

**PROPOSED REGULATION OF THE DEPARTMENT
OF MOTOR VEHICLES**

A new section to Chapter 445B of the Nevada Administrative Code proposed by the Department of Motor Vehicles

NAC 445B.XXX *Inspection of Authorized Emission Stations and Approved Inspectors*

1. *The Department shall establish by regulation a program to inspect authorized emission stations and approved emission inspectors pursuant to Nevada Revised Statute 445B.790.*

(a) *Department representatives shall prioritize inspections of authorized emission stations and approved inspectors through evaluation of:*

(1) *Emission inspection fail rates, which are determined to be abnormal when compared to overall program statistics*

(2) *Complaints received against an authorized station or inspector.*

(3) *An audit related to a previous violation*

(4) *Authorized stations or inspectors licensed by the Department to conduct emission inspections of motor vehicles within the previous 60 days*

(5) *Questionable emission inspection data results found on the emission database*

(6) *Adherence by the Department to Part 51 of the Code of Federal Regulations*

(b) *Department representatives shall prepare any motor vehicle intended to be used for inspection of authorized emission stations and approved emission inspectors in a manner which:*

(1) *Any approved inspector using due care while following the test procedure would be able to readily identify a missing, tampered with or inoperable emission control device(s).*

(c) *Nothing found within this section shall be construed to require more than a visual inspection on the part of the approved inspector and where appropriate the prescribed vehicle inspection procedure.*

NAC 445B.XXX *Enforcement of Authorized Emission Stations and Approved Inspectors*

1. *In the event a violation of Chapter 445B of the Nevada Revised Statutes and/or Nevada Administrative Code is detected by the Department as a result of an inspection, the Department shall:*

(a) *Immediately deliver preliminary notice to the person who committed the violation that a violation occurred, and;*

(1) *Issue a written notice of violation to the person who committed the violation in the form prescribed by the Department.*

(b) *When the person who commits a violation is not available to receive the preliminary notice, a Department representative shall provide the preliminary notice to any available representative of the business.*

(1) *When the person who commits a violation is not available, a written notice of violation will be delivered to the violator via certified mail.*

(c) When the person who commits a violation is not the owner or principal of the business, the Department shall provide a written preliminary notice to the owner(s) of that business no later than 5 business days after the violation occurred.

(d) Provide the person who committed the violation, or in his absence the business representative notified, an opportunity to inspect the vehicle used in the inspection.

2. Nothing in this section shall be construed so as to require the Department to provide immediate notice to a violator, or owner when such notice would:

(a) Jeopardize an ongoing investigation

3. For the purposes of this section an ongoing investigation may include but not be limited to:

(a) Fraudulent or unlicensed activity

(b) Deceptive trade practices

(c) Any other activity prohibited by the Nevada Revised Statutes or Nevada Administrative Codes.

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

NAC 445B.727 Administrative fines.

1. Except as otherwise provided in subsections 2 and 3~~;~~ *and for violations pertaining to Nevada Administrative Codes 445B.4985, 445B.580, 445B.5805 and 445B.589*, if the Department imposes administrative fines pursuant to the provisions of NRS 445B.835, it will impose such fines for violations occurring within the ~~3~~ 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, a fine of not less than \$100 nor more than \$500.

(b) For a second offense, a fine of not less than \$500 nor more than \$1,000.

(c) For a third offense, a fine of not less than \$1,000 nor more than \$1,500.

(d) For a fourth or subsequent offense, a fine of not less than \$1,500 nor more than \$2,500.

↪ For the purposes of paragraphs (b), (c) and (d) of this subsection, a cease and desist order issued by the Department shall be deemed to be a first offense.

2. If the Department imposes administrative fines on an owner or operator of a heavy-duty motor vehicle powered by diesel for a violation of the standards of opacity established pursuant to NRS 445B.780, it will impose such fines for violations occurring within the 1-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, a fine of \$800. The Department will not impose this fine if demonstration of correction is provided within 45 calendar days after the receipt of the citation.

(b) For a second or subsequent offense, a fine of \$1,500.

↪ For the purposes of paragraph (b) of this subsection, a cease and desist order issued by the Department shall be deemed to be a first offense.

3. The Department may impose a fine of not less than \$1,500 nor more than \$2,500 for any violation of NAC 445B.460 or subsection 4 of NRS 445B.840.

4. Any person who has been fined pursuant to the provisions of NRS 445B.835 shall make payment to the Department not later than the date specified in the notice of the violation, unless he has requested a hearing pursuant to subsection 1 of that section.

5. Upon the failure of a person to pay a fine imposed pursuant to the provisions of this section when it becomes due, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of this chapter.

6. *If the Department imposes administrative fines for violations pertaining to Nevada Administrative Codes 445B.4985, 445B.580, 445B.5805 and 445B.589 pursuant to the provisions of NRS 445B.835, it will impose such fines for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:*

(a) For a first offense an approved inspector shall receive a written warning in the form of a cease and desist order as described in section 1, attend the first available rules and regulation class provided by the Department and retake and pass the practical exam.

(1) The owner of the authorized emission station shall receive a written warning in the form of a cease and desist order as described in section 1.

(b) For a second offense an approved inspector shall be assessed a \$250.00 administrative fine, attend and satisfactorily complete the first available Department approved training course, retake and pass the practical exam within 30 days of completion of the approved training course.

(1) The owner of the authorized emission station shall attend the first available rules and regulation class provided by the Department .

(c) For a third offense an approved inspector shall have their inspector's license revoked for a period of one year and be assessed a administrative fine of not less than \$1,000 nor more than \$1,500.

(1) The owner of the authorized emission station shall be assessed a \$2,500.00 administrative fine and/or a 30-day suspension of their authorized emission stations license and shall attend and successfully complete a training course approved by the Department within 90 days of the receipt of the notice of violation.

(d) For a fourth offense an approved inspector shall have their inspector's license revoked permanently.

(1) The authorized emission station shall have their station license revoked for a period of one year and the station owner assessed a \$2,500.00 administrative fine.

7. *The Department may suspend, revoke or refuse to renew the license of an approved inspector or authorized emission station owner who fails to comply with any directive pursuant to the provisions of NAC 445B.727 after receipt of notice. That license may not be renewed or re-issued until such time as the directives are fulfilled.*