

RESPONSE TO COMMENTS AND CHANGES TO
DEP FEES AND PROGRAM IMPROVEMENTS REGULATION PACKAGE 2009-1

April 15, 2009

The regulation amendments proposed in DEP Fees and Program Improvements Regulation Package 2009-1 included changes to permit or annual compliance fee categories in 10 DEP program areas in 310 CMR 4.00, along with associated amendments to 310 CMR 9.00, Waterways regulations and 310 CMR 40.0000, the Massachusetts Contingency Plan.

The proposed amendments were reviewed by EOEEA and EOAF and approved for public hearing. The amendments were submitted for review by the DEP Program Improvements and Fees Advisory Committee members, required legislative committees, state agencies, and registered interested parties. Notice of public hearings was published in the Massachusetts Register and 3 newspapers of general circulation in Massachusetts. Three public hearings were held between March 13 and 16, 2009 to solicit comments on the proposed amendments. Copies of the proposed regulations were made available on DEP's website and upon request during the public comment period, open from February 20, 2009 through March 26, 2009.

After the public comment period ended, typographical and formatting corrections were made to the proposed regulation amendments along with changes to one permit category in response to the single external comment that was received.

The comment by Covanta Energy regarded the proposed new permit fee category BWP SW45. This category provided a fee and review schedule for an alternative review of modification of a solid waste management facility, pursuant to solid waste program regulations 310 CMR 19.039(6) Alternative Review Process for Certain Modifications.

The alternative review process in the program regulations allows an applicant to submit a request for certain modifications by providing notice to the Department thirty (30) days before implementing the proposed modification. If the Department does not issue a denial, the modification can be effected. After the modification is effected the regulation requires that the applicant then provide the Department with as-built plans and/or report describing the modification within 30 days of completing the modification.

The commenter pointed out that the proposed 24 day administrative completeness review together with the proposed 36 day technical review period in the proposed fee category conflicted with the purpose of the streamlined review process in 310 CMR 19.039(6). The Department agrees with the comment and has revised the proposed description and schedule for timely action to provide a 30 day review of the notification.