

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

P2016-06

June 17, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

Section 1. Chapter 486A of NAC is hereby amended by adding thereto the provisions set forth as section 2 of this regulation.

Sec. 2. *“Reformulated gasoline” defined. “Reformulated gasoline” is defined as gasoline that meets the requirements for:*

1. Arizona Cleaner Burning Gasoline set forth in the provisions of 20 A.A.C. §§ R20-2-701 to R20-2-762, inclusive, of the Arizona Administrative Code and adopted by reference pursuant to NAC 486A.145; or

2. California Phase 3 reformulated gasoline set forth in the provisions of 13 C.C.R. §§ 2260 to 2276, inclusive, of the California Code of Regulations and adopted by reference pursuant to NAC 486A.145.

Sec. 3. NAC 486A.010 is hereby amended to read as follows:

NAC 486A.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 486A.015 to 486A.125, *and section 2 of this regulation*, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NAC 486A.015 is hereby amended to read as follows:

NAC 486A.015 “Alternative fuel” defined. “Alternative fuel” means:

1. Any M-85 fuel methanol that meets the requirements of NAC 590.052;
2. Any E-85 fuel ethanol that meets the requirements of NAC 590.053;
3. Natural gas;
4. Liquefied petroleum gas;
5. Any hydrogen that meets the requirements of NAC 590.054;
6. Electricity;
7. Any biodiesel fuel that:
 - (a) Contains diesel meeting the requirements of NAC 590.050; and
 - (b) Includes at least 5 percent by volume of biodiesel fuel blend stock for distillate fuels;
8. Any blend of ethanol and diesel fuel:
 - (a) Which contains:
 - (1) Any amount of diesel fuel meeting the requirements of NAC 590.050; and

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- (2) At least 5 percent by volume of ethanol; and
- (b) Which may include a proprietary additive;

9. ~~Any reformulated gasoline that meets the requirements for:~~

~~(a) Arizona Cleaner Burning Gasoline set forth in the provisions of 20 A.A.C. §§ R20-2-701 to R20-2-762, inclusive, of the Arizona Administrative Code and adopted by reference pursuant to NAC 486A.145; or~~

~~(b) California Phase 3 reformulated gasoline set forth in the provisions of 13 C.C.R. §§ 2260 to 2276, inclusive, of the California Code of Regulations and adopted by reference pursuant to NAC 486A.145; and]~~

Any renewable diesel that:

(a) If a part of a blend stock, contains diesel meeting the requirements of NAC 590.050; and

(b) Includes at least 99 percent by volume of renewable diesel blend stock for distillate fuels;

10. GDiesel; and

~~10.] 11.~~ Any other fuel designated as an alternative fuel by the Administrator of the Division of Environmental Protection of the Department pursuant to NAC 486A.140.

→The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410.

Sec. 5. NAC 486A.017 is hereby amended to read as follows:

NAC 486A.017 “Alternative fuel vehicle” defined. “Alternative fuel vehicle” means:

1. A bi-fueled motor vehicle, ~~[as defined in NRS 486A.040;]~~ *which is defined as any vehicle that can operate on either an alternative or conventional fuel, with separate tanks and fuel systems for each fuel;*
2. A dedicated alternative fuel motor vehicle, ~~[as defined in NRS 486A.060; or]~~ *which is defined as a vehicle that operates exclusively on an alternative fuel;*
3. A flexible fueled vehicle, ~~[as defined in NRS 486A.090.]~~ *which is defined as any vehicle designed to run on gasoline or gasoline-ethanol blends of up to 85 percent ethanol (E-85); or*
4. *Any vehicle running on an alternative fuel.*

Sec. 6. NAC 486A.045 is hereby amended to read as follows:

NAC 486A.045 “Clean vehicle” defined. “Clean vehicle” means: ~~[any motor vehicle which, based upon the manufacturer, model, model year, engine, type of fuel and transmission of the motor vehicle, has received a SmartWay or SmartWay Elite designation by the United States Environmental Protection Agency for motor vehicles which are intended for sale in this State and are listed as federal All Altitude vehicles under the applicable Certification Sales Region set forth in the “Green Vehicle Guide” published annually by the United States Environmental Protection Agency.]~~

1. A battery electric vehicle that uses high-capacity batteries to store electric energy to power the motor. Electric vehicle batteries are primarily charged by plugging the vehicle into an electrical outlet or charging station to charge;

2. A hybrid electric vehicle primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to an electrical outlet or charging station to charge;

3. A plug-in hybrid electric vehicle equipped with an internal combustion engine that runs on conventional or alternative fuel and an electric motor powered by high-capacity batteries that can be charged by plugging them into an electrical outlet or charging station;

4. A SmartWay or SmartWay Elite vehicle which, based upon the manufacturer, model, model year, engine, type of fuel and transmission of the motor vehicle, has received said designation by the United States Environmental Protection Agency for motor vehicles which are intended for sale in this State and are listed as federal All Altitude vehicles under the applicable Certification Sales Region set forth in the "Green Vehicle Guide" published annually by the United States Environmental Protection Agency; and

5. A vehicle that is equipped with a qualifying vehicle telematics system as determined by the Director. A qualifying vehicle telematics system must provide the necessary vehicle information that allows the operator of a fleet to identify excessive vehicle emissions, which may be addressed through operational changes or vehicle repairs.

Sec. 7. NAC 486A.145 is hereby amended to read as follows:

NAC 486A.145 Adoption by reference of certain provisions of Arizona Administrative Code and California Code of Regulations governing reformulated gasoline.

1. The provisions of the Arizona Administrative Code and the California Code of Regulations specified in ~~[subsection 9 of NAC 486A.015]~~ *section 2 of this regulation* are hereby adopted by reference as those provisions existed on July 22, 2010.

2. A copy of the provisions of:

(a) The Arizona Administrative Code specified in ~~[subsection 9 of NAC 486A.015]~~ *section 2 of this regulation* may be obtained from the Secretary of State, Public Services Division, 1700 West Washington Street, Phoenix, Arizona 85007, for the price of \$84, or free of charge at the Internet address www.azsos.gov.

(b) The California Code of Regulations specified in ~~[subsection 9 of NAC 486A.015]~~ *section 2 of this regulation* may be obtained by mail at the Thomson-West Group, Post Office Box 95767, Chicago, Illinois 60694, for the price of \$173, or free of charge at the Internet address <http://www.oal.ca.gov>.

Sec. 8. NAC 486A.160 is hereby amended to read as follows:

NAC 486A.160 Acquisition or replacement of vehicles to *alternative fuel vehicles and clean vehicles*~~[, hybrid electric vehicles or vehicles capable of using alternative fuel];~~
waivers.

1. Except as otherwise provided in subsection 3, at least ~~[90]~~ **20** percent of all motor vehicles acquired or replaced by the operator of a fleet during each fiscal year must consist of *alternative fuel vehicles or clean vehicles*~~[, hybrid electric vehicles or motor vehicles that are capable of using alternative fuel]~~. *For purposes of program compliance the acquisition of any one electric vehicle or plug-in hybrid electric vehicle will allow for the acquisition of one vehicle that is neither an alternative fuel vehicle nor a clean vehicle to count as a clean vehicle acquisition.*

2. If the number of vehicles purchased, leased or otherwise acquired by the operator of a fleet in any 1 year when multiplied by the percentage specified in subsection 1 contains a fraction, the number of vehicles required to be alternative fuel vehicles must be rounded off to the nearest whole number.

3. The Director may, upon prior approval by him or her, waive the requirements of subsection 1 for:

(a) ~~[m]~~ **M**otor vehicles that are transferred from one location to another location within the same state agency or local governing body~~[,];~~ *or*

(b) *A fleet that by the end of fiscal year 2017 uses reformulated gasoline in more than 80 percent of their regulated fleet, as determined by the Director, for a period not more than 36 months beginning with fiscal year 2018.*

Sec. 9. NAC 486A.180 is hereby amended to read as follows:

NAC 486A.180 Use of alternative fuel; reporting requirements.

1. An alternative fuel vehicle acquired in compliance with [NAC 486A.160](#) must be operated solely on an alternative fuel except:

(a) ~~[w]~~ **W**hen operating in an area where the appropriate alternative fuel is unavailable. ~~[The provisions of this subsection do not apply to a clean vehicle or hybrid electric vehicle.];~~ *or*

(b) *If the vehicle was originally purchased before the end of fiscal year 2017 to be operated with reformulated gasoline, that vehicle may use a conventional fuel for the remainder of that vehicle's life.*

2. Not later than 60 days after the end of each fiscal year, the operator of a fleet shall file a ~~[written]~~ report with the Director, on a form provided by the Director, which specifies for the immediately preceding fiscal year:

(a) The total number of motor vehicles included in the fleet of the operator and the total number of alternative fuel vehicles~~[,]~~ **and** clean vehicles ~~[and hybrid electric vehicles]~~ in that fleet;

(b) The total number of motor vehicles in the fleet of the operator purchased, leased or otherwise acquired and the total number of *alternative fuel vehicles and* clean vehicles~~[, hybrid electric vehicles and motor vehicles that are intended to be operated using an alternative fuel]~~
purchased, leased or otherwise acquired;

(c) For each motor vehicle included in paragraph (b):

(1) The vehicle identification number;

(2) The make, model and year of manufacture;

(3) The type of fuel used by the vehicle ~~[, if the motor vehicle is intended to be operated using an alternative fuel];~~ and

(4) A statement indicating whether the motor vehicle is an *alternative fuel vehicle or a clean vehicle* ~~[or hybrid electric vehicle]~~ and ~~[, if the motor vehicle is a clean vehicle, the SmartWay or SmartWay Elite designation for the clean vehicle]~~ *if so, what type of alternative fuel vehicle or clean vehicle;* and

(d) By type of motor vehicle:

(1) The total number of motor vehicles in the fleet of the operator that operate using an alternative fuel specified in [NAC 486A.015](#) or a conventional fuel; *and*

(2) The total amount by volume of each alternative fuel specified in [NAC 486A.015](#) *except for electricity* and each conventional fuel used in the fleet of the operator. ~~;~~ *and*

~~(3) The total annual mileage accumulated by all motor vehicles in the fleet of the operator that operate using an alternative fuel.~~

~~3. In addition to the provisions of subsection 2, the operator of a fleet shall provide to the Director:~~

~~(a) If the operator uses biodiesel fuel that is not blended in accordance with NAC 590.051 for the fleet, a copy of a bill of lading or other statement from the supplier of the biodiesel fuel indicating that the biodiesel fuel used for the fleet meets the requirements for biodiesel fuel set forth in NAC 486A.015; and~~

~~(b) On a form provided for that purpose by the Director, a statement setting forth the policies, procedures and internal controls established by the operator of the fleet to ensure compliance with the provisions of this subsection, including, without limitation, any policy, procedure or internal control which:~~

~~(1) Authorizes the use of fuel for the fleet solely from any storage tanks of the fleet which are supplied with alternative fuels;~~

~~(2) Prohibits the purchase of conventional fuels from a retailer;~~

~~(3) Sets forth the requirements for labeling motor vehicles for the use of alternative fuels or for training the operator in the use of alternative fuels;~~

~~(4) Sets forth the location of each dispenser for an alternative fuel that is available for use by the fleet; and~~

~~(5) Sets forth each geographic area in which an alternative fuel used by the fleet is not available.~~

~~4. For each report and any other information submitted pursuant to this section, the operator of the fleet or other appropriate person in the state agency or local governing body shall:~~

~~(a) Certify that, based upon all available information and a belief formed after a reasonable inquiry, the report or other information is true, accurate and complete;~~

~~(b) As soon as practicable after discovering any supplementary fact or corrected information required to comply with the provisions of this section, submit the fact or information to the Director; and~~

~~(c) Submit, in writing and within the period specified by the Director, any additional information required by the Director to carry out the provisions of this section.]~~

Sec. 10. NAC 486A.115 is hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 486A.115 “Hybrid electric vehicle” defined. “Hybrid electric vehicle” has the meaning ascribed to it in 40 C.F.R. § 86.1702-99.