

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

LCB File No. R144-03

Effective January 16, 2004

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

AUTHORITY: §§1, 3, 4 and 6-8, NRS 366.110; §§2 and 5, NRS 366.220.

Section 1. Chapter 366 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. 1. *An applicant for a special fuel exporter's license issued pursuant to the provisions of NRS 366.240 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 special fuel or other petroleum products 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 366.240, the Department will issue a special fuel exporter's license upon receipt and approval of:

(a) A completed application; and

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

4. If a special fuel exporter wishes to export to a state or other jurisdiction in which he was not licensed or registered to import special fuel or other petroleum products 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 special fuel or other petroleum products 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 special fuel 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. 3. 1. *The records required to be kept pursuant to NRS 366.140 by a special fuel 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 special fuel 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 to the Department pursuant to NRS 366.387.

Sec. 4. *For the purposes of this chapter and chapter 366 of NRS, special fuel must be off-loaded in another state or jurisdiction to be considered exported fuel.*

Sec. 5. 1. *An applicant for a special fuel transporter's license issued pursuant to the provisions of NRS 366.240 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 special fuel, whether the vehicle is apportioned or base-plated.

3. Except as otherwise provided in subsection 2 of NRS 366.240, the Department will issue a special fuel transporter's license upon receipt and approval of:

(a) A completed application; and

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

Sec. 6. *The records required to be kept pursuant to NRS 366.140 by a special fuel transporter include, without limitation, records in the form of:*

1. Delivery tickets;

2. Invoices; and

3. Bills of lading or highway transportation receipts.

Sec. 7. *For the purposes of NRS 366.207, every special fuel 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 366.190 before selling to that purchaser any special fuel without collecting the taxes.*

Sec. 8. NAC 366.005 is hereby amended to read as follows:

366.005 As used in this chapter, unless the context otherwise requires:

1. *“Apportioned” means that a commercial vehicle:*

(a) 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

(b) Pays registration fees based on the percentage of operation in each jurisdiction.

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

3. “Department” means the Department of Motor Vehicles.

~~{2.}~~ 4. *“Export” means to sell or distribute outside this state special fuel or other petroleum products that are received in this state. The term does not include selling or distributing special fuel or other petroleum products within a reservation.*

5. “Governing body” means the governmental entity that has the authority to make decisions on behalf of a tribe.

~~{3.}~~ 6. “Habitually delinquent” means the commission by a special fuel user, special fuel supplier or special fuel dealer of any of the following violations at least twice within 1 year or any two of the following violations at least once within 1 year:

(a) The failure to file a monthly tax return during the period prescribed in NRS 366.380, 366.383 or 366.386, unless the Department finds that:

(1) The failure was caused by circumstances beyond the control of the special fuel user, special fuel supplier or special fuel dealer and occurred notwithstanding the exercise of ordinary care; and

(2) The special fuel user, special fuel supplier or special fuel dealer has paid all penalties and interest imposed by the Department because of his failure to file the tax return during the prescribed period.

(b) The failure to submit to the Department payment of the tax on special fuel collected pursuant to NRS 366.540 during the period prescribed in that section.

(c) The failure to submit to the Department the payment of any additional or estimated assessments imposed by the Department pursuant to NRS ~~{366.405}~~ *360A.060, 360A.100, 360A.120 or 360A.130* during the period prescribed in ~~{that}~~ *the relevant* section.

~~{4.}~~ 7. *“Motor vehicle fuel” has the meaning ascribed to it in NRS 365.060.*

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.

9. “Reservation” means any land that:

- (a) Is located within the boundaries of this state; and
- (b) Is set aside for use by a tribe, including, without limitation:
 - (1) An Indian reservation;
 - (2) An Indian colony;
 - (3) Any land which is owned in fee by or held in trust for a tribe; and
 - (4) Any other land which is under the jurisdiction of a tribe.

~~{5.}~~ 10. “Special fuel” has the meaning ascribed to it in NRS 366.060.

~~{6.}~~ 11. “Special fuel dealer” has the meaning ascribed to it in NRS 366.062.

~~{7.}~~ 12. *“Special fuel exporter” has the meaning ascribed to it in NRS 366.065.*

13. “Special fuel supplier” has the meaning ascribed to it in NRS 366.070.

~~{8.}~~ 14. *“Special fuel transporter” has the meaning ascribed to it in section 32 of Senate Bill No. 471 of the 72nd Session of the Nevada Legislature, chapter 466, Statutes of Nevada 2003, at page 2911. (NRS 366.075)*

15. “Special fuel user” has the meaning ascribed to it in NRS 366.080.

~~{9.}~~ 16. “Tribal member” includes an enrolled member of a tribe.

~~{10.}~~ 17. “Tribe” means any tribe, band, nation or group of Indians that is recognized by the Federal Government as having a government-to-government relationship with the United States.

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. R144-03, which pertain to chapter 366 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 special 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.