



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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RESPONSE TO COMMENTS

Proposed Amendments to:

310 CMR 7.26 Air Pollution Control Regulations – Industry Performance Standards
310 CMR 70.00 Environmental Results Program (ERP) Certification Regulations
310 CMR 71.00 Industrial Wastewater Regulations for Photo Processors and Printers
310 CMR 73.00 Amalgam Wastewater and Recycling Regulations for Dental Facilities
310 CMR 4.00 Timely Action Schedule and Fee Provisions

Statutory Authority:

M.G.L. c. 21, §§ 26-53; M.G.L. c. 21A, §§ 2, 8, 113, 16, and 18; M.G.L. c. 21C; M.G.L. c. 21E; M.G.L. c. 21H,
§§ 6A-6N; and M.G.L. c. 111, §§ 142A-J and 150A

September 9, 2016

Background Information

The following changes to the regulations listed below have been proposed in accordance with MassDEP's work plan for implementing Governor Baker's executive Order No. 562:

310 CMR 7.26: Air Pollution Control Regulations – Industry Performance Standards is a section of the Air Pollution Control regulations that establishes industry performance standards for certain business sectors. The proposed amendments create a new category of printer, Very Small Printer (VSP). VSPs pose limited potential impact to the environment. Currently, 310 CMR 7.26 requires all printers to submit an annual compliance certification and pay an annual compliance fee. Under the proposed revisions, VSPs would be required to file a one-time certification and pay no fee.

310 CMR 70.00: Environmental Results Program establishes cross-program compliance certification requirements for certain facilities. The proposed revisions to these regulations coordinate with the proposed revisions to the 310 CMR 7.26, 310 CMR 71.00, and 310 CMR 73.00. The revisions would also delete references to 314 CMR 7.00: Sewer Connections since previous amendments to 314 CMR 7.00 deleted a compliance certification requirement that had not been incorporated into 310 CMR 70.00.

310 CMR 71.00: Industrial Wastewater Regulations for Photo Processors and Printers establishes performance standards for photo processors and printers. The proposed amendments revise the definition of photo processor to exclude facilities that conduct only digital photo processing, and revise the current requirement that a photo processor file a compliance certification annually to a one-time certification.

310 CMR 73.00: Amalgam Wastewater and Recycling Regulations for Dental Facilities establishes wastewater treatment, operational standards and amalgam recycling requirements for dental facilities, and requires a performance-based compliance certification. The proposed revisions revise the current requirement that owners of dental facilities file a compliance certification every five years to every two years.

310 CMR 4.00: Timely Action Schedule and Fee Provisions establish schedules and fees. The proposed revisions adjust the fee amount for dental facility compliance certifications to coordinate with the proposed change to 310 CMR 73.00 requiring dentists to certify every two rather than every five years.

Public Comment Process

MassDEP held six public hearings between July 25 and August 1, 2016, and solicited oral and written comments on the proposed amendments in accordance with MGL Chapter 30A. The public comment period closed on August 11, 2016. Comments were received from the following:

Printing Industries of New England (PINE):

Tad Parker, President

Graphics Arts Coalition (GAC):

Tad Parker, President – PINE

Doreen Monteleone, Principle, D2 Advisory Group, Flexographic Technical Association

Marcia Y. Kinter, Vice President – Government and Business, GAC

Gary A. Jones, Asst. Vice President - Environmental, Health and Safety Affairs, PINE

ESM, LC:

Robert A. Fricke, Member

Massachusetts Dental Society (MDS):

Raymond K. Martin, DDS, President

Responses to Comments

General Comments

Comment 1: As an environmental, health & safety consultant to the printing industry for the past 35 years, I have applauded the Department of Environmental Protection (DEP) on its continued efforts to recognize the compliance issues faced by the printing industry in the Commonwealth. My opportunity to sit on the Ad Hoc committee of the Printers Partnership in 1995 and then on the committee to develop the regulatory requirements for Environmental Results Program for Printers has offered me a more nuanced relationship between the agency and the printing community. (Robert A. Fricke, ESM, LC)

Response: MassDEP appreciates these comments.

Comment 2: GAC has long supported the development and implementation of the ERP program for printing operations. It provides a cost effective solution to environmental compliance and most importantly, environmental protection. Considering the current set of requirements under ERP and the demographics of the printing industry, the coalition supports the Department's proposal to adopt a new category of "Very Small Printer." Adoption of this new designation will provide additional streamlining and simplify the regulatory structure for our smallest members.

Response: MassDEP appreciates these comments and is pleased to know that the ERP program has provided cost effective solutions to environmental compliance for the printing industry.

Comment 3: PINE and SGIA support the Department’s proposal to adopt the new category of “Very Small Printer”. Adoption of this new designation will provide additional streamlining and simplify the regulatory structure for our smallest members.

Response 3: MassDEP thanks PINE and SGIA for their support.

Comment 4: MDS supports the proposed amendment to 310 CMR 73.00. This amendment aims to strengthen the certification process by requiring compliance certification every two years. Aligning the certification with the Department of Public Health’s registration timetable improves the likelihood of dentists remaining compliant.

Response 4: MassDEP thanks the MDS for their comments.

Specific Comments

Comment 1: PINE, GAC and ESM all suggested that the sentence at the end of the definition of “Very Small Printer” that reads “Incidental material, ink used in non-heatset offset lithographic printing, water-based ink/coating/adhesive, plastisol and ultraviolet ink are excluded from this calculation”, be amended to clarify that it applies only to part (b) of the definition.

Response 1: MassDEP agrees that the definition of ‘Very Small Printer’ should be clarified. The definition will be changed to read as follows:

Very Small Printer means a printer that

a) is connected to municipal sewer;

b) uses a total of no more than 55 gallons of cleanup solution and inks/coatings/adhesives with a VOC content greater than 10% by weight as applied per rolling 12 month period;

c) uses no more than 55 gallons of alcohol per rolling 12 month period; and

d) generates no more than 55 gallons of hazardous waste per rolling 12 month period.

Incidental material, ink used in non-heatset offset lithographic printing, water-based ink/coating/adhesive, plastisol and ultraviolet ink are excluded from the calculation in (b).

Comment 2: PINE and GAC proposed adding a definition of ‘Digital Printing’ to 310 CMR 7.26 to further integrate digital printing into the ERP program. Both PINE and GAC’s comments stated:

In the definition section, it is our recommendation that a definition for digital printing be added. Specifically, the following language should be added:

Digital Printing: A print-on-demand method of printing in which an electronic output device transfers variable data, in the form of an image, from a computer to a variety of substrates. Digital printing methods include, but are not limited to, inkjet printing,

electrophotographic printing, dye sublimation printing, thermal wax printing and solid ink printing.

Including this definition into this rulemaking ensures that the designation for the 'Very Small Printer' category applies to digital operations.

Response 2: Digital Printing is not an applicable sector within the *Environmental Results Program: Lithographic, Graphic Arts, and Screen Printing* regulations at 310 CMR 7.26 (20) through (29) and the term "digital printing" is not used within the regulations. Therefore MassDEP does not believe the addition of this definition is appropriate. MassDEP notes that for those printing sectors that are subject to ERP and also have digital printing operations, the use of VOC-containing material in any digital printing operations must be taken into account when determining the size category for the applicable ERP printing sector.

Comment 3: The MDS strongly opposes the fee increase proposed in the amendments to 310 CMR 4.00 and that MassDEP should see some programs savings with the change in regulations. The MDS agrees that the fee must change to reflect the new certification cycle, but would prefer the fee be either decreased or maintained at the current two-year rate of \$184.00.

Response 3: MDS correctly points out that MassDEP anticipates some program savings as a result of aligning MassDEP's Dental Amalgam Mercury Recycling Certification schedule with the Department of Public Health's reporting cycle for dental facilities. MassDEP acknowledges that a change in fee rates was necessary in order to accommodate the change from a five-year certification cycle with a \$460 permit fee to a two- year certification cycle. The proposed fee rate of \$200 (an annual fee of \$100), represents an 8.7% increase over the five year rate (annual fee of \$92), an increase of \$8.00 per year.

Under the current five-year certification cycle, the 2,431 Massachusetts dentists would pay a total of \$1,572,740 over five years. During the transition to a two-year certification cycle, fees will total \$1,262,800 over those same five years. By deferring certification to even-numbered years and not requiring payment of the new permit fees until the current five-year certifications have expired, the regulated community will save \$309,940 during the transition period. Based on this information, MassDEP is maintaining the \$8.00 annual increase in the fee.