

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R004-09

Effective January 28, 2010

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

AUTHORITY: §§1-3, NRS 445B.210 and 445B.370; §4, NRS 445B.210.

A REGULATION relating to air pollution; requiring certain reports concerning greenhouse gas emissions; and providing other matters properly relating thereto.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *The owner or operator of an affected unit shall submit a report concerning the amount of greenhouse gases emitted by the affected unit, including, without limitation, greenhouse gases emitted as a result of the startup, shutdown or malfunction of the affected unit, to the Director for inclusion in the registry of greenhouse gas emissions described in NRS 445B.370.*

2. The owner or operator of an affected unit shall determine the amount of greenhouse gases emitted by the affected unit in accordance with the “Mandatory Reporter Monitoring Guidelines” established by the Director. A copy of the Guidelines may be obtained from the Director at the Internet address <http://ndep.nv.gov/baqp/technical/ggemissions.html>.

3. When submitting the report required by subsection 1, the owner or operator of an affected unit must submit the following information to the Director:

(a) A description of the system or method used to measure, record and calculate the amount of greenhouse gases emitted by the affected unit;

(b) Information to identify the owner or operator of the affected unit, including the name and address of the facility at which the affected unit is located, the name of the owner or operator of the facility and the name and telephone number of the responsible official for the affected unit;

(c) The name or designation of the affected unit;

(d) A description of the affected unit;

(e) A description of the greenhouse gas emissions producing process of the affected unit;

(f) The North American Industry Classification System code of the affected unit;

(g) The coordinates of the affected unit which have been identified by use of the Universal Transverse Mercator system;

(h) A description of each primary and alternative operating scenario associated with the affected unit;

(i) The location of any records retained by the owner or operator of the affected unit, if the records are kept at a location other than the facility at which the affected unit is located; and

(j) Any other information that the Director determines is necessary.

4. The report submitted pursuant to subsection 1 must be accompanied by a certification by a responsible official of the stationary source that owns or operates the affected unit that, based on information and belief formed after a reasonable inquiry, the information contained in the report and the information submitted pursuant to subsection 3 is true, accurate and complete. The responsible official shall:

(a) Submit supplementary facts or corrected information upon discovery; and

(b) Provide any additional information, in writing, that the Director may request.

5. The owner or operator of each affected unit shall submit the report required by subsection 1:

(a) On or before March 31, 2010, for the reporting period consisting of calendar year 2009; and

(b) On or before March 31 of each subsequent calendar year for the reporting period consisting of the immediately preceding calendar year.

6. For the purposes of this section, the Director will interpret the term “affected unit” as defined in NRS 445B.370 to include, without limitation:

(a) A cogeneration unit;

(b) A combined cycle system; and

(c) A simple cycle combustion turbine.

7. As used in this section:

(a) “Affected unit” has the meaning ascribed to it in NRS 445B.370.

(b) “Cogeneration unit” means a unit for the generation of electric energy and other forms of thermal energy, including, without limitation, for industrial and commercial heating and cooling purposes. The term includes a combined heating and power system.

(c) “Combined cycle system” means an electric power plant which has a combustion turbine generator that is used with a turbine exhaust waste heat boiler and a steam electric generator for the generation of electric energy.

(d) “Greenhouse gas” has the meaning ascribed to it in NRS 445B.137.

(e) “Simple cycle combustion turbine” means a rotary engine driven by gas pressure which is created by the combustion of any fuel, including, without limitation, a combined cycle system without auxiliary firing.

Sec. 3. *The Director shall evaluate each report submitted pursuant to subsection 1 of section 2 of this regulation and verify the information contained in the report and the information submitted pursuant to subsection 3 of section 2 of this regulation:*

1. On or before June 30, 2010, for the reporting period consisting of calendar year 2009; and

2. On or before June 30 of each subsequent calendar year for the reporting period consisting of the immediately preceding calendar year.

Sec. 4. NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.3791, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, have the meanings ascribed to them in those sections.

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection Bureaus of Air Quality Planning and Air Pollution Control

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC)

LCB File No. R004- 09

P2008-20

INFORMATIONAL STATEMENT

Regulation R004-09; Nevada's Electrical Generation Unit Greenhouse Gas Emissions

Mandatory Reporting Requirements: This regulation was initially adopted as a temporary regulation (T008-08) by the State Environmental Commission (SEC) on November 12, 2008. It was subsequently adopted as a permanent regulation by the SEC on December 09, 2009.

R004-09 implements Senate Bill 422, which was passed by the Nevada Legislature during the 2007 session. It requires the reporting of greenhouse gas (GHG) emissions from Nevada's electrical generation units (EGUs). The legislation focused on emissions from EGUs, as they comprise the majority of GHG emissions in Nevada.

R004-09 requires all Nevada facilities that generate 5 megawatts or more of electricity for sale from non-renewable EGUs, and which emit GHGs, to track and report GHG emissions in accordance with the reporting requirements established by the Nevada Division of Environmental Protection (NDEP). At this time, there are 21 facilities, or approximately 10 different companies, that are required to report. These companies began reporting in 2009. Preliminary results show that approximately 20 million tons of GHGs were emitted in 2008.

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. The NDEP held public workshops on the above referenced regulation on November 4, 2008 in Carson City at the Bryan building and again on November 5, 2008 in Las Vegas at the Grant Sawyer Office Building. It should be noted that prior to holding these workshops, staff from NDEP's Bureau of Air Quality Planning 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 that would be affected by the regulation. At these meetings the NDEP solicited comment on the draft regulation along with initiating discussions about costs for implementing data collection of greenhouse gas emissions.

Following these meetings and workshops, the SEC held regulatory hearings on November 12, 2008 (i.e. for adoption of the temporary regulation) and again on December 09, 2009 (i.e. for adoption of the permanent regulation).

Public notices and agendas for the SEC regulatory hearing were posted at meeting locations, 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 agendas, the public notices, and the proposed temporary and permanent regulations 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 notices for both the temporary and permanent regulations were published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the above referenced SEC regulatory hearings. Information about the regulations were also made available on the SEC website at http://sec.nv.gov/main/hearing_100609.htm & http://www.sec.nv.gov/main/hearing_1209.htm

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

- (a) Approximately 20 for both hearings
- (b) Testified on the regulations: 1 (1 NDEP Staff)
- (c) Submitted written comments: 1 (support comments from NV Energy)

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 State Environmental Commission adopted the permanent regulation without any changes.

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 tracking and reporting costs on the affected electric power generating companies. However, NDEP has minimized the anticipated costs to industry by not requiring the electric power utilities to pay GHG registry administration fees and by providing in-house data verification rather than requiring third party verification by outside consultants. Furthermore, development of a state-wide reporting program at this stage may reduce long-term costs associated with federally required GHG reporting requirements.

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

Additional costs to the NDEP for administering the new GHG program consist of one full-time employee. The agency is not proposing a new fee at this time. We will evaluate the program costs and, if necessary, propose a fee schedule in the future.

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 U.S. Environmental Protection Agency (EPA) has recently finalized a national mandatory GHG reporting rule that will become effective on December 29, 2009 (74 FR 56260; October 30, 2009). This rule is much broader than Nevada's reporting rule and generally requires all types of industry to report directly to EPA all GHG emissions, if they emit 25,000 metric tons or more each year. This differs from Nevada's rule in that it addresses industry beyond electrical generation and sets a threshold of 25,000 metric tons rather than a capacity threshold, as we have with our 5 megawatt level. It will take several years before the impacts of the national rule can be evaluated. The NDEP has committed to the regulated industry to avoid duplicative requirements with federal regulations as much as possible.

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

The regulation is not more stringent than any local or federal laws and regulations. See number 7 above.

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 regulation does not address any fees.