

Permanent Regulation - Informational Statement

A Regulation Relating to Air Quality

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC) LCB File No: R098-16

Regulation R098-16:

Nevada Revised Statutes (NRS) 486A.150 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to carry out the provisions of this chapter, including standards for alternative fuels, specifications for and acquisition requirements for clean vehicles and alternative fuel vehicles, and other related matters.

SPECIFIC CHANGES:

The Nevada Division of Environmental Protection's (NDEP) adopted regulation amendments update and modernize the alternative fuels in fleets program (NAC 486A) to reflect changes in alternative and conventional fuels, and in new clean vehicle technologies available to regulated fleets.

The amendments:

- Eliminate the requirement that gasoline-powered vehicles acquired before 2017 run reformulated gasoline (RFG). A change in federal fuel standards that takes effect in 2017 will require all gasoline sold in Nevada to meet the same standards as California Phase 3 reformulated gasoline, which along with the similar Arizona Cleaner Burning Gasoline formulation is the only RFG available in this region. In effect, the conventional gasoline that will be required to be sold in every state will equal the highest emission-reduction standards in the world by federal mandate; there will be no cleaner alternative for gasoline-powered engines.
- Eliminate California Phase 3 reformulated gasoline and Arizona Cleaner Burning Gasoline from the list of Alternative Fuels because the same formulation will become conventional gasoline nationwide.
- Lower the percentage of new vehicles acquired by regulated fleets that must be alternative fuel vehicles from the current 90% to 20%. This change will serve as a "reset" to the program. It aligns the acquisition percentage requirement to reflect the percentage of vehicles some fleets in the program typically purchase that are gasoline-powered (up to 80%). It constitutes a fresh benchmark that can be strengthened as new low-emission technologies are developed by the

automotive industry and adopted by fleets, such as battery electric and plug-in electric vehicles. It is particularly important for these technologies to be given time to be developed for the types of vehicles that state and local agency fleets usually purchase (pickups, vans, SUVs, and all-wheel drive vehicles).

- Incentivize the acquisition of battery electric and plug-in hybrid electric vehicles by allowing for the acquisition of a non-qualifying vehicle for every battery electric and plug-in hybrid electric vehicle acquired.
- Amend the definition of “Clean Vehicle” to include hybrid electric, plug-in hybrid electric, battery electric vehicles, and SmartWay and SmartWay Elite vehicles. This definition change is needed so that new low emission vehicle technologies are recognized and accounted for under the program.
- Amend the definition of “Clean Vehicle” to also include vehicles that are equipped with and utilize a vehicle telematics system. This telemetry device and associated software allows fleet managers to monitor vehicle systems and usage in a manner that reduces emissions. For example, it alerts the fleet manager when a vehicle’s emission system is not functioning correctly and needs to be repaired or can be used to flag excessive idling.
- Add two alternative formulations of diesel fuel to the list of allowable alternative fuels. GDiesel is a Nevada-refined product that has been an allowable alternative fuel by action of the Administrator under NAC 486A.140 since 2012; Renewable Diesel is a low carbon diesel fuel that has recently become available in our region.
- Simplify fleet reporting requirements by removing unnecessary information and certification, but still retaining the enforcement authority necessary to fulfill the mission of the program.

1. Need for Regulation:

The amendments realign the program with changes in alternative and conventional fuels and in new clean vehicle technologies available to regulated fleets in a manner that will permit the fleets to adopt these technologies and have viable options for compliance, while assuring that fuel and vehicles with lower emissions are being used.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On June 8, 2016 NDEP conducted a public workshop on proposed regulation R098-16. The workshop was held in Carson City and teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Great Basin Conference Room) and teleconferenced to the NDEP office, located at 2030 East Flamingo Road, Suite 230.

Twenty-two (22) members of the public attended the workshop.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: http://www.sec.nv.gov/main/hearing_1016.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 12, 2016 at the Bryan Building Tahoe Conference room located at 901 South Carson Street, Carson City. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R098-16 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Air Quality Planning electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1016.htm .

3. The number of persons who attended the SEC Regulatory Hearing:

(a) Attended October 12, 2016 hearing: 18 (approximately)

(b) Testified on this Petition at the hearing: 1

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(c) Submitted to the agency written comments: 2

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4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through e-mail, a public workshop and at the October 12, 2016 SEC hearing as noted in number 2 above.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted without change because the public was satisfied with the proposed amendments.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry. This regulation does not regulate private businesses or industry and has no economic impact on small businesses.

Public. The regulation will likely provide a small economic benefit to the public because public fleets will no longer have to import RFG into the State at a considerable price premium.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency. There will be no economic impact on NDEP.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulation does not overlap any other State or federal regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is no more stringent than what is established by federal law.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not address fees.