

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: 093-20

Permanent Regulation R093-20:

Nevada Revised Statutes (NRS) 445B.100 establishes that it is public policy of the State of Nevada and the purpose of NRS 445B.100 to 445B.640, inclusive, to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of the State. It further states that it is the intent of NRS 445B.100 to 445B.640, inclusive, to require the use of reasonably available methods to prevent, reduce or control air pollution throughout the State of Nevada.

NRS 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.760 establishes the authority of the SEC to adopt standards for emissions from mobile internal combustion engines found in motor vehicles after those standards have been approved by the Department of Motor Vehicles.

SPECIFIC CHANGES:

The amendments to the Nevada Administrative Code (NAC) Chapter 445B adopt:

- a) The California Low Emission Vehicle (LEV) standards for exhaust emissions and fuel evaporative emissions of criteria pollutants and greenhouse gases from mobile internal combustion engines found in new, light-duty and medium duty motor vehicles and engines sold in Nevada starting from model year 2025.
- b) The California Zero Emission Vehicle (ZEV) program, starting with sales of model year 2025 vehicles. The ZEV program requires that automobile manufacturers earn a specified percentage of credits that are related to the delivery for sale of new light-duty motor vehicles in the state that are zero emission vehicles.

The proposed regulation amends NAC 445B by creating a new subsection for the LEV and ZEV programs under the Emissions from Engines section. The subsection includes general provisions, definitions, severability, adoption of California Administrative Code by reference, LEV program provisions, ZEV program provisions, warranty and recall provisions, and civil penalties.

1. Need for Regulation:

Governor Sisolak has directed his administration through Executive Order 2019-22 to evaluate policies and regulatory strategies, including but not limited to those identified pursuant to Senate Bill 254 from the 2019 Legislative Session, to achieve reductions in greenhouse gas emissions consistent with Nevada’s commitment as a member of the U.S. Climate Alliance. That commitment includes goals agreed to by member states of reducing statewide greenhouse gas emissions 28% by 2025 and 45% by 2030 as compared to 2005 emissions. As a significant step toward achieving those goals, on June 22, 2020, Governor Sisolak announced the Clean Cars Nevada initiative.

NDEP has evaluated the Clean Cars Nevada proposal and the adoption of these new regulations will provide Nevadans with more choices for low and zero emission electric passenger cars and trucks at dealerships throughout the state beginning in 2024 with model year 2025 new vehicles. In addition to increasing consumer options, Clean Cars Nevada will help advance the State’s climate change and sustainability goals and reduce harmful air pollution from cars and trucks on Nevada’s roads.

Emissions of criteria pollutants (like nitrogen oxides, NOx, particulate matter, PM, and carbon monoxide, CO) from transportation are the main source of pollution in Nevada’s urban areas. NOx emissions contribute to the formation of ground level ozone (smog), for which the Las Vegas valley has been designated in non-attainment by the Environmental Protection Agency (EPA); the city of Reno is in attainment for ozone, but concentrations have been very close to the non-attainment threshold in recent years.

The proposed regulation aims to reduce both greenhouse gas and criterial pollutants emissions from the fleet of vehicles sold annually by motor vehicle manufacturers in the State.

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.

Beginning December 2020, NDEP held multiple public outreach events as listed below. Recordings and presentations from these outreach efforts are posted on the Clean Cars Nevada website at <https://ndep.nv.gov/air/clean-cars-nevada>

Clean Cars Nevada Kick - Off	December 8, 2020	Webinar
Virtual Listening Session	January 14, 2021	Webinar
Technical Session 1 - LEV	February 23, 2021	Webinar
Technical Session 2 - ZEV	March 30, 2021	Webinar
Air Quality Impacts Analysis 1	April 27, 2021	Webinar
Air Quality Impacts Analysis 2	May 27, 2021	Webinar
Economic Impacts	June 15, 2021	Webinar
Stakeholder Presentations	June 17, 2021	Webinar

Chispa Nevada Clean Cars Initiative	July 26, 2021	Bi-Lingual Webinar
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Additionally, on July 28, 2021, NDEP conducted a public workshop on regulation R093-20 both virtually and in person at NDEP's offices in Carson City and Las Vegas. A total of sixty-seven (67) members of the public attended this 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: <https://sec.nv.gov/meetings/sec-regulatory-meeting-september-1-2021>

On August 4, 2021, the Nevada Department of Motor Vehicles (DMV) provided a letter (attached) to the State Environmental Commission stating that the DMV is in approval and support of proposed regulation R093-20, as provided for under DMV authority within NRS 445B.760 et. seq.

Following the workshop, the SEC held a formal regulatory hearing on September 1, 2021, at the Bryan Building, Second Floor Tahoe Conference Room, located at 900 South Carson Street and video-conferenced in Las Vegas at the Red Rock Conference Room, located at 375 East Warm Springs Road, Suite 200; the meeting was also accessible remotely via web and phone line. A public notice for the regulatory meeting and a copy of the proposed regulation were posted at the State Library in Carson City, at NDEP offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and disseminated to the SEC email distribution list. The public notice was also physically posted at the Division of Minerals in Carson City, and the Department of Agriculture in Reno as well as on LCB, Division of Administration and SEC respective websites.

The agenda and location of supporting documents were posted at NDEP offices located in both Carson City and Las Vegas, the Division of Minerals in Carson City, at the Department of Agriculture in Reno, and on LCB, Division of Administration and SEC respective websites, and disseminated to the SEC email distribution 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's September 1, 2021, regulatory hearing. Other information about this regulation was made available on the SEC website at: <https://sec.nv.gov/meetings/sec-regulatory-meeting-september-1-2021>

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

- (a) Attended September 1, 2021, hearing: 77 (approximately)
- (b) Testified on this Petition at the hearing: 23
- (c) Submitted to the agency written comments: 16

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 email, public webinars, a public workshop, and regulatory hearing held on September 1, 2021, 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 and the SEC were satisfied with the proposed regulation.

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 proposed regulation will have an indirect economic effect on regulated businesses and industry; including the motor vehicle franchised dealers, automotive repair facilities, automotive parts suppliers and retail outlets, automotive fuel retailers and suppliers, and the motor vehicle manufacturers. However, only a generalized and qualitative impact on these businesses can be predicted. The requirement of selling an increasing percentage of zero emission vehicles may increase costs and uncertainty over consumer acceptance for the dealers. Automotive dealerships may also expect vehicle service revenue to decline over time due to the greater reliability of and lower maintenance costs for electric vehicles. Automotive manufacturers will incur compliance and reporting costs.

Public. The proposed regulation is anticipated to have a positive economic effect on the public. Prices of zero emission vehicles are likely to be initially higher than comparable vehicles, though prices are expected to achieve parity within the next five to seven years. However, repair costs of zero emission vehicles are lower over the life of the vehicle due to many fewer moving parts. Lifetime fueling costs of electric vehicles in place of petroleum-fueled vehicles are lower. In general, the requirement for increasing zero emission vehicle sales will provide a much larger choice of makes and models available to the public, and lower lifetime vehicle ownership costs. In the long term, the fleet transformation to low emission and zero emission vehicles will lead to significant reductions in greenhouse gases and criteria pollutants from the transportation sector. This is expected to provide significant health and societal benefits, especially for those Nevadans living in areas already impacted by air pollution.

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

Enforcing Agency. The proposed regulation will have an economic effect on the Nevada agencies charged with implementing the regulation. NDEP will take the lead on this

program implementation. NDEP will also coordinate with the DMV on the compliance and enforcement of the program. Initial implementation of the program will be done with existing staff, however, ongoing program implementation and future rulemakings associated with this program may require additional staff.

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 Clean Air Act provides exclusive authority for the EPA to regulate emission standards from motor vehicles, with the exception of the state of California, which can adopt more stringent standards with the approval of the EPA through a waiver process. Other states can adopt California vehicle emission standards as long as they are identical to those adopted by California. This regulation adopts California standards for certain types of vehicles and model years, hence replacing the federal standards.

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 more stringent than what is established by federal law. Section 177 of the federal Clean Air Act, 42 U.S.C. Section 7507, provides states the option of requiring compliance with either federal or approved California emission standards for vehicles sold within their borders. This option is made available to states in order to facilitate additional emissions reductions that states can use to meet individual statewide emission reduction goals.

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.