

**PROPOSED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R125-15

February 4, 2016

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

AUTHORITY: §1, NRS 366.110 and section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115; §2, NRS 366.085 and 366.110; §3, NRS 482.123, 482.160 and 484A.245; §4, NRS 482.123, 482.160, 484A.245 and 484A.470; §5, NRS 484D.715, as amended by section 29 of Senate Bill No. 188, chapter 317, Statutes of Nevada 2015, at page 1641, and NRS 484D.720; §6, NRS 706.121 and 706.171.

A REGULATION relating to special fuels; establishing requirements concerning evidence of eligibility for refunds of certain taxes paid on the bulk purchase of special fuel; revising certain provisions relating to implements of husbandry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person whom the Department of Motor Vehicles determines is a bona fide farmer or rancher to claim a refund of 80 percent of the state taxes paid by the farmer or rancher on bulk purchases of special fuel without the necessity of maintaining records of use pertaining to such special fuel. Existing law authorizes the Department to adopt regulations relating to the determination of the amount of the refund available to a person who claims such a refund. (Section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115) **Section 1** of this regulation requires a person claiming such a refund to provide evidence satisfactory to the Department that the person is eligible for a refund. Under **section 1**, evidence of eligibility may include, without limitation, a spreadsheet, or copies thereof, showing information derived from original documents such as sales receipts, which establish that the purchase of special fuel which is the basis for the claim was a bulk purchase of special fuel.

Senate Bill No. 155 of the 2015 Legislative Session consolidated into the term “implement of husbandry” the vehicles and agricultural equipment variously described as “farm equipment,” “farm tractors” and “implements of husbandry” and included within the term those farm vehicles that are used exclusively by a farmer or rancher for agricultural purposes on a farm or ranch. (Sections 2, 4 and 6-9 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at pages 1116-21) **Sections 2-6** of this regulation make conforming changes.

Section 1. Chapter 366 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A bona fide farmer or rancher who, pursuant to section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115, claims a refund of any tax paid on the bulk purchase of special fuel must provide to the Department evidence satisfactory to the Department that the person is eligible for such a refund. Evidence of eligibility for a refund may include, without limitation, a spreadsheet, or copies thereof, showing information derived from original documents, including, without limitation, sales receipts, which establish that the purchase of special fuel which is the basis for the claim was a bulk purchase as that term is defined in subsection 5 of section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115.

2. A bona fide farmer or rancher may not claim a refund pursuant to section 1 of Senate Bill No. 155, chapter 235, Statutes of Nevada 2015, at page 1115, of any tax paid on the purchase within this State of special fuel that is consumed outside this State.

Sec. 2. NAC 366.0065 is hereby amended to read as follows:

366.0065 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, the Department will interpret the term “incidentally operated or moved upon a highway” to mean the operation or movement upon a highway of special mobile equipment that is:

(a) Exempted by 26 U.S.C. § 4041 from any tax imposed by that statute; or

(b) Described in ~~Treas. Reg.~~ **26 C.F.R.** § 48.4041-8(b)(2)(i) or ~~Treas. Reg.~~ § 48.4041-8(b)(2)(ii).

Sec. 3. NAC 482.007 is hereby amended to read as follows:

482.007 1. As used in NRS 482.123 and 484A.245, 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 482.123 and 484A.245, 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.

Sec. 4. NAC 484A.010 is hereby amended to read as follows:

484A.010 1. As used in NRS 482.123 and 484A.245, 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 482.123 and 484A.245, 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.

Sec. 5. NAC 484D.630 is hereby amended to read as follows:

484D.630 1. Except as otherwise provided in NRS 484D.725, the Department will issue to an owner-operator:

(a) An annual multiple-trip permit for the movement on an interstate or controlled-access highway of implements of husbandry ~~{and farm equipment}~~ that:

- (1) Exceed 8 feet 6 inches in width, but are not more than 14 feet in width;
- (2) Exceed 14 feet in height, but are not more than 15 feet in height; or
- (3) Exceed 70 feet in length, but are not more than 110 feet in length; and

(b) A single-trip permit for the movement on an interstate or controlled-access highway of implements of husbandry ~~{and farm equipment}~~ that:

- (1) Exceed 8 feet 6 inches in width, but are not more than 17 feet in width;
- (2) Exceed 15 feet in height; or
- (3) Exceed 110 feet in length.

2. The Department will issue the single-trip or annual multiple-trip permit to the owner-operator at no cost.

3. Implements of husbandry ~~{and farm equipment}~~ that are moved or transported pursuant to this section that:

(a) Do not exceed 14 feet in width may be driven or towed if the implements of husbandry :
~~{and farm equipment:}~~

- (1) Travel during hours of daylight;
- (2) Are followed by a pilot car; and
- (3) Travel as far to the right-hand side of the highway as is practicable.

(b) Exceed 14 feet in width must be transported or moved as a load on another vehicle.

4. The provisions of this section do not apply to the movement of implements of husbandry ~~{and farm equipment}~~ by:

- (a) An owner-operator on a highway other than an interstate or controlled-access highway; or
- (b) A person other than an owner-operator.

5. As used in this section, “owner-operator” means an owner of implements of husbandry ~~{and farm equipment}~~ who is directly engaged in farming, ranching or other agricultural operations and uses the implements of husbandry ~~{and farm equipment}~~ solely in those operations. The term does not include a person who rents, leases or otherwise makes available implements of husbandry ~~{and farm equipment}~~ to other persons.

Sec. 6. NAC 706.1293 is hereby amended to read as follows:

706.1293 1. As used in NRS 706.121, 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 706.121, 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.