

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 64–71****Title 40 CFR Parts 64–71; Republication***CFR Correction*

Title 40 CFR parts 64 to 71, revised as of July 1, 1998, is being republished in its entirety. The earlier issuance inadvertently omitted the last two lines of text from § 70.5 (c)(1) through the first five lines of (c)(8)(iii)(B). The omitted text should replace the text on page 98.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 60**

[AD–FRL–6192–9]

RIN 2060–AG30

**Standards of Performance for New Stationary Sources: Residential Wood Heaters**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

**SUMMARY:** On September 11, 1996, EPA proposed amendments to the Standards of Performance for New Residential Wood Heaters, 40 CFR part 60, subpart AAA, as part of a larger proposal to reduce recordkeeping and reporting burden of numerous EPA regulations. The proposed wood heater amendments were intended to make needed corrections and clarifications to the wood heater rule. Some of the proposed clarifications are being promulgated under the final action for the recordkeeping and reporting burden reduction. This action announces the EPA's final decisions on one aspect of those proposed amendments.

The wood heater rule is being revised to expand the conditions under which EPA can initiate a "recall" of wood heaters from distributors and retailers by prohibiting sales other than sales back to the manufacturer. The rule as originally promulgated specifically authorized EPA to initiate such a "recall" due to the knowing submission of false or inaccurate information or other fraudulent acts. This action amends the rule to allow EPA to initiate a recall, not only in cases of fraud, but also if it is found that the original certification test was invalid, irrespective of fraud. This action is being taken to ensure that further sales to consumers of wood heaters that

should not have been originally certified are prohibited. This action does not affect wood heaters already sold to consumers.

**EFFECTIVE DATE:** November 24, 1998. See the Supplementary Information section concerning judicial review.

**ADDRESSES:** Docket. Docket No. A–95–50, containing information considered by the EPA in development of the promulgated amendment, is available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday at the following address in room M–1500, Waterside Mall (ground floor): U. S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW., Washington, DC 20460; telephone: (202) 260–7549. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert C. Marshall; Wood Heater Program; Manufacturing, Energy and Transportation Division (2223A); U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460; telephone number (202) 564–7021.

**SUPPLEMENTARY INFORMATION:****I. Regulated Entities**

The regulated category and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry ....	Residential wood heater manufacturers and commercial dealers

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your business is regulated by this action, you should carefully examine the applicability criteria in § 60.530 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**II. Background****A. Federal Register Proposal**

On September 11, 1996 (61 FR 47840), EPA proposed amendments to the Standards of Performance for New Residential Wood Heaters, 40 CFR part 60, subpart AAA (variously referred to

as the "wood heater" or "woodstove" rule or NSPS), as part of a larger proposal to reduce recordkeeping and reporting burden of numerous EPA regulations. Some of the proposed provisions pertaining to residential wood heaters dealt with clarifications to definitions and labeling of wood heaters. These changes will be addressed in the recordkeeping and reporting burden reduction final action.

Today's final rule addresses another proposed change to the wood heater rule, deletion of the "Prohibitions" section, § 60.538. This proposed change prompted significant comments that the Agency felt should be dealt with separately from the clarifications to the definitions and labeling provisions.

**B. Public Participation**

One comment letter, from the Hearth Products Association, was received on the wood heaters proposal. The EPA's responses to the comments received on the proposed deletion of the "Prohibitions" section can be found in this preamble under IV, "Summary of Comments and Responses on the Proposal."

**III. Summary of Rule Amendments**

The final amendments revise the "recall" provision of § 60.538(e). The original provision prohibited the sale of wood heaters to anyone except back to the manufacturer (hence the use of the word "recall") in the situation where the certificate was revoked for the knowing submission of false or inaccurate information or for other fraudulent acts. The amended rule prohibits sales except back to the manufacturer in the case where the certificate was revoked because the original certification test was determined to be invalid, as well as in the case of fraud, as previously described. In each case, the sales prohibition takes effect on the date that the "commercial owner" (e.g., the distributor or dealer) receives notice of the revocation.

**IV. Summary of Comments and Responses on the Proposal****A. Was There Sufficient Notice and Comment Regarding the Proposed Changes?**

*Comment:* The proposal did not provide sufficient notice and time for comment. The woodstove amendments were proposed within a package published in the **Federal Register** to "reduce unnecessary recordkeeping and reporting burdens," entitled "Recordkeeping and Reporting Burden Reduction". The public was not alerted