

NSPS Review for Retailers: Do You Know the Law?

Rachel Feinstein

Hearth, Patio & Barbecue Association

With the EPA's wood heater regulations coming into effect May 15, 2020, are you prepared? In this session, we will commit a full hour to reviewing what's required today, after May 15, 2020, and answer any and all questions you may have. Do you know whether you can install a Step 1 stove after the May 15, 2020 effective date if it was sold before the deadline? What are the rules for donating a stove to a nonprofit organization? Can you sell used stoves after the effective date? If you aren't sure of the answers to these questions, this is a must attend. If you sell wood or pellet burning products, your business depends on you being familiar with this law.

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HPBA Retailer NSPS Toolkit

HPBA intends this toolkit to be a resource for all retailers and distributors with questions about the NSPS. If you have any further questions, please contact Rachel Feinstein (feinstein@hpba.org), HPBA's Senior Manager – Government Affairs.

Download this guide at bit.ly/NSPSToolkit

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EPA NSPS Enforcement Visit Checklist for Retailers

- ✓ **Be welcoming to the EPA or state enforcement officer.**
 - Do not kick them out of your shop or refuse to cooperate.
- ✓ **Show them around your store and answer their questions to the best of your ability.**
 - Remember, it is ok to not know the answer to a question, as long as you follow up with them after the visit (“I don’t have an answer for you today, but I will get you that information as soon as possible.”)
- ✓ **If something is found out of place during the visit, such as an operation manual not being near a floor model, get a copy of the operation manual immediately and place it in front of or near the floor model**
 - Ensure that a copy of the operation manual is always kept with the floor model in the future.
- ✓ **If the enforcement officer finds an appliance on your show floor that shouldn’t be there (such as a non-certified stove), be apologetic and remove the product from your store as soon as possible.**
 - Remember, the product cannot be sold or given away if it is not previously owned by a non-commercial owner. It must be disposed of.
- ✓ **After the visit, call or email your regional HPBA affiliate director.**
 - Alert them to the visit so they may alert others of an enforcement officer in the area to help stores have the needed technical person onsite for their potential visit.
- ✓ **Have questions about anything that came up during the visit?**
 - Contact Rachel Feinstein, HPBA’s Senior Manager – Government Affairs, via email at feinstein@hpba.org (preferred communication) or phone at 703-522-0086 ext. 109.

HPBA FAQ for Retailers on the 2020 Deadlines for Wood Heating Products

The new rule that US EPA issued in 2015 covers all new residential wood and pellet stoves and inserts, hydronic heaters, and forced-air furnaces. As the next deadline, May 15, 2020, looms closer, it is imperative that retailers and distributors focus on the details of that deadline. There are some industry efforts underway that **may** affect these deadlines, and this in turn, may have created some confusion.

The purpose of this FAQ is to clarify the **current** deadlines and requirements that all dealers and distributors must meet on or after May 15, 2020 or be in violation of federal law.

What can be offered for sale on or after May 15, 2020?

Wood and pellet stoves and inserts that:

- Were tested on or after March 16, 2015 with crib wood (the traditional EPA test method fuel) certified to meet Step 2 (i.e., at or below 2.0 g/hr)
- Were tested on or after March 16, 2015 with cord wood and certified to meet Step 2 (i.e., at or below 2.5 g/hr)

Residential hydronic heaters that:

- If tested using crib wood EPA method, must be Step 2-certified at 0.10 lb/mmBtu or less per test run.
- If tested using cordwood alternative method, must be Step 2-certified at 0.15 lb/mmBtu or less per test run.
- **NOTE:** If a hydronic heater was tested using the European standard to meet Step 1, it cannot be sold on or after May 15, 2020 unless it is retested and certified using the EPA or ASTM methods specified in the rule.

Residential forced-air furnaces that:

- Are Step 2-certified at 0.15 lb/mmBtu or less per test run.

What do and don't these requirements apply to?

- **Applies to** all new residential cordwood and pellet stoves and inserts, hydronic heaters, and forced-air furnaces
- **Does not** apply to appliances installed before May 15, 2020
- **Does not** apply to fireplaces

Did EPA provide any sell-through of products past the 2020 effective date?

- No, EPA will not be allowing any sell-through!

What work is HPBA doing that, if successful, would affect the standards as written?

- HPBA's legal challenge to parts of the NSPS could impact requirements of the rule.
- Also, HPBA-supported legislation in the U.S. House (H.R. 453) and U.S. Senate (S. 1857) would extend the effective date of Step 2 by three years, from May 15, 2020 to May 15, 2023. However, this legislation was not signed into law in time.

What should retailers and distributors be focused on now, given these uncertainties?

- The only thing certain is what is on the books today. Retailers and distributors **must** comply with the current law as it stands, and not any potential changes that may not come to fruition.
- Many wood and pellet stoves that were certified below 2.0 g/hr with crib wood before March 16, 2015 will need to be retested and certified as Step 2-compliant to be sold after May 15, 2020 because EPA made changes to the method.

How active is EPA in enforcing the NSPS?

- EPA has demonstrated that they are enforcing the rules currently in effect and will continue to do so.
- EPA has alerted retailers who still have uncertified pellet stoves on their floor or in their warehouse.
- Retailers should assume that EPA and state personnel could be actively enforcing Step 2 of the rule beginning in May of 2020.

In states that passed state laws preventing state agencies from enforcing the NSPS, what does/will enforcement look like?

- Even though state agencies in certain states that we know of (VA, MI, MO) are unable to directly enforce the rule, that doesn't stop the federal EPA from enforcing the rule.

For Step 1, how well did the industry handle the transition to the new standards?

- When the May 15, 2015 effective date for the current EPA certification (Step 1) arrived, there were many models that met the Step 1 standard. Also, we had a 7-month transition period (until December 31, 2015) to clean out inventory of any stoves or pellet stoves that was not certified at 4.5 g/h or less.
- Most manufacturers had at least some products that already met this 4.5 g/hr target and were 'Deemed Certified' by US EPA.

What can we expect as we transition to Step 2 of the rule?

- Step 2 will be a very different story. Many hydronic heater and furnace manufacturers, in particular, have few or zero products that meet Step 2, and the deadline is just a little over two and a half years away.
- On May 15, 2020, every wood or pellet stove or insert, hydronic heater, or forced-air furnace in your store and your warehouse **must** meet the Step 2 standards. Otherwise you are violating Federal law if you offer it for sale.

Can retailers resell used appliances under the NSPS?

- **Yes.** The NSPS is a “new source performance standard,” which means it does not set standards for existing sources. There are no sales prohibitions on truly used appliances. However, retailers should verify whether there are any local and/or state regulations that may restrict sale of used stoves.

It is important to keep in mind that “used” stoves/heaters must have been owned and operated by a non-commercial owner, meaning a private party, such as a homeowner.

It is not enough to simply burn an appliance in a showroom or at a trade show. All provisions of the NSPS continue to apply to stoves used only by a commercial owner, including a dealer.

EPA defines “commercial owner” very broadly to mean “any person who owns or controls a wood heater in the course of the business of the manufacture, importation, distribution (including shipping and storage) or sale of the wood heater.”

Can a retailer sell a Step 1 stove before May 15, 2020, even if it can't be installed until after the Step 2 effective date?

- Yes, you can sell a Step 1 stove before May 15, 2020 and yes, you can install it after the effective date. The rule defines “sale” as “the transfer of ownership or control.” This is key because it does not say “transfer of ownership and control.” However, it must be a transfer of ownership or control to the end-user/consumer, not to a middleman like a contractor or distributor.
- Be sure to document the sale. The appliance doesn't necessarily need to be in the physical hands of the owner, but there does need to be a clear sale (transfer of ownership).

Can retailers still display models that aren't 2020 certified after the May 15, 2020 effective date?

- If a retailer has a display model that does not meet the Step 2 (May 15, 2020) standards, we strongly recommend that you sell that display before the May 15, 2020 deadline. Even if nothing changed with the design of the model and the model passed Step 2 and you have the Step 2 models for sale, you really should still sell the Step 1 certified model.
- Why? You cannot sell or even give away a non-Step 2 model after May 15, 2020. If you keep the non-Step 2 display model past the effective date, you will never be able to sell or even give it away; it would have to be thrown away in the trash or recycled.

Have Questions?

If you have any additional questions about the current regulations, please feel free to contact Rachel Feinstein (HPBA's Senior Manager – Government Affairs) at feinstein@hpba.org.

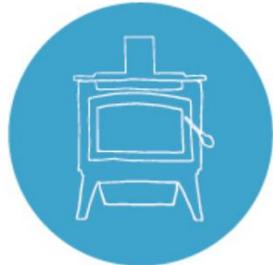


EPA's Wood Heater Regulations

What's the Truth and What are Just Rumors

RUMOR I'll be able to sell a product that was tested before 2015 and passed the Step 2 emissions requirements, even though the permanent label on the back says I can't sell the product after 2020.

FACT No, if it doesn't have a label on the product saying you can sell it after 2020, you must sell that product before May 15, 2020.



RUMOR HPBA is taking care of this sell-through issue. I'll be fine, I don't need to worry about selling all these Step 1 products by May 15, 2020.

FACT HPBA is doing the best we can to get sell-through for all products affected by the EPA's NSPS. But the rulemaking process is moving very slowly and EPA didn't even propose sell-through for all products.

RUMOR I can just give away a Step 1-certified product if I don't sell it before May 15, 2020.

FACT No, you can't. Transfer of ownership of a new affected product is not legal, even if no money is exchanged.

RUMOR I can just get a new label from the manufacturer to put on the product I currently have. If the model was tested, unchanged, and passed Step 2, I should just be able to switch out the label for the correct one.

FACT No, you cannot do this, and no manufacturer can do this.



RUMOR

If I burn the models in my store, I can sell them as used later, even if they don't meet Step 2.

FACT

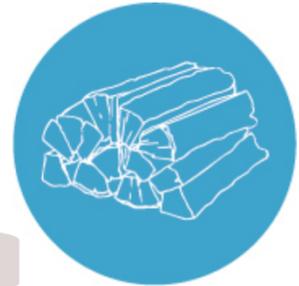
No. EPA clearly defines a "used stove" as a stove that has a clear chain of non-commercial ownership. As a retailer, you are considered a commercial owner of the products in your store.

RUMOR

I can just give away a Step 1-certified product if I don't sell it before May 15, 2020.

FACT

No, you can't. Transfer of ownership of a new affected product is not legal, even if no money is exchanged.



RUMOR

If I sell pellet stove models that are certified now, but used to be exempt, but it's the exact same model, I can still display the old version.

FACT

No that's what EPA is looking for in enforcement visits to retailers. You must sell these types of displays before May 15, 2020.

RUMOR

I live a long way from the interstate or any highly-populated area. My area is never going to see EPA enforcement make visits.

FACT

No, EPA enforcement has demonstrated that they will do enforcement anywhere, especially if you live near a national park or place of interest.

RUMOR

I don't have to have a floor model's manual "readily accessible to the consumer" in my store. That's such a trivial thing.

FACT

The NSPS states that a stove's manual must be "readily accessible to the consumer." It needs to be physically near the stove, either inside of it (if it isn't a burn model), next to it, in front of it, somewhere that it's apparent that it is the manual for that stove.

FOR MORE INFORMATION

Visit HPBA's website at www.hpba.org/Advocacy/EPAs-NSPS

HPBA NSPS Clarifications for Wood and Pellet Stoves

Certified Wood and Pellet Stove Permanent Labeling and What It Means for Retailers

EPA certified stove models fall into several categories depending on which Step of the current New Source Performance Standard (NSPS) they have achieved. The permanent labeling may be causing some confusion at the retail level about cut-off dates for allowable sales of different stove models. This document aims to clarify what appliances can be sold and when.

What must be sold before May 15, 2020?

There are three different labels you may see on stoves currently. These stoves must be sold before the effective date of Step 2 of the NSPS, currently May 15, 2020. They cannot be sold after Step 2 comes into effect. All of these must have average particulate matter (PM) emissions less than or equal to 4.5 grams per hour (g/hr).

Type	“Deemed Certified” and manufactured BEFORE May 15, 2015	“Deemed Certified” and manufactured AFTER May 15, 2015	Tested, certified, and manufactured per Step 1 after May 15, 2015
Manufactured date	Anytime before May 15, 2015	Between May 15, 2015 and May 15, 2020	Between May 15, 2015 and May 15, 2020
Label language	Permanent label indicates that the stove is certified to comply with July 1990 particulate matter emission standards.	“U.S. ENVIRONMENTAL PROTECTION AGENCY Certified to comply with 2015 particulate emission standards. Not approved for sale after May 15, 2020.”	“U.S. ENVIRONMENTAL PROTECTION AGENCY Certified to comply with 2015 particulate emission standards. Not approved for sale after May 15, 2020.”

Label Examples

“Deemed Certified” and manufactured BEFORE May 15, 2015	“Deemed Certified” and manufactured AFTER May 15, 2015 (same label for tested, certified, and manufactured per Step 1 after May 15, 2015)

What can be sold after May 15, 2020?

Step 2 Certified Models: these were tested and certified to Step 2 after May 15, 2015. They may be sold now and after May 15, 2020 for as long as the certificate of compliance remains valid.

- PM Emissions Requirements:
 - If the stove was tested using crib fuel: less than or equal to 2.0 g/hr; or
 - If the stove was tested using cordwood fuel: less than or equal to 2.5 g/hr

NOTE: Just because a stove currently certified by EPA has an emissions limit less than or equal to 2.0 g/hr or 2.5 g/hr does not necessarily mean it is Step 2 certified. A Step 2 certified product must comply with each of the following requirements:

Type	Step 2 Certified
Manufactured date	Anytime after May 15, 2015
Test Method	Model tested with EPA’s testing protocol required by the 2015 NSPS
Label language	“U.S. ENVIRONMENTAL PROTECTION AGENCY Certified to comply with 2020 particulate emission standards using crib wood.” OR “U.S. ENVIRONMENTAL PROTECTION AGENCY Certified to comply with 2020 particulate emission standards using cord wood.”

Label Examples	
<p>Permanent Label for Step 2</p> <p style="text-align: right;">Back of Woodstove</p>	<p>Voluntary hangtag for models Step 2 certified before May 15, 2020 effective date.</p>

Retailers should contact their manufacturers for accurate information on which models are legal to sell after 2020.

The EPA's NSPS: Retailers & Distributors Must-Knows

1. EPA only recognizes two classes of trade: manufacturers and "everyone else."*

*Everywhere the word "retailers" is used in NSPS, it also refers to distributors.

2. As the rule is currently written, anything not meeting the Step 2 requirements cannot be sold or manufactured after May 15, 2020.

3. After December 31, 2015 only products certified may be offered for sale in your store, if they are covered by this rule.

4. Some exemptions eliminated: Pellet heaters and uncontrolled single burn rate heaters are no longer exempt

5. A wood or pellet stove is considered certified if:

- it has been certified at a laboratory after May 15, 2015 (the effective date of the rule), or
- it has been "deemed certified," meaning it was certified at or under 4.5 g/hr before the effective date.

6. A hydronic heater is considered certified if:

- it has been certified at a laboratory after May 15, 2015, or
- it has been "deemed certified" per recognition as such by the EPA or NY State.

7. A forced-air furnace (also known as a warm air furnace) has two different effective dates for Step 1 of the rule.

- Small add-on units (i.e. <65,000 BTUs/hr) must be certified by May 15, 2016 to be manufactured and sold after that date.
- Larger units (i.e. >65,000 BTUs/hr) must be certified by May 15, 2017 to be manufactured and sold after that date (note: the manufacture and sale of larger units are not affected by the NSPS until after May 15, 2017).

8. The December 31, 2015 deadline and all parts of the NSPS do not apply to:

- Coal-only stoves – note: no more wood/coal (multi-fuel) stoves allowed
- Cookstoves – as long as they meet the new definition (see top of page 33)
- Fireplaces – traditional – with non-gasketed doors
- Camping stoves

9. Stoves shipped to retailers after May 15, 2015 have new owner's manuals and catalytic stoves have temperature probes.

10. Pellet stoves certified after May 15, 2015 specify the grade of fuel used to test and instruct consumers to only use pellets that meet that grade.

11. All stoves certified after May 15, 2015 must post efficiency numbers and CO levels in addition to grams/hour in their manuals and on their websites.

12. Forced-air furnaces and hydronic heaters shipped after May 15, 2015 must include wood moisture meters and updated owner's manuals.

13. Step 2, currently set to come into effect May 15, 2020, sets the following new emissions requirements for all covered product categories:

- Wood and pellet stoves: 2.0 g/hr (if tested with crib wood); or 2.5 g/hr (if tested with cord wood)
- Hydronic heaters: 0.10 lb/mmBtu
- Forced-air furnaces: 0.15 lb/mmBtu

HPBA PRESENTS:

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5 THINGS YOU NEED TO SURVIVE NSPS

INTRODUCTION

If you're like most companies in our industry, you've been hearing about the implications of the New Source Performance Standards (or NSPS) over the last five years. And, frankly, it's been easy to tune it out and think to yourself, *"it's not that big of a deal, they'll figure it out."* Well, if we have learned anything in 2018 it's that NSPS is a big deal and it's about to drastically impact your day-to-day business.

NSPS is going to change the game, similar to the first Environmental Protection Agency (EPA) regulations our industry saw in the late 1980's.

If you aren't taking this seriously (*and preparing now*) it may cost your business hundreds of thousands of dollars in the next two years by:

- **Getting stuck with inventory that you can no longer sell**
- **Being fined by EPA for not complying with federal standards**
- **Losing a major part of your wood-burning business**
- **Trying to compete with online retailers blowing out inventory at ridiculous prices**

Now, things may seem bad, but your business can survive (*and thrive*) in the wake of NSPS. It's going to take some thought, preparation, and intentionality, but you can come out of this stronger than ever before—*all it takes is understanding five simple steps.*

#1

BELIEVE THE FACTS AND NOT THE HYPE

There's a lot of hearsay going around about NSPS that you need to be aware of. Some people say that the sky is falling, while others will tell you that nothing is changing so *"just go ahead and place your early buy like usual."* The truth is that both extremes are wrong and it's important that you listen to the truth and not the hype.

Make sure you are getting your information from directly from the HPBA or your local affiliate since they are actively involved with EPA in the regulation process.

The fact is that May 15th, 2020 is the deadline for NSPS unless something changes. Wood-burning heaters must be under 2.0 grams per hour by then *(and labeled that they are certified to comply with 2020 standards)* or they cannot be manufactured or sold. Any talk of product sell-through or a possible extension of the deadline is simply that—*a possibility*. It's more important than ever to keep updated with what HPBA is doing so that you are in the know.

Now is the time to prepare. Our industry has faced regulation before and survived. It's the companies who keep their heads in the sand that get swept away, not the ones who think for themselves and prepare for the future.

Don't get sucked into the hype of either extreme—*many of the people giving you information have incentive to make you behave one way or the other.*

Remember that the HPBA is your best resource to stay up to date on the chances of sell-through or an extension. Learn all you need to know on HPBA's website at bit.ly/NSPSToolkit.

#2

PREPARE YOUR 2020 INVENTORY NOW

May 15th, 2020 will be here sooner than we know. If you start now, your business can take control and come out stronger than ever.

The first step is take an inventory of all of your current products to understand exactly where you sit (*make sure to take into account any orders you've placed that haven't been fulfilled yet*). From there, use your sales numbers from the last few years to determine how long that inventory should last. Use visual cues, like marking units that need to be sold with green dots and 2020 compliant products with blue dots, so your team understands exactly what products you have.

Take this month to plan sales incentives for the rest of the year to move through existing inventory that isn't compliant and look for partnerships with your trusted manufacturers. They can support you in this and are *wildly invested* in helping you move these products.

You can work with your manufacturers to build programs that:

- **Help you sell through your existing inventory quickly**
- **Take on additional products to help manufacturers move through their inventory as well**
- **Mitigate the risk of unsold products at the deadline**
- **Put both of you in a position to come out ahead in 2020**

Dealers and manufacturers need each other and now is the time to come together so everyone can win. No one can do it on their own and unless we partner together, everyone loses. You can come out ahead when everything is said and done if you start preparing now.

#3

BE PREPARED FOR THE DISCOUNTS THAT ARE COMING

As the 2020 deadline gets closer, be prepared for an all out discount war that is beyond anything you've ever seen before. The truth is that local dealers, big box stores and online retailers will all have inventory that needs to be moved quickly before it becomes worthless.

It's going to be a race to the bottom as May of 2020 approaches, and as Seth Godin says, *"the scary thing about a race to the bottom is that you just might win."*

Take advantage of preparation now so that you aren't stuck playing the price slashing game—because if you snooze, you will lose. Be aware of online competition heating up more than ever and for unprepared local dealers to join the fray.

Wood and pellet cannot be your only categories this year because everyone is going to be affected by this—*make a commitment to invest in gas so that you are diversified and safe.*

You can come out stronger than ever by preparing now and staying up to date with the latest information from HPBA. To get the latest information on the 2020 deadline (*and how your business can survive it*) go to [HPBA's NSPS Compliance Toolkit](#).

#4

BEWARE OF MANUFACTURERS WHO ARE TAKING SHORTCUTS

Don't believe the hype that every manufacturer will make the 2020 deadline unscathed. The truth is that just because a product is certified for emissions *doesn't mean it will perform well in the field.*

We want everything to be clean burning and have low emissions, but clean burning doesn't mean better performing—*with everyone in a rush to meet 2020 regulations make sure to test your manufacturer's 2020 products in the field before going all in on inventory.*

Don't let your business (*and your customers*) be the guinea pig for products that aren't field ready yet.

For some manufacturers, there will be unproven changes to wood-burning products coming to market in the next 18 months. It's going to be up to you to make sure they perform well because your customers are going to hold you (*not your manufacturers*) accountable. Don't buy the hype that radical changes to a product line in order to meet emissions standards won't affect the performance at all.

Make sure to partner with manufacturers who are doing the long, hard, and difficult work of designing their products for performance and not just emissions. Your customers are counting on it!

#5

GET THE LATEST SCOOP FROM HPBA

We haven't been hit with regulations like this in over 20 years. With so much uncertainty and hearsay in the air, it's more important than ever to have the latest updates on NSPS.

The HPBA knows exactly what is happening and wants to keep you in the loop.

To get the latest information on the implementation of NSPS in 2020 (*and the possibility of sell through*), [subscribe to Hot News](#), HPBA's monthly e-newsletter, and go to [HPBA's NSPS Compliance Toolkit](#).

HPBA will clarify:

- **Exactly what is going on with the 2020 regulations**
- **The latest updates on the possibility of product sell-through**
- **How to understand the difference between the truth and hearsay**
- **What the HPBA is doing to fight for your business**
- **What you need to do to take control**

This is the time to be informed! Don't put your head in the sand when the future of your business (*and all of your employees*) is at stake. [Make use of HPBA's resources](#) so that you can understand exactly what you need. In the meantime, listen to Rachel Feinstein from the HPBA talk about what is at stake for your business in [this episode of The Fire Time Podcast](#).

Imagine you had the information you needed to change course and come into 2020 prepared to win—*all because you took advantage of the next several months before the deadline!* Your family, employees, and customers will all be grateful for it. Take the steps that you need to grow your business in the changing landscape.

CONCLUSION

If you want to stay ahead, the steps in this guide can help you. It's more important than ever to invest in your business—*otherwise the months leading up to May 2020 are going to be very difficult*. Now is the time to think, plan ahead, and execute so that your company sails past this NSPS with ease.

Most businesses are stuck in the day-to-day and can't break free to plan for the future.

Don't miss out and let everyone else pass you because you didn't plan for the 2020 deadline. Rather, take advantage of the next several months, stay up to date with the latest information from HPBA, and grow your business like never before.

Read [HPBA's NSPS Compliance Toolkit](#) to take control and get the information you need.

If you understand these five things (*and execute on them*), you'll be in a position to grow for years to come. Small businesses are the true American dream and yours is no exception. We believe that your business deserves to win and are fighting to help you get there.

1. READ THIS GUIDE

2. STAY INFORMED THROUGH HPBA

3. LEARN WHAT YOU NEED TO SURVIVE

[CLICK HERE TO VIEW HPBA'S NSPS COMPLIANCE TOOLKIT](#)

Contact: feinstein@hpba.org | www.hpba.org