

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

LCB File No. R006-14

February 13, 2014

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

AUTHORITY: §§1, 2, 5-10, 12-15, 17-23, NRS 445B.785; §§3, 4, 11 and 16, NRS 445B.785 and 445B.790; §24, NRS 445B.790; §25, NRS 445B.785, 445B.790 and 445B.835.

A REGULATION relating to the control of emissions from engines; prescribing the requirements for licensing authorized maintenance stations; setting forth grounds for disciplinary action against an applicant or holder of such a license; requiring an applicant for such a license to file a bond or place a deposit with the Department of Motor Vehicles; requiring an authorized maintenance station to post certain signs or placards in the station; establishing procedures for inspecting authorized maintenance stations; and providing other matters properly relating thereto.

Section 1. NAC 445B.419 is hereby amended to read as follows:

445B.419 “Established place of business” means , *with regard to:*

1. A test station, a permanent structure:

~~1-1~~ *(a)* Owned either in fee or leased with sufficient space to test, inspect *or repair* or adjust, if needed, one or more motor vehicles for which evidence of compliance may be issued; and

~~1-2~~ *(b)* Large enough to accommodate the office or offices of ~~1-a~~ *the* test station to provide a safe place to keep the books, evidence of compliance and all other records of the station.

2. An authorized maintenance station, a permanent structure:

(a) Owned either in fee or leased with sufficient space to install, repair and adjust devices for the control of pollution or one or more motor vehicles for which evidence of compliance may be issued by a test station; and

(b) Large enough to accommodate the office or offices of the authorized maintenance station to provide a safe place to keep the books and all other records of the station.

Sec. 2. NAC 445B.460 is hereby amended to read as follows:

445B.460 1. No person may engage in the business of ~~issuing~~ :

(a) Issuing evidence of compliance unless he or she 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 ~~H~~; *or*

(b) Operating an authorized maintenance station unless he or she holds a current license to operate an authorized maintenance station at an established place of business.

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 *pursuant to this section* 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 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:

(1) Light-duty diesel motor vehicles; or

(2) Heavy-duty motor vehicles that are powered by diesel engines and have a manufacturer's gross vehicle weight rating which does not exceed 14,000 pounds.

↳ A test station with a "D" rating shall, when conducting inspections of motor vehicles subject to the provisions of NAC 445B.589, use a dynamometer and a smoke opacity meter that comply 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 any component or system of a motor vehicle that affects exhaust emissions.

(b) May:

(1) Change oil;

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

(3) 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:

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

(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 perform any service or diagnostic action which has a direct effect on data stored in the vehicle computer which monitors how the engine, transmission or emission control system is operating, including,

without limitation, the clearing of diagnostic trouble codes relating to the engine, transmission or emission control system.

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 (3) of paragraph (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 in any business which manufactures, sells, repairs, rents or leases 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 exhaust gas analyzers approved by the Department for the testing of exhaust emissions shall not own or hold any ownership interest 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 performs any installation, repair, diagnosis or adjustment of a component or system of a motor vehicle that affects exhaust emissions 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.

9. A facility that holds a license as an authorized inspection station or class 1 fleet station may perform the servicing of a fuel injection system only by using a method that:

(a) Utilizes a cleaning solvent for the fuel system that is registered as a fuel additive with the United States Environmental Protection Agency in accordance with the requirements of 40 C.F.R. Part 79;

(b) Introduces the cleaning solvent into the fuel tank and no other portion of the vehicle's fuel system or air intake system; and

(c) Does not involve the dismantling, removal or adjustment of any portion of the fuel system or air intake system other than the fuel inlet cap.

Sec. 3. NAC 445B.462 is hereby amended to read as follows:

445B.462 1. An application for a license to operate a test station *or an authorized maintenance station* must be filed on a form supplied by the Department. The applicant must:

(a) Specify in writing the type of license and, if applicable, the class of license and the rating or ratings for which the applicant is applying;

(b) Unless the applicant is a governmental entity, provide the federal identification number of the applicant's business; and

(c) Furnish such proof as the Director deems necessary to determine whether the applicant is qualified to operate a test station ~~H~~ *or an authorized maintenance station, as applicable,* including, without limitation, proof that the applicant is at least 18 years of age and has an established place of business in this State.

2. Before an application is approved, an authorized representative of the Department will inspect the premises. The Department will determine whether the premises and equipment comply with the requirements of the Department and whether the persons employed by the applicant are adequately trained to perform the duties for which they are licensed or rated, as appropriate.

3. A license for:

(a) An authorized inspection station or class 1 fleet station will not be issued to an applicant unless he or she is a class 1 approved inspector or class 2 approved inspector, or the applicant employs at least one class 1 approved inspector or class 2 approved inspector, with the rating or ratings for which the applicant is applying.

(b) An authorized station or class 2 fleet station will not be issued to an applicant unless he or she is a class 2 approved inspector, or the applicant employs at least one class 2 approved inspector, with the rating or ratings for which the applicant is applying.

(c) An authorized maintenance station will not be issued to an applicant unless he or she is a class 2 approved inspector, or the applicant employs at least one class 2 approved inspector.

4. If the Department is satisfied that the applicant for a license to operate a test station *or an authorized maintenance station, as applicable*, is entitled to a license, it will issue him or her a license to operate a test station ~~+~~ *or an authorized maintenance station*. The license will set forth the:

- (a) Name of the station;
- (b) Type and, if applicable, class of station;
- (c) ~~{Rating}~~ *If applicable, rating* or ratings approved for the station;
- (d) Address of the established place of business of the licensee; and
- (e) Date on which the license expires.

5. As used in this section, “federal identification number” means:

- (a) Federal taxpayer identification number;
- (b) Federal employer identification number;
- (c) Social security number; or

(d) Any other identification number issued by the Internal Revenue Service.

Sec. 4. NAC 445B.463 is hereby amended to read as follows:

445B.463 1. Each of the following acts, omissions and conditions may constitute a ground for the denial of an application for a license to operate a test station *or an authorized maintenance station* or for the revocation or suspension of such a license:

(a) Failure of the applicant or licensee to have an established place of business in this State.

(b) Material misstatement on the application.

(c) Unfitness of the applicant or licensee, which includes, without limitation, a pattern of payment to the Department with checks that are returned because of insufficient funds.

(d) The conviction of the applicant or licensee of a felony in this or any other state, any territory of the United States or in any other nation.

(e) The conviction of the applicant or licensee for violating any provision of NAC 445B.400 to 445B.735, inclusive.

(f) The conviction of the applicant or licensee for violating any provisions of chapter 598 of NRS relating to deceptive trade practices.

(g) Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files of the test station *or authorized maintenance station, as applicable,* which are kept within this State. The Department will treat the financial records and information obtained from an investigation as confidential and will reveal such records or information only to persons involved in the enforcement or administration of the regulations of the Department, or as otherwise required by law.

(h) Commission of any fraudulent act, including, without limitation:

(1) Misrepresentation of a material fact in any manner, whether intentional or grossly negligent; and

(2) An intentional failure to disclose a material fact.

(i) Willful failure to comply with any regulation of the Department.

2. In addition to the acts, omissions and conditions set forth in subsection 1, any attempt to alter the readings obtained during a test of exhaust emissions or to modify or remove the data obtained by an exhaust gas analyzer or a certified on-board diagnostic system may constitute a ground for the revocation or suspension of a license to operate a test station ~~+~~ *or an authorized maintenance station.*

3. An applicant or licensee may not reapply for a license after its denial, revocation or suspension by the Department:

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

(b) Within 1 year after the denial, revocation or suspension,

↳ whichever occurs first.

4. When 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 that licensee.

Sec. 5. 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 an authorized representative thereof.

2. Upon filing the petition, a hearing will be held not later than 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 or her own behalf and have such other persons as he or she 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 **H** *or authorized maintenance station, as applicable.*

4. Within 30 days after the hearing, the Director or the 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 the authorized representative may extend the period of suspension of the license or continue to refuse to renew the license if he or she 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. 6. NAC 445B.465 is hereby amended to read as follows:

445B.465 1. Before a license for an authorized station , *authorized maintenance 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 , *authorized maintenance 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 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 or her business as an authorized station , *authorized maintenance 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 , *authorized maintenance 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. 7. NAC 445B.466 is hereby amended to read as follows:

445B.466 1. Liability under a bond which is filed or a deposit which is made with the Department pursuant to NAC 445B.465 will be in an amount prescribed by the Department.

2. The license of an authorized station , *authorized maintenance station* or authorized inspection station is automatically suspended if:

(a) The amount of the bond filed or the deposit made is reduced below the amount required by the Department pursuant to NAC 445B.465; or

(b) There is an outstanding judgment for which the authorized station , *authorized maintenance station* or authorized inspection station is liable under the bond or deposit.

3. A license which is suspended pursuant to subsection 2 will be reinstated if the authorized station , *authorized maintenance station* or authorized inspection station:

(a) Files an additional bond pursuant to subsection 1 of NAC 445B.465;

(b) Restores the deposit to its original amount; or

(c) Satisfies the outstanding judgment for which it is liable.

Sec. 8. NAC 445B.469 is hereby amended to read as follows:

445B.469 1. An authorized station or authorized inspection station shall post, in an area of the station that is accessible to and frequented by the public, all signs or placards required 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. *An authorized maintenance station shall post, in an area of the station that is accessible to and frequented by the public, all signs or placards required by the Department which provide information regarding the program of this State for the inspection and maintenance of motor vehicles.*

3. In addition to the requirements of ~~subsection 1,~~ *subsections 1 and 2*, an authorized station *and authorized maintenance station* shall post, in an area of the station that is accessible to and frequented by the public, all signs or placards provided by the Department which set forth the hourly labor rate charged by the authorized station ~~+~~ ~~—3.1~~ *or authorized maintenance station.*

4. An authorized station , *authorized maintenance station* or authorized inspection station shall display at least one outdoor sign that must be created from a template provided by the Department which is posted so that the sign is visible from the middle of the nearest roadway adjacent to the station. The Department will make the template readily available upon request.

~~4.1~~ 5. The outdoor sign required to be displayed pursuant to subsection ~~3.1~~ 4 must:

- (a) Be at least 23 inches in width and 30 inches in height;
- (b) Have white as the background color;
- (c) Have black letters displaying the words:
 - (1) “Nevada Authorized Emission Station” in print which is at least 2 1/8 inches in height;and
 - (2) “Department of Motor Vehicles” in print which is at least 1 1/8 inches in height;

(d) Include a reproduction of the logo used by the Compliance Enforcement Division of the Department displaying the words “clean air” that is at least 8 1/8 inches in height; and

(e) Be made of either:

(1) Aluminum that is at least .063 inches in thickness; or

(2) Twelve-gauge steel.

~~15.1~~ 6. The outdoor sign required pursuant to subsection ~~13.1~~ 4 may be single-sided with all of the information included on one side of the sign, or double-sided with all of the information included on both sides of the sign.

~~16.1~~ 7. An authorized station, *authorized maintenance station* or authorized inspection station shall pay the costs of producing and maintaining signs which are in its control.

~~17.1~~ 8. A business that has ceased to operate as an authorized station, *authorized maintenance station* or authorized inspection station shall remove, within 2 business days after ceasing to operate, all signs or placards required by the Department pursuant to this section and any other signs or placards referring to emission control tests posted or displayed at the business.

Sec. 9. NAC 445B.470 is hereby amended to read as follows:

445B.470 1. The license to operate a test station *or an authorized maintenance 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 *or authorized maintenance 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 *or an authorized maintenance 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 the owner of the authorized maintenance station, as applicable*, or the owner's 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 *, authorized maintenance 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 authorized maintenance station, as applicable*, or the owner's 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. 10. NAC 445B.471 is hereby amended to read as follows:

445B.471 1. A test station *or an authorized maintenance 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 *or an authorized maintenance 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 *or an authorized maintenance 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 *or an authorized maintenance 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 *or an authorized maintenance 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 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. 11. NAC 445B.472 is hereby amended to read as follows:

445B.472 1. Each test station *and authorized maintenance 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. Except as otherwise provided in subsection 3, the principal portion of the established place of business of a test station *or an authorized maintenance station, as applicable*, must be open to inspection by any authorized agent of the Department during the days and hours that it is open for business as established pursuant to 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 *or an authorized maintenance station, as applicable*, 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.

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

445B.474 1. Except as otherwise provided in subsections 2 and 3, a test station *or an authorized maintenance station* which does not employ an approved inspector of the appropriate rating shall:

(a) Immediately cease to operate as a test station ~~†~~ *or authorized maintenance station, as applicable;*

(b) Remove or cover its sign as a test station ~~†~~ *or authorized maintenance station, as applicable;*

(c) ~~Not~~ *With regard to a test station, 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 ~~†~~ *or authorized maintenance station, as applicable.*

2. Except as otherwise provided in subsection 3, if an approved inspector of the appropriate rating is not employed within 60 days, the test station *or authorized maintenance station* shall surrender its signs, its license as a test station *or authorized maintenance 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.

Sec. 13. 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 the employee is licensed as a class 1 approved inspector or class 2 approved inspector.

2. *Except as otherwise provided in subsection 3, an employee of an authorized maintenance station shall not perform any diagnosis, repair or servicing of devices for the control of exhaust emissions unless the employee is licensed as a class 2 approved inspector.*

3. Each authorized station, *authorized maintenance 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, *authorized maintenance station* or class 2 fleet station may diagnose, repair and service a device for the control of exhaust emissions only if his or her work is inspected and approved in writing by a class 2 approved inspector.

Sec. 14. NAC 445B.476 is hereby amended to read as follows:

445B.476 1. The failure of a licensee to comply with a directive of the Director advising the licensee of his or her noncompliance with any provision of NAC 445B.400 to 445B.735, inclusive, within 10 days after his or her receipt of the directive is prima facie evidence of the licensee's willful failure to comply with the directive.

2. If the license of a test station *or an authorized maintenance station* has been suspended for cause, the suspension will be no longer than 90 days. Upon suspension, the license of the test station *or authorized maintenance station* must be surrendered to the Department.

3. If the license of a test station *or an authorized maintenance station* has been revoked for any cause, except pursuant to NAC 445B.474, the principal officers of the test station *or authorized maintenance station, as applicable* may not reapply for a license as a test station *or an authorized maintenance station, as applicable*, within 1 year after the date of the revocation. Upon revocation, the license of the test station *or authorized maintenance station, as applicable*, must be surrendered to the Department.

Sec. 15. NAC 445B.480 is hereby amended to read as follows:

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

2. Except as otherwise provided in subsection 3, a test station *and an authorized maintenance station* must be open for business on Monday through Friday from 8 a.m. to 5 p.m. except on the holidays set forth in NRS 236.015.

3. The holder of a license for a test station *or an authorized maintenance station* may submit a request on a form provided by the Department to be open for business from 8 a.m. to 5 p.m. on different days. Upon receiving such a request, the Department will grant approval to the licensee if the test station *or authorized maintenance station* will remain open for business on at least 2 weekdays from 8 a.m. to 5 p.m. except on the holidays set forth in NRS 236.015.

4. For an authorized station , *authorized maintenance station* or an authorized inspection station operated by a single approved inspector, a notification indicating at what time the approved inspector will return must be posted at the test station *or authorized maintenance station* for any instance of business closure. If an approved inspector is unable to return at the posted time, the approved inspector must notify the Department in the manner designated by the Department.

Sec. 16. 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 or she is employed by a test station with an appropriate rating ~~H~~ *or an authorized maintenance station*.

2. The approved inspector has knowingly made any false statement or concealed any material fact on his or her 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 or her place of employment or any termination of his or her employment within 10 days after the date of the change or termination.

5. The approved inspector does not follow the procedures for testing prescribed by the Department.

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

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

8. The approved inspector submits to the Department falsified credentials or certifications of training.

9. The approved inspector makes an inaccurate determination regarding a classification of a motor vehicle.

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

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

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

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

Sec. 17. NAC 445B.495 is hereby amended to read as follows:

445B.495 A license issued by the Department to an approved inspector must contain:

1. The inspector's name;
2. The identification number assigned to the inspector;
3. The name of the test station *or authorized maintenance station* employing the inspector;
4. A photograph of the inspector;
5. The inspector's signature; and
6. Such other information as the Department may require.

Sec. 18. NAC 445B.4985 is hereby amended to read as follows:

445B.4985 The owner of the test station *or authorized maintenance station, as applicable*, will be held responsible for any act or omission of an approved inspector or any other employee employed at any test station *or authorized maintenance station* owned by the owner which is committed while the inspector or other employee is acting within the scope of his or her employment, and which would constitute a violation of this chapter or chapter 445B of NRS if:

1. The act or omission is a second or subsequent violation of a specific section of this chapter or chapter 445B of NRS that was committed by the same inspector or other employee while employed at any test station *or authorized maintenance station* owned by the owner; and

2. The owner of the test station *or authorized maintenance station* received notice from the Department of the first offense previously committed by the approved inspector or other employee.

Sec. 19. NAC 445B.499 is hereby amended to read as follows:

445B.499 1. The fee for the initial issuance and biennial renewal of an inspector's license is \$25.

2. If an inspector who is employed by a test station *or an authorized maintenance station* and has paid the fee required by subsection 1 wishes to be licensed at one or more additional locations of that test station ~~H~~ *or authorized maintenance station, as applicable*, the fee for the issuance and biennial renewal of an inspector's license for each additional location is \$10.

3. The fee for the transfer of an inspector's license is \$10.

Sec. 20. NAC 445B.502 is hereby amended to read as follows:

445B.502 If an approved inspector changes his or her place of employment, he or she shall submit to the Department a certificate of employment indicating that he or she is reemployed by a test station ~~H~~ *or an authorized maintenance station*.

Sec. 21. NAC 445B.575 is hereby amended to read as follows:

445B.575 1. Except as otherwise provided in this section, a person shall not:

(a) Sell, offer to sell, display for sale, operate or permit the operation of or leave standing any motor vehicle which is required by state or federal law to be equipped with a device for the control of pollution unless the device is correctly installed and in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation.

(b) Disconnect, alter or modify any such required device.

2. Except for NAC 445B.5815, the provisions of subsection 1 and NAC 445B.576 to 445B.582, inclusive, do not apply to an alteration or modification of a motor vehicle to use fuel other than gasoline or diesel fuel where the alteration or modification is effected without violating existing federal and state standards for the control of exhaust emissions.

3. The provisions of subsection 1 do not apply to a wholesale transaction between licensed dealers of motor vehicles if:

(a) The motor vehicle sold in the wholesale transaction was identified as a noncompliant motor vehicle by the Department during an audit pursuant to subsection 4 and the seller of the motor vehicle:

(1) Informs the prospective purchaser of the motor vehicle before the completion of the wholesale transaction that the motor vehicle is designated as a noncompliant motor vehicle; and

(2) Provides a written disclosure notice that identifies any device for the control of pollution which is not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation; or

(b) The seller of the motor vehicle sold in the wholesale transaction has:

(1) Physically separated the motor vehicle from all other motor vehicles displayed for retail sale;

(2) Marked the motor vehicle in a manner that reasonable and prudent persons would know the motor vehicle is not intended for retail sale;

(3) Indicated on all written records relating to the motor vehicle identifying the motor vehicle as suitable only for sale in a wholesale transaction; and

(4) Prepared a written disclosure notice for inclusion with the dealership's permanent records of the motor vehicle which details the reasons why the motor vehicle is only suitable for sale in a wholesale transaction.

4. The Department may audit a licensed dealer of motor vehicles to determine compliance with this section. Such audits may include, without limitation:

(a) An inspection of every device for the control of pollution on any motor vehicle displayed for retail sale and selected for the audit; and

(b) An inspection of any document which contains information relating to emission inspections for the motor vehicle selected for the audit.

5. A device for the control of pollution which is deemed by the Department as not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation pursuant to subsection 4 may be repaired by an authorized station , *authorized maintenance station* or class 2 fleet station.

6. A noncompliant motor vehicle shall no longer be deemed noncompliant if:

(a) ~~The authorized station or class 2 fleet station that repaired the device for the control of pollution issues evidence~~ Evidence of compliance ~~is~~ is issued by:

(1) The authorized station or class 2 fleet station that repaired the device for the control of pollution; or

(2) An authorized station or authorized inspection station if the device for the control of pollution was repaired by an authorized maintenance station; and

(b) The Department conducts a physical inspection of the motor vehicle to verify compliance.

7. A licensed dealer of motor vehicles shall maintain a written record, in a manner satisfactory to the Department, of every noncompliant motor vehicle. The record must be maintained at the established place of business of the dealer and must be made available for inspection by any authorized agent of the Department during normal business hours. The record must include at least the following information:

(a) The vehicle identification number of each motor vehicle;

(b) Every date on which the motor vehicle was deemed noncompliant by the Department;

(c) If any device for the control of pollution installed on the motor vehicle was repaired and subsequently inspected by the Department, every date on which the motor vehicle was deemed compliant by the Department; and

(d) If the motor vehicle was sold as a wholesale transaction between licensed dealers of motor vehicles, the name of the dealer who purchased the motor vehicle and the date on which it was purchased.

8. For purposes of this section:

(a) The failure of a seller to meet any of the requirements described in subsection 3 relating to a wholesale transaction shall be deemed prima facie evidence of misrepresentation of a material fact.

(b) The failure of a licensed dealer of motor vehicles to comply with a directive of the Director advising the licensed dealer of his or her noncompliance with any provision of this section within 10 days after his or her receipt of the directive is prima facie evidence of a willful failure to comply with the directive.

9. As used in this section:

(a) “Device for the control of pollution” includes, without limitation:

(1) On any motor vehicle manufactured on or after January 1, 1981, if the equipment was originally installed on the motor vehicle by the manufacturer, a catalytic converter, fuel inlet restrictor, air injection system, exhaust gas recirculation system, crankcase depression regulator or fuel inlet cap; and

(2) On any motor vehicle with a model year of 1996 or newer, if the equipment was originally installed on the motor vehicle by the manufacturer, a certified on-board diagnostic system, malfunction illumination light or a data-link connector.

(b) “Noncompliant motor vehicle” means any motor vehicle that has a device for the control of pollution which is not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation.

Sec. 22. NAC 445B.5895 is hereby amended to read as follows:

445B.5895 1. An authorized inspection station shall provide a current list of authorized stations *and authorized maintenance stations* and an emissions fact sheet, both made available

by the Department pursuant to subsection 3, to the owner or operator of a motor vehicle for which the result of an inspection is anything other than “pass” or for which the inspection cannot be completed.

2. An authorized station shall provide a current list of authorized stations *and authorized maintenance stations* and an emissions fact sheet, both made available by the Department pursuant to subsection 3, to the owner or operator of a motor vehicle for which the result of an inspection is anything other than “pass” or for which the inspection cannot be completed if that station does not perform emission control system repairs on that particular vehicle or if the vehicle is being removed from the authorized station before repairs have begun or have been completed.

3. The Department will make available a current list of authorized stations *and authorized maintenance stations* and an emissions fact sheet to each authorized inspection station and authorized station in this State by:

(a) Making an electronic copy of the list and the emissions fact sheet available for a test station to print from an exhaust gas analyzer connected to the state electronic data transmission system; and

(b) Posting and updating, at least twice monthly, an electronic copy of the list and the emissions fact sheet on the Department’s website.

4. The emissions fact sheet made available by the Department pursuant to this section must clearly explain the actions that may be taken by the owner or operator of a motor vehicle for which the result of an inspection is anything other than “pass” or for which the inspection cannot be completed, including, without limitation, possible corrective alternatives.

Sec. 23. NAC 445B.590 is hereby amended to read as follows:

445B.590 1. Only the Department may grant a waiver:

(a) From the standards for emissions as set forth in:

(1) Subsection 3 of NAC 445B.576; or

(2) NAC 445B.596; or

(b) For a motor vehicle that fails an inspection pursuant to paragraph (b) of subsection 4 of NAC 445B.5805.

2. An application for a waiver from the provisions of NAC 445B.596 for a motor vehicle powered by gasoline that is subject to an inspection pursuant to:

(a) NAC 445B.594 must include receipts from an authorized station *or authorized maintenance station* that at least \$200 has been spent on parts other than a catalytic converter, fuel inlet restricter or air injection system or on labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions. If the vehicle is repaired by the owner, the application must include receipts or other evidence that at least \$200 has been spent on parts other than a catalytic converter, fuel inlet restricter or air injection system purchased within 14 calendar days after the initial emissions test. No allowance will be permitted for labor on vehicles repaired by the owner.

(b) NAC 445B.593 must include receipts from an authorized station *or authorized maintenance station* that at least \$450 has been spent on parts other than a catalytic converter, fuel inlet restricter or air injection system or on labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions.

3. Except as otherwise provided in subsection 4, an application for a waiver for a light-duty motor vehicle powered by a diesel engine or a heavy-duty motor vehicle that is powered by a

diesel engine and has a manufacturer's gross vehicle weight rating which does not exceed 14,000 pounds from the provisions of subsection 3 of NAC 445B.576 must include:

(a) A copy of the original certificate indicating that the vehicle failed to comply with the provisions of subsection 3 of NAC 445B.576; and

(b) Receipts or other evidence that at least \$750 has been spent on:

(1) Parts other than required emission control equipment; or

(2) Labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions.

↪ Receipts must be dated within 14 calendar days after the date of issuance of the certificate indicating that the vehicle failed to comply with subsection 3 of NAC 445B.576.

4. If the owner of a motor vehicle specified in subsection 3 repairs the vehicle, an application for a waiver from the provisions of subsection 3 of NAC 445B.576 must include:

(a) A copy of the original certificate indicating that the vehicle failed to comply with the provisions of subsection 3 of NAC 445B.576; and

(b) Receipts or other evidence that at least \$500 has been spent on parts other than required emission control equipment. No allowance will be permitted for labor on a vehicle repaired by the owner.

↪ Receipts must be dated within 14 calendar days after the date of issuance of the certificate indicating that the vehicle failed to comply with subsection 3 of NAC 445B.576.

5. In addition to any information required pursuant to subsection 2, an application for a waiver for a motor vehicle that fails an inspection pursuant to paragraph (b) of subsection 4 of NAC 445B.5805 must include:

(a) A copy of the original certificate indicating the motor vehicle failed the inspection; and

(b) Any other information required by the Department.

6. The Department will deny an application for a waiver if the parts have not been installed or the repairs performed as indicated on the receipts presented to the Department.

7. The Department will allow registration of the vehicle if:

(a) The provisions of NAC 445B.582 have been complied with; and

(b) The Department finds after inspection that additional costs exceeding the minimum established in this section are needed to bring the vehicle into compliance.

8. A vehicle which qualifies for repairs under a warranty is not eligible for a waiver.

9. A waiver permits the registration of the vehicle.

Sec. 24. NAC 445B.7015 is hereby amended to read as follows:

445B.7015 1. The Department will conduct:

(a) Annual inspections of test stations ~~§~~ *and authorized maintenance stations*; and

(b) Inspections of the performance of approved inspectors.

2. In addition to the annual inspections of test stations *and authorized maintenance stations* required pursuant to paragraph (a) of subsection 1, the Department may determine that additional inspections of test stations *or authorized maintenance stations* are necessary based on the following factors:

(a) Rates of failure of motor vehicles on exhaust emissions tests administered at a test station or by an approved inspector that the Department determines to be abnormal when compared to the overall rates of failure of motor vehicles on exhaust emissions tests administered at all test stations and by all approved inspectors;

(b) Complaints received against test stations, *authorized maintenance stations* and approved inspectors;

(c) Violations of NRS 445B.700 to 445B.845, inclusive, or 40 C.F.R. Part 51 discovered by the Department during prior inspections conducted pursuant to subsection 1 or prior inspections or audits conducted pursuant to NAC 445B.472; and

(d) Any data on the state electronic data transmission system relating to a test station or approved inspector that the Department determines is questionable.

Sec. 25. NAC 445B.7045 is hereby amended to read as follows:

445B.7045 1. If the Department imposes administrative fines or other penalties against an owner of a test station *or an authorized maintenance station* pursuant to NRS 445B.835, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, issue a written notice informing the owner of the test station *or authorized maintenance station* that:

(1) An approved inspector employed by the owner has committed a violation of this chapter or chapter 445B of NRS; and

(2) In accordance with the provisions of NAC 445B.4985, the owner will be held responsible for any act or omission of the approved inspector or any other employee employed at the test station *or authorized maintenance station* which is committed while the approved inspector or other employee is acting within the scope of his or her employment and which constitutes a second or subsequent violation of a specific section of this chapter or chapter 445B of NRS.

(b) For a second offense, require the owner of the test station *or authorized maintenance station* or the owner's authorized representative to complete successfully an educational course,

which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(c) For a third offense, impose a fine of \$1,000.

(d) For a fourth offense, revoke the license of the owner to operate the test station ~~+~~ *or authorized maintenance station, as applicable.*

2. If the Department imposes administrative fines or other penalties against an approved inspector pursuant to NRS 445B.835 for a violation of NAC 445B.580, 445B.5805 or 445B.589, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense:

(1) Issue a cease and desist order; and

(2) Require the approved inspector to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(b) For a second offense:

(1) Impose a fine of \$250;

(2) Require the approved inspector to complete successfully an educational course, which is established by the Department and conducted by a provider approved by the Department, not later than the date specified in the notice of the violation; and

(3) Suspend the license of the approved inspector for 10 calendar days.

(c) For a third offense:

(1) Impose a fine of \$500; and

(2) Suspend the license of the approved inspector for 90 calendar days.

(d) For a fourth offense, permanently revoke the license of the approved inspector.

3. Any person who has been fined in accordance with the schedules set forth in this section shall make payment to the Department not later than the date specified in the notice of the violation, unless the person has requested a hearing pursuant to subsection 1 of NRS 445B.835.

4. Upon the failure of a person to pay a fine or comply with any directive imposed pursuant to the provisions of this section, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of chapter 445B of NRS.

5. An owner of a test station *or an authorized maintenance station* whose license is revoked by the Department pursuant to this section:

(a) Shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles, if the violation:

- (1) Was knowing or willful; or
- (2) Involved fraud.

(b) May directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles at a test station *or an authorized maintenance station* other than the test station *or authorized maintenance station* where the violation occurred, if the violation:

- (1) Was not knowing or willful; and
- (2) Did not involve fraud.

6. An approved inspector whose license is revoked or suspended by the Department pursuant to this section shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles.

7. For the purposes of this section, the curriculum for an educational course established by the Department may include, without limitation:

- (a) The pertinent laws and regulations related to the control of emissions of motor vehicles;
- (b) Procedures for emission control inspections of motor vehicles;
- (c) The responsibilities of owners of test stations ~~§~~ *or authorized maintenance stations*; and
- (d) A review of the penalties which may be imposed on the owner of a test station *or an authorized maintenance station* or *on* an approved inspector for future violations of NRS 445B.700 to 445B.845, inclusive, or any rule, regulation or order adopted or issued pursuant thereto.