

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R205-97

January 15, 1998

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

AUTHORITY: §§ 2-9; NRS 445B.210 and 445B.760.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *The provisions of NAC 445B.575 to 445B.601, inclusive, do not apply to a motor vehicle that is certified as a restored vehicle by the department pursuant to section 3 of this regulation.*

Sec. 3. *The department may certify a motor vehicle as a restored vehicle if the motor vehicle:*

- 1. Is licensed pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816;*
- 2. Does not emit smoke;*
- 3. Has an engine that complies with the standards for emissions set forth in NAC 445B.596 for the model year of the motor vehicle as determined by a two-speed emissions test conducted by the department pursuant to NRS 445B.798 or conducted at an authorized station or authorized inspection station.*

Sec. 4. NAC 445B.401 is hereby amended to read as follows:

445B.401 As used in NAC 445B.400 to 445B.735, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.403 to 445B.455, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. 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 applicant's conviction of a felony in the State of Nevada or any other state, any territory of the United States, or in any other nation.
- (e) The applicant's conviction for violating any provision of NAC 445B.400 to 445B.735, inclusive [.] , *and sections 2 and 3 of this regulation*.
- (f) The applicant's conviction 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 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 provided 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 may constitute a ground for the revocation or suspension of a license to operate a test station.

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

(a) Until he 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. 6. 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 him of his noncompliance with any provision of NAC 445B.400 to 445B.735, inclusive, *and sections 2 and 3 of this regulation*, within 10 days after his receipt of the directive is prima facie evidence of his willful failure to comply with the directive.

2. When 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. When 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 may not reapply for a license as a test station or an authorized maintenance station within 1 year after the date of the revocation. Upon revocation, the license of the test station or authorized maintenance station must be surrendered to the department.

Sec. 7. 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. He fails to establish by satisfactory evidence to the department that he is employed by a test station with an appropriate rating.

2. He has knowingly made any false statement or concealed any material fact on his application for a license.

3. He knowingly submits false, inaccurate, or misleading information on a certificate of compliance or in other records submitted.

4. He 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. He willfully or negligently issues a certificate of compliance which contains fraudulent information. The term “fraudulent” includes, but is not limited to, a back-dated document, a postdated document, or a document based on anything other than actual physical inspection at the time of the issuance of the certificate of compliance.

6. He does not follow the procedures for testing prescribed by the department.

7. He allows a certificate of compliance to be completed by a person who is not an approved inspector.

8. He is incompetent to perform his duties.

9. He makes an inaccurate determination regarding a classification of a motor vehicle.

10. He fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive [.] , *and sections 2 and 3 of this regulation.*

11. He changes his place of employment, is required to use an exhaust gas analyzer which is different from the type used at his previous place of employment, and fails to provide to the department a certificate of competence issued by the manufacturer of the analyzer.

12. The department determines that an applicant or approved inspector is not lawfully entitled thereto.

13. He is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

14. He is unable to demonstrate proficiency in the verbal and written expression of the English language.

Sec. 8. NAC 445B.5039 is hereby amended to read as follows:

445B.5039 The department may deny the issuance of, suspend, or revoke *the certificate of* a certified repair [technician's certificate] *technician* if:

1. He fails to establish by satisfactory evidence to the department that he is employed by an authorized maintenance station.
2. He has knowingly made any false statement or concealed any material fact on his application for a certificate.
3. He knowingly submits false, inaccurate, or misleading information to the department.
4. He 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. He is incompetent to perform his duties.
6. He fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive [.] , *and sections 2 and 3 of this regulation.*
7. The department determines that an applicant or certified repair technician is not lawfully entitled thereto.
8. He is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.
9. He commits any fraudulent act, which includes, without limitation:

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

(b) Intentional failure to disclose a material fact.

10. He willfully fails to comply with any regulation of the department.

11. He is unable to demonstrate proficiency in the verbal and written expression of the English language.

Sec. 9. NAC 445B.583 is hereby amended to read as follows:

445B.583 1. The primary use of a certificate of compliance or evidence of compliance is for the registration of a used motor vehicle as required by chapter 445B of NRS, requiring the submission of certificates of compliance or evidence of compliance with NAC 445B.400 to ~~445B.727,~~ 445B.735, inclusive, *and sections 2 and 3 of this regulation*, to the department upon application for registration by an owner of a used motor vehicle.

2. All certificates of compliance and any material or documents which are used by a test station in its inspection program must be kept at the station.