

LCB FILE No. R066-05

**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.485, Prerequisites to licensing
- NAC 445B.486, Examination of applicants for licensing.
- NAC 445B.489, Grounds for denial, suspension or revocation of license.
- NAC 445B.490, Hearing on denial, suspension or revocation of license.
- NAC 445B.493, Limitation on reapplication after revocation or denial of license; surrender of revoked license.
- NAC 445B.497, Requirements for renewal of license.
- NAC 445B.498, Performance of emission inspection without license prohibited; expiration of license, license ratings.
- **NAC 445B.XXX, New proposed regulation:** Use of personal data or access codes by unauthorized persons.

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. R066-05

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

Inspectors

NAC 445B.485 Prerequisites to licensing.

1. The Department will not license a person as a class 1 approved inspector unless he has demonstrated his qualifications and ability to test motor vehicles to its satisfaction by:

(a) Submitting an application, on a form provided by the Department;

(b) Submitting a certificate of competence issued by the manufacturer of an exhaust gas analyzer approved by the Department, indicating his ability to adjust and operate the equipment required to obtain the rating or ratings for which he is applying pursuant to NAC 445B.498, or by demonstrating to the Department his ability to adjust and operate such equipment; and

(c) Successfully:

(1) Completing a training course or courses for a license as a class 1 approved inspector which was conducted or approved by the Department, or equivalent training approved by the Department, for the particular rating or ratings for which he is applying;

(2) Completing a written test for a license as a class 1 approved inspector which was prepared by the Department for the particular rating or ratings for which the person is applying with a score of at least 80 percent; and

(3) Performing a practical demonstration of the procedures for testing prescribed by the Department.

2. The Department will not license a person as a class 2 approved inspector unless he has demonstrated his qualifications and ability to test motor vehicles and to diagnose, repair and service devices for the control of exhaust emissions to its satisfaction by submitting an application, on a form provided by the Department, which establishes that he has:

(a) Within the last 12 months satisfied the requirements set forth in paragraphs (b) and (c) of subsection 1 for a license as a class 1 approved inspector for the particular rating or ratings for which the person is applying; and

(b) Successfully completed a written test for an *initial* license as a class 2 approved inspector which was ~~prepared~~ *administered* by the Department for the particular rating or ratings for which the person is applying with a score of at least 80 percent.

(c) *Provide current Automotive Service Excellence certification for LI Advance Automotive Performance which will remain valid for the entire two year period of licensure as a class 2 approved inspector.*

3. The Department will investigate each applicant to determine his fitness.

NAC 445B.486 Examination of applicants for licensing.

1. The Department will establish written tests for the licensing and rating of class 1 approved inspectors and class 2 approved inspectors.

2. An applicant taking such a test must show that he has completed the course, courses or equivalent training required pursuant to NAC 445B.485 for the rating or ratings for which he is applying.

3. An applicant who fails to pass the written test or practical demonstration required for a license as a class 1 approved inspector must wait 7 calendar days before he may retake the test or demonstration.

4. If an applicant fails two *or more* consecutive written tests or practical demonstrations required for a license as a class 1 approved inspector, he must ~~wait 90 days and~~ *submit proof to the department that he has successfully completed an additional training course which is conducted or approved by the department* before he may retake the test or demonstration.

~~[5. If an applicant fails three consecutive written tests or practical demonstrations required for a license as a class 1 approved inspector, he must, before he may retake the test or demonstration, wait 180 days and submit proof to the Department that he has successfully completed an additional training course which is conducted or approved by the Department for the rating or ratings for which he is applying.]~~

6. If an applicant fails to pass the written test required for a license as a class 2 approved inspector, he must, before he may retake the test, submit proof to the Department that he has, after failing the test, completed a training course regarding the diagnosis, repair and servicing of devices for the control of exhaust emissions which was conducted or approved by the Department for the rating or ratings for which he is applying.

NAC 445B.489 Grounds for denial, suspension or revocation of license. (NRS 445B.210, 445B.770, 445B.785) The Department may deny the issuance of, suspend or revoke the license of an approved inspector if:

1. 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. The approved inspector has knowingly made any false statement or concealed any material fact on his application for a license.

3. The approved inspector knowingly submits false, inaccurate or misleading information on evidence of compliance or any other records submitted to the Department.

4. 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. The approved inspector willfully or negligently issues evidence of compliance which contains fraudulent information. 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]~~ *of the vehicle the evidence of compliance was issued for.*

6. The approved inspector knowingly allows, willfully or negligently assists in the issuance of, or conspires or causes to be produced or issues any evidence of compliance which contains fraudulent information. As used in this subsection, the term “fraudulent” includes, but is not limited to, a backdated document, a postdated document, a certificate issued without the physical inspection of the vehicle a certificate was issued for, or is based on anything other than the actual physical inspection of the vehicle the certificate was issued for.

~~[6]~~ 7. The approved inspector does not follow the procedures for testing prescribed by the Department.

~~[7]~~ 8. The approved inspector allows evidence of compliance to be completed or issued by a person who is not an approved inspector.

~~[8]~~ 9. The approved inspector allows another person to perform emissions tests by using the identification number assigned to the approved inspector.

~~[9]~~. 10. The approved inspector submits to the Department falsified credentials or certifications of training.

~~[10]~~. 11. The approved inspector makes an inaccurate determination regarding a classification of a motor vehicle.

~~[11]~~. 12. The approved inspector fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive.

~~[12]~~. 13. The Department determines that an applicant or approved inspector is not lawfully entitled to a license.

~~[13]~~. 14. The approved inspector is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

~~[14]~~. 15. The approved inspector is unable to demonstrate proficiency in the verbal and written expression of the English language.

NAC 445B.490 Hearing on denial, suspension or revocation of license. (NRS 445B.785)

1. The ~~[applicant or]~~ approved inspector may, within 30 days after receipt of the notice of ~~[denial,]~~ suspension or revocation, petition the Director, in writing, for a hearing which will be conducted by the Director or his authorized representative.

2. Failure of the ~~[applicant or]~~ approved inspector to petition the Director in writing for a hearing within the 30-day period constitutes an automatic ~~[denial of the application or]~~ suspension or revocation of the license.

3. Upon filing the petition, a date for hearing will be fixed no longer than 20 days after receipt of the request for a hearing, and the ~~[applicant or]~~ approved inspector is entitled to be present at the hearing, testify in his own behalf and to have such other persons as he desires to be present to testify at the hearing.

4. Within 10 days after the hearing, the Director or his authorized representative will make written findings of fact and conclusions of law and will:

- (a) ~~[Grant or finally deny the application; or~~
- ~~—(b)]~~ Suspend or revoke the license.

NAC 445B.493 Limitation on reapplication after revocation or denial of license; surrender of revoked license.

1. *Except as provided in NAC 445B.489, ~~FW~~* when an approved inspector's license has been revoked for cause, the person may not reapply for an approved inspector's license for 1 year after the date of revocation.

2. The approved inspector's license which has been revoked must be surrendered to the Department.

3. *An inspector's license that has been revoked for the production or issuance of a fraudulent certificate of compliance as described in NRS 445B.790 and NAC 445B.489, or of conspiracy to produce or issue a fraudulent certificate of compliance, may not again be licensed as an inspector, station owner or principal under the provisions of this chapter or of Chapter 445B. of NRS.*

~~FW~~ 4. An applicant for an inspector's license who has been denied a license may not reapply for a license after denial:

(a) Until he has taken an action which removes the ground for the denial; or

(b) Within 1 year after the denial,

whichever first occurs.

5. *In addition to the provisions of section 3 and NAC 445B.489, if the department determines that a licensee has engaged in conduct, which is egregious or poses a serious risk to the public safety, the department may, in its discretion, permanently revoke the license of the licensee.*

5a. *For purposes of this section the term egregious includes, but is not limited to, actions of a licensee relating to using one motor vehicle that meets Nevada emission requirements to fraudulently issue a certificate of compliance for another motor vehicle that cannot meet*

NAC 445B.497 Requirements for renewal of license.

1. If an approved inspector wishes to renew his license, he must, within the 3 months before its expiration and before it is reissued, successfully:

(a) Complete a course *or courses* for the renewal of his license which is approved or developed and conducted by the Department for the particular class and rating or ratings the inspector is attempting to renew; and

(b) Complete a written test, with a score of at least 80 percent, which is approved or prepared by the Department for the particular class and rating or ratings the inspector is attempting to renew. Before the holder of a license as a class 2 approved inspector may take a test for the renewal of that class of license, he must submit to the Department proof that he has, after the initial issuance or last renewal of his license, whichever occurred last, successfully completed an ~~[refresher]~~ *update* course *or courses* regarding the diagnosis, repair and servicing of *the latest technology available in* devices for the control of exhaust emissions which was conducted or approved by the Department for the rating or ratings the inspector is attempting to renew.

2. An inspector who fails to attain a score of 80 percent on the written examination required by subsection 1 for the renewal of a license as:

(a) A class 1 approved inspector may not take the examination again within 7 calendar days after the date of the first examination. If an inspector fails two *or more* consecutive written examinations for the renewal of a license as a class 1 approved inspector, he must ~~[wait 90 calendar days and]~~ *submit proof to the department that he has successfully completed an additional course conducted or approved by the department* before he may retake the examination. ~~[If an inspector fails three consecutive written examinations for the renewal of a license as a class 1 approved inspector, he must, before he may retake the examination, wait 180 calendar days and submit proof to the Department that he has successfully completed an additional course conducted or approved by the Department for the rating or ratings the inspector is attempting to renew.]~~

(b) A class 2 approved inspector must, before he may retake the examination, submit proof to the Department that he has, after his failure of that examination, successfully completed a course regarding diagnosis, repair and servicing of devices for the control of exhaust emissions which was conducted or approved by the Department for the rating or ratings the inspector is attempting to renew.

3. An approved inspector must adhere to a new applicant's training and examination process to renew their license, if the license has been in expired status for a time period of one year or more.

NAC 445B.498 Performance of emission inspection without license prohibited; expiration of license; license ratings. (NRS 445B.785)

1. A person shall not perform any emission inspection for the purpose of issuing evidence of compliance unless he is currently licensed by the Department as an approved inspector.

2. Each license issued to an approved inspector expires 24 months after the date on which the license is issued.

3. Each approved inspector shall have one or both of the following license ratings:

(a) A “G” rating to perform two-speed *and certified on-board diagnostic system* emissions inspections on gasoline-powered motor vehicles using the procedures set forth in NAC 445B.580.

(b) A “D” rating to perform light-duty diesel emissions inspections using the procedures set forth in NAC 445B.589.

NAC 445B.* Use of personal data or access codes by unauthorized persons. (new code)***

1. In addition to the inspector’s license number, the Department shall issue each approved inspector a unique and confidential access code. This confidential code will enable the approved inspector to activate or access and input data to the applicable approved exhaust gas analyzer or other type of emission test equipment approved for use in the program.

2. An approved inspector, station owner or principal shall not knowingly or through negligence allow any person to use the confidential access code or inspector license number issued by the Department in a gas analyzer or other type of emission test equipment approved for use in the program used for testing or issuance of a certificate of compliance for emission control.

3. A certificate of compliance issued by any person utilizing a confidential access code or inspector’s license issued by the Department to an approved inspector shall be deemed a fraudulent certificate as defined in section 5, of NAC 445B.489.