

PROPOSED REGULATION OF THE DIRECTOR OF THE DEPARTMENT OF MOTOR VEHICLES

LCB File No. R052-12

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

AUTHORITY: § NRS 445B.767

A REGULATION relating to methods of providing emission compliance data used to reregister a motor vehicle; revising certain provisions prescribing the manner for testing vehicle emissions; revising the methods utilized for emission data collection and transmission of that data to the Department.

Section 1. A new section is hereby proposed for Chapter 445B of the Nevada Administrative Code as set forth in sections 2 and 3 of this proposed regulation

Sec. 2. Authorized fleet representatives may apply to enroll a fleet of three (3) or more eligible vehicles registered with the Department that are owned or leased, and operated by a business or local government body, in a program to electronically monitor vehicle emissions in order to comply with current regulations (NRS 445B.767).

1. An authorized fleet representative will submit continuous emission compliance data to the Department utilizing a vendor's data management system for registration purposes. The data elements captured will conform to a list of specifications published by the Department for the fleet owner's contract. The data will be submitted to the Department in a format prescribed by the Department for this purpose. The fleet will be required to agree, in writing, to comply with any requirements established by the Department prior to participation in the program.

2. The authorized vendor will assure that the electronic vehicle data elements listed in the Department's list of specifications will be submitted to the Department in a format prescribed

by the Department for this purpose. The vendor will be required to agree, in writing, to comply with any requirements established by the Department prior to participation in the program.

3. If a vehicle is found to be in non-compliance with Chapter 445B for a period of 15 consecutive days, the Department shall send electronic notice to the vehicle's registered owner.

The notice will:

(a) List the deficiency causing non-compliance of Chapter 445B which was transmitted to the Vehicle Information Database by the vehicle's electronic monitoring device.

(b) Indicate the time allowed for repairs to bring the vehicle into compliance with Chapter 445B.

(c) List the consequences of failure to comply with Chapter 445B or take corrective action within the time allowed.

(d) A follow-up Notice of Violation and Intended action letter will be sent, to the registered owner, if the proper repairs are not completed within the time granted by the Department.

(e) Beginning 45 days from the date of original notification, the owner will be advised that vehicle registration has been suspended until compliance is achieved.

(f) For the purpose of this section, an extension may be granted upon Departmental approval.

4. Termination of participation: Authority of Department. (NRS 445B.230)

The Department may deny or terminate a vehicle, a fleet of vehicles, or a fleet data management system from participation in the program. The grounds for participation denial or termination include:

(a) The vehicle owner fails to comply with any program requirement as stated in their application request or the fleet owner's contract.

(b) Evidence exists which indicates a vehicle's emission control system or an electronic monitoring device or system which is registered with the Department has been manipulated or tampered in any manner to allow transmittal of erroneous or fraudulent information to the vehicle information database. Tamperers include:

(1) Code clearing – to extinguish a MIL and erase stored information other than at the conclusion of an emission-related repair.

(2) Clean scanning – to create a fraudulent OBD test result – often by scanning a second vehicle and misrepresenting that result as the result of the first vehicle.

(3) Reprogramming of the onboard computer other than reprogramming that has been approved by the vehicle manufacturer.

(4) Physically tampering the onboard continuous monitoring transmission device.

(c) Upon notice, the fleet fails to present, to the Department's Emission Control Lab, any vehicle for evaluation if it has been determined that questionable emission related data for the vehicle was sent to the vehicle information database.

(d) Failure to remove non-responsive vehicles, transferred vehicles, sold vehicles, and scrapped vehicles from the data management system, or to correct any problem that might prevent the required transmission of data from the vehicle to the vehicle information database.

(e) Failure of the vendor's data management system to communicate with the enrolled vehicle and to report accurate and complete information from the vehicle to the vehicle information database.

(f) Any other criteria outlined in the fleet owner's contract under the termination of participation section.

5. No vehicle enrolled to participate shall be eligible for a waiver of standards for emissions (as described at NAC 445B.590).

6. Specific information contained in contracts referenced above can be viewed at the Department of Motor Vehicles, 555 Wright Way, Carson City, NV during regular business hours.