

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

LCB File No. R143-03

Effective January 16, 2004

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

AUTHORITY: §§1-11, and 17-20, NRS 365.110; §§12 & 14, NRS 365.110 and 365.280; §§13 and 15, NRS 365.110 and 365.500; §16, NRS 365.110 and 365.324.

Section 1. Chapter 365 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *“Apportioned” means that a commercial vehicle:*

- 1. Is registered in a manner that authorizes the vehicle to travel in more than one jurisdiction, as indicated by the list of jurisdictions on the certificate of registration; and*
- 2. Pays registration fees based on the percentage of operation in each jurisdiction.*

Sec. 3. *“Aviation fuel” has the meaning ascribed to it in NRS 365.015.*

Sec. 4. *“Base-plated” means that a vehicle is registered in the State of Nevada and displays a Nevada license plate.*

Sec. 5. *“Export” means to sell or distribute outside this state motor vehicle fuel or other petroleum products, other than aviation fuel, that are received in this state. The term does not include selling or distributing motor vehicle fuel or other petroleum products, other than aviation fuel, within a reservation.*

Sec. 6. *“Exporter” has the meaning ascribed to it in NRS 365.031.*

Sec. 7. *“Fuel for jet or turbine-powered aircraft” has the meaning ascribed to it in NRS 365.035.*

Sec. 8. *“Other petroleum products” includes any petroleum-based substance, other than motor vehicle fuel or special fuel, that is used in the propulsion of motor vehicles, motor boats or aircraft, including, without limitation, fuel for jet or turbine-powered aircraft.*

Sec. 9. *“Special fuel” has the meaning ascribed to it in NRS 366.060.*

Sec. 10. *“Transporter” has the meaning ascribed to it in section 8 of Senate Bill No. 471 of the 72nd Session of the Nevada Legislature, chapter 466, Statutes of Nevada 2003, at page 2904. (NRS 365.092)*

Sec. 11. *For the purposes of this chapter, motor vehicle fuel, other than aviation fuel, must be off-loaded in another state or jurisdiction to be considered exported fuel.*

Sec. 12. 1. *An applicant for a license as an exporter issued pursuant to the provisions of NRS 365.300 must submit to the Department an application on a form provided by the Department.*

2. *An application submitted pursuant to this section must be accompanied by a list of the states or other jurisdictions to which the applicant wishes to export and proof satisfactory to the Department that the applicant is licensed or registered to import motor vehicle fuel or other petroleum products, other than aviation fuel, into each state or other jurisdiction to which he wishes to export such fuel or products.*

3. *Except as otherwise provided in subsection 2 of NRS 365.300, the Department will issue a license as an exporter upon receipt and approval of:*

(a) A completed application; and

(b) Any proof required by the Department pursuant to subsection 2.

4. If an exporter wishes to export to a state or other jurisdiction in which he was not licensed or registered to import motor vehicle fuel or other petroleum products, other than aviation fuel, when he submitted his original application pursuant to this section, he must file an addendum to his original application providing proof satisfactory to the Department of his licensure or registration to import motor vehicle fuel or other petroleum products, other than aviation fuel, into each state or other jurisdiction to which he wishes to export such fuel or products and the date on which such licensure or registration became effective. The Department will notify the exporter of the date on which he may begin exporting to that state or other jurisdiction upon receipt and approval of any proof required by the Department pursuant to this subsection.

Sec. 13. 1. *The records required to be kept pursuant to NRS 365.500 by an exporter include, without limitation, records in the form of:*

(a) Delivery tickets;

(b) Invoices;

(c) Reports of other states and other jurisdictions regarding the exports of the exporter to that state or jurisdiction; and

(d) Bills of lading or highway transportation receipts.

2. Any report described in paragraph (c) of subsection 1 must agree with the monthly statement submitted by the exporter to the Department pursuant to NRS 365.515.

Sec. 14. 1. *An applicant for a license as a transporter issued pursuant to the provisions NRS 365.300 must submit to the Department an application on a form provided by the Department.*

2. An application submitted pursuant to this section must be accompanied by a list of the states or other jurisdictions to which the applicant wishes to transport and proof satisfactory to the Department of the valid registration of each vehicle which the applicant will use in the transportation of fuel, whether the vehicle is apportioned or base-plated.

3. Except as otherwise provided in subsection 2 of NRS 365.300, the Department will issue a license as a transporter upon receipt and approval of:

(a) A completed application; and

(b) Any proof required by the Department pursuant to subsection 2.

Sec. 15. *The records required to be kept pursuant to NRS 365.500 by a transporter include, without limitation, records in the form of:*

1. Delivery tickets;

2. Invoices; and

3. Bills of lading or highway transportation receipts.

Sec. 16. *For the purposes of NRS 365.324, every supplier shall require proof that a purchaser is either eligible to defer the payment of or exempt from the payment of taxes imposed pursuant to the provisions of NRS 365.175 to 365.192, inclusive, before selling to that purchaser any motor vehicle fuel, other than aviation fuel, without collecting the taxes.*

Sec. 17. NAC 365.100 is hereby amended to read as follows:

365.100 As used in ~~[NAC 365.100 to 365.300, inclusive,]~~ *this chapter*, unless the context otherwise requires, the words and terms defined in NAC 365.105 to 365.145, inclusive, *and sections 2 to 10, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 18. NAC 365.165 is hereby amended to read as follows:

365.165 ~~[The]~~ *Except as otherwise provided in NRS 365.310, the* Department may refuse to issue *or may suspend, cancel or revoke* a license *issued* pursuant to NRS 365.280 to a person who:

1. Fails to provide complete and accurate information on the application ~~[as]~~ *for licensure* required by the Department;

2. *Provides false, misleading or otherwise inaccurate information on the application for licensure required by the Department;*

3. Makes a material misstatement on the application;

~~[3.]~~ 4. Before *or after* applying for *or obtaining* the license, was issued a license *or registration* as a dealer , *supplier, exporter or transporter* that was cancelled, suspended or revoked for cause in any state, district, territory or possession of the United States , or a foreign country; ~~[or~~

~~—4.—Applies]~~

5. *Applied* as a subterfuge for the real party in interest whose license described in subsection ~~[3.]~~ 4 has been cancelled, suspended or revoked for cause ~~[.]~~;

6. *Neglects or refuses to maintain a bond as required by chapter 365 of NRS; or*

7. *Is delinquent, without having received an extension, in the payment of a tax on motor vehicle fuel, fuel for jet or turbine-powered aircraft or any other petroleum products in any state, district, territory or possession of the United States, or a foreign country.*

Sec. 19. NAC 365.210 is hereby amended to read as follows:

365.210 ~~[+.]~~ If a person applies to the Department for a refund of any tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft pursuant to NRS 365.370, the person must submit

with his application a receipt obtained from the person from whom the motor vehicle fuel or fuel for jet or turbine-powered aircraft was purchased. The receipt must include:

- ~~[(a)]~~ 1. The date of the purchase;
- ~~[(b)]~~ 2. The county in which the purchase was made;
- ~~[(c)]~~ 3. The number of gallons purchased and used for a purpose specified in NRS 365.370;

and

~~[(d)]~~ 4. A statement indicating that the tax was paid to the person from whom the motor vehicle fuel or fuel for jet or turbine-powered aircraft was purchased.

~~[(2. — As used in this section, “fuel for jet or turbine-powered aircraft” has the meaning ascribed to it in NRS 365.035.)]~~

Sec. 20. NAC 365.300 is hereby amended to read as follows:

365.300 1. Except as otherwise provided in subsection 2, if the Department imposes an administrative fine pursuant to NRS 365.600, the Department will impose that fine for violations occurring within the 3 years immediately preceding the most recent violation according to the following schedule:

- (a) For a first offense, a fine of not less than \$100 or more than \$500.
- (b) For a second offense, a fine of not less than \$500 or more than \$1,000.
- (c) For a third offense, a fine of not less than \$1,000 or more than \$1,500.
- (d) For a fourth or subsequent offense, a fine of not less than \$1,500 or more than \$2,500.

2. The Department may impose a fine of not less than \$1,500 or more than \$2,500 for:

- (a) Any violation of subsection 1 or 2 of NRS 365.500 or NRS 365.505 to 365.530, inclusive;

or

- (b) Any violation committed by:

(1) An exporter who sells or distributes motor vehicle fuel in this state or any other person who engages in business in this state as a supplier without obtaining a supplier's license; or

(2) A supplier who, after receiving a notice from the Department that a supplier is not licensed pursuant to chapter 365 of NRS, sells special fuel to the unlicensed supplier without collecting the tax imposed pursuant to NRS 365.175 to 365.192, inclusive.

3. A person who has been fined pursuant to NRS 365.600 shall pay the fine to the Department not later than the date specified in the notice of violation, unless he requests a hearing pursuant to subsection 1 of that section.

4. Upon the failure of a person to pay a fine imposed pursuant to this section when it becomes due, the Department may suspend, revoke or refuse to issue a license to that person pursuant to this chapter.

~~{5. — As used in this section, “exporter” has the meaning ascribed to it in NRS 365.031.}~~

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R143-03

The Department of Motor Vehicles adopted with changes the regulation assigned LCB File No. R143-03, which pertain to chapter 365 of the Nevada Administrative Code on December 12, 2003.

Notice date: 10/10/2003

Date of adoption by agency: 12/12/2003

Hearing date: 12/1/2003, 12/4/2003

Filing date: 1/16/2004

INFORMATION STATEMENT

The Department of Motor Vehicles noticed and held public workshops and public hearings on December 1 and December 4, 2003, in Reno and Las Vegas, respectively, to solicit comments and opinion from the public and affected businesses on proposed regulation changes for fuel exporter and transporter activities.

The notice of public workshops and hearings and complete copies of the proposed regulations were posted on or before October 10, 2003, at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In each county where the Department does not maintain an office, the notice was posted at the main office of the public library. Copies of the proposed regulations were available by contacting any of the Department's office facilities or through the mail, 555 Wright Way, Carson City, Nevada 89711. In addition, copies of the proposed regulations were mailed to industry associations and fuel exporters and transporters currently filing reports with the department.

Public workshops and hearings were held at 10:00 a.m. on December 1, 2003 in Reno and at 1:00 p.m. on December 4, 2003 in Las Vegas. No one appeared for either workshop or hearing. No comments were received.

The Department will adopt the proposed regulations with changes as indicated on the attached LCB draft.

There are no adverse economic effects of this regulation to the Department, local authorities or the public.

There are no other state or government regulations that the proposed regulations duplicate.

This regulation does not provide or involve a new fee, so there will be no amount collected or used.