

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

LCB File No. R065-05

July 28, 2005

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

AUTHORITY: §§1-3, 5, 6 and 8-11, NRS 445B.785; §4, NRS 445B.785 and 445B.830; §7,
NRS 445B.785 and 445B.790.

A REGULATION relating to vehicle emissions; revising the provisions governing the operation of certain test stations; revising the provisions governing bonds and deposits applicable to certain test stations; and providing other matters properly relating thereto.

Section 1. NAC 445B.460 is hereby amended to read as follows:

445B.460 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~~ *must* 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]~~ *a dynamometer and a smoke opacity meter* 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 :

(a) *Except as otherwise provided in this subsection,* may test exhaust emissions but shall not , *unless specifically authorized by the Commission,* perform any installation, repair, diagnosis or adjustment to ~~[devices that affect]~~ *any component or system of a motor vehicle that affects* exhaust emissions . ~~[except:~~

~~—(a) The changing of oil;~~

~~—(b) The replacement of]~~

(b) *May:*

(1) *Change oil;*

(2) *Replace* an oil filter, air filter, fuel filter, *external accessory drive* belt or *cooling system* hose; ~~[and~~

~~—(c)]~~ (3) *Service a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources;*
and

(4) 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]~~

(I) *Replace* the spark plugs, secondary cables for the spark plugs, distributor cap, rotor, points or condenser of the vehicle; and

~~[(2) The adjustment of]~~

(II) *Adjust* the dwell and initial ignition timing of the engine of the vehicle, and the settings for idle speed if those settings are accessible.

(c) *With regard to a vehicle with a model year of 1981 or newer, shall not:*

(1) *Disconnect or replace a battery or vacuum line, or perform any service or maintenance that requires a battery or vacuum line to be disconnected.*

(2) *Perform any service or maintenance that requires the removal or replacement of a primary drive belt, including, without limitation, a timing belt or chain.*

(3) *Perform any service or diagnostic action that may affect data stored in the vehicle computer, including, without limitation, the clearing of diagnostic trouble codes.*

(4) *Perform any service or maintenance that may cause a diagnostic trouble code to be set, including, without limitation, fuel injection cleaning or cleaning or replacing the positive crankcase ventilation valve.*

(5) *Take any action that may cause the readiness monitors for the vehicle computer to go from set to unset, including, without limitation, code clearing, removing the fuse for the computer system in the vehicle, or connecting any device to the data-link connector of the vehicle except while performing an emission inspection following the prescribed test procedure.*

(6) Connect any testing or diagnostic equipment to the data-link connector of the vehicle unless the vehicle is being subjected to an 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 *subparagraph (4) of* paragraph ~~(e)~~ (b) 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.

Sec. 2. NAC 445B.465 is hereby amended to read as follows:

445B.465 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~~ *bond*, 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, *including, without limitation, 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.

Sec. 3. NAC 445B.468 is hereby amended to read as follows:

445B.468 ~~[A]~~

1. Except as otherwise provided in subsection 2, a bond which is filed or a deposit which is made with the Department pursuant to NAC 445B.465 before October 1, 2005, covers all authorized stations and authorized inspection stations 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. Each authorized station or authorized inspection station initially licensed on or after October 1, 2005, and each existing authorized station or authorized inspection station subject to any change of licensing information on or after October 1, 2005, must file a bond or make a deposit with the Department pursuant to NAC 445B.465.

Sec. 4. 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]~~ *an area of the station that is accessible to and frequented by the public, 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 ~~[a conspicuous place in the]~~ *an area of the station that is accessible to and frequented by the*

public, 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.

Sec. 5. 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 *at a height of not less than 4 feet and not more than 6 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.

Sec. 6. NAC 445B.471 is hereby amended to read as follows:

445B.471 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~~ *pamphlet* for distribution to the general public, *and may also provide informational material available by electronic media*, which will explain the reasons and methods for the emission control inspection.

Sec. 7. 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~~ *Except as otherwise provided in subsection 3, 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 during regular business hours as set forth in NAC 445B.480.*

3. *The Department may grant an exception to the requirement set forth in subsection 2 for good cause shown upon a request submitted to the Department by a test station in writing or by electronic mail.*

4. 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.]~~ 5. 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. 8. NAC 445B.473 is hereby amended to read as follows:

445B.473 The holder of a license for a test station or his agent shall ~~[notify]~~ :

1. *Notify* the Department within 24 hours after a ~~[certificate of compliance]~~ *vehicle inspection report* has been ~~[lost or stolen.]~~ *wrongfully distributed or received.*

2. *Maintain an inventory of vehicle inspection reports to ensure that none have been lost, stolen or wrongfully distributed or received.*

Sec. 9. NAC 445B.474 is hereby amended to read as follows:

445B.474 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]~~ *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 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.]~~ *and immediately cease to operate as a test station.*

Sec. 10. NAC 445B.475 is hereby amended to read as follows:

445B.475 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 an authorized station or class 2 fleet station may diagnose, repair and service a device for the control of exhaust emissions only if his work is inspected and approved in writing by a class 2 approved inspector.]~~

Sec. 11. NAC 445B.480 is hereby amended to read as follows:

445B.480 1. A test station ~~[must]~~ *shall post and* adhere to regular business hours and ~~[must]~~ test any motor vehicle presented at its facility during ~~[such]~~ *those* hours, except as otherwise provided in NAC 445B.478 or unless the motor vehicle is rejected for reasons of safety.

2. *For the purposes of this section, regular business hours are Monday through Friday from 8 a.m. to 5 p.m. except on the holidays set forth in NRS 236.015.*

3. *For an authorized station or an authorized inspection station operated by a single employee, a notification indicating at what time the employee will return must be posted at the test station for any instance of business closure.*

Sec. 12. This regulation becomes effective on October 1, 2005.