

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

LCB FILE NO. R010-201

**The following document is the initial draft regulation proposed
by the agency submitted on 01/27/2020**

**PROPOSED REGULATION OF
THE NEVADA DEPARTMENT OF MOTOR VEHICLES
LCB File No.**

12/18/19

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

Purpose: To amend regulations under the Nevada Administrative Code from the passage of S.B. 48 (2019) allowing rural counties to impose an option tax on diesel that includes a system to allow for the reimbursement of those taxes to persons consuming the fuel outside of the state consistent with the current system for reimbursement of index taxes on special fuels.

AUTHORITY: NRS 373.083

Section 1. Chapter 373 of NAC is hereby amended by adding thereto a new section to read as follows: *If a board of county commissioners of a county whose population is less than 100,000 imposes a tax on diesel fuel pursuant to SB48 section 3.1, the tax must be in whole cent increments.*

Sec. 2. NAC 373.140 is hereby amended to read as follows:

373.140 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, 373.0663 or ~~[373.0667]~~ *diesel fuels pursuant to SB48 chapter 225 section 3*, for that portion of the special fuel *or diesel 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, 373.0663 or ~~[373.0667]~~ *diesel fuels pursuant to SB48 chapter 225 section 3* must:

- (a) Be submitted to the Department on a form prescribed by the Department.
- (b) Be accompanied by payment of the fee prescribed by NAC 373.170.
- (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]~~ *SB48 chapter 225 section 3* on all special fuels *or diesel 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~~ *diesel fuels pursuant to SB48 chapter 225 section 3*; 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 of tax imposed pursuant to SB48 chapter 225 section 3 will be considered once 10,000,000 gallons or more of diesel fuel has been sold in the county in the preceding fiscal year and will not be discontinued.*

5. 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~~ 6. 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. 3. NAC 373.150 is hereby amended to read as follows:

373.150 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, 373.0663 or ~~373.0667~~ *diesel fuels pursuant to SB48 chapter 225 section 3* 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, 373.0663 or ~~373.0667~~ *diesel fuels pursuant to SB48 chapter 225 section 3*, for each county in which a tax is imposed on special fuels pursuant to NRS 373.066, 373.0663 or ~~373.0667~~ *diesel fuels pursuant to SB48 chapter 225 section 3*:

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 NAC 373.160;

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, 373.0663 or ~~373.0667~~ *diesel fuels pursuant to SB48 chapter 225 section 3*; 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. 4 NAC 373.160 is hereby amended to read as follows:

373.160 Department to establish and administer interest-bearing trust accounts for deposit of certain taxes collected by county; money in trust accounts to be used to pay requests for reimbursement; pro-rata payments; distributions to county. (NRS 373.083)

1. For each county in which a tax is imposed pursuant to NRS 373.0663, or ~~373.0667~~ **SB48 chapter 225 section 3**, 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~~ **SB48 chapter 225 section 3**, 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 NAC 373.150.

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. 5. NAC 373.180 is hereby amended to read as follows:

373.180 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, 373.0663 or ~~373.0667~~ **SB48 chapter 225 section 3** 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, 373.0663 or ~~373.0667~~ **SB48 chapter 225 section 3**, 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.