

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS AS REQUIRED BY  
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
LCB FILE NO. R071-14  
December 23, 2014

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 373:

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

**The Agency's Need for the Adopted Regulation** (compliance with Assembly Bill 413 of the 2103 Legislative Session).

Assembly Bill 413 was passed in the 2013 Legislative Session requiring the Department of Motor Vehicles to adopt regulations establishing a system whereby certain persons who use special fuel in motor vehicles operated or intended to be operated interstate may submit to the Department of Motor Vehicles a request for reimbursement of certain local taxes imposed on special fuels; and establishing a fee for each reimbursement request filed with the Department.

**Solicitation of Public Comment**

Copies of the proposed regulation, notices of workshop and notices of intent to act upon the regulations were sent out for posting by electronic mail to all DMV offices and county libraries where there is not a DMV office. They were also sent via electronic mail to motor carrier industry and county contacts. They were also made available on the Department of Motor Vehicles website at [www.dmvnv.com/publicmeetings.htm](http://www.dmvnv.com/publicmeetings.htm).

A Public Workshop was noticed on April 16, 2014, and held on May 6, 2014 at the Nevada State Legislative Building in Carson City and video-conferenced to the Grant Sawyer Building in Las Vegas and Great Basin College in Elko. Seven members of the general public attended the workshop. There was no public comment.

A Notice of Intent to Act upon the Regulations was noticed on November 19, 2014, and a public hearing was held on December 22, 2014 at the Nevada Department of Transportation (NDOT) in Carson City and video-conferenced to NDOT facilities in Las Vegas and Elko. There were six attendees in Carson City, three in Las Vegas, and one in Elko. One attendee testified in Carson City.

A recording of the Public Workshop and Notice of Intent to Act upon the Regulations is on file at the Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, Nevada 89711. Copies of these minutes may be obtained by written request to Attention Pete Olson, Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, Nevada 89711.

**2. The number of persons who:**

**(a) Attended the workshop; 10**

**In attendance in Carson City – 3**

Jude Hurin, Department of Motor Vehicles (Hearings Officer)

Dawn Lietz, Department of Motor Vehicles

Bill Wellman, NEDCO

**In attendance in Las Vegas – 7**

Kevin Malone, Department of Motor Vehicles

Patricia Smith, NV Economic Development Coalition

David Clyde, RTC of Southern Nevada

Marc Traasdahl, RTC of Southern Nevada

Charity Cage, RTC of Southern Nevada

Jay Prybil, Las Vegas Paving

John Tolas, Las Vegas Paving

**In attendance in Elko – 1**

Stephanie Fawcett, Department of Motor Vehicles

**(b) Testified at the workshop; 0**

**(c) Submitted to the agency written statements; 0**

**(d) Attended the hearing; 10**

**In attendance in Carson City – 6**

Jude Hurin, Department of Motor Vehicles (Hearings Officer)

Dawn Lietz, Department of Motor Vehicles

Wayne Seidel, Department of Motor Vehicles

Paul Enos, Nevada Trucking Association

John Swendseid, Sherman & Howard

Joanna Jacob, Ferrari Public Affairs

**In attendance in Las Vegas – 3**

Kevin Malone, Department of Motor Vehicles

Owen Sherwood, SW Gas

David Dobrzynski, Clark County

**In attendance in Elko – 1**

Kathryn Palangi, Department of Motor Vehicles

**(e) Testified at the hearing - 1**

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**(f) Submitted to the agency written statements – 0**

- 3. 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.**

Prior to the public workshop and hearing, meetings were held with representatives from the Nevada motor carrier industry, Clark County and the Legislative Counsel Bureau. Public comments were solicited using electronic mail and postings as described in Question 1 for both the Workshop and the Hearing. Copies of the minutes may be obtained by written request to Attention Pete Olson, Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, Nevada 89711.

- 4. 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 proposed draft regulations were originally submitted to LCB for review on May 6, 2014. The regulations went through several changes and drafts as a result of meetings between the Department, Clark County, the Nevada motor carrier industry and the Legislative Counsel Bureau. The final review and draft from LCB was dated November 17, 2014. Following the public hearing on December 23, 2014, the regulations were adopted without further changes.

- 5. 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:**

- (a) Both adverse and beneficial effects; and**

The proposed regulation does not impose an adverse economic impact on the businesses to be regulated. The regulation does impose a beneficial impact by establishing the system that enables these businesses to file for tax reimbursements on certain fuel purchases.

- (b) Both immediate and long-term effects.**

Same as (a) above.

**Public:**

- (a) Both adverse and beneficial effects; and**

The proposed regulation does not impose an economic impact on the public.

- (b) Both immediate and long-term effects.**

The proposed regulation does not impose an economic impact on the public.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the Department of Motor Vehicles for the enforcement of the adopted regulations.

7. **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.**

There are no other state or federal government agency regulations that are duplicated or overlapped by the adopted regulations.

8. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

There are no federal regulations that regulate the same activity as addressed in the adopted regulations.

9. **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.**

NRS 373.083 requires the Department to charge a reimbursement filing fee in an amount not to exceed \$100. This fee is to offset the costs incurred by the Department to administer the reimbursement system. The Department is proposing to establish this fee in regulations at \$100. Businesses will pay this non-refundable fee when filing for a reimbursement, no matter the amount of reimbursement for which they qualify, or the frequency at which they file. Although the filing fee is paid separately from the reimbursement (it will not be deducted from the total reimbursement amount), businesses will figure it into their calculations in determining if and when to file a reimbursement request.

What is the potential impact of the \$100 filing fee on small businesses? If all businesses, large and small, pay the same filing fee amount, it may seem that small businesses would have a disadvantage since it will take longer for a small business to accumulate tax reimbursement amounts based on the amount of fuel purchased. However, larger businesses will pay a proportionally greater amount of fuel tax. A business that purchases 10 times as much fuel will also pay 10 times the fuel tax.

Filing Fee	Tax	Breakeven Point: gallons of fuel required to equal filing fee
\$100	.03	3,333

Once the average fuel consumption is figured in, the impact to small businesses is that it may take a considerably greater amount of time to reach the breakeven point. Based on an average fuel consumption of 360 gallons per month for one vehicle, if a small business with 10 vehicles purchases one-tenth of the fuel that a large business purchases, it would take a small business just over a month to reach the breakeven point, where a large business could potentially reach this point in a matter of days.

Business	Average fuel consumption per vehicle per month (gallons)	Fuel consumption required to reach \$100 breakeven point (gallons)	Time to consume enough fuel to reach the \$100 breakeven point (months)
Small (10 vehicles)	3,600	3,333	1.08
Large (100 vehicles)	36,000	3,333	.108

\*The average fuel consumption of 360 gallons is based on the average fuel tank capacity of 180 gallons and a two tank per month consumption rate (DMV Motor Carrier Division).

In order to ease this impact the agency is proposing to allow businesses a maximum of 12 months to file a reimbursement request. Rather than requiring businesses to pay the \$100 filing fee on a quarterly basis, they may pay \$100 and file annually.

## **10. Small Business Impact Statement**

The Department has made a determination that the proposed regulations will not impose a direct and significant economic burden on small businesses, nor will they restrict the formation, operation or expansion of small businesses. It is assumed in this analysis that smaller businesses will make a rational business decision to file a reimbursement request once a year rather than quarterly, thus reducing their annual filing fees from \$400 to \$100.

The Department has made a determination that a \$100 filing fee for all businesses would be necessary in order to cover the costs of administering the reimbursement system as well as the automation and maintenance of the system. The Department does not have a completed cost estimate at this time. However, based on an earlier analysis by the Department's Motor Carrier Division, approximately 4,100 businesses could potentially file reimbursement claims per quarter. This analysis looked at carriers in Nevada and five surrounding states that purchased 1,000 gallons or more in Nevada during one quarter of fiscal year 2012. Due to the option to file less often than quarterly and the apportioning out of miles driven in Nevada, the number of claims filed may be significantly lower. If, in the future, other Nevada Counties implement their own special fuel tax, the cost associated to the processing of claims would increase significantly with the number of claims filed.