

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 650, Approved and Ordered September 19, 2016


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective November 1, 2016,

- (a) the Solid Fuel Burning Domestic Appliance Regulation, B.C. Reg. 302/94, is repealed,
- (b) the Solid Fuel Burning Domestic Appliance Regulation set out in the attached Appendix 1 is made,
- (c) the Administrative Penalties (*Environmental Management Act*) Regulation, B.C. Reg. 133/2014, is amended as set out in the attached Appendix 2, and
- (d) section 27 (1) (a) of the Provincial Sales Tax Exemption and Refund Regulation, B.C. Reg. 97/2013, is amended by striking out “, B.C. Reg. 302/94”.


Minister of Environment


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Environmental Management Act*, S.B.C. 2003, c. 53, sections 75, 115 and 138;
Provincial Sales Tax Act, S.B.C. 2012, c. 35, sections 236 and 241

Other: OC 1066/94, 426/2014, 130/2013

APPENDIX 1

SOLID FUEL BURNING DOMESTIC APPLIANCE REGULATION

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SCHEDULE

Definitions

- 1 In this regulation:

“**appliance**” means a device designed for burning solid fuel to produce heat for heating indoor spaces or cooking or for aesthetic enjoyment, but does not include

- (a) barbecues,
- (b) chimineas,
- (c) outdoor fireplaces that are not used to heat indoor space,
- (d) outdoor ovens, and
- (e) solid fuel burning devices that
 - (i) have an output capacity rating greater than 150 kW, or
 - (ii) are certified by the manufacturer as having a maximum output capacity of greater than 150 kW;

“**boiler**” means an appliance in which fluid is heated and from which the heated fluid or steam is circulated through pipes for purposes that include heating spaces other than the space in which the boiler is located;

“**camp stove**” means an appliance

- (a) that
 - (i) weighs not more than 20 kg, and
 - (ii) is designed to be portable for use when camping or picnicking or in remote locations where an easily transportable means of cooking or heating is needed, or
- (b) that is labelled as a camp stove in accordance with the US standard;

“Canadian standard” means “CSA B415.1-10 Performance testing of solid-fuel-burning heating appliances”, published by the Canadian Standards Association, as amended from time to time;

“certified”, in relation to an appliance, means an appliance,

- (a) labelled in accordance with the Canadian standard, that
 - (i) after testing by an organization accredited by the Standards Council of Canada to test in accordance with the Canadian standard, is certified by the organization as meeting the requirements of the Canadian standard, or
 - (ii) is an appliance of the same model as an appliance described in subparagraph (i) and is, in all material respects, identical to that appliance, or
- (b) labelled in accordance with the US standard, that
 - (i) after testing by an organization accredited by the United States Environmental Protection Agency to test in accordance with the US standard, is certified by the organization as meeting the requirements of the US standard, or
 - (ii) is an appliance of the same model as an appliance described in subparagraph (i) and is, in all material respects, identical to that appliance;

“cook stove” means an appliance

- (a) that
 - (i) is designed primarily for cooking food, rather than heating space,
 - (ii) is equipped with
 - (A) an enclosed oven that has a volume greater than 0.028 m³, and
 - (B) a device for measuring the temperature of the oven, and
 - (iii) has a flame path capable of being routed around the oven, or
- (b) that is labelled as a cook stove in accordance with the US standard;

“cordwood” means conventional firewood;

“factory-built fireplace” means an appliance, intended primarily for aesthetic enjoyment and consisting entirely of factory-built components assembled at the factory in accordance with the manufacturer’s specifications,

- (a) that does not have either an automatic or manual air or combustion control except
 - (i) a flue damper, or
 - (ii) an outside air damper that can only be adjusted to a fully closed or fully open position,
- (b) that bears a permanent label
 - (i) of an organization accredited by the Standards Council of Canada, which label indicates the device is certified by the organization as meeting the requirements of the Underwriters Laboratories of Canada Inc. standard CAN/ULC-S610-M87, Standard for Factory-Built Fireplaces, or

- (ii) of an organization accredited by a member of the International Accreditation Forum, which label indicates that the device is certified by the organization as meeting the requirements of the Underwriters Laboratories Inc. standard UL 127 Standard for Factory-Built Fireplaces, and
 - (c) the certification of which either
 - (i) permits use of the device only if the doors are fully open, or
 - (ii) permits the use of the device with the doors closed only if
 - (A) the doors are tempered glass panels, or
 - (B) the device has an opening that is at least 0.323 m³ (500 square inches);
- “furnace”** means an appliance, designed to be located outside ordinary living areas, in which air is heated and from which the heated air is distributed through ducts for heating spaces other than the space in which the furnace is located;
- “masonry heater”** means a free-standing appliance that
- (a) is constructed primarily of masonry,
 - (b) has a mass of at least 800 kg, excluding the chimney and foundation, and
 - (c) is designed
 - (i) to absorb the heat from a rapidly burned charge of solid fuel by routing hot exhaust gases through internal heat exchange channels that include at least one 180° change in flow direction, and
 - (ii) to heat spaces by radiating the absorbed heat;
- “outdoor boiler”** means a boiler that is
- (a) designed to be installed outdoors or in a structure not ordinarily used as living space, and
 - (b) specified by the manufacturer as suitable for outdoor installation or installation in structures not ordinarily used as living space;
- “owner”** means,
- (a) in relation to a parcel registered in a land title office, the registered owner in fee simple, and
 - (b) in relation to any parcel, a person occupying the parcel;
- “parcel”**,
- (a) in relation to land registered in a land title office, has the same meaning as in the *Land Title Act*, and
 - (b) in relation to any other land, means an area of land the boundaries of which are certain and that is held by an owner;
- “pellet stove”** means a stove that burns pelletized fuel to heat the space in which it is located;
- “pelletized fuel”** means processed fuel consisting of uniform, discrete pellets of compressed, dried biomass material;
- “phase 2 qualified boiler”** means a boiler that

- (a) was manufactured by a person who, at the time of manufacture, was a party to an “EPA Hydronic Heater Program – Phase 2 Partnership Agreement” with the United States Environmental Protection Agency,
- (b) has an average particulate matter emission rate of not more than 0.32 lb. per million BTU (0.1376 g/MJ), and a maximum particulate matter emission rate of not more than 18 g/hr, determined in accordance with “Test Method 28 OWHH for Measurement of Particulate Emissions and Heating Efficiency of Wood-Fired Hydronic Heating Appliances”, published by the United States Environmental Protection Agency, and
- (c) is labelled in accordance with Attachment 3 of the agreement referred to in paragraph (a);

“**seasoned**”, in relation to wood or wood products, means the wood or wood products contain not more than 20% moisture by weight;

“**site-built masonry fireplace**” means an appliance that is

- (a) a wood burning fireplace of primarily masonry construction, and
- (b) built or assembled at the site on which it is located;

“**solid fuel**” means

- (a) untreated, seasoned wood or wood products, including, without limitation, cordwood, woodchips, sawdust and wood left over from cutting lumber to length,
- (b) manufactured firelogs,
- (c) pelletized fuel, and
- (d) corn kernels and seed hulls;

“**untreated**”, in relation to wood or wood products, means the wood or wood products have not been treated with a preservative and have not been painted, varnished or coated with another substance;

“**US standard**” means the applicable of the following standards published by the United States Environmental Protection Agency, as amended from time to time,

- (a) in relation to boilers and furnaces, the “Code of Federal Regulations, Title 40, Part 60, Subpart QQQQ – Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces”;
- (b) in relation to any other appliance, the “Code of Federal Regulations, Title 40, Part 60, Subpart AAA – Standards of Performance for New Residential Wood Heaters”.

Use of solid fuel in appliances

- 2 (1) A person must not burn anything other than solid fuel in an appliance.
- (2) Despite subsection (1), paper or cardboard may be used in an appliance but only for the purpose of starting a fire.

Exceptions from section 2

- 3 Section 2 (1) does not apply to a boiler that

- (a) is operated under and in accordance with emission limits established by a permit, or
- (b) is used for purposes that include carrying out an agricultural operation, as defined in section 1 of the Agricultural Waste Control Regulation.

Vendor requirements – appliances

- 4 (1) In this section:
- “consumer” means a person who purchases an appliance other than for the purpose of resale;
 - “vendor” includes a manufacturer, wholesaler and retailer.
- (2) Subsections (3) and (4) do not apply in relation to boilers or furnaces until March 1, 2017.
- (3) A vendor who carries on business in British Columbia as a manufacturer, wholesaler or retailer of appliances, and any person who sells new appliances to consumers, must not sell or offer to sell, for use or resale, a new appliance unless
- (a) the vendor is in possession of the records described in subsection (4) in relation to the appliance, and
 - (b) those records demonstrate that the appliance is certified.
- (4) A vendor of a new appliance must obtain from the wholesaler or manufacturer of the appliance, or from the accredited organization that carried out the testing of the appliance or a sample of the appliance, a record of the test results in a form certified on behalf of the accredited organization by a person who is able to verify the results.
- (5) A vendor who sells a new outdoor boiler to a consumer must inform the consumer of the setback requirements under section 7.
- (6) A vendor who sells a new outdoor boiler to a consumer must provide to the consumer, and retain for the vendor’s records, a document, or a copy of a document, that includes
- (a) a signed declaration of the consumer that he or she has been informed of the requirements under section 7,
 - (b) a signed declaration of the vendor as to whether the boiler is a certified boiler, and
 - (c) the following information:
 - (i) the name and address of the vendor;
 - (ii) the consumer’s name and address;
 - (iii) the date of sale;
 - (iv) the manufacturer and model name or number of the appliance.

Exceptions from section 4

- 5 Section 4 does not apply to a vendor described in section 4 (3), (4), (5) or (6) if
- (a) the appliance is a camp stove, cook stove, factory-built fireplace, masonry heater or a site-built masonry fireplace,

- (b) the appliance is a boiler that
 - (i) the vendor is satisfied is to be used for heating commercial, institutional or multi-residence buildings,
 - (ii) is fueled by pelletized fuel or wood chips delivered automatically to the firebox, and
 - (iii) has automatic systems to remove ash, or
- (c) the vendor of the appliance is
 - (i) the manufacturer of the appliance and manufactures that appliance only for export from British Columbia, or
 - (ii) satisfied that the purchaser of the appliance intends to install or export the appliance outside British Columbia.

Requirements – pelletized fuel specifications

- 6 (1) A person who carries on business in British Columbia as a manufacturer, wholesaler or retailer of pelletized fuel must not sell or offer to sell, for use or resale, pelletized fuel intended for use in a pellet stove located in a single family dwelling or a residential unit of a multi-residence building unless the fuel conforms to the specifications set out in the Schedule.
- (2) Subsection (1) does not apply to a person described in that section who has reasonable grounds to believe that the purchaser of the fuel does so only for use or resale outside of British Columbia.

Boilers – setback and operational requirements

- 7 (1) In this section, “**installed**” means installed outdoors or in a structure not ordinarily used as living space.
- (2) An owner of a parcel must ensure that a boiler that is installed on the parcel after November 1, 2016 but before May 1, 2017 is installed as follows:
- (a) if the boiler is a certified boiler or a phase 2 qualified boiler, not less than 40 m from each of the parcel’s boundaries;
 - (b) in any other case, not less than 80 m from each of the parcel’s boundaries.
- (3) An owner of a parcel must ensure that a boiler that is installed on the parcel on or after May 1, 2017 is
- (a) a certified boiler, and
 - (b) installed not less than 40 m from each of the parcel’s boundaries.
- (4) Despite subsections (2) (a) and (3), if the certified boiler is designed to burn only pelletized fuel, the boiler must be installed not less than 10 m from each of the parcel’s boundaries.
- (5) A person must not operate a boiler installed contrary to subsection (2) (a) or (b), (3) or (4).
- (6) On and after November 1, 2026, a person must not operate an installed boiler unless the boiler is a certified boiler or a phase 2 qualified boiler.

Exceptions from section 7

- 8 (1) In this section:
- “**assisted living residence**” has the same meaning as in the *Community Care and Assisted Living Act*;
 - “**community care facility**” has the same meaning as in the *Community Care and Assisted Living Act*;
 - “**facility**” has the same meaning as in the *Continuing Care Act*;
 - “**First Nation land**” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
 - “**hospital**” means
 - (a) a hospital as defined in section 1 of the *Hospital Act*, or
 - (b) a private hospital as defined in section 4.1 of the *Hospital Act*;
 - “**participating First Nation**” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
 - “**school**” means a parcel used for any of the following:
 - (a) a school as defined in the *School Act*;
 - (b) a francophone school as defined in the *School Act*;
 - (c) a Provincial school as defined in the *School Act*;
 - (d) an independent school as defined in the *Independent School Act*;
 - (e) a school operated on First Nation land by the government of Canada or by a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
 - (f) a school operated by the Nisga’a Nation, or a treaty first nation, under its own laws.
- (2) Section 7 does not apply in relation to a boiler that
- (a) is operated under and in accordance with emission standards established by a permit, or
 - (b) is used for purposes that include carrying out an agricultural operation, as defined in section 1 of the *Agricultural Waste Control Regulation*.
- (3) Section 7 (6) does not apply in relation to a boiler on a parcel if the boiler is located
- (a) not less than 80 m from each of the parcel’s boundaries, and
 - (b) not less than 500 m from the nearest property line of any hospital, school, community care facility, assisted living residence or facility.

Record keeping and inspection

- 9 (1) A vendor referred to in section 4 must retain at the vendor’s place of business the records, or a copy of the records, required under section 4 (4) and (6),
- (a) in the case of records referred to in section 4 (4), for 5 years after the date the records are obtained, and

- (b) in the case of records referred to in section 4 (6), for 5 years after the date the records are created.
- (2) A vendor required under subsection (1) to retain records, if requested to do so by an officer, must
 - (a) produce the records for inspection during normal business hours, and
 - (b) provide a written report in the form and time directed by the officer respecting the information contained in the records.

Offences and penalties

- 10 (1) A person who contravenes section 4 (3) commits an offence and, on conviction, is liable to a fine not exceeding \$200 000.
- (2) A person who contravenes section 4 (4), (5) or (6), 6 (1), 7 (2), (3), (4), (5) or (6) or 9 (2) (a) or (b) commits an offence and, on conviction, is liable to a fine not exceeding \$100 000.

Transition – record keeping

- 11 (1) In this section, “former regulation” means the Solid Fuel Burning Domestic Appliance Regulation, B.C. Reg. 302/94.
- (2) Section 9 (1) (a) and (b) of this regulation does not apply to a record referred to in that section that a person was required, under the former regulation, to retain for 2 years if, on November 1, 2016, the record has been
 - (a) retained for 2 years, and
 - (b) destroyed.
- (3) This section is repealed November 2, 2019.

SCHEDULE

[section 6]

Column 1 Characteristic	Column 2 Specification
bulk density	not less than 640 kg/m ³
dimensions	6 to 8 mm in diameter
finer	not more than 0.5% by weight is able to pass a 3 mm screen
inorganic ash	less than 1%
length	no longer than 4 cm
sodium	no more than 300 ppm

APPENDIX 2

1 Section 37 of the Administrative Penalties (Environmental Management Act) Regulation, B.C. Reg. 133/2014, is amended

(a) in subsection (1) by striking out “section 2 (1) (a)” and substituting “section 4 (3)”;

(b) in subsection (2) by striking out “section 2 (1) (b), 3 (1) or 4” and substituting “section 4 (4), (5) or (6) or 7 (2), (3), (4), (5) or (6)” and

(c) in subsection (3) by striking out “section 3 (4) or 5 (1)” and substituting “section 2 (1), 6 (1) or 9 (1) (a) or (b) or (2) (a) or (b)”.