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*Executive Office of Public Safety and Security*  
*Department of Fire Services*

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**MEMORANDUM**

**TO:** Heads of Fire Departments

**FROM:** Stephen D. Coan  
State Fire Marshal

**DATE:** November 1, 2010

**SUBJECT: Outdoor Wood Fired Boilers and Outdoor Wood Burning Devices**

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This office continues to receive inquiries regarding the use of outdoor wood fired boilers and various other devices such as chimineas. In order to provide guidance to local fire departments, the Department of Fire Services is re-issuing this updated advisory. Please note the changes regarding new regulations affecting outdoor wood fired boilers.

**Outdoor Wood Fired Boilers**

Outdoor wood fired boilers are self-contained hot water boilers that are fired by wood. Because of the size, location and configuration of these units, they are not regulated under the Massachusetts Fire Code (527 CMR). However, a building permit for the installation is required under the Massachusetts State Building Code (780 CMR). In addition, the Massachusetts Department of Environmental Protection promulgated new regulations on wood fired boilers (hydronic heaters) at 310 CMR 7.26(50)-(54), which require the following:

- Only those outdoor hydronic heaters (wood fired boilers) that are EPA Phase 2 "white tag" qualified and whose manufacturers have filed compliance certifications with MassDEP may be sold for installation in Massachusetts, on or after April 1, 2009. A list of currently certified units may be obtained at:  
<http://www.mass.gov/dep/air/community/certohh.htm>
- New units must be located minimum distances away from property lines and neighbors' dwellings (determined by their heat output ratings and specific uses), meet minimum

smokestack height requirements, burn only clean seasoned wood, and cause no nuisances or conditions of air pollution.

- Existing units (those in operation before December 26, 2008) are not required to be EPA Phase 2 "white tag" qualified, but "like new" units are subject to minimum smokestack height requirements, must burn only clean seasoned wood, and may not cause nuisances or conditions of air pollution.

Additional information on these regulations may be obtained by visiting the MassDEP site at: <http://www.mass.gov/dep/service/regulations/ohhregfs.doc>

Owners must comply with all applicable local rules governing Outdoor Hydronic Heaters, also referred to as wood fired boilers. MassDEP has authority to enforce all provisions of the regulation. In addition, municipal Boards of Health may enforce the regulation's specific operational, visibility and setback requirements (including burning improper fuel), and may also enforce the manufacturers' labeling requirements.

Massachusetts Air Pollution Control Regulations (310 CMR 7.00, *et seq.*), prohibit any burning which creates a nuisance or a condition of air pollution (i.e., excessive smoke) or hazard to others. This specific portion of the regulation is enforceable by the fire department (310 CMR 7.09).

### **Outdoor Fire Pits, Outdoor Fireplaces and Chimineas**

These are devices that have gained in popularity over the past several years, and they come in many shapes and sizes. These devices are not specifically regulated under Chapter 148, 527 CMR or the Air Pollution Prevention Regulations 310 CMR 7.00. Typically these devices are to be fueled by clean firewood. 310 CMR 7.07 (relative to the Fire Pits) and 7.08 (relative to the Outdoor Fireplaces and Chimineas) prohibit the burning of trash, refuse or other similar material in such devices. As with wood boilers, 310 CMR 7.09 prohibits any burning which creates a nuisance or a condition of air pollution (i.e., excessive smoke) or hazard to others, and again the fire department does have authority to enforce this prohibition pursuant to 310 CMR 7.09. Additionally, Massachusetts General Law Chapter 148 § 5 allows the head of the fire department to order that conditions likely to cause fire be remedied. This could be applicable when these devices are located on decks, or porches or located close to buildings.

A copy of the relevant sections of 310 CMR 7.00 can be found by visiting: <http://www.mass.gov/dep/air/laws/regulati.htm>

If you have any questions, you may contact your regional Massachusetts Department of Environmental Protection or visit Mass. DEP's web sites at <http://www.mass.gov/dep> or <http://www.mass.gov/dep/air/community/burnwood.htm>.

SDC/ml