

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R171-07

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.210, 445B.760, 445B.770 and 445B.825.

A REGULATION relating to air pollution; authorizing the Department of Motor Vehicles to grant waivers from emissions standards for certain motor vehicles; and providing other matters properly relating thereto.

Section 1. NAC 445B.5805 is hereby amended to read as follows:

445B.5805 1. The provisions of this section apply to inspections of light-duty motor vehicles with a model year of 1996 or newer.

2. After the owner or operator of a motor vehicle subject to the provisions of this section requests an inspection, the inspector shall:

- (a) Turn the ignition switch to the off position for at least 12 seconds.
- (b) Locate the data-link connector for the vehicle and connect the test equipment.
- (c) Visually inspect the operation of the malfunction illumination light while turning the ignition switch to the run position with the engine off.
- (d) Start the vehicle and, with the engine running, establish communication with the certified on-board diagnostic system installed in the vehicle.
- (e) Visually inspect the vehicle to determine whether the malfunction illumination light is commanded on.
- (f) Review the emission readiness code status.

(g) Retrieve all data trouble codes that are present.

3. The inspector shall complete each test and issue a vehicle inspection report indicating whether or not the vehicle passes the inspection.

4. The inspector shall issue a vehicle inspection report indicating that the vehicle did not pass the inspection if:

(a) The vehicle has a malfunction illumination light that fails to illuminate during a visual inspection while the ignition switch is turned to the run position with the engine off;

(b) The vehicle has its malfunction illumination light commanded on continuously ~~if~~, *unless the Department grants a waiver pursuant to paragraph (b) of subsection 1 of NAC 445B.590;*

(c) The vehicle has a data-link connector that is missing, has been tampered with or is inoperable, including related electrical circuitry;

(d) There is no serial data communication from the certified on-board diagnostic system installed in the vehicle;

(e) The vehicle has a model year of 2001 or newer and has more than one unset readiness indicator;

(f) The vehicle has a model year of 1996 to 2000, inclusive, and has more than two unset readiness indicators; or

(g) Smoke is visible in the exhaust emissions from the vehicle with the engine speed at idle.

Sec. 2. NAC 445B.590 is hereby amended to read as follows:

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

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

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

(2) NAC 445B.596 ~~if~~ ; *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 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 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 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 light-duty motor vehicle powered by a diesel engine 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.

~~{6.}~~ 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.

~~{7.}~~ 8. A vehicle which qualifies for repairs under a warranty is not eligible for a waiver.

~~{8.}~~ 9. A waiver permits the registration of the vehicle.

NOTICE OF ADOPTION OF REGULATION

The State Environmental Commission adopted regulations assigned LCB File No. R171-07, which pertain to chapter 449 of the Nevada Administrative Code

INFORMATIONAL STATEMENT

Regulation R171-07: Waivers from Emissions Standards for certain Motor Vehicles: This regulation amends NAC 445B to make it consistent with NRS 445B.825. The regulation was prepared jointly by the Nevada Division of Environmental Protection (NDEP) and the Department of Motor Vehicles (DMV). It allows the granting of a waiver from emissions standards for all light-duty gasoline powered motor vehicles with a model year 1996 or newer after a sufficient attempt has been made to correct deficiencies that have caused a failure of an emissions inspection.

1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On January 24 and January 29, 2008, NDEP's Bureau of Air Quality Planning held public workshops on the above referenced regulation at the following locations. A total of 14 people attend these workshops.

<p style="text-align: center;">Reno Thursday, January 24, 2008 Washoe County Health Department Building C. Room 110 1001 E. 9th St. Reno, NV 10:00 am -12:00</p>	<p style="text-align: center;">Las Vegas Tuesday, January 29, 2008 McCarran International Airport Commissioner Conference Rm 5th floor 5757 Wayne Newton Blvd Las Vegas, NV 1:00 pm – 3:00 pm</p>
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Following these workshops, the State Environmental Commission (SEC) held a public hearing to consider the regulation on March 18, 2008. The hearing was held in Reno at the Nevada Department of Wildlife (1100 Valley Road).

The hearing agenda was posted at the following locations: the Nevada Department of Wildlife in Reno, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice and the proposed regulation were made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the regulation was published on Monday February 25, 2008 and on March 3rd and 10th 2008 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_031808.htm

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended March 18, 2008 hearing; 30 (approx.)
- (b) Testified on this Petition at the hearing: 2 (1 NDEP Staff and 1 DMV Staff)
- (c) Submitted to the agency written comments: 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses as indicated in number 1 above.

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.

The SEC adopted the regulation on March 18, 2008. Consensus on the proposed regulation was reached during the regulation development and public workshop process. In adopting the regulation, the SEC made a minor, non substantive language clarification to section 5 of the regulation.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

This regulation will prevent financial hardship to motor vehicle owners by allowing them to register model year 1996 or newer light-duty gasoline powered motor vehicles that fail an emissions inspection after a sufficient attempt has been made to repair the vehicle.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The DMV implements the inspection and maintenance program for motor vehicles. There will be no additional cost to DMV or NDEP for enforcement of the proposed regulation.

7. A description of any regulations of other state or government agencies which 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.

The regulation does not overlap or duplicate any regulations of other state, federal, or local agencies.

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

The regulation is not more stringent than any local or federal laws and regulations.

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.

The proposed regulation does address any fees.