

PROPOSED REGULATION OF THE DEPARTMENT OF MOTOR VEHICLES

LCB File No. R027-10

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 licensing of stations; performance of inspection and issuance of evidence of compliance; diagnostic equipment; fee, bond or insurance; informational pamphlet; distribution.

Section 1. NAC 445B.7035 is hereby amended to read as follows:

NAC 445B.7035 Preliminary written notice of violation; reinspection of vehicle. (NRS 445B.790)

1. If the Department discovers noncompliance with any of the testing procedures set forth in NAC 445B.580, 445B.5805 or 445B.589 during an inspection conducted pursuant to NAC 445B.7015, the Department will issue a preliminary written notice of the violation, on a form prescribed by the Department, to the approved inspector who committed the violation. If the approved inspector who committed the violation is no longer present at the test station, the Department will ~~f:~~

~~—(a) G] give the preliminary written notice of the violation to *the station owner or designated representative.* [another approved inspector or any other employee of the test station who is present; and~~

~~—(b) Send a copy of the written preliminary notice to the approved inspector who committed the violation by certified mail not later than 5 business days after the violation occurred.]~~

2. Before removing the motor vehicle used in the inspection conducted pursuant to NAC 445B.7015 from the test station, the Department will allow the approved inspector who committed the violation or, in the absence of the approved inspector, the person to whom the preliminary written notice of the violation was given pursuant to ~~paragraph (a) of~~ subsection 1, to inspect the motor vehicle used in the inspection.

3. If the approved inspector who committed the violation is not the owner of the test station where the violation occurred, the Department will ~~send~~ *deliver* a copy of the written preliminary notice to the owner ~~by certified mail~~ not later than 5 business days after the violation occurred.

(Added to NAC by Dep't of Motor Veh. by R003-04, eff. 2-3-2005)

Section 2. NAC 445B.7045 is hereby amended to read as follows:

NAC 445B.7045 Administrative fines and other penalties for certain violations. (NRS 445B.785, 445B.790, 445B.835)

1. If the Department imposes administrative fines or other penalties against an owner of a test station pursuant to NRS 445B.835 for a violation of NAC 445B.4985, 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 cease and desist order.]~~

~~[(b) a]~~ *a*) For a ~~[second]~~ *first* offense, require the owner of the test station or his 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) b]~~ *b*) For a ~~[third]~~ *second* offense, impose a fine of \$1,000.

~~[(d) c]~~ *c*) For a ~~[fourth]~~ *third* offense, revoke the license of the owner to operate the test station.

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 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 other than the test 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; and

(d) A review of the penalties which may be imposed on the owner of a test station or 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.

(Added to NAC by Dep't of Motor Veh. by R003-04, eff. 2-3-2005)

(b) For a second or subsequent offense, a fine of \$1,500.

↪ For the purposes of paragraph (b), a cease and desist order issued by the Department shall be deemed to be a first offense.

3. The Department may impose a fine of not less than \$1,500 or more than \$2,500 for any violation of NAC 445B.460 or subsection 4 of NRS 445B.840.

4. Any person who has been fined pursuant to the provisions of NRS 445B.835 shall make payment to the Department not later than the date specified in the notice of the violation, unless he has requested a hearing pursuant to subsection 1 of that section.

5. Upon the failure of a person to pay a fine imposed pursuant to the provisions of this section when it becomes due, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of chapter 445B of NRS.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 11-23-92; A 12-4-96; A by Dep't of Motor Veh. by R003-04, 2-3-2005)