

Pursuant to the authority vested in the Commissioner of Health by section 206(1)(r) of the Public Health Law and section 322-c(a) of the General Business Law, subdivisions (a) and (c) of section 71.3 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) are amended and section 71.4 is repealed, to be effective one year after publication of a Notice of Adoption in the New York State Register, to read as follows:

(a) Manufacturers of vent-free gas space heating appliances shall produce shipping carton labels for vent-free gas space heating appliances that prominently and clearly display, in bold type no smaller than 14 point, the following language:

[Caution: This appliance is a supplemental heat sources and should not be the primary heat source. The appliance must be installed and serviced according to the manufacturer's instructions and local and state building codes. Select a model with appropriate heat output using sizing guidelines provided by the manufacturer. Using a heater with greater heat output than recommended may be harmful to your health. As with other fuel burning appliances, local building codes may require installation of a carbon monoxide detector in your home.]

WARNING: This appliance produces CARBON MONOXIDE, a poisonous gas. You MUST use carbon monoxide alarms to avoid injury or death.

CAUTION: Using the wrong size heater can be dangerous to your health. Select and use the correct size heater following the manufacturer's guidelines.

CAUTION: This appliance cannot be used as the only source of heat in a home. Contact your local building department for more information about any restrictions that may apply.

(c) Sizing guidelines prepared by manufacturers of vent-free gas space heating appliances shall be provided at the point-of-sale by sellers of vent-free gas space heating appliances. The sizing guidelines shall be [easy to understand, concise and include sample calculations illustrating the method used to select a properly-sized vent-free gas space heating appliance.] consistent with the requirements of New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time. The sizing guidelines shall be easy to understand and concise and shall illustrate the method used to select a properly-sized vent-free gas space heating appliance.

Section 71.4, relating to the effective date of this Part, is repealed.

REGULATORY IMPACT STATEMENT

Statutory Authority:

Public Health Law (PHL) § 206(1)(r) and General Business Law (GBL) § 322-c(a)(ii) authorize the Commissioner of Health (Commissioner), with the approval of the State Fire Prevention and Building Code Council, to adopt regulations governing the assembly, sale, installation and use of vent-free gas space heating appliances.

Legislative Objectives:

The legislative objectives of PHL § 206(1)(r) and GBL § 322-c(a)(ii) are to protect public health, safety and welfare by authorizing the Commissioner to specify requirements for vent-free gas space heating appliances offered for sale, sold, installed or used in New York State.

Needs and Benefits:

The proposed regulatory amendment is necessary to align existing regulations with the requirements for unvented room heaters in the State Uniform Fire Prevention and Building Code Title 19 Parts 1219 through 1228 (Uniform Code).

Currently, manufacturers of vent-free gas space heating appliances must include labels on their shipping cartons that will help consumers to use vent-free heaters safely; sellers of vent-free gas space heating appliances must ensure that this label is on the outside of each shipping carton and is prominently and clearly displayed.

These shipping labels are required because the combustion products of vent-free heaters are discharged directly into the room in which the heater is installed. The emissions of

combustion products increase with the size of the input rating of the appliance such that larger appliances produce more combustion products than smaller appliances. The indoor air concentrations of combustion products from an appliance are greater in a small room than they are in larger rooms for the same run time. Vent-free gas heater emissions include, among others, carbon monoxide, nitrogen dioxide and water vapor. Carbon monoxide exposure causes cardiovascular, respiratory and central nervous effects and in high concentrations will cause death. Nitrogen dioxide exposure increases respiratory illness in children and changes airway responsiveness and pulmonary function in individuals with pre-existing conditions such as asthma and emphysema. Water vapor emissions from vent-free heaters increase the humidity levels in homes which can promote the growth of mold, mildew, dust mites and cockroaches, all of which may trigger allergic reactions in sensitive individuals.

The New York State Uniform Fire Prevention and Building Code (19 NYCRR Parts 1220 and 1225) requires residential and commercial buildings to have carbon monoxide alarms when any appliance that may emit carbon monoxide is present. Unvented gas heaters must also be tested in accordance with national standards, and must be installed in accordance with the conditions of the listing and the manufacturer's instructions. In addition, vent free gas space heating appliances may not be the sole source of heating in a residence and restrictions are placed on the size of such appliance. Local codes and regulations may be more restrictive.

The proposed amendments adjust the current labeling requirements for unvented gas space heating appliances to more closely reflect these building code requirements. Specifically, the new label will inform consumers that the heaters should not be used as a primary heat source, that the heaters should be installed according to the manufacturer's instructions and appropriate codes and that the heaters must be properly sized. The label will also direct consumers to their

local building department for more information about any restrictions that may apply, and will specify that consumers must use carbon monoxide detectors in conjunction with such heaters.

Costs:

Costs to Regulated Parties:

Regulated parties are already required to provide caution labels for shipping carton for vent free gas space heating appliances, and as such are not anticipated to incur additional costs associated with this proposed amendment.

Costs to Local and State Governments:

The proposed amendments will incur no costs to local and state governments.

Local Government Mandates:

The proposed amendments impose no program, service, duty or other responsibility upon any city, town, village, school district, fire district, or other special district.

Paperwork:

The proposed amendments require no paperwork from the regulated parties.

Duplication:

There is no duplication of the proposed amendments in existing State laws.

Alternatives:

One alternative is to take no action and continue with the existing label requirements. The Department believes the amendments are necessary to protect public health by making consumers aware of the code requirements for vent-free gas space heating appliances and carbon monoxide detection systems.

Federal Standards:

There are no federal regulations governing the use of vent-free gas space heating appliances in occupied buildings.

Compliance Schedule:

The amendments will become effective one year after publication of the Notice of Adoption in the State Register, to permit regulated entities sufficient time to comply.

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**STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS**

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

**STATEMENT IN LIEU OF
RURAL AREA FLEXIBILITY ANALYSIS**

A Rural Area Flexibility Analysis for these amendments is not being submitted because amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

**STATEMENT IN LIEU OF
JOB IMPACT STATEMENT**

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.