

PROPOSED REGULATION OF THE DEPARTMENT OF MOTOR VEHICLES

LCB File No. R098-14

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

AUTHORITY: NRS 366.203

A REGULATION relating to vehicles using dyed special fuels and the operation and movement, thereof, on public highways; defining the term “incidentally operated or moved upon a highway”; and providing other matters properly relating thereto.

Section 1. Chapter 366 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 3, inclusive, of this regulation.

Sec. 2. NAC 366.0065 ~~{Special mobile equipment: “}~~**Incidentally operated or moved upon a highway^{[?] - interpreted; vehicles not specified in statutory definition.}** ([NRS 366.085](#), [366.110](#), [366.203](#))

1. As used in [NRS 366.085](#), the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation of:

- (a) A motor vehicle in an emergency situation, as determined by emergency personnel, including, without limitation, a law enforcement agency or other appropriate authority;
- (b) Construction equipment to patch a roadway that is operated subject to the terms of a contract for a specific project;
- (c) Snow removal equipment to clear snow from highways during or immediately following inclement weather; or
- (d) Special mobile equipment on a public highway that is not a controlled-access highway as defined in [NRS 484A.060](#), if the special mobile equipment travels not more than 5 miles from the point at which the special mobile equipment initially entered the public highway.

2. As used in [NRS 366.085](#), the term “special mobile equipment” does not include:

- (a) Any truck that:
 - (1) Is used as a water truck on any portion of a public highway; or
 - (2) Was originally designed and manufactured as a vehicle to carry cargo;
- (b) Any vehicle:
 - (1) That is used to sweep any portion of a public highway;
 - (2) That was originally designed and manufactured to transport persons or property;
 - (3) To which machinery for sweeping is mounted or attached; or
 - (4) That has the capability of traveling long distances over a controlled access highway;
- (c) Any trailer; or
- (d) Any farm machinery or implements of husbandry.

3. As used in NRS 366.203, except as defined in subsection 1, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the same as use allowed by federal laws:

*(a) 26 U.S.C. § 4041(a-m); and
(b) Treas. Reg. § 48.4041-8(b)(2)(i-ii).*

(Added to NAC by Dep't of Motor Veh. by R139-01, eff. 6-25-2002; A by R008-06, 5-4-2006; R079-07, 1-30-2008)

Sec. 3. NAC 366.190 is hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 366.190 Use of dyed fuel: “Federal law” interpreted. (NRS 366.110, 366.203) The Department interprets the term “federal law” as used in NRS 366.203 to mean:

1. 26 U.S.C. § 4041(a)(1);
2. Treas. Reg. § 48.4041-8(b)(2)(i); and
3. Treas. Reg. § 48.4041-8(b)(2)(ii).

(Added to NAC by Dep't of Motor Veh. by R101-05, eff. 10-31-2005)