



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
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NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to M.G.L. c. 30A, §2, that the Department of Public Health will hold a public hearing on proposed amendments to 105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)*. This is a second comment period to obtain comments on revisions to the regulations following a 2017 public comment period.

Three hearings will be held as follows:

September 17, 2019, at 10:00 a.m. in the large conference room at the Department of Public Health Western Regional Office, 23 Service Center Road, Northampton, MA

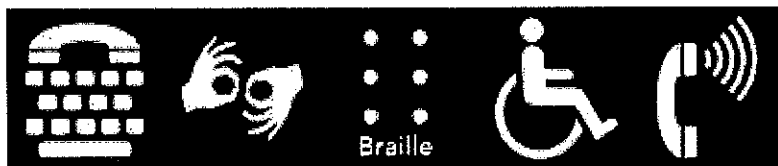
September 19, 2019, at 10:00 a.m. in the Public Health Council Room at the Department of Public Health, 250 Washington Street, Boston, MA

September 24, 2019, at 10:00 a.m. in Room 109 at the Worcester Health Department, 25 Meade Street, Worcester, MA

The Department encourages all interested parties, including those who testify at the public hearing, to submit written testimony to Reg.Testimony@state.ma.us. Submit your testimony as an attached Word document that includes your full name and address and put the number and name of the regulation in the subject line of the email. Do not send pdf or redlined documents. The Department will post on its website all electronic testimony that complies with these instructions. Parties who are unable to submit electronic testimony should mail submissions to Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. All written or oral comments submitted to the Department may be posted on the Department's website and released in response to a request for public records. All written testimony must be received no later than 5:00 p.m. on **September 27, 2019**.

A copy of the proposed amendments may be viewed on the Department's website or obtained from the Office of the General Counsel at 617-624-5220.

If you are Deaf or hard of hearing, or are a person with a disability who requires accommodation, please contact Paul Halfmann at paul.halfmann@state.ma.us or 617-695-7415 no later than five business days before the hearing.



Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 105 CMR 410.000

Estimate of the Number of Small Businesses Impacted by the Regulation: The number of small businesses impacted is unknown because the regulations affect every landlord and small property owner in the state.

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The amendments will not require any additional reports. If property owners wish to apply for an alternative housing permit, they would need to submit an application to their local board of health.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The proposed amendments require property owners to maintain some records, such as documentation of inspections for pests and applications of pesticides to the property.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The proposed amendments would not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? The proposed amendments will not require small businesses to hire additional employees to comply with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed amendments does not require the hiring of other professionals.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The proposed amendments require landlords to provide refrigerators. In specific cases, other products or capital improvements may be required (for example, if the board of health determines that mechanical ventilation is required to prevent mold growth).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) In this case, no; this regulation sets forth minimum standards for human habitation. These standards should remain in place as they protect conditions that are critical to public health.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? Other regulations regarding building and construction, such as those put forth by the Board of Building Regulations and Standards and several other state agencies on the Building Code Coordinating Council, may have overlapping standards. However, the Department of Public Health's regulations are the sole regulations focused on minimum standards for human habitation and contain no grandfathering clause. As part of the implementation process, the Department will present these proposed amendments to the Building Code Coordinating Council and work with other state agencies to reduce and eliminate duplication and conflict among the various state regulations.

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The existing regulation requires properties to cooperate with audits and inspections as needed, as well as with reinspections pending orders to correct. The proposed amendments require property owners applying for an alternative housing permit to cooperate with an inspection by their local board of health prior to a final approval of the housing permit.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation does not require the provision of educational services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The majority of the additions to this regulation are clarifications and reorganizations;
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? It is unclear whether the proposed regulatory amendments would encourage the formation of small businesses. While the proposed amendments would allow for local boards of health to permit alternative housing, the number of housing units that would be created (and the number of businesses related to such properties) is difficult to estimate.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The proposed amendments provide for less stringent compliance for properties permitted as "alternative housing." Such properties, once permitted, could be approved by local boards of health even if they did not meet requirements related to electrical service, plumbing, centralized heating, sanitary drainage, or minimum square footage.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The proposed amendments do not establish less stringent schedules or deadlines for compliance for small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The proposed amendments do not simplify compliance or reporting requirements for small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? In this case, no; this regulation sets forth minimum standards for human habitation. These standards should remain in place as they protect conditions that are critical to public health.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? In order to protect public health and safety and ensure a statewide minimum standard for habitability, there are no alternative regulatory methods that would minimize the adverse impact on small businesses.