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BACKGROUND DOCUMENT FOR PROPOSED REVISIONS TO 310 CMR 7.24(9) DISPENSING OF E85 MOTOR VEHICLE FUEL/ETHANOL BLENDS

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1.0 BACKGROUND

The Commonwealth of Massachusetts supports the introduction and use of biofuels to promote the local production of motor vehicle and home heating fuels, reduce greenhouse gas emissions and to promote economic development.

For the purpose of reducing actual or perceived roadblocks to the introduction of ethanol blended fuels in Massachusetts, the Massachusetts Department of Environmental Protection (MADEP) is proposing 310 CMR 7.24 (9) Dispensing of E85 Motor Vehicle/Ethanol Blends applicable to the installation, operation and maintenance of E85 (85% ethanol, 15% gasoline) ethanol blended gasoline dispensing facilities in Massachusetts.

By proposing these new regulations, MADEP hopes to provide regulatory certainty and guidance to businesses considering whether to invest in this new industry. Specifically, this proposed regulation seeks to address the need for owner/operators of E85 dispensing facilities to correctly install, operate and maintain Stage I vapor controls at their facilities. Stage II vapor controls, however, are unnecessary, and therefore not required, at E85 facilities because all motor vehicles certified to operate using E85 are manufactured with Onboard Refueling Vapor Recovery (ORVR) systems that collect the fuel vapors.

This regulation will be submitted to the U. S. Environmental Protection Agency (EPA) as part of the Massachusetts Ozone State Implementation Plan (SIP).

2.0 SUMMARY OF PROPOSED REGULATION

This proposed regulation is based on the program requirements of 310 CMR 7.24(6) Dispensing of Motor Vehicle Fuel.

Like 310 CMR 7.24(6), the proposed regulation relies on the following program elements to ensure efficient and cost effective protection of public health and the environment as well as program compliance and enforcement:

- Installation, operation and maintenance of the E85 dispensing system as required by the terms and conditions of applicable component/system UL listing or manufacturer's certification.
- Weekly visual inspection of the E85 dispensing system
- Timely repair of incorrectly installed, non-functioning or broken components
- On-site record keeping of weekly inspector training, performed weekly inspections, system maintenance, and compliance testing.
- Annual compliance testing and certification for both E85 dispensing system owners, lessees, cooperators or controllers as well as testing companies performing applicable E85 compliance tests.
- Timely and appropriate enforcement.

To simplify compliance for the regulated community, under the proposed regulation, MADEP will utilize compliance testing companies that have submitted the required notification documents under 310 CMR 7.24(6) for performing required E85 compliance tests. Any company interested in performing E85 compliance tests that has not submitted a testing company notification under 310 CMR 7.24(6), may simply do this as required by 310 CMR 7.24(6).

3.0 EMISSIONS AND AIR QUALITY IMPACTS

E85 gasoline/ethanol blends are the product of blending ethanol with gasoline meeting the Federal Reformulated Gasoline (RFG) air quality/emissions performance standards. Vehicles designed to operate on E85 in Massachusetts must be certified to operate on ethanol blended fuels in accordance with the Massachusetts LEV emission standards and equipped with onboard vapor recovery systems.

As a result of the fuel quality characteristics of E85 and the emission control systems equipped on E85 vehicles, there are no increased air quality emissions attributable to the introduction of E85 dispensing systems in Massachusetts equipped with Stage I vapor controls.

4.0 ECONOMIC IMPACTS

The Commonwealth of Massachusetts supports the introduction and use of biofuels to promote the local production of motor vehicle and home heating fuels, reduced greenhouse gas emissions and economic development.

As a result of proposing these regulations, the Commonwealth of Massachusetts believes it is reducing regulatory uncertainty associated with potential private sector investment in the development of E85/gasoline blends and related infrastructure.

5.0 OTHER PROGRAM IMPACTS

5.1 Massachusetts Environmental Policy Act (MEPA)

Pursuant to 301 CMR 11.00 (Massachusetts Environmental Policy Act Regulations), this proposal does not require DEP to file an Environmental Notification Form (ENF). The regulations, as proposed, will not lessen the stringency of existing regulations, the purpose of which is to protect public health and the environment.

5.2 Impacts on Cities and Towns

There are no new requirements contained in this proposed rulemaking unique to municipalities.

5.3 Agricultural Impacts

Pursuant to the intent of Massachusetts General Law, Chapter 30A, Section 18, state agencies should evaluate the impact of proposed programs on agriculture within the Commonwealth. There are no new requirements contained in this proposed rulemaking unique to agriculture within the Commonwealth.

5.4 Source Reduction

The proposed regulation will allow for the introduction and use of E85 blended gasoline in Massachusetts. Expanded use of ethanol has the potential to reduce local consumers' reliance on fossil fuels, a major source greenhouse gases and other air pollutants.

5.5 Public Participation

As required by state law, the Department gives notice and provides the opportunity to review background and technical information at least 21 days prior to proposing the regulation amendments at a public hearing. To satisfy the requirements of 40 CFR 51.102, DEP will provide at least 30 days for public comment. DEP will hold public hearings in Boston, Massachusetts and in Springfield, Massachusetts.