

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R014-17

July 13, 2017

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

AUTHORITY: §1, NRS 445B.210 and 445B.770.

A REGULATION relating to air pollution; providing an exception to certain requirements related to devices for the control of pollution for vehicles subject to certain settlement agreements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution. (NRS 445B.210) Existing regulations require, with limited exception, that motor vehicles must be equipped with a device for the control of pollution which is correctly installed and in certain operating condition. (NAC 445B.575) This regulation provides an exception to this requirement for a motor vehicle that is subject to certain settlement agreements that are intended to mitigate the effects of devices for the control of pollution that are not correctly installed or in certain operating condition.

Section 1. NAC 445B.575 is hereby amended to read as follows:

445B.575 1. Except as otherwise provided in this section, a person shall not:

(a) Sell, offer to sell, display for sale, operate or permit the operation of or leave standing any motor vehicle which is required by state or federal law to be equipped with a device for the control of pollution unless the device is correctly installed and in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation.

(b) Disconnect, alter or modify any such required device.

2. Except for NAC 445B.5815, the provisions of subsection 1 and NAC 445B.576 to 445B.582, inclusive, do not apply to an alteration or modification of a motor vehicle to use fuel other than gasoline or diesel fuel where the alteration or modification is effected without violating existing federal and state standards for the control of exhaust emissions.

3. The provisions of subsection 1 do not apply to a wholesale transaction between licensed dealers of motor vehicles if:

(a) The motor vehicle sold in the wholesale transaction was identified as a noncompliant motor vehicle by the Department during an audit pursuant to subsection {4} 5 and the seller of the motor vehicle:

(1) Informs the prospective purchaser of the motor vehicle before the completion of the wholesale transaction that the motor vehicle is designated as a noncompliant motor vehicle; and

(2) Provides a written disclosure notice that identifies any device for the control of pollution which is not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation; or

(b) The seller of the motor vehicle sold in the wholesale transaction has:

(1) Physically separated the motor vehicle from all other motor vehicles displayed for retail sale;

(2) Marked the motor vehicle in a manner that reasonable and prudent persons would know the motor vehicle is not intended for retail sale;

(3) Indicated on all written records relating to the motor vehicle identifying the motor vehicle as suitable only for sale in a wholesale transaction; and

(4) Prepared a written disclosure notice for inclusion with the dealership's permanent records of the motor vehicle which details the reasons why the motor vehicle is only suitable for sale in a wholesale transaction.

4. *The provisions of subsection 1 do not apply to a motor vehicle that is subject to a settlement agreement:*

(a) *Entered into by the State of Nevada or an agency of the State of Nevada or to which the State of Nevada is a beneficiary; and*

(b) *Which is intended to mitigate the effects of any device for the control of pollution which is not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation.*

5. The Department may audit a licensed dealer of motor vehicles to determine compliance with this section. Such audits may include, without limitation:

(a) An inspection of every device for the control of pollution on any motor vehicle displayed for retail sale and selected for the audit; and

(b) An inspection of any document which contains information relating to emission inspections for the motor vehicle selected for the audit.

~~{5-}~~ 6. A device for the control of pollution which is deemed by the Department as not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation pursuant to subsection ~~{4}~~ 5 may be repaired by an authorized station or class 2 fleet station.

~~{6-}~~ 7. A noncompliant motor vehicle shall no longer be deemed noncompliant if:

- (a) The authorized station or class 2 fleet station that repaired the device for the control of pollution issues evidence of compliance; and
- (b) The Department conducts a physical inspection of the motor vehicle to verify compliance.

~~{7-}~~ 8. A licensed dealer of motor vehicles shall maintain a written record, in a manner satisfactory to the Department, of every noncompliant motor vehicle. The record must be maintained at the established place of business of the dealer and must be made available for inspection by any authorized agent of the Department during normal business hours. The record must include at least the following information:

- (a) The vehicle identification number of each motor vehicle;
- (b) Every date on which the motor vehicle was deemed noncompliant by the Department;
- (c) If any device for the control of pollution installed on the motor vehicle was repaired and subsequently inspected by the Department, every date on which the motor vehicle was deemed compliant by the Department; and
- (d) If the motor vehicle was sold as a wholesale transaction between licensed dealers of motor vehicles, the name of the dealer who purchased the motor vehicle and the date on which it was purchased.

~~{8-}~~ 9. For purposes of this section:

- (a) The failure of a seller to meet any of the requirements described in subsection 3 relating to a wholesale transaction shall be deemed prima facie evidence of misrepresentation of a material fact.

(b) The failure of a licensed dealer of motor vehicles to comply with a directive of the Director advising the licensed dealer of his or her noncompliance with any provision of this section within 10 days after his or her receipt of the directive is prima facie evidence of a willful failure to comply with the directive.

~~{9-}~~ 10. As used in this section:

(a) "Device for the control of pollution" includes, without limitation:

(1) On any motor vehicle manufactured on or after January 1, 1981, if the equipment was originally installed on the motor vehicle by the manufacturer, a catalytic converter, fuel inlet restrictor, air injection system, exhaust gas recirculation system, crankcase depression regulator or fuel inlet cap; and

(2) On any motor vehicle with a model year of 1996 or newer, if the equipment was originally installed on the motor vehicle by the manufacturer, a certified on-board diagnostic system, malfunction illumination light or a data-link connector.

(b) "Noncompliant motor vehicle" means any motor vehicle that has a device for the control of pollution which is not correctly installed or in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation.

