

**ADOPTED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R008-07

Effective April 17, 2008

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

AUTHORITY: §§1 and 2, NRS 445B.785.

A REGULATION relating to vehicle emissions; revising the time within which an administrative hearing must be held concerning the denial, suspension or revocation of a license of an inspection station or an approved inspector; requiring the Director of the Department of Motor Vehicles or his authorized representative to make written findings of fact and conclusions of law within a certain period after an administrative hearing; and providing other matters properly relating thereto.

Section 1. NAC 445B.464 is hereby amended to read as follows:

445B.464 1. The applicant or licensee may, within 30 days after the receipt of the notice of denial or suspension or revocation, petition the Director in writing for a hearing which will be conducted by the Director or his authorized representative.

2. Upon filing the petition, a ~~[date for the]~~ hearing will be ~~[[fixed no longer]~~ *held not later than ~~[20]~~ 90* days after the receipt of the request for hearing. The applicant or licensee is entitled to be present at the hearing, testify in his own behalf and have such other persons as he desires to be present to testify at the hearing. *For good cause shown, and upon agreement of all parties, the 90-day period provided for in this subsection may be extended.*

3. Failure of the applicant or licensee 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 of the test station.

4. Within ~~{10}~~ 30 days after the hearing, the Director or his authorized representative will ~~{}~~ *make written findings of fact and conclusions of law and may, without limitation:*

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

↳ *For good cause shown, and upon agreement of all parties, the 30-day period provided for in this subsection may be extended.*

5. Notwithstanding the provisions of subsections 1 to 4, inclusive, the Department may, if the Director finds that the action is necessary and in the public interest, upon notice to the licensee, temporarily suspend or refuse to renew the license for a period not to exceed 30 days. For good cause ~~{}~~ *shown*, the Director or his ~~{designee}~~ *authorized representative* may extend the period of suspension of the license or continue to refuse to renew the license if he deems such action to be necessary and in the public interest. In any such case, a hearing must be held and a final decision rendered within 30 days after notice of the temporary suspension.

Sec. 2. NAC 445B.490 is hereby amended to read as follows:

445B.490 1. The approved inspector may, within 30 days after receipt of the notice of 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 approved inspector to petition the Director in writing for a hearing within the 30-day period constitutes an automatic suspension or revocation of the license.

3. Upon filing the petition, a ~~{date for}~~ hearing will be ~~{fixed}~~ *held* not later than ~~{20}~~ 90 days after receipt of the request for a hearing, and the 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. *For good cause shown, and upon agreement of all parties, the 90-day period provided for in this subsection may be extended.*

4. Within ~~10~~ 30 days after the hearing, the Director or his authorized representative will make written findings of fact and conclusions of law and may, without limitation, suspend or revoke the license. *For good cause shown, and upon agreement of all parties, the 30-day period provided for in this subsection may be extended.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File R008-07**

The Department of Motor Vehicles submits the following statement. The Department adopts permanent regulations assigned LCB File R008-07, which pertain to Chapter 445B of the Nevada Administrative Code, a regulation relating to emissions; revising provisions regarding administrative hearings.

WORKSHOP	WORKSHOP
10:00 AM Thursday, August 16 th , 2007 Community College of Southern Nevada 6375 W. Charleston, Bldg. D, Room #203 Las Vegas, Nevada 89146	10:00 AM Friday, August 17 th , 2007 Washoe County Government Complex 1001 E. 9 th St. Bldg C, Room #110 Reno, Nevada 89512

Public Workshop Notice Date: July 20th, 2007

HEARING	HEARING
10:00 AM Thursday, January 24 th , 2008 Washoe County Government Complex Bldg C, Room #110 1001 E. 9 th St. Reno, Nevada 89512	1:00 PM Tuesday, January 29 th , 2008 McCarran International Airport Commissioners Conference Room, 5 th Floor 5757 Wayne Newton Blvd Las Vegas, Nevada 89111

Public Hearing Notice Date: December 10, 2007

Date of Adoption by Agency: February 08, 2008

INFORMATIONAL STATEMENT

A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary. The Department of Motor Vehicles noticed public workshops for LCB File R008-07 on July 20th, 2007 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

The Department of Motor Vehicles noticed public hearings for LCB File R008-07 on December 10th, 2007 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in

counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

No comment or testimony was given by any member of the public at the Public Workshops and Public Hearings. No written comments by any member of the public were submitted to the Department.

A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary: The Department of Motor Vehicles noticed public workshops for LCB File R008-07 on July 20th, 2007 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

The Department of Motor Vehicles noticed public hearings for LCB File R008-07 on December 10th, 2007 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

A copy of the minutes for the public workshop and public hearings may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division by telephone at (775) 684-4805.

A copy of the minutes for the public workshop and public hearings may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division in writing at the following address:

Nevada Department of Motor Vehicles
Compliance Enforcement Division
555 Wright Way
Carson City, Nevada 89711-0900
Attention: Ivie Harper Administrative Assistant III

The number of persons who attended each Public Workshop: Three individuals attended the Public Workshop in Las Vegas on August 16th, 2007. No individuals attended the Public Workshop in Reno on August 17th, 2007.

A summary of testimony at each Public Workshop: During the August 16th, 2007 regulation workshop in Las Vegas one person asked about the importance of and reason why the proposed regulation change was being sought. The workshop facilitator explained that the regulation amendment is being sought for adoption to allow easier scheduling of hearings, due to the large

number of hearing requests submitted to the Department of Motor Vehicles. No testimony was received at the August 17th, 2007 regulation workshop in Reno.

A summary of written comments submitted to the agency: The notice for Public Workshops invited written comments from the public and affected agencies, with a deadline for written comments to be received by August 10, 2007. No written comment was received

The number of persons who attended each Public Hearing: Three individuals attended the Public Hearing in Reno on January 24th, 2008. Three individuals attended the Public Hearing in Las Vegas on January 29th, 2008.

A summary of testimony at each Public Hearing: During the January 24th, 2008 Public Hearing in Reno one individual who manages the service department of a franchised dealer stated the proposed regulation amendments appear reasonable. During the January 29th, 2008 Public Hearing in Las Vegas one individual who owns several emission test stations stated he would prefer to have language amended in Nevada Administrative Code 445B.464, subsection two, which requires a timeframe for holding a hearing, versus a timeframe for setting a time to hold a hearing.

A summary of written comments submitted to the agency: The notice for Public Hearings invited written comments from the public and affected agencies, with a deadline for written comments to be received by January 21st, 2008. No written comment was received.

If the regulation was adopted without changing any part of the proposed regulation, list a summary of the reasons for adopting the regulation without change. The Department of Motor Vehicles considered the testimony provided at the Public Workshops and Hearings regarding the proposed amendments to Chapter 445B. The regulation language was amended as requested by a member of the emission testing industry to set a timeframe where a hearing will be held within 90 days upon receipt of a request for a hearing.

List the estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

(a) There is no estimated economic effect on the regulated industry, either adverse or beneficial, nor immediate or long-term.

(b) There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

List the estimated cost to the agency for enforcement of the adopted regulation: There is no additional cost to the agency for enforcement of this regulation.

List a description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation,

list the name of the regulating federal agency: There are no other state or federal government agency regulations that the proposed regulation amendments duplicate.

If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions: There are not federal regulations that regulate the same activity as the proposed regulation.

If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used: This regulation does not provide or involve a new fee. A total fee amount is not expected to be collected or used.