

LCB FILE No. R065-05

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

**NOTICE OF PUBLIC WORKSHOP
FOR THE ADOPTION OF REGULATIONS FOR
THE DEPARTMENT OF MOTOR VEHICLES**

The Department of Motor Vehicles will hold public workshops at the following location on the date and time specified:

**PUBLIC WORKSHOP
LAS VEGAS**

Tuesday, July 12, 2005 3:00 pm
Community College of S. Nevada
Bldg B, Room 140
3200 Cheyenne Ave.
North Las Vegas, NV. 89030

**PUBLIC WORKSHOP
RENO**

Tuesday, July 26, 2005 at 3:00 pm
South Valley's Library
Diamond Room
15650A Wedge Parkway
Reno, NV. 89511

The purpose of this workshop is to receive comments from all interested persons regarding:

- NAC 445B.460, Test Station: License required to operate; expiration of license; ratings; prohibited acts; locations.
- NAC 445B.465 Authorized station or authorized inspection station: Requirements for bond or deposit.
- NAC 445B.468, Authorized stations or authorized inspection stations: Coverage of bond or deposit.
- NAC 445B.469, Authorized station or authorized inspection station: Posting or signs and placards.
- NAC 445B.470, Test station: Display of licenses; availability of reference information.
- NAC 445B.471, Test station: Advertising; distribution of brochure to public by Department.
- NAC 445B.472, Test station: Records of inspections and repairs; inspection of place of business; audit of exhaust gas analyzers.
- NAC 445B.473, Test station: Notice of lost or stolen certificates of compliance.
- NAC 445B.474, Test station: Failure to employ approved inspector.
- NAC 445B.475, Authorized station or class 2 fleet station: Requirements for employees.
- NAC 445B.480, Test station: General duties.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Motor Vehicles may proceed immediately to act upon any written submissions.

There is no economic effect of the regulation on the public, nor is there a cost to the agency for enforcement of the proposed regulations.

The proposed amendment of regulations pertaining to Chapter 445B of Nevada Administrative code do not overlap or duplicate that of any other state or local governmental agency. These regulations are not required pursuant to federal law, nor does the federal government regulate similar activities.

Persons wishing to comment upon the proposed action of the Department of Motor Vehicles may appear at the scheduled public workshops or may address their comments, data, views, or arguments, in written form to:

Ivie Harper
Department of Motor Vehicles
Management Services and Programs
555 Wright Way, Carson City, NV 89711

Written submission must be received by Department of Motor Vehicles on or before July 12, 2005.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Motor Vehicles may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and regulations to be amended will be available at each of the Department of Motor Vehicles listed, and at the main public libraries listed, for inspection and copying by members of the public during business hours. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the locations listed on the attached page.

Dated: June 20, 2005.

THIS NOTICE HAS BEEN POSTED AT THE FOLLOWING LOCATIONS:

DEPARTMENT OF MOTOR VEHICLE BRANCH OFFICES

Office of the Director
555 Wright Way
Carson City, NV. 89711

1085 Highway 95
Hawthorne, NV. 89415

8250 West Flamingo Rd.
Las Vegas, NV. 89147

3030 S. Needles Highway, Ste. 900
Laughlin, NV. 89028

3920 E. Idaho St.
Elko, NV. 89801

1360 Basin Road
Pahrump, NV. 89060

178 Avenue F
Ely, NV. 89301

330 N. Sandhill Rd. Ste. H
Mesquite, NV. 89027

973 W. Williams Ave.
Fallon, NV. 89406

4021 W. Carey Ave.
N. Las Vegas, NV. 89030

400 Howerton Hill
Tonopah, NV. 89049

3505 Construction Way
Winnemucca, NV. 89445

215 West Bridge St. No. 9
Yerington, NV. 89447

1694 County Rd.
Minden, NV. 89423

305 Galletti Way
Reno, NV. 89512

1399 American Pacific Dr.
Henderson, NV. 89014

2701 E. Sahara Ave.
Las Vegas, NV. 89104

LIBRARIES

Goldfield Public Library
Fourth & Crook St.
Goldfield, NV. 89013

Lincoln County Library
93 Main St.
Pioche, NV. 89043

Eureka Branch Library
10190 Monroe St.
Eureka, NV. 89316

Battle Mountain Branch
625 Broad St.
Battle Mountain, NV. 89820

Pershing County Library
1125 Central Ave.
Lovelock, NV. 89419

Storey County Library
95 South R St.
Virginia City, NV. 89440

Nevada Tax Payers Association
501 S. Carson St. Ste.301
Carson City, NV. 89701

Mineral County Library
1125 Central Ave.
Hawthorn NV. 89419

Nevada State Library
100 North Stewart St.
Carson City, NV. 89701

LCB FILE No. R065-05

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

NAC 445B.460 Test station: License required to operate; expiration of license; ratings; prohibited acts; location. (NRS 445B.210, 445B.770, 445B.785)

1. No person may engage in the business of issuing evidence of compliance unless he holds a current license to operate a test station at an established place of business and holds one or both of the ratings set forth in subsection 3.

2. A license that:

(a) Was issued for a test station before September 25, 1998, expires on September 30 of each calendar year.

(b) Is issued on or after September 25, 1998, expires 1 year after the last day of the month in which the license was originally issued.

3. A test station shall obtain from the Department:

(a) A “G” rating if it will be testing the exhaust emissions of gasoline-powered motor vehicles. A test station with a “G” rating shall, when conducting inspections of motor vehicles subject to the provisions of NAC 445B.580, use an exhaust gas analyzer that complies with the equipment specifications published by the Department for this rating and at least one approved inspector who has a “G” rating to perform the exhaust emissions tests.

(b) A “D” rating if it will be testing the exhaust emissions of light-duty diesel motor vehicles. A test station with a “D” rating shall, when conducting inspections of motor vehicles subject to the provisions of NAC 445B.589, use an ~~exhaust gas analyzer~~ *opacity meter and dynamometer* that complies with the requirements of NAC 445B.587 and at least one approved inspector who has a “D” rating to perform the exhaust emissions tests.

4. A facility which holds a license as an authorized inspection station or class 1 fleet station may test exhaust emissions but shall not, *unless specifically authorized by the Commission*, perform any installation, repair, diagnosis or adjustment to devices that affect exhaust emissions, except:

(a) The changing of oil;

(b) The replacement of an oil filter, air filter, fuel filter, *external accessory drive* belt(s) or *cooling system* hose(s); and

(c) With regard to a vehicle with a model year of 1980 or older which has not failed its most recent exhaust emissions test administered in this state:

(1) The replacement of the spark plugs, secondary cables for the spark plugs, distributor cap, rotor, points or condenser of the vehicle; and

(2) The adjustment of the dwell and initial ignition timing of the engine of the vehicle, and the settings for idle speed if those settings are accessible.

(d) With regard to vehicles of model year 1981 through and including the current model year :

(1) An authorized inspection station may change oil, replace oil filter, air filter, fuel filters, external accessory drive belt(s) and cooling system hose(s).

(2) An authorized inspection station will not perform any service or maintenance that may affect exhaust emissions including but not limited to disconnecting or replacement of batteries, disconnecting or replacing vacuum lines or performing any service or maintenance that requires an authorized inspection station to disconnect or remove a vacuum line or disconnect a battery.

(3) An authorized inspection station may not perform any service or maintenance that requires removal or replacement of a primary drive belt including but not limited to a timing belt or chain.

(4) An authorized inspection station may not perform any service or diagnostic action that may affect data stored in the vehicle computer including but not limited to the clearing of diagnostic trouble codes.

(5) An authorized inspection station will not perform any service or maintenance that may cause a diagnostic trouble code to be set including but not limited to fuel injection cleaning or Positive Crankcase Ventilation valve cleaning or replacement.

(6) An authorized inspection station will not take any action that may cause the vehicle computer readiness monitors to go from set to unset including but not limited to code clearing, disconnecting the battery, removing the fuse for the vehicles computer system or connecting any device to the vehicle data link connector except while performing the State of Nevada emission inspection following the prescribed test procedure.

(7) An authorized inspection station may not connect any test or diagnostic equipment to the vehicle data link connector unless the vehicle is being subjected to a State of Nevada emission inspection and the inspector is following the prescribed test procedure using approved test equipment.

5. An authorized inspection station shall not advertise any services which it provides for the testing of exhaust emissions with any services described in paragraph (c) of subsection 4 that the authorized inspection station also provides.

6. A person licensed to operate a test station shall not own or hold any ownership interest whatsoever in any business which manufactures, sells, repairs, rents or leases any exhaust gas analyzers approved by the Department for the testing of exhaust emissions.

7. A person or business which manufactures, sells, repairs, rents or leases any exhaust gas analyzers approved by the Department for the testing of exhaust emissions shall not own or hold any ownership interest whatsoever in any business licensed to operate a test station.

8. An authorized inspection station or class 1 fleet station must not be located immediately adjacent to any business which services or repairs motor vehicles unless:

(a) The facility for the station is physically separated from the adjacent facility;

(b) The facility for the station and the adjacent facility have separate entrances for customers and do not share any common doors or entries between the facilities;

(c) The adjacent facility has no access to the physical space in which testing occurs at the facility for the station;

(d) No employee of the adjacent facility is employed by the station; and

(e) The facility for the station and the adjacent facility have separate mailing addresses.

NAC 445B.465 Authorized station or authorized inspection station: Requirements for bond or deposit. (NRS 445B.210, 445B.770, 445B.785)

1. Before a license for an authorized station or authorized inspection station is furnished to any person, the Department will require that the applicant procure and file with the Department a good and sufficient bond in the amount of \$1,000 for an authorized station or authorized inspection station. Each bond must have a corporate surety thereon that is licensed to do business within this state and must be approved as to form by the Attorney General. In lieu of the foregoing, an applicant may place on deposit with the Department:

(a) Cash;

(b) A bond issued by the United States; or

(c) A savings certificate in an amount equal to the bond requirement for the applicant and conditioned that the applicant conducts his business as an authorized station or authorized inspection station without fraud or fraudulent representation and without violation of the provisions of chapters 445A, 445B and 598 of NRS or NAC 445B.400 to 445B.735, inclusive.

2. The Department may require an increase in the amount of the bond or deposit of a particular licensee if the Department deems it to be necessary and in the public interest.

3. The undertaking in the bond or deposit must include, without limitation, any fraud or fraudulent representation or violation of any of the provisions of chapters 445A, 445B and 598 of NRS and NAC 445B.400 to 445B.735, inclusive, by any approved inspector or employed agent for or on behalf of the authorized station or authorized inspection station.

4. The bond or deposit must provide that any person *or the department* injured by the action of the licensee or employee acting on behalf of the licensee in violation of any provisions of chapters 445A, 445B and 598 of NRS and NAC 445B.400 to 445B.735, inclusive, may bring an action on the bond.

5. Any money received by the Department pursuant to this section will be deposited with the State Treasurer for credit to the Pollution Control Account.

NAC 445B.468 Authorized stations or authorized inspection stations: Coverage of bond or deposit. (NRS 445B.785)

1. A bond which is filed or a deposit which is made with the Department pursuant to NAC 445B.465 covers all authorized stations and authorized inspection stations *licensed prior to July 1, 2005* owned by a person if all of his places of business are located in the county where his principal place of business is located.

2. Effective on or after July 1, 2005, all authorized stations and authorized inspection stations initially licensed or existing authorized stations and authorized inspection stations subject to any change of licensing information must submit bonding to the Department that ensures all claims made against the bond may be payable equal to the full amount of the bond for each authorized station and each authorized inspection station owned by a person within the county where the businesses are located.

3. *Effective on or after July 1, 2005, all authorized stations and authorized inspection stations initially licensed or existing authorized stations and authorized inspection stations subject to any change of licensing information shall submit a cash deposit in lieu of bond in the amount equal to the full amount of the bond for each authorized station and each authorized inspection station owned by a person within the county where the businesses are located.*

4. *A claim against the cash deposit held in lieu of a bond may be payable up to the full amount of deposit held individually for each authorized station and each individual authorized inspection station owned by a person within the same county where the businesses are located for all authorized stations and authorized inspection stations initially licensed or existing authorized stations and authorized inspection stations subject to any change of licensing information effective on or after July 1, 2005.*

5. *A single claim against the bond or individual cash deposit in lieu of bond, for an authorized station or an authorized inspection station shall not exceed \$1,000.00 for any single claim.*

NAC 445B.469 Authorized station or authorized inspection station: Posting of signs and placards. (NRS 445B.210, 445B.770, 445B.785)

1. An authorized station or authorized inspection station shall post in ~~fa conspicuous place in~~ *an area of the business that is accessible to and frequented by the public*, ~~the~~ all 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 shall post in ~~fa conspicuous place in the~~ *an area of the business that is regularly accessible to and frequented by customers* all 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. 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.

NAC 445B.470 Test station: Display of licenses; availability of reference information. (NRS 445B.785)

1. The license to operate a test station and all licenses issued to approved inspectors ~~[must]~~ *shall* be displayed in a conspicuous place under glass or other transparent material *at a height of not less than four feet nor more than six feet* within *an area of* the test station~~[.]~~ *that is accessible to and frequented by customers.*

2. Except as otherwise provided in subsection 3:

(a) A test station shall keep 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 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.

NAC 445B.471 Test station: Advertising; distribution of brochure to public by Department. (NRS 445B.785)

1. A test station shall not intentionally publish, display or circulate any advertising which is misleading or inaccurate in any material manner or misrepresent any of the services rendered to the public.

2. A test station shall not deceive a member of the public by misrepresenting the cost for any service rendered. Any advertisement, promotional material or coupon published by or on behalf of a test station that contains any reference to price or waiver of charges must clearly set forth the total dollar amount to be paid by the customer in print that is comparable in size and style to all other print in the advertisement, promotional material or coupon where price or waiver of charges is discussed. If a test station offers any service for no charge, it must specify, in print that is comparable in size and style and is located immediately adjacent to the print which states there is no charge, whether any costs will be incurred by the customer and for what reason. A test station may not use abbreviations of terms peculiar to the emissions industry in its advertising. The Department will consider advertising to be deceptive if an ordinary and reasonable customer with no experience in the control of emissions could not understand the advertisement.

3. The Department will provide ~~{a brochure}~~ *informational material in printed form or by electronic media* for distribution to the general public which will explain the reasons and methods for the emission control inspection.

NAC 445B.472 Test station: Records of inspections and repairs; inspection of place of business; audit of exhaust gas analyzers. (NRS 445B.210, 445B.770, 445B.785)

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]~~ *regular* business hours *as defined in NAC 445B.480* by any authorized agent of the Department, *unless otherwise declared to the Department at the time of licensure or if currently licensed in writing to the Department should business operations be affected for more than 2 business days.*

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.

NAC 445B.473 Test station: Notice of ~~[host or stolen certificates of compliance]~~ *wrongfully distributed or received vehicle inspection reports.*

*(1) The holder of a license for a test station or his agent shall notify the Department within 24 hours after a ~~[certificate of compliance]~~ *vehicle inspection report* has been ~~[host or stolen]~~ *wrongfully distributed or received.**

(2) The holder of a license for a test station or his agent shall be responsible for maintaining an inventory of vehicle inspection reports to ensure none have been lost, stolen or wrongfully distributed or received.

NAC 445B.474 Test station: Failure to employ approved inspector. (NRS 445B.210, 445B.770, 445B.785)

1. ~~[Except as otherwise provided in subsections 2 and 3, a]~~ 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 *and be placed out of business as an emission station.*

~~[3. An authorized station that ceases 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;~~

~~——(2) Remove or cover its sign as an authorized station;~~

~~——(3) Not inspect any motor vehicle or issue any vehicle inspection report;~~

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

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

NAC 445B.475 Authorized station or class 2 fleet station: Requirements for employees.
(NRS 445B.785)

1. An employee of an authorized station or class 2 fleet station shall not perform any testing of exhaust emissions or perform any diagnosis, repair or servicing of devices for the control of

exhaust emissions unless he is licensed as a class 1 approved inspector or class 2 approved inspector.

2. Each authorized station and class 2 fleet station shall have a class 2 approved inspector on the premises during all hours of business. ~~[A class 1 approved inspector employed by a]~~ An authorized station or class 2 fleet station may diagnose, repair and service a device for the control of exhaust emissions only if ~~[his]~~ *the* work is ~~[inspected and approved in writing]~~ *performed* by a class 2 approved inspector.

NAC 445B.480 Test station: General duties. A test station must *post and* adhere to regular business hours and must test any motor vehicle presented at its facility during such hours, except as otherwise provided in NAC 445B.478 or unless the motor vehicle is rejected for reasons of safety.

(a) For purposes of this subsection, regular business hours are Monday through Friday 8am to 5pm except on the holidays set forth in NRS 236.015;

(b) For authorized stations or authorized inspection stations operated by a single employee, a “will return by” notification must be posted at the business location for any instance of business closure.