

LCB File No. R150-08

PROPOSED REGULATION OF THE DEPARTMENT OF MOTOR VEHICLES

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

AUTHORITY: NRS Chapters 360A.020, 360A.034, 360A.036, 360A.080, 360A.120, 360A.130, 360A.150, 360A.410, 365.110, 365.304, 365.324, 365.328, 365.335, 365.445, 365.370, 365.380, 365.600, 366.110, 366.203, 366.207, 366.220, 366.223, 366.260, 366.383, 366.397, 366.740

Regulations relating to the Department of Motor Vehicles - Motor Carrier Division

Section 1. Chapter 360A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *As used in NRS 360A.110, the term “careless reporting” includes, but is not limited to:*

- 1. Any alteration of vehicle load dates; or*
- 2. Any alteration of load amounts; or*
- 3. Any alteration of fuel Types; or*
- 4. Any alteration of fuel lading number; or*
- 5. Under reporting or non reporting; or*
- 6. Reporting a non-taxable event as a taxable event*

Sec. 3. 1. *As used in NRS 360A.180 “aggrieved by a decision of the Department” means an act or situation which has an adverse impact upon an individual and includes but is not limited to the assessment of monetary damages.*

2. A party aggrieved by a decision of the Department may prompt a petitioner to seek an administrative hearing by an official of the Department.

Sec. 4. Chapter 365 of NAC is hereby amended by adding thereto the provisions set forth as sections 5 to 17 inclusive, of this regulation.

Sec. 5. *As defined “Consortium” means an association or combination of fuel businesses engaged in a joint venture or cooperative arrangement.*

Sec. 6. *For purposes of this chapter “Good Cause” means a circumstance that is beyond the control of a taxpayer and occurs despite his exercise of ordinary care and without willful neglect. The term includes, without limitation:*

- 1. A fire, earthquake, flood or other act of God;*
- 2. Documented theft through a law enforcement entity; or*
- 3. The death or serious illness of the taxpayer, a member of his family or his agent whose job or duty it is to collect, account for or pay to the Department a tax imposed by chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840.*

Sec. 7. 1. *For the purposes of NRS 365.290 “immediately reinstate” means within 30 calendar days from the date of notification issuance.*

2. “Faithful performance” means the expectation of all payments made in a timely manner as outlined in NRS 365.290.

Sec. 8. *For the purposes of this Chapter, “Good standing” means the taxpayer is in compliance with the rules and regulations of the Department and does not have any outstanding or delinquent tax returns or payments due to the State of Nevada, any other state, District of Columbia, the United States, a territory or possession of the United States or any foreign country.*

Sec. 9. 1. *For the purposes of this chapter if you are a consortium you will be held jointly accountable.*

2. If the fuel is held in consortium with others, the other participating individuals in the consortium must be notified.

Sec. 10. 1. *For the purposes of this chapter, fuel for jet or turbined-powered aircraft is deemed distributed when it is received by the last licensed dealer or supplier.*

2. Tax must be remitted pursuant to NRS 365.170.

3. The point of taxation does not occur when fuel for jet or turbined-powered aircraft is delivered into the tank of the jet or turbined-powered aircraft.

Sec. 11. 1. *If a person:*

(a) Continues to engage in business in this State without a permit or license as required by chapter 365 of NRS, or after the license or permit has been suspended or revoked; or

(b) Knowingly sells at retail any fuel that is subject to taxation pursuant to chapter 365 of NRS for which the tax imposed by chapter 365 of NRS is not remitted;

The Department may, after providing notice to that person, order any place of business, retail station or pump of the person to be locked and sealed. If notice is served by mail, it must be addressed to the person at his address as it appears in the records of the Department.

2. The order to lock and seal a place of business, retail station or pump must be delivered to the sheriff of the county in which the business is located. The sheriff shall assist in the enforcement of the order.

3. If the Department intends to lock and seal the pump, place of business or retail station of a person or entity for violating any provision, the Department will provide the person or entity with written notice not less than 10 business days before the day and time the

Department intends to lock and seal the pump, place of business, or retail station. The notice may be served personally or by mail.

4. The Department may seal a fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, if the retailer, dealer or supplier:

(a) Becomes delinquent in payment of any amount due pursuant to the provisions of this chapter;

(b) Operates without the license required by the provisions of this chapter; or

(c) Operates without the bond or cash deposit required by the provisions of this chapter.

5. A fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

6. Before sealing a fuel pump or the metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the retailer, dealer or supplier at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.

Sec. 12. For the purposes of this chapter Pipeline includes, but is not limited to, a Terminal, a storage facility, and/or a storage facility used by rail cars.

Sec. 13. Jet fuel or fuel used for aviation is deemed distributed and taxable upon receipt into the terminal or into the supply tank of any aircraft, whichever comes first.

Sec. 14. 1. Importer and Exporter transport records must be maintained for fuel transferred into or through and delivered to Nevada and must be submitted to the Department. Documents include but are but not limited to, terminal reports, transportation receipts, bills of lading or any document required to support import and/or export deliveries in Nevada.

2. All records pursuant to this Chapter must be maintained for four (4) years from the date of filing.

Sec. 15. 1. Pursuant to NRS 365.304, all licenses issued pursuant to this chapter, regardless of the original issue date, are subject to the mandatory renewal process as provided for in this section.

2. A license issued will expire on December 31 of each calendar year.

3. All licenses issued will be valid for 1 year after the date of renewal.

4. All license applications must be submitted on or before December 1 of each calendar year

5. The licensing application shall be deemed received by the Department if:

(a) The application is postmarked on or before December 1 of each calendar year

(b) Delivered by mail, on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing the renewal application properly addressed to the Department; or

(c) Delivered by a private postal service, on the business day preceding the date of actual delivery; and. all documents required by the Department are included.

(d) If no postmark is present, the Department will consider the date of delivery as the date received.

(e) If delivered via the Internet or through facsimile, on the date actually received by the Department, regardless of any reason for the delay.

(f) The Department shall not be held responsible if the licensing application processed online is received late for any reason including a system failure.

6. Licenses issued January 1 thru June 30 will expire December 31 of each calendar year.

7. Licenses issued July 1 thru December 31 will expire December 31 of the following year

8. The Department shall impose a non compliance fine of not less than \$100.00 or more than \$500.00 for failure to comply with the license renewal submission due date. Non compliance fines will be assessed as follows on each license:

(a) \$100.00 if 1 - 7 calendar days late;

(b) \$200.00 if 8 - 14 calendar days late;

(c) \$300.00 if 15 - 21 calendar days late;

(d) \$400.00 if 22 and over calendar days late; or

(e) \$500.00 if received after the license expiration date.

Sec. 16. 1. *In accordance with the provisions of NRS 365.330 an unlicensed person selling fuel must remit payment of taxes collected or required to be paid to the Department within 5 days of when the transaction occurs.*

2. Unlicensed person includes, but is not limited to, the following:

(a) Unlicensed individual; or

(b) Unlicensed entity; or

(c) Unlicensed business

3. An unlicensed fuel supplier or any unlicensed person is not entitled to an amount equal to 2 percent of the total tax revenue collected under the collection allowance.

4. The statement required pursuant to subsection 1 must be:

(a) Submitted in a format prescribed by the Department; and

(b) Accompanied by the payment of any tax that the supplier is required to remit with the statement.

5. In accordance with NRS 365.330, the collection of any excise tax by a fuel supplier, dealer, or unlicensed person must also include the remittance of the excise tax to the Department.

Sec. 17. 1. *For the purposes of this section the Department will process claims for refunds from the prescribed classes within 90 days of receipt of the completed claim by the Department pursuant to the requirements set forth in NAC 365.210, NAC 365.215, and NAC 365.220.*

2. The use of motor fuel to operate a motor vehicle in idle is not a use which is exempt from the tax imposed by chapter 365.

Sec. 18. NAC 365.150 is hereby amended to read as follows:

NAC 365.150 “Habitually delinquent” interpreted. (NRS 365.110, 365.290) *1. The Department will consider a ~~person~~ fuel supplier or fuel dealer to be habitually delinquent for the purpose of NRS 365.290 if he commits any of the following violations at least ~~twice within 12 consecutive months or both of the following violations at least once~~ 2 or more times within ~~12 months~~ a three year period~~;~~ or;*

~~1.~~ *(a) The failure to file a monthly tax return during the period set forth in NRS 365.170 or 365.175, unless the Department finds that the failure was caused by circumstances beyond the*

control of the ~~person~~ *fuel supplier or fuel dealer* and occurred notwithstanding the exercise of ordinary care; and

(b) ~~[The person has paid any penalty and interest imposed by the Department because of the failure to file the tax return during the period for filing the return; or] [2.]~~ *The failure to submit to the Department payment of the tax on motor fuel collected pursuant to NRS 365.170 to 365.192 inclusive, during the period for the submission of the tax set forth in NRS 365.170 or 365.175.*

(c) *The failure to submit to the Department the payment of any additional or estimated assessments imposed by the Department pursuant to NRS 360A.060, 360A.100, 360A.120, 360A.130, 360A.230 or 360A.240 during the period prescribed in the relevant section.*

(d) *Failure to file based on circumstances beyond the control of the individual responsible for filing the tax return, as listed on the most current application filed by the licensee, may include but are not limited to*

(1) *Hospitalization; or*

(2) *Death of an immediate family member; or*

(I) *Immediate family member is defined as the great-grandparents, grandparents, parents, brothers, sisters, children, grandchildren, and great-grandchildren of the individual and his/her spouse. This also includes individuals for whom the individual is current legal guardian.*

(II) *Immediate family member does not include, but is not limited to, aunts, uncles, cousins and friends.*

(3) *Act of God.*

Sec. 19. NAC 365.164 is hereby amended to read as follows:

NAC 365.164 Application for and issuance of license as transporter. (NRS 365.110, 365.280, 365.300)

1. An applicant for a license as a transporter 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 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.

4. Pursuant to NRS 365.270 a transporter must be licensed to conduct business in the state.

5. Pursuant to NRS 365.270 licensed suppliers, dealers and exporters cannot use an unlicensed transporter.

6. Transporters engaged in the activity of conducting business must provide proof of licensure upon request by a supplier, dealer or exporter.

7. Failure of a supplier, dealer or exporter to use a licensed transporter will result in the imposition of administrative fines pursuant to NRS 365.600.

Sec. 20 NAC 365.165 is hereby amended to read as follows:

NAC 365.165 Grounds for refusal, suspension, cancellation or revocation of license. (NRS 365.110, 365.300, 365.310) Except as otherwise provided in NRS 365.310, the Department ~~may~~ *shall* refuse to issue or ~~may~~ *shall* 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 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;
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;
5. Applied as a subterfuge for the real party in interest whose license described in subsection 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.

8. Upon refusal, suspension, cancellation or revocation of a license issued pursuant to NRS 365.280 by the Department, the licensee may request a hearing before the Department to show cause why the refusal, suspension, cancellation or revocation should not occur.

(a) If the Department finds in favor of the refusal, suspension, cancellation or revocation, the licensee may request an administrative hearing before the Department.

Sec. 21. NAC 365.185 is hereby amended to read as follows:

NAC 365.185 Request for reduction in amount of security: Amount of reduction; conditions. (NRS 365.110, 365.290)

1. A dealer or supplier who complies with the requirements set forth in subsection 2 may submit a written request to the Department for a reduction in the amount of security required if the required amount would otherwise be more than \$5,000. Upon receipt of such a request, the Department may reduce the required amount to an amount that is:

- (a) Not less than *two times* the amount of the maximum monthly tax the dealer or supplier reported to the Department during the 2 years immediately preceding the date of his request for a reduction; or
- (b) Equal to \$5,000, whichever is greater.

2. A dealer or supplier who has filed tax returns pursuant to chapter 365 of NRS for at least 3 calendar years may submit a request pursuant to subsection 1 if, during the 3 years immediately preceding the date of the request, he:

- (a) Filed in a timely manner the tax returns required pursuant to chapter 365 of NRS;
- (b) Paid in a timely manner all taxes and assessments owed to the State of Nevada pursuant to chapter 365 of NRS; and
- (c) Has been audited at least once by the Department during the 2 calendar years immediately preceding the date of the request.

~~3. For the purposes of subsection 2, a dealer or supplier who:~~

~~(a) Because of a clerical error, underpaid taxes by not more than 5 percent; and~~
~~(b) Within 30 days after being notified by the Department of the underpayment, paid the taxes owed and any penalty and interest imposed by the Department, shall be deemed to have paid those taxes in a timely manner.~~

Sec. 22. NAC 365.197 is hereby amended to read as follows:

NAC 365.197 Electronic submission of statement of certain fuel sold: General requirements; receipt. (NRS 365.110, 365.175, 365.335)

1. Except as otherwise provided in NAC 365.198, a supplier, *dealer, and exporter* shall electronically submit to the Department the statement required pursuant to the provisions of NRS 365.175:

(a) On or before July 1, 2006, if the supplier, *dealer, and exporter*:

(1) Receives 1,000,000 gallons or more of motor vehicle fuel for which taxes must be paid pursuant to subsection 2 of NRS 365.175 during a monthly period; or

(2) Receives 5,000,000 gallons or more of any type of motor vehicle fuel during a monthly period.

(b) On or before January 1, 2007, if the supplier, *dealer, and exporter* has not electronically submitted the form pursuant to paragraph (a) and the supplier:

(1) Receives 100,000 gallons or more but less than 1,000,000 gallons of motor vehicle fuel for which taxes must be paid pursuant to subsection 2 of NRS 365.175 during a monthly period; or

(2) Receives 1,000,000 gallons or more but less than 5,000,000 gallons of any type of motor vehicle fuel during a monthly period.

(c) On or before January 1, 2008, if the supplier has not electronically submitted the form pursuant to paragraph (a) or (b).

2. The statement required pursuant to subsection 1 must be:

(a) Submitted in a format prescribed by the Department; and

(b) Accompanied by the payment of any tax that the supplier, *dealer, and exporter* is required to remit with the statement.

3. The payment of any tax that the supplier, *dealer, and exporter* is required to remit with the statement must be made using an electronic transfer of money.

4. A statement filed pursuant to subsection 1 shall be deemed received by the Department after:

(a) The statement is accessible to the Department; and

(b) The Department has received the payment of any tax that the supplier, *dealer, and exporter* was required to remit with the statement.

Sec. 23. NAC 365.255 is hereby amended to read as follows:

NAC 365.255 Records of transporter: Form. (NRS 365.110, 365.500)

The records required to be kept pursuant to NRS 365.500 by a transporter include, without limitation, records in the form of *but not limited to*:

1. ~~{Delivery tickets}~~ *Pipeline Report*;

(a) *Import activity*;

(b) *Storage tank inventories, included but not limited to:*

(1) *Shipper*;

(2) *Receiver*;

(3) *Gains; and/or*

- (4) *Losses.*
- (c) *Origin;*
- (d) *Destination;*
- (e) *Number of barrels or gallons;*
- (f) *Tank inventory by tank;*
- (g) *Transaction date;*
- (h) *Exchanges; or*
- (i) *Transfers*
- 2. ~~Invoices; and~~ *Rail Report;*
 - (a) *Import activity;*
 - (b) *Origin;*
 - (c) *Destination;*
 - (d) *Number of barrels or gallons;*
 - (e) *Rail car tank inventory;*
 - (f) *Transaction date;*
 - (g) *Exchanges; or*
 - (h) *Transfers*
 - (i) *Fuel type*
- 3. ~~Bills of lading or highway transportation receipts~~ *Consortium report;*
- 4. *Independently operated storage facility report;*
- 5. *Refinery report;*
- 6. *Delivery tickets;*
- 7. *Invoices; and*
- 8. *Bills of lading or highway transportation receipts.*

Sec. 24 NAC 365.300 is hereby amended to read as follows:

NAC 365.300 Imposition, amount and payment of administrative fine; issuance of notice of violation and directive to cease further violation. (NRS 365.110, 365.600)

1. Except as otherwise provided in this section, 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, an *administrative* fine of **not less than \$100 or** more than \$500.
- (b) For a second offense, an *administrative* fine of not less than \$500 or more than \$1,000.
- (c) For a third offense, an *administrative* fine of not less than \$1,000 or more than \$1,500.
- (d) For a fourth or subsequent offense, an *administrative* 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. In lieu of imposing a fine against a person for a first offense pursuant to paragraph (a) of subsection 1, the Department may issue to the person a notice of violation and directive to cease from any further violation.

~~{4. 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.~~~~5.~~ 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.

Sec. 24. Chapter 366 of NAC is hereby amended by adding thereto the provisions set forth as sections 25 to 38 inclusive, of this regulation.

Sec. 25. 1. *In accordance with the provisions of NRS 366.370 an unlicensed person selling fuel must remit payment of taxes collected or required to be paid to the Department within 5 days of when the transaction occurs.*

2. Unlicensed person includes, but is not limited to, the following:

(a) Unlicensed individual; or

(b) Unlicensed entity; or

(c) Unlicensed business.

3. An unlicensed fuel supplier or any unlicensed person is not entitled to an amount equal to 2 percent of the total tax revenue collected under the collection allowance.

4. The statement required pursuant to subsection 1 must be:

(a) Submitted in a format prescribed by the Department; and

(b) Accompanied by the payment of any tax that the supplier is required to remit with the statement.

5. Unlicensed individuals must remit payment of tax collected to the Department within 5 days of the date of the transaction.

Sec. 26. *For purposes of this chapter “Good Cause” means a circumstance that is beyond the control of a taxpayer and occurs despite his exercise of ordinary care and without willful neglect. The term includes, without limitation:*

1. A fire, earthquake, flood or other act of God;

2. Documented Theft through a law enforcement entity; or

3. The death or serious illness of the taxpayer, a member of his family or his agent whose job or duty it is to collect, account for or pay to the Department, as listed on the most current application filed by the licensee, a tax imposed by chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840.

Sec. 27. *For the purposes of this section Pipeline Includes, but is not limited to, a Terminal, a storage facility, and/or a storage facility used by rail cars.*

Sec. 28. 1. *For the purposes of this chapter, before the Department will issue a refund for an overpayment of taxes the taxpayer must maintain and provide evidence of the following supporting documentation from the drivers actual source documents which includes but is not limited to:*

- (a) Mileage and fuel records;*
- (b) A spreadsheet or copies of receipts from the person from whom the special fuel was purchased. The spreadsheet, copies or receipts must include:*
 - (1) The date on which the special fuel was purchased;*
 - (2) The number of gallons of special fuel purchased for an exempt purpose;*
 - (3). A statement that the tax imposed by NRS 366.190 was paid to the person from whom the special fuel was purchased; and*
 - (4) An explanation as to why clear fuel and not dyed fuel was purchased and used.*
- (c) Equipment fueling verification;*
- (d) Bulk Tank Inventory records;*
- (e) Beginning and ending odometer readings;*
- (f) Actual routes of travel;*
- (g) Total miles traveled;*
- (h) Off-road miles traveled;*
- (i) Total fuel purchased in all jurisdictions;*
- (j) Copies of current registrations;*
- (k) Copies of special fuel use tax returns filed in another jurisdiction;*
- (l) Full equipment list;*
- (m) Copies of lease agreements;*
- (n) Power of Attorney forms, if the refund request is filed by a licensing agent;*

2. *The following do not qualify for refunds by the Department unless a written waiver has been received by the State of Nevada prior to an audit either conducted by the state of Nevada or the taxpayer's base jurisdiction.*

- (a) Errors resulting from failures to maintain record data as required by the Department*
- (b) Errors resulting from predetermined routes of travel*
- (c) Failure to reconcile back to original source documents*

3. *Records maintained for 4 years pursuant to NRS 366.140 may be audited during the same time frame if deemed necessary by the Department.*

4. *Refund of the special fuel use tax for off-highway mileage must be requested directly from the Department and must not be claimed on a special fuel use tax return through Nevada or another jurisdiction.*

Sec. 29. *Any person or entity who is not licensed in accordance with the requirements of 366.220, who sells or resells, for a taxable purpose, special fuel that was exempt from the tax imposed by this chapter and to which dye has not been added is not entitled to any collection allowance of the tax revenue collected as provided for in NRS 366.207.*

Sec. 30. *If a vehicle with a combined gross vehicle weight rating in excess of 26,000 pounds is not registered pursuant to NRS 482.482 or 706.826, and a temporary registration permit is purchased pursuant to NRS 706.521, the carrier must obtain a temporary fuel permit pursuant to NRS 366.223, unless otherwise licensed pursuant to NRS 366.175.*

Sec. 31. 1. Pursuant to NRS 366.260, all licenses issued pursuant to this chapter, regardless of the original issue date, are subject to the mandatory renewal process as provided for in this section.

2. A license issued will expire on December 31 of each calendar year.

3. All licenses issued will be valid for 1 year after the date of renewal.

4. All license applications must be submitted on or before December 1 of each calendar year

5. The licensing documentation shall be deemed received by the Department if:

(a) All documentation is postmarked on or before December 1 of each calendar year

(b) Delivered by mail, on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing the renewal documentation properly addressed to the Department; or

(c) Delivered by a private postal service, on the business day preceding the date of actual delivery; and, all documents required by the Department are included.

(d) If no postmark is present, the Department will consider the date of delivery as the date received.

(e) The Department shall not be held responsible if licensing documentation processed online is received late for any reason including a system failure.

6. Except for licenses issued pursuant to NRS 366.220 1. (b)(5), licenses issued January 1 thru June 30 will expire December 31 of each calendar year.

7. Except for licenses issued pursuant to NRS 366.220 1. (b)(5), licenses issued July 1 thru December 31 will expire December 31 of the following year

8. As defined in NRS 366.235 sub section 2, a special fuel user determined to be “habitually delinquent” in the payment of amounts due to the Department pursuant to this chapter, shall be required to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than \$2,500. The amount of the bond shall be calculated by multiplying the total taxable gallons claimed on the corresponding fuel use tax return by the tax rate pursuant to NRS 366.190, then multiplied by 3 or \$2,500, whichever is greater

(a) For the first violation a bond is required to be maintained for 12 months

(b) If after a bond has been removed and a second violation occurs a bond is required to be maintained for 24 months.

(c) If after a bond has been removed and a third and subsequent violation occurs a bond is required to be maintained for 36 months.

Sec. 32. 1. All license renewal applications are due on or before December 1 of each calendar year.

2. The Department shall impose a non compliance fine of not less than \$100.00 or more than \$500.00 for failure to comply with the license renewal application submission due date. Non compliance fines will be assessed as follows on each renewal application:

(a) 100.00 if 1 - 7 calendar days late;

(b) 200.00 if 8 - 14 calendar days late;

(c) 300.00 if 15 - 21 calendar days late;

(d) 400.00 if 22 and over calendar days late; or

(e) 500.00 if received after the license expiration date.

3. The licensing application shall be deemed received by the Department if:

(a) The licensing application must be postmarked on or before December 1 of each calendar year

(b) Delivered by mail, on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing the renewal application properly addressed to the Department; or

(c) Delivered by a private postal service, on the business day preceding the date of actual delivery; and. all documents required by the Department are included.

(d) If no postmark is present, the Department will consider the date of delivery as the date received.

(e) The Department shall not be held responsible if the licensing application processed online is received late for any reason including a system failure.

4. A license issued on January 1 will expire on December 31.

5. All licenses issued will be valid for 1 year after the date of renewal

6. All license applications must be submitted on or before December 1 of each calendar year

7. The licensing application shall be deemed received by the Department if:

(a) All documentation must be postmarked on or before December 1 of each calendar year

(b) Delivered by mail, on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing the renewal application properly addressed to the Department; or

(c) Delivered by a private postal service, on the business day preceding the date of actual delivery; and. all documents required by the Department are included.

(d) If no postmark is present, the Department will consider the date of delivery as the date received.

(e) The Department shall not be held responsible if a licensing application processed online is received late for any reason including, but not limited to a system failure.

Sec. 33. *Importer and Exporter transport records must be maintained for fuel transferred into or through and delivered to Nevada and must be submitted to the Department. Documents include but are but not limited to, terminal reports, transportation receipts, bills of lading or any document required to support import and/or export deliveries in Nevada*

Sec. 34. 1. *If a person:*

(a) Continues to engage in business in this State without a permit or license as required by chapter 366 of NRS, or after the license or permit has been suspended or revoked;

(b) Knowingly sells at retail any fuel that is subject to taxation pursuant to chapter 366 of NRS for which the tax imposed by chapter 366 of NRS is not remitted; or

(c) Sells or otherwise distributes dyed special fuel in violation of NRS 366.733, The Department may, after providing notice to that person, order any place of business, retail station or pump of the person to be locked and sealed. If notice is served by mail, it must be addressed to the person at his address as it appears in the records of the Department.

2. The order to lock and seal a place of business, retail station or pump must be delivered to the sheriff of the county in which the business is located. The sheriff shall assist in the enforcement of the order

3. If the Department intends to lock and seal the pump, place of business, or station of a person or entity for violating any provision, the Department will provide the person or entity with written notice not less than 10 business days before the day and time the Department intends to lock and seal the pump, place of business, or station. The notice may be served personally or by mail.

4. The Department may seal a fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, if the retailer, dealer or supplier:

(a) Becomes delinquent in payment of any amount due pursuant to the provisions of this chapter;

(b) Operates without the license required by the provisions of this chapter; or

(c) Operates without the bond or cash deposit required by the provisions of this chapter.

5. A fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

6. Before sealing a fuel pump or the metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the retailer, dealer or supplier at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.

Sec. 35. *In accordance with NRS 366.540, the collection of any excise tax by a special fuel supplier, special fuel user, or unlicensed person must also include the remittance of the excise tax to the Department.*

Sec. 36. *Refunds shall not be granted for credits generated as a result of predetermined routes or failure to maintain the required record keeping pursuant to NRS 366.140.*

Sec. 37. *For the purposes of this section if a license is revoked or cancelled a licensee must reapply for a special fuel license.*

Sec. 38. *For the purposes of NRS 366.395 the following will apply:*

1. The Department shall impose a delinquent filing fee in the amount of \$50 on the original tax return or corresponding payment for the original tax return if the original tax return or corresponding payment is not filed or received timely, as required by chapter 366 of NRS.

2. If no postmark is present, the Department will consider the date of delivery as the date received.

3. For hand delivered or faxed returns, delivery to the Department must occur prior to the close of business on the date the return is due.

4. An amended return received by the Department after the date due shall not be subject to delinquent filing fees imposed provided the original return and payment of any tax due on the original return is submitted prior to the date due.

(a) If additional tax is due as a result of an amended return:

- 1. The carrier will be subject to penalty and interest on the difference in tax*
- 2. The carrier will not be assessed a delinquent filing fee unless the original return and/or payment was not received timely.*
- (b) Any person filing a zero return and later amending the return to include mileage and/or fuel is subject to delinquent filing fees pursuant to this Chapter*

Sec. 39. NAC 366.005 is hereby amended to read as follows:

NAC 366.005 Definitions. (NRS 366.110) 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. *“Consortium” means an association or combination of fuel businesses engaged in a joint venture or cooperative arrangement.*
- ~~13-1~~ 4. “Department” means the Department of Motor Vehicles.
- ~~14-1~~ 5. “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.
6. *“Faithful performance” means the expectation of all payments made in a timely manner as outlined in NRS. 366.370.*
7. *“Good standing” means the taxpayer is in compliance with the rules and regulations of the Department and does not have any outstanding or delinquent tax returns or payments due to the State of Nevada, District of Columbia, the United States, a territory or possession of the United States or any foreign country.*
- ~~15-1~~ 8. “Governing body” means the governmental entity that has the authority to make decisions on behalf of a tribe.
- ~~16-1~~ 9. “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 360A.060, 360A.100, 360A.120 or 360A.130 during the period prescribed in the relevant section.

~~{7-}~~ 10. “Immediately reinstate” means within 30 calendar days from the date of notification issuance.

~~{8-}~~ 11. “Motor vehicle fuel” has the meaning ascribed to it in NRS 365.060.

~~{9-}~~ 12. “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.

~~{10-}~~ 13. “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.

~~{11-}~~ 14. “Special fuel” has the meaning ascribed to it in NRS 366.060.

~~{12-}~~ 15. “Special fuel dealer” has the meaning ascribed to it in NRS 366.062.

~~{13-}~~ 16. “Special fuel exporter” has the meaning ascribed to it in NRS 366.065.

~~{14-}~~ 17. “Special fuel supplier” has the meaning ascribed to it in NRS 366.070.

~~{15-}~~ 18. “Special fuel transporter” has the meaning ascribed to it in NRS 366.075.

~~{16-}~~ 19. “Special fuel user” has the meaning ascribed to it in NRS 366.080.

20. “Transporter” means a person, except a supplier or an exporter licensed pursuant to this chapter, who transports special fuel by pipeline, rail or truck in interstate commerce to or from any point within this State, or solely within this State.

~~{17-}~~ 21. “Tribal member” includes an enrolled member of a tribe.

~~{18-}~~ 22. “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.

Sec 40. NAC 366.007 is hereby amended to read as follows:

NAC 366.007 Grounds for refusal, *suspension, cancellation, ~~{to-issue}~~ or revocation of license.* (NRS 366.110, 366.220, 366.240, 366.350) ~~{In addition to the persons described in NRS 366.240,}~~ *Except as otherwise provided in NRS 366,* the Department ~~{may}~~ *shall* refuse to issue or *shall suspend, cancel, or revoke* ~~{a special fuel user’s license, special fuel supplier’s license or special fuel dealer’s license to a person, or may revoke}~~ a license issued *pursuant to NRS 366.220* ~~{to the special fuel user, special fuel supplier or special fuel dealer,}~~ *to a person* who:

1. Fails to provide *complete and accurate* ~~{the}~~ information ~~{requested}~~ on ~~{his}~~ *the* application for ~~{the license or to indicate that the information requested is not applicable to his business;}~~ *licensure required by the Department;*
2. ~~{Submits an application or tax return which contains inaccurate information;}~~ *Provides false, misleading or otherwise inaccurate information on the application for licensure required by the Department;*
3. ~~{Fails to provide the information requested on a tax return or to indicate that the information requested is not applicable to his business; or}~~ *Makes a material misstatement on the application;*
4. ~~{Owes the Department fees or taxes imposed against the person under chapter 371, 482 or 706 of NRS.}~~ *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;

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

6. Neglects or refuses to maintain a bond as required by chapter 366 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.

8. Upon refusal, suspension, cancellation or revocation of a license issued pursuant to NRS 366.220 by the Department, the licensee may request a hearing before the Department to show cause why the refusal, suspension, cancellation or revocation should not occur.

(a) If the Department finds in favor of the refusal, suspension, cancellation or revocation, the licensee may request an administrative hearing before the Department.

Sec. 41. NAC 366.030 is hereby amended to read as follows:

NAC 366.030 Request for reduction in amount required. (NRS 366.110, 366.235)

1. A special fuel supplier or special fuel dealer who complies with the requirements set forth in subsection 2 or 3 may submit a written request to the Department for a reduction in the amount of security required from him if the required amount would otherwise be more than \$5,000. Upon receipt of such a request, the Department may reduce the required amount to an amount which is:

(a) Not less than **2 times** the amount of the maximum monthly tax the supplier or dealer reported to the Department during the 2 years immediately preceding his request for a reduction; or

(b) Equal to \$5,000,
whichever is greater.

~~{2. To qualify to submit a request pursuant to subsection 1, a special fuel supplier or special fuel dealer who has filed tax returns with the Department pursuant to chapter 366 of NRS for less than 3 calendar years must submit to the Department a letter from the Department of Taxation which verifies that the special fuel supplier or special fuel dealer has, in his capacity as a dealer licensed pursuant to chapter 365 of NRS, paid punctually the taxes required pursuant to chapters 365 and 373 of NRS during the 3 calendar years preceding his request.}~~

~~2.~~**3.** A special fuel supplier or special fuel dealer who has filed tax returns with the Department pursuant to chapter 366 of NRS for 3 or more calendar years may submit a request pursuant to subsection 1 if he:

(a) Has filed punctually the tax returns required by NRS 366.383 or 366.386 for the 3 preceding calendar years;

(b) Has paid punctually all taxes and assessments due the State of Nevada for the 3 preceding calendar years;

(c) Has not been deemed habitually delinquent within the 3 preceding calendar years; and

(d) Has been audited by the Department within the 2 preceding calendar years.

~~{4. For the purposes of subsection 3, a special fuel supplier or special fuel dealer who:~~

~~(a) Through clerical error, underpaid taxes by not more than 5 percent; and~~

~~(b) Within 30 days after being notified by the Department of the underpayment, paid the taxes owed and any penalty and interest imposed by the Department, shall be deemed to have paid those taxes punctually.}~~

Sec. 42. NAC 366.0067 is hereby amended to read as follows:

NAC 366.0067 Application for license: Federal identification number required. (NRS 366.110, 366.220, 366.240)

1. An application for a license to operate as a *licensed* special fuel dealer, *a licensed* special fuel supplier, *a licensed* special fuel user, *a licensed* special fuel exporter or *a licensed* special fuel transporter must include the federal identification number of the applicant's business.

2. As used in this section, "federal identification number" means:

(a) Federal taxpayer identification number;

(b) Federal employer identification number; *or*

(c) ~~social security number; or~~

~~(d)~~ Any other identification number issued by the Internal Revenue Service.

Sec. 43. NAC 366.0069 is hereby amended to read as follows:

NAC 366.0069 Special fuel transporter: Application for and issuance of license. (NRS 366.110, 366.220, 366.240)

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.

4. Pursuant to NRS 366.220 a transporter must be licensed to conduct business in the state

5. Pursuant to NRS 366.240 licensed suppliers, dealers and exporters cannot use an unlicensed transporter

6. Transporters in engaged in the activity of conducting business must provide proof of licensure upon request by a supplier, dealer or exporter

7. Failure of a supplier, dealer or exporter to use a licensed transporter will result in the imposition of administrative fines pursuant to NRS 366.740.

Sec. 44. NAC 366.210 is hereby amended to read as follows:

NAC 366.210 Fuel consumed off public highways of this State. (NRS 366.110, 366.200, 366.650)

1. A special fuel user who consumes special fuel in the propulsion of a motor vehicle off the public highways of this State may obtain a refund of the tax paid pursuant to NRS 366.190 for that portion of the special fuel purchased which is consumed off the public highways of this State.

2. A special fuel user who requests a refund pursuant to subsection 1 must:

(a) If the motor vehicle is equipped with a computer or other device capable of computing the number of gallons of special fuel consumed off the public highways of this State, submit to the

Department the information provided by the computer or other device as evidence of the amount of special fuel consumed off the public highways of this State; or

(b) If the motor vehicle is not equipped with a computer or other device capable of computing the number of gallons of special fuel consumed off the public highways of this State:

(1) Compute the amount of special fuel consumed off the public highways of this State by dividing the number of miles the vehicle was operated off the public highways of this State by the average number of miles traveled per gallon of special fuel consumed by the vehicle; and

(2) Submit to the Department the information necessary to establish to the satisfaction of the Department that the information used to make the computation required by subparagraph (1) is accurate.

3. A special fuel user who wishes to obtain a refund pursuant to this section must submit a request to the Department within 12 months after the date of the payment of the tax.

4. Any request for refund which is returned by the Department to the claimant as a result of missing or incomplete information is not deemed as having been received by the Department.

5. For the purposes of this Chapter, a special fuel user must be licensed and in "good standing" with the Department.

6. Unless otherwise notified, all credits shall be applied to outstanding amounts due the Department.

Sec. 45. NAC 366.220 is hereby amended to read as follows:

NAC 366.220 Fuel consumed by vehicle with auxiliary equipment. (NRS 366.110, 366.200, 366.207, 366.650)

1. *Effective January 1, 2009*, a special fuel user who is the operator of a motor vehicle with auxiliary equipment set forth in this subsection may obtain a refund of the tax paid *pursuant to NRS 366.190* on the refundable fuel that is used by the motor vehicle on the public highways of this State in the following amounts:

(a) ~~Boom truck with a block boom..... 10 percent~~ *A*
30% exemption for the following vehicle classifications:

- (1) Cement Mixers*
- (2) Concrete Pumpers*
- (3) Mobile Cranes*
- (4) Drill Rigs*

(b) ~~Car carrier with a hydraulic winch..... 10 percent~~ *A*
20% exemption for the following vehicle classifications:

- (1) Commercial Garbage, Sanitation, Refuse Trucks*
- (2) Trucks with auxiliary pump for cleaning sewers, cesspools, or septic tanks*
- (3) Sweeper Truck*

(c) ~~Dump truck..... 23 percent~~ *A*
10% exemption for all other motor vehicles with auxiliary equipment used to operate a specific function when the vehicle is not traveling down the highway.

Examples include, but are not limited to, Dump Truck/Trailer, Boom Truck, Car Carrier, Semi Wrecker, Refrigeration Truck, Line Truck with digger, derrick, or aerial lift, Carpet Cleaning Truck, Document Shredding Truck or a Tank Truck with a pneumatic tank.

- ~~(d) Garbage truck with a compactor..... 20 percent~~
- ~~(e) Line truck with a digger or derrick..... 20 percent~~

(f) Mobile crane.....	42 percent
(g) Refrigeration truck.....	15 percent
(h) Sanitation truck.....	15 percent
(i) Semi-wrecker truck.....	35 percent
(j) Service truck with a jackhammer or pneumatic drill.....	15 percent
(k) Snow plow.....	10 percent
(l) Sweeper truck.....	20 percent
(m) Tank truck other than a truck with a milk or pneumatic tank.....	24 percent
(n) Truck for distributing hot asphalt.....	10 percent
(o) Truck with a cement mixer.....	30 percent
(p) Truck with a dump trailer.....	5 percent
(q) Truck with a milk tank.....	30 percent
(r) Truck with a pneumatic tank.....	15 percent
(s) Truck with a pump for cleaning a sewer or cesspool.....	90 percent
(t) Truck with an aerial lift.....	20 percent
(u) Truck with equipment to move a dumpster or cargo container.....	23 percent

2. A company may request a Power Take Off (PTO) exemption allowance for documented use of non-dyed diesel fuel in an amount greater than the standard percentage in subsection 1, provided an approved system that records the total hours of operation of a vehicle, the total amount of non-dyed diesel fuel used to operate the motor vehicle, the vehicle odometer and the auxiliary device (PTO) hours of operation. The fuel consumed per hour of operation of a vehicle may be applied to the PTO hours to calculate fuel consumed by the PTO device. The method used to calculate the amount of non-dyed diesel fuel used for PTO operation must establish to the satisfaction of the Department that such use is supported by approved documentation and records, including but not limited to:

- (a) Data captured by on-board computer diagnostics reports;*
- (b) Global Positioning Satellite (GPS) reports; or other methods to determine use in this State; or*
- (c) Other supported metering device that establishes the amount of auxiliary motor activity and fuel consumption.*

3. A company may request an allowance greater than the standard percentage in subsection 1 for any motor vehicle with an auxiliary motor, provided the following criteria is met and accepted by the Department:

(a) A study or test of the equipment is conducted by an independent research group approved by the Department.

(1) Testing must be conducted on a minimum sample size of the vehicles in the class being tested as follows:

- (I) 40% of the vehicles in the fleet, if the fleet consists of 10 or less vehicles;*
- (II) Seven (7) of the vehicles in the fleet, if the fleet consists of 11 – 50 vehicles;*
- (III) Ten (10) of the vehicles in the fleet, if the fleet consists of 51 – 100 vehicles;*
- (IV) 15 of the vehicles in the fleet, if the fleet consists of 101 vehicles or more.*

(2) Tests must consist of a minimum of three (3) consumption tests per vehicle sampled.

(3) If the test is accepted by the Department, the average of the overall fleet consumption will be allowed for a period of 24 months.

(b) Unit hours must identify the actual amount of fuel consumed exclusively by the motor vehicle with an auxiliary motor. Idle time, fuel used by an air conditioning unit, or other non-auxiliary peripheral devices, must be excluded from the total unit hours, or the test will not be accepted.

~~2-~~ 4. To obtain a refund pursuant to this section, a special fuel user must establish to the satisfaction of the Department that:

(a) The tax has been paid *pursuant to NRS 366.190* on the special fuel for which the special fuel user wishes to obtain a refund; and

(b) The special fuel was used in this State to operate auxiliary equipment that is mounted on the motor vehicle.

~~3-~~ 5. Except as otherwise provided in NAC 366.230, a vehicle with an air-conditioning unit is not entitled to a refund pursuant to this section.

~~4-~~ 6. Notwithstanding any provision of this section to the contrary, the amount of a refund allowed for a licensed special fuel user pursuant to this section may not exceed the total amount of taxes paid by the licensed special fuel user for special fuel.

~~5-~~ 7. As used in this section, “refundable fuel”:

(a) Means the total amount of special fuel purchased by a person during the period specified in subsection 5 of NRS 366.207 for which taxes have been paid pursuant to chapter 366 of NRS, less any amount of that special fuel:

(1) That is claimed by the person for another exempt use;

(2) For which any taxes are remitted to another jurisdiction on behalf of the person; and

(3) That is used during that period for any other taxable use.

(b) Does not include special fuel for which a special fuel user has previously received a refund for credit.

~~6-~~ 8. A special fuel user who wishes to obtain a refund pursuant to this section must submit a request to the Department within 12 months after the date of the payment of the tax.

9. Any request for refund which is returned by the Department to the claimant as a result of missing or incomplete information is not deemed as having been received by the Department.

10. For the purposes of this Chapter, a special fuel user must be licensed pursuant to NRS 366.175 and registered pursuant to NRS 482.482 or NRS 706.826 and in “good standing” with the Department.

11. Unless otherwise notified, all credits will be applied to outstanding amounts due the Department.

Sec. 46. NAC 366.230 is hereby amended to read as follows:

NAC 366.230 Undyed fuel used to operate certain vehicles with refrigeration units ~~for air-conditioning units~~. (NRS 366.110, 366.200, 366.650)

1. A special fuel user who uses undyed special fuel to operate a vehicle with a refrigeration unit ~~for an air-conditioning unit~~ which is equipped with an auxiliary motor and separate fuel tank may obtain a refund of the tax paid pursuant to NRS 366.190 for the special fuel used to operate the refrigeration unit ~~for air-conditioning unit~~ only if the special fuel user provides to the Department a copy of the receipt obtained from the person from whom the special fuel was purchased which states that the fuel was placed in the fuel supply tank for the auxiliary motor and which indicates that the tax was paid.

2. *Such refunds are limited to a maximum of 60 gallons per receipt of 60 gallons or less. Refund requests in excess of 45 gallons must be accompanied by proof of tank capacity*
3. *Any receipt of more than 60 gallons will be disallowed unless proof is presented by the manufacturer that the tank is capable of holding more.*
4. *Any receipts for fuel purchases outside of Nevada will be disallowed.*
5. *Unless otherwise notified, all credits will be applied to outstanding amounts due the Department.*

Sec. 47. NAC 366.320 is hereby amended to read as follows:

NAC 366.320 Records of transporter: Form. (NRS 366.110, 366.140)

The records required to be kept pursuant to NRS 366.140 by a transporter include, without limitation, records in the form of ***but not limited to:***

1. ~~Delivery tickets~~ ***Pipeline Report;***
 - (a) ***Import activity;***
 - (b) ***Storage tank inventories, including but not limited to;***
 - (1) ***Shipper;***
 - (2) ***Receiver;***
 - (3) ***Gains; and/or***
 - (4) ***Losses.***
 - (c) ***Origin;***
 - (d) ***Destination;***
 - (e) ***Number of barrels or gallons;***
 - (f) ***Tank inventory by tank;***
 - (g) ***Transaction date;***
 - (h) ***Exchanges; or***
 - (i) ***Transfers***
2. ~~Invoices; and~~ ***Rail Report;***
 - (a) ***Import activity;***
 - (b) ***Origin;***
 - (c) ***Destination;***
 - (d) ***Number of barrels or gallons;***
 - (e) ***Rail car tank inventory;***
 - (f) ***Transaction date;***
 - (g) ***Exchanges; or***
 - (h) ***Transfers***
 - (i) ***Fuel type***
3. ~~Bills of lading or highway transportation receipts~~ ***Consortium report;***
4. ***Independently operated storage facility report;***
5. ***Refinery report;***
6. ***Delivery tickets;***
7. ***Invoices; and***
8. ***Bills of lading or highway transportation receipts.***

Sec. 48. NAC 366.400 is hereby amended to read as follows:

NAC 366.400 Violation of statute: Imposition, amount and payment of administrative fine. (NRS 366.110, 366.740)

1. Except as otherwise provided in this section, if the Department imposes an administrative fine pursuant to NRS 366.740, 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 the first offense, an administrative fine of not *less than \$100 or* more than \$500.

(b) For the second offense, an administrative fine of not less than \$500 or more than \$1,000.

(c) For the third offense, an administrative fine of not less than \$1,000 or more than \$1,500.

(d) For a fourth or subsequent offense, an administrative fine of not less than \$1,500 or more than \$2,500.

For the purposes of paragraphs (b), (c) and (d), a notice of violation and directive to cease from further violation issued by the Department shall be deemed to be a first offense.

2. If the Department imposes an administrative fine pursuant to NRS 366.740 for a violation of NRS 366.223 or 366.265, the Department will, if the violation is:

(a) A first offense, impose an administrative fine of \$500;

(b) A second offense, impose an administrative fine of \$1,500;

(c) A third offense, impose an administrative fine of \$2,000; or

(d) A fourth or subsequent offense, impose an administrative fine of \$2,500.

3. The Department may impose an administrative fine of not less than \$1,500 or more than \$2,500 for any violation of subsection 3 of NRS 366.140, NRS 366.207 or 366.220, or subsection 2 of NRS 366.395.

~~{4. Unless a person who has been fined pursuant to the provisions of NRS 366.740 requests a hearing pursuant to subsection 2 of that section, the person shall pay the fine to the Department not later than the date specified in the notice of violation.}~~

~~4.~~^{5.} Upon the failure of a person to pay an administrative fine imposed pursuant to this section when the fine becomes due, the Department may suspend, revoke or refuse to issue a license to that person pursuant to the provisions of this chapter.

Sec. 49. NAC 366.096, 366.110, 366.120, 366.130, 366.140, 366.150, 366.155, 366.160, and 366.200 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 366.096 Special fuel users: Filing of quarterly or annual tax return directly with Department. (NRS 366.110, 366.380) A special fuel user who is the holder of a special fuel user's license issued by the Department and who operates solely in this State shall file the quarterly or annual tax return required pursuant to NRS 366.380 directly with the Department.

NAC 366.110 Deduction of amount due but not paid by purchaser authorized to defer payment. (NRS 366.110, 366.540)

1. Except as otherwise provided in subsection 2, if a special fuel supplier who is authorized to claim a deduction pursuant to subsection 2 of NRS 366.540 is unable to claim the deduction on his tax return for the month in which the special fuel was purchased, he may claim the deduction when he submits a subsequent tax return if, on the subsequent tax return, he states:

(a) That he is claiming a deduction for special fuel which was not sold during the month for which the return is filed; and

(b) The reason for his failure to claim the deduction on the tax return for the month during which the special fuel was sold.

2. A special fuel supplier may not claim a deduction pursuant to subsection 2 of NRS 366.540 more than 90 days after delivery to the purchaser of the special fuel for which the deduction is claimed.

NAC 366.120 Permit to defer payment: Issuance; application; bond; estimate of fuel to be purchased each month. (NRS 366.110, 366.397)

1. An applicant for a permit issued pursuant to NRS 366.397 to defer payment of the tax on special fuel must file with the Department:

(a) An application on a form prescribed by the Department; and

(b) A bond which satisfies the requirements of subsection 2 of NRS 366.397.

2. The applicant must include in his application an estimate of the number of gallons of special fuel he will purchase each month. The Department will use this information to determine the purchaser's estimated maximum monthly tax.

3. The Department will fix the amount of the bond required pursuant to this section for an applicant for, or the holder of, a permit to defer payment of the special fuel tax at three times the purchaser's estimated maximum monthly tax, but not less than \$1,000.

NAC 366.130 Permit to defer payment: Grounds for denial. (NRS 366.110, 366.397) The Department may refuse to issue a permit pursuant to NRS 366.397 to a person:

1. Who fails to answer each question on the application for the permit or to indicate that the questions he does not answer are not applicable to his business;

2. Who submits an application which contains inaccurate information;

3. Who formerly held a license as a special fuel supplier, dealer, wholesale distributor, exporter or importer in this or any other state, the District of Columbia, the United States, its territories or possessions, or any foreign country which, before the time of filing the application, has been cancelled, suspended or revoked for cause;

4. Who applies as a subterfuge for the real party in interest whose license described in subsection 3 has been cancelled, suspended or revoked for cause;

5. Who fails to file a bond pursuant to NAC 366.120;

6. Who is in default in the payment of a tax on special fuel in this or any other state, the District of Columbia, the United States, its territories or possessions, or any foreign country; or

7. Upon other sufficient cause being shown.

NAC 366.140 Permit to defer payment: Revocation. (NRS 366.110, 366.397)

1. The Department may revoke a permit issued pursuant to NRS 366.397 to a purchaser of special fuel if:

(a) The Department takes action to recover on the purchaser's bond pursuant to NAC 366.150; or

(b) The Department is notified more than once during an 18-month period that the purchaser has failed to pay the tax on special fuel within the time prescribed in NRS 366.397.

2. Before revoking a permit issued pursuant to NRS 366.397, the Department will send a notice by registered or certified mail to the purchaser at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the permit should not be revoked.

NAC 366.150 Failure of purchaser to pay deferred payment: Notice; hearing; action to recover on bond. (NRS 366.110, 366.397)

1. Upon notification from a special fuel supplier that a purchaser who has been issued a permit pursuant to NRS 366.397 has failed to pay the tax on special fuel within the time prescribed in that section, the Department will send a notice by registered or certified mail to the purchaser at his last known address ordering him to appear at a hearing conducted by the Department not less than 10 days after the mailing of the notice and show cause why the Department should not take action to recover on the purchaser's bond. The Department will notify the special fuel supplier of the time and place of the hearing conducted pursuant to this subsection.

2. If a purchaser who has been determined to be delinquent in the payment of the tax on special fuel at a hearing conducted pursuant to subsection 1 does not pay the tax and any penalty or interest imposed by the Department within 10 days after the hearing, the Department may take action to recover on the purchaser's bond.

NAC 366.155 Supplier to require certain proof from purchaser before selling fuel without collecting taxes. (NRS 366.110, 366.207) 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.

NAC 366.160 Liability of supplier who sells fuel to purchaser whose permit has been revoked. (NRS 366.110, 366.397) If, after receiving a notice from the Department pursuant to subsection 5 of NRS 366.397, a special fuel supplier sells special fuel to a purchaser whose permit to defer payment of the tax on special fuel has been revoked, the special fuel supplier is liable to the Department for the tax on the special fuel sold to the purchaser.

NAC 366.200 Submission of spreadsheet or copies of receipts. (NRS 366.110, 366.207, 366.650) A person who wishes to obtain, pursuant to subsection 5 of NRS 366.207, a refund of the tax paid on special fuel which was used for an exempt purpose must submit with his application a spreadsheet or copies of receipts from the person from whom the special fuel was purchased. The spreadsheet or copies or receipts must include:

1. The date on which the special fuel was purchased;
2. The number of gallons of special fuel purchased for an exempt purpose;
3. A statement that the tax imposed by NRS 366.190 was paid to the person from whom the special fuel was purchased; and
4. An explanation as to why clear fuel and not dyed fuel was purchased and used.