

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

LCB File No. R026-10

Effective November 1, 2012

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

AUTHORITY: §§1 and 2, NRS 445B.785; §3, NRS 482.281.

A REGULATION relating to motor vehicles; authorizing certain emissions test stations to obtain permission to revise their business days; and providing other matters properly relating thereto.

Section 1. NAC 445B.472 is hereby amended to read as follows:

445B.472 1. Each test 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 must be open to inspection by any authorized agent of the Department during ~~[regular business hours as set forth in]~~ *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 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. 2. NAC 445B.480 is hereby amended to read as follows:

445B.480 1. A test station shall post and adhere to ~~regular business~~ *specific days and hours of business* and 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. ~~For the purposes of this section, regular business hours are~~ *Except as otherwise provided in subsection 3, a test 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 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 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 or an authorized inspection station operated by a single ~~employee,~~ *approved inspector*, a notification indicating at what time the ~~employee~~ *approved inspector* will return must be posted at the test 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. 3. NAC 482.760 is hereby amended to read as follows:

482.760 1. During the period of its participation in the program, an authorized inspection station or authorized station:

(a) Shall:

(1) ~~[Be]~~ *Except as otherwise provided in subsection 2, be* open to the public for the renewal of certificates of registration for motor vehicles at least Monday through Friday from 8 a.m. to 5 p.m., except on the holidays set forth in NRS 236.015;

(2) Employ at the station at least one approved inspector whose duties include the renewal of certificates of registration for motor vehicles and who is authorized by the Department to renew certificates of registration for motor vehicles pursuant to NAC 482.757;

(3) Maintain the records relating to the program where the renewal of certificates of registration for motor vehicles are issued;

(4) Authorize the Department or any person designated by the Department to conduct audits of the station's records relating to the program:

(I) Within 3 months after the authorized inspection station or authorized station begins issuing the renewal of certificates of registration for motor vehicles;

(II) At least once every 12 months after completion of the initial audit; and

(III) At any other time requested by the Department;

(5) Use software that is issued and installed in an exhaust gas analyzer by the Department to process the renewal of certificates of registration for motor vehicles; and

(6) Deposit the money it has collected from the renewal of certificates of registration for motor vehicles with the Department at the location designated by the Department. The deposits must be made:

(I) Not less than once each calendar week;

(II) If the money accumulated for deposit is \$10,000 or more, not later than the next business day; and

(III) In the same form as received from each customer.

(b) Shall not:

(1) Allow an employee who is not an approved inspector authorized by the Department pursuant to NAC 482.757 to renew certificates of registration for motor vehicles pursuant to NAC 482.757;

(2) Charge a fee of more than \$10 to renew a certificate of registration for a motor vehicle;

(3) Use or allow its employees to use:

(I) False, deceptive or misleading advertising to induce a person to renew the certificate of registration for his motor vehicle at that authorized inspection station or authorized station; or

(II) The State Seal in any advertisement for the renewal of a certificate of registration for a motor vehicle; or

(4) Use or allow its employees to use the name or initials of the Department in any advertisement, unless:

(I) The Department authorizes such use;

(II) The Department provides the image, logo, emblem or other design containing the name or initials of the Department that is to be used in the advertisement; and

(III) The authorized inspection station or authorized station, as applicable, complies with the terms of the Department's authorization, including, without limitation, any conditions imposed by the Department upon the use of its name or initials.

↪ An advertisement described in this subparagraph must comply with any other applicable provisions of this chapter and must not state or imply that the Department endorses the applicable authorized inspection station or authorized station.

2. *The holder of a license for an authorized inspection station or authorized 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 authorized inspection station or authorized 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.*

3. As used in this section, “exhaust gas analyzer” means a device for sensing the amount of air contaminants in the exhaust emissions of a motor vehicle.

**NOTICE OF ADOPTION OF REGULATION
LCB FILE R026-10**

The Department of Motor Vehicles adopted regulations assigned LCB File No. R026-10, which pertain to Chapters 445B and 482 of the Nevada Administrative Code on June 16, 2012. A copy of the regulations as adopted is attached hereto.

INFORMATIONAL STATEMENT

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 445B.

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.

Copies of the proposed regulation, notices of Public Workshop and Hearing and notices of intent to act upon the regulation were sent by U.S. mail and email to all interested persons who have requested notification of proposed regulation amendments. The documents relating to the proposed regulation amendments were made available on the Department of Motor Vehicles website at: www.dmvnv.com/publicmeetings.htm. The proposed regulation amendment documents were posted at all county libraries in Nevada where there is not a Department of Motor Vehicles Office and at the following Department locations:

Department of Motor Vehicles
555 Wright Way
Carson City, Nevada 89701

Department of Motor Vehicles
305 Galletti Way
Reno, Nevada 89520

Department of Motor Vehicles
3920 East Idaho Street
Elko, Nevada 89801

Department of Motor Vehicles
178 N Avenue F
Ely, Nevada 89301

Department of Motor Vehicles
973 West Williams Street
Fallon, Nevada 89406

Department of Motor Vehicles
1085 Highway 95
Hawthorne, Nevada 89415

Department of Motor Vehicles
1399 American Pacific Drive
Las Vegas, Nevada 89074

Department of Motor Vehicles
8250 West Flamingo Road
Las Vegas, Nevada 89147

Department of Motor Vehicles
2701 East Sahara Avenue
Las Vegas, Nevada 89104

Department of Motor Vehicles
7170 North Decatur Blvd
Las Vegas, Nevada 89131

Department of Motor Vehicles
3030 South Needles Highway
Laughlin, Nevada 89028

Department of Motor Vehicles
330 North Sandhill Road
Mesquite, Nevada 89027

Department of Motor Vehicles
1780 East Basin Avenue
Pahrump, Nevada 89060

Department of Motor Vehicles
1137 South Main Street #C-8
Tonopah, Nevada 89049

Department of Motor Vehicles
3505 Construction Way
Winnemucca, Nevada 89445

Department of Motor Vehicles
215 West Bridge Street #9
Yerington, Nevada 89447

A Public Workshop was noticed on January 5, 2010 and held on February 5, 2010 to discuss the proposed amendments to regulations pertaining to authorizing certain emission test stations to obtain permission to revise their business days. One (1) member from the emission testing industry provided comment(s) pertaining to the current requirements which do not allow for hours of business outside of 8 to 5 and requested clarification and reconsideration of the new language requiring mandatory days of operation being Monday through Friday.

Two (2) Department representatives provided comment during the Public Workshop opposing the proposed changes due to past fraud cases and the inconvenience in ability to perform emission station audits.

A second Public Workshop was noticed on October 18, 2010 and held on November 3, 2010 to discuss the proposed amendments to regulations pertaining to authorizing certain emissions test stations to obtain permission to revise their business days. No member of the general public, government agency or affected business industry provided any comment or testimony during the Public Workshop. The Department did not receive written comment from any member of the public, government agency or affected business industry.

A Public Hearing was noticed on February 15, 2012 and held on April 6, 2012 to obtain comment and testimony regarding proposed amendments to the regulations pertaining to authorizing certain emissions test stations to obtain permission to revise their business days. No member of the general public, government agency or affected business industry provided any comment or testimony during the Public Workshop.

Two (2) written comments were received (1) one from Glenn Smith the Departments Supervising Emission Control Officer in Reno and (1) one from Allan Lal the Departments Supervising Emission Control Officer in Las Vegas. The concerns they raised pertained to the ability for emission control technicians to perform an audit and/or covert test on stations if they had different hours of business other than 8-5, Monday through Friday. These hours may cause doubling back on a route, and issues with scheduled vehicles and drivers performing the audits. Mr. Smith and Lal were also expressed that the public might encounter issues if they have a failed emission test and would like to go and have repairs done, these

stations could be closed. In full, they stated that the proposed accommodation to the businesses would be an inconvenience to the Department and a disservice to the motoring public. Staff proposed business should be at minimum of 3 days as opposed to 2 days with mandatory hours of operation from 9-5.

A copy of the minutes for the public workshop held on February 5, 2010, November 3, 2010 and public hearing held on April 6, 2012 may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division, 555 Wright Way, Carson City, Nevada 89701, (775) 684-4682 or e-mail to llanuza@dmv.nv.gov.

2. The number of persons who:

(a) Attended the February 5, 2010 workshop:	6
(b) Provided comment at the February 5, 2010 workshop:	3
(c) Attended the October 18, 2010 workshop:	15
(d) Provided comment at the October 18, 2010 workshop:	0
(e) Attended the April 6, 2010 hearing:	11
(f) Provided testimony at the April 6, 2012 hearing:	2

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 affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

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 permanent regulation was adopted on June 15, 2012 using the revised proposed language. At the public workshop on February 5, 2010, one emission station owner presented comment that he was cited for having an inspector showing up late for work which was outside of the posted business hours. Also a recommendation to change the wording of “will” to “may”. The Department made changes to proposed language and addressed the concern as new matter.

5. List 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.

- (a) Both adverse and beneficial effects

The regulation amendments shall have no adverse or beneficial economic effect. The amendments found in LCB File No. R026-10 will allow emission stations to adjust their hours of operation to effectively accommodate the motoring public.

(b) Both immediate and long-term effects

The regulation amendments shall have no immediate or long-term economic effect. The amendments found in LCB File No. R026-10 will allow emission stations to adjust to their customer's hours. Regulation change will allow stations the ability to be open during customer demand.

6. List 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. List a description of any regulations or 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, list the name of the regulating federal agency.

There are no other state or federal government agency regulations that the proposed 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.

There are no federal regulations that regulate the same activity as addressed in the adopted 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. A total fee amount is not expected to be collected or used.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business, or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Department of Motor Vehicles has determined that the proposed regulation does not impose a direct or significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. The regulation amendments are intended to reflect upon the methods developed by the Department of Motor Vehicles, which more efficiently improve business practices within the Emission Control Program, while accommodating the motoring public.