



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES**

In Re: Proposed Air Pollution Control Regulation No. 48 - Outdoor Wood Boilers

Response to Comments and Decision

Introduction

The Rhode Island Department of Environmental Management (“DEM”) Office of Air Resources published a notice with the Rhode Island Secretary of State and on the DEM’s website on April 8, 2010, announcing a public hearing and offering the public an opportunity to comment on its proposal to adopt Air Pollution Control (“APC”) Regulation No. 48, entitled “Outdoor Wood Boilers.”

The proposed APC Regulation No. 48 would prohibit the sale or installation of any outdoor wood boiler (also referred to as an “OWB” “Outdoor Hydronic Heater” or “OHH”) on or after the effective date of the regulation unless it has been certified or qualified by EPA to meet the Phase 2 emissions level for particulate matter (0.32 pounds per million British Thermal Units output).

On January 22, 2010, DEM published notice of its intent to receive written public comment on the proposed regulation until February 26, 2010, and provided the public the opportunity to request a public hearing. DEM received three requests for a public hearing and decided to hold a public hearing to afford interested parties the opportunity to comment orally on the proposed regulation.

The public hearing was held at 3:00 p.m. on Thursday, May 20, 2010, in Room 300 of the DEM headquarters at 235 Promenade Street, Providence, RI 02908.

The comment period closed at 4:00 p.m. on Friday, May 21, 2010, forty-three (43) days after the date of notice of the public hearing. A transcript of the public hearing was prepared.

Seventeen (17) individuals provided comments on the record at the public hearing on May 20, 2010. Said individuals consisted of Paul Wright, Keith Klockars, Jonathan Whipple, Robert Jaques, John Paoletta, Jon Ibbotson, Molly Clark (American Lung Association of RI), Rod Timpany, Charles Pimona, Greg Smith (Legal Counsel for Central Boiler), Steve Charette, Susan Charette, Scott Wright, Greg Schultz (RI Attorney General’s Office), John McNulty, Carl Passarelli, and Steve Celio.

Written comments were received from: Charles DiMond, Carl Passarelli, Molly Clark (American Lung Association of RI), John R. Grasso Esq., Jared Fasteson, Anne Arnold (USEPA), Peter

Boulex, Donald L. Heeve, Anthony & Maureen Esposito, Sebastian Wordell Sr., John Ackerly (President, Alliance for Green Heat), Dennis J. Roberts (on behalf of Central Boiler), Susan Charette, Steve Charette, Gary Breau, Richard Sousa, Brenda St. Jean, Debbie Morin, Keith Sorenson, Carol Kelley, Sarah Satensen, Paul Darcy, Ronald Levesque, Richard Bedard, Gordon Robertson, John Bradshaw, Fredrick Jr., Alan & Loraine Landry, Glenn J. Andreoni Esq. & Marjorie Andreoni, Albin Thurn, David DeCosta, Richard Martin, Robert Ferland, David Faria, Karen Erickson, James Hearn, Rod Timpany, Jeffrey, Messere, Lewis Thompson, Anthony Rosa, Gary & Sue Bok, Ralph Yannon, Dennis & Sandra Taillon, Winfield & Diana Hicks, Joseph & Eileen D'Angelo, Ronald & Arleen Pignolet, Ernest Saderlund, Keith Klockars, Karen & Glenn Coutu, Faye Hogan, Kurt McCormick, Diane Potter, David, Naismith, Thomas Koczkeran, Vincent Borrelli, Thomas Hardiman, Robert McAllister, Christopher Potter, Josh & Misti Mountford, William Whitford, Burt Mountford, Edward Aniconi, Bernard & Liliana Dolan, Michael Farnsworth, Fran & Joseph Roukous, David Cadwell, Bruce Vincent, Cheryl & George Carputitis, James Bolt, Wendy Fagan, Gerald Doyle, Roger Davis, Robert Pinfitone, Richard Spelman, Louis Vinagro, David May, Robert & Patricia Seltzer Jr., Cecile Cormier, Stephen & Melissa Flood, John Lickert, David & Alesia Payne, Paul Menard, Joan Dore, Arthur & Beverly Bedard, Wallace Brayman, Gerald Riendeale, Donald Shilo, Thomas Shemick, Harrison McCaughey, Michelle Cont, Nancy Alderman (President Environment and Human Health, Inc.), Dave Maggio, Mike Musumeci, Andrea Wieland, Sally Johnson (RIFCA), Jonathan Whipple, W. Allan Cagnoli (Director of Government Affairs, HPBA), Harry & Racelyn Quinn, Freedom of Air, Ted Burlingame, Bonnie Lichak, Ron Newman and Marie Bouvier-Newman, Ray Goff (Town of Glocester), Chris Charette, Joe Charette, Linda Karr, Linda E. Nedderman-Eaton, Angela Melo, J. Connor, Kevin Smith, Scott Bergeman, Kristen Greene, Jeanne Leaver, Nancy Vincent, Margot and Michael Repts, Ernest Groliemond, Beth Mancucci. Elisa Gilroy, Linda Beaudin, Shirley Brandie, Victoria Valentine, Robert Cavanagh, Barbara Cavanagh, Giulia D'Alesio, Ken Dubi, Eileen Butler, Jeffrey Hall, Ralph Pratt, James Melfi, Kenneth Boucher Jr., Michael Kanarky, Joe Bertholic, Marjorie Ross, Teresa Pare, Richard R. LaMothe, Carrie Kingsbury, David Skaggs, Christine Heart-Skaggs, David Brown, Michelle Cartwright, John and Susan Paoletta, Wendy Rondeau, Ryan Goudreau, Nancy Swift, Steve Celadon, Ray Evans, Linda Pacheco, Linda Fabre, Kathryn Noyes-LeBlanc, Margaret Kane, Charles J Czerwein IV, Amy Coleman, Nancy Swift, George Forcino, Rhode Islanders for Clean Air, G. Mora, Shirley Brandie, Linda Karr, and John Winkeman.

Note: Many of the written comments received were in the form of a signed template concerning House Bill 7064 and were not specific to these regulations. For purposes of clarification, this document only addresses comments received relative to the proposed Air Pollution Control Regulation No. 48. It does not address those comments received on legislation proposed in the RI General Assembly on this same issue.

Response to Comments

This section will present DEM's response to the comments received at the public hearing and during the public comment period. Each comment has been paraphrased and is followed by DEM's response. Similar comments have been grouped together.

Comment: What's the difference between what the bill is proposing and what APC Regulation 48 is proposing?

Response: Proposed Air Pollution Control Regulation No. 48 would require that effective a specified date, all outdoor wood boilers sold/installed in Rhode Island must meet the EPA Phase 2 emission limits. EPA has a voluntary program where manufacturers can test and have their outdoor wood boilers certified to meet certain emissions standards. The regulation would also require sellers to provide certain information to the buyer to be sure they are aware of these requirements. Therefore this proposal regulates new outdoor wood boilers only.

H 7064, a bill that was considered in the 2010 Legislative Session of the General Assembly, addressed both new and existing units. In that bill, municipalities were to be responsible for regulating existing units and DEM was responsible for enforcing the bill's provisions concerning the sale of new units.

Comments: The proposed rule would arguably permit local governments to impose inconsistent emission standards or other requirements which will frustrate the ability of manufacturers and dealers to sell OHHs in RI and the ability of RI residents to find economical, sustainable and renewable alternatives to imported heating oil.

The proposed rule should be modified to clarify that local ordinances and rules establishing emission standards shall not be inconsistent with those established under the proposed rules and that local ordinances/rules shall not impose unreasonable setbacks, stack heights or other limitations.

It is recommended that section 48.5 of the regulations on municipal authority be amended to incorporate language similar to what is included in NH's regulations (125-R:7 Municipal Authority). This section includes language specifically prohibiting municipalities from establishing emission limits, requiring testing, monitoring, certification, or specifies types of fuels used.

Response: The DEM does not have the authority to prohibit local governments from enacting and enforcing requirements that are different than that proposed in this regulation. The Rhode Island General Assembly would have that authority. A bill (S 0047) has been introduced in the 2011 Legislative Session that contains a provision that would limit the authority of cities and towns to establish quantifiable limits and other requirements.

Comments: These regulations do not address important issues like setback requirements, burning seasons, types of permissible fuel sources, nuisance provisions and stack height provisions.

These regulations should establish statewide standards for OWBs. It's absurd to think the municipalities will actually do something on this.

Passing along some level of authority to municipalities is simply “passing the buck” and not the answer. The responsibility to regulate air quality falls to DEM, not the municipality. If any responsibilities are given to municipalities, then DEM should have some level of oversight and have a formal appeals process if residents are not getting appropriate action from the municipality.

It is recommended that DEM revise its existing proposed rule to be more consistent with the Northeast States for Coordinated Air Use Management (“NESCAUM”) model rule and regulations already adopted in other New England states, especially for EXISTING units.

Response: This proposed regulation was drafted to be a companion to the responsibilities contemplated within H 7064, a bill that was introduced in the 2010 Legislative Session of the RI General Assembly. Setback requirements, burning seasons, types of permissible fuel sources, nuisance provisions and stack height provisions were addressed in H 7064 and the local building official was directed to administer and enforce those provisions.

S0047, a bill introduced in the 2011 Legislative Session addresses some, but not all of these provisions and directs local building officials to administer and enforce those provisions. DEM is proposing to adopt a regulation that is consistent with the bills being considered by the RI General Assembly. DEM maintains that it does not have sufficient staffing to adopt, administer and enforce a regulation that includes setback requirements, burning seasons, types of permissible fuel sources, nuisance provisions and stack height provisions.

Additionally, DEM believes that uniform statewide regulations may not be the best way to regulate outdoor wood boilers. Urban communities, with small lot sizes and/or multi-family homes may choose to ban outdoor wood boilers. Rural communities, with larger lot sizes, may choose to allow outdoor wood boilers but impose setback and/or stack height requirements. Whether to allow or restrict the location of an outdoor wood boiler within a city or town is a local land use decision that should be made by the local government. DEM's air pollution control regulations have always left land use/zoning/siting decisions to cities and towns.

DEM is available to provide technical assistance to any community that wants to adopt its own ordinance.

Comment: In the event a unit is meeting all state regulations and local ordinances (if there are any), it still should not override a particular unit that is causing a serious health threat.

Response: This proposed regulation addresses only the sale of new outdoor wood boilers and impose restrictions on the units that could be sold in Rhode Island. The

regulation does not include any provisions that address the installation and/or operation of new and existing outdoor wood boilers.

Comments: DEM should establish a moratorium on new installations of OWBs and create a working group to develop a plan for the future.

These regulations do not address serious health and environmental problems with existing OWB's across RI. They should be banned outright, including existing OWBs and any future OWBs.

Response: DEM does not believe a moratorium on new installations or a ban on all outdoor wood boiler installations is warranted at this time. The goal of adopting this rule would be to ensure that new installations are using the best demonstrated technology on or after a specified date. Advances in outdoor wood boiler technology have resulted in cleaner-burning units. The use of these cleaner-burning units can reduce and minimize any adverse health and environmental impacts associated with using these devices.

Comments: Other types of wood burning devices (including regular home fireplaces) give off more smoke than some OWB's. Why are these regulations targeting just OWB's – it's not fair.

Why does DEM need to adopt a new regulation if OWB's are working just fine for 90% of the population out there?

Response: The States of Maine, New Hampshire, Vermont and Massachusetts have adopted regulations that prohibit the sale of new outdoor wood boilers that have not been certified or qualified by EPA to meet the Phase II emissions level for particulate matter. DEM proposed this regulation because it was concerned that if a similar regulation was not in place in Rhode Island, manufacturers that had less efficient outdoor wood boilers that were not capable of meeting the Phase II emission level would target RI to market these units. The goal of adopting this rule would be to ensure that only the best demonstrated technology is being sold and used in RI on or after a specified date. This approach is consistent with RI's existing regulations for the permitting of new air pollution sources.

The U.S. Environmental Protection Agency ("USEPA") is in the process of developing revisions to the Residential Wood Heater new source performance standards (NSPS) under Section 111 of the Clean Air Act. In addition to tightening the emission limits on currently regulated wood heaters to reflect improvements in current technology, EPA anticipates expanding the scope of the regulation to include more of the types of appliances that are being marketed today. EPA anticipates proposing the revised regulations in 2011.

Comments: These regulations should leave existing OWBs alone. Many RI residents have been using them for years with no complaints.

I am afraid that this regulation will take away my right to heat my home with my existing OWB, especially after I obtained all the necessary local permits to do so.

It appears that RI's opacity regulation (#1) applies to all OWBs, both existing and new. It might be useful if the regulations explicitly state this in the OWB regulation (like MA and ME).

Response: The proposed regulation is intended to address only the sale of new outdoor wood boilers and impose restrictions on the units that could be sold in Rhode Island. The regulation is not intended to address the installation and operation of new or existing outdoor wood boilers.

Comment: This is a good regulation because it will help ensure "better" equipment is being installed rather than older, more polluting equipment.

Response: The goal of adopting this rule would be to ensure that only the best demonstrated technology is being sold and used in RI.

Comment: The emission limits in these regulations are both achievable and consistent with the USEPA Hydronic Heater Program Phase 2 emission limits as well as emission limits set in regulation by other states.

Response: The regulation is intended to be consistent with regulations adopted in Maine, New Hampshire, Vermont and Massachusetts in the manner in which it regulates new units that are sold in Rhode Island.

Comments: The notice of buyers provision in the draft regulation should be clarified to avoid confusion - the requirement to provide buyers a list of models that meet the emissions standards in the rule should be modified to provide that the dealer provide the buyer with the then current EPA OWHH Phase 2 List of Cleaner OWHHs since only the units appearing on that list qualify for sale after March 31, 2010.

In 48.4 (b), DEM should clarify and qualify what exactly the "list" of models is that the dealer should be providing the buyer.

Response: In response to this comment, Subsection 48.4.1(b) will be revised to read:

"The current list of Phase 2 outdoor wood boiler models that qualify for EPA's Outdoor Wood-Fired Hydronic Heater program;"

Comments: The notice of buyers provision in the draft regulation should be clarified to avoid confusion – the requirement to provide buyers a list of permitted, and, if applicable, prohibited fuels, should be clarified to provide that the buyer be provided with the manufacturer's recommendations regarding permitted and, if

applicable, prohibited fuels. The draft rule does not include a list of permitted and prohibited fuels.

In 48.4 (c), DEM should remove the provision concerning a list of permitted & prohibited fuels. The State of RI does not provide or have such a list, so it is very unclear what "list" is being referred to. The owners manual will provide this list already, and it is a burden to ask dealers to copy this list and provide it to the buyer as well.

Response: This proposed regulation was drafted to be consistent with H 7064, a bill that was introduced in the 2010 Legislative Session of the RI General Assembly. The provisions of section 48.4 were drafted to be consistent with the requirements for notice to buyers in that bill. H 7064 contained a list of permitted fuels.

Since H 7064 was not enacted and S 0047, a bill that has introduced in the 2011 Legislative Session of the RI General Assembly contains a list of permitted fuels, subsection 48.4.1(c) will be revised to read:

"The manufacturer's recommendations regarding permitted and, if applicable, prohibited fuels and, if applicable, a list of permitted fuels under the Rhode Island General Laws; and"

Comment: The units that carry the white tag labeled Phase II are not certified by the EPA... rather they've been merely tested by the manufacturer. Putting that much trust into industry is not a sound decision.

Response: The regulation is intended to be consistent with regulations adopted in Maine, New Hampshire, Vermont and Massachusetts in the manner in which it regulates new units that are sold in Rhode Island. These states have adopted regulations that prohibit the sale of new outdoor wood boilers that have not been certified or qualified by EPA to meet the Phase II emissions level for particulate matter. DEM proposed this regulation because it was concerned that if a similar regulation was not in place in Rhode Island, manufacturers that had less efficient outdoor wood boilers that were not capable of meeting the Phase II emission level would target RI to market these units. Despite the commenter's concern about putting trust in the industry, this regulation would still ensure that better technology is being sold and used in RI.

Comment: The State should spend time addressing larger emissions sources in RI - diesel truck, oil furnaces and so on - rather than regulating small OWBs.

Response: Air pollution from outdoor wood boilers can contain fine particles, carbon monoxide, and other organic products, such as formaldehyde, benzene and aromatic hydrocarbons, which form from incomplete combustion. When inhaled, fine particles are carried deep into the lungs and can impair lung function and aggravate existing medical conditions such as asthma, lung or heart disease.

Residential wood smoke may be a significant source of exposure to fine particle pollution.

Advances in outdoor wood boiler technology have resulted in cleaner-burning units. The use of these cleaner-burning units can reduce and minimize any adverse health and environmental impacts associated with using these devices.

DEM maintains the regulations are necessary to ensure that these cleaner burning units are the only types sold in RI in an effort to reduce the exposure to residential wood smoke.

Comment: A definition of “untreated natural wood” as the only fuel source to be used in existing and new OWBs should be included in the regulations.

Response: This proposed regulation is intended to address only the sale of new outdoor wood boilers and impose restrictions on the units that could be sold in Rhode Island. The regulation is not intended to address the installation and operation of outdoor wood boilers.

Comment: RI’s proposed regulation appears to apply to the transfer of an existing OWB from one property owner to another. Such a transfer would constitute a “sale” Therefore such a transfer would be prohibited after 3/31/2010 unless the transferred OWB meets the 0.32 lb/mmBtu emission limit. As such, Rhode Island’s proposed regulations are consistent with regulations currently in place in MA.

Response: It was DEM's intention to have the proposed regulation apply to the sale of an outdoor wood boiler that was to be relocated from the current property. It was not our intention to have the proposed regulation apply to outdoor wood boilers that transfer hands as part of changes in home ownership (i.e., the house is sold). Therefore we have revised the definition of "sale" to make this clear. The revised definition will read:

“Sale” means the transfer of ownership or control. This includes the transfer of ownership or control of an outdoor wood boiler that is relocated from one property to another. Sale does not include transfer of ownership or control of the home (i.e., the house is sold) and the outdoor wood boiler remains onsite.

Comment: This proposed regulation allows existing OWBs to be exempt from existing state air pollution rules for visible emissions, particulates and toxins. This exemption is clearly stated on page 11 of the regulations where it addresses federal or state statutes - - there are no federal or state statutes!

Response: This proposed regulation addresses only the sale of new outdoor wood boilers and impose restrictions on the units that could be sold in Rhode Island. The regulation does not address existing OWBs nor does it contain any language that provides for an exemption from existing state or federal air pollution regulations.

The commenter stated that "... this exemption is clearly stated on page 11 of the regulations...". However, the proposed regulation is only four pages long. It is not clear what language regarding an exemption the commenter was referring to.

Comment: The proposed regulations do not comply with RIGL 42-35-3 in that the proposed regulations DO overlap or duplicate other state regulations. There are several laws already in place which govern pollution from any machine, equipment, facility which has the potential to emit any air contaminant.

Response: RIGL 42-35-3(a)(3) requires that an agency proposing to adopt any new regulation must identify any other state regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. There are no state regulations that limit the sale of new outdoor wood boilers to units that qualify as Phase 2 outdoor wood boilers under EPA's voluntary program. Therefore this requirement has been met.

Comment: The proposed regulations do not comply with RIGL 42-35-3 by considering alternative approaches to the proposed regulations. An alternative approach would be to enforce existing laws, which would in effect not allow these devices.

Response: This proposed regulation was drafted to be consistent with responsibilities of the DEM in H 7064, a bill that was introduced in the 2010 Legislative Session of the RI General Assembly. In that bill DEM was directed to promulgate regulations to administer and enforce provisions of the bill related to the sale of new outdoor wood boilers. The DEM considered alternative approaches to the proposed regulations including, but not limited to, maintaining the status quo (refraining from the promulgation of the regulations) and proposing regulations that address the installation and operation of both new and existing outdoor wood boilers. These alternative approaches were determined to be imprudent and, as such, were not pursued.

Comment: The proposed regulation is unnecessary because EPA is planning on revising the residential wood heater New Source Performance Standards (NSPS) to include standards for OWBs with a proposal planned for May 2011 and a final regulation a year later in May 2012. These updated projected implementation dates were only recently provided to industry representatives. Hence, the effective date of the RI regulations shouldn't be earlier than September 30, 2011.

Response: The regulation is intended to be consistent with regulations adopted in Maine, New Hampshire, Vermont and Massachusetts in the manner in which it regulates new units that are sold in Rhode Island. These states have adopted regulations that prohibit the sale of new outdoor wood boilers that have not been certified or qualified by EPA to meet the Phase II emissions level for particulate matter. DEM proposed this regulation because it was concerned that if a similar regulation was not in place in Rhode Island, manufacturers that had less efficient

outdoor wood boilers that were not capable of meeting the Phase II emission level would target RI to market these units. DEM believes the regulation is necessary to prevent the sale of less efficient outdoor wood boilers in Rhode Island.

Comment: A provision is needed in the regulations to allow dealers that have inventories of non-Phase 2 qualified appliances to sell these for a specific period, to avoid economic hardship. Such provisions have been promulgated by other states.

Response: The effective date for the restriction on sales of new units to Phase 2 qualified OWBs in subsection 48.3.1 will be revised to July 1, 2011. This date is consistent with the requirements in S 0047, a bill introduced in the 2011 Legislative Session addressing outdoor wood boilers. This should provide dealers adequate time to exhaust any existing inventory.

Comment: This regulation will have an impact on small business owners in RI by giving them more to do. It also misses the mark for out-of-state sales.

Response: The DEM concluded that the notice to buyer requirements for a distributor/seller will not have a significant adverse economic impact on small businesses. The DEM does not have the authority to restrict out-of-state sales of outdoor wood boilers. However, the states of Maine, New Hampshire, Vermont and Massachusetts have adopted similar requirements restricting sales to Phase 2 qualified OWBs.

Comment: New wording should be added to Rule Number 48 that clearly states that these regulations do not grant rights to, grandfather or legitimize the use or installation of any OWB prior to the enactment of the regulations. Similarly, language should be added that states the regulation shall not prevent RIDEM, RIDOH, other governmental organizations or private citizens from obtaining any injunctive relief or undertaking other actions due to nuisance, health threats, odors or visible emissions from an existing OWB.

Response: This proposed regulation addresses only the sale of new outdoor wood boilers and impose restrictions on the units that could be sold in Rhode Island. The regulation does not include any provisions that address existing OWBs. As the proposed regulation does not create or limit rights addressed within the above-mentioned comment, the DEM does not believe the suggested wording/language is warranted or necessary.

Decision

It is the decision of the Office of Air Resources to adopt the proposed Air Pollution Control Regulation No. 48 as indicated in the response to comments above. The final regulation is appended to this Decision.

Date

Douglas McVay, Acting Chief
Office of Air Resources

Approved:

Date

Janet Coit, Director
Department of Environmental Management

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES**

AIR POLLUTION CONTROL REGULATION NO. 48

OUTDOOR WOOD BOILERS



Effective 14 April 2011

AUTHORITY: These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(s) and 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES
AIR POLLUTION CONTROL REGULATION NO. 48**

OUTDOOR WOOD BOILERS

48.1 Definitions

Unless otherwise expressly defined in this section, the terms used in this regulation shall be defined by reference to the Rhode Island Air Pollution Control General Definitions Regulation. As used in this regulation, the following terms shall, where the context permits, be construed as follows:

- 48.1.1 **“Distribute or sell”** means to distribute, sell, advertise for sale, offer for sale, lease, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. This term does not include the distribution or sale by a manufacturer of an outdoor wood boiler that is installed outside the State.
- 48.1.1 **“Manufacturer”** means any person who constructs or imports into the United States an outdoor wood boiler.
- 48.1.3 **“Outdoor wood boiler”** means a fuel burning device designed to (1) burn wood or other solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
- 48.1.4 **“Particulate matter or PM”** means total particulate matter including PM10 and PM2.5 (condensable and non-condensable fraction).
- 48.1.5 **“Sale”** means the transfer of ownership or control. This includes the transfer of ownership or control of an outdoor wood boiler that is relocated from one property to another. Sale does not include transfer of ownership or control of the home (i.e., the house is sold) and the outdoor wood boiler remains onsite.

48.2 Applicability

- 48.2.1 This Regulation applies, in its entirety, to any manufacturer, supplier, distributor or person intending to sell, lease, distribute, or market, an outdoor wood boiler in the State of Rhode Island.

48.3 Limitations

48.3.1 Effective July 1, 2011 no person shall import, supply, distribute or sell, install or allow the installation of any outdoor wood boiler subject to this Regulation unless it has been certified or qualified by EPA to meet a particulate matter emission standard of 0.32 pounds per million British Thermal Units output. In addition, within each of the burn rate categories as established in EPA test method 28, no individual test run shall exceed 18.0 grams per hour.

48.4 Notice to Buyers

48.4.1 The distributor or seller of every new or used outdoor wood boiler shall provide each prospective buyer with a copy of applicable state law concerning outdoor wood boilers, this regulation and a notice containing the following:

- (a) An acknowledgment that the buyer was provided with a copy of applicable state law concerning outdoor wood boilers and this regulation;
- (b) The current list of Phase 2 outdoor wood boiler models that qualify for EPA's Outdoor Wood-Fired Hydronic Heater program;
- (c) The manufacturer's recommendations regarding permitted and, if applicable, prohibited fuels and if applicable a list of permitted fuels under the Rhode Island General Laws; and
- (d) A statement that the municipality where the outdoor wood boiler will be installed may impose more stringent limitations on installation than those contained in this regulation.

48.4.2 The buyer and the seller or distributor shall sign and date the notice when the sale is completed. The name and address of the buyer, name of the manufacturer, and model and date of manufacture of the outdoor wood boiler shall be included in the completed notice.

48.4.3 The distributor or seller shall keep on file a copy of each signed notice for at least three (3) years from the date of sale. The distributor or seller shall make each notice available for inspection or copying by the municipal official responsible for administration of state law concerning outdoor wood boilers or his or her designee, or by the director or his or her designee.

48.5 Municipal Authority

48.5.1 Nothing in this regulation shall be construed to limit the authority of a city or town to adopt and enforce any ordinances and/or regulations relative to outdoor wood boilers, including but not limited to provisions relative to operation, setbacks and stack heights, prohibiting the installation of outdoor wood boilers, or requiring the installation of lower emitting versions of outdoor wood boilers.

48.6 General Provisions

48.6.1 Purpose

The purpose of this regulation is to limit emissions of particulate matter from outdoor wood boilers.

48.6.2 Authority

These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(s) and 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35

48.6.3 Application

The terms and provisions of this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

48.6.4 Severability

If any provision of this regulation or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulation shall not be affected thereby.

48.6.5 Effective Date

The foregoing regulation, "Outdoor Wood Boilers", after due notice, is hereby adopted and filed with the Secretary of State this _____ day of _____, 2011 to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 23-23, 42-35, 42-17.1, 42-17.6, of the General Laws of Rhode Island of 1956, as amended.

Janet Coit, Director
Department of Environmental Management

Notice Given on: **January 22, 2010**

Public Hearing held: **May 20, 2010**

Filing Date: **March 25, 2011**

Effective Date: **April 14, 2011**