

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

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.