

Regulatory Requirements to Measure and Report Greenhouse Gases in 2010

British Columbia regulations now require operations emitting significant amounts of Greenhouse gases (GHGs) to provide verified emissions reports for 2010. APEGBC members may have new opportunities to use their technical understanding of industrial processes and GHGs to assist clients faced with these new requirements. BC's evolving rules are creating opportunities for professionals in the GHG sector. One that deserves special discussion is BC's "Reporting Regulation," BC Reg 272/2009. BC Reg 272/2009 means that GHG reporting will be required for many facilities for the year 2006 onward. Increasingly strict rules will apply for emissions reports for 2010 and subsequent years. In addition, BC Reg 272/2009 creates a new regulated industry, GHG verification, a potential boon for engineers and financial services companies looking to enter the climate sector.

GHG verification is the process of evaluating reports of GHG or emission reductions, something that is being required in an increasing number of jurisdictions across North America, including Ontario. Verification is also required for the creation of many types of carbon credits.

Verifiers can be asked, as in BC Reg 272/2009, to confirm whether or not an emissions report is "free of material errors, omissions or misrepresentations and whether the emissions report conforms to the requirements of" a particular regulation.

Who must have their GHG Emissions Verified?

Operations emitting 10,000 tonnes a year of carbon dioxide equivalent (CO₂e) GHGs from operations covered by BC Reg 272/2009 have to start reporting their emissions to the government. Companies emitting

25,000 tonnes of CO₂e or more annually from covered operations will be required to have their emissions report verified by accredited third parties.

Activities that trigger the requirement to report GHGs include, but are not limited to, pulp and paper production; natural gas processing and distribution; oil and gas extraction; general stationary combustion; and electricity generation. The full list of industries that must report can be found in BC Reg 272/2009.

BC Reg 272/2009 splits up the covered sectors into "Single Facility Operations," which include things like pulp and paper production and petroleum refining on a single site and "Linear Facilities Operations" which include all of the facilities within the province that are managed or controlled by the same person and carry out one or more of the activities listed in the regulation, such as oil and gas extraction and the transmission of oil, natural gas and electricity.

If a company emits 10,000 or more tonnes of CO₂e each year from a Single Facility Operation or if it emits 10,000 or more tonnes of CO₂e from its Linear Facilities Operation, it must report its emissions to the BC government. Emissions from wood or woody biomass sources listed in BC Reg 272/2009 will not count toward the 10,000 tonne calculation.¹

In practice, this means that if a company has two pulp and paper mills that qualify as Single Facility Operations, each emitting 9,000 tonnes of CO₂e, it would not have to report, while a company that had two unconnected natural gas transmissions operations, each emitting 5,500 tonnes of CO₂e would have to report since the total GHGs of its Linear Facilities Operation is above the 10,000 tonne threshold.



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Operations that have to report their GHG emissions must get the reports verified if more than 25,000 tonnes of CO₂e are attributable to their operations during a reporting period. The 25,000 tonne calculation also exempts CO₂e from biomass sources listed in BC Reg 272/2009.

Engineers have valuable expertise that can help entities determine their greenhouse gas emissions. Additionally, they can assist companies and legal experts in determining whether a property is, in fact, a Single Facility Operation or a Linear Facility Operation.

Who Else Should Measure GHG Emissions?

In addition to those organizations covered by the reporting and verification requirements discussed above, there are at least three other groups that should be aware of their GHG emissions.

1. Companies that fall just under the thresholds

Whether a company is emitting 9,999 tonnes of CO₂e or 2,000, prudence dictates that it will want to be aware of its emissions and keep detailed records justifying its decision not to submit an emissions report. This information will be required in case government inspectors use their broad powers under the BC Reg 272/2009 to

investigate compliance. If inspectors determine that a report should have been submitted, the information collected will be vital to comply with their order. The closer a company is to the reporting threshold, the more important it is for the data used to make its decision to resemble the data collection that would be required if the company emitted 10,000 or more tonnes from a Single Facility Operation or combined Linear Facilities Operation.

2. Companies that take over regulated entities

Another group of companies that should be aware of GHG emissions is companies contemplating the purchase of a company or facility in an industry listed in BC Reg 272/2009. The company that owns the reporting operation(s) on the last day of the reporting period (December 31 of each year) has a duty to report for the whole year, which means that a buyer of assets will be responsible for reporting emissions, even if it did not own the operation for the whole emission period.

Engineers may be called upon to help buyers determine whether purchasing assets could push them over an applicable threshold. This could happen if the newly acquired asset or operation is near to a company's other operations (in such a way that it could be considered an Single Facility Operation) or because it will be considered part of a Linear Facilities Operation.

3. Companies falling under the threshold for the current (but not previous) reporting periods

Once an operation has to report in any year, it must continue to report, even if it drops under the threshold in the next reporting period. The only exceptions are when the operation stops doing essentially every activity listed in BC Reg 272/2009 for the entire reporting period, or when it emits less than the threshold for three consecutive reporting periods.

Who Can Verify GHG Emissions?

"The train has already left the station," according to Michel Girard, Managing Director of Policy and Stakeholder Relations for the Standards Council of Canada. "In Ontario, Quebec and British Columbia, large industrial emitters will be required to submit greenhouse gas inventories that have been verified by independent third-parties. Only those statements from bodies accredited to the [International Organization for Standardization] ISO 14065 standard will be accepted by provincial authorities," he adds.² The accreditation applies to the "body" (such as a company), not to individual verifiers. Accredited bodies can then have their trained employees verify companies' GHG reports, providing a verification statement that meets the requirements set out in BC Reg 272/2009 and ISO 14064-3 "Greenhouse gases - Part 3—Specification with guidance for the validation and verification of greenhouse gas assertions."

The Standards Council of Canada (SCC) is the only Canadian organization that is able to accredit verification bodies. Its counterpart in the US is the American National Standards Institute (ANSI). Accreditation by either the SCC or ANSI will be valid for the purposes of BC Reg 272/2009.

Getting accreditation from the SCC involves a number of procedural steps and applicants must demonstrate to the SCC that they are competent, meet the standards set out by the ISO and that they are familiar with the procedures and rules in ISO 14064: parts 1-3.

So far, no organization has received accreditation by the SCC, although three are currently listed as having entered the formal accreditation process. The SCC reports that other companies are currently in the preliminary stages before having declared their official application for accreditation. The SCC is prepared to respond to questions from interested parties and is ready to accept additional applications. ANSI



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lists 18 accredited organizations, some of which have operations in Canada and an additional 14 official applicant organizations.

The SCC reports that a typical accreditation can take up to 12 months, but the length of time can be less depending on the state of readiness of the applicant.

How companies gain sufficient experience to apply for accreditation varies. Companies applying for accreditation come from both financial auditing and engineering backgrounds. Livio Nichilo, Engineering Manager at Internat Energy Solutions Canada, is guiding his company through the pre-application phase (meaning that it is not formally listed as an applicant) with both ANSI and the SCC. He notes “quantifying carbon credit projects has been an excellent preparation for the application process, because it has helped our team gain experience in the data collection and analysis process.” In Canada, carbon credit quantification, which involves measuring GHGs emitted or stored in a project, has occurred largely around voluntary carbon credits, which purchasers wanted to ensure met high international standards.

Conflicts of Interest

Companies interested in GHG monitoring and verification must be aware of conflicts of interest. Generally, both the corporations and individual employees conducting verification must ensure that their independence is not threatened when performing verification. If a possible conflict of interest or threat to independence of the verifier or the verification body is identified, BC Reg 272/2009 does allow the use of a mitigation strategy.

Legal advice can help to address and mitigate potential conflicts of interest. Some of the clearest situations to watch out for include those in which a company or individual verifier have previously provided consultancy services that fed into a GHG report they are then being hired to verify. This conflict applies even if the individual verifier provided the consulting services at a previous employer.

As time goes on, operations and service providers will inevitably become familiar with the requirements of these new measurement, reporting and verification obligations. We expect similar requirements to proliferate across the country and potentially the globe so engineers who make the jump into this new service area may have broader national and international opportunities in the future. ☒

Travis Allan JD is a partner at Zizzo Allan Climate Law LLP based in Toronto, Ontario. Travis provides legal and strategic advice to companies on climate-related issues such as interpreting GHG measurement and reporting guidelines, evaluating carbon credit potential, advising on the purchase and sale of carbon credits and general corporate law issues.

1 Engineers working in Ontario will note that the rules around biomass in Ontario’s “Greenhouse Gas Emissions Reporting,” O Reg 452/09 are significantly different, allowing deductions of up to 15,000 tonnes of CO₂e from a much broader array of biomass sources (see s. 1 and ss. 5.(4)).

2 Until December 31, 2012 it is also possible for companies to use accreditation provided by the California Air Resources Board under Title 17, California Code of Regulation section 95132.



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