

Salt Lake County Health Department

Health Regulation

#35

SOLID FUEL BURNING

**Adopted by the Salt Lake County Board of Health
January 8, 2015**

**Under Authority of
Utah Code Ann. §26A-1-114**

1. PURPOSE & APPLICABILITY OF REGULATION

- 1.1. The purpose of this Regulation is to preserve, protect and improve the air resources of Salt Lake County and to promote public health, safety, and welfare of residents by establishing practices and provisions that reduce air pollution in Salt Lake County.
- 1.2. The Salt Lake County Board of Health recognizes that the operation of fireplaces, wood stoves, and solid fuel burning devices exist as a desirable amenity. Smoke consists of fine particles known to have a potential health hazard. Concentrations of particulate matter from smoke create local conditions that impact air quality and adversely affect the health of nearby residents.
- 1.3. Requirements for solid fuel burning are consistent with and support all applicable state and federal laws.
- 1.4. This Regulation complies with Federal Regulations, including the Clean Air Act, its amendments and regulations, the National Ambient Air Quality Standards, the Utah Air Conservation Act and the Utah Administrative Code R307.
- 1.5. This Regulation is adopted under the authority of the Salt Lake County Board of Health in accordance with Utah Code Ann. §26A-1-121.

2. DEFINITIONS

For the purposes of this Regulation, the following terms, phrases, and words shall have the meanings herein expressed:

- 2.1. “Board” shall mean the Salt Lake County Board of Health.
- 2.2. “Burn Down” shall mean the period of time, not to exceed three hours, after declaring a no-burn period required for the cessation of combustion within any solid fuel heating device by withholding fuel or increasing the air-to-fuel ratio. Burn down applies to voluntary action and mandatory action days.
- 2.3. “Department” shall mean the Salt Lake County Health Department.
- 2.4. “Director” shall mean the Director of the Salt Lake County Health Department or his or her designated representative.
- 2.5. “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.
- 2.6. “Dwelling Unit” shall mean a single habitable unit in a dwelling which provides independent living facilities. A dwelling unit includes space for living and sleeping and may provide access to shared space for personal hygiene and/or cooking and eating.

- 2.7. "Mandatory Action Day" shall mean a "no-burn" day for solid fuel burning devices as determined by the Utah Division of Air Quality Action Alert System effective November 1 through March 1.
- 2.8. "Open Burning" shall mean a fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.
- 2.9. "Person" shall mean any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.
- 2.10. "Premises" shall mean any lot, parcel, or plot of land, including any buildings or structures thereon.
- 2.11. "Sole Source of Heat" or "sole source" shall mean the solid fuel burning device is the only available source of heat for the entire residence, except for small portable heaters.
- 2.12. "Solid Fuel" shall mean wood, coal or any other non-gaseous or non-liquid fuel.
- 2.13. "Solid Fuel Burning Device" shall mean any device used for burning wood, coal, or any other non-gaseous and non-liquid fuel, both indoors and outdoors.
- 2.14. "Unrestricted Action Day" shall be as determined by the Utah Division of Air Quality Action Alert System effective November 1 through March 1.
- 2.15. "Voluntary Action Day" shall mean a "no-burn" day for solid fuel burning devices and shall be determined by the Utah Division of Air Quality Action Alert System effective November 1 through March 1.

3. GENERAL PROVISIONS

3.1. Jurisdiction of the Department.

3.1.1. This Regulation is promulgated by the Salt Lake County Board of Health as authorized by Utah Code Ann. §26A-1-121(1), and Chapter 9.04, Salt Lake County Code of Ordinances.

3.1.2. The Department is empowered to enforce this Regulation in all incorporated and unincorporated areas served by the Department as authorized by Utah Code Ann. §26A-1-114(1) (a), and Chapter 9.04, Salt Lake County Code of Ordinances.

3.2. Nothing in this Regulation affects or modifies in any way the obligations or liability of any person under any other Regulation or provision thereof issued by the Department, any ordinance issued by Salt Lake County or any municipality located within Salt Lake

County, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.

- 3.3. **Severance.** If any section, subsection, sentence, clause, or phrase of this Regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Regulation.

4. SUBSTANTIVE PROVISIONS

4.1. Solid Fuel Burning.

4.1.1. Mandatory Action Day Requirements.

- (i) No person at a dwelling, dwelling unit or on the premises of a dwelling or dwelling unit shall burn or allow the burning of solid fuel or use a solid fuel burning device on a mandatory action day following a burn down period.

4.1.2. Voluntary Action Day Requirements.

- (i) No person at a dwelling, dwelling unit or on the premises of a dwelling or dwelling unit shall burn or allow the burning of solid fuel or use a solid fuel burning device on a voluntary action day, following a burn down period.

4.1.3. Exemption.

- (i) A person that uses solid fuel burning devices as a sole source of residential heating are exempt from this Regulation if they are a Registered Sole Source with the Utah Division of Air Quality as required by the Utah Administrative Code R307-302.
- (ii) A temporary sole source exemption may be granted in the event of failure of the oil, natural gas, electricity, or propane heating system.

4.1.4. Unrestricted Action Days.

- (i) Solid fuel burning devices may be used on an unrestricted action day at a dwelling, dwelling unit or on the premises of a dwelling or dwelling unit and visible emissions shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:
 - a. An initial 15 minute start-up period; and

- b. A period of 15 minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

4.1.5. **Prohibited Acts.** Except as allowed pursuant to this Regulation it shall be unlawful for any person:

- (i) To “open burn” without the approval of the Department and in violation of Utah Administrative Code R307-202.
- (ii) Bonfires, fires built to burn Christmas trees, rally fires and similar fires are prohibited.

5. RESERVED.

6. INSPECTIONS & INVESTIGATIONS

6.1. The Department, by the Director, has the authority to perform inspections, investigations, reviews, and other similar actions as necessary of any public or private establishment.

6.1.1. **Private Dwellings.** Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

7. **ENFORCEMENT MECHANISMS.** If the Department has investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this Regulation or the Department has other reasonable grounds to believe that there has been a violation of any part of this Regulation or that the property owner or otherwise responsible party is not in compliance with this Regulation, the Department may take civil or administrative enforcement action.

7.1. Administrative Actions.

7.1.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance (NOV).

7.1.2. **Challenging an NOV.** As detailed in the Department’s Adjudicative Hearing Procedures, a party aggrieved by an NOV may appeal to the Department in writing within 10 days of the date of the NOV.

7.2. Civil Enforcement Actions.

7.2.1. The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

8. CIVIL & ADMINISTRATIVE PENALTIES

8.1. The Department will provide educational materials and information about no solid fuel burning on voluntary action days prior to civil, and administrative penalties from the effective date of this Regulation through December 31, 2015. Enforcement of the no burning on voluntary action days shall begin on January 1, 2016.

8.2. Civil & Administrative Penalties.

8.2.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:

- (i) As described in Utah Administrative Code R307-130;
- (ii) The violator's history of compliance or non-compliance;
- (iii) The documented costs associated with environmental or health damage;
- (iv) The violator's degree of willfulness or negligence; and
- (v) The violator's good faith efforts to comply and cooperate.

8.2.2. The Director may multiply the penalty by the number of days the violation occurred.

8.3. Recovery of Investigation & Abatement Costs

8.3.1. The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8.3.2. The Department may record a judgment lien on a violator's property to recover its expenses and costs.

9. EFFECTIVE DATE

9.1. This Regulation shall be effective upon its enactment by the Salt Lake County Board of Health.

APPROVED AND ADOPTED this _____ day of _____, 2015.

SALT LAKE COUNTY BOARD OF HEALTH

By: _____
KELLY CHRISTENSEN, Chair

ATTEST:

GARY L. EDWARDS, M.S.
Executive Director
Salt Lake County Health Department