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Executive Office of Energy & Environmental Affairs

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Response To Comments on Proposed Amendments to:

310 CMR 7.00 Air Pollution Control

March 20, 2020

Regulatory Authority:

**M.G.L. c. 21A, §§ 2, 8 and 16, M.G.L. c. 21N, and
M.G.L. c. 111, §§ 2C and 142A – 142E**

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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On December 13, 2019, the Massachusetts Department of Environmental Protection (MassDEP) proposed amendments to 310 CMR 7.00 *Air Pollution Control* that would add an exemption for aerospace manufacturing operations from metal and plastic parts coatings and industrial cleaning solvents requirements to align with U.S. Environmental Protection Agency (EPA) provisions; add an exemption for quality assurance / quality control cleaning activities from industrial cleaning solvents; require electronic publication, instead of newspaper publication, of public notices of proposed permit decisions to align with EPA provisions; allow boiler installation under MassDEP's Environmental Results Program (ERP) at operating permit facilities; and make other miscellaneous amendments. In addition, the Executive Office of Energy and Environmental Affairs and MassDEP proposed amendments to 310 CMR 7.74 *Reducing CO₂ Emissions from Electricity Generating Facilities* to simplify reporting provisions for the power plant CO₂ cap regulation and revise auction provisions to minimize impacts of "emergency deferred compliance" on allowance supply.

MassDEP held a public hearing in Boston on January 14, 2020 on the proposed amendments in accordance with Massachusetts General Law Chapter 30A. The comment period closed on January 24, 2020. MassDEP received comments from the U.S. Environmental Protection Agency (EPA), General Electric Aviation, and Epsilon Associates, and has summarized and responded to the comments below.

Environmental Protection Agency

1. Comment: The Massachusetts draft amends the requirements in 310 CMR 7.18(11) to include an exemption from "requirements of 7.18(11)(d)2. and 3., and (e)." For consistency, MA may want to revise citations to read as "requirements of **310 CMR** 7.18(11)(d)2. and 3., and (e)." The proposed language for 310 CMR 7.18(21) contains a similar citation that could also be revised accordingly.

Response: MassDEP has added "310 CMR" in the two citations where it was missing as suggested by EPA to make the citations consistent with other citations in the regulations.

2. Comment: After the amendments are finalized, Massachusetts should submit the revised RACT regulations to EPA as a SIP revision as soon as possible so that EPA can take action on Massachusetts's RACT certification and regulatory SIP revision for the 2008 and 2015 ozone standards, submitted October 2018, in conjunction with these changes. When submitting these amendments as a SIP revision, Massachusetts should note whether these changes affect their October 2018 SIP revision. Specifically, on page 15, MA refers to "Aerospace coating and cleaning operations subject to, and complying with, SIP miscellaneous metal parts coating and solvent metal degreasing regulations." Given that these regulations are now being revised, Massachusetts should state if the requirements in these regulations continue to constitute RACT per the EPA control techniques guidelines (CTG) for aerospace manufacturing and rework operations (see 59 FR 29216, June 6, 1994) and remain no less stringent than they were previously approved as RACT by EPA on October 4, 2002 (67 FR 62190).

Response: MassDEP will submit the final amendments to EPA as a RACT SIP revision soon after they are promulgated and will describe how the regulations continue to constitute RACT as requested by EPA.

3. Comment: The proposed amendments to 310 CMR 7.00: Appendix C(4)(b)1 and (8)(c)4 remove language requiring that construction or a change in the method of operation to an operating permit facility, where that change would constitute a significant modification to the existing operating permit, may not operate prior to final approval of the modification to the operating permit. Removing this requirement contradicts language provided in 40 CFR Part 70 – State Operating Permit Programs. Specifically, 40 CFR § 70.5(a)(1)(ii) states, “...Where an existing part 70 permit [operating permit] would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.” EPA seeks for Massachusetts to maintain consistency with the federal regulations as they pertain to state operating permit programs.

Response: In the final amendments MassDEP has clarified that a modification approved by MassDEP in a Plan Approval may not be operated where the Operating Permit prohibits such operation until the final approval of the modification to the operating permit. However, it should be noted that Operating Permits in general do not contain such prohibitions so that most modifications approved by MassDEP via Plan Approvals could be operated prior to modification of the Operating Permit.

4. Comment: With respect to the proposed amendments to 310 CMR 7.26(30)(b), EPA notes that the installation of a new boiler may, by itself, cause a facility to be subject to 310 CMR 7.00: Appendix C operating permit requirements if that source is close to the major source thresholds applicable to operating permit facilities without exceeding an emissions cap pursuant to 310 CMR 7.02(11) or becoming subject to 310 CMR 7.00: Appendix A or Prevention of Significant Deterioration permitting. As such, EPA recommends retaining reference to 310 CMR 7.00: Appendix C in 310 CMR 7.26(30)(b).

Response: MassDEP has retained reference to 310 CMR 7.00: Appendix C in 310 CMR 7.26(30)(b) in the final amendments.

General Electric Aviation

5. Comment: In our previous comments to the original 310 CMR 7.18(31) regulations, GE requested that cleaning of aerospace parts be exempt from this regulation. Our thought was that the use of cleaners on aerospace parts would then not be included in the total volatile organic compound (VOC) under 310 CMR 7.18(31)(a) - “Applicability” and thus the GE Lynn facility would not be included in the regulations as the total non-aerospace cleaner usage at the Lynn facility would be < 3 tons VOC/year. However, the exemption for “Aerospace Manufacturing and Rework Operations” under these amendments was listed under 310 CMR 7.18(31)(b), which makes the aerospace cleaners only exempt from the VOC cleaner requirements of the regulation under 310 CMR 7.18(31)(d) and not under the entire regulation. As such, the facility will be above the 3 ton VOC/year and subject to the work practice standards for all cleaners used onsite.

Response: MassDEP's intent is to exempt Aerospace Manufacturing and Rework Operations from 310 CMR 7.18(31) *Industrial Cleaning Solvents* in its entirety and has clarified this exemption in the final amendments.

6. Comment: In the definition of “Aerospace Manufacturing and Rework Operations” included under 310 CMR 7.00, please indicate that non-refillable aerosol cans are included in this definition.

Response: MassDEP adopted the definition of Aerospace Manufacturing and Rework Operations from EPA’s Aerospace Control Technique Guidelines and has not changed this definition. However, MassDEP believes that the use of non-refillable aerosol cans in Aerospace Manufacturing and Rework would be covered by the exemption that MassDEP finalized.

7. Comment: GE requests that “slave hardware” be included in the definition of “Aerospace Manufacturing and Rework Operations.” Slave hardware is hardware temporarily attached to the aerospace part or what the aerospace part may sit on (like a cartridge) but does not actually “fly” with the aerospace component. Slave hardware may be defined as “parts and assemblies not critical to the vehicle’s structural integrity or flight performance.”

Response: MassDEP believes that "slave hardware" as described in the comment fits within the definition of Aerospace Manufacturing and Rework Operations, which applies broadly to emissions from coating and cleaning processes in aerospace industry categories, and therefore no revisions are needed to this definition.

8. Comment: Though GE did not make the following comments when the original 310 CMR 7.18(31) regulations were proposed because we thought the Lynn MA facility would be exempt from the rules, we have the following comments for MassDEP to consider for future regulatory amendments: There should be an exemption or statement that these regulations do not include the use of non-refillable aerosol cans. They cannot meet the VOC contents limitations in the regulations, nor can they meet the VOC work practice standards of not atomizing any cleaning solvent. We have attempted to address part of this request by asking to include non-refillable aerosol cans in the definition of Aerospace Manufacturing and Rework Operations, however, as per the following comments, there is a conflict with that in the work practice requirements.

Response: MassDEP has exempted Aerospace Manufacturing and Rework Operations from all provisions of 310 CMR 7.18(31) *Industrial Cleaning Solvents*; see Responses to Comment 5 and Comment 6.

9. Comment: If a cleaner meets the VOC Content Limitation requirements contained in 310 CMR 7.18(31)(d)(1), they should not be required to “bag the rag” under the work practices listed under 310 CMR 7.18(31)(e)2, “storing any solvent-contaminated material (such as cleaning rags) or equipment (such as used applicators) in closed containers.” Under the EPA Aerospace NESHAP rules (40 CFR 63 Subpart GG), if the cleaners meet the “compositional” (as defined in the regulation) requirements of the rules, they are not required to “bag the rag.” When do these solvent-contaminated materials or rags or applicators have to be placed in closed containers?

Once they are placed in these closed containers, they will be contaminated with other materials/rags/applicators in these closed containers and cannot be re-used again, thus generating additional waste for the site. If a worker goes on a lunch break, is that when the rag has to be placed in a closed container or only when they are done cleaning a particular part or piece of equipment over say an 8-hour shift? Do there have to be rag/applicator/material containers on each benchtop now? Such guidelines are important, especially for MassDEP site compliance inspections.

Response: MassDEP has exempted Aerospace Manufacturing and Rework Operations from all provisions of 310 CMR 7.18(31) *Industrial Cleaning Solvents*; see Response to Comment #5.

10. Comment: If a cleaner meets both the VOC Content Limitation requirement and is a consumer product, such as Windex, Glass Plus, Fantastik, and used to clean and industrial benchtop, the facility would be required to bag the rag as well as per the work practices standards in the regulations. These types of cleaners should be entirely exempt from the industrial cleaner regulation as they are regulated under the Consumer Products regulation under 310 CMR 7.25. They are exempt under 310 CMR 7.18(31)(b)1.a from the VOC requirements under 310 CMR 7.18(31)(d); however, use of these consumer products still requires the industrial facility to “bag the rag”, unintentionally creating additional waste.

Response: MassDEP has exempted Aerospace Manufacturing and Rework Operations from all provisions of 310 CMR 7.18(31) *Industrial Cleaning Solvents*; see Response to Comment #5.

Fountain Plating

11. Comment: We support the MassDEP proposed amendments to 310 CMR 7.00 Definitions and 310 CMR 7.18(11) U Surface Coating of Miscellaneous Metal Parts and Products and appreciate that the Department recognized that the 2018 amendments were not appropriate for the aerospace sector. These requirements would have placed a tremendous burden on our operations by jeopardizing long-term contracts, pricing agreements, and would have negatively impacted future business. Many coatings used in the aerospace sector are locked in by specification or do not have lower VOC alternatives, making meeting the requirements of the 2018 amendments impossible to achieve by product substitution.

Response: MassDEP acknowledges this comment in support of the amendments.

Epsilon Associates

These comments are on the proposed revision to delete the Plan Approval exemptions in 310 CMR 7.02(2)(b)8, 15, and 29, which apply to “de-minimis” emergency engines, fuel utilization facilities, combustion turbines, and reciprocating engines.

12. Comment: It is understood that deleting 310 CMR 7.02(2)(b)8, 15, and 29 would have no practical effect on existing boilers, engines, combustion turbines that have been below these de-

minimis thresholds (i.e., because corresponding exemptions would also be found within 310 CMR 7.02(4), 7.02(5), and 7.03; and because the units would have been subject to the version of 310 CMR 7.00 in effect at the time of installation). However, it is requested that MassDEP clearly document this for the benefit of the regulated facilities.

Response: The commenter is correct that this amendment has no effect on existing boilers, engines, and combustion turbines. Plan approval applicability for a particular construction, substantial reconstruction or alteration project at a facility is determined based on the Air Pollution Control Regulations in effect at the time the project is installed or commences construction.

13. Comment: Some existing regulatory references (e.g., in Air Plan Approvals, Operating Permits, Source Registration reports, etc.) will be made obsolete as a result of deleting 310 CMR 7.02(2)(b)8, 15, and 29. It is therefore requested that MassDEP preserve these regulatory references in some manner (either within the regulation or using guidance documents) and clarify that existing documents containing references to 310 CMR 7.02(2)(b)8, 15, and 29 will not require modification solely because of this revision.

Response: Citations in existing Plan Approval, Operating Permit, Source Registration Report, or other MassDEP document, refers to the cited provision in the version of the Air Pollution Control Regulations in effect at the time the provision is cited, and will not require modification solely because of the amendments..