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Response to Comments On  
Amendments to:

310 CMR 7.71  
“Reporting of Greenhouse Gas Emissions to a Regional Registry”

Regulatory Authority:  
M.G.L. c. 111, Sections 142A through 142E

February 2009

## Regulation History and Notes

Chapter 298 of the Acts of 2008, the Massachusetts Global Warming Solutions Act (GWSA), was passed by the legislature and signed into law by Governor Patrick in August 2008 to begin to address the challenges of climate change. The Climate Protection and Green Economy Act (CPGEA) is contained within the GWSA and required the Massachusetts Department of Environmental Protection (MassDEP) to promulgate mandatory greenhouse gas reporting regulations by January 1, 2009. In order to meet that statutory deadline, MassDEP issued an emergency regulation on December 29, 2008 under MGL Chapter 30A.

The purpose of this regulation is to require the reporting and verification of statewide greenhouse gas emissions, and to monitor and ensure compliance with the reporting provisions of the Climate Protection and Green Economy Act of 2008. The Commonwealth is committed to being a leader in the global effort to reduce emissions of the greenhouse gases that cause global warming. These mandatory greenhouse gas reporting regulations are part of that commitment. These regulations are part of a process to reduce greenhouse gas emissions by 10 - 25% by 2020 and 80% by 2050.

A full public process was not possible before promulgation of the emergency regulation; instead, as required by state law, the public process occurred within 90 days of promulgation. Several of the reporting requirements within CPGEA require significant public input and thus are not incorporated into the emergency regulation. These requirements relate to verification, voluntary reporting, and reporting of emissions by retail sellers of electricity. In order to incorporate these requirements, amendments to 310 CMR 7.71 will be proposed in spring 2009, with a separate public process pursuant to MGL Chapter 30A. This process will provide an additional opportunity to comment upon the entire content of 310 CMR 7.71.

## Public Comment Process

MassDEP held one public hearing and solicited written testimony on the proposed amendments in accordance with Massachusetts General Laws Chapter 30A. On Wednesday, January 7, 2009, MassDEP published notice of the public hearings and public comment period on the proposed amendments in the Springfield Republican and the Boston Globe, and notified interested parties via electronic mail. A public hearing was held on Wednesday, February 11, 2009 in Boston. No comments were received at the public hearing. The public comment period closed on February 23, 2009. This document summarizes and responds to comments that were received from two commenters, Dominion Resources Services Inc. (Dominion) and Mirant Canal, LLC / Mirant Kendall, LLC (Mirant), during the public comment period. MassDEP appreciates the input from those who submitted comments into the hearing docket.

## Comments and Response

**Comment:** MassDEP received comments from two commenters (Dominion and Mirant). Most of the comments addressed issues related to amendments to 310 CMR 7.71 that are planned for later this year. These issues include: verification, specific issues related to the use of the General

Reporting Protocol, and the possibility that the definition of “motor vehicle” may be expanded to include off-road vehicles. One commenter included several specific comments about the emergency regulation. This commenter 1) suggested that the reference to the General Reporting Protocol be revised to include future amendments published by The Climate Registry, 2) requested that the definition of “direct stack emissions” be revised to exclude fugitive emissions, and 3) expressed support for the definition of “motor vehicles” included in the emergency regulation and for the decision to limit reporting of emissions that occur in 2009 to carbon dioxide only.

**Response:** Two comments are relevant to the emergency regulation. As has been noted previously, the Secretary of State limits references to specific documents in existence at the time of promulgation; incorporation of future revisions must be done through a formal regulation change. The comment about fugitive emissions will be addressed in the comprehensive regulation package.

The other comments are relevant to the comprehensive regulations, and will be addressed as part of that rule-making process. Therefore, MassDEP is finalizing 310 CMR 7.71 as proposed.

Commenters should carefully review the entire regulation when the comprehensive amendments are proposed, and may submit comments on any provisions of 310 CMR 7.71 at that time.