

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R144-24

September 10, 2024

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

AUTHORITY: §§ 1-8, 10 and 11, NRS 445B.932; § 9, NRS 445B.932 and 445B.934; § 12, NRS 445B.932 and 445B.936.

A REGULATION relating to air pollution; establishing certain requirements for a clean truck or bus to be eligible for purchase using an incentive from the Clean Trucks and Buses Incentive Program; setting forth certain requirements for a medium-duty or heavy-duty truck to be eligible for an incentive from the Program as a repowered vehicle; prescribing requirements for a contractor to apply and be approved as an approved contractor in the Program; prescribing the requirements for an eligible entity to apply for an incentive from the Program; setting forth the schedule by which the Division of Environmental Protection of the State Department of Conservation and Natural Resources must review applications for incentives from the Program; authorizing, under certain circumstances, the Division to impose certain requirements on an eligible entity relating to a vehicle that will be replaced by the eligible clean truck or bus; requiring an approved contractor to submit certain information to the Division in order to redeem a voucher from the Program; establishing certain reporting requirements for a recipient of an incentive from the Program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Clean Trucks and Buses Incentive Program for the purpose of awarding incentives to eligible entities for the purchase of eligible clean trucks and buses from approved contractors. (NRS 445B.930) Existing law further requires the State Environmental Commission to adopt regulations to carry out the Program, which must include requirements for: (1) the process by which applications must be submitted to the Division of Environmental Protection of the State Department of Conservation and Natural Resources to approve a clean truck or bus as eligible to receive an incentive; (2) the contents of an application required for approval of a clean truck or bus as eligible to receive an incentive; (3) any specific requirements relating to the manufacturing and final assembly of clean trucks or buses that are necessary to meet any requirements of federal law for the use of federal money; (4) any specific requirements for repowered vehicles; (5) any performance requirements for eligible vehicles to meet in order to participate in the Program; and (6) any other necessary requirements relating to approving a clean truck or bus. Existing law further provides that the requirements to approve a contractor to

participate as an approved contractor in the Program include: (1) the process by which applications must be submitted by contractors to the Division; (2) the contents of the application required to be submitted by a contractor to participate as an approved contractor; (3) any activities in which an approved contractor may engage under the Program; and (4) any other necessary requirements relating to approving a contractor. Finally, under existing law the requirements relating to entities which are eligible to receive an incentive for the purchase of an eligible clean truck or bus include: (1) the process to determine the eligibility of entities to receive an incentive; (2) any requirements for eligible entities; (3) the contents of the application submitted by an entity who may be eligible for an incentive and an approved contractor for a voucher from the Program; (4) the process by which applications for a voucher are submitted and processed by the Division; (5) the process for awarding incentives to eligible entities; and (6) any other necessary requirements relating to applications for and awards of incentives. (NRS 445B.932)

Section 5 of this regulation authorizes the Division of Environmental Protection of the State Department of Conservation and Natural Resources to approve a clean truck or bus to be eligible for an incentive from the Program if the clean truck or bus: (1) is model year 2024 or newer or a repowered vehicle; and (2) meets any applicable requirements imposed pursuant to federal law. **Section 6** of this regulation sets forth the requirements for a medium-duty or heavy-duty vehicle to be eligible for an incentive from the Program as a repowered vehicle. **Section 4** of this regulation defines the term “eligible clean truck or bus.”

Section 7 of this regulation sets forth: (1) the requirements for a contractor to apply to the Division to participate as an approved contractor in the Program; and (2) the circumstances in which the Division may approve a contractor to participate in the Program as an approved contractor. **Section 3** of this regulation defines the term “approved contractor.”

Section 8 of this regulation sets forth the requirements for an eligible entity to apply for an incentive from the Program.

Existing law requires the Division to review applications for incentives on a rolling basis beginning on January 1, March 1, June 1 and September 1 of each year and, within the limits of money available from the Account for Clean Trucks and Buses for that quarter, grant applications for incentives. (NRS 445B.934) **Section 9** of this regulation sets forth the application periods that correspond to the review of applications by the Division. **Section 9** further provides that if federal law requires an eligible entity to share in the cost of purchasing an eligible clean truck or bus, the Division shall not award an incentive from the Program for any amount that would reduce the cost sharing of the eligible entity below the amount required by federal law.

Section 10 of this regulation authorizes the Division, if required by the funding source, on a case-by-case basis, to require an eligible entity to: (1) scrap a diesel-powered or gasoline-powered vehicle that the eligible entity will replace with the eligible clean truck or bus purchased with an incentive from the Program; or (2) use an alternate method of demonstrating a reduction in emissions, including selling or donating the diesel-powered or gasoline-powered vehicle.

Section 11 of this regulation sets forth the requirements for an approved contractor to redeem a voucher.

Existing law requires: (1) an entity that receives an incentive for the purchase of a clean truck or bus from the Program to submit written reports to the Division; and (2) the Commission to adopt regulations establishing reporting requirements. (NRS 445B.936) **Section 12** of this regulation requires an eligible entity that purchases an eligible clean truck or bus using an

incentive from the Program to submit an annual report to the Division for each of the 3 years immediately following the date on which the eligible clean truck or bus is purchased. **Section 12** further requires the eligible entity to: (1) own and operate the eligible clean truck or bus for at least 3 years; and (2) ensure that the eligible clean truck or bus is continuously registered and domiciled in this State for the entire period in which the eligible entity owns and operates the eligible clean truck or bus.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 and 4 have the meanings ascribed to them in those sections.*

Sec. 3. *“Approved contractor” means a contractor that has been approved by the Division pursuant to section 7 of this regulation to sell an eligible clean truck or bus.*

Sec. 4. *“Eligible clean truck or bus” means:*

1. A clean truck or bus that is approved by the Division pursuant to section 5 of this regulation to be eligible for purchase using an incentive from the Program; or

2. A repowered vehicle that meets the requirements set forth in section 6 of this regulation.

Sec. 5. *The Division may approve a clean truck or bus to be eligible for an incentive from the Program if:*

1. The clean truck or bus is:

(a) Model year 2024 or newer; or

(b) A repowered vehicle that meets the requirements set forth in section 6 of this regulation; and

2. The clean truck or bus meets any applicable requirements imposed pursuant to federal law, including, without limitation, any warranty requirement.

Sec. 6. *The Division may approve a medium-duty or heavy-duty vehicle to be eligible for an incentive from the Program as a repowered vehicle if the power source of the medium-duty or heavy-duty vehicle is:*

1. A diesel or gas engine that is at least 6 model years older than the current model year of medium-duty or heavy-duty vehicles; and

2. Replaced by an upfit manufacturer with a power source that is powered by a battery electric or fuel cell electric powertrain.

Sec. 7. *1. A contractor may apply to the Division to participate as an approved contractor in the Program. Such an application must be on a form prescribed by the Division and include, without limitation:*

(a) Information about the contractor, including, without limitation, the contractor's name, address, telephone number, federal and state tax identification numbers and the name and contact information of a contact person for the contractor; and

(b) Evidence demonstrating that the contractor meets the requirements set forth in subsection 2.

2. The Division may approve a contractor to participate in the Program as an approved contractor if:

(a) The contractor is an original equipment manufacturer;

(b) The contractor is an upfit manufacturer that:

(1) Has a written agreement with an original equipment manufacturer to switch the power source of medium-duty or heavy-duty vehicles that were purchased from the original equipment manufacturer to create repowered vehicles; and

(2) Submits with the application to the Division evidence of the written agreement; or

(c) The contractor is a vehicle dealership that sells clean trucks or buses and:

(1) Has a written agreement with an original equipment manufacturer or upfit manufacturer to sell eligible clean trucks or buses using incentives from the Program; and

(2) Submits with the application to the Division evidence of such written agreement.

Sec. 8. 1. *Except as otherwise provided in subsection 3, to be eligible to receive an incentive from the Program, an eligible entity must submit an application for the incentive to the Division before purchasing an eligible clean truck or bus.*

2. An application for an incentive from the Program must be on a form prescribed by the Division, submitted in the manner required by the Division and include, without limitation:

(a) Information relating to the eligible entity, including, without limitation:

(1) The name, address, telephone number and, if applicable, the federal and state tax identification numbers of the eligible entity; and

(2) The name and contact information of a contact person of the eligible entity;

(b) Proof that the entity is an eligible entity;

(c) Information about the approved contractor from whom the eligible entity will purchase the eligible clean truck or bus, including, without limitation, the approved contractor's name, address and telephone number;

(d) Information relating to the eligible clean truck or bus that the eligible entity will purchase, including, without limitation:

(1) The make, model, model year and gross vehicle weight rating of the eligible clean truck or bus;

(2) The manufacturer's suggested retail price for the eligible clean truck or bus; and

(3) Whether the eligible clean truck or bus is powered by electricity that is stored in a battery or produced by a hydrogen fuel cell;

(e) Information relating to a vehicle that is comparable to the eligible clean truck or bus but is powered by diesel or gasoline, including, without limitation:

(1) The make, model, model year and gross vehicle weight rating of the comparable vehicle;

(2) The manufacturer's suggested retail price for the comparable vehicle; and

(3) Whether the comparable vehicle is powered by diesel or gasoline;

(f) The amount of base incentive the eligible entity is eligible for pursuant to subsection 5 of NRS 445B.930;

(g) The amount of base incentive that the eligible entity is requesting from the Program;

(h) The amount of any increase for which the eligible entity is requesting and eligible for pursuant to subsection 6 of NRS 445B.930; and

(i) If a diesel-powered or gasoline-powered vehicle will be replaced by the eligible clean truck or bus if the incentive from the Program is awarded, a copy of the current registration of the replaced diesel-powered or gasoline-powered vehicle.

3. In addition to the application required by subsection 1, the Division may require the eligible entity to submit:

(a) A vehicle purchaser participation agreement on a form prescribed by the Division that has been signed by the eligible entity and the approved contractor; and

(b) Proof that the eligible entity meets the criteria for any increase in the base incentive set forth in subsection 6 of NRS 445B.930.

4. An approved contractor may submit an application for an incentive from the Program on behalf of the eligible entity if:

(a) The application meets the requirements set forth in subsection 2;

(b) The approved contractor submits to the Division any additional information required pursuant to subsection 3, if applicable; and

(c) The approved contractor submits to the Division proof that the approved contractor has written permission to submit the application on behalf of the eligible entity.

Sec. 9. 1. *As required by subsection 1 of NRS 445B.934, the Division shall review the applications for incentives from the Program submitted pursuant to section 8 of this regulation on a rolling basis, as follows:*

(a) Beginning on January 1 of each year, the Division shall review applications submitted during the period beginning on September 1 and ending on December 31 of the immediately preceding calendar year.

(b) Beginning on March 1 of each year, the Division shall review applications submitted during the period beginning on January 1 and ending on the last day of February of the current calendar year.

(c) Beginning on June 1 of each year, the Division shall review applications submitted during the period beginning on March 1 and ending on May 31 of the current calendar year.

(d) Beginning on September 1 of each year, the Division shall review applications submitted during the period beginning on June 1 and ending on August 31 of the current calendar year.

2. If federal law requires an eligible entity to share in the cost of purchasing an eligible clean truck or bus, the Division shall not award an incentive from the Program for any amount that would reduce the cost sharing of the eligible entity below the amount required by federal law.

Sec. 10. *1. As a condition for approval of an incentive, the Division, if required by a funding source, may on a case-by-case basis, require that an eligible entity:*

(a) Scrap a diesel-powered or gasoline-powered vehicle that the eligible entity will replace with the eligible clean truck or bus purchased with an incentive from the Program; or

(b) Use an alternate method of demonstrating a reduction in emissions, including, without limitation, selling or donating the diesel-powered or gasoline-powered vehicle that the eligible entity will replace with the eligible clean truck or bus purchased with an incentive from the Program.

2. If the Division requires that an eligible entity scrap a diesel-powered or gasoline-powered vehicle that will be replaced by the eligible clean truck or bus purchased with the incentive from the Program, the Division may:

(a) Impose specific requirements relating to the scrappage, including, without limitation, a deadline for scrapping the vehicle and the process or methods by which the vehicle must be scrapped;

(b) Include that the requirements relating to the scrappage be included in a vehicle purchaser participation agreement that has been signed by the eligible entity and the approved contractor; and

(c) Refuse to redeem a voucher issued pursuant to NRS 445B.934 if the eligible entity does not comply with the scrappage requirements.

3. *The Division may compile and provide to the eligible entity a list of entities that the eligible entity may use for purposes of complying with any scrappage requirements imposed pursuant to subsection 2.*

4. *As used in this section, “scrappage” means the process by which a diesel-powered or gasoline-powered vehicle is rendered inoperable.*

Sec. 11. 1. *To redeem a voucher issued pursuant to NRS 445B.934, an approved contractor shall submit to the Division:*

(a) The voucher;

(b) Documentation relating to the sale of the eligible clean truck or bus, including, without limitation:

(1) The manufacturer’s suggested retail price for the eligible clean truck or bus; and

(2) A final sales invoice signed by the eligible entity that sets forth the actual purchase price of the eligible clean truck or bus that was purchased;

(c) Photographs of the eligible clean truck or bus that was purchased;

(d) Proof of the vehicle identification number and vehicle registration of the eligible clean truck or bus that was purchased;

(e) The date on which the eligible clean truck or bus was placed into service by the eligible entity;

(f) Proof that the eligible entity has paid any applicable fees and taxes relating to the purchase of the eligible clean truck or bus; and

(g) If applicable, proof that any diesel-powered or gasoline-powered vehicle that the Division required to be scrapped pursuant to section 10 of this regulation was scrapped in compliance with the requirements imposed by the Division pursuant to subsection 2 of section

10 of this regulation, including, without limitation, photos of the vehicle before and after the vehicle was scrapped.

2. Except as otherwise provided by subsection 4 of NRS 445B.934, after receipt of the documentation required by subsection 1, the Division shall pay the approved contractor, by wire transfer, the full value of the voucher.

Sec. 12. *An eligible entity that purchases an eligible clean truck or bus using an incentive received from the Program shall:*

1. Own and operate the eligible clean truck or bus for at least 3 years after the date of purchase.

2. Ensure that the eligible clean truck or bus is continuously registered and domiciled in this State for the entire period in which the eligible entity owns and operates the eligible clean truck or bus.

3. Submit to the Division an annual report relating to the use and condition of the eligible clean truck or bus for each of the 3 years immediately following the date on which the eligible clean truck or bus is purchased. The annual report must:

(a) Be submitted not earlier than September 1 and not later than September 30 of each year; and

(b) Include, without limitation, documentation of:

(1) The vehicle identification number and vehicle registration of the eligible clean truck or bus;

(2) The annual mileage and fuel use of the eligible clean truck or bus;

(3) The routes traveled by the eligible clean truck or bus;

(4) The location where the eligible clean truck or bus is domiciled; and

(5) Any other information that is requested by the Division to ensure compliance with federal requirements for the Program.