

**ADOPTED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R051-08

Effective August 26, 2008

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

AUTHORITY: §1, NRS 445B.785, 445B.790 and 445B.835.

A REGULATION relating to air pollution; requiring the Department of Motor Vehicles to issue a written notice to an owner of a test station for certain violations; and providing other matters properly relating thereto.

Section 1. NAC 445B.7045 is hereby amended to read as follows:

445B.7045 1. If the Department imposes administrative fines or other penalties against an owner of a test station pursuant to NRS 445B.835, ~~[for a violation of NAC 445B.4985,]~~ the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, issue a ~~[cease and desist order.]~~ *written notice informing the owner of the test station that:*

(1) An approved inspector employed by the owner has committed a violation of this chapter or chapter 445B of NRS; and

(2) In accordance with the provisions of NAC 445B.4985, the owner will be held responsible for any act or omission of the approved inspector or any other employee employed at the test station which is committed while the approved inspector or other employee is acting within the scope of his employment and which constitutes a second or subsequent violation of a specific section of this chapter or chapter 445B of NRS.

(b) For a second offense, require the owner of the test station or his authorized representative to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(c) For a third offense, impose a fine of \$1,000.

(d) For a fourth offense, revoke the license of the owner to operate the test station.

2. If the Department imposes administrative fines or other penalties against an approved inspector pursuant to NRS 445B.835 for a violation of NAC 445B.580, 445B.5805 or 445B.589, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense:

(1) Issue a cease and desist order; and

(2) Require the approved inspector to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(b) For a second offense:

(1) Impose a fine of \$250;

(2) Require the approved inspector to complete successfully an educational course, which is established by the Department and conducted by a provider approved by the Department, not later than the date specified in the notice of the violation; and

(3) Suspend the license of the approved inspector for 10 calendar days.

(c) For a third offense:

(1) Impose a fine of \$500; and

(2) Suspend the license of the approved inspector for 90 calendar days.

(d) For a fourth offense, permanently revoke the license of the approved inspector.

3. Any person who has been fined in accordance with the schedules set forth in this section shall make payment to the Department not later than the date specified in the notice of the violation, unless the person has requested a hearing pursuant to subsection 1 of NRS 445B.835.

4. Upon the failure of a person to pay a fine or comply with any directive imposed pursuant to the provisions of this section, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of chapter 445B of NRS.

5. An owner of a test station whose license is revoked by the Department pursuant to this section:

(a) Shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles, if the violation:

- (1) Was knowing or willful; or
- (2) Involved fraud.

(b) May directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles at a test station other than the test station where the violation occurred, if the violation:

- (1) Was not knowing or willful; and
- (2) Did not involve fraud.

6. An approved inspector whose license is revoked or suspended by the Department pursuant to this section shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles.

7. For the purposes of this section, the curriculum for an educational course established by the Department may include, without limitation:

- (a) The pertinent laws and regulations related to the control of emissions of motor vehicles;
- (b) Procedures for emission control inspections of motor vehicles;
- (c) The responsibilities of owners of test stations; and
- (d) A review of the penalties which may be imposed on the owner of a test station or an approved inspector for future violations of NRS 445B.700 to 445B.845, inclusive, or any rule, regulation or order adopted or issued pursuant thereto.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File R051-08**

The Department adopts permanent regulations assigned LCB File R051-08, which pertain to Chapter 445B of the Nevada Administrative Code, a regulation relating to emissions; revises how the Department of Motor Vehicles issues a written notice of certain violations to owners of authorized emission stations.

WORKSHOP	WORKSHOP
10:00 AM Wednesday, June 25 th , 2008 Community College of Southern Nevada 6375 W. Charleston, Bldg. H, Room #109 Las Vegas, Nevada 89146	10:00 AM Tuesday, July 1 st , 2008 Washoe County Government Complex 1001 E. 9 th St. Bldg C, Room #110 Reno, Nevada 89512

Public Workshop Notice Date: May 13, 2008

HEARING	HEARING
10:00 AM Thursday, June 26 th , 2008 Community College of Southern Nevada 6375 W. Charleston, Bldg. H, Room #109 Las Vegas, Nevada 89146	10:00 AM Tuesday, July 2 nd , 2008 Washoe County Government Complex 1001 E. 9 th St. Bldg C, Room #110 Reno, Nevada 89512

Public Hearing Notice Date: May 13, 2008

Date of Adoption by Agency: July 11, 2008 and upon approval of Legislative Commission.

INFORMATIONAL STATEMENT

A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary. The Department of Motor Vehicles noticed public workshops for LCB File R051-08 on May 13th, 2008, by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

The Department of Motor Vehicles noticed public hearings for LCB File R051-08 on May 13th, 2008, by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

No comment or testimony was given by any member of the public at the Public Workshops and Public Hearings. No written comments by any member of the public were submitted to the Department.

A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary: The Department of Motor Vehicles noticed public workshops for LCB File R051-08 on May 13th, 2008 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

The Department of Motor Vehicles noticed public hearings for LCB File R051-08 on May 13th, 2008 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

A copy of the minutes for the public workshop and public hearings may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division by telephone at (775) 684-4805.

A copy of the minutes for the public workshop and public hearings may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division in writing at the following address:

Nevada Department of Motor Vehicles
Compliance Enforcement Division
555 Wright Way
Carson City, Nevada 89711-0900
Attention: Ivie Harper Administrative Assistant III

The number of persons who attended each Public Workshop: Two individuals representing emission testing stations attended the Public Workshop in Las Vegas on June 25th, 2008. Two individuals representing emission testing stations attended the Public Workshop in Reno on July 1st, 2008.

A summary of questions and comments received at each Public Workshop: At the June 25th, 2008 regulation workshop in Las Vegas, two individuals representing an emission test station stated their support of the proposed regulation amendments. At the July 1st, 2008 regulation workshop in Reno, one individual representing an emission test station commented that they did not believe it necessary to include language holding owners of test stations responsible for violations of Chapter 445B, if the employee is not licensed as an approved emission inspector. A Deputy Chief representing the Department of Motor Vehicles Compliance Enforcement Division

explained that the proposed language holding any employee responsible for a violation of Chapter 445B is necessary, because the Department has historical record of violations to the prescribed emission test procedures, which involved both licensed emission inspectors and individuals not licensed by the Department.

A summary of written comments submitted to the agency: The notice for Public Workshops invited written comments from the public and affected agencies, with a deadline for written comments to be received by June 24th, 2008. No written comment was received

The number of persons who attended each Public Hearing: There were no individuals representing either the general public or emission inspection industry that attended the Public Hearing in Las Vegas on June 26th, 2008. There was one individual representing the emission test industry that attended the Public Hearing in Reno on July 2nd, 2008.

A summary of testimony at each Public Hearing: There was no testimony offered at either Public Hearing.

A summary of written comments submitted to the agency: The notice for Public Hearings invited written comments from the public and affected agencies, with a deadline for written comments to be received by June 24th, 2008. No written comment was received.

If the regulation was adopted without changing any part of the proposed regulation, list a summary of the reasons for adopting the regulation without change. The Department of Motor Vehicles has submitted the proposed regulation, to be considered for adoption as originally written.

List the estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

(a) There is no estimated economic effect on the regulated industry, either adverse or beneficial, nor immediate or long-term.

(b) There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

List the estimated cost to the agency for enforcement of the adopted regulation: There is no additional cost to the agency for enforcement of this regulation.

List a description of any regulations of other state or government agencies that 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, list the name of the regulating federal agency: There are no other state or federal government agency regulations that the proposed regulation amendments duplicate.

If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions: There are not federal regulations that regulate the same activity as the proposed regulation.

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: This regulation does not provide or involve a new fee. A total fee amount is not expected to be collected or used.