

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R052-12

Effective April 5, 2013

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

AUTHORITY: §§1-4, NRS 445B.767 and 445B.770.

A REGULATION relating to emissions; establishing the voluntary program of electronic monitoring of emission information from certain vehicles; establishing the requirements to be an authorized vendor of a data management system; and providing other matters properly relating thereto.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *The voluntary program of electronic monitoring of emission information is hereby established pursuant to NRS 445B.767.*

2. The owner or lessee of a fleet of three or more vehicles located in a county whose population is 100,000 or more is eligible to participate in the voluntary program if:

(a) Each of the vehicles which participates in the voluntary program is equipped with onboard diagnostic equipment that monitors information relating to the emissions of the vehicles;

(b) The owner or lessee enters into a written agreement with the Department to submit to the Department continuous emission compliance data in a format prescribed by the Department from the onboard diagnostic equipment of the vehicles in the fleet using a data

management system obtained from an authorized vendor as described in section 3 of this regulation; and

(c) The owner or lessee complies with any other requirements established by the Department.

3. The owner or lessee of a fleet which participates in the voluntary program may not apply for a waiver of standards for emissions pursuant to NAC 445B.590 for any vehicle of the fleet which participates in the voluntary program.

4. The owner or lessee of a fleet which participates in the voluntary program is not required to have the vehicles of that fleet or the systems for the control of emissions of the vehicles of that fleet inspected or tested pursuant to NAC 445B.575 to 445B.601, inclusive, and shall be deemed to have complied with the requirements of those provisions if the owner or lessee remains in compliance with the requirements of subsection 2 and any other requirements of the Department for participation in the voluntary program.

5. Participation in the voluntary program may be terminated if:

(a) The owner or lessee of a fleet of vehicles which participates in the voluntary program is found to be out of compliance with the requirements of this section or the agreement entered into with the Department pursuant to subsection 2;

(b) Evidence indicates that the onboard diagnostic equipment of a vehicle that is part of a fleet which participates in the voluntary program has been manipulated or tampered with to allow the submission to the Department of erroneous or fraudulent information;

(c) The owner or lessee of a fleet of vehicles which participates in the voluntary program fails to present to the Department a vehicle of the fleet for inspection upon request by the

Department for verification of the emission data for the vehicle that has been transmitted to the Department;

(d) The owner or lessee of a fleet of vehicles which participates in the voluntary program fails to inform the Department when a vehicle is no longer part of the fleet which participates in the program;

(e) The owner or lessee of a fleet of vehicles which participates in the voluntary program fails to correct any problem with the transmission of data to the Department from a vehicle of the fleet; or

(f) Inaccurate or incomplete information is transmitted to the Department from a vehicle that is part of a fleet which participates in the voluntary program.

Sec. 3. *To become an authorized vendor of a data management system which is required for participation in the voluntary program established pursuant to section 2 of this regulation, a vendor must:*

1. Demonstrate that the data management system offered by the vendor will submit to the Department data in accordance with the specifications and in the format required by the Department;

2. Enter into a written agreement with the Department to comply with any requirements established by the Department; and

3. Provide any additional information the Department may require.

Sec. 4. NAC 445B.401 is hereby amended to read as follows:

445B.401 As used in NAC 445B.400 to 445B.735, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.408 to 445B.4556, inclusive, have the meanings ascribed to them in those sections.

Permanent Regulation - Filing Statement

A Regulation Relating to DMV Smog Check Program

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R052-12

Regulation R052-12: The Nevada Department of Motor Vehicles (DMV), in association with the Nevada Division of Environmental Protection (NDEP) have together proposed to amend certain portions of state regulations in NAC 445B that cover the motor vehicle emissions inspection and maintenance program, also referred to as the smog check program. Assembly Bill 414 was passed by the 2009 Nevada Legislature and resulted in (NRS) 445B.767, which established the authority of the State Environmental Commission (SEC) to adopt regulations to create a voluntary program of electronic monitoring of motor vehicle emissions information.

The program applies to motor vehicles subject to the motor vehicle emissions inspection and maintenance program in counties whose population is 100,000 or more. In accordance with NRS 445B.767, the regulation has been developed by the DMV in cooperation with NDEP and the air quality agencies in both Clark and Washoe County.

The regulation creates a new, voluntary program which will allow fleets to comply with motor vehicle emissions testing requirements by means of engaging the services of an authorized vendor of an electronic data management and monitoring system. Under this program, vendors will attach electronic devices to fleet vehicles that will monitor the vehicles' emission control systems and transmit emissions compliance data directly to the DMV in an electronic format.

This electronic means of demonstrating compliance eliminates the need for the fleet owner to take the vehicle to an emissions testing facility for the annual emissions test. By statute, the fleet owner is still responsible for paying the \$6.00 emissions certificate fee that would normally be charged at an emissions testing facility. The proposed regulations establish the requirements and procedures that fleet operators and authorized vendors must follow to participate in the program.

1. 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.

On Wednesday, November 28, 2012, staff from DMV conducted a public workshop on LCB's Proposed Draft Regulation R052-12. The workshop was held in Carson City and video conferenced to Las Vegas. The meeting location in Carson City was the Nevada Department of Transportation, 1263 South Stewart Street. In Las Vegas the meeting location was also the Nevada Department of Transportation, 123 E. Washington Ave.

Following the workshop, the SEC held a formal regulatory hearing on February 13, 2013 in Carson City at the Bryan Building, 901 South Stewart Street. A public notice and agenda for the

regulatory meeting was posted at the meeting location, at the State Library in Carson City, and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas, at the Department of Wildlife in Reno, and at the Division of Minerals in Carson City.

Copies of the agenda, the public notice, and the proposed permanent regulation R052-12 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing 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 meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_0213.htm

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

- (a) Attended February 13, 2013 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 2
- (c) Submitted to the agency written comments: 0

3. 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 and responded to through e-mail and telephone exchanges, the public workshop, and at the February 13th Commission hearing as noted above.

4. 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 changes.

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

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. As noted above, businesses that qualify as a fleet and sign an agreement with the DMV will still be subject to paying the annual \$6.00 emissions certificate fee for each vehicle in the program, but will not have to pay the inspection service fee normally charged by an emissions testing station. Fleets will also have to pay the electronic data management service fee to the authorized vendor.

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

There will be no additional costs to the agency for enforcement of the proposed regulation.

7. 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.

This regulation does not duplicate any other federal, state or local regulation.

8. 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 not more stringent than any federal regulation or guidance.

9. 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.