



Province of Alberta

EMISSIONS MANAGEMENT AND
CLIMATE RESILIENCE ACT

**SPECIFIED GAS REPORTING
REGULATION**

Alberta Regulation 251/2004

With amendments up to and including Alberta Regulation 148/2019

Current as of January 1, 2020

Office Consolidation

© Published by Alberta Queen's Printer

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(Consolidated up to 148/2019)

ALBERTA REGULATION 251/2004

Emissions Management and Climate Resilience Act
SPECIFIED GAS REPORTING REGULATION

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Definitions

1 In this Regulation,

- (a) “Act” means the *Emissions Management and Climate Resilience Act*;
- (b) “Director” means a person who is designated by the Minister as the Director for the purposes of this Regulation;
- (c) “facility” means
 - (i) a plant, structure, thing or site, or
 - (ii) any 2 or more contiguous or adjacent plants, structures, things or sites
 - (A) that are operated and function in an integrated fashion, and
 - (B) for which the same person is the person responsible,

where one or more activities listed in any of sections 2 to 11 of the Schedule of Activities to the *Environmental Protection and Enhancement Act* occur, including all the buildings, equipment, structures, machinery and vehicles that are part of the activity or activities;

- (d) “person responsible” means
- (i) where the release of the specified gas occurs at a facility that is the subject of an approval or registration under the *Environmental Protection and Enhancement Act*, the holder of the approval or registration;
 - (ii) where the release of the specified gas occurs at any other facility, the owner of the facility;
- (e) “specified gas reporter” means a person responsible who submits a specified gas report under this Regulation;
- (f) “Standard” means the *Specified Gas Reporting Standard* published by the Minister’s Department, as amended or replaced from time to time.

AR 251/2004 s1;105/2015;133/2019;148/2019

Incorporation of Standard

2 Pursuant to section 62 of the Act, the *Specified Gas Reporting Standard* published by the Minister’s Department, as amended or replaced from time to time, is incorporated into and forms part of this Regulation.

AR 251/2004 s2;37/2010

Specified gas report

3(1) Where, in any calendar year commencing with the 2003 calendar year, a person releases or permits the release of a specified gas into the environment at a facility at or in excess of the level prescribed in the Standard, the person responsible for the facility shall submit a specified gas report in respect of the release.

(1.1) Where the *Carbon Competitiveness Incentive Regulation* applies to a facility but the person responsible for the facility is not required to submit a specified gas report under subsection (1), the person responsible for the facility shall submit a specified gas report in respect of the release of a specified gas into the environment at the facility.

(2) A specified gas report

- (a) must include the information respecting

- (i) the specified gas reporter,
- (ii) the facility to which the specified gas report relates,
- (iii) the release of specified gases from the facility,
- (iv) geologically injected CO₂, and
- (v) any other matter related to specified gases

that is required under the Standard,

- (a.1) must include any other information required by the Director,
- (b) must disclose
 - (i) the information referred to in clause (a) in the form and manner required under the Standard, and
 - (ii) the information referred to in clause (a.1) in the form and manner required by the Director,
- (c) must be submitted to the person specified in the Standard in the manner and within the time required under the Standard, and
- (d) must be accompanied by a certification statement that is in a form and contains the information required under the Standard.

(3) The information in a specified gas report respecting specified gas release and geologically injected CO₂ must be calculated or determined in the manner and using the methodologies, emission factors, equations and calculations set out in the Standard.

(4) A specified gas report may include any additional information related to specified gases that is provided for in the Standard.

AR 251/2004 s3;255/2017;96/2018

Record keeping

4 A specified gas reporter must retain all records, data and other information used in the preparation of a specified gas report for at least 3 years after the report is submitted under this Regulation.

Request for confidentiality

5(1) A specified gas report may include a written request by the specified gas reporter that portions of the report be kept confidential, for a period of up to 5 years, on the basis that the information is commercial, financial, scientific or technical

information that would reveal proprietary business, competitive or trade secret information about a specific facility, technology or corporate initiative.

(2) The Director shall have regard to the following when making a decision on a request under subsection (1):

- (a) whether disclosure of the portions of the report could reasonably be expected to harm significantly the competitive position of the specified gas reporter;
- (b) whether disclosure of the portions of the report could reasonably be expected to interfere significantly with the negotiating position of the specified gas reporter;
- (c) whether disclosure of the portions of the report could reasonably be expected to result in undue financial loss or gain to any person or organization;
- (d) the availability of the information in the portions of the report or the means to obtain the information from other public sources;
- (e) whether there are any other competing interests that would suggest that disclosure of the portions of the report is warranted.

(3) The Director may require a specified gas reporter to provide additional reasons, in writing, in support of the request under subsection (1).

(4) The Director shall

- (a) where the Director considers that the request is well founded, approve the request and order that the information in any portion of the report to which the request relates be kept confidential and not be disclosed for the period prescribed by the Director, or
- (b) refuse the request where the Director considers that the request is not well founded.

(5) The Director shall, in writing, notify the specified gas reporter of the Director's decision under subsection (4).

(6) The Director shall make a decision under subsection (4) within 90 days after receiving the request.

(7) Where the Director does not make a decision within the 90-day period, the request is deemed to have been refused.

(8) Where the Director is considering a request for confidentiality under this section, the information in the portions of the report to which the request relates is prescribed information for the purposes of section 59 of the Act until a decision is made.

(9) Where the Director makes an order under subsection (4)(a), the information that is the subject of the order is prescribed information for the purposes of section 59 of the Act for the period prescribed in the order.

AR 251/2004 s5;105/2015

Access to specified gas report

6(1) Within a reasonable time after receiving a request in writing to inspect a specified gas report the Director shall, except with respect to prescribed information within the meaning of section 5(8) and (9) and information that is the subject of an investigation or proceeding under the *Environmental Protection and Enhancement Act* or the *Water Act* or of enforcement proceedings under this Act,

- (a) make the report available for inspection by the person requesting it during normal business hours at the location where the report is kept, and
- (b) provide a copy of the report free of charge to the person requesting it.

(2) The Director may refuse to comply with subsection (1) unless the Director is satisfied that the person requesting the specified gas report has first made a request to obtain a copy of the report from the appropriate person responsible and that the request

- (a) was refused, or
- (b) was not satisfied within 30 days after the request for a copy of the report was made.

Publishing specified gas report

7 Subject to section 59 of the Act and any order made under section 5(4)(a) of this Regulation, the Director may publish a specified gas report or information in a specified gas report in any form and manner the Director considers appropriate.

AR 251/2004 s7;105/2015

Annual report to Information and Privacy Commissioner

8 The Director shall provide annually to the Information and Privacy Commissioner, in the form and manner the Director considers appropriate, a report setting out the following:

- (a) the number of requests received by the Director under section 5(1) in the year;
- (b) the number of requests approved by the Director under section 5(4)(a) in the year;
- (c) the period prescribed by the Director under section 5(4)(a) for each approved request.

Offence

9 A person responsible who

- (a) contravenes section 3(1) or (1.1),
- (b) submits a specified gas report that is not in compliance with section 3(2),
- (c) submits a specified gas report that is not in compliance with section 3(3), or
- (d) contravenes section 4,

is guilty of an offence and is liable to a fine of

- (e) not more than \$50 000, in the case of an individual, and
- (f) not more than \$500 000, in the case of a corporation.

AR 251/2004 s9;255/2017

Defence

10 No person may be convicted of an offence under this Regulation if that person establishes on a balance of probabilities

- (a) that the person took all reasonable steps to prevent the commission of the offence, or
- (b) that the emission data or other data reasonably available to that person was insufficient to allow compliance with the relevant provision in respect of any reporting period that pre-dates the coming into force of this Regulation.

Expiry

11 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2022.

AR 251/2004 s11;137/2014;226/2014;105/2015;254/2017

Coming into force

12 Clauses (c) and (d) of section 9 come into force on January 1, 2005.



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