

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

LCB File No. R066-05

July 28, 2005

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

AUTHORITY: §§1-8, NRS 445B.785.

A REGULATION relating to vehicle emissions; revising the provisions governing approved inspectors; and providing other matters properly relating thereto.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto a new section to read as follows:

1. In addition to the identification number assigned to each approved inspector, the Department will issue to each approved inspector a unique and confidential access code. The access code will enable the approved inspector to activate, access and input data into the exhaust gas analyzer located at the test station where he is employed.

2. An approved inspector, including, without limitation, the operator of a test station, shall not willfully or negligently allow any person to use his identification number or access code to:

- (a) Activate, access or input data into the exhaust gas analyzer; or*
- (b) Issue a certificate of compliance.*

Sec. 2. NAC 445B.485 is hereby amended to read as follows:

445B.485 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~~, *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)~~ *and:*

(a) Successfully completed a written test for a 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 ~~;~~ *or*

(b) Submitted current certification from the National Institute for Automotive Service Excellence as an advanced engine performance specialist. The certification must remain valid throughout the applicant's 24-month period of licensure as a class 2 approved inspector.

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

Sec. 3. NAC 445B.486 is hereby amended to read as follows:

445B.486 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~~ 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.] , submit proof to the Department that he has, after failing the tests or demonstrations, successfully completed an additional training course which is conducted or approved by the Department.~~

5. 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.

Sec. 4. NAC 445B.489 is hereby amended to read as follows:

445B.489 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.~~

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

~~[7.]~~ 6. The approved inspector allows evidence of compliance to be completed or issued by a person who is not an approved inspector.

~~[8.]~~ 7. The approved inspector allows another person to perform emissions tests by using the identification number assigned to the approved inspector.

~~[9.]~~ 8. The approved inspector submits to the Department falsified credentials or certifications of training.

~~[10.]~~ 9. The approved inspector makes an inaccurate determination regarding a classification of a motor vehicle.

~~[11.]~~ 10. The approved inspector fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive ~~[~~

~~12.]~~ , and *section 1 of this regulation.*

11. The Department determines that an applicant or approved inspector is not lawfully entitled to a license.

~~{13.}~~ 12. The approved inspector is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

~~{14.}~~ 13. The approved inspector is unable to demonstrate proficiency in the verbal and written expression of the English language.

Sec. 5. NAC 445B.490 is hereby amended to read as follows:

445B.490 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}~~ *not later* 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, *to* 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} *may, without limitation, suspend* or revoke the license.~~

Sec. 6. NAC 445B.493 is hereby amended to read as follows:

445B.493 1. ~~{When}~~ *Except as otherwise provided in subsection 3, if* 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. *The Department will permanently revoke the license of an approved inspector who willfully or negligently:*

(a) *Issues or assists in the issuance of evidence of compliance which contains fraudulent information.*

(b) *Conspires or causes to be produced evidence of compliance which contains fraudulent information.*

4. An applicant for an **approved** 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. *If the Department determines that an approved inspector engages in egregious conduct or conduct that poses a serious risk to the public safety, the Department may, in its discretion, permanently revoke the license of the approved inspector.*

6. *As used in this section:*

(a) *"Fraudulent information" includes, without limitation:*

(1) *A backdated document;*

(2) *A postdated document;*

(3) *A document based on anything other than the actual physical inspection of the vehicle for which the evidence of compliance was issued; or*

(4) A certificate of compliance issued by a person wrongfully utilizing the identification number or access code of an approved inspector.

(b) “Egregious conduct” includes, without limitation, using a motor vehicle that meets the standards for emission control for the purpose of fraudulently issuing a certificate of compliance for another motor vehicle that does not meet such standards.

Sec. 7. NAC 445B.497 is hereby amended to read as follows:

445B.497 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 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 *approved* 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 *approved* 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 a ~~refresher~~ course *that includes updates on the latest technology available* 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 the *approved* inspector is attempting to renew.

2. An *approved* 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 *approved* 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 before]~~ *submit proof to the Department that he has, after failing the examinations, 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 *approved* inspector is attempting to renew.

3. If the license of an approved inspector remains inactive, revoked or in expired status for 1 year or longer, the approved inspector shall be deemed to be a new applicant and must again comply with all applicable requirements concerning training and examinations.

Sec. 8. NAC 445B.498 is hereby amended to read as follows:

445B.498 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}~~ *must* have one or both of the following license ratings:

(a) A “G” rating to perform *certified on-board diagnostic system and* two-speed 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.