

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

**NOTICE OF PUBLIC COMMENT PERIOD**

**IN RE: Adoption of Air Pollution Control Regulation No. 48, entitled "Outdoor Wood Boilers"**

The Director of the Rhode Island Department of Environmental Management (DEM) proposes to adopt Air Pollution Control Regulation No. 48, entitled "Outdoor Wood Boilers" and gives notice of intent to receive public comment on the proposed regulations and to afford interested parties an opportunity to submit data, views, or arguments in writing on the proposed regulation. A public hearing on the proposed regulations will be held if DEM receives request from twenty-five (25) people, a governmental agency or subdivision, or an association having not less than twenty-five (25) members. If a public hearing is held, a notice will be published announcing the date, time and place of such hearing.

Proposed APC Regulation No. 48 would prohibit the sale or installation of any outdoor wood boiler on or after 31 March 2010 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).

A copy of the proposed regulation can be obtained at the DEM website, <http://www.dem.ri.gov>. (Click on the Regulations link on the left hand side of the page and go to the Proposed Regulations section). Copies are also available at DEM's Office of Air Resources 235 Promenade St., Providence, RI. Any additional requests can be made by contacting the Office of Air Resources at 222-2808, weekdays, 8:30 AM- 4:00 PM.

DEM has complied with the requirements of R.I. Gen. Laws Section 42-35-3 by considering alternative approaches to the proposed regulations and has determined that there is no alternative approach that would be as effective and less burdensome. DEM has also determined that the proposed regulations do not overlap or duplicate any other state regulation. DEM has complied with the requirements of R.I. Gen. Laws Section 42-35-3.3 by submitting copies of the proposed regulations to the Governor's Office and the Economic Development Corporation (EDC).

DEM encourages the submission of written comments. Written comments, to be considered part of the administrative record must be submitted during the public comment period. Written comments may be mailed or e-mailed to the Office of Air Resources and received no later than 4:00 PM, 26 February 2010, at which time the public comment period will close. The mailing address for comments is:

Douglas McVay, Acting Chief  
Department of Environmental Management  
Office of Air Resources  
235 Promenade Street  
Providence, RI 02908-5767

The e-mail address for comments is: [doug.mcvay@dem.ri.gov](mailto:doug.mcvay@dem.ri.gov)  
Signed this 22nd day of January, 2010.

Douglas L. McVay, Acting Chief  
Office of Air Resources

**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 XX Month 2010*

**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.

**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 March 31, 2010 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) A list of outdoor wood boiler models which meet the emission standards as set forth above;
- (c) A list of permitted and, if applicable prohibited fuels; 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 \_\_\_\_\_, 2010 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.

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W. Michael Sullivan, PhD., Director  
Department of Environmental Management

**Notice Given on:**                    **Month XX, 2010**

**Public Hearing held:**                **Month XX, 2010**

**Filing Date:**                        **Month XX, 2010**

**Effective Date:**                    **Month XX, 2010**



# FACT SHEET

## In re: Proposed Air Pollution Control Regulation No. 48 “Outdoor Wood Boilers”.

### **Introduction**

The Department of Environmental Management (DEM), Office of Air Resources, is proposing a new regulation, Air Pollution Control Regulation No. 48 “Outdoor Wood Boilers”.

### **Description of the Proposed Regulation**

Proposed APC Regulation No. 48 would require that effective March 31, 2010, all outdoor wood boilers sold in Rhode Island must meet the EPA Phase II emission limits. Similar requirements are in effect in the states of Massachusetts, New Hampshire, Maine and Vermont.

### **Demonstration of Need**

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. Exposure to some pollutants in smoke can even cause cancer.

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.

The regulations are necessary to ensure that these cleaner burning units are the only types sold in RI.

### **Alternative Approaches Considered**

No alternative approaches were considered other than to maintain the status quo.

### **Identification of Overlapped or Duplicated State Regulations**

The Office of Air Resources has identified no state regulations that overlap or duplicate the proposed amendments.

### **Determination of Significant Adverse Economic Impact on Small Business or Any City or Town**

No significant adverse economic impact to small business or any city or town is anticipated related to these proposed amendments.

**For more information or copies of the proposed regulation contact:**

Douglas L. McVay, Acting Chief  
Office of Air Resources  
235 Promenade Street  
Providence, RI 02908  
(401) 222-2808 ext. 7011  
TCDD (401) 222-4462  
doug.mcvay@dem.ri.gov  
Or, visit the DEM web site at [www.dem.ri.gov](http://www.dem.ri.gov)

**Date:** 12 January 2010

**To:** Kerry King, Executive Counsel  
Governor's Office

Sherrilyn Carrera, Rules Coordinator  
R.I. Economic Development Corporation

**From:** Douglas L. McVay, Acting Chief  
Office of Air Resources  
Department of Environmental Management

**RE:** Regulatory Flexibility Memo for:  
The Department of Environmental Management (DEM), Office of Air Resources,  
Air Pollution Control (APC) Regulation No. 48 "Outdoor Wood Boilers".

***Why the regulations are necessary***

Proposed APC Regulation No. 48 would require that effective March 31, 2010, all outdoor wood boilers sold in Rhode Island must meet the EPA Phase II emission limits. Similar requirements are in effect in the states of Massachusetts, New Hampshire, Maine and Vermont.

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. Exposure to some pollutants in smoke can even cause cancer.

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.

The regulations are necessary to ensure that these cleaner burning units are the only types sold in RI.

***How the regulations were developed***

These regulations were developed based on a review of similar regulations that are in effect in the other New England states. Due to the limited scope of the regulations, no stakeholder process was conducted.

***Any adverse economic impact on small business***

This regulation will have no adverse economic impact on small businesses.

***Federal or State Statutes***

There are no federal or state statutes that this regulations is intended to comply with.

***Public process***

A public notice regarding the proposed Air Pollution Control Regulation No. 48 “Outdoor Wood Boilers” is scheduled to be published on 22 January 2010.

***Conclusion***

As indicated above, it is DEM's conclusion that promulgation of these regulations will not have a significant adverse economic impact on small business or any city or town. As such, we believe a Regulatory Flexibility analysis will not be necessary.

Attachments:

Proposed APC Regulation No. 48

**Date:** 12 January 2010

**To:** Sharon Savicki  
Budget Office  
Department of Administration

**cc:** Colleen Halloran-Villandry  
Budget Office  
Department of Administration

**From:** Douglas L. McVay, Acting Chief  
Office of Air Resources  
Department of Environmental Management

**RE:** The Department of Environmental Management (DEM), Office of Air Resources, Air Pollution Control (APC) Regulation No. 48 "Outdoor Wood Boilers".

This is meant to comply with RIGL 22-12-1.1. The Office of Air Resources is notifying the Budget Officer that it will be proposing the subject regulation. We are not requesting the Budget Officer prepare a Fiscal Note because the regulations will not affect the state or any city or town financially.

***Description of the proposed rule changes***

Proposed APC Regulation No. 48 would require that effective March 31, 2010, all outdoor wood boilers sold in Rhode Island must meet the EPA Phase II emission limits. Additionally any seller of an outdoor wood boiler is required to provide a copy of the regulation and a written notice stating that the outdoor wood boiler meets the requirements of the regulation to a prospective buyer. The written notice must be signed and dated by the buyer and seller, include specific information on the outdoor wood boiler purchased, and be kept on file by the seller for at least five years.

***Economic impact on the state or any city/ town***

This regulation will not impact the state or any city or town

***Conclusion***

As indicated above, it is DEM's conclusion that promulgation of this regulation will not require additional expenditures by the state or any city or town. We plan to publish the public notice for these regulation changes on 22 January 2010. If I don't hear from you, I'll assume you concur.

Feel free to contact me with any questions or for more information. I can be reached by phone at 222-2808, x-7011 or by e-mail at [doug.mcvay@dem.ri.gov](mailto:doug.mcvay@dem.ri.gov).

**Attachments:**

Proposed APC Regulation No. 48