

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

LCB File No. R199-01

Effective July 17, 2003

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

AUTHORITY: §§1-9, 11 and 12, NRS 445B.785; §10, NRS 445B.785 and 445B.835.

Section 1. NAC 445B.469 is hereby amended to read as follows:

445B.469 1. An authorized station or authorized inspection station shall post in a conspicuous place in the station signs or placards provided by the Department which:

- (a) Set forth the fee for the emission control test;
- (b) Set forth the fee for each vehicle inspection report number issued; and
- (c) Provide information regarding the program of this state for the inspection and

maintenance of motor vehicles.

2. In addition to the requirements of subsection 1, an authorized station ~~must~~ *shall* post in a conspicuous place in the station signs or placards provided by the Department which set forth the hourly labor rate charged by the authorized station.

3. An authorized station or authorized inspection station shall display at least one outdoor sign provided by the Department which is posted so that it is visible from the middle of the nearest roadway adjacent to the station.

4. ~~The Department will collect a fee of \$15 for~~ *For* each sign posted by an authorized station or authorized inspection station that is provided by the Department ~~],~~ *the Department will collect from the authorized station or authorized inspection station a fee based upon the*

actual costs incurred by the Department to produce the sign. The fee will be returned if the sign is returned to the Department in a reusable condition.

5. An authorized station or authorized inspection station shall pay the costs of repairing and maintaining signs which are in its control.

Sec. 2. NAC 445B.470 is hereby amended to read as follows:

445B.470 1. The license to operate a test station and all licenses issued to approved inspectors must be displayed in a conspicuous place under glass or other transparent material within the test station.

2. Except as otherwise provided in subsection 3:

(a) A test station shall keep ~~[attached to its exhaust gas analyzer the quick reference guides of the manufacturer on hookup and testing procedures]~~ *the operator's manual* for its exhaust gas analyzer ~~[]~~ *readily available to the approved inspector.*

(b) A test station shall have readily available to the approved inspector a reference manual or equivalent information stating the emissions devices which are required by state and federal law to be installed on each type of motor vehicle that is inspected. *The owner of the test station or his designee shall, upon the request of a representative of the Department, demonstrate the availability of the reference manual or equivalent information by accessing the manual or information.*

(c) An authorized station or class 2 fleet station shall have readily available to the class 2 approved inspector reference information in the form of printed or electronic media explaining the operation and maintenance of the ~~[emission]~~ *emissions* devices which are required by state and federal law to be installed on each type of motor vehicle. *The owner of the test station or his*

designee shall, upon the request of a representative of the Department, demonstrate the availability of the reference information:

(1) If a telephone or facsimile transmission is not required to access the reference information, by accessing the reference information; and

(2) If the reference information is accessible only through the use of a telephone or facsimile transmission, by using the telephone or facsimile transmission to obtain and provide to the representative of the Department one copy of the reference information.

3. A fleet station is not required to maintain the specifications or instructions of the manufacturer for any motor vehicles other than those motor vehicles used and serviced by the fleet station.

Sec. 3. NAC 445B.472 is hereby amended to read as follows:

445B.472 1. Each test station shall maintain and have available for collection, records of all inspections and repairs, as may be applicable, for evaluation of the information at the request of the Department.

2. The principal portion of the established place of business of a test station must be open to inspection during usual business hours by any authorized agent of the Department.

3. A representative of the Department will perform an audit of all exhaust gas analyzers located at a test station a minimum of once every calendar month.

4. A representative of the Department will perform an accuracy audit using specialty gas specifically designed for that purpose on all exhaust gas analyzers located at a test station a minimum of once every quarter in each calendar year.

Sec. 4. NAC 445B.474 is hereby amended to read as follows:

445B.474 1. Except as otherwise provided in subsections 2 and 3, a test station which does not employ an approved inspector of the appropriate rating shall:

- (a) Immediately cease to operate as a test station;
- (b) Remove or cover its sign as a test station;
- (c) Not inspect any motor vehicle or issue any evidence of compliance; and
- (d) Immediately notify the Department that an approved inspector of the appropriate rating is

not employed by the test station.

2. Except as otherwise provided in subsection 3, if an approved inspector of the appropriate rating is not employed within 60 days, the test station shall surrender its signs, its license as a test station and all of its forms and supplies to the Department.

3. An authorized station that ceases ~~[to employ a class 2 approved inspector for a total of 120 days within a period of 12 months, but continues to employ a class 1 approved inspector of the appropriate rating, may continue to operate as an authorized station if the Department is notified within 2 working days after a class 2 approved inspector with the appropriate rating is no longer employed by the facility. If the authorized station does not employ a class 2 inspector at any time after the total of 120 days within the period of 12 months is exhausted, the authorized station shall:~~

~~—(a)]~~ *the employment of, or is otherwise not employing, a class 2 approved inspector:*

(a) May continue to operate as an authorized station for not more than 120 days after the last date of employment of the class 2 approved inspector if the authorized station:

(1) Is currently employing a class 1 approved inspector;

(2) Had actively employed a class 2 approved inspector who was working on the premises for at least 90 consecutive days immediately preceding the last date of employment of the class 2 approved inspector; and

(3) Notifies the Department within 2 working days after the last date of employment of the class 2 approved inspector; and

(b) If the authorized station does not qualify for the 120-day grace period provided in paragraph (a) or fails to employ a class 2 approved inspector by the end of the 120-day grace period, shall:

(1) Immediately cease to operate as an authorized station;

~~[(b)]~~ *(2) Remove or cover its sign as an authorized station;*

~~[(e)]~~ *(3) Not inspect any motor vehicle or issue any vehicle inspection report;*

~~[(d)]~~ *(4) Immediately notify the Department that an approved inspector of the appropriate rating is not employed by the authorized station; and*

~~[(e)]~~ *(5) Surrender its signs, its license as an authorized station and all of its forms and supplies to the Department.*

Sec. 5. NAC 445B.489 is hereby amended to read as follows:

445B.489 The Department may deny the issuance of, suspend or revoke the license of an approved inspector if:

1. ~~[(He)]~~ *The approved inspector* fails to establish by satisfactory evidence to the Department that he is employed by a test station with an appropriate rating.

2. ~~[(He)]~~ *The approved inspector* has knowingly made any false statement or concealed any material fact on his application for a license.

3. ~~{He}~~ *The approved inspector* knowingly submits false, inaccurate or misleading information on evidence of compliance or any other records submitted to the Department.
4. ~~{He}~~ *The approved inspector* fails to report in writing to the Department every change in his place of employment or any termination of his employment within 10 days after the date of the change or termination.
5. ~~{He}~~ *The approved inspector* willfully or negligently issues evidence of compliance which contains fraudulent information. ~~{The}~~ *As used in this subsection, the* term “fraudulent” includes, but is not limited to, a backdated document, a postdated document or a document based on anything other than actual physical inspection at the time of the issuance of the evidence of compliance.
6. ~~{He}~~ *The approved inspector* does not follow the procedures for testing prescribed by the Department.
7. ~~{He}~~ *The approved inspector* allows evidence of compliance to be completed or issued by a person who is not an approved inspector.
8. ~~{He is incompetent to perform his duties.}~~
- ~~9. {He} *The approved inspector allows another person to perform emissions tests by using the identification number assigned to the approved inspector.*~~
9. *The approved inspector submits to the Department falsified credentials or certifications of training.*
10. *The approved inspector* makes an inaccurate determination regarding a classification of a motor vehicle.

~~{10. —He}~~

11. *The approved inspector* fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive.

~~[11.— He changes his place of employment, is required to use an exhaust gas analyzer which is different from the type used at his previous place of employment and fails to provide to the Department a certificate of competence issued by the manufacturer of the analyzer.]~~

12. The Department determines that an applicant or approved inspector is not lawfully entitled to a license.

13. ~~[He]~~ *The approved inspector* is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

14. ~~[He]~~ *The approved inspector* is unable to demonstrate proficiency in the verbal and written expression of the English language.

Sec. 6. NAC 445B.4985 is hereby amended to read as follows:

445B.4985 The owner of the test station ~~[is]~~ *will be held* responsible for any act or omission of an approved inspector *or any other employee* employed ~~[by the]~~ *at any* test station *owned by the owner* which is committed while the inspector *or other employee* is acting within the scope of his employment , *and* which would constitute a violation of this chapter or chapter 445B of NRS ~~[.]~~ *if:*

1. *The act or omission is a second or subsequent violation of a specific section of this chapter or chapter 445B of NRS that was committed by the same inspector or other employee while employed at any test station owned by the owner; and*

2. *The owner of the test station received notice from the Department of the first offense previously committed by the approved inspector or other employee.*

Sec. 7. NAC 445B.499 is hereby amended to read as follows:

445B.499 1. The fee for the initial issuance and biennial renewal of an inspector's license is \$25.

2. *If an inspector who is employed by a test station and has paid the fee required by subsection 1 wishes to be licensed at one or more additional locations of that test station, the fee for the issuance and biennial renewal of an inspector's license for each additional location is \$10.*

3. The fee for the transfer of an inspector's license is \$10.

Sec. 8. NAC 445B.505 is hereby amended to read as follows:

445B.505 A list of approved exhaust gas analyzers and specifications for those analyzers will be on file with the Department. A copy of the list and specifications may be obtained by writing to:

Department of Motor Vehicles

~~[Emission Control Section]~~ *Division of Management Services and Programs*

555 Wright Way

Carson City, Nevada 89711

Sec. 9. NAC 445B.5065 is hereby amended to read as follows:

445B.5065 1. The manufacturer of each exhaust gas analyzer approved by the Department shall provide a written warranty to each purchaser or lessee of the analyzer. The warranty must provide complete coverage of:

- (a) Parts and labor for all systems and components of the analyzer; and
- (b) All services provided by the manufacturer pursuant to NAC 445B.5075.

2. The warranty must include the:

- (a) Name of the owner of the test station;

- (b) Address and telephone number of the test station;
- (c) Identification number of the test station; and
- (d) Terms of the warranty.

3. The warranty must extend for at least ~~{1-year}~~ **4 years** with guaranteed renewals provided for at least ~~{5}~~ **2** years at the request of the purchaser or lessee.

Sec. 10. NAC 445B.5075 is hereby amended to read as follows:

445B.5075 1. The manufacturer of an exhaust gas analyzer approved by the Department, or an authorized representative of the manufacturer, shall provide the services set forth in this section to each person purchasing or leasing one of those analyzers as part of the warranty required pursuant to NAC 445B.5065, and thereafter upon request by the purchaser or lessee at a cost negotiated between the parties.

2. The manufacturer or its authorized representative shall:

(a) Deliver, install, calibrate and verify the proper operating condition of the analyzer.

(b) ~~{Examine, calibrate and perform routine maintenance of the analyzer and sampling systems every 3 months, including, without limitation, the replacement or cleaning of filters and hoses.~~

~~{(e)}~~ Train all approved inspectors employed by the test station at the time of installation in the proper use, maintenance and operation of the analyzer, including the procedure for performing a vehicle inspection in this state.

~~{(d) Provide additional training of new approved inspectors}~~

(c) **Provide**, within 30 days after receiving an oral or written request from the operator of ~~{the}~~ **a** test station ~~{~~

~~—(e)~~, *additional training to an applicant for licensure as a class I approved inspector who is unable to demonstrate to the Department an ability to adjust and operate the equipment in accordance with paragraph (b) of subsection 1 of NAC 445B.485. The manufacturer may charge a fee for providing such additional training.*

(d) Provide on-site service calls by a qualified repair technician within 2 business days after receiving an oral or written request from the operator of the test station. The names, toll-free telephone numbers and business addresses of all of the manufacturer's representatives responsible for equipment service in the affected area must be provided to the operator of the test station for this purpose. A service representative of the manufacturer must be available to receive service calls at all times during normal working hours of each day of the week, excluding ~~Saturdays,~~ Sundays and national holidays. Any necessary repairs to an analyzer, replacement of components or adjustments to an analyzer, including the correction and reset of quality control lockout systems, must be accomplished at the test station within 1 day after authorization from the operator of the test station has been obtained to perform the repairs. If it is not possible to complete the work within this time, a temporary replacement analyzer meeting all program requirements of the Department must be provided to the operator of the test station at no additional charge until the malfunctioning analyzer is properly repaired and returned to service.

~~[(f) Provide annual]~~

(e) *Provide up to two* updates of software as required by the Department, which may include, without limitation:

- (1) Preconditioning procedures and emission testing sequences;
- (2) Various look-up tables;
- (3) Procedures for data communication; and

(4) Criteria affecting the selection of emission standards, vehicle exemptions, and whether a vehicle passes or fails an emissions test.

FLUSH Other areas not specifically mentioned may also be required to be updated, but changes are not expected in all noted areas at one time.

~~(g)~~ (f) Provide major alterations or additions to the hardware or software of the analyzer as may be deemed necessary by the Department in response to a change in requirements of the inspection and maintenance program of this state, a change in vehicle technology or other relevant change. If an update is required, the time for development will be agreed upon by the Department and the manufacturer. *If an update of software is required, the time within which the updated software must be developed will be agreed upon by the Department and manufacturer.*

3. If the manufacturer of an exhaust gas analyzer violates any provision of subsection 2, the Department may, pursuant NRS 445B.835, impose an administrative fine of \$1,000. Each day upon which such a violation occurs constitutes a separate violation.

Sec. 11. NAC 445B.584 is hereby amended to read as follows:

445B.584 1. Vehicle inspection report numbers may be purchased only by *an owner of* a test station *or his authorized representative* and may be obtained from the branch offices of *the Department or from an authorized agent of* the Department.

2. ~~(A)~~ *An owner of a* test station *or his authorized representative* shall not purchase or otherwise obtain vehicle inspection report numbers from a source other than *the Department or an authorized agent of* the Department.

Sec. 12. NAC 445B.588 is hereby amended to read as follows:

445B.588 A list of equipment approved for testing light-duty motor vehicles powered by diesel engines and specifications for that equipment will be on file with the Department. A copy of the list may be obtained by writing to:

Department of Motor Vehicles

Division of Management Services and Programs

555 Wright Way

Carson City, Nevada 89711

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R199-01

The Department of Motor Vehicles adopted regulations assigned LCB File No. R199-01 which pertain to chapter 445B of the Nevada Administrative Code on June 12, 2003.

Notice date: June 12, 2003

Hearing date: March 12, 2003, April 8, 2002,
November 12, 2002 and November 25, 2002

Date of adoption by agency: June 12, 2003

Filing date: June 12, 2003

INFORMATIONAL STATEMENT

The Department of Motor Vehicles (DMV) noticed and held workshops and public hearings on March 13, 2002, April 8, 2002, November 12, 2002 and November 25, 2002, to solicit opinion on proposed regulations modifying the emission control inspection and maintenance program regulations.

The notice of workshops and public hearings and complete copies of the proposed temporary regulations were posted at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In each county where the Department does not maintain an office, the notice was posted at the main office of the public library.

Workshops and public hearings were held on March 13, 2002 in Reno, NV, April 8, 2002 in Las Vegas, NV, November 12, 2002 in Reno, NV, and November 25, 2002 in Las Vegas, NV. Twenty-two people of the public attended the March 13, 2002 hearing and voiced their objection to when the owner of an emission inspection facility would be held responsible for his employees' actions; clarification was given. Twenty-seven people of the public attended the April 8, 2002 meeting and voiced their objection to the station owner responsibility issue and again clarification was given. Two persons from the public attended the November 12, 2002 hearing and voiced their objection to the station owner responsibility issue and again clarification was given. Two persons from the public attended the November 25, 2002 hearing and asked questions about fee and inspector competence which DMV representatives answered.

The department will adopt the amended permanent regulation with the following changes:

Section 1: **445B.469(2)** Language amendment to state that an authorized stations "shall" post in a conspicuous place in the station signs or placards provided by the department which set forth the hourly labor rate charged by the authorized station. **445B.469(4)** The department will collect from emission stations a fee based upon the actual costs incurred by the department to produce the outdoor metal emission sign, which must be displayed to the public.

Section 2: **445B.470(2)(a)** Language change which requires exhaust gas analyzer operator's manual to be located on emission station premises. **445B.470(2)(b)** Requires demonstration by emission station to a department representative the operation of a reference

manual or equivalent information, which provides information of which required emission control devices are needed for a vehicle. **445B.470(3)(c)** Requires demonstration for the operation of reference information in the form of printed or electronic media, including telephone and fax systems which provides information of maintenance procedures of emission control devices for motor vehicles by an emission station to a department representative.

Section 3: **445B.472(3)** Language change to require audits of emission analyzers a minimum of once every calendar month. **445B.472(4)** Language addition to require accuracy audits of emission analyzers using specialty gas a minimum of once every quarter per calendar year.

Section 4: **445B.474 (3)** Revises the requirements, which allow an emission station to perform the services of an authorized station while not having a Class 2 inspector employed.

Section 5: **445B.489(8)** Language change from “an unlicensed or unapproved inspector” found in the Proposed Language Amendment document to “another individual” found in the Adopted Language. **445B.489(9)** Removal of language allowing the department to deny the issuance of, suspend or revoke the license of an approved inspector based upon incompetence to perform their duties. Added section that would allow the department to deny the issuance of, suspend or revoke the license of an approved inspector should falsified credentials or training certificates be submitted to the department. **445B.489(12)** Removal of requirement for emission inspectors to provide the department certification of gas analyzer operation upon change of employment.

Section 6: **445B.4985(a)** Language addition that explains the specifics of when the emission station owner will be held responsible for any violations committed by their employee.

Section 7: Requirement for a \$10.00 fee each for one or more additional emission inspector licenses beyond the initial licensing fee of \$25.00.

Section 8: Language change which states that a list of approved exhaust gas analyzers may be obtained from the Department of Motor Vehicles, Management Services and Programs Division.

Section 9: Requires that the warranty for the emission analyzer extend for at least 4 years with guaranteed renewals for at least 2 years at the request of the purchaser or lessee.

Section 10: **445B.5075(c)** Language addition which only requires the manufacturer of approved emission analyzers to provide training to new emission inspectors when the individual cannot demonstrate to the department their ability to adjust and operate the equipment as stated within Nevada Administrative Code 445B.485(1)(b). **445B.5075(g)** Retain language originally stricken in Proposed Language Amendment currently found in Code, which requires analyzer manufacturer to provide major alterations or additions to hardware of software as deemed necessary by the department.

Section 11: **445B.584** Language change which states that an emission station owner or his approved designee representing a test station may only purchase vehicle inspection report numbers from the department or an authorized agent of the department.

Section 12: **445B.588** Language change which states that a list of approved test equipment for testing light duty diesel vehicles may be obtained from the Department of Motor Vehicles, Management Services and Programs Division.

No written submission was received. There are no adverse economic effects of this regulation to the department, local authorities or the public. There are no other state or government regulations, which the proposed regulations duplicate.