

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB FILE NO. R062-23I

**The following document is the initial draft regulation proposed
by the agency submitted on 09/18/2023**

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

P2023-03

September 7, 2023

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

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

A PERMANENT REGULATION relating to alternative fuels and providing other matters properly relating thereto.

Section 1. 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486A.150, 486A.160, 486A.180, 486A.190, 486A.200, 486A.210, 486A.220, 486A.230, 486A.240 and 486A.250 are hereby repealed.

STRIKETHROUGH TEXT OF REPEALED SECTIONS

~~[NAC 486A.010 – Definitions. (NRS 445B.210, 486A.150) – 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.]~~

~~NAC 486A.015 “Alternative fuel” defined. (NRS 445B.210, 486A.030, 486A.150)~~

~~“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.~~

~~—NAC 486A.017— “Alternative fuel vehicle” defined. (NRS 445B.210, 486A.150)~~

~~“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.~~

~~—NAC 486A.021— “Battery electric vehicle” defined. (NRS 445B.210, 486A.150)~~

~~“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.~~

~~—NAC 486A.023— “Bi-fueled motor vehicle” defined. (NRS 445B.210, 486A.150)— “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.~~

~~—NAC 486A.045— “Clean vehicle” defined. (NRS 445B.210, 486A.035, 486A.150)— “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.~~

~~—NAC 486A.050— “Commission” defined. (NRS 445B.210, 486A.150)— “Commission” means the State Environmental Commission.~~

~~—NAC 486A.055— “Contingency measure” defined. (NRS 445B.210, 486A.150)~~

~~“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(e)(9).~~

~~—NAC 486A.065— “Control measure” defined. (NRS 445B.210, 486A.150)— “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.~~

~~—NAC 486A.071 “Dedicated alternative fuel motor vehicle” defined. (NRS 445B.210, 486A.150) “Dedicated alternative fuel motor vehicle” means a vehicle that operates exclusively on an alternative fuel.~~

~~—NAC 486A.080 “Department” defined. (NRS 445B.210, 486A.150) “Department” means the State Department of Conservation and Natural Resources.~~

~~—NAC 486A.090 “Director” defined. (NRS 445B.210, 486A.150) “Director” means the Director of the Department or the designee of the Director.~~

~~—NAC 486A.100 “Fiscal year” defined. (NRS 445B.210, 486A.150) “Fiscal year” means a period beginning July 1 and ending on the following June 30.~~

~~—NAC 486A.102 “Fleet” defined. (NRS 445B.210, 486A.150) “Fleet” has the meaning ascribed to it in NRS 486A.080.~~

~~—NAC 486A.104 “Flexible fueled vehicle” defined. (NRS 445B.210, 486A.150) “Flexible fueled vehicle” means a vehicle that can operate on a gasoline-ethanol blend of 85 percent ethanol (E-85).~~

~~—NAC 486A.110 “Heavy-duty truck” defined. (NRS 445B.210, 486A.150) “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.~~

~~—NAC 486A.115 “Hybrid electric vehicle” defined. (NRS 445B.210, 486A.150) “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.~~

~~—NAC 486A.120 “Motor vehicle” defined. (NRS 445B.210, 486A.150) “Motor vehicle” has the meaning ascribed to it in NRS 486A.110.~~

~~—NAC 486A.122 “Plug-in hybrid electric vehicle” defined. (NRS 445B.210, 486A.150) “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.~~

~~—NAC 486A.123 “Qualifying vehicle telematics system” defined. (NRS 445B.210, 486A.150) “Qualifying vehicle telematics system” means a vehicle telematics system which has received the designation from the Director described in NAC 486A.143.~~

~~—NAC 486A.124 “Reformulated gasoline” defined. (NRS 445B.210, 486A.150)~~

~~“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.~~

~~—NAC 486A.125— “State Implementation Plan” defined. (NRS 445B.210, 486A.150)~~

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

~~—NAC 486A.130— “Vehicle telematics system” defined. (NRS 445B.210, 486A.150)~~

~~“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.~~

~~—NAC 486A.135— Applicability of chapter. (NRS 445B.210, 486A.150)— 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.~~

~~—NAC 486A.140— Designation of fuel as alternative fuel: Request for designation; requirements for designation; notice of intent to designate; maintenance of list. (NRS 445B.210, 486A.150)~~

~~—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.~~

~~—NAC 486A.143— Designation of qualifying vehicle telematics system; requirements for designation; notice of intent to designate; maintenance of list. (NRS 445B.210, 486A.150)~~

~~—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.~~

~~—NAC 486A.145 Adoption by reference of certain provisions of Arizona Administrative Code and California Code of Regulations governing reformulated gasoline. (NRS 445B.210, 486A.150)~~

~~—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>.~~

~~—**NAC 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.~~

~~—**NAC 486A.160**—**Acquisition or replacement of vehicles to alternative fuel vehicles or clean vehicles; waivers.** (NRS 445B.210, 486A.150)~~

~~—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.~~

~~—**NAC 486A.180—Use of alternative fuel; reporting requirements.** (NRS 445B.210, 486A.150)~~

~~—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.~~

~~——**NAC 486A.190**——**Authority of Director to require additional reports.** (NRS 445B.210, 486A.150)——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.~~

~~——**NAC 486A.200**——**Approval of variance from provisions.** (NRS 445B.210, 486A.150)~~

~~——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.~~

~~**—NAC 486A.210—Violations: Notice; order to take corrective action; initiation of proceedings before Commission. (NRS 445B.210, 486A.150)**~~

~~—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.~~

~~—NAC 486A.220— Violations: Severity; imposition and amount of fine. (NRS 445B.210, 486A.150, 486A.180)~~

~~—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	Second	Third
-	Offense	Offense	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 <u>NAC 486A.180</u>.....	\$250	\$500	\$750
--	------------------	------------------	------------------

-

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

~~**NAC 486A.230** Violations: Payment of fine. (NRS 445B.210, 486A.150, 486A.180)~~

~~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.~~

~~**NAC 486A.240** Appeal of decision of Director. (NRS 445B.210, 486A.150) 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.~~

~~**NAC 486A.250** Appeal of final decision of Department. (NRS 445B.210, 486A.150)~~

~~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.]~~