

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

LCB File No. R125-15

Effective June 28, 2016

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

AUTHORITY: §1, NRS 366.110 and section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115 (NRS 366.655); §2, NRS 366.085 and 366.110; §3, NRS 482.123, 482.160 and 484A.245; §4, NRS 482.123, 482.160, 484A.245 and 484A.470; §5, NRS 484D.715, as amended by section 29 of Senate Bill No. 188, chapter 317, Statutes of Nevada 2015, at page 1641, and NRS 484D.720; §6, NRS 706.121 and 706.171.

A REGULATION relating to special fuels; establishing requirements concerning evidence of eligibility for refunds of certain taxes paid on the bulk purchase of special fuel; revising certain provisions relating to implements of husbandry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person whom the Department of Motor Vehicles determines is a bona fide farmer or rancher to claim a refund of 80 percent of the state taxes paid by the farmer or rancher on bulk purchases of special fuel without the necessity of maintaining records of use pertaining to such special fuel. Existing law authorizes the Department to adopt regulations relating to the determination of the amount of the refund available to a person who claims such a refund. (Section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115 (NRS 366.655)) **Section 1** of this regulation requires a person claiming such a refund to provide evidence satisfactory to the Department that the person is eligible for a refund. Under **section 1**, evidence of eligibility may include, without limitation, a spreadsheet, or copies thereof, showing information derived from original documents such as sales receipts, which establish that the purchase of special fuel which is the basis for the claim was a bulk purchase of special fuel.

Senate Bill No. 155 of the 2015 Legislative Session consolidated into the term “implement of husbandry” the vehicles and agricultural equipment variously described as “farm equipment,” “farm tractors” and “implements of husbandry” and included within the term those farm vehicles that are used exclusively by a farmer or rancher for agricultural purposes on a farm or ranch. (Sections 2, 4 and 6-9 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at pages 1116-21) **Sections 2-6** of this regulation make conforming changes.

Section 1. Chapter 366 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A bona fide farmer or rancher who, pursuant to section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115 (NRS 366.655), claims a refund of any state tax paid on the bulk purchase of special fuel must provide to the Department evidence satisfactory to the Department that the person is eligible for such a refund. Evidence of eligibility for a refund may include, without limitation, a spreadsheet, or copies thereof, showing information derived from original documents, including, without limitation, sales receipts, which establish that the purchase of special fuel which is the basis for the claim was a bulk purchase as that term is defined in subsection 5 of section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115 (NRS 366.655).

2. A bona fide farmer or rancher may not claim a refund pursuant to section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115 (NRS 366.655), of any state tax paid on the purchase within this State of special fuel that is consumed outside this State.

Sec. 2. NAC 366.0065 is hereby amended to read as follows:

366.0065 1. As used in NRS 366.085, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation of:

(a) A motor vehicle in an emergency situation, as determined by emergency personnel, including, without limitation, a law enforcement agency or other appropriate authority;

(b) Construction equipment to patch a roadway that is operated subject to the terms of a contract for a specific project;

(c) Snow removal equipment to clear snow from highways during or immediately following inclement weather; or

(d) Special mobile equipment on a public highway that is not a controlled-access highway as defined in NRS 484A.060, if the special mobile equipment travels not more than 5 miles from the point at which the special mobile equipment initially entered the public highway.

2. As used in NRS 366.085, the term “special mobile equipment” does not include:

(a) Any truck that:

- (1) Is used as a water truck on any portion of a public highway; or
- (2) Was originally designed and manufactured as a vehicle to carry cargo;

(b) Any vehicle:

- (1) That is used to sweep any portion of a public highway;
- (2) That was originally designed and manufactured to transport persons or property;
- (3) To which machinery for sweeping is mounted or attached; or
- (4) That has the capability of traveling long distances over a controlled-access highway;

(c) Any trailer; or

(d) Any ~~farm machinery or~~ implements of husbandry.

3. As used in NRS 366.203, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation or movement upon a highway of special mobile equipment that is:

(a) Exempted by 26 U.S.C. § 4041 from any tax imposed by that statute; or

(b) Described in ~~Treas. Reg.~~ **26 C.F.R.** § 48.4041-8(b)(2)(i) or ~~Treas. Reg. §~~ 48.4041-8(b)(2)(ii).

Sec. 3. NAC 482.007 is hereby amended to read as follows:

482.007 1. As used in NRS 482.123 and 484A.245, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation of:

- (a) A motor vehicle in an emergency situation, as determined by emergency personnel, including, without limitation, a law enforcement agency or other appropriate authority;
- (b) Construction equipment to patch a roadway that is operated subject to the terms of a contract for a specific project;
- (c) Snow removal equipment to clear snow from highways during or immediately following inclement weather; or
- (d) Special mobile equipment on a public highway that is not a controlled-access highway as defined in NRS 484A.060, if the special mobile equipment travels not more than 5 miles from the point at which the special mobile equipment initially entered the public highway.

2. As used in NRS 482.123 and 484A.245, the term “special mobile equipment” does not include:

- (a) Any truck that:
 - (1) Is used as a water truck on any portion of a public highway; or
 - (2) Was originally designed and manufactured as a vehicle to carry cargo;
- (b) Any vehicle:
 - (1) That is used to sweep any portion of a public highway;
 - (2) That was originally designed and manufactured to transport persons or property;
 - (3) To which machinery for sweeping is mounted or attached; or
 - (4) That has the capability of traveling long distances over a controlled-access highway;
- (c) Any trailer; or
- (d) Any ~~farm machinery or~~ implements of husbandry.

Sec. 4. NAC 484A.010 is hereby amended to read as follows:

484A.010 1. As used in NRS 482.123 and 484A.245, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation of:

- (a) A motor vehicle in an emergency situation, as determined by emergency personnel, including, without limitation, a law enforcement agency or other appropriate authority;
- (b) Construction equipment to patch a roadway that is operated subject to the terms of a contract for a specific project;
- (c) Snow removal equipment to clear snow from highways during or immediately following inclement weather; or
- (d) Special mobile equipment on a public highway that is not a controlled-access highway as defined in NRS 484A.060, if the special mobile equipment travels not more than 5 miles from the point at which the special mobile equipment initially entered the public highway.

2. As used in NRS 482.123 and 484A.245, the term “special mobile equipment” does not include:

- (a) Any truck that:
 - (1) Is used as a water truck on any portion of a public highway; or
 - (2) Was originally designed and manufactured as a vehicle to carry cargo;
- (b) Any vehicle:
 - (1) That is used to sweep any portion of a public highway;
 - (2) That was originally designed and manufactured to transport persons or property;
 - (3) To which machinery for sweeping is mounted or attached; or
 - (4) That has the capability of traveling long distances over a controlled-access highway;
- (c) Any trailer; or
- (d) Any ~~farm machinery or~~ implements of husbandry.

Sec. 5. NAC 484D.630 is hereby amended to read as follows:

484D.630 1. Except as otherwise provided in NRS 484D.725, the Department will issue to an owner-operator:

(a) An annual multiple-trip permit for the movement on an interstate or controlled-access highway of implements of husbandry ~~{and farm equipment}~~ that:

- (1) Exceed 8 feet 6 inches in width, but are not more than 14 feet in width;
- (2) Exceed 14 feet in height, but are not more than 15 feet in height; or
- (3) Exceed 70 feet in length, but are not more than 110 feet in length; and

(b) A single-trip permit for the movement on an interstate or controlled-access highway of implements of husbandry ~~{and farm equipment}~~ that:

- (1) Exceed 8 feet 6 inches in width, but are not more than 17 feet in width;
- (2) Exceed 15 feet in height; or
- (3) Exceed 110 feet in length.

2. The Department will issue the single-trip or annual multiple-trip permit to the owner-operator at no cost.

3. Implements of husbandry ~~{and farm equipment}~~ that are moved or transported pursuant to this section that:

(a) Do not exceed 14 feet in width may be driven or towed if the implements of husbandry :
~~{and farm equipment:}~~

- (1) Travel during hours of daylight;
- (2) Are followed by a pilot car; and
- (3) Travel as far to the right-hand side of the highway as is practicable.

(b) Exceed 14 feet in width must be transported or moved as a load on another vehicle.

4. The provisions of this section do not apply to the movement of implements of husbandry ~~{and farm equipment}~~ by:

- (a) An owner-operator on a highway other than an interstate or controlled-access highway; or
- (b) A person other than an owner-operator.

5. As used in this section, “owner-operator” means an owner of implements of husbandry ~~{and farm equipment}~~ who is directly engaged in farming, ranching or other agricultural operations and uses the implements of husbandry ~~{and farm equipment}~~ solely in those operations. The term does not include a person who rents, leases or otherwise makes available implements of husbandry ~~{and farm equipment}~~ to other persons.

Sec. 6. NAC 706.1293 is hereby amended to read as follows:

706.1293 1. As used in NRS 706.121, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation of:

- (a) A motor vehicle in an emergency situation, as determined by emergency personnel, including, without limitation, a law enforcement agency or other appropriate authority;
- (b) Construction equipment to patch a roadway that is operated subject to the terms of a contract for a specific project;
- (c) Snow removal equipment to clear snow from highways during or immediately following inclement weather; or
- (d) Special mobile equipment on a public highway that is not a controlled-access highway as defined in NRS 484A.060, if the special mobile equipment travels not more than 5 miles from the point at which the special mobile equipment initially entered the public highway.

2. As used in NRS 706.121, the term “special mobile equipment” does not include:

- (a) Any truck that:

- (1) Is used as a water truck on any portion of a public highway; or
- (2) Was originally designed and manufactured as a vehicle to carry cargo;
- (b) Any vehicle:
 - (1) That is used to sweep any portion of a public highway;
 - (2) That was originally designed and manufactured to transport persons or property;
 - (3) To which machinery for sweeping is mounted or attached; or
 - (4) That has the capability of traveling long distances over a controlled-access highway;
- (c) Any trailer; or
- (d) Any ~~farm machinery or~~ implements of husbandry.

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS
AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R125-15
May 20, 2016

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 386, 482, 484D and 706.

- (a) A clear and concise explanation of the need for the adopted regulation:

These regulations are being proposed by the Department of Motor Vehicles (DMV) to establish criteria for the qualifications of farmer/ranchers to claim a refund of 80 percent of the taxes paid on bulk purchases of special fuel, and to revise certain references to "implements of husbandry" in regulatory language.

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

Public comment for these regulations was solicited through the holding of two (2) public meetings, one workshop and one hearing, both of which were held in 2016 in three different locations in the state (Las Vegas, Elko and Carson City); before each of these meetings were held, members of the public were able to submit written comments to the Department for consideration, and during the meetings themselves opportunity was available for members of the public to attend and give their comments to the Department in person. Copies of the notice for hearings were posted at all Department office locations and public libraries in those counties where the Department does not maintain an office.

Public response to the proposed regulations was minimal; a total of two persons attended the first workshop held on the regulations and no other persons submitted written comments. For the final hearing, no persons attended at any of the hearing locations, and no other written comments were submitted.

Persons interested in obtaining a copy of materials associated with the development of the regulations may contact the Department's Management Services and Programs Division office in Carson City and request a copy of the text of the proposed language for the regulations at any time during business hours.

- (c) The number of persons who:

(1) Attended each hearing _____

In attendance in Carson City 2

In attendance in Las Vegas 0

In attendance in Elko [Include as applicable] __0__

(2) Testified at the hearing __0__

(3) Submitted to the agency written statements __0__

(d) For each person identified in subparagraphs (2) and (3) of paragraph (c)

(e) 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.

Public comment from affected businesses was solicited through the holding of two (2) public meetings, one workshop and one hearing, both of which were held in 2016 in three different locations in the state (Las Vegas, Elko and Carson City); before each of these meetings were held, industry representatives were able to submit written comments to the Department for consideration, and during the meetings themselves opportunity was available for members of the public to attend and give their comments to the Department in person. In addition to the distribution of the public notices at all Department office locations and public libraries in those counties where the Department does not maintain an office, notice and copies of the documentation were also sent to industry associations for review and comment opportunity.

Industry response to the proposed regulations was more active than the general public; a total of two persons (one governmental, one business) attended the first workshop held on the regulations and no other persons submitted written comments. In between the two meetings, the Department held informal discussions with industry representatives and affected business interests to solicit comments on draft language and offer suggestions for revision. For the final hearing, no persons attended at any of the hearing locations, and no other written comments were submitted.

As with the general public, business groups and persons interested in obtaining a copy of materials associated with the development of the regulations may contact the Department's Management Services and Programs Division office in Carson City and request a copy of the text of the proposed language for the regulations at any time during business hours.

(f) If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

N/A

(g) 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:

Business:

- (1) Both adverse and beneficial effects; and
- (2) Both immediate and long-term effects.

The Department has determined that the adopted regulation(s) do not impose a direct and significant burden on small businesses, nor will it restrict the formation, operation or expansion of a small business.

Through the deletion of the implements of husbandry language and imposition of criteria for special fuel tax refunds, eligible farmer/rancher applicants will benefit from a process to ensure compliance, simplify record-keeping, and receive tax refund benefits.

Public:

- (1) Both adverse and beneficial effects; and
- (2) Both immediate and long-term effects.

N/A

- (h) The estimated cost to the agency for enforcement of the adopted regulation.

N/A

- (i) A description of any regulations of 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, the name of the regulating federal agency.

N/A

- (j) If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A

- (k) 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.

N/A