

Greenhouse Gas Regulation

Pending greenhouse gas (GHG) emissions legislation may soon affect U.S. companies. Certain facilities in Clark County may be subject to both state and federal GHG regulations. The State of Nevada Division of Environmental Protection (NDEP) and the U.S. Environmental Protection Agency (EPA) each currently require submission of GHG emissions inventories for those facilities exceeding applicable threshold emission levels. The EPA has also published a proposed rule that may also require certain industrial facilities to acquire federal permits.

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NDEP’s GHG EMISSIONS INVENTORY REPORTING REQUIREMENTS

Where can I find the requirements? The requirements are found in the Nevada Revised Statutes, [NRS 445B.370 – 380](#).

What are the threshold reporting requirements? Generally, a source must submit an inventory of GHG emissions if it (i) has a maximum design output greater than or equal to 5 megawatts, (ii) emits GHG emissions, and (iii) generates electricity for sale.

What are the GHGs covered by the requirements? The gases covered by the rule are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF₆).

Does NDEP provide additional information? Yes:
<http://ndep.nv.gov/baqp/technical/ggemissions.html>

EPA’s GHG EMISSIONS INVENTORY REPORTING REQUIREMENTS

Where can I find the requirements? The *Federal Register*, [74 FR 56260](#) (October 30, 2009).

What are the threshold reporting requirements? Generally, suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHG emissions are required to submit annual reports to EPA.

What is a metric ton? One metric ton is equal to 1,000 kilograms, or about 2,200 pounds.

What are the GHGs covered by the requirements? Generally, the gases covered by the rule are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC),

perfluorocarbons (PFC), sulfur hexafluoride (SF₆), and other fluorinated gases including nitrogen trifluoride (NF₃) and hydrofluorinated ethers (HFE).

When would facilities subject to the regulation be required to begin complying with the requirements? January 1, 2010.

Would facilities subject to the regulation be required to report their emissions to Clark County? No. Currently, facilities would report their emissions directly to the EPA.

Does EPA provide additional information? Yes:
<http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>

EPA's PROPOSED GHG EMISSIONS PERMITTING RULE FOR INDUSTRIAL FACILITIES

Where can I find the proposed rule? [74 FR 55292](#) (October 27, 2009)

What does the proposed rule entail? This proposal would (i) tailor the major source applicability thresholds for greenhouse gas emissions under both the Prevention of Significant Deterioration (PSD) and title V programs outlined in the Clean Air Act and the Code of Federal Regulations (CFR), and (ii) set a PSD significance level for greenhouse gas emissions.

How would the proposed rule be implemented? Under the proposal, the first phase (which would last 6 years) would establish a temporary level for the PSD and title V applicability thresholds at 25,000 tons per year (tpy), on a "carbon dioxide equivalent" (CO₂e) basis, and a temporary PSD significance level between 10,000 and 25,000 tpy CO₂e. Within 5 years of the final version of this rule, EPA would conduct a study to assess administrative issues, then conduct another rulemaking. This would be completed by the end of the sixth year, and would promulgate, as the second phase, revised applicability and significance level thresholds.

What are the GHGs covered by the requirements? Generally, the gases covered by the rule are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF₆), and other fluorinated gases including nitrogen trifluoride (NF₃) and hydrofluorinated ethers (HFE).

Does EPA have a Web site providing additional information? Yes:
<http://www.epa.gov/NSR/actions.html#sep09>

EPA's PROPOSED GHG EMISSIONS AND CAFE STANDARDS FOR LIGHT-DUTY VEHICLES

Where can I find the proposed rule? [74 FR 49454](#) (September 28, 2009).

Why is this rule important to facilities? Issuance of a final rule will trigger Clean Air Act permitting requirements under the PSD and title V programs for GHG emissions.

What does this rule entail? This proposed rule is the result of the President's May 2009 announcement of a national program to reduce greenhouse gas emissions and improve fuel economy. The combined EPA and National Highway Traffic Safety Administration (NHTSA) standards that make up this proposed national program would apply to passenger cars, light-

duty trucks, and medium-duty passenger vehicles, covering model years 2012 through 2016. Vehicles would be required to meet an estimated combined average emissions level of 250 grams of carbon dioxide per mile (equivalent to 35.5 miles per gallon if the automobile industry were to meet this carbon dioxide level solely through fuel economy improvements). These proposed standards would cut carbon dioxide emissions by an estimated 950 million metric tons, and reduce oil consumption by 1.8 billion barrels over the lifetime of the vehicles sold under the program (model years 2012-2016).

Does EPA provide additional information? Yes: <http://epa.gov/otaq/climate/regulations.htm>

OTHER FEDERAL ACTIONS

U.S. SUPREME COURT DECISION: MASSACHUSETTS ET AL. V. ENVIRONMENTAL PROTECTION AGENCY ET AL.

Where can I find the decision? <http://www.supremecourtus.gov/opinions/06pdf/05-1120.pdf>

When did the court release its ruling? April 2, 2007.

What is the result of this decision? Massachusetts and eleven other states, along with several local governments and nongovernmental organizations (petitioners), sued EPA for not regulating emissions of four greenhouse gases, including carbon dioxide (CO₂), from the transportation sector. In a 5-4 decision, the court ruled in favor of Massachusetts, finding that EPA has the authority to regulate CO₂ and other greenhouse gases, and that the EPA Administrator must determine whether emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision.

EPA'S FINAL RULE ON ENDANGERMENT AND CAUSE OR CONTRIBUTE FINDINGS FOR GREENHOUSE GASES UNDER THE CLEAN AIR ACT

Where can I find the final rule? [74 FR 66496](http://www.federalregister.gov) (December 15, 2009).

When was the final rule published? December 15, 2009.

What does the rule entail? Following the U.S. Supreme Court's decision in Massachusetts v. the Environmental Protection Agency (2007), EPA issued a final rule finding that: (i) greenhouse gas emissions threaten the public health and welfare of current and future generations (endangerment finding), and (ii) greenhouse gas emissions from road vehicles contribute to that threat (cause or contribute finding). These findings together permit EPA to regulate greenhouse gas emissions from road vehicles under the Clean Air Act.

Does EPA provide additional information? Yes:
<http://www.epa.gov/climatechange/endangerment.html>