3, 5-401.4 or 5-401.5 unless applicant certifies, under penalty of perjury, that said land is to remain in agricultural use for a gainful occupation for a period of one year subsequent to the burning, and that applicant has not caused or contributed to the need for the burning of the material for any reason other than the promotion of agricultural use of the land for a gainful occupation. However, the County Agricultural Commissioner may waive this Section by certifying that burning of the material under subsection 5-401.1 is, in his opinion, the only safe method of disposal. Failure to comply with the conditions of this Section shall be considered a violation of this Regulation. Each pile burned in violation shall be cited as a separate offense.

(Amended 11/2/94; 3/6/02)

5-404 Emergency Waivers: A public officer authorized under subsections 5-401.1, 5-401.6 and 5-401.10 to grant permission for open burning may grant waivers from subsections 5-111.1 through 5-111.9 when, in his judgment, such emergency or summary action is necessary for the public safety. When such action is taken, the authorizing authority shall certify the following in a written report submitted to the APCO within 10 calendar days following the completion of burning: a description and quantity of the material burned and an explanation of the reasons for granting the permission.

(Amended 11/2/94; 3/6/02)

5-405 Deleted March 6, 2002

5-406 Prior District Notification; Disease and Pest, Crop Replacement, Orchard Pruning and Attrition, Double Cropping Stubble, Forest Management, Flood Debris, Fire Training, Flood Control, Irrigation Ditches, Range Management,

Hazardous Material, and Contraband: The person setting the fire shall provide electronic, typewritten, legibly handwritten, or computer printed notification to the District prior to the burn on a District-approved form or facsimile thereof. If notification is submitted by mail, the document must be postmarked at least 5 calendar days prior to the burn. The notification form must be completely filled out with accurate information to satisfy this requirement. For structural fire training, written notification shall also be made to the APCO at least 10 working days prior to the burn pursuant to the requirements of Regulation 11-2-401.3 (Asbestos Demolition, Renovation and Manufacturing).

(Adopted 12/19/90; Amended 11/2/94; 3/6/02)

5-407 Deleted November 2, 1994

5-408 Wildland Vegetation Management (Prescribed Burning) Burn Requirements:

Any person who seeks to conduct or conducts prescribed burning subject to subsection 5-401.15 shall comply with the following requirements:

- 408.1 Submit a smoke management plan to the APCO for review at least 30 calendar days prior to the proposed burning that is consistent with the most current USEPA guidance on wildland and prescribed fires (*Interim Air Quality Policy on Wildland and Prescribed Fires*, USEPA 1998, or any subsequent document that supersedes this document), and provides the following information:
- a. location and specific objectives of each proposed burn;
 - b. acreage, tonnage, type, and arrangement of vegetation to be burned;
 - c. directions and distances to nearby sensitive receptor areas;
 - d. fuel condition, combustion and meteorological prescription elements for the project;
 - e. projected burn schedule and expected duration of project ignition, combustion, and burn down (hours or days);
 - f. specifications for monitoring and of verifying critical parameters including meteorological conditions and smoke behavior before and during the burn;
 - g. specifications for disseminating project information to public;
 - h. contingency actions that will be taken during the burn to reduce exposure if smoke intrusions impact any sensitive receptor area;
 - i. certification by a qualified professional resource ecologist, biologist, or forester that the proposed burning is necessary to achieve the specific management objective(s) of the plan;
 - j. a copy of the environmental impact analysis prepared for the plan that includes an evaluation of alternatives to burning, if such an analysis was required by state or federal law or statute;
 - k. project fuel loading estimate (tons vegetation/acre) by vegetation type(s) and a description of the calculation method; and
 - l. particulate matter emissions estimate including referenced emission factor(s) and a description of the calculation method used.
- 408.2 Permission to burn shall be governed by the acreage burning allocation issued by the APCO.
- 408.3 Receive an acreage burning allocation from the APCO prior to ignition.
- 408.4 For each day on which burning occurs, report the total acreage and tonnage of vegetation actually burned to the APCO no later than 12:00 p.m. local time the following day.
- 408.5 Within 30 calendar days following completion of the burn project, provide a written post-burn evaluation to the APCO that addresses whether the project objectives were met and describes actual smoke behavior.

Any fire official seeking to conduct prescribed burning in a geographical area considered for a potential naturally-ignited wildland fire managed for resource benefits that is expected to exceed 10 acres in size shall annually register each burn project in writing with the APCO by December 31 each year, with updates as they occur. Once a decision is made to manage the fire for resource benefits, the fire official shall provide a smoke management plan for the burn project to the APCO, upon request.

(Adopted 11/2/94; Amended 3/6/02; 11/20/19)

- 5-409 Filmmaking and Public Exhibition Burn Petitions:** Any person seeking to conduct a fire pursuant to subsection 5-401.16 or 401.17 shall comply with the following requirements:
- 409.1 Submit an open burning petition to the APCO that provides the following information, as applicable:
 - 1.1. date(s) and specific location(s) of each proposed burn;
 - 1.2. type and quantity (tonnage, acreage, or volume) of each material to be burned;
 - 1.3. the projected fuel use rate in BTU per hour, if known, calculated using the higher heating value of each fuel; and
 - 1.4. the burn duration.
 - 409.2 Permission to burn on other than a permissive burn day shall be subject to written approval of the open burning petition by the APCO.
 - 409.3 Prior to ignition, notify the APCO on the day of each burn.
 - 409.4 If the APCO grants written approval, such approval shall be available at the burn location for inspection by the APCO, upon request.

(Adopted 11/2/94; Amended 3/6/02; Renumbered 11/20/19)

- 5-410 Marsh Management Burn Requirements:** Any person who seeks to conduct or conducts a fire pursuant to Subsection 5-401.13 shall:
- 410.1 In order to receive an acreage burning allocation, at least 30 calendar days prior to the proposed burning, submit a smoke management plan to the APCO for review using a District-approved form;
 - 410.2 In securing the written necessity statement required by California Health and Safety Code Section 41861, submit to the California Department of Fish and Wildlife (DFW) and the APCO information that (1) identifies the non-burning alternatives considered by the property owner(s) given the recommendations or needed improvements described in existing Individual Ownership Management Plans, updated Individual Ownership Adaptive Management Habitat Plans, Wildlife Management Plans or other resource management plans as applicable; and (2) explains why water management practices and non-burn vegetation management practices cannot currently achieve the management objective(s) of the proposed fire and the property. Where DFW is conducting a burn on state lands, this information shall be submitted by DFW to the APCO prior to the proposed burning;
 - 410.3 Prior to the proposed burning, submit the written statement required by Health and Safety Code Section 41861 to the APCO;
 - 410.4 For each day on which burning occurs, report the total acreage of vegetation actually burned to the APCO by telephone no later than 12:00 p.m. local time the following day.

(Adopted 3/6/02, Amended 11/20/19)

- 5-411 Open Burning Operation Fees:** The Open Burning Operation Fees contained in Regulation 3, Schedule V shall be paid prior to burning by any person subject to the requirements of (1) Section 5-406 Prior District Notification; (2) Section 5-401.13 Marsh Management; (3) Section 5-401.15 Wildland Vegetation Management (Prescribed Burning); (4) Section 5-401.16 Filmmaking or Section 5-401.17 Public Exhibition; or (5) the acreage burning allocation pursuant to Section 5-401.5 Stubble.

(Adopted 6/19/13; Amended 11/20/19)

5-500 MONITORING AND RECORDS

- 5-501 Open Burning Records:** Any person subject to Section 5-408 or 5-410 shall comply with the following requirements:
- 501.1 The person who conducts the fire shall maintain records on a daily basis that document and verify the actual acreage burned. Such documentation shall include the following information:
 - 1.1 date and location of burn
 - 1.2 a description of the method(s) or technique(s) used to verify the actual acreage burned
 - 1.3 data collected that supports the burn acreage determination, and
 - 1.4 type of vegetation and acreage actually burned.

501.2 Such records shall be retained for twelve months and made available to the APCO, upon request.

(Adopted 12/19/90; Amended 11/2/94; 3/6/02; Renumbered 11/20/19)

5-600 MANUAL OF PROCEDURES

5-601 Appraisal of Field Crop Fuel Moisture; The "Crackle" Test: Any person who wants to conduct an evaluation of fuel moisture in field crop stubble or straw remaining after harvest pursuant to subsection 5-401.5 shall satisfy the following criteria prior to burning:

601.1 Sampling: To ensure representative sampling, sample in accordance with the following requirements:

- 1.1 obtain samples from several different areas of the field
- 1.2 select some samples from underneath the straw mat including the bottom layer
- 1.3 a handful of sample material is considered a sufficient size to test.

601.2 Evaluation: The field is considered dry enough to burn, or passes the "crackle" test when:

- 2.1 each sample is tested just prior to burning
- 2.2 each sample tested makes an audible "crackle" when it is bent sharply.
- 2.3 If the sample does not pass the test, then the area from which the sample was selected cannot be burned until such material is considered dry enough to burn.

(Adopted 11/2/94; Renumbered 11/20/19)

**REGULATION 6
PARTICULATE MATTER AND VISIBLE EMISSIONS
RULE 3
WOOD-BURNING DEVICES
INDEX**

6-3-100 GENERAL

- 6-3-101 Description
- 6-3-110 Limited Exemption, Sole Source of Heat
- 6-3-111 Limited Exemption, Non-functional, Permanently Installed Heater
- 6-3-112 Limited Exemption, Loss of Natural Gas and/or Electric Power

6-3-200 DEFINITIONS

- 6-3-201 Alternate Form of Heat
- 6-3-202 APCO
- 6-3-203 Builder
- 6-3-204 Electric Heating Device
- 6-3-205 EPA
- 6-3-206 EPA Certified Wood Heaters
- 6-3-207 Fireplace
- 6-3-208 Garbage
- 6-3-209 Gas-fueled Heating Device
- 6-3-210 Insert
- 6-3-211 Mandatory Burn Ban
- 6-3-212 Manufacturer
- 6-3-213 New Building Construction
- 6-3-214 Pellet-fueled Wood Heater
- 6-3-215 Permanently Installed
- 6-3-216 Particulate Matter
- 6-3-217 PM_{2.5}
- 6-3-218 Real Property
- 6-3-219 Remodel
- 6-3-220 Retailer
- 6-3-221 Ringelmann Chart
- 6-3-222 Seasoned Wood
- 6-3-223 Solid Fuel
- 6-3-224 Spare the Air Alert
- 6-3-225 Treated Wood
- 6-3-226 Uncertified Wood Heater
- 6-3-227 Visible Emissions
- 6-3-228 Wood Heater
- 6-3-229 Wood-Burning Device

6-3-300 STANDARDS

- 6-3-301 Burning Prohibited During Mandatory Burn Ban
- 6-3-302 Requirements for Wood Heater Manufacturers and Retailers
- 6-3-303 Sale, Resale, Transfer or Installation of Wood-Burning Devices
- 6-3-304 Disclosure Requirements for Real Property
- 6-3-305 Requirements for Rental Properties
- 6-3-306 Requirements for New Building Construction

- 6-3-307 Requirements for Remodeling a Fireplace or Chimney
- 6-3-308 Visible Emissions Limitation
- 6-3-309 Prohibition Against Burning Garbage, Non-Seasoned Wood or Certain Materials
- 6-3-310 Requirements for Sale of Wood

6-3-400 ADMINISTRATIVE REQUIREMENTS

- 6-3-401 Device Sale or Installation, Public Awareness Information
- 6-3-402 Device Manufacturer's Certification or Proof of Equivalency
- 6-3-403 Labeling for Solid Fuel or Wood Sale
- 6-3-404 Registration of EPA Certified Wood Heaters
- 6-3-405 Registration Renewal

6-3-500 MONITORING AND RECORDS

- 6-3-501 Burden of Proof
- 6-3-502 Proof of Certification or Equivalency

6-3-600 MANUAL OF PROCEDURES

- 6-3-601 Determination of Visible Emissions
- 6-3-602 Determination of Moisture Content
- 6-3-603 Determination of EPA Certification or Demonstration of Equivalency

**REGULATION 6
PARTICULATE MATTER AND VISIBLE EMISSIONS
RULE 3
WOOD-BURNING DEVICES**

(Adopted July 9, 2008)

6-3-100 GENERAL

6-3-101 Description: The purpose of this rule is to limit emissions of particulate matter and visible emissions from wood-burning devices used for primary heat, supplemental heat or ambiance.
(Amended 10/21/15)

6-3-110 Limited Exemption, Sole Source of Heat: Until October 31, 2016, the requirements of Section 6-3-301 shall not apply to any person whose sole source of heat is a wood-burning device.

110.1 Effective November 1, 2016, the requirements of Section 6-3-301 shall not apply to any person whose sole source of heat is an EPA certified wood-burning device that is registered with the District per the requirements of Sections 6-3-404 and 405 and who does not have available to them a permanently-installed natural gas, propane or electric heating device. Qualification for exemption is subject to verification.

110.2 Effective November 1, 2018, rental properties subject to Section 6-3-305 located in areas with natural gas service no longer qualify for exemption in Section 6-3-110.1.
(Amended 10/21/15)

6-3-111 Limited Exemption, Non-functional, Permanently Installed Heater: Effective November 1, 2015, the requirement of Section 6-3-301 shall not apply to any person whose only non-wood-burning, permanently-installed source of heat is non-functional and requires repair to resume operation. A dwelling may qualify for a 30-day exemption if there is no alternate form of heat and the non-functional heater is repaired to resume function within 30 days. Qualification for this exemption is subject to verification and must be supported by documentation of repair, which must be submitted to the District within 10 days of a receipt of a request for such records.

(Adopted 10/21/15)

6-3-112 Limited Exemption, Loss of Natural Gas and/or Electric Power: The requirement of Section 6-3-301 shall not apply to a person whose dwelling is in an area that has a temporary loss of gas and/or electric utility service and there is no alternate form of heat available. Qualification for exemption is subject to verification.

(Amended 10/21/15)

6-3-200 DEFINITIONS

6-3-201 Alternate Form of Heat: A form of heat that does not burn wood or any other solid fuels. Alternate forms of heat include, but are not limited to gas-fueled (e.g. propane or natural gas) or electric heat.

(Adopted 10/21/15)

6-3-202 APCO: The Air Pollution Control Officer of the Bay Area Air Quality Management District (District) or the designee thereof.

6-3-203 Builder: Any individual or company that constructs or sells any residential or commercial property.

(Amended 10/21/15)

- 6-3-204 Electric Heating Device:** Any device that produces heat through use of an element utilizing resistance from alternating current or other means of electrical space heating, including, but not limited to, electric fireplaces, heat pumps, or wall heaters.
(Amended 10/21/15)
- 6-3-205 EPA:** United States Environmental Protection Agency.
(Adopted 10/21/15)
- 6-3-206 EPA Certified:** Any wood-burning heater that meets the standards set forth in Title 40 Code of Federal Regulations (CFR), Part 60, Subpart AAA in effect at the time of installation and is certified and labeled pursuant to those regulations. An EPA certified wood heater may be freestanding, built-in, or an insert within a fireplace.
(Adopted 10/21/15)
- 6-3-207 Fireplace:** Any installed masonry or factory-built wood-burning device designed to operate with an air-to-fuel ratio greater than or equal to 35-to-1.
- 6-3-208 Garbage:** Any solid, semisolid, or liquid waste generated from residential, commercial, and industrial sources, including trash, refuse, rubbish, industrial wastes, asphaltic products, manure, vegetable or animal solid or semisolid wastes, and other discarded solid or semisolid wastes.
- 6-3-209 Gas-fueled Heating Device:** Any device that utilizes natural gas or propane as a fuel source exclusively including, but not limited to, gas-fueled fireplaces, gas-fueled room heaters, or gas-fueled inserts.
(Amended 10/21/15)
- 6-3-210 Insert:** A wood or gas-fueled heater designed to be installed in an existing masonry or factory-built fireplace.
(Adopted 10/21/15)
- 6-3-211 Mandatory Burn Ban:** Any period during which the air quality is forecast by the District to be unhealthy due to ambient levels of particulate matter exceeding 35 µg/m³ and burning wood or any solid fuels is illegal in the Bay Area. A Mandatory Burn Ban is announced through a Spare the Air Alert.
(Adopted 10/21/15; Amended 11/20/19)
- 6-3-212 Manufacturer:** Any person who constructs or imports a wood-burning fireplace or wood-burning heater.
(Adopted 10/21/15)
- 6-3-213 New Building Construction:** Any single or multi-family housing unit, for which construction began on or after November 1, 2016. Construction is deemed to occur when the foundation for the structure is installed.
(Adopted 10/21/15)
- 6-3-214 Pellet-fueled Wood Heater:** A wood-burning device which is operated on pellet-fuel and is either EPA certified or exempted under U.S. EPA requirements set forth in Title 40 Code of Federal Regulation (CFR), Part 60, Subpart AAA. Pellet fuel may be composed of compressed wood, corn or other biomass.
(Amended 10/21/15)
- 6-3-215 Permanently Installed:** A device that is fixed to the structure of a dwelling or unit and is not readily movable.
(Adopted 10/21/15)

- 6-3-216 Particulate Matter (PM):** Any material that is emitted as liquid or solid particles, or as gaseous material that becomes liquid or solid particles at the testing temperatures specified in the source test method, excluding combined water.
(Adopted 10/21/15)
- 6-3-217 PM_{2.5}:** PM_{2.5} has an aerodynamic diameter equal to or less than 2.5 microns.
(Adopted 10/21/15)
- 6-3-218 Real Property:** The land and anything affixed to the land, such as a building or structures.
(Adopted 10/21/15)
- 6-3-219 Remodel:** A change to the appearance and/or functional utility of a fireplace or chimney that requires a building permit.
(Adopted 10/21/15)
- 6-3-220 Retailer:** Any person engaged in the sale of wood-burning fireplaces, wood-burning heaters, or outdoor wood-burning devices.
(Adopted 10/21/15)
- 6-3-221 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 as Ringelmann No. 1, 2, 3, 4 and 5, respectively. The system is used in determining whether emissions of smoke are within limits or standards of opacity.
- 6-3-222 Seasoned Wood:** Firewood that has a moisture content of 20 percent or less by weight using the testing method specified in Section 6-3-602.
- 6-3-223 Solid Fuel:** Any wood, wood-based product, non-gaseous or non-liquid fuel, including but not limited to: manufactured logs, pressed logs, wood or other pellet products.
- 6-3-224 Spare the Air Alert (STA):** An alert by the APCO that notifies the public when a Mandatory Burn Ban is in effect. Members of the public can verify status of a burn ban through the following methods:
- Listen to local TV or Radio News;
 - Call 1-877-4NO-BURN;
 - Check www.sparetheair.org; or
 - Follow District social media.
- (Amended November 20, 2019)*
- 6-3-225 Treated Wood:** Wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects or weathering.
(Renumbered November 20, 2019)
- 6-3-226 Uncertified Wood Heater:** A wood heater that is not certified by the U.S. EPA to meet requirements in Title 40 Code of Federal Regulations, Part 60, Subpart AAA.
(Adopted 10/21/15; Renumbered 11/20/19)
- 6-3-227 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.
(Renumbered November 20, 2019)
- 6-3-228 Wood Heater:** An enclosed wood-burning device capable of and intended for space heating such as a. wood stove, pellet-fueled wood heater, or wood-burning fireplace insert.
(Adopted 10/21/15; Renumbered 11/20/19)

- 6-3-229 Wood-burning Device:** Any wood heater, fireplace, or any indoor permanently installed device used to burn any solid fuel for space-heating or aesthetic purposes.
(Renumbered November 20, 2019)
- 6-3-300 STANDARDS**
- 6-3-301 Burning Prohibited During Mandatory Burn Ban:** No person shall operate or combust wood or solid-fuel products in any wood-burning device during a Mandatory Burn Ban.
(Amended 10/21/15; 11/20/19)
- 6-3-302 Requirements for Wood Heater Manufacturers and Retailers:** No manufacturer or retailer shall advertise, sell, offer for sale or resale, supply, install or transfer a new or used wood-burning device intended for use within District boundaries unless the device meets or exceeds the requirements of Title 40 Code of Federal Regulations, Part 60, Subpart AAA, which are as follows:
- 302.1** Effective May 15, 2015, any wood heater that is manufactured must be certified to meet the 4.5 g/hr emissions rating specified in 40 C.F.R. § 60.532(a).
 - 302.2** Effective December 31, 2015, any wood heater that is sold at retail must be certified to meet the emissions rating of 4.5 g/hr as specified in 40 C.F.R. § 60.532(a).
 - 302.3** Effective May 15, 2020, any wood heater that is manufactured or sold at retail must meet an emissions rating of 2.5 g/hr if crib tested, or 2.0 g/hr if cordwood tested, as specified in 40 C.F.R. § 60.532(b) and (c).
(Adopted 10/21/15)
- 6-3-303 Sale, Resale, Transfer or Installation of Wood-Burning Devices:** Effective December 1, 2015, no person shall advertise, sell, offer for sale or resale, supply, install or transfer a new or used wood-burning device intended for use within District boundaries unless the device meets or exceeds the requirements of Title 40 Code of Federal Regulations, Part 60, Subpart AAA. This requirement does not apply if a wood-burning device is an installed fixture included in the sale or transfer of any real property.
(Amended 10/21/15)
- 6-3-304 Disclosure Requirements for Real Property:** Effective June 1, 2016, any person selling, renting or leasing real property shall provide sale or rental disclosure documents that describe the health hazards of PM_{2.5} from burning wood or any solid fuel as a source of heat. Disclosure documents must disclose PM_{2.5} health hazards in accordance with guidance made available on the District's website.
(Adopted 10/21/15)
- 6-3-305 Requirements for Rental Properties:** Effective November 1, 2018, all real property offered for lease or rent in areas with natural gas service shall have a permanently-installed form of heat that does not burn solid fuel.
(Adopted 10/21/15)
- 6-3-306 Requirements for New Building Construction:** Effective November 1, 2016, no person or builder shall install a wood-burning device in a new building construction.
(Amended 10/21/15)
- 6-3-307 Requirements for Remodeling a Fireplace or Chimney:** Effective November 1, 2016, no person shall remodel a fireplace or chimney unless a gas-fueled, electric, or EPA certified device is installed that meets requirements in Title 40 Code of Federal Regulations, Part 60, Subpart AAA. This requirement is triggered by a fireplace or chimney remodel where a total cost exceeds \$15,000 and requires a local building permit. The total cost excludes the cost of a building permit.
(Adopted 10/21/15)

6-3-308 Visible Emissions Limitation: Effective November 1, 2015, no person shall cause or allow a visible emission from any wood-burning device in any building or structure that exceeds No. 1 on the Ringelmann Chart or 20 percent opacity for a period or periods aggregating more than 3 minutes in any hour. 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.

(Amended 10/21/15)

6-3-309 Prohibition Against Burning Garbage, Non-Seasoned Wood or Certain Materials: No person shall cause or allow any of the following materials to be burned in a wood-burning device: garbage, treated wood, non-seasoned wood, used or contaminated wood pallets, plastic products, rubber products, waste petroleum products, paints and paint solvents, coal, animal carcasses, glossy or colored paper, salt water driftwood, particle board, and any material not intended by a manufacturer for use as a fuel in a wood-burning device.

6-3-310 Requirements for Sale of Wood: No person shall sell, offer for sale, or supply any wood (not to include manufactured logs) intended for use in a wood-burning device that does not meet one of the following requirements:

310.1 Have a moisture content of 20 percent or less by weight, or

310.2 For moisture content of greater than 20 percent by weight, be identified as unseasoned wood and include instructions on how to dry out the wood, as required in Section 6-3-403.3, before combustion.

6-3-400 ADMINISTRATIVE REQUIREMENTS

6-3-401 Device Sale or Installation, Public Awareness Information: Any person offering for sale, selling or installing a new or used wood-burning device subject to Sections 6-3-302 and 6-3-303 shall provide public awareness information to each purchaser of a wood-burning device in the form of pamphlets, brochures, or fact sheets addressing proper installation, operation, and maintenance of the wood-burning device and the health effects of wood smoke. The information on health effects of wood smoke shall include the following statement:

"Wood smoke contains harmful particulate matter (PM) which is associated with numerous negative health effects.

6-3-402 Device Manufacturer's Certification or Proof of Equivalency: The manufacturer and retailer of any wood-burning device shall provide documentation to any purchaser that the device is U.S. EPA certified or that the device meets the equivalent Title 40 Code of Federal Regulations (CFR), Part 60, Subpart AAA.

6-3-403 Labeling for Solid Fuel or Wood Sale: Any person offering for sale, selling or providing solid fuel or wood intended for use in a wood-burning device within District boundaries shall:

403.1 Attach a label to each package of solid fuel or wood sold that states the following:

"Use of this and other solid fuels may be restricted at times by law. Please check 1-877-4-NO-BURN or <http://www.8774noburn.org/> before burning."

403.2 If wood is seasoned (not to include manufactured logs), then the label must also state the following:

"This wood meets air quality regulations for moisture content to be less than 20 % (percent) by weight for cleaner burning."

403.3 If wood is not seasoned (not to include manufactured logs), then the label must state the following:

“This wood does **NOT** meet air quality regulations for moisture content and must be properly dried before burning.”

In addition to the disclosure listed above, any person offering for sale or selling wood that is not seasoned for use in a wood-burning device shall also provide written instructions on how to properly dry the wood to achieve a 20% (percent) by weight moisture content.

6-3-404 Registration of EPA Certified Wood Heaters: Effective November 1, 2016, any person seeking to claim the exemption provided in Section 6-3-110 must have previously registered their EPA certified wood heater in the District’s registration program and must maintain documentation that the device is operated according to manufacturer’s specifications. The following wood heaters are eligible to be registered:

404.1 Wood heaters that are EPA Certified to meet performance and emission standard of 7.5 g/hr or less.

404.2 A pellet-fueled wood heater exempt from EPA certification requirements pursuant to the requirements in Title 40 Code of Federal Regulations (CFR), Part 60, Subpart AAA at time of purchase or installation.

(Adopted 10/21/15)

6-3-405 Registration Renewal: Registration pursuant to Section 6-3-404 shall be for a term of 5 years. Application for renewal of registration must be received by the District prior to expiration of the 5-year term.

(Adopted 10/21/15)

6-3-500 MONITORING AND RECORDS

6-3-501 Burden of Proof: The burden of proof of eligibility for exemption pursuant to Section 6-3-110, 111, and 112 is on the claimant. Any person claiming exemption shall maintain adequate documentation or records demonstrating that the registered device is the sole source of heat. Such records must be provided to the APCO upon request. Qualification for the exemption provided in Section 6-3-110 is subject to inspection and verification.

(Amended 10/21/15)

6-3-502 Proof of Certification or Equivalency: Upon request of the APCO, a manufacturer shall demonstrate that each wood-burning device subject to the requirements of Section 6-3-302 meets the standards set forth in this regulation.

6-3-600 MANUAL OF PROCEDURES

6-3-601 Determination of Visible Emissions: Ringelmann standard shall be determined by Manual of Procedures-Volume 1 – Enforcement Procedures, Evaluation of Visible Emissions or any other EPA method that has been approved by APCO.

(Amended 10/21/15)

6-3-602 Determination of Moisture Content: Moisture content of wood shall be determined by ASTM Test Method D 4442-92 or 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.

6-3-603 Determination of EPA Certification or Equivalency: EPA certification or demonstration of equivalence for wood burning-devices shall be performed in accordance with EPA Guidance Document for Residential Wood Combustion, Method 28, 5G, 5H, or other EPA approved methodology.