

**REVISED PROPOSED REGULATION OF
THE STATE ENVIRONMENTAL COMMISSION**

LCB File No. R098-16

August 23, 2016

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

AUTHORITY: §§1-18, NRS 445B.210 and 486A.150.

A REGULATION relating to alternative fuels; revising the types of vehicles that constitute clean vehicles for the purposes of compliance with certain provisions governing alternative fuels; establishing a process for the designation of a qualifying vehicle telematics system; revising provisions requiring the acquisition or replacement of certain fleet vehicles with alternative fuel vehicles or clean vehicles; revising provisions limiting the operation of alternative fuel vehicles and requirements governing certain annual reports that must be filed with the Director of the State Department of Conservation and Natural Resources by certain operators of fleets; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Environmental Commission to adopt regulations necessary to carry out provisions relating to the use of alternative fuels and clean vehicles by fleets which are owned, leased or operated by a state agency or a local governing body. (NRS 486A.150) Existing regulations define a “clean vehicle” to mean a vehicle which has received certain designations by the United States Environmental Protection Agency. (NAC 486A.045)

Section 12 of this regulation adds certain renewable diesel fuels to the definition of “alternative fuel” and removes reformulated gasoline from that definition.

Sections 13 and 15 of this regulation revise the definitions of “alternative fuel vehicle” and “hybrid electric vehicle,” respectively.

Section 14 of this regulation adds battery electric vehicles, hybrid electric vehicles, plug-in hybrid electric vehicles and vehicles that are equipped with qualifying vehicle telematics systems to the definition of “clean vehicle.”

Section 10 of this regulation establishes the criteria and procedure by which the Director of the State Department of Conservation and Natural Resources may designate a vehicle telematics system as a qualifying vehicle telematics system to qualify the vehicle in which the system is installed for compliance with regulations requiring the use of clean vehicles.

Existing regulations require that at least 90 percent of all motor vehicles acquired or replaced by fleets operated by certain state agencies or local governing bodies must consist of clean vehicles, hybrid electric vehicles or motor vehicles that are capable of using alternative fuel. (NAC 486A.160) **Section 17** of this regulation revises this provision to: (1) reduce the requirement from at least 90 percent to at least 20 percent of those vehicles acquired or replaced; and (2) set forth conditions under which the Director may waive those requirements or deem the acquisition of a vehicle that does not otherwise comply to be the acquisition of a clean vehicle.

Existing regulations require certain alternative fuel vehicles to be operated solely on an alternative fuel except when operating in an area where the appropriate alternative fuel is unavailable. (NAC 486A.180) **Section 18** of this regulation revises this requirement to provide that if the alternative fuel vehicle was originally purchased before the end of Fiscal Year 2017 to be operated on reformulated gasoline, the vehicle may use a conventional fuel for the remainder of the useful life of the vehicle. **Section 18** also revises the contents of the annual report that the operator of a fleet must file with the Director.

Section 1. Chapter 486A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“Battery electric vehicle” means a vehicle that uses high-capacity batteries which store electric energy to power the motor and which are primarily charged by plugging the batteries into an electrical outlet or charging station.*

Sec. 3. *“Bi-fueled motor vehicle” means a vehicle that can operate on either an alternative or conventional fuel, with separate tanks and fuel systems for each type of fuel.*

Sec. 4. *“Dedicated alternative fuel motor vehicle” means a vehicle that operates exclusively on an alternative fuel.*

Sec. 5. *“Flexible fueled vehicle” means a vehicle that can operate on a gasoline-ethanol blend of 85 percent ethanol (E-85).*

Sec. 6. *“Plug-in hybrid electric vehicle” means a vehicle which is 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 the batteries into an electrical outlet or charging station.*

Sec. 7. *“Qualifying vehicle telematics system” means a vehicle telematics system which has received the designation from the Director described in section 10 of this regulation.*

Sec. 8. *“Reformulated gasoline” means any 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. 9. *“Vehicle telematics system” means a system that provides information relating to the emissions from a vehicle in which the system or a portion thereof is installed.*

Sec. 10. *1. The Director may designate a vehicle telematics system as a qualifying vehicle telematics system pursuant to this section. A person who wishes to have a vehicle telematics system designated as a qualifying vehicle telematics system must submit to the Director a written request which includes evidence that the vehicle telematics system complies with the requirements set forth in subsection 2.*

2. A vehicle telematics system designated as a qualifying vehicle telematics system by the Director must provide information that allows the operator of the fleet to which the vehicle belongs to:

(a) Identify excessive emissions from the vehicle; and

(b) Address those excessive emissions through repairs to, or changes in the operation of, the vehicle.

3. Not less than 30 days before a vehicle telematics system is designated as a qualifying vehicle telematics system pursuant to subsection 1, the Director shall provide a notice of intent to designate the vehicle telematics system as a qualifying vehicle telematics system to each person who has requested that his or her name be placed on a mailing list maintained by the Division of Environmental Protection of the Department for the purpose of providing that notice.

4. The Director shall:

(a) Maintain a list of each vehicle telematics system designated as a qualifying vehicle telematics system pursuant to subsection 1; and

(b) Make that list available for public inspection at the offices of the Division, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

Sec. 11. NAC 486A.010 is hereby amended to read as follows:

486A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 486A.015 to 486A.125, inclusive, *and sections 2 to 9, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 12. NAC 486A.015 is hereby amended to read as follows:

486A.015 “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
 - (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~~

~~—10.]~~ *renewable diesel fuel that:*

(a) Includes at least 20 percent by volume of renewable diesel blend stock for distillate fuels; and

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

10. GDiesel; and

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

486A.017 “Alternative fuel vehicle” means ~~[.]~~ *any of the following:*

1. A bi-fueled motor vehicle . ~~[, as defined in NRS 486A.040;]~~
2. A dedicated alternative fuel motor vehicle . ~~[, as defined in NRS 486A.060; or]~~
3. A flexible fueled vehicle . ~~[, as defined in NRS 486A.090.]~~
4. *Any other vehicle that can operate on an alternative fuel.*

Sec. 14. NAC 486A.045 is hereby amended to read as follows:

486A.045 “Clean vehicle” means any *of the following:*

1. *A battery electric vehicle.*
2. *A hybrid electric vehicle.*
3. *A plug-in hybrid electric vehicle.*

4. *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.

5. *A vehicle that is equipped with a qualifying vehicle telematics system.*

Sec. 15. NAC 486A.115 is hereby amended to read as follows:

486A.115 “Hybrid electric vehicle” ~~[has the meaning ascribed to it in 40 C.F.R. § 86.1702-99.]~~ *means a vehicle which is 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 which is charged by regenerative braking and the internal combustion engine and which is not charged by means of an electrical outlet or charging station.*

Sec. 16. NAC 486A.145 is hereby amended to read as follows:

486A.145 1. The provisions of the Arizona Administrative Code and the California Code of Regulations specified in ~~[subsection 9 of NAC 486A.015]~~ *section 8 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]~~ *1 of section 8 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]~~ **2 of section 8 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. 17. NAC 486A.160 is hereby amended to read as follows:

486A.160 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 the purposes of determining compliance with this subsection, the Director will deem the acquisition of a vehicle that is neither an alternative fuel vehicle nor a clean vehicle to be the acquisition of a clean vehicle if that acquisition is offset by the acquisition of any one battery electric vehicle or plug-in hybrid electric vehicle.***

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 ~~[motor]~~ :

(a) Motor 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 the fleet, as determined by the Director, for a period of not more than 36 months beginning with Fiscal Year 2018.

Sec. 18. NAC 486A.180 is hereby amended to read as follows:

486A.180 1. An alternative fuel vehicle acquired in compliance with NAC 486A.160 must be operated solely on an alternative fuel except ~~[when]~~ :

(a) When 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 alternative fuel vehicle was originally purchased before the end of Fiscal Year 2017 to be operated on reformulated gasoline, the vehicle may use a conventional fuel for the remainder of the useful life of the vehicle.

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;]~~ *that were 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 ~~a~~ *an alternative fuel vehicle or clean vehicle* ~~or hybrid electric vehicle~~ and, if ~~the motor vehicle is a clean vehicle, the SmartWay or SmartWay Elite designation for the~~ *so, the type of alternative fuel vehicle, as set forth in subsections 1, 2 and 3 of NAC 486A.017, or clean vehicle* ~~;~~ *;* ~~as set forth in NAC 486A.045;~~ 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.]~~