

Chapter 445B of NAC

LCB File No. T008-08

**ADOPTED TEMPORARY REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

Filed with the Secretary of State on December 17, 2008.

Nevada's Electrical Generation Unit Greenhouse Gas Emissions
Mandatory Reporting Requirements
P2008-20

AGENCY DELETIONS IN RED STRIKEOUT, 11/12/08

Explanation – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: NRS 445B.210

Section 1. Chapter 445B of NAC is hereby amended by adding by adding thereto the provisions set forth as sections 2 through 14 of this regulation.

Sec. 2. 1. *“Affected unit” means a unit for the generation of electricity located in the State that:*

- (a) Has a maximum design output capacity of not less than 5 megawatts;*
- (b) Emits a greenhouse gas; and*
- (c) Generates electricity for sale.*

2. *The term includes the following:*

(a) Cogeneration units or combined heat and power systems where the electric generator has a maximum design output capacity of not less than 5 megawatts and produces electricity for sale;

(b) Simple cycle combustion turbines where the combustion turbine meets the requirements established in subsections 1 through 3, inclusive, of this section;

(c) Combined cycle systems where the combustion turbine, including any associated duct firing, meets the requirements established in subsections 1 through 3, inclusive, of this section;

3. *The term does not include a unit that uses renewable energy, as defined in NRS 704.7811, to generate electricity.*

Sec. 3. *“Cogeneration unit” means a unit that has equipment used to produce electric energy and other forms of useful thermal energy such as heat or steam for industrial, commercial, heating, or cooling purposes through the sequential use of energy.*

Sec. 4. *“Combined cycle system” means an electric power plant with a combustion turbine generator used to produce electric energy that is combined with a turbine exhaust waste heat boiler and a steam electric generator used to produce electric energy. This system may or may not include auxiliary gas firing devices used to provide additional heat to exhaust gases before steam generation occurs.*

Sec. 5. *“Combined heat and power system” has the same meaning as cogeneration unit.*

Sec. 6. *“Commence commercial operation” means to have begun to generate electricity for sale, including the sale of test generation.*

Sec. 7. *“Greenhouse gas” has the meaning ascribed to it in NRS 445B.137.*

Sec. 8. *“Mandatory reporter” means the owner or operator of a stationary source that owns or operates an affected unit.*

Sec. 9. *“New affected unit” means an affected unit that commences commercial operation on or after the effective date of these regulations.*

Sec. 10. *“Simple cycle combustion turbine” means a unit that is a rotary engine driven by a gas under pressure that is created by the combustion of any fuel. This term includes combined cycle systems without auxiliary firing.*

Sec. 11. *The mandatory reporter of each affected unit or new affected unit shall:*

1. Report the amount of greenhouse gases emitted from each affected unit and each new affected unit, including greenhouse gas emissions associated with startup, shutdown or malfunction of each affected unit and each new affected unit, pursuant to the provisions established in sections 11 and 12 of this regulation, inclusive, and in accordance with the guidelines established by the Director.

2. Determine the amount of greenhouse gases emitted in accordance with the monitoring guidelines established by the Director.

3. Provide the following:

(a) Information to identify each mandatory reporter of an affected unit or a new affected unit, including the name and address of the company, the name and address of the facility if different from that of the company, the name of the owner of the company and the name and telephone number of the responsible official;

(b) The name or designation of each affected unit and each new affected unit;

(c) A description of each affected unit and each new affected unit and its greenhouse gas emissions producing processes;

(d) The North American Industry Classification System number for each affected unit and each new affected unit;

(e) The Universal Transverse Mercator location of each affected unit and each new affected unit;

(f) A description of each affected unit’s and each new affected unit’s primary operating state and any operating state associated with an alternative operating scenario identified by the owner or operator;

(g) The location of any records that the owner or operator must keep pursuant to the requirements of this section, if the records are kept at a location other than the facility at which each affected unit or each new affected unit is located;

(h) A description of any measurement system and methods used to measure, record and calculate emissions of greenhouse gases;

(i) Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

Sec. 12. *The mandatory reporter of each affected unit and each new affected unit shall comply with the reporting requirements established in section 11 of this regulation in accordance with the following:*

1. For greenhouse gas emissions discharged in calendar year 2008, the required data must be submitted no later than July 31, 2009. No enforcement actions will be taken by the Director provided that the mandatory reporter made a good faith effort to comply with the reporting requirements established in section 11 and this subsection.

2. For greenhouse gas emissions discharged in calendar year 2009, the required data must be submitted no later than March 31 of 2010, and March 31 of each calendar year thereafter, respectively.

3. By March 31 of 2010, and March 31 of each calendar year thereafter, respectively, a responsible official of the stationary source must certify that, based on information and belief formed after a reasonable inquiry, the data submitted are true, accurate and complete.

4. A responsible official of the stationary source must submit supplementary facts or corrected information upon discovery.

5. A responsible official of the stationary source must provide any additional information, in writing, that the Director requests within the time specified in the Director's request.

Sec. 13. *The Director shall perform an evaluation of the reported emissions and supporting data required pursuant to sections 11 and 12 of this regulation and verify the reported emissions in accordance with the following schedule:*

1. For the 2008 calendar year reporting, verification shall be completed no later than September 1, 2009.

2. For the 2009 calendar year reporting and each calendar year thereafter, verification shall be completed no later than June 30 of 2010, and June 30 of each year thereafter.

~~{Sec. 14. 1. Each mandatory reporter of an affected unit or new affected unit must submit an annual fee for each affected unit or new affected unit. A reporter must pay the entire fee to the Director in accordance with these provisions. For each fiscal year after the fiscal year ending on June 30, 2009, the fee for each affected unit or new affected unit must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 137,000 by the total amount of greenhouse gases emitted for the preceding calendar year, expressed as carbon dioxide equivalents and multiplying by the unit's percentage of greenhouse gas emissions. The Director shall determine the total amount of greenhouse gasses emitted from the information reported and verified in sections 11 through 13 of this regulation, inclusive.~~

~~—2. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to this section not later than September 1 of each year.~~

~~—3. Except as otherwise provided in this subsection, the mandatory reporter of an affected unit or new affected unit who does not pay the annual fee within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late penalty must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the mandatory reporter is in negotiations with the Director concerning the annual fees.~~

~~—4. For the fiscal year beginning on July 1, 2010, and for each fiscal year thereafter, the Director shall increase the annual fee based on carbon dioxide equivalent emissions by an amount that is equal to 2 percent of the annual fee for emissions of the affected unit or new affected unit for the immediately preceding fiscal year. The Director may, during any fiscal year, suspend an increase in a rate or fee specified in this subsection.]~~

Sec. 15. NAC 445B.001 is hereby amended to read as follows:

NAC 445B.001 As used in NAC 445B.001 to 445B.3791, inclusive, , *and sections 2 to 14 of this regulation, inclusive*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and sections 2 to 10 of this regulation, inclusive*, have the meanings ascribed to them in those sections.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T008-08**

The State Environmental Commission adopted temporary regulations assigned LCB File No. T008-08 which pertain to chapter 445B of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

Regulation T008-08: Nevada’s Electrical Generation Unit Greenhouse Gas Emissions Mandatory Reporting Requirements (Temporary Regulation). This temporary regulation amends NAC 445B.001 to 445B.3497 of the State "Air Pollution" regulations, by adding a regulation which mandates the reporting of greenhouse gases (GHG) emitted by certain generators of electricity; the information will be included in a registry of GHG emissions. The GHG reporting regulation is a requirement of Senate Bill 422, which was passed by the 2007 Legislature.

1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary. Prior to holding workshops, the Nevada Division of Environmental Protection, Bureau of Air Quality Planning (NDEP-BAQP) met three times each in Reno/Carson City and Las Vegas with representatives from all affected facilities in the electric power generating industry and all other interested parties to solicit comment on draft regulations and discuss the costs of program implementation. The NDEP-BAQP then held two public workshops on the above referenced regulation at the locations noted below.

CARSON CITY, NV	LAS VEGAS, NV
November 4, 2008 1:30 PM to 3:30 PM Nevada Division of Environmental Protection Great Basin Conference Rm, 4th floor of the Richard Bryan Building 901 South Stewart Street	November 5, 2008 10:30 AM to 12:30 PM Grant Sawyer Office Building Conference Room #4412 555 East Washington Avenue

Following these workshops, the State Environmental Commission (SEC) held a public hearing to consider the regulation on November 12, 2008. The hearing was held at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada. The SEC hearing agenda was posted at the meeting location, at the State Library in Carson City, and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation were also made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the regulation was published on Monday October 13 and 27, 2008, and on November 3rd 2008 in the Las Vegas Review Journal and Reno Gazette Journal newspapers.

Information about the regulation was also made available on the SEC website at:
http://www.sec.nv.gov/main/hearing_111208.htm

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended November 12, 2008 hearing; 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
- (c) Submitted to the agency written comments: 1 (support comments from NVEnergy)

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses and responded to through e-mail and telephone exchanges, and the working meetings and public workshops indicated in number 1 above.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The SEC adopted the regulation that was presented at the meeting with one change proposed by NDEP-BAQP; the provision dealing with how to fund agency costs of administering the program was removed pending further evaluation.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Adoption of the regulation will impose an added cost to the electric power generating companies that operate electric generating units that emit GHGs, which have maximum design output capacities of 5 megawatts or more.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be an additional cost to the agency for enforcement of the proposed regulation. Enforcement of the regulation will consume the time and effort of one full time equivalent employee.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulation does not overlap or duplicate any regulations of other state or government agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

There are no greenhouse gas reporting requirements in current federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The provision in the proposed regulation that addressed fees was removed at the SEC Hearing, pending further evaluation.