

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

LCB File No. R003-04

May 4, 2004

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

AUTHORITY: §§1-4, NRS 445B.790; §5, NRS 445B.790 and 445B.835; §6, NRS 445B.785; §7, NRS 445B.835.

A REGULATION relating to vehicle emission inspections; creating a program to inspect authorized inspection stations and approved emission inspectors; establishing fines and other disciplinary action for violations by owners of authorized inspection stations and approved emission inspectors; 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 to 5, inclusive, of this regulation.

Sec. 2. 1. *The Department will conduct annual inspections of authorized inspection stations and the performance of approved inspectors.*

2. The Department will consider the following factors in prioritizing the order of the inspections required in subsection 1:

(a) Emission inspection failure rates that the Department determines to be abnormal when compared to the overall failure rates of all authorized inspection stations and approved inspectors;

(b) Complaints received against authorized inspection stations and approved inspectors;

(c) Violations of NRS 445B.700 to 445B.845, inclusive, or 40 C.F.R. Part 51 discovered by the Department during prior inspections or audits; and

(d) Questionable data discovered on the emissions database of the Department.

Sec. 3. Before conducting an annual inspection pursuant to section 2 of this regulation, the Department will prepare the motor vehicle to be used in the inspection in such a manner that an approved inspector, using due care and following the testing procedures described in NAC 445B.580, 445B.5805 and 445B.589, would readily identify, through only a visual inspection of the vehicle, that the emission control system has been tampered with or is missing or inoperable.

Sec. 4. 1. Except as otherwise provided in subsection 4, if the Department discovers a violation of NRS 445B.700 to 445B.845, inclusive, during an inspection conducted pursuant to section 2 of this regulation, the Department will issue a preliminary written notice of the violation, on a form prescribed by the Department, to the approved inspector who committed the violation. If the approved inspector who committed the violation is no longer present at the authorized inspection station, the Department will:

(a) Give the preliminary written notice of the violation to another approved inspector or any other representative of the authorized inspection station who is present; and

(b) Send a copy of the written preliminary notice to the approved inspector who committed the violation by certified mail not later than 5 business days after the violation occurred.

2. The Department will immediately allow the approved inspector who committed the violation or, in the absence of the approved inspector, the person described in paragraph (a) of subsection 1, to inspect the motor vehicle used in the inspection.

3. Except as otherwise provided in subsection 4, if the approved inspector who committed the violation is not the owner of the authorized inspection station where the violation occurred, the Department will send a copy of the written preliminary notice to the owner by certified mail not later than 5 business days after the violation occurred.

4. The Department will not provide a preliminary notice if providing such notice would jeopardize an ongoing investigation of:

- (a) Fraudulent or unlicensed activity;*
- (b) Deceptive trade practices; or*
- (c) Any other activity prohibited by law.*

Sec. 5. 1. If the Department imposes administrative fines or other penalties against an owner of an authorized inspection station for a violation of any provision 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.

(b) For a second offense, require the owner of the authorized inspection station or his authorized representative to complete successfully the next scheduled educational course established by the Department.

(c) For a third offense:

(1) Impose a fine of \$1,000; and

(2) Suspend the license to operate an authorized inspection station for a period of not less than 30 days.

(d) For a fourth offense:

(1) Impose a fine of \$2,500; and

(2) Revoke the license to operate an authorized inspection station.

2. If the Department imposes administrative fines or other discipline against an approved inspector for a violation of any provision of NAC 445B.580, 445B.5805 or 445B.589, the

Department will impose such fines or other discipline 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) Impose a fine of \$150 or five times the cost of a vehicle inspection, whichever is greater; and

(2) Require the approved inspector to complete successfully the next scheduled training course, written test and practical demonstration described in paragraph (c) of subsection 1 of NAC 445B.485.

(b) For a second offense:

(1) Impose a fine of \$250; and

(2) Require the approved inspector to complete successfully the next scheduled educational course established by the Department. The Department will suspend the license of the approved inspector for 30 days if the approved inspector fails to complete successfully the educational course.

(c) For a third offense:

(1) Impose a fine of not less than \$500; and

(2) Revoke the license of the approved inspector. The approved inspector may reapply for the license after 6 months.

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

3. 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 the person has requested a hearing pursuant to subsection 1 of that section.

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 an authorized inspection station or 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 emissions inspections of motor vehicles.

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

- (a) Procedures for vehicle emission inspections;*
- (b) The responsibilities of owners of authorized inspection stations; and*
- (c) A review of the penalties to the owner of an authorized inspection station or an authorized inspector for future violations.*

Sec. 6. NAC 445B.400 is hereby amended to read as follows:

445B.400 The provisions of NAC 445B.400 to 445B.735, inclusive, *and sections 2 to 5, inclusive, of this regulation* provide the standards for controlling engine emissions.

Sec. 7. NAC 445B.727 is hereby amended to read as follows:

445B.727 1. Except as otherwise provided in subsections 2 and 3 ~~and~~ *and section 5 of this regulation*, 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-year~~ *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~~ *or* more than \$500.
- (b) For a second offense, a fine of not less than \$500 ~~nor~~ *or* more than \$1,000.

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

(d) For a fourth or subsequent offense, a fine of not less than \$1,500 ~~nor~~ *or* 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~~ *or* 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,~~ *chapter 445B of NRS.*