



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

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Maura T. Healey  
Governor

Kimberley Driscoll  
Lieutenant Governor

Rebecca L. Tepper  
Secretary

Gary Moran  
Acting Commissioner

**February 22, 2023**

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In the Matter of  
Linda J. Massod, DMD PC

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OADR Docket No. 2020-039  
DEP File No. RPAN: 00009895  
Danvers, MA

## **FINAL DECISION**

I am the Final Decision-Maker in this appeal by special designation.

On August 10, 2020, the Petitioner Linda J. Massod, DMD PC filed this appeal challenging a \$500.00 Reporting Penalty Assessment Notice (“RPAN” or Civil Administrative Penalty”) that the Boston Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner on July 20, 2020, for failure to submit the dental amalgam compliance certification on or before the deadline established by the Notice of Noncompliance, NON-00008788 that was filed by the Department on January 6, 2020.

Currently pending before me for review pursuant to 310 CMR 1.01 (8)(c), is a proposed Settlement Agreement that the Petitioner and the Department have executed to settle the Petitioner’s appeal of the RPAN as set forth above. The Settlement Agreement is in the form of an Administrative Consent Order With Penalty that was executed by: (1) the Petitioner on

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370  
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November 18, 2021, and (2) Richard Blanchet, Deputy Division Director of the Hazardous Materials Management Division of the Department's Bureau of Air and Waste on November 18, 2021.

After reviewing the Consent Order, I find that it is reasonable and furthers the statutory and regulatory interests of 310 CMR 73.03, 310 CMR 73.07, 310 CMR 4.04(1) and 310 CMR 4.10(11)(b). Accordingly, I issue this Final Decision approving and the incorporating the Consent Order as follows:

(1) In accordance with ¶ 30 of the Consent Order, the effective date of the Consent Order is the date of this Final Decision.

(2) In ¶ 14 of the Consent Order, the Petitioner agreed to pay two hundred dollars (\$200.00) to the Commonwealth of Massachusetts ("the Commonwealth") as a civil administrative penalty for the violations set forth in ¶¶ 5A through 5B of the Consent Order. Prior to the issuance of this Final Decision, MassDEP's Revenue Office informed MassDEP's Office of Appeals and Dispute Resolution ("OADR") where this appeal is pending that the Petitioner paid the \$200.00 to the Commonwealth. Accordingly, the Petitioner has satisfied its obligation under ¶ 14 of the Consent Order, to pay the \$200.00 to the Commonwealth, and as a result, the stipulated penalties provision of ¶ 21 of the Consent Order that would have been triggered by the Petitioner's failure to pay the \$200.00 to the Commonwealth is no longer applicable and moot.

(3) In ¶¶ 15 and 27 of the Consent Order, the Petitioner agreed to "waiv[e], its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of th[e] Consent Order and to notice to any such rights of review." The Petitioner's waiver is consistent with the requirement of the Adjudicatory Proceeding Rules of 310 CMR 1.01(8)(c)

that every settlement agreement entered into by a party with MassDEP in administrative appeal pending before OADR “shall include a provision that if the agreement is approved [by MassDEP’s Commissioner or any other person authorized to approve the agreement], the parties waive whatever rights they have to further administrative review before [MassDEP] as well as an appeal to court.” The provisions of 310 CMR 1.01(8)(c) are referenced in ¶ 27 of the Consent Order.

(4) In accordance with ¶ 15 and 27 of the Consent Order, M.G.L. c.30A and 310 CMR 1.01(8)(c) this appeal is dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.

Date: February 22, 2023



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Salvatore Giorlandino,  
Chief Presiding Officer

## **SERVICE LIST**

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