

141 Tremont St., Boston, MA 02111

(t) 617-902-2354 (f) 617-902-2349

www.nepga.org

February 9, 2009

VIA ELECTRONIC MAIL: stacy.h.degabriele@state.ma.us

Ms. Stacy H. DeGabriele
Department of Environmental Protection
Bureau of Waste Prevention
One Winter Street 8th Floor
Boston, MA 02108

RE: 310 CMR 7.71; Mandatory Greenhouse Gas Reporting Regulations

Dear Ms. DeGabriele

Pursuant to the request for comments issued by the Massachusetts Department of Environmental Protection (“DEP”) at the Stakeholder Meeting on the mandatory reporting of greenhouse gases held on February 3, 2009, the New England Power Generators Association, Inc. (“NEPGA”) hereby respectfully files these comments.¹ NEPGA represents sixteen companies and approximately 26,000 megawatts of the generation in New England, and approximately 12,000 megawatts in Massachusetts.

As a part of the Massachusetts Global Warming Solutions Act (GWSA), signed into law by Governor Patrick on August 7, 2008, the DEP was required to promulgate mandatory greenhouse gas reporting regulations by January 1, 2009. In accordance with the GWSA, the DEP issued emergency regulations on December 29, 2008, and gave notification of scheduled stakeholder meetings. On February 3, 2009, the DEP held a stakeholder meeting to provide an overview of the draft comprehensive regulatory language to-date.

I. Comments of NEPGA

NEPGA supports initiatives intended to reduce greenhouse gas emissions provided that such efforts be implemented incrementally and appropriately in order to ensure a stable competitive energy market in New England and a healthy Massachusetts economy. However, consistent with prior comments submitted by NEPGA, we believe that the lack of sufficient time for implementing regulations, and the complexity involved in doing so, may lead to heightened confusion and unintended economic uncertainty in the competitive energy market.

¹ The views expressed in these comments do not necessarily represent the positions of each of NEPGA’s members. In addition, nothing in these comments should be deemed to waive any rights that NEPGA or any of its members may have to challenge the administrative, procedural or substantive validity of the proposed regulations.

1. Motor Vehicle Emissions 310 CMR 7.71 (5)(b)

The comprehensive regulations have proposed to expand the definition of a motor vehicle to mandate that a facility report emissions for all vehicles used, including off-road vehicles. However, the newly proposed definition could be understood to include mandatory reporting on emissions from landscaping equipment, forklifts, or even the vehicles utilized by contractors and subcontractors providing services to the facility. Because the altered definition can be so broadly interpreted, the proposed change creates unnecessary confusion for reporters. Additionally, altering the definition to include off-road vehicles will create added costs for compliance entities that will ultimately raise consumer costs. Therefore, NEPGA requests that the comprehensive regulations retain the definition of a motor vehicle provided within the emergency regulations.

2. General Reporting Protocol 310 CMR 7.71 (5)(c)-(g)

Section 5 (c) of the regulations currently require facilities to report emissions consistent with the General Reporting Protocol ²(“GRP”). The subsequent language within Section 5, however, directs compliance entities to report using specific criteria not found within the requirements of the GRP. NEPGA believes that the additional criteria regarding data tiers and aggregate reporting within Section 5(d)-(g) will merely increase costs for reporters without creating any favorable effects for the Commonwealth.

The DEP regulations currently require that an entity report with a specified tier methodology unless the entity can provide rationale and documentation for reporting to a different tier. Requiring a facility to report to a specified tier or provide additional documentation, however, may be far too stringent and difficult to adhere to. Reporting to the highest tier will undoubtedly require expensive equipment and extensive amounts of time which may not be available to all compliance entities. Because extensive emissions data can be achieved through a number of reporting methodologies, NEPGA requests that the regulations remain consistent with the GRP and allow reporters to choose a suitable methodology tier when reporting.

NEPGA insists that the comprehensive regulations also consider adhering to the de minimus provisions of the GRP which allow for facilities owned and operated by the same entity to report in aggregation. Mandating that each facility estimate, report and verify emissions separately is far too burdensome for reporters.

3. Verification of Facility Reports

With regard to providing verification for emission reports, the DEP has interpreted that the GWSA directs compliance entities to provide verification. Because third-party verification would be too costly, NEPGA believes that the regulations should allow reporters to provide self-verification if entities have the ability to do so. As requested by NEPGA in prior comments, should the DEP adopt a different system of verification, facilities subject to emission reporting through the Regional Greenhouse Gas Initiative should be exempt from this process. RGGI

² Version 1.1 of The Climate Registry’s General Reporting Protocol (GRP). The GRP provides guidance to reporting entities on how to calculate and report greenhouse gas emissions to The Climate Registry.

Stacey H. DeGabriele

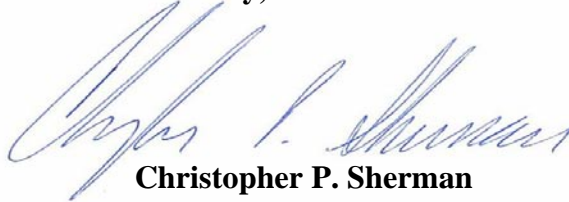
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compliance entities have previously been subject to extensive data reporting verified by third party sources.

NEPGA appreciates this opportunity and requests that the DEP consider its comments as submitted herein. Please contact me if I can provide any further information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris P. Sherman". The signature is written in a cursive, flowing style.

Christopher P. Sherman
General Counsel