

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 94012

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-063-94

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

Nevada State Environmental Commission

Classification [] Proposed [] Adopted By Agency [XX] Temporary [] Emergency []

Brief description of action: Petition 94012 (LCB R-063-94) by the Nevada Division of Environmental Protection permanently amended NAC 445 by adding a new section establishing a decentralized program for the inspection and maintenance of motor vehicles in an enhanced mode in the Las Vegas Valley. This proposed regulation establishes a program which replaces the existing program for inspection of emissions from motor vehicles adopted by the Nevada Environmental Commission on November 4, 1993 (LCB R-147-93)

Authority citation other than 233B: NRS 445.620, 445.630 and 445.632 and 445.6305.

Notice date: April 26, May 4 and May 12, 1994

Hearing date: May 26, 1994

Date of Adoption of Agency: May 26, 1994

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 94012
LCB R-063-94**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Chapter 445 by the State Environmental Commission (SEC).

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

Petition 94012 was noticed 3 (three) times: April 26, May 4 and May 12, 1994 in the Las Vegas Review and Reno Gazette-Journal newspapers. A public workshop in the enhanced vehicle emission and inspection program was also held in Las Vegas on May 11, 1994. This workshop was publicly noticed. The regulatory hearing was held on May 26, 1994 in Las Vegas, Nevada. At this hearing the public response was philosophical in regards to the mandate imposed by the U.S. EPA and as to the onerous nature of the program to the public located in the Las Vegas Valley. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from the general public regarding this petition.

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

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. A special workshop was held with the auto emissions control industry in Las Vegas in early May, 1994. This workshop was held jointly by the Division of Environmental Protection's Bureau of Air Quality and the Department of Motor Vehicles and Public Safety. Public comment was received at the Environmental Commission hearing held on May 26, 1994. Comments from business and industry focused on the impact to auto dealerships due to the separation of the testing and repair program. Other concerns included the impacts to the overall emission testing industry. The industry was supportive of the changes proposed by this regulation and for allowing the time to convert to the regular program. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128.

3. 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 regulations were adopted at the State Environmental Commission hearing on May 26, 1994 with several amendments addressing the concerns of the public and business and industry.

4. The estimated economic effect of the regulation on the business which 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. The proposed additions to the NAC may have impacts on existing providers of inspection services in the Las Vegas area. Some of these businesses may participate in the inspection programs, but the individual station cost may be between \$100,000 and \$300,000 per lane, assuming the IM-240 program is required by the EPA. If alternative test methods are approved by the EPA, equipment costs could be reduced to approximately \$30,000 per lane. New businesses may be affected as new business opportunities may result.
 - b. The proposed amendments may have a beneficial economic impact upon the public with the biennial portion, as 1986 and newer vehicles will be tested at one-half of the frequency of the current testing. Remaining vehicles (1968 to 1985) will be tested annually with upgraded equipment. Costs are not anticipated to increase for these model years.

5. The estimated cost to the agency for enforcement of the proposed regulation.

This program is not expected to have any economic impact upon the State of Nevada Division of Environmental Protection as staff are already in place to implement the program.

6. 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.

There is no overlap or duplication of other governmental agencies' regulations.

**CODIFIED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R063-94

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

AUTHORITY: NRS 445.620, 445.630, 445.632 and 445.6305.

Section 1. NAC 445.625 is hereby amended to read as follows:

445.625 "Standard" means a standard of performance that is proposed or promulgated by the administrator or the director pursuant to NAC 445.439 to [445.944,] 445.9458, inclusive.

Sec. 2. NAC 445.850 is hereby amended to read as follows:

445.850 The provisions of NAC 445.852 to [445.945,] 445.9458, inclusive, provide the standards for controlling emissions.

Sec. 3. NAC 445.851 is hereby amended to read as follows:

445.851 As used in NAC 445.850 to [445.945,] 445.9458, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445.852 to 445.8875, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NAC 445.885 is hereby amended to read as follows:

445.885 "Standard" means a standard of performance proposed or promulgated under NAC 445.850 to [445.945,] 445.9458, inclusive.

Sec. 5. NAC 445.8885 is hereby amended to read as follows:

445.8885 If any of the provisions of NAC 445.850 to [445.945,] 445.9458, inclusive, or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision of application.

Sec. 6. NAC 445.937 is hereby amended to read as follows:

445.937 1. A motor vehicle powered by gasoline which is a model year of 1968 or later and is subject to an **[annual]** inspection pursuant to NAC 445.934, 445.935 or 445.936, must not have:

(a) Smoke in its emissions from its exhaust or crankcase when the prescribed procedure for the testing is used.

(b) Carbon monoxide or hydrocarbon, or both, or oxides of nitrogen in its emissions from its exhaust in excess of the limits set forth in subsection 3 or 4.

2. The measurements required by subsection 1 must be made with an approved exhaust gas analyzer and under the prescribed procedure. The engine must be normal operating temperature, but if it has been operating at an idle formore than 5 minutes, it must be purged before the measure is taken.

3. **[The] *Except as otherwise provided in NAC 445.9454, the*** following standards apply to light-duty motor vehicles.

Model Year	Maximum CO%	Maximum HC(PPM)
1968-1969	4.0	800
1970-1974	3.5	700
1975-1978	2.5	500
1979-1980	2.0	500
1981 and newer	1.2	220

4. The following standards apply to heavy-duty motor vehicles:

Model Year	Maximum CO%	Maximum HC(PPM)
1968-1969	7.0	1400
1970-1978	6.0	1400
1979	5.0	1000
1880	4.0	1000
1981 and newer	3.5	1000

Sec. 7. NAC 445.9452 is hereby amended to read as follows:

445.9452 1. The commission hereby designates all areas with zip codes located within

hydrographic area 212 as determined by the state engineer, which includes the Las Vegas Valley, and the area within the city limits of Boulder City as requiring a program for the **[biennial]** enhanced inspection of all used motor vehicles, except motorcycles, which:

- (a) Are model year 1968 or later;
- (b) Have a gross weight of less than 8500 pounds; and
- (c) Are powered by any fuel, except diesel fuel.

2. The program for enhanced inspection, which is to be established by the department in compliance with the federal requirements for an enhanced program as set forth in 40 C.F.R. Part 51, must **[provide for] include** a decentralized test only network of inspection with persons who operate individual or multiple test only authorized inspection stations, as that network of inspection is described in 40 C.F.R. § 51.353.

3. The program for enhanced inspection required by this section must be **in operation by January 1, 1995.] operational during the 1995 calendar year. By December 31, 1995, the program must provide that:**

(a) At least 30 percent of the vehicles which have a model year between 1968 and 1985, inclusive, must be inspected at test only authorized inspection stations using the two-speed exhaust emission test procedure which is specified in Subpart S of 40 C.F.R. Part 51;

(b) At least 15 percent of the vehicles which have a model year of 1986 or newer must be inspected at test only authorized inspection stations using a loaded mode emissions test approved by the EPA; and

(c) Vehicles which are not covered by paragraph (a) or (b) may be inspected and repaired at a test and repair station licensed by the department using the procedure specified in NAC 445.924.

4. Effective January 1, 1996:

(a) All vehicles which have a model year between 1968 and 1985, inclusive, must be inspected annually at test only authorized inspection stations using the two-speed exhaust emission procedure specified in Subpart S of 40 C.F.R. Part 51; and

(b) All vehicles which a model year of 1986 or newer must be inspected on a biennial basis at test only authorized inspection stations using a loaded mode emissions test approved by the EPA.

Sec. 8. NAC 445.9454 is hereby amended to read as follows:

NAC 445.9454 1. A motor vehicle powered by any type of fuel, except diesel fuel, which has a model year of 1968 or later and is subject to inspection pursuant to this section, must not have:

(a) Smoke in its emissions from its exhaust or crankcase when the prescribed procedure for the testing is used.

(b) Carbon monoxide or hydrocarbon, or both, or oxides of nitrogen in its emissions from its

exhaust in excess of the limits set forth in subsection 3 or 4.

2. The measurements required by subsection 1 must be made utilizing procedures which will be established by the department in compliance with Subpart S of 40 C.F.R. Part 51.

3. The following standards apply to light-duty motor vehicles in area which require a program for enhanced inspection pursuant to NAC 445.9452, effective January 1, 1995:

(a) Except as otherwise provided in paragraphs (b) and (c) [,] *of this subsection*, for light-duty motor vehicles:

[Maximum	Maximum	Maximum
<u>Model Year</u>	<u>CO(GPM)</u>	<u>HC(GPM)</u>	<u>NOX(GPM)</u>
1968-1972	120	7.00	7.0
1973-1974	120	7.00	6.0
1975-1976	65	3.00	6.0
1977-1979	65	3.00	4.0
1980	30	0.80	4.0
1981-1982	30	0.80	4.0
1983-1995 - excluding those vehicles which are designated as tier one vehicles			
1994 - tier 1 vehicles	15	0.80	2.0
	10	0.60	1.5]

	<i>Maximum</i>	<i>Maximum</i>	<i>Maximum</i>
<u>Model Year</u>	<u>CO (%)</u>	<u>HC (ppm)</u>	<u>NOX</u>
1968-1969	4.0	800	N/A
1970-1974	3.5	700	N/A
1975-1978	2.5	500	N/A
1979-1980	2.0	500	N/A
1981-1985	1.2	220	N/A

	<i>Maximum</i>	<i>Maximum</i>	
<i>Maximum</i>	<i>CO (gpm)</i>	<i>HC(gpm)</i>	
<i>NOX (gpm)</i>			
<u>Model Year</u>	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>
1986-1990	30	24	2.00 1.25 3.0

Petition 94012 was adopted by the Nevada Environmental Commission on May 26, 1994 as a permanent regulation and it became effective July 5, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This is LCB file R-063-94. Petition 94012 modifies LCB R-147-93, known as Petition 94003, as filed with the Secretary of State on March 23, 1994. **Codified 11/21/94.**

1991 and newer *20* *16* *1.20 0.75* *2.5*

(b) For light-duty trucks which have a gross vehicle weight rating that is less than 6000 pounds:

[Maximum	Maximum	Maximum
<u>Model Year</u>	<u>CO(GPM)</u>	<u>HC(GPM)</u>	<u>NOX(GPM)</u>
1968-1972	120	7.00	7.0
1973-1974	120	7.00	6.0
1975-1978	80	4.00	6.0
1979-1983	70	3.40	4.5
1984-1987	40	1.60	4.5
1988-1995	40	1.60	2.5
1994 - tier one vehicles:			
-less than or equal to 3750 LVW	10	0.60	1.5
-greater than 3750 LVW	13	0.80	1.8]

	<i>Maximum</i>	<i>Maximum</i>	<i>Maximum</i>
<u>Model Year</u>	<u>CO (%)</u>	<u>HC (ppm)</u>	<u>NOX</u>
1968-1969	4.0	800 <i>N/A</i>	
1970-1974	3.5	700 <i>N/A</i>	
1975-1978	2.5	500 <i>N/A</i>	
1979-1980	2.0	500 <i>N/A</i>	
1981-1985	1.2	220 <i>N/A</i>	

	<i>Maximum</i>	<i>Maximum</i>	
<i>Maximum</i>	<i>CO (gpm)</i>	<i>HC(gpm)</i>	
<i>NOX (gpm)</i>			
<u>Model Year</u>	<u>Composite</u> <u>Phase 2</u>	<u>Composite</u> <u>Phase 2</u>	<u>Composite</u>
1986-1987	80 64	3.20 2.00	7.0
1988-1990	80 64	3.20 2.00	3.5
1991 and newer	60 48	2.40 1.50	3.0

(b) For light-duty trucks which have a gross vehicle weight rating that is 6000 pounds or more:

Petition 94012 was adopted by the Nevada Environmental Commission on May 26, 1994 as a permanent regulation and it became effective July 5, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This is LCB file R-063-94. Petition 94012 modifies LCB R-147-93, known as Petition 94003, as filed with the Secretary of State on March 23, 1994. **Codified 11/21/94.**

[Maximum	Maximum	Maximum
<u>Model Year</u>	<u>CO(GPM)</u>	<u>HC(GPM)</u>	<u>NOX(GPM)</u>
1968-1972	120	7.00	7.0
1973-1974	120	7.00	6.0
1975-1978	80	4.00	6.0
1979-1983	70	3.40	4.5
1984-1987	40	1.60	4.5
1988-1995	40	1.60	2.5
1994 - tier one vehicles:			
-less than or equal to 6750 LVW	13	0.80	1.8
-greater than 6750 LVW	15	0.80	2.0]

	<i>Maximum</i>	<i>Maximum</i>	<i>Maximum</i>
<u>Model Year</u>	<u>CO (%)</u>	<u>HC (ppm)</u>	<u>NOX</u>
1968-1969	4.0	800	N/A
1970-1974	3.5	700	N/A
1975-1978	2.5	500	N/A
1979-1980	2.0	500	N/A
1981-1985	1.2	220	N/A

	<i>Maximum</i>		<i>Maximum</i>		
<i>Maximum</i>	<i>CO (gpm)</i>		<i>HC(gpm)</i>		<i>NOX (gpm)</i>
<u>Model Year</u>	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>
1986-1987	80	64	3.20	2.00	7.0
1988-1990	80	64	3.20	2.00	5.0
1991 and newer	60	48	2.40	1.50	4.5

4. The following are the final standards for exhaust emission, which are to be applied to vehicles tested in the calendar years 1997 and later:

(a) Except as otherwise provided in paragraphs (b) and (c) of this subsection, for light-duty motor vehicles:

Petition 94012 was adopted by the Nevada Environmental Commission on May 26, 1994 as a permanent regulation and it became effective July 5, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This is LCB file R-063-94. Petition 94012 modifies LCB R-147-93, known as Petition 94003, as filed with the Secretary of State on March 23, 1994. **Codified 11/21/94.**

<u>Model Year</u>	<u>Maximum CO (%)</u>	<u>Maximum HC (ppm)</u>	<u>Maximum NOX</u>
1968-1969	4.0	800	N/A
1970-1974	3.5	700	N/A
1975-1978	2.5	500	N/A
1979-1980	2.0	500	N/A
1981-1985	1.2	220	N/A

<u>Model Year</u>	<u>Maximum CO (gpm)</u>		<u>Maximum HC(gpm)</u>		<u>Maximum NOX (gpm)</u>
	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>
1986-1995	15	12	0.80	0.50	2.0
1996 and newer	10	8	0.60	0.40	1.5

(b) For light-duty trucks which have a gross vehicle weight rating that is less than 6000 pounds:

<u>Model Year</u>	<u>Maximum CO(%)</u>	<u>Maximum HC(ppm)</u>	<u>Maximum NOX</u>
1968-1969	4.0	800	N/A
1970-1974	3.5	700	N/A
1975-1978	2.5	500	N/A
1979-1980	2.0	500	N/A
1981-1985	1.2	220	N/A

<u>Model Year</u>	<u>Maximum CO (gpm)</u>		<u>Maximum HC(gpm)</u>		<u>Maximum NOX (gpm)</u>
	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>
1986-1987	40	32	1.60	1.00	4.5
1988-1995	40	32	1.60	1.00	2.5
1996 and newer					

Petition 94012 was adopted by the Nevada Environmental Commission on May 26, 1994 as a permanent regulation and it became effective July 5, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This is LCB file R-063-94. Petition 94012 modifies LCB R-147-93, known as Petition 94003, as filed with the Secretary of State on March 23, 1994. **Codified 11/21/94.**

# 3750 LVW	10	8	0.60	0.40	1.5
> 3750 LVW	13	10	0.80	0.50	1.8

(c) For light-duty trucks which have a gross vehicle weight rating that is 6000 pounds or more:

<u>Model Year</u>	<u>Maximum CO(%)</u>	<u>Maximum HC(ppm)</u>	<u>Maximum NOX</u>		
1968-1969	4.0	800	N/A		
1970-1974	3.5	700	N/A		
1975-1978	2.5	500	N/A		
1979-1980	2.0	500	N/A		
1981-1985	1.2	220	N/A		
	<u>Maximum</u>	<u>Maximum</u>			
<u>Model Year</u>	<u>CO (gpm)</u>	<u>HC(gpm)</u>			
	<u>NOX (gpm)</u>				
<u>Model Year</u>	<u>Composite</u>	<u>Phase 2</u>	<u>Composite</u>	<u>Phase 2</u>	
	<u>Composite</u>				
1986-1987	40	32	1.60	1.00	4.5
1988-1995	40	32	1.60	1.00	3.5
1996 and newer					
# 5750 LVW	13	10	0.80	0.50	1.8
> 5750 LVW	15	12	0.80	0.50	2.0

5. For the purposes of [subsection 3,] subsections 3 and 4, the emission of hydrocarbon in vehicles manufactured after 1993 which meet emission standards for [tier one vehicles] vehicles which are model year 1996 or newer are measurements of non-methane hydrocarbons.

[5] 6. As used in this section:

(a) ["CO" means carbon monoxide.

(b) "GPM" means grams per mile.

[(c) "HC" means hydrocarbon.

(d)](b) "LVW" means loaded vehicle weight.

[(e)](c) "NOX" means oxides of nitrogen.

[(f) "Tier one vehicles" means those motor vehicles which are designated as tier one vehicles in accordance with section 202(g) of the federal Clean Air Act (42 U.S.C. § 202(g)), as

that section existed on the effective date of this regulation.]

Sec.9. NAC 445.9456 is hereby amended to read as follows:

445.9456 1. In an area requiring a program for enhanced inspection as designated pursuant to NAC 445.9452, the department may grant a waiver from the standards set forth in NAC 445.9454 for a motor vehicle powered by any fuel, except diesel fuel.

2. An application for a waiver must include receipts or other evidence that at least \$450, *or \$200 for those vehicles described by paragraphs (c) of subsection 3 of NAC 445.9452*, has been spent on parts and labor directly related to the deficiency in emissions. The amount spent on expenditures must be calculated to the value of the dollar in 1989 as determined by the Consumer Price Index established by the United States Department of Labor.

3. A waiver may not be granted unless all work on the vehicle is performed by a person who is licensed in accordance with the program established pursuant to NAC 445.9458. A waiver must be issued if the vehicle fails a retest after all qualifying repairs have been completed and the owner submits evidence that at least **[\$450] *the minimum expenditure*** has been spent on parts and labor in accordance with subsection 2. A waiver issued pursuant to this section must be tracked by the department and is valid for one test cycle only.

4. The cost of testing emissions must not be included in the minimum expenditure required to obtain a waiver pursuant to subsection 2. Any available warranty must be used to obtain the needed repairs before any expenditure may be counted towards the cost of the needed repairs. The owner of a vehicle which is within the statutory age and mileage set forth in section 207(b) of the federal Clean Air Act (42 U.S.C. § 207(b)), as that section exists on March 23, 1994, shall present a written denial of the warranty from the manufacturer or authorized dealer before any expenditures for repairs may be included in the cost of repairs pursuant to subsection 2.

5. A waiver may not be issued if the repairs that are required are a result of tampering. The cost of those repairs must not be included in the minimum expenditure required to obtain a waiver pursuant to subsection 2. The department may grant an exemption to this subsection if it determines that the part, or one similar to it, required to repair the vehicle is no longer available for sale.

6. The department may grant an extension of time to obtain the needed repairs on a vehicle when the requirements for a waiver cannot be met, upon receipt of proof that a valid economic hardship exists. The extension must not exceed the period of frequency of the required inspection and may be granted only once during the lifetime of the vehicle. The extension must be tracked and reported as a part of the program for enhanced inspection.

7. The department shall periodically, through public information programs and other means, inform owners and lessors of vehicles of warranties that may be available and ways to obtain repairs which are covered by the warranty of the vehicle.

END OF PETITION 94012 (LCB R-063-94)

Petition 94012 was adopted by the Nevada Environmental Commission on May 26, 1994 as a permanent regulation and it became effective July 5, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This is LCB file R-063-94. Petition 94012 modifies LCB R-147-93, known as Petition 94003, as filed with the Secretary of State on March 23, 1994. **Codified 11/21/94.**