

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R062-23

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

AUTHORITY: §§ 1 and 2, NRS 445B.210.

A REGULATION relating to motor vehicle fleets; repealing provisions relating to the use of alternative fuels in certain fleets of motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Senate Bill No. 42 (S.B. 42) of the 2019 Legislative Session repealed provisions of chapter 486A of NRS relating to the use of alternative fuels in certain public fleets of motor vehicles in counties whose population is 100,000 or more (currently only Clark and Washoe Counties). (Section 2 of Senate Bill No. 42, chapter 197, Statutes of Nevada 2019, at page 1061) Consistent with the changes made by S.B. 42, **section 2** of this regulation repeals certain obsolete regulations relating to the use of alternative fuels. **Section 1** of this regulation makes a conforming change to eliminate an obsolete reference to the Nevada Revised Statutes.

Section 1. NAC 445B.877 is hereby amended to read as follows:

445B.877 1. “Appellant” means any person:

(a) Except as otherwise provided in subsection 2, who requests a hearing before the Commission, pursuant to chapter 278, 444, 444A, 445A, 445B, 459 ~~486A~~ or 519A of NRS or the Commission’s regulations concerning the control of air or water pollution or the management of solid waste; or

(b) Whose appearance before the Commission is required by:

(1) The Director;

(2) An authorized representative of the Director; or

(3) A person who is designated by or pursuant to a county or city ordinance or a regional agreement or regulation to enforce local ordinances or regulations for the control of air pollution.

2. The term does not include a person who appeals a decision of the Administrator of the Division of Environmental Protection pursuant to NAC 445A.997 or 459.9997.

Sec. 2. NAC 486A.010, 486A.015, 486A.017, 486A.021, 486A.023, 486A.045, 486A.050, 486A.055, 486A.065, 486A.071, 486A.080, 486A.090, 486A.100, 486A.102, 486A.104, 486A.110, 486A.115, 486A.120, 486A.122, 486A.123, 486A.124, 486A.125, 486A.130, 486A.135, 486A.140, 486A.143, 486A.145, 486A.150, 486A.160, 486A.180, 486A.190, 486A.200, 486A.210, 486A.220, 486A.230, 486A.240 and 486A.250 are hereby repealed.

TEXT OF REPEALED SECTIONS

486A.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 486A.015 to 486A.130, inclusive, have the meanings ascribed to them in those sections.

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

486A.017 “Alternative fuel vehicle” defined. “Alternative fuel vehicle” means any of the following:

1. A bi-fueled motor vehicle.
2. A dedicated alternative fuel motor vehicle.

3. A flexible fueled vehicle.
4. Any other vehicle that can operate on an alternative fuel.

486A.021 “Battery electric vehicle” defined. “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.

486A.023 “Bi-fueled motor vehicle” defined. “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.

486A.045 “Clean vehicle” defined. “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.

486A.050 “Commission” defined. “Commission” means the State Environmental Commission.

486A.055 “Contingency measure” defined. “Contingency measure” means a measure that:

1. Is included in the State Implementation Plan; and
2. Takes effect in the manner prescribed in 42 U.S.C. § 7502(c)(9).

486A.065 “Control measure” defined. “Control measure” means a measure that is included in the State Implementation Plan to attain or maintain the national primary and secondary ambient air quality standards set forth in 40 C.F.R. Part 50.

486A.071 “Dedicated alternative fuel motor vehicle” defined. “Dedicated alternative fuel motor vehicle” means a vehicle that operates exclusively on an alternative fuel.

486A.080 “Department” defined. “Department” means the State Department of Conservation and Natural Resources.

486A.090 “Director” defined. “Director” means the Director of the Department or the designee of the Director.

486A.100 “Fiscal year” defined. “Fiscal year” means a period beginning July 1 and ending on the following June 30.

486A.102 “Fleet” defined. “Fleet” has the meaning ascribed to it in NRS 486A.080.

486A.104 “Flexible fueled vehicle” defined. “Flexible fueled vehicle” means a vehicle that can operate on a gasoline-ethanol blend of 85 percent ethanol (E-85).

486A.110 “Heavy-duty truck” defined. “Heavy-duty truck” means a truck that has a manufacturer’s gross vehicle weight rating of at least 8,500 pounds but less than 26,000 pounds.

486A.115 “Hybrid electric vehicle” defined. “Hybrid electric vehicle” 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.

486A.120 “Motor vehicle” defined. “Motor vehicle” has the meaning ascribed to it in NRS 486A.110.

486A.122 “Plug-in hybrid electric vehicle” defined. “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.

486A.123 “Qualifying vehicle telematics system” defined. “Qualifying vehicle telematics system” means a vehicle telematics system which has received the designation from the Director described in NAC 486A.143.

486A.124 “Reformulated gasoline” defined. “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.

486A.125 “State Implementation Plan” defined. “State Implementation Plan” means the plan adopted by the State of Nevada pursuant to 42 U.S.C. §§ 7410 and 7502.

486A.130 “Vehicle telematics system” defined. “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.

486A.135 Applicability of chapter. The provisions of this chapter do not apply to:

1. The operator of a fleet that operates only in a county whose population is less than 100,000.
2. Any governmental agency exempted by federal statute or regulation.
3. Any state agency or local governing body subject to the alternative fuel provisions of the Energy Policy Act of 1992, Public Law 102-486, and 10 C.F.R. Part 490.
4. The operator of a vehicle that is used for law enforcement, emergency response or fire protection and suppression.
5. The operator of a military vehicle that is used for national defense or in support of a domestic emergency.
6. Any person granted a variance by the Commission.

486A.140 Designation of fuel as alternative fuel: Request for designation; requirements for designation; notice of intent to designate; maintenance of list.

1. Except as otherwise provided in subsection 4, the Administrator of the Division of Environmental Protection of the Department may designate a fuel as an alternative fuel. A person who wishes to have a fuel designated as an alternative fuel must submit to the Administrator a written request which includes evidence that the fuel complies with the requirements set forth in subsection 2.
2. A fuel designated as an alternative fuel by the Administrator must:
 - (a) If used to operate a motor vehicle:
 - (1) Reduce the emissions of one or more regulated pollutants to a level below the level of emissions generated if the fuel for which the designated fuel serves as an alternative is used to operate a motor vehicle;

(2) Generate emissions which are within the limits established pursuant to NAC 445B.596 for all regulated pollutants; and

(3) Generate emissions which are measurable using testing procedures approved by the Division; and

(b) Be capable of being safely transported in bulk, handled during fueling and used to operate motor vehicles which are converted or manufactured to use the fuel.

3. Not less than 30 days before a fuel is designated as an alternative fuel pursuant to subsection 1, the Administrator shall provide a notice of intent to designate the fuel as an alternative fuel to each person who has requested that his or her name be placed on a mailing list maintained by the Division for the purpose of providing that notice. The Administrator shall publish the notice of intent on an Internet website designed to give general public notice.

4. The Administrator shall not designate a fuel as an alternative fuel if he or she determines that such a designation would have a significant adverse effect on a control measure or contingency measure.

5. The Administrator shall:

(a) Maintain a list of each fuel designated as an alternative fuel 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.

486A.143 Designation of qualifying vehicle telematics system; requirements for designation; notice of intent to designate; maintenance of list.

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.

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 NAC 486A.124 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 1 of NAC 486A.124 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 2 of NAC 486A.124 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>.

486A.150 Alternative fuel retrofit system for motor vehicles: Requirements for use. (NRS 445B.210, 486A.150) An alternative fuel retrofit system for motor vehicles is approved for use in this State if it has been certified by the United States Environmental Protection Agency or the California Air Resources Board, or both.

486A.150 Alternative fuel retrofit system for motor vehicles: Requirements for use.

An alternative fuel retrofit system for motor vehicles is approved for use in this State if it has been certified by the United States Environmental Protection Agency or the California Air Resources Board, or both.

486A.160 Acquisition or replacement of vehicles to alternative fuel vehicles or clean vehicles; waivers.

1. Except as otherwise provided in subsection 3, at least 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. 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:

(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.

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) When operating in an area where the appropriate alternative fuel is unavailable; 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 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 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 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; and

(4) A statement indicating whether the motor vehicle is an alternative fuel vehicle or clean vehicle and, if 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.

486A.190 Authority of Director to require additional reports. The Director may require the operator of a fleet to file with the Department any reports that the Director determines are necessary to implement or enforce the provisions of this chapter.

486A.200 Approval of variance from provisions.

1. Except as otherwise provided in subsection 3, the Commission may, for any reason specified in subsection 5 of NRS 486A.150, approve a variance from the requirements of any provision of this chapter that is requested by the operator of a fleet.

2. A variance granted by the Commission pursuant to subsection 1 must be for an initial period of not more than 36 months and may be renewed for additional periods of not more than 36 months.

3. The Commission will not approve a variance from the requirements of any provision of this chapter if the Commission determines that the variance would have a significant adverse effect on a control measure or contingency measure.

4. If an operator of a fleet submits a request to the Commission for a variance pursuant to this section, the operator shall submit the following information, which the Commission may consider in reviewing the request:

- (a) A statement setting forth the reason for the request; and
- (b) Any supplemental information, data or documentation supporting the request.

486A.210 Violations: Notice; order to take corrective action; initiation of proceedings before Commission.

1. If the Director believes that a person has failed to comply with the provisions of chapter 486A of NRS or this chapter, the Director shall cause written notice to be served upon the person responsible for the alleged violation.

2. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.

3. The notice must specify:

- (a) The statute or regulation alleged to be violated; and

(b) The facts alleged to constitute the violation.

4. The notice may include an order to take corrective action within a reasonable time, which must be specified. Such an order becomes final unless, within 10 days after service of the notice, a person named in the order requests a hearing before the Commission.

5. With or without the issuance of an order pursuant to subsection 4, or if corrective action is not taken within the time specified:

(a) The Director may require a person responsible for the alleged violation to appear before the Commission at a specified time and place; or

(b) The Commission may initiate proceedings for recovery of the appropriate penalty.

6. This section does not prevent the Commission or the Director from obtaining voluntary compliance by issuing a warning, holding a conference or by any other appropriate means.

486A.220 Violations: Severity; imposition and amount of fine.

1. Except as otherwise provided in subsection 3, any violation of the provisions of chapter 486A of NRS or this chapter is a major violation. The Commission may impose a fine of up to \$5,000 for each violation.

2. In determining the amount of a penalty to be imposed for a major violation, the Commission will consider:

(a) The size of the fleet;

(b) The economic impact of the penalty on the fleet;

(c) The violator's good faith efforts to comply;

(d) The duration of the violation as established by any credible evidence;

(e) The prior record of violations by the operator of the fleet;

(f) The economic benefits of noncompliance; and

(g) The seriousness of the violation.

3. Except as otherwise provided in subsection 4, the following offenses are minor violations:

(a) Failure to operate a vehicle, other than a clean vehicle or hybrid electric vehicle, on an alternative fuel without justification;

(b) Failure to file a report in a timely manner as required by NAC 486A.180; or

(c) Failure to file a report required by the Director pursuant to NAC 486A.190.

4. All minor violations become major violations upon the fourth occurrence of the same offense by the fleet within a period of 60 consecutive months.

5. The Department will assess fines for minor violations consistent with the following schedule:

	First Offense	Second Offense	Third Offense
Failure to operate a vehicle, other than a clean vehicle or hybrid electric vehicle, on an alternative fuel without justification.	\$250	\$500	\$750
Failure to file a report in a timely manner as required by NAC 486A.180.	\$250	\$500	\$750

	First	Second	Third
	Offense	Offense	Offense
Failure to file a report required by the Director pursuant to NAC 486A.190.	\$250	\$500	\$750

486A.230 Violations: Payment of fine.

1. The amount of the fine imposed for any violation of the provisions of this chapter or chapter 486A of NRS must be submitted not later than 10 days after the notice required by NAC 486A.210 is served upon the violator.

2. Payment of the fine imposed must be:

(a) Made by cashier’s check, certified check, money order or personal check payable to the State of Nevada; and

(b) Submitted to the Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

486A.240 Appeal of decision of Director. A party wishing to appeal a decision of the Director must file an application for an appeal with the Executive Secretary of the Commission not later than 10 working days after the date the decision is issued. The application forms must be provided by the Director.

486A.250 Appeal of final decision of Department.

1. Any person who requests a hearing before the Commission concerning a final decision of the Department pursuant to chapter 486A of NRS may do so by filing a request, within 10 days after notice of the action of the Department, on Form 3 with the Commission, 901 South Stewart

Street, Suite 4001, Carson City, Nevada 89701-5249. A copy of the form may be obtained from the Commission or at the Internet address **<http://www.sec.nv.gov>**.

2. The provisions of NAC 445B.875 to 445B.899, inclusive, apply to a hearing of the Commission requested pursuant to subsection 1.