

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

LCB File No. R071-14

§§1-10 and 15 become effective on January 16, 2015.
§§11-14 become effective on January 1, 2017, for each county in which a majority of the registered voters in the county voting on the question placed on the ballot pursuant to subsection 2 of section 13 of chapter 540, Statutes of Nevada 2013, at page 3586, approve the question authorizing the board of county commissioners to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes and the increases in those taxes authorized by NRS 373.0667

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

AUTHORITY: §§1-15, NRS 373.083.

A REGULATION relating to taxes imposed on special fuels; establishing the procedure by which certain persons who use special fuel in motor vehicles operated or intended to be operated interstate may submit to the Department of Motor Vehicles a request for reimbursement of certain local taxes imposed on special fuels; providing limitations on the sources from which reimbursements may be made and the total amount of money which may be used in any fiscal year to make reimbursements; establishing the amount of the fee which the Department will charge and collect from each person who submits a request for reimbursement; requiring the Department to establish and administer certain trust accounts for the purpose of paying requests for reimbursement which are approved by the Department; providing that the Department may investigate or conduct an examination or audit of a person who receives reimbursement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 413 of the 2013 Legislative Session authorized the board of county commissioners of a county whose population is 700,000 or more and in which a regional transportation commission has been created and a county tax is imposed on motor vehicle fuel (currently Clark County) to impose, upon approval by a two-thirds majority of the members of the board, additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. (NRS 373.0663) The Board of County Commissioners of Clark County has imposed the additional taxes authorized by A.B. 413. In any county other than Clark County and Washoe County, upon approval by a majority of the voters at the general election in November 2016, A.B. 413 also requires the board of county commissioners to impose additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. (NRS 373.0667)

The Department of Motor Vehicles is a party to the International Fuel Tax Agreement (IFTA), a multistate agreement which facilitates the calculation and collection of certain fuel taxes from interstate trucking companies and others who use special fuel (primarily diesel fuel) in vehicles operated or intended to operate interstate. (NRS 366.175) A.B. 413 requires certain special fuel users to file a return with the Department and requires the Department to adopt regulations establishing a system for auditing such returns to determine whether any amounts are owed by or to the special fuel user as a result of any additional taxes on special fuels authorized or required by A.B. 413. A.B. 413 also requires the Department to charge and collect a fee from the special fuel users who file a request for reimbursement with the Department. (NRS 373.083)

This regulation establishes a system for the submission by a special fuel user of a request for reimbursement of amounts owed to the special fuel user as a result of the additional taxes on special fuels authorized or required by A.B. 413. **Section 5** of this regulation authorizes a person who uses special fuel in a motor vehicle operated or intended to operate interstate and who files quarterly tax returns pursuant to IFTA to request reimbursement of any tax imposed by a county on special fuels pursuant to A.B. 413 for that portion of the special fuel purchased by the taxpayer which is consumed outside Nevada. **Section 5** also sets forth the requirements relating to the submission to the Department of a request for reimbursement. **Sections 6 and 7** of this regulation set forth certain requirements concerning the sources of and amounts of money from which reimbursement may be made. **Section 8** of this regulation establishes the amount of the fee (\$100) which the Department will charge and collect from each person who submits a request for reimbursement. **Section 9** of this regulation provides that the Department or any of its authorized agents may investigate or conduct an examination or audit of any person who submits a request for reimbursement: (1) to determine whether the taxpayer is eligible to receive reimbursement; and (2) to verify any information relating to the request for reimbursement submitted to the Department. **Section 9** also establishes recordkeeping requirements for information relating to any request for reimbursement. **Section 10** of this regulation provides that the Department may adjust the amount of any reimbursement received by a taxpayer if the Department determines after an audit or examination that the taxpayer was not eligible for the reimbursement.

Sections 11-14 of this regulation amend prospectively **sections 5-7 and 9** and become effective contingent on approval by the voters in a county other than Clark County or Washoe County of the ballot question placed on the ballot at the general election in November 2016, which authorizes the board of county commissioners to impose the taxes and the increases in those taxes authorized by NRS 373.0667.

Section 1. Chapter 373 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“International Fuel Tax Agreement” means the agreement entered into by the Department on July 1, 1992, pursuant to NRS 366.175.*

Sec. 4. *“Taxpayer” means a person who uses special fuel in a motor vehicle operated or intended to operate interstate and who files a quarterly tax return pursuant to the International Fuel Tax Agreement.*

Sec. 5. 1. *A taxpayer may, in the manner prescribed by this chapter, request reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663 for that portion of the special fuel purchased by the taxpayer which is consumed outside this State.*

2. *A request for reimbursement of the tax imposed on special fuels pursuant to NRS 373.066 or 373.0663 must:*

- (a) Be submitted to the Department on a form prescribed by the Department.*
- (b) Be accompanied by payment of the fee prescribed by section 8 of this regulation.*
- (c) Be received by the Department not later than April 1 of the calendar year immediately following the calendar year for which the taxpayer is requesting reimbursement.*
- (d) Include a request for reimbursement of the tax imposed pursuant to NRS 373.066 or 373.0663 on all special fuels purchased by the taxpayer during the calendar year immediately preceding the date by which, pursuant to paragraph (c), the request must be received by the Department.*
- (e) Include evidence satisfactory to the Department that the taxpayer filed a quarterly tax return pursuant to the International Fuel Tax Agreement that corresponds to each quarter of the calendar year during which the special fuel was purchased and for which the taxpayer is requesting reimbursement.*

(f) Include a copy of a fuel receipt meeting the requirements of subsection 3 or any other evidence satisfactory to the Department to establish the number of gallons of special fuel purchased by the taxpayer and for which the taxpayer is eligible for reimbursement.

(g) Include evidence satisfactory to the Department to establish the number of miles traveled outside this State.

3. A fuel receipt of which a copy is submitted pursuant to paragraph (f) of subsection 2 must be unaltered and:

(a) Include evidence of the purchase of special fuel in a county of this State which imposes a tax on special fuels pursuant to NRS 373.066 or 373.0663; and

(b) Meet the requirements for a fuel receipt set forth under the Articles of Agreement of the International Fuel Tax Agreement.

4. A request for reimbursement shall be deemed to be received by the Department:

(a) If 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 properly addressed to the Department;

(b) If delivered by a private postal or courier service, on the business day last preceding the date of actual delivery to the Department; or

(c) If submitted electronically, on the date the request for reimbursement is received by the Department.

5. The Department will deny a request for reimbursement which is not received by the Department on or before the date specified in paragraph (c) of subsection 2.

Sec. 6. Upon timely receipt of a complete request submitted pursuant to this chapter for reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663 and

receipt of any other information required by the Department, the Department will determine whether to grant or deny the request for reimbursement. If the Department approves a request for reimbursement of the tax imposed on special fuels pursuant to NRS 373.066 or 373.0663, for each county in which a tax is imposed on special fuels pursuant to NRS 373.066 or 373.0663:

1. The reimbursement must be paid only from money deposited into the trust account for the county during the current fiscal year in accordance with the provisions of section 7 of this regulation;

2. The total amount of money which must be paid by the county in any fiscal year to reimburse any amounts owed to taxpayers must not exceed 20 percent of the total amount of money collected by the county from any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663; and

3. The reimbursement must not be paid from any money received by the county from any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding on June 12, 2013, secured by those taxes or of any bonds that refund such bonds, provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

Sec. 7. 1. For each county in which a tax is imposed pursuant to NRS 373.0663, the Department will establish and administer an interest-bearing trust account and will deposit into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.0663 each month. After the expiration of the term of any bonds outstanding on June 12, 2013, secured by the proceeds of any tax imposed pursuant to NRS 373.066, for each county in which a tax is imposed pursuant to NRS 373.066, the Department will establish and administer an interest-bearing trust account and will deposit

into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.066 each month.

2. Except as otherwise provided in subsection 4, the money deposited by the Department into any trust account created pursuant to subsection 1 must be used only to pay requests for reimbursement approved by the Department pursuant to section 6 of this regulation.

3. If in any year the total amount of requests for reimbursement approved by the Department exceeds the amount of money deposited into the trust account of the county during the current fiscal year, the Department will pay the approved requests for reimbursement on a pro rata basis. For the purposes of this subsection, “pro rata basis” means that the amount of each request for reimbursement approved by the Department will be proportionally reduced by multiplying the amount of reimbursement approved by the ratio of the total amount of money deposited into the trust account during the current fiscal year, exclusive of interest, divided by the total amount of requests for reimbursement approved by the Department.

4. At the end of each fiscal year and after the payment of all requests for reimbursement approved by the Department, the Department will distribute to each county for which a trust account has been created pursuant to subsection 1 any balance remaining in the trust account, including the amount of any accrued interest.

Sec. 8. 1. *The Department will charge and collect from each taxpayer who submits a request for reimbursement pursuant to this chapter a nonrefundable fee of \$100 for each request. The fee must be paid to the Department using a method of payment accepted by the Department. The Department will not consider any request for reimbursement that is not accompanied by the fee required by this section.*

2. If a check or other method of payment submitted to the Department for payment of the fee required by this section is returned to the Department or otherwise dishonored upon presentation for payment, the Department:

(a) Will charge an additional fee in the amount established by the State Controller pursuant to NRS 353C.115 for handling the check or other method of payment; and

(b) Except as otherwise provided in NRS 353.1467, may require that any future payments of the fee required by this section be made by cashier's check, traveler's check, money order or cash.

Sec. 9. 1. The Department or any of its authorized agents may investigate or conduct an examination or audit of any taxpayer who receives a reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663 to:

(a) Determine whether the taxpayer was eligible for the amount of reimbursement received; and

(b) Verify any supporting documentation relating to the request for reimbursement submitted by the taxpayer to the Department.

2. In investigating or conducting an examination or audit of any taxpayer who submits a request pursuant to this chapter for reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663, the Department or any of its authorized agents may examine any books, accounts and records, receipts, invoices and other documents or information relating to the request for reimbursement.

3. All the taxpayer's books, accounts and records, receipts, invoices and other documents and information relating to a request for reimbursement submitted pursuant to this chapter

must be available for inspection by the Department or any of its authorized agents during normal business hours.

4. The fact that any of the books, accounts and records, receipts, invoices and other documents and information described in subsection 3 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination at the time and place those documents and information become available.

5. All books, accounts and records, receipts, invoices and other documents and information used by a taxpayer to support a request for reimbursement submitted pursuant to this chapter must be maintained by the taxpayer for at least 4 years after the date on which the request for reimbursement was received by the Department.

Sec. 10. *If the Department determines after an audit or examination conducted pursuant to section 9 of this regulation that a taxpayer is not eligible for the amount of reimbursement received, the Department may adjust the amount of reimbursement.*

Sec. 11. Section 5 of this regulation is hereby amended to read as follows:

Sec. 5. 1. A taxpayer may, in the manner prescribed by this chapter, request reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 *or 373.0667* for that portion of the special fuel purchased by the taxpayer which is consumed outside this State.

2. A request for reimbursement of the tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 *or 373.0667* must:

- (a) Be submitted to the Department on a form prescribed by the Department.
- (b) Be accompanied by payment of the fee prescribed by section 8 of this regulation.

(c) Be received by the Department not later than April 1 of the calendar year immediately following the calendar year for which the taxpayer is requesting reimbursement.

(d) Include a request for reimbursement of the tax imposed pursuant to NRS 373.066 , ~~373.0663~~ *or 373.0667* on all special fuels purchased by the taxpayer during the calendar year immediately preceding the date by which, pursuant to paragraph (c), the request must be received by the Department.

(e) Include evidence satisfactory to the Department that the taxpayer filed a quarterly tax return pursuant to the International Fuel Tax Agreement that corresponds to each quarter of the calendar year during which the special fuel was purchased and for which the taxpayer is requesting reimbursement.

(f) Include a copy of a fuel receipt meeting the requirements of subsection 3 or any other evidence satisfactory to the Department to establish the number of gallons of special fuel purchased by the taxpayer and for which the taxpayer is eligible for reimbursement.

(g) Include evidence satisfactory to the Department to establish the number of miles traveled outside this State.

3. A fuel receipt of which a copy is submitted pursuant to paragraph (f) of subsection 2 must be unaltered and:

(a) Include evidence of the purchase of special fuel in a county of this State which imposes a tax on special fuels pursuant to NRS 373.066 , ~~373.0663~~ ~~;~~ *or 373.0667*; and

(b) Meet the requirements for a fuel receipt set forth under the Articles of Agreement of the International Fuel Tax Agreement.

4. A request for reimbursement shall be deemed to be received by the Department:

(a) If 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 properly addressed to the Department;

(b) If delivered by a private postal or courier service, on the business day last preceding the date of actual delivery to the Department; or

(c) If submitted electronically, on the date the request for reimbursement is received by the Department.

5. The Department will deny a request for reimbursement which is not received by the Department on or before the date specified in paragraph (c) of subsection 2.

Sec. 12. Section 6 of this regulation is hereby amended to read as follows:

Sec. 6. Upon timely receipt of a complete request submitted pursuant to this chapter for reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 *or 373.0667* and receipt of any other information required by the Department, the Department will determine whether to grant or deny the request for reimbursement. If the Department approves a request for reimbursement of the tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 ~~or~~ *373.0667*, for each county in which a tax is imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 ~~or~~ *373.0667*:

1. The reimbursement must be paid only from money deposited into the trust account for the county during the current fiscal year in accordance with the provisions of section 7 of this regulation;

2. The total amount of money which must be paid by the county in any fiscal year to reimburse any amounts owed to taxpayers must not exceed 20 percent of the total amount

of money collected by the county from any tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 ~~;~~ *or 373.0667*; and

3. The reimbursement must not be paid from any money received by the county from any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding on June 12, 2013, secured by those taxes or of any bonds that refund such bonds, provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

Sec. 13. Section 7 of this regulation is hereby amended to read as follows:

Sec. 7. 1. For each county in which a tax is imposed pursuant to NRS 373.0663 ~~;~~ *or 373.0667*, the Department will establish and administer an interest-bearing trust account and will deposit into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.0663 *or 373.0667, as applicable*, each month. After the expiration of the term of any bonds outstanding on June 12, 2013, secured by the proceeds of any tax imposed pursuant to NRS 373.066, for each county in which a tax is imposed pursuant to NRS 373.066, the Department will establish and administer an interest-bearing trust account and will deposit into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.066 each month.

2. Except as otherwise provided in subsection 4, the money deposited by the Department into any trust account created pursuant to subsection 1 must be used only to pay requests for reimbursement approved by the Department pursuant to section 6 of this regulation.

3. If in any year the total amount of requests for reimbursement approved by the Department exceeds the amount of money deposited into the trust account of the county

during the current fiscal year, the Department will pay the approved requests for reimbursement on a pro rata basis. For the purposes of this subsection, “pro rata basis” means that the amount of each request for reimbursement approved by the Department will be proportionally reduced by multiplying the amount of reimbursement approved by the ratio of the total amount of money deposited into the trust account during the current fiscal year, exclusive of interest, divided by the total amount of requests for reimbursement approved by the Department.

4. At the end of each fiscal year and after the payment of all requests for reimbursement approved by the Department, the Department will distribute to each county for which a trust account has been created pursuant to subsection 1 any balance remaining in the trust account, including the amount of any accrued interest.

Sec. 14. Section 9 of this regulation is hereby amended to read as follows:

Sec. 9. 1. The Department or any of its authorized agents may investigate or conduct an examination or audit of any taxpayer who receives a reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 *or 373.0667* to:

(a) Determine whether the taxpayer was eligible for the amount of reimbursement received; and

(b) Verify any supporting documentation relating to the request for reimbursement submitted by the taxpayer to the Department.

2. In investigating or conducting an examination or audit of any taxpayer who submits a request pursuant to this chapter for reimbursement of any tax imposed on special fuels pursuant to NRS 373.066 , ~~or~~ 373.0663 ~~;~~ *or 373.0667*, the Department or any of its

authorized agents may examine any books, accounts and records, receipts, invoices and other documents or information relating to the request for reimbursement.

3. All the taxpayer's books, accounts and records, receipts, invoices and other documents and information relating to a request for reimbursement submitted pursuant to this chapter must be available for inspection by the Department or any of its authorized agents during normal business hours.

4. The fact that any of the books, accounts and records, receipts, invoices and other documents and information described in subsection 3 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination at the time and place those documents and information become available.

5. All books, accounts and records, receipts, invoices and other documents and information used by a taxpayer to support a request for reimbursement submitted pursuant to this chapter must be maintained by the taxpayer for at least 4 years after the date on which the request for reimbursement was received by the Department.

Sec. 15. 1. This section and sections 1 to 10, inclusive, of this regulation become effective on January 16, 2015.

2. Sections 11 to 14, inclusive, of this regulation become effective on January 1, 2017, for each county in which a majority of the registered voters in the county voting on the question placed on the ballot pursuant to subsection 2 of section 13 of chapter 540, Statutes of Nevada 2013, at page 3586, approve the question authorizing the board of county commissioners to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes and the increases in those taxes authorized by NRS 373.0667.

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066

LCB FILE NO. R071-14

December 23, 2014

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

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

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

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

Solicitation of Public Comment

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

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

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

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

2. The number of persons who:

(a) Attended the workshop; 10

In attendance in Carson City – 3

Jude Hurin, Department of Motor Vehicles (Hearings Officer)

Dawn Lietz, Department of Motor Vehicles

Bill Wellman, NEDCO

In attendance in Las Vegas – 7

Kevin Malone, Department of Motor Vehicles

Patricia Smith, NV Economic Development Coalition

David Clyde, RTC of Southern Nevada

Marc Traasdahl, RTC of Southern Nevada

Charity Cage, RTC of Southern Nevada

Jay Prybil, Las Vegas Paving

John Tolas, Las Vegas Paving

In attendance in Elko – 1

Stephanie Fawcett, Department of Motor Vehicles

(b) Testified at the workshop; 0

(c) Submitted to the agency written statements; 0

(d) Attended the hearing; 10

In attendance in Carson City – 6

Jude Hurin, Department of Motor Vehicles (Hearings Officer)

Dawn Lietz, Department of Motor Vehicles

Wayne Seidel, Department of Motor Vehicles

Paul Enos, Nevada Trucking Association

John Swendseid, Sherman & Howard

Joanna Jacob, Ferrari Public Affairs

In attendance in Las Vegas – 3

Kevin Malone, Department of Motor Vehicles

Owen Sherwood, SW Gas

David Dobrzynski, Clark County

In attendance in Elko – 1

Kathryn Palangi, Department of Motor Vehicles

(e) Testified at the hearing - 1

Paul Enos, Nevada Trucking Association

8745 Technology Way, Suite E

Reno, NV 89521

Office: 775-673-6111 Cell: 775-843-7580

Email: pje@nevadatrucking.com

(f) Submitted to the agency written statements – 0

- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

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

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

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

- 5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:**

Business:

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

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

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

Same as (a) above.

Public:

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

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

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

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

6. The estimated cost to the agency for enforcement of the adopted regulation.
 There is no additional cost to the Department of Motor Vehicles for the enforcement of the adopted regulations.

7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.
 There are no other state or federal government agency regulations that are duplicated or overlapped by the adopted regulations.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.
 There are no federal regulations that regulate the same activity as addressed in the adopted regulations.

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

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

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

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

take a small business just over a month to reach the breakeven point, where a large business could potentially reach this point in a matter of days.

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

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

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

10. Small Business Impact Statement

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

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