

**PROPOSED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R070-17

September 15, 2017

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

AUTHORITY: §§1-5, NRS 445B.785; §6 and 7, NRS 445B.830.

A REGULATION relating to control of emissions from engines; revising provisions relating to the required inspection of certain motor vehicles; repealing provisions relating to a program for awarding grants from the Pollution Control Account for projects related to the improvement of air quality; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Environmental Commission, in cooperation with the Department of Motor Vehicles and any local air pollution control agency, to adopt regulations for the control of emissions from motor vehicles in the areas of the county designated by the Commission. (NRS 445B.770) The Department of Motor Vehicles, in cooperation with the State Environmental Commission, is required to adopt regulations which prescribe the manner in which an authorized inspection station, authorized station or fleet station must inspect certain motor vehicles and issue evidence of compliance. (NRS 445B.785)

Existing regulations require the inspection of certain motor vehicles for the control of emissions to include a determination of the presence of a properly installed gas cap or, for certain diesel motor vehicles, a properly installed fuel cap. If the cap is missing or not properly installed, the owner or operator must obtain a cap which is in accordance with the specifications of the manufacturer of the vehicle. The inspector must inspect the new cap to certify its presence, and sign and date the failing vehicle inspection report, which may then be used as evidence of compliance. (NAC 445B.580, 445B.589) **Sections 2 and 4** of this regulation specify that the cap must be inspected for not only the presence of the cap, but to verify that the cap appears to seal properly to prevent the escape of fumes and liquid from the fuel tank. **Sections 2 and 4** also require the owner or operator of a motor vehicle that fails the inspection of the gas cap or fuel cap to get the motor vehicles replacement cap inspected or have the vehicle retested by either an approved inspector or by a technician employed by the Department for such inspections. **Section 3** of this regulation makes a conforming change.

Sections 1, 2 and 5 of this regulation correct the spelling of the term “fuel inlet restricter” to “fuel inlet restrictor.”

Existing law requires the Department to make annual distributions of excess money in the Pollution Control Account to certain local pollution control agencies for programs related to the

improvement of the quality of the air. The Department is also required to provide for an advisory committee, consisting of representatives of state and local pollution control agencies, to provide assistance and recommendations with such distributions and programs. (NRS 445B.830) Existing regulations provide for the Advisory Committee on the Control of Emissions From Motor Vehicles and for a grant program whereby the Committee makes recommendations for funding to the Deputy Director of the Department and to the Administrator of the Division of Environmental Protection of the Department. (NAC 445B.850-445B.873) **Section 7** of this regulation repeals the provisions relating to the grant program, and **section 6** of this regulation makes a conforming change.

Section 1. NAC 445B.579 is hereby amended to read as follows:

445B.579 Any motor vehicle which is manufactured on or after January 1, 1981, and subject to inspection in accordance with the provisions of chapter 445B of NRS and the table set forth in NAC 445B.596, as a condition of compliance with the inspection, must have a catalytic converter, fuel inlet ~~restrictor,~~ *restrictor*, air injection system, exhaust gas recirculation system and fuel inlet cap if the motor vehicle was originally equipped by the manufacturer with such equipment. The equipment required by this section must be installed and appear to be properly operating in accordance with the specifications for emission control of the manufacturer of the motor vehicle.

Sec. 2. NAC 445B.580 is hereby amended to read as follows:

445B.580 1. Except as otherwise provided in subsection 4, the provisions of this section apply to inspections of:

- (a) All motor vehicles with a model year of 1968 to 1995, inclusive; and
- (b) With regard to motor vehicles with a model year of 1996 or newer, all heavy-duty motor vehicles.

2. After the owner or operator of a motor vehicle subject to the provisions of this section requests an inspection, an approved inspector shall follow the sequence of prompts displayed by the exhaust gas analyzer when conducting the inspection. While the vehicle is at normal

operating temperature, the inspector shall connect the exhaust gas analyzer to the vehicle following the sequence of instructions programmed into the analyzer. The probe of the analyzer must be placed in the exhaust pipe of the vehicle. With the engine speed increased to 2,500 revolutions per minute, a steady level of carbon monoxide and hydrocarbons must be recorded by the analyzer. The engine speed must be returned to idle and a steady level of carbon monoxide and hydrocarbons must be recorded. If the vehicle is equipped with dual exhaust pipes, a test must be completed on both exhaust pipes and the average level of carbon monoxide and hydrocarbons must be recorded when the engine speed is increased to 2,500 revolutions per minute and when the engine speed is returned to idle.

3. The inspector shall visually inspect:

(a) The exhaust system to determine whether or not there is smoke when idling and at 2,500 revolutions per minute; and

(b) The engine to determine whether or not there are blowby gases from the crankcase when idling and at 2,500 revolutions per minute.

4. The inspector shall:

(a) Visually inspect:

(1) All motor vehicles subject to the provisions of this section to determine the presence of a properly installed gas cap ~~is~~ *that appears to seal properly to prevent the escape of fumes and liquid from the fuel tank;* and

(2) Each motor vehicle with a model year of 1981 to 1995, inclusive, and, with regard to motor vehicles with a model year of 1996 or newer, each heavy-duty motor vehicle, to determine the presence of an exhaust gas recirculation system, catalytic converter, air injection system and

fuel inlet ~~restrictor,~~*restrictor*, and to determine whether that equipment appears to be operating in accordance with the specifications of the manufacturer of the vehicle; and

(b) Enter the results of the visual inspection into the analyzer.

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

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

(a) The emissions from the vehicle exceed the maximum levels for carbon monoxide or hydrocarbons, or both, as prescribed in NAC 445B.596;

(b) Smoke or blowby is visible; ~~or~~

(c) The vehicle does not meet the requirements of NAC 445B.579 ~~+~~; *or*

(d) The vehicle has an improper gas cap or no gas cap.

7. If a motor vehicle subject to the provisions of this section passes all portions of an inspection but has an improper gas cap or no gas cap, the owner or operator of the motor vehicle shall obtain a gas cap which is in accordance with the specifications of the manufacturer of the vehicle ~~+~~*and must have the motor vehicle with the new gas cap inspected by an approved inspector or by a technician employed by the Department to inspect motor vehicles for compliance with emissions requirements. The owner or operator must provide the inspector or technician with the failing vehicle inspection report provided pursuant to subsection 6.* The inspector *or technician* shall inspect the new gas cap and certify its presence in a manner prescribed by the Department, and sign and date the failing vehicle inspection report beneath the gas cap tamper description. Such a vehicle inspection report may be used as evidence of compliance.

Sec. 3. NAC 445B.585 is hereby amended to read as follows:

445B.585 ~~[No]~~*Except as otherwise provided in NAC 445B.580 and 445B.589, no* person other than an approved inspector who is employed by a test station may issue evidence of compliance.

Sec. 4. NAC 445B.589 is hereby amended to read as follows:

445B.589 1. An inspector shall comply with the following procedure when testing a light-duty motor vehicle that is powered by a diesel engine or a heavy-duty motor vehicle that is powered by a diesel engine and has a manufacturer's gross vehicle weight rating which does not exceed 14,000 pounds:

(a) The test procedure must include, without limitation, a preparation phase, a tampering inspection phase and an opacity test phase.

(b) In the preparation phase:

(1) The vehicle must be placed on a dynamometer, the transmission must be placed in neutral and the vehicle must be properly restrained to prevent any rolling motion.

(2) The inspector may place an auxiliary cooling fan into position approximately 12 inches in front of the cooling system of the motor vehicle.

(3) The inspector shall then affix a smoke opacity meter which has been calibrated and zeroed to the exhaust system of the vehicle according to the recommendations of the manufacturer of the meter. Vehicles with dual exhaust configurations must have the smoke opacity meter attached to the exhaust pipe displaying the highest observed opacity.

(4) If an exhaust removal system is used, it must be installed so that all of the exhaust from the vehicle being tested is passed through the smoke opacity meter.

(c) In the tampering inspection phase, the inspector shall visually inspect:

(1) All vehicles with a model year of 1981 or newer to ensure that all equipment for emission control which is listed on the manufacturer's emission label is present and appears to be operational; and

(2) All vehicles to verify the presence of a properly installed fuel cap ~~+~~*that appears to seal properly to prevent the escape of fumes and liquid from the fuel tank.*

(d) During the opacity test phase, the inspector shall:

(1) Verify that the vehicle is at normal operating temperature before beginning the test. If the vehicle has cooled down below its normal operating temperature during its placement on the dynamometer, it must be operated until its normal operating temperature is reached.

(2) Test vehicles with varying engine sizes under the following speed and load conditions:

Number of Cylinders	Speed (± 4 miles per hour)	Load (± 1 horsepower)
4	40	7.0
6	40	15.0
8	40	30.0

(3) Maintain the required speed and load condition on the vehicle being tested for 10 seconds. The engine opacity must be stored and printed at the end of the 10-second interval.

2. The inspector shall issue a certificate of compliance indicating the results of the test. The printout from the opacity meter must be provided with the certificate of compliance. The test is complete if the vehicle passes the tampering inspection phase and the results of the opacity test phase comply with the standards set forth in NAC 445B.576. A vehicle which exceeds the

opacity standards or which fails the tampering inspection phase must be considered to have failed the inspection, and the inspector shall issue a certificate of compliance reflecting the failure.

3. ~~[A]~~ *Except as otherwise provided in subsection 4, a* vehicle which fails the tampering inspection phase or the opacity test must be repaired and retested.

4. If a motor vehicle subject to the provisions of this section passes all portions of an inspection but has an improper fuel cap or no fuel cap, the owner or operator of the motor vehicle shall obtain a fuel cap which is in accordance with the specifications of the manufacturer of the vehicle ~~[H]~~ *and must have the motor vehicle with the new fuel cap inspected by an approved inspector or by a technician employed by the Department to inspect motor vehicles for compliance with emissions requirements. The owner or operator must provide the inspector or technician with the failing vehicle inspection report provided pursuant to subsection 2.* The inspector *or technician* shall inspect the new fuel cap and certify its presence in a manner prescribed by the Department, and sign and date the failing vehicle inspection report beneath the fuel cap tamper description. Such a vehicle inspection report may be used as evidence of compliance.

Sec. 5. NAC 445B.590 is hereby amended to read as follows:

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

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

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

(2) NAC 445B.596; 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 ~~restrictor~~*restrictor* or air injection system ~~for on~~ and 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 ~~restrictor~~*restrictor* 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 ~~restrictor~~*restrictor* or air injection system ~~for on~~ and 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 or a heavy-duty motor vehicle that is powered by a diesel engine and has a manufacturer's gross vehicle weight rating which does not exceed 14,000 pounds 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; ~~for~~ and

(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 motor vehicle specified in subsection 3 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 **have not been** performed as indicated on the receipts presented to the Department.

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.

8. A vehicle which qualifies for repairs under a warranty is not eligible for a waiver.

9. A waiver permits the registration of the vehicle.

Sec. 6. NAC 445B.850 is hereby amended to read as follows:

445B.850 As used in NAC 445B.850 to ~~445B.873,~~ **445B.857**, inclusive, unless the context otherwise requires:

1. “Committee” means the Advisory Committee on the Control of Emissions From Motor Vehicles created pursuant to NRS 445B.830.

2. “Division of Environmental Protection” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

3. “Fiscal year” means the period from July 1 to June 30 of the succeeding year.

Sec. 7. NAC 445B.859, 445B.861, 445B.863, 445B.865, 445B.867, 445B.869, 445B.871 and 445B.873 are hereby repealed.

TEXT OF REPEALED SECTIONS

445B.859 Eligibility for grant. (NRS 445B.830) An agency is eligible for a grant from the money allocated for grants in subsection 6 of NRS 445B.830 if the agency meets the requirements of that subsection and is:

1. Responsible for preparing and submitting an implementation plan pursuant to 42 U.S.C. § 7407; or

2. Responsible for monitoring air pollution and enforcing air pollution control regulations.

445B.861 Application for grant: Submission; contents. (NRS 445B.830)

1. An application for a grant must be submitted to the Deputy Director of the Department of Motor Vehicles, the Administrator of the Division of Environmental Protection and the Chair of the Committee not later than April 1 preceding the fiscal year for which the grant is requested.

2. The application must:

(a) Contain the name and address of the agency making the application;

(b) Contain the name and telephone number of any person responsible for coordinating the proposed project or, if there is no such person, the chief administrative officer of the applicant;

(c) Specify the fiscal year for which the grant is requested;

(d) State the specific objectives of the request;

(e) Contain a description of the manner in which the request is related to the improvement of air quality;

(f) Contain a statement of the work that is planned to be performed; and

(g) Set forth a program budget, itemized under applicable categories of expenditures, including, without limitation, professional services, personnel, travel, operating expenses and equipment.

445B.863 Application for grant: Action by Committee. (NRS 445B.830)

1. The Chair of the Committee shall schedule a meeting of the Committee not later than April 15 preceding the fiscal year for which the grant is requested.

2. The Committee shall review the application at the meeting scheduled pursuant to subsection 1 and determine:

- (a) Whether the applicant is eligible for a grant;
- (b) Whether the request is related to the improvement of air quality;
- (c) The merit of the project; and
- (d) The likelihood of success of the project.

3. Based upon its determinations, the Committee shall recommend that the application be approved as submitted, that it be approved with specified changes or that it be denied.

445B.865 Application for grant: Consideration of Committee's recommendation; submission to Interim Finance Committee; agreement concerning grant. (NRS 445B.830)

1. The recommendation of the Committee concerning an application must be transmitted by the Chair of the Committee to the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection not later than 5 working days after the Committee conducted the review of the application pursuant to NAC 445B.863.

2. The Administrator of the Division of Environmental Protection shall consider the recommendation of the Committee and shall approve the application, disapprove it or approve it pending revision of the application. The Administrator shall transmit his or her decision to the Deputy Director of the Department of Motor Vehicles not later than 10 working days after he or she receives the recommendation of the Committee.

3. The Deputy Director of the Department of Motor Vehicles shall consider the recommendation of the Committee and shall approve the application, disapprove it or approve it pending revision of the application.

4. If both the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection approve an application, the Deputy Director shall cause the proposed grant to be submitted for approval by the Interim Finance Committee.

5. If the Interim Finance Committee approves the grant, the Deputy Director of the Department of Motor Vehicles shall enter into an agreement with the recipient of the grant, specifying the terms and conditions under which the grant is made.

445B.867 Period of grant; return of unexpended money; authorization to expend money for additional fiscal year. (NRS 445B.830)

1. A grant must be awarded for a period of 2 fiscal years.

2. Except as otherwise provided in subsection 4, if any money from a grant remains unexpended at the end of the period for which the grant is made, the recipient shall return any unexpended money to the Department of Motor Vehicles.

3. Not later than 60 days before the expiration of the period authorized for the expenditure of money from a grant, the recipient of a grant may submit a request in writing to the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection for authorization to expend money from a grant for an additional fiscal year. The request must include:

- (a) The name and address of the recipient submitting the request;
- (b) The name and telephone number of any person responsible for coordinating the project or, if there is no such person, the chief administrative officer of the recipient;
- (c) The reasons for which the request is submitted;
- (d) A statement specifying the fiscal year during which the grant was originally awarded;
- (e) A statement specifying the amount of work remaining on the project; and

(f) A statement specifying the amount of money that remains unexpended from the original grant.

4. If both the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection approve a request submitted pursuant to subsection 3, the Deputy Director, the Administrator and the recipient of the grant may enter into a written agreement authorizing the recipient to expend money from a grant for an additional fiscal year.

445B.869 Quarterly reports by recipient of grant. (NRS 445B.830)

1. The recipient of a grant shall, during each fiscal year for which the grant is made, submit to the Deputy Director of the Department of Motor Vehicles quarterly reports on the status of the project supported by the grant. These reports are due no later than 45 days after October 1, January 1, April 1 and July 1, respectively.

2. Each report must, for the preceding quarter:

(a) Contain a statement that sets forth:

(1) The date on which the request for the grant was approved by the Committee;

(2) The date on which the funding for the grant was approved by the Interim Finance Committee;

(3) The total amount of the money approved for the grant;

(4) The amount of money expended during each quarter since the approval of the grant;
and

(5) The amount of money remaining unexpended from the grant;

(b) Contain a description of progress made toward completion of the stated objectives of the project;

(c) Include a narrative summary of noteworthy accomplishments and problems encountered in connection with the project;

(d) Contain an itemized list of approved expenditures, shown by budget category, that have been made; and

(e) Be accompanied by original invoices or other acceptable evidence of these expenditures.

3. Each report may be accompanied by:

(a) Graphic or tabular displays;

(b) Media reports concerning the project; or

(c) Other related materials related to the project, such as papers prepared for professional meetings, published articles or brochures.

445B.871 Termination of grant or suspension of payments; denial of or refusal to consider application for grant. (NRS 445B.830)

1. The Deputy Director of the Department of Motor Vehicles may terminate a grant or suspend payments of money pursuant to the grant for any of the following reasons, among others:

(a) Failure or refusal of the recipient of the grant to submit any report required by NAC 445B.869;

(b) Failure or refusal of the recipient to provide any information or assistance required in connection with any audit; or

(c) Misuse or use for a nonapproved purpose of any money from the grant.

2. The Deputy Director of the Department of Motor Vehicles may deny or refuse to consider an application for a grant made by a person who has previously violated any term or condition of a grant or of the provisions of NAC 445B.850 to 445B.871, inclusive.

445B.873 Prerequisites to award of grant. (NRS 445B.830)

1. Except as otherwise provided in subsection 2, the Department of Motor Vehicles shall award grants from the Pollution Control Account in accordance with subsection 6 of NRS 445B.830 if the Account contains sufficient money for this purpose.

2. The Department of Motor Vehicles shall not award a grant from the Pollution Control Account for a proposed project or program unless the project or program is designed to improve or maintain the quality of air.