



**Summary Minutes of the
STATE ENVIRONMENTAL COMMISSION (SEC)**

Meeting of October 12, 2016 10:00 AM

Bryan Building
901 S Stewart St., 2nd Floor
Carson City, NV
Teleconferenced to Las Vegas, NDEP Building
2030 E. Flamingo Rd. Suite 230

Members Present:

E. Jim Gans, Chairman
Tom Porta, Vice Chairman
Mark Turner
Cary Richardson
Kathryn Landreth
Rich Perry
Jim Barbee
Tony Wasley
Jason King

Members Absent:

Joe Freeland

SEC Staff Present:

Henna Rasul, SEC/DAG
Valerie King, Executive Secretary
Misti Gower, Recording Secretary

**Members of the Public that addressed
the Commission:**

David Sharp
Starla Lacy
David Johnson
Norma Havens

BEGIN SUMMARY MINUTES

1) Call to order, Roll Call, Establish Quorum: (Discussion) The meeting was called to order at 10:08 am by Chairman Jim Gans. Mr. Gans commented on the fact that this particular Commission is one of the strongest commissions he has ever served on. The membership of the commission is extraordinary and the State of Nevada should be proud.

Ms. King, the Executive Secretary, confirmed the hearing was properly noticed and that a quorum was present.

2) Public Comments: (Discussion) Chairman Gans called for public comment.

David Sharp, from Las Vegas, came forward to offer comments to the Commission. Mr. Sharp spoke about the importance of renewable energy resources and electric car recharging stations. Mr. Sharp's comments were difficult to transcribe due to echoing on the recording.

3) Approval of the minutes for the February 10, 2016 SEC meetings: (Action Item) Chairman Gans requested comments from the Commission on the February meeting minutes. Commissioner King noted that on page 5 in the first paragraph the date should read 1950's, not 1050's.

Commissioner Landreth moved to approve the minutes as corrected and Commissioner Turner seconded. The minutes were unanimously approved.

4) Alternative Fuel Waiver for the City of North Las Vegas: (Action Item) Mr. Mike Hudgeons, with the City of Las Vegas, stated the primary reason for the request for a waiver is financial hardship and unavailability of alternative fuel options.

Mr. Sig Jaunarajs, branch supervisor in Air Quality Planning, informed the Commission that NDEP objected to the request. Mr. Jaunarajs stated that the City of Las Vegas has had difficulty complying because they have not invested in the fueling infrastructure that would allow them to maintain compliance. NDEP recognizes that it is expensive to put in alternative fuel infrastructure, but should this petition be granted, NDEP would expect the City of Las Vegas to commit and budget for it.

Chairman Gans asked if agenda item 8 would affect the variance. Mr. Jaunarajs stated that if agenda item 8 is approved, it will change the way the fleet will comply. They will not need to build fueling infrastructure but will have to develop a compliance plan.

Commissioner Perry suggested that this item be deferred until the next meeting due to possible impacts from the outcome of agenda item 8.

Motion: Commissioner Barbee moved to table the item until the November 16, 2016 meeting. Commissioner King seconded. The motion was unanimously approved.

5) R091-16: Bureau of Waste Management: (Action Item) Mr. Jim Trent, supervisor in the Bureau of Waste Management, addressed the Commission. Mr. Trent stated that the bureau is proposing to make minor, but necessary corrections, clarifications and updates to the states hazardous waste regulation. No negative economic impact, no increased regulatory burden and no change to hazardous waste management practices are expected from the proposed revisions.

In order to remain consistent with federal regulations, Nevada is required to update its State regulations in response to changes made at the federal level. Mr. Trent explained each of the proposed changes and answered questions from the Commission.

Motion: Commissioner Landreth moved to adopt regulation R091-16. Commissioner Richardson seconded the motion. It passed unanimously.

6) R084-16 Bureau of Air Quality Planning & Bureau of Air Pollution Control: (Action Item) Mr. Jeff Kinder, Air Pollution Control Bureau Chief, and Danilo Dragoni, Chief of Air Quality Planning, presented the regulatory petition. Mr. Kinder stated this is a routine update to NAC445B.221 which allows NDEP to continue to be the permitting authority for stationary sources in the state of Nevada. There is no added economic impact as a result of the update. The regulations do not overlap, duplicate or conflict with any other regulations. There were no questions from the public at any of the workshops held.

Motion: Commissioner King moved to adopt regulation R084-16. Commissioner Barbee seconded the motion. It passed unanimously.

7) R085-16 Bureau of Air Quality Planning & Bureau of Air Pollution Control: (Action Item) Mr. Jeff Kinder, Air Pollution Control Bureau Chief, and Mr. Danilo Dragoni, Chief of Air Quality Planning, presented the regulatory petition ([Attachment 1](#)). The petition is to reform the Class II, Class III and Class IV operating permit provisions in an effort to streamline the Air Quality operating permit program and align the resources spent on permit applications. The Air Program currently requires an operating permit for any stationary source. There are currently four different permitting programs with 1,000 permitted facilities. This petition will revise the definition of the Class II stationary sources by establishing a threshold whereby a permit will no longer be required. Those sources will still be subject to air quality regulations and applicable federal regulations. NDEP will no longer go through the step of adding an additional permit on top of the existing regulations. NDEP will continue to work with the facilities to make sure they understand and meet all the requirements via an outreach program.

Mr. Dragoni explained to the Commission that the new emission thresholds were established using different modeling exercises and historical data. NDEP has been working on the changes for over a year.

Commissioner Perry had questions and stated that the changes make great economic sense and are still protective of the environment.

Mr. Kinder stated that, as a result of the modeling that was done, NDEP is confident the changes will be protective of the Nevada and the National Ambient Air Quality Standards. He also believes that through outreach, NDEP will get a better level of compliance with small businesses.

Chairman Gans asked for public comment. In Las Vegas, Starla Lacy with NV Energy stated that NV Energy supports the adoption of the regulation.

Motion: Vice Chairman Porta moved to adopt regulation R085-16. Commissioner Perry seconded the motion. It passed unanimously.

8) R098-16 Bureau of Air Quality Planning: (Action Item) Mr. Danilo Dragoni, Chief of Air Quality Planning, and Mr. Jaunarajs presented the regulatory petition ([Attachment 2](#)). Mr. Jaunarajs explained that the program was created to help get counties into compliance and is unique to Nevada. NDEP has recognized for some time that NAC 486A is behind the developments in cleaner conventional fuels and clean vehicle technology. Federal emissions standards for motor vehicles have become stricter and as a result, we now have cleaner conventional gasoline and diesel fuels.

A change in federal fuel standards that takes effect in 2017 will require all gasoline sold in the US to meet the same standards as reformulated gasoline. The federal government is adopting the same standards that California has been using for some time.

Commissioner Perry asked about the difference in standard gasoline and reformulated gasoline (RFG). Mr. Jaunarajs explained that RFG has physical and chemical properties that are adjusted in a way to lower emissions. It requires extra steps in the refining process and is one of the reasons California fuel costs more.

Because of this change, fleets that have had to purchase fuel from California will now be able to purchase the fuel in Nevada. As a result, NDEP is proposing a reset to the program. Mr. Jaunarajs explained the proposed updates of the program to the Commission.

Mr. Dragoni explained that workshops were held with the regulated entities in both Washoe and Clark Counties. The proposed changes are a culmination of nearly a year's worth of work and preparation.

After further discussion with the Commission, Chairman Gans asked for public comment. Mr. David Johnson, with Clark County Automotive in Las Vegas, came forward to support the plan. Norma Haven, USA Fleet Solutions in Carson City, provided comment. Ms. Haven spoke about telematics and answered questions asked by the Commission.

Motion: Commissioner Perry moved to adopt regulation R098-16. Commissioner Turner seconded the motion. It passed unanimously.

9) R106-16 Bureau of Corrective Action: (Action Item) Mr. Jonathan McRae, supervisor of the Underground Storage Tank Program presented the regulatory petition. The petition is in response to new federal regulations. The proposed regulation will help prevent fuel releases from approximately 1,300 facilities with a total of approximately 3,800 underground storage tanks in Nevada. Implementation of these regulations will support early detection of fuel releases which will potentially lower the cost of soil and ground water cleanups, in addition to reducing the number of gas stations seeking cost recovery from the State of Nevada Petroleum Fund. Mr. McRae explained the provisions of the original 1988 requirements that will be changed by this regulation update ([Attachment 3](#)).

NDEP engaged the public by holding three stakeholder meetings. The stakeholder meetings were held in Las Vegas, Elko and Reno. Comments were also solicited from over 550 certified environmental managers, certified underground tank handlers and certified underground tank testers. In addition, NDEP held 2 public workshops in Las Vegas and Carson City.

There will be no state-added economic impact to small businesses. The rules that were codified in July of 2015 are federal requirements that the regulated business and industry must comply with regardless of NDEP implementing them. Industry prefers that NDEP implement the federal rules since NDEP already has a working relationship with industry.

Mr. Jeff Collins, Bureau Chief of Corrective Actions, explained the proposed changes and how they would affect Nevada owners and operators ([Attachment 4](#)). He also explained the costs associated with the Petroleum Fund. NDEP believes that the regulations will reduce the size of a spill and consequently, the cost of the cleanup. There will be a cost to gas stations owners to implement the regulations. NDEP conducted a preliminary investigation to better understand if gas stations need to update their systems, and if so, what the cost will be. The estimated cost for someone out of compliance in a rural area is approximately \$50,000 to \$80,000. For a new station, the cost is estimated to be approximately \$10,000 to implement the regulation. Very importantly, the cost will potentially prevent a release that could cost \$650,000 - \$1,000,000 to clean up. Using the Petroleum Fund as a revenue source, the owner would be required to pay 10% of the costs, or \$65,000 - \$100,000 per release.

The reason NDEP is requesting adoption of these regulations so quickly after the federal adoption is to give the owners at least 2 years to come into compliance. Industry has been aware of the requirements since July 2015.

Mr. Emme commented that a concern from industry is the fact that rural gas stations could go out of business. NDEP has been working with industry over the past few months to draft a bill draft request that would provide a need-based financial assistance program using the existing Petroleum Fund.

After further discussion and no public comment, Chairman Gans asked for a motion.

Motion: Commissioner Landreth moved to adopt regulation R106-16. Commissioner King seconded the motion. It passed unanimously.

Commissioner Barbee and Commissioner Wasley left the meeting after agenda item 9 at 12:35 pm.

10) R123-16 Bureau of Corrective Actions: (Action Item) Ms. Rebecca Bodnar, supervisor of the Certification Program in Corrective Actions, and Mr. Jeff Collins presented the regulatory petition. Ms. Bodnar stated that the purpose of the certification program is to insure consultants and contractors possess the proper education and training to provide their services for a fee in Nevada. Currently the program certifies Environmental Managers, Underground Storage Tank Handler and Underground Storage Tank Testers. Ms. Bodnar explained the proposed changes to the regulation. Comments were solicited and public meetings were held with no questions or public comments.

After further discussion and no public comment, Chairman Gans asked for a motion.

Motion: Commissioner King moved to adopt regulation R123-16. Vice Chairman Porta seconded the motion. It passed unanimously.

11) Administrator's Briefing to the Commission: (Discussion) NDEP Administrator, Dave Emme, briefed the Commission. He explained management changes within NDEP, including the retirement of Kathy Sertic and Paul Comba replacing her as the Bureau Chief of Water Quality Planning.

Mr. Emme also informed the Commission on the Volkswagen (VW) Settlement. VW put software devices on the vehicles from 2009 to 2016 which prompted EPA to file a lawsuit. A settlement was reached amounting to nearly \$15 Billion. Most of the money is for the consumer and the recall action. However \$2.7 Billion will go into a mitigation trust. Nevada's allocation is \$27 Million. The idea is to use the money to replace diesel engines with cleaner ones to reduce emissions. There is still a process to go through and the settlement has received lots of publicity.

The Commission was informed that Director Leo Drozdoff retired. Deputy Director Kay Scherer is the interim Director until a new Director is appointed.

Vice Chairman Porta asked about the Anaconda site in Yerington and the Superfund listing. Mr. Emme stated that the schedule is to have a final listing sometime in March. In recent months NDEP has been in discussion with Atlantic Richfield. They are negotiating the possibility of payment towards the cleanup. NDEP is continuing to work in this direction.

Mr. Emme also answered questions regarding regulation changes, upcoming legislation and bill draft requests.

9) Public Comment: (Discussion) Chairman Gans asked for public comments. Hearing none, he asked when the next SEC meeting is scheduled. Ms. King stated the next meeting is scheduled for November 16, 2016.

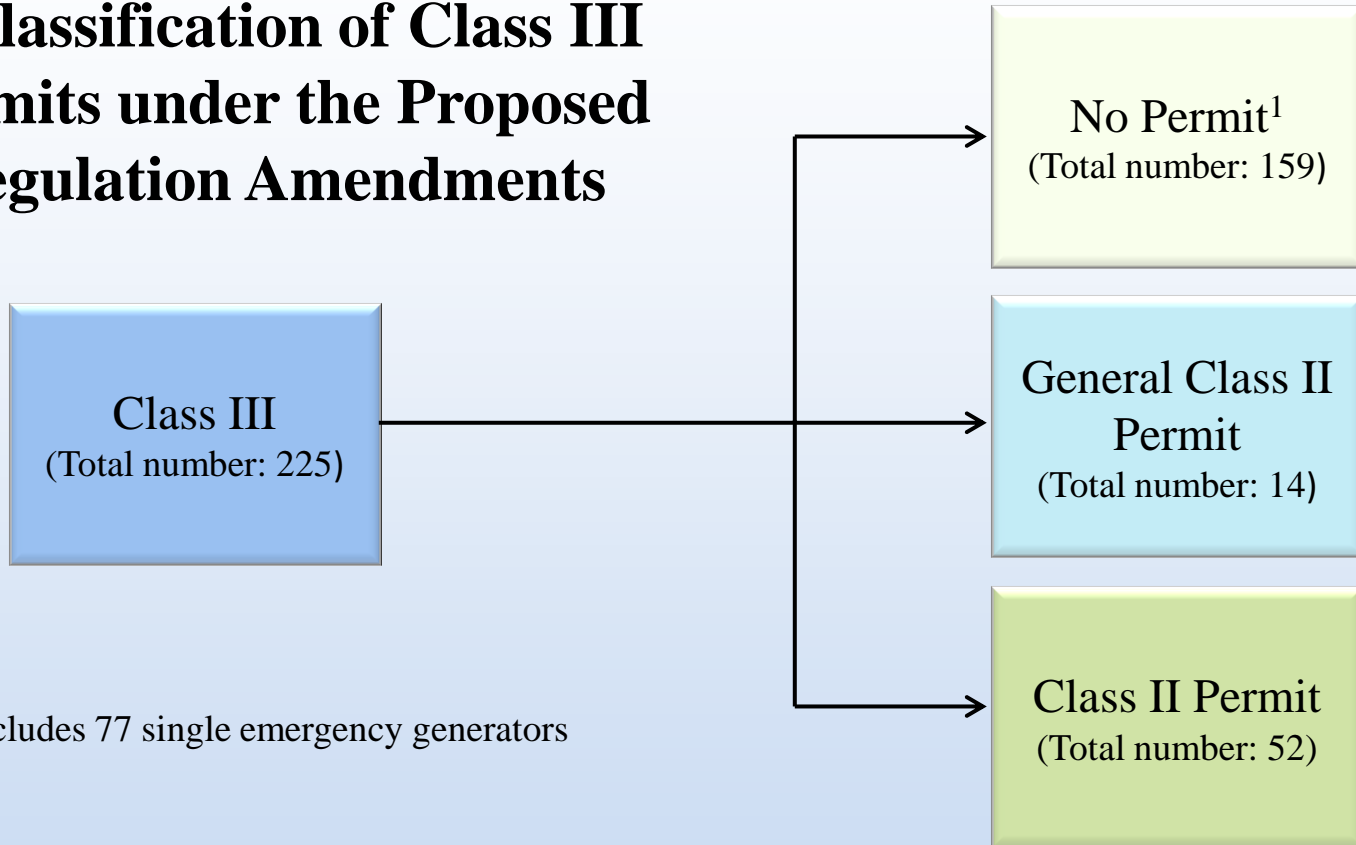
10) Adjournment: (Discussion) Meeting was adjourned at 12:53 pm

The audio recording of this meeting is available at http://sec.nv.gov/main/hearing_1016.htm .

Attachment 1



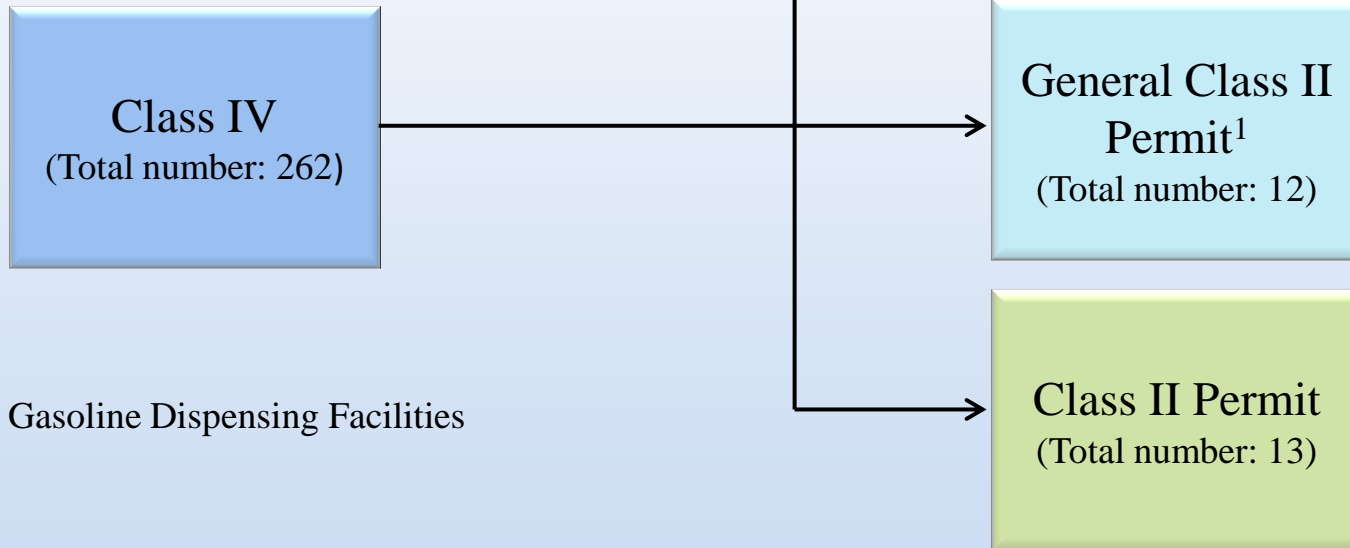
Reclassification of Class III Permits under the Proposed Regulation Amendments



¹This includes 77 single emergency generators



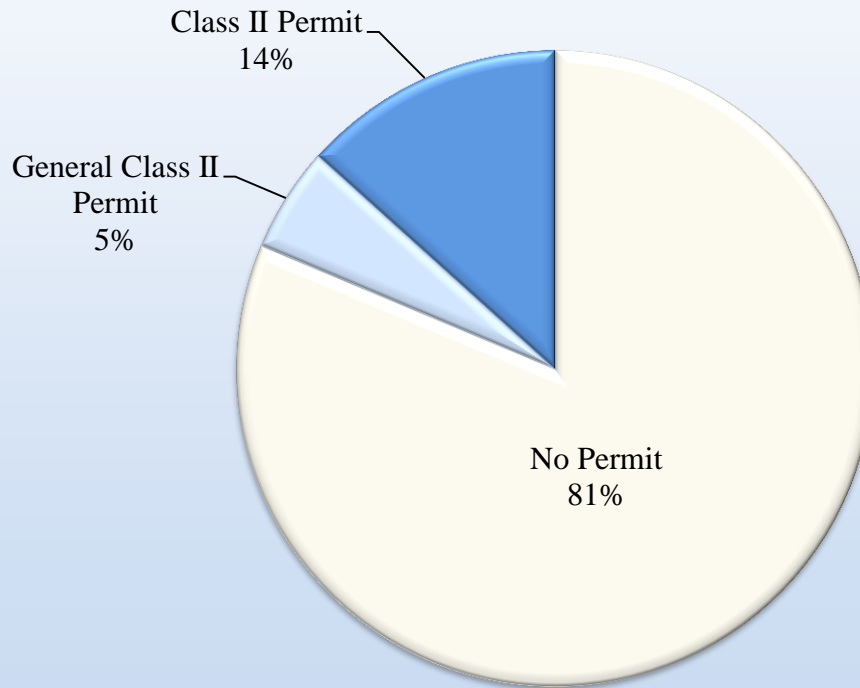
Reclassification of Class IV Permits under the Proposed Regulation Amendments



¹Largest Gasoline Dispensing Facilities



Reclassification of Class III and IV Permits under the Proposed Regulation Amendments



Attachment 2



Nevada Division of Environmental Protection
Bureau of Air Quality Planning

Proposed Amendments to
Nevada Administrative Code Chapter 486A
FLEETS: USE OF ALTERNATIVE FUELS




State Environmental Commission Hearing - October 12, 2016



Nevada Alternative Fuels in Fleets Program (NAC 486A)

- Created by NV Legislature in 1991 for air quality
- Applies to 21 state & local gov. fleets that have 50 vehicles or greater based in Clark or Washoe County
- Includes school districts, transit fleets, city and county general services, and universities
- Requires 90% of new vehicles to be alt. fuel

 Law enforcement, fire & emergency exempted

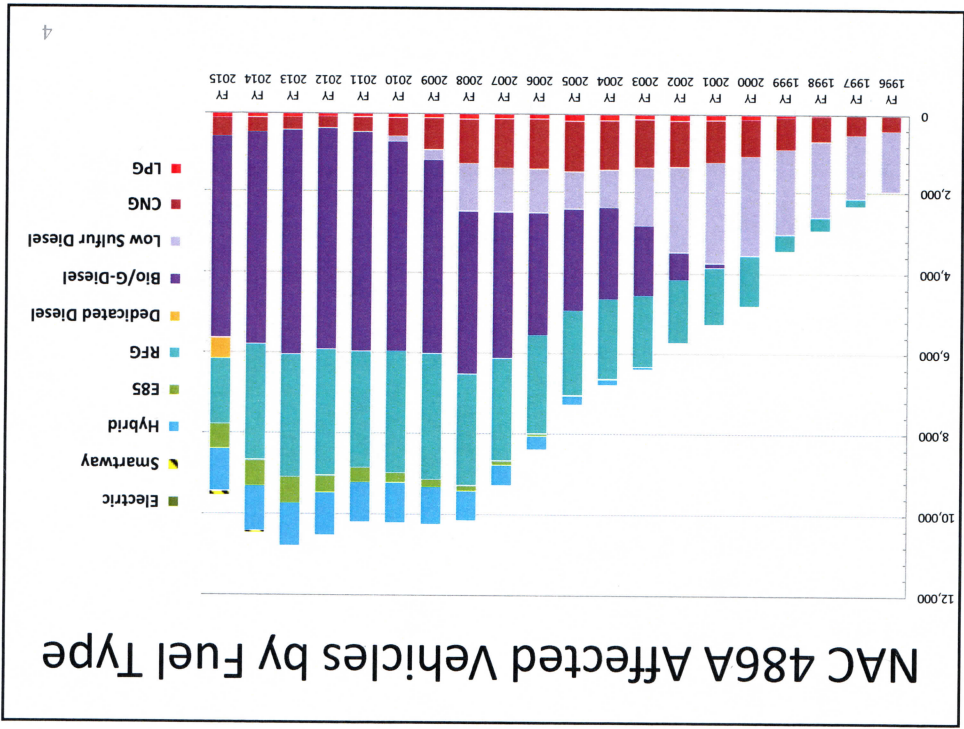
Nevada Alternative Fuels in Fleets Program (NAC 486A)

Currently allowable fuel types:



- Also allow hybrids and EPA SmartWay 
- Annual reports on fuel use and vehicle acquisitions 

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NAC 486A has been out-of-step with developments in cleaner conventional fuels and clean vehicle technology

- Stricter federal emission standards for new light-duty and heavy-duty motor vehicles
- Cleaner conventional gasoline and diesel fuels mandated by federal regulation
- Program has attempted to adapt by allowing hybrid and SmartWay vehicle technology, even though these vehicles use conventional gasoline



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Issue with Reformulated Gasoline

- A change in federal fuel standards that takes effect in 2017 will require all gasoline sold in the U.S. to meet the same standards as California Phase 3 reformulated gasoline (RFG)
- The conventional gasoline that will be required to be sold in NV and every state will by federal mandate equal the highest emission-reduction standards in the world; there will be no cleaner alternative for gasoline-powered engines.



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NDEP is Proposing a "Reset" of the NAC 486A Program

- The intent is to modernize the program and bring it in line with current technology and fuel standards
- Redirect efforts toward achieving the Legislative goal of reducing emissions from public fleets



A "Reset" of NAC 486A Would:

- Emphasize traditional alternative fuels in place of RFG, which will now be the standard gasoline fuel
- Adjust the acquisition percentage to establish a more practical goal for alternative fuel fleet makeup
- Provide incentives for battery electric and plug-in electric hybrids; likely the next major trend in clean vehicle technology



The "Reset" includes these Changes:

★ Significant Change

▲ Minor Change

- ★ Eliminate RFG as an alternative fuel
- ▲ Grandfathering in existing RFG vehicles
- ★ Change required acquisition percentage from current 90% to 20%
- ▲ Revise reporting requirements
- ▲ Add two diesel alternative fuels
- ▲ Provide incentives for battery electric and plug-in hybrid electric vehicle acquisitions
- ▲ Update and expand the definition of Clean Vehicle



Nothing proposed will negatively impact air quality

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Why change the acquisition percentage from the current 90% to 20% ?

- Most fleets would have difficulty making the 90% requirement without RFG. Several fleets have a very high percentage of RFG vehicles (up to 100%) and will have difficulty complying with any alternative fuel acquisition percentage. 20% was deemed a practical compromise.
- Acquisition percentage could be increased above 20% in future years if alternative fuel options and availability increase.



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Air Quality Planning Prospective

- Fleet wide emissions will at least remain the same since all gasoline-powered vehicles in the fleets will still use RFG (now the conventional gasoline)
- The addition of zero-emission vehicle types and related incentives may produce a beneficial effect on fleet emissions and air quality.
- The role of the NAC 486A program is still limited but this 'reset' may align it with broader State strategies and market tendencies.



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Workshop and Outreach Efforts

- Meetings with regulated entities concerning changes to NAC 486A began in March 2016
- Meetings were held with both Washoe and Clark county fleet managers
- Workshop was held June 8, 2016
- Meetings with fleets were held after the workshop to resolve fleet concerns
- Culmination of nearly a year's worth of meetings with stakeholders
- These proposed changes are the result of that effort



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Attachment 3

Nevada Underground Storage Tank Release Prevention Regulatory History

- Original Federal UST regulations promulgated in 1988.
 - Adopted by reference in NRS 459.800 in 1989 and in NAC 459.900 in 1990.
 - Emergency power generators, airport hydrant systems and field-constructed tanks were granted deferrals.

- The Energy Policy Act of 2005
 - Required major changes be made to state and federal UST programs, and was aimed at reducing UST releases to the environment.
 - Included provisions regarding tank system compliance inspections, gas station operator training, fuel delivery prohibition, tank system secondary containment, financial responsibility (insurance), and cleanup of releases that contain oxygenated fuel additives.
 - Adopted by reference in NAC 459.900 in 2008.

- New Federal UST regulations promulgated in July 2015 (proposed for adoption today by NDEP).
 - Incorporates the requirements of the Energy Policy Act adopted by NDEP in 2008.
 - Secondary Containment requirements
 - Operator Training requirements
 - Includes previously deferred emergency power generators, airport hydrant systems and field-constructed tanks into regulation.
 - Adds periodic operation and maintenance requirements.
 - Adds requirements for fuel compatibility with equipment.
 - Regulates gas stations in Indian Country (EPA not the State).
 - Requires Class A, B, and C operators for gas stations and associated training programs.
 - Includes criteria for states to obtain state program approval through the EPA.
 - Updates regulation references to industry codes of practice.
 - Required to be implemented by October 2018

Attachment 4

Benefit for Owner/Operators and the State of Nevada

- 1,342 State Petroleum Fund cases have been provided funding since 1989.
- From 2010 through 2016, the Petroleum Fund has reimbursed approximately \$58 million in claims (\$8.3 million per year on average).
- Average State Petroleum Fund money spent per soil-only case is \$200,000.
 - Owner/operator is responsible for a 10% co-pay.
- Average State Petroleum Fund money spent per groundwater case is \$650,000.
 - Owner/operator is responsible for a 10% co-pay.
- Up to 30% of the cases from 2010 through 2016 have involved groundwater contamination.
- The cost estimated for each gas station to come into compliance with the new regulations ranges from \$50,000 to \$80,000.
- For an investment of \$50,000 to \$80,000, significant soil and groundwater cleanup costs ranging from \$200,000 to \$650,000 could be avoided, because the new regulations will allow the station owner to identify the release more quickly. More importantly, the new regulations will reduce the total number of releases due to the required system upgrades and new compliance monitoring.
- Owner/operators could save between \$20,000 and \$65,000 (10% co-pay) by avoiding cleanups associated with releases from their tank systems.
- If the majority of groundwater remediation cases can be eliminated because of the new regulations, the Petroleum Fund and State could save approximately \$2 to \$2.5 million per year.