

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

LCB File No. R050-06

Effective June 1, 2006

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

AUTHORITY: §1, NRS 445B.785.

A REGULATION relating to motor vehicles; revising provisions governing exhaust gas analyzers that are used to perform inspections of certain motor vehicles at test stations; and providing other matters properly relating thereto.

Section 1. NAC 445B.5052 is hereby amended to read as follows:

445B.5052 1. A test station shall use an NV2000 exhaust gas analyzer to perform an inspection of a motor vehicle *that is* subject to the provisions of NAC 445B.580 ~~[]~~ *or 445B.5805.*

2. The Department will not enroll an exhaust gas analyzer *for an authorized inspection station or authorized station licensed by the Department on or after July 1, 2006*, unless it is an NV2000 exhaust gas analyzer ~~[]~~ *equipped with hardware and software components that are capable of inspecting a motor vehicle containing a certified on-board diagnostic system which uses controller area network communication.*

3. *On and after September 30, 2006, an authorized inspection station or authorized station shall use an NV2000 exhaust gas analyzer that satisfies the requirements of subsection 2. On and after September 30, 2006, a representative of the Department will deactivate each NV2000 exhaust gas analyzer that is used by an authorized inspection station or authorized station if the gas analyzer does not satisfy the requirements of subsection 2. The Department*

will not authorize the reactivation of a gas analyzer until the gas analyzer complies with the requirements of subsection 2.

4. The provisions of subsections 2 and 3 are not applicable to a fleet station.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R050-06**

The Department of Motor Vehicles submits the following statement. The Department adopted regulations assigned LCB File R050-06, which pertain to Chapter 445B of the Nevada Administrative Code, a regulation relating to motor vehicles; revising provisions governing exhaust gas analyzers that are used to perform inspections of certain motor vehicles at authorized stations and authorized inspection stations;

Workshop Notice date: 03/23/2006

<u>Workshop Dates</u> Monday, 04/24/2006 10:00 AM Washoe County Government Complex Building Number C Central Conference Room 110 1001 East Ninth Street Reno, Nevada 89512	<u>Workshop Dates</u> Wednesday, 04/26/2006 11:00 AM Community College of Southern Nevada Room C-227 6375 West Charleston Blvd Las Vegas, Nevada 89146
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Hearing Notice date: 03/23/2006

<u>Hearing Dates</u> Monday, 04/24/2006 10:00 AM Washoe County Government Complex Building Number C Central Conference Room 110 1001 East Ninth Street Reno, Nevada 89512	<u>Hearing Dates</u> Wednesday, 04/26/2006 11:00 AM Community College of Southern Nevada Room C-227 6375 West Charleston Blvd Las Vegas, Nevada 89146
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Date of adoption by agency: May 4, 2006

INFORMATIONAL STATEMENT

1. 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 R050-06 on 03/23/2006 by posting at the Nevada State Library and Archives and at each office of the Department of Motor Vehicles. The Department of Motor Vehicles noticed public hearings for LCB File R050-06 on 03/23/2006 by posting at the Nevada State Library and Archives and at each office of the Department of Motor Vehicles. In counties where the Department does not maintain an office, Workshop and Hearing notices were posted at the main office of the public

libraries. Workshop and Hearing notices were also mailed to those persons who have requested to be placed on a special notice mailing list. On 03/24/2006 an electronic message was sent to emission analyzers at each emission station in Clark and Washoe County, displaying the dates for the Public Workshops and Hearings. Workshop and Hearing notices were also posted on the Department of Motor Vehicle's website.

A copy of written comments may be obtained by calling the Nevada Department of Motor Vehicles at (775) 684-4805, or by writing the Department's Compliance Enforcement Division at 555 Wright Way, Carson City, NV. 89711 (attention Ivie Harper).

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

2. The number of persons who:

(a) Attended each workshop:

<p><u>Workshop Dates</u> Monday, 04/24/2006 10:00 AM Washoe County Government Complex Building Number C Central Conference Room 110 1001 East Ninth Street Reno, Nevada 89512 02 Persons Attended</p>	<p><u>Workshop Dates</u> Wednesday, 04/26/2006 11:00 AM Community College of Southern Nevada Room C-227 6375 West Charleston Blvd Las Vegas, Nevada 89146 04 Persons Attended</p>
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(b) Attended each hearing:

<p><u>Hearing Dates</u> Monday, 04/24/2006 10:00 AM Washoe County Government Complex Building Number C Central Conference Room 110 1001 East Ninth Street Reno, Nevada 89512 02 Persons Attended</p>	<p><u>Hearing Dates</u> Wednesday, 04/26/2006 11:00 AM Community College of Southern Nevada Room C-227 6375 West Charleston Blvd Las Vegas, Nevada 89146 04 Persons Attended</p>
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(c) Testified at each hearing:

Name	Representing	Date
Brian Keraly	Smogbusters	04/26/2006

(d) Submitted to the agency written comments:

Name	Representing	Date
John R. Currell	Public	03/28/2006

3. 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.

Comments were solicited from businesses through postings as outlined in question one, by direct mail to the Departments interested parties' list and a message sent to each emission analyzer at authorized emission stations.

A Public Hearing was held on 04/24/2006 at the Washoe County Government Complex, 1009 East Ninth Street, Reno, NV 89512. No individuals wished to provide testimony at the Public Hearing.

During the Public Workshop held on 04/24/2006, immediately prior to the Public Hearing at the Washoe County Government Complex, Mr. Raymond White, representing United Parcel Services stated the proposed mandatory analyzer hardware upgrade noted in the proposed language would not be of any benefit for U.P.S. because none of the vehicles in their fleet have Controller Area Network on-board computers. The \$1,200.00 cost to upgrade the analyzer will not be a cost effective upgrade, considering the type of vehicles emission tested in the U.P.S. fleet.

A Public Hearing was held on 04/26/2006 at the Clark County Community College, 6375 West Charleston Blvd., Las Vegas, NV 89146. Brian Keraly, representing Smogbusters provided comments in favor of the analyzer hardware upgrade.

During the Public Workshop held on 04/26/2006 at the Clark County Community College, Russ Lucas, representing Jiffy Smog, commented in favor of the mandatory hardware upgrade. Otto Giese and Linda Giese, representing OG Smog expressed concern with regards to how much longer the current test equipment will remain approved for emission testing vehicles in Nevada.

Written comments were received from Mr. John R. Currell, a motorist who took a 2004 Cadillac CTS into an emission station for testing. The emission station tested the Cadillac and provided Mr. Currell with a failing emission test. Mr. Currell immediately took the Cadillac to another emission station and received a passing emission test. The emission station that provided the failed emission test had not upgraded their emission analyzer with the proper hardware to test vehicles equipped with Controller Area Network on-board computers, which resulted in a false failure for the Cadillac CTS. The second emission station has voluntarily upgraded the analyzer with hardware required to test vehicles with Controller Area Network on-board computers, as over 60% of the emission stations have statewide, and provided Mr. Currell with a passing emission test. Mr. Currell expressed that the type of situation he experienced with the Cadillac

CTS caused unnecessary time and cost burden on him, as a consumer, and in the future would like to be assured that any station advertising a State approved sign has equipment capable of testing all types of vehicles.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

After evaluating all of the recommendations submitted in writing and by individuals attending the Public Workshops and Public Hearings, amendments to the proposed language have been submitted by the Department of Motor Vehicles.

Section 1: Authorized Stations and Authorized Inspection Stations, which are licensed to perform emission tests for the motoring public shall be required to upgrade the test analyzers with hardware to test vehicles with Controller Area Network on-board computers. Fleet stations will not be subject to upgrading their test analyzers.

5. 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.

All motorists will be assured that authorized stations and authorized inspection stations will have analyzers equipped with hardware capable of testing all vehicles subject to the annual emission program, due to the adoption of these regulations. The regulation amendment will provide both immediate and long-term benefits to the motoring public because receiving a false emission failure due to improper test hardware will be eliminated.

There will be a one-time cost to the emission testing industry of \$1,200.00 for the analyzer hardware upgrade, per analyzer, due to the adoption of these regulations. The Department of Motor Vehicles does not see any reason why the current equipment will need to be replaced in the future, and will be capable of testing all vehicles subject to the annual emission program, providing the analyzer hardware upgrade is performed. Current equipment used in Nevada, although five years old, still carries the BAR 97 certification, which is the latest certification granted by the California Bureau of Automotive Repair, the industry gold standard for test equipment certification.

6. 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.

7. 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, the name of the regulating federal agency;

There are no other state or government agency regulations that the proposed regulation amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

No federal regulations regulate the same activity as the proposed regulation.

9. 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.