

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

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

State Environmental Commission Permanent No: R144-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

On June 9, 2023, the governor of Nevada signed Assembly Bill 184, creating the Clean Trucks and Buses Incentive Program, which provides voucher incentives for the purchase of zero emission medium- and heavy-duty vehicles, along with various other requirements for the Program.

In accordance with Assembly Bill 184, this regulation includes additional requirements necessary for NDEP to effectively administer the Program.

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.

The Division held one hybrid (in-person and virtual) public workshop for R144-24P on September 23, 2024. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Thirty-seven members of the public and regulated industry attended the workshop virtually. The proposed regulations were also distributed to the Bureau of Air Quality Planning's email distribution list. The Division received verbal comments and/or questions concerning R144-24I and/or R144-24P from eight participants during the public workshop. Most of the comments were in support of the proposed changes, although a couple expressed skepticism regarding the success of the Program, citing the voluntary nature.

A summary of verbal comments received during public workshop follows:

1. Support for the Program: Several commenters, expressed strong support for the program. They appreciate NDEP's efforts in crafting regulations in line with Assembly

Bill 184 and stress the importance of accelerating the transition to zero-emission vehicles to improve air quality and public health in Nevada, particularly in areas with high pollution levels.

2. Mandatory Action: One participant raised concerns that the program might not be taken seriously unless there is a mandatory requirement to phase out internal combustion engines, suggesting that a firm timeline or directive would be needed to ensure action.

3. Cost Concerns: One commenter noted that the high cost of electrifying medium and heavy-duty trucks remains a major obstacle, though they expressed optimism about the program's success and support for the regulations.

4. Positive Reception: Other participants praised the regulations for creating opportunities to save money and boost business while aligning with federal efforts like the Bipartisan Infrastructure Law. They emphasized the importance of collaboration among stakeholders to ensure the program's success.

A summary of the workshop, including public comment and bureau response, is included on the NDEP website as well as the SEC website.

The Division also received four written comments regarding R144-24P:

1. Ben Bryce
Senior Manager, State Affairs, Southwest Region
Environmental Defense Fund
bbryce@edf.org
2. Alissa Recker
Engineer, Compliance & Regulatory Affairs
Daimler Truck North America
4555 N. Channel Ave., Portland, OR 97217
503.745.8000
3. Audrey Peral
Program Director
Chispa Nevada
4. Christi Cabrera-Georgeson
Deputy Director
Nevada Conservation League

A summary of written comments received after the public workshop follows:

1. **Approval of Contractors:** One commenter recommended that dealer networks, rather than original equipment manufacturers (OEMs), be recognized as approved contractors. Dealers are seen as more suited for facilitating zero-emission vehicle (ZEV) purchases due to their ability to provide localized, efficient service.
2. **Manufacturer's Suggested Retail Price (MSRP):** Manufacturers argue that the requirement to submit MSRP for commercial vehicles is problematic due to the high customization in the heavy-duty truck market. They suggest that flexibility in pricing transparency should be allowed, as this would better accommodate the varied specifications of commercial vehicles.
3. **Scrappage Requirements:** Multiple commenters express concerns about the potential barriers posed by scrappage requirements for older diesel or gasoline trucks. They suggest that while scrappage might be necessary to reduce emissions, it could exclude fleets that do not have older vehicles or that rely on the residual value of their trucks. One commenter proposes considering alternative scrappage approaches like third-party arrangements to broaden participation.
4. **Reporting Requirements:** There is concern over the potential administrative burden of extensive reporting requirements, especially for fleets with diverse operations. Commenters recommend minimizing reporting obligations to make participation easier for accountability.
5. **Support for Diverse Communities:** A commenter stressed the importance of ensuring that the program prioritizes historically underserved communities, including low-income, Black, Indigenous, Latino, and communities of color. They advocate for incentives targeting small businesses owned by people of color, veterans, and other marginalized groups, and urge NDEP to provide outreach and resources to these communities to ensure equitable participation.
6. **Support and Benefits:** Commenters supported the health, environmental, and economic benefits of transitioning to zero-emission medium- and heavy-duty vehicles (MHDVs), noting significant reductions in greenhouse gas (GHG) emissions, nitrogen oxides, and particulate matter. They highlight the disproportionate health impacts of vehicle pollution on vulnerable communities and support the program as a means to address both environmental and public health challenges. Transitioning to zero-emission MHDVs is expected to generate substantial economic benefits, including lifetime savings on fuel and maintenance costs, as well as long-term health benefits.

The Legislative Counsel Bureau published its draft, R144-24P, in the Nevada Register on September 17, 2024. The Division accepted written comments on R144-24I and R144-24P for 30 days ending on October 11, 2024.

The SEC held a hybrid regulatory hearing on November 19, 2024, to consider possible action on R144-24P. The SEC posted its public notice, which included a link¹ and instructions to access R144-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice 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. Three written comments in support of the regulation were submitted to the SEC (attached). These comments in support of R144-24 generally cited the decrease in reliance on oil (a volatile commodity influenced and manipulated by unreliable actors), a positive impact on air quality and the economy, and Nevada's leadership role in the national transition to electric vehicles, which will improve national security. These written comments are available on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

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

(a) Attended November 19, 2024, hearing: 37 (approximately)

(b) Testified on this Petition at the hearing: 2

1. Andrew Tucker, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9340
atucker@ndep.nv.gov

2. Steven McNeece, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9364
smcneece@ndep.nv.gov

(c) Submitted to the Commission written comments: three

1. Will Drier, Policy Manager
Electrification Coalition
wdrier@electrificationcoalition.org

2. Nevada Public Health and Medical Organizations

¹ <https://sec.nv.gov/meetings/sec-meeting-november-19-2024>

- a. American Lung Association
- b. Dignity Health-St. Rose Dominican Hospitals
- c. Nevada Chapter, American Academy of Pediatrics
- d. Southern Nevada Health District
- e. Northern Nevada Public Health
- f. Nevada Public Health Association
- g. School of Public Health, University of Nevada, Reno
- h. Nevada Clinicians for Climate Action
- i. Nevada Nurses Association
- j. Nevada Public Health Institute
- k. Alliance of Nurses for Healthy Environments
- l. Nevada Psychiatric Association
- m. Environmental Climate Justice Committee, Reno-Sparks Branch 1112-B NAACP

3. Jermareon Williams, Government Affairs Manager
Western Resource Advocates
jermareon.williams@westernresources.org

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 one public workshop and at the November 19, 2024, 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 Commissioners unanimously adopted R144-24P with greenlined changes because the public and the SEC were satisfied with the proposed regulation and agency-suggested changes.

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

Regulated Business/Industry: The regulation only regulates businesses that voluntarily participate in the program. The regulation will have a largely positive economic effect on businesses that participate by providing incentives for the acquisition of zero-emission buses and trucks.

The regulation will incentivize and reduce the cost of zero-emission medium- and heavy-duty vehicles, allowing businesses to buy and sell more of these vehicles. Minimal adverse effects are expected because program participation is voluntary but include reporting requirements and potential scrappage requirements.

Immediate effects include reducing the cost to acquire newer, better performing vehicles for business operations. Long-term effects include continued fuel cost savings and vehicle maintenance savings.

Public: Incentives are available to local governments, state agencies and nonprofit organizations, which will have a positive economic effect on these entities. In addition, the adoption of zero-emission vehicles will help improve air quality in those areas where the vehicles are driven.

The incentives reduce the cost of adopting zero-emission medium- and heavy-duty vehicles.

Immediate effects include reducing the cost to acquire newer, better performing vehicles. Long-term effects include continued fuel cost savings and vehicle maintenance savings.

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

Enforcing Agency. The administrative costs for the program are expected to be approximately \$180,000 per year with additional costs for incentives, but both will be reimbursed with federal Carbon Reduction Program grant funds, as per Assembly Bill 184.

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 Incentive Program utilizes federal Carbon Reduction Program funding (from the Bipartisan Infrastructure Bill). Funds will be passed from the Federal Highway Administration to the Nevada Department of Transportation to NDEP. As such, the regulation aligns with the Carbon Reduction Program, 23 U.S.C. § 175, requirements.

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 regulatory amendments in R144-24P are not 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.

R144-24P does not address fees.

During the Public Workshop held on September 23, 2024, comments were made on several points of the draft regulations R144-24, for the Nevada Clean Trucks and Buses Incentive Program. Below is a summary of the feedback from various stakeholders during the Workshop held on September 23, 2024.

1. **Support for the Program:** Several commenters, expressed strong support for the program. They appreciate NDEP's efforts in crafting regulations in line with Assembly Bill 184 and stress the importance of accelerating the transition to zero-emission vehicles to improve air quality and public health in Nevada, particularly in areas with high pollution levels.
2. **Mandatory Action:** One participant raised concerns that the program might not be taken seriously unless there is a mandatory requirement to phase out internal combustion engines, suggesting that a firm timeline or directive would be needed to ensure action.
3. **Cost Concerns:** One commenter noted that the high cost of electrifying medium and heavy-duty trucks remains a major obstacle, though they expressed optimism about the program's success and support for the regulations.
4. **Positive Reception:** Other participants praised the regulations for creating opportunities to save money and boost business while aligning with federal efforts like the Bipartisan Infrastructure Law. They emphasized the importance of collaboration among stakeholders to ensure the program's success.

Additional comments were received after the September 23, 2024, workshop. Summaries of these comments can be found below.

1. **Approval of Contractors:** One commenter recommend that dealer networks, rather than original equipment manufacturers (OEMs), be recognized as approved contractors. Dealers are seen as more suited for facilitating zero-emission vehicle (ZEV) purchases due to their ability to provide localized, efficient service.
2. **Manufacturer's Suggested Retail Price (MSRP):** Manufacturers argue that the requirement to submit MSRP for commercial vehicles is problematic due to the high customization in the heavy-duty truck market. They suggest that flexibility in pricing transparency should be allowed, as this would better accommodate the varied specifications of commercial vehicles.
3. **Scrappage Requirements:** Multiple commenters express concerns about the potential barriers posed by scrappage requirements for older diesel or gasoline trucks. They suggest that while scrappage might be necessary to reduce emissions, it could exclude fleets that do not have older vehicles or that rely on the residual value of their trucks. One commenter proposes considering alternative scrappage approaches like third-party arrangements to broaden participation.
4. **Reporting Requirements:** There is concern over the potential administrative burden of extensive reporting requirements, especially for fleets with diverse operations. Commenters recommend minimizing reporting obligations to make participation easier for

fleets, while still ensuring that the program meets its goals of transparency and accountability.

5. **Support for Diverse Communities:** A commenter stressed the importance of ensuring that the program prioritizes historically underserved communities, including low-income, Black, Indigenous, Latino, and communities of color. They advocate for incentives targeting small businesses owned by people of color, veterans, and other marginalized groups, and urge NDEP to provide outreach and resources to these communities to ensure equitable participation.
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