

**LCB File No. R106-01**

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

**NOTICE OF INTENT TO ACT UPON A REGULATION**

Notice of Hearing for the Amendment of Regulations of the  
Department of Motor Vehicles & Public Safety

The Department of Motor Vehicles will hold public hearings at the following locations on the dates and times specified..

1:00 PM, Monday November 5, 2001  
Channel 5, Public Broadcasting Co.  
1670 N. Virginia St.  
Reno, NV  
(Limited Parking)

(Additional parking is available at the UNR parking lot)  
and

1:00 PM Wednesday, November 7, 2001  
Elko County Library  
720 Court Street, Elko, NV  
and

1:00 PM Friday, November 9, 2001  
Sawyer Building, Room 1100  
555 East Washington Avenue  
Las Vegas, NV

The purpose of the public hearing is to receive comments from all interested persons regarding the Amendment of Regulations that pertain to Chapters 365 and 366 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The purpose of the proposed regulatory amendments is to establish a fair and equitable means of administering and collecting taxes generated by sales of motor fuel and special fuel on Indian reservations, without imposing an undue burden on the Tribes in the collection and remittance of taxes collected. An additional purpose of these amendments, is to establish a reasonable and verifiable basis for refunding to users, the tax paid on the exempt use of taxed fuel. The majority of the amendments result from legislation which changed the administration of motor fuel taxes from the Department of Taxation to the Department of Motor Vehicles. It is also the Department's desire to be consistent with it's application of regulations interdepartmentally and with other agencies.

The department does not anticipate any economic cost to the industry or the general public, nor does it anticipate any additional cost to the department to enforce the regulations.

The regulations do not increase or establish any additional fees.

Persons wishing to comment upon the proposed action of the Department of Motor Vehicles and Public Safety may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Motor Vehicles. Written submissions must be received by the Department of Motor Vehicles on or before November 10, 2001. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Motor Vehicles may proceed immediately to act upon any written submissions. A copy of this notice and the regulations to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted will be available at the Department of Motor Vehicles, 555 Wright Way, Carson City, NV 89711, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption. This notice of public hearing has been posted at the following locations:

ESMERALDA COUNTY  
GOLDFIELD PUBLIC LIBRARY  
PO BOX 430  
(FOURTH & CROOK STREET)  
GOLDFIELD NV 89013

EUREKA BRANCH LIBRARY  
PO BOX 293  
(10190 MONROE STREET)  
EUREKA, NV 89316

LANDER COUNTY  
BATTLE MOUNTAIN BRANCH LIBRARY  
625 BROAD STREET  
BATTLE MOUNTAIN, NV 89820

LINCOLN COUNTY LIBRARY  
PO BOX 330  
(93 MAIN STREET)  
PIOCHE NV 89043

MINERAL COUNTY LIBRARY  
PO BOX 1390  
(FIRST & A STREET)  
HAWTHORNE, NV 89415

PERSHING COUNTY LIBRARY  
PO BOX 781  
(1125 CENTRAL AVENUE)  
LOVELOCK, NV 89419

STOREY COUNTY LIBRARY  
PO BOX 14  
(95 SOUTH R STREET)  
VIRGINIA CITY NV 89440

NEVADA DMV & PS  
305 GALLETTI WAY  
RENO NV 89512

NEVADA DMV & PS  
8250 W. FLAMINGO  
LAS VEGAS NV 89147

NEVADA DMV & PS  
3920 EAST IDAHO STREET  
ELKO NV 89801

NEVADA DMV & PS  
PO BOX 248  
178 AVENUE F  
ELY NV 89301

NEVADA DMV & PS  
973 W WILLIAMS ST  
FALLON NV 89406

NEVADA DMV & PS  
4021 W CAREY

NORTH LAS VEGAS NV 89030

NEVADA DMV & PS  
PO BOX 1912  
TONOPAH NV 89049

NEVADA DMV & PS  
3505 CONSTRUCTION WAY  
WINNEMUCCA NV 89445

NEVADA DMV & PS  
215 WEST BRIDGE STREET  
YERINGTON NV 89447

NEVADA DMV & PS  
1694 COUNTY ROAD  
MINDEN NV 89423

NEVADA DMV & PS  
555 WRIGHT WAY  
CARSON CITY NV 89711-0400

NEVADA STATE LIBRARY  
401 NORTH CARSON  
CARSON CITY, NV 8971

**LCB File No. R106-01**

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

AUTHORITY: NRS 366.110.2

**Section 1.** Chapter 366 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 through 5 NAC 366.005 and NAC 366.220.2, inclusive, of this regulation.

**Sec. 2.** *1. As used in sections 2 to 5 of this regulation, unless the context otherwise requires:*

*(1) "Reservation" means an Indian reservation, Indian colony or fee lands, trust lands and all lands which are within the State of Nevada and are set aside for use and occupation of a tribe, nation or band of Indians.*

*(2) "Tribe" means any Indian tribe, Indian band, Nation or group of Indians recognized by the Federal Government as possessing a government-to-government relationship with the United States.*

*(3) "Governing body" means the governmental entity that has the authority to make decisions for a tribe.*

*(4) "Tribal member" includes an enrolled member of a particular tribe.*

*(5) "Department" means the Department of Motor Vehicles of the State of Nevada.*

*(6) "Non taxable sale" means sale of special fuel to a tribal government or subdivision thereof, or a tribal member for their exclusive use.*

*(g) "Taxable sale" means any sale not otherwise declared as non taxable.*

*(h) “Dealer” has the same meaning as set forth in NRS 366.062.*

*(I) “Supplier” has the same meaning as set forth in NRS 366.070.*

*(10) “Tribal Agreement” means an intergovernmental agreement between a Tribal Government and the Department of Motor Vehicles.*

**Sec. 3. 1.** *For the purpose of determining taxable sales of special fuel under the provision of Chapter 366 of NRS the Department of Motor Vehicles may, by separate compact with each Tribal Government, enter into a Tribal Agreement, to provide for the collection of special fuel taxes on the sale of taxable special fuel within the Tribal jurisdiction by outlets operated by the Tribe, by tribal members and by non-tribal persons.*

**2.** *The Tribal Agreement provided for in subsection 1, when executed:*

*(a) Is valid for such a period as may be determined by the parties, beginning on the date the agreement is executed; and*

*(b) Will provide the method used to determine the percent of taxable sales to total sales; or*

*(c) In the alternative, will provide for such other tax allocation method that the parties may agree to as being appropriate; and*

*(d) Will provide for a re-evaluation of the calculation method; and*

*(e) Will specify the parties to the agreement; and*

*(f) Will contain the signatures of the parties to the agreement; and*

*(g) Will provide for the method for rescission of the agreement; and*

*(h) Provide for a reasonable method of verification of the terms and conditions of the agreement.*

**Sec. 4.** *In the event a Tribe chooses not to enter into the agreement specified in Section 3, suppliers shall be required to collect the appropriate Nevada fuel taxes on all special fuel sold on lands under that Tribe's jurisdiction.*

*(a) Any Tribe who pays the special fuel tax as specified in this Section, may apply to the Department for a refund of the taxes paid on exempt use.*

*(b) In calculation of the amount of the refund due, the Department shall use a reasonable method to determine the amount to be refunded, and may use any method or combination of thereof used in the agreement specified in Sections 3, and 4.*

**Sec. 5.** *A special fuel supplier who fails to submit a tax return pursuant to NRS 366.383 is not entitled to the fee authorized pursuant to NRS 366.090 (1) if:*

- 1. The date the tax return was mailed was after the last day of the month; or*
- 2. If the remittance was not included the tax return, or filed after the last date of the month.*

**NAC 366.005 is hereby amended to read as follows:**

366.005 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Department" means the department of motor vehicles and public safety.
2. "Habitually delinquent" means the commission by a special fuel supplier 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 366.383, unless the department finds that:

(1) The failure was caused by circumstances beyond the control of the special fuel supplier and occurred notwithstanding the exercise of ordinary care; and

(2) The special fuel supplier 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 366.405 during the period prescribed in that section.

***3. “Refundable Fuel” means the quantity of tax paid special fuel which is available for refund of the Nevada tax, and is determined as follows:***

***(a) The total of all special fuel purchased in the State of Nevada during the refund period:***

***(1) less any special fuel which has been claimed by the taxpayer for another exempt use;***  
***and***

***(2) less any special fuel upon which taxes have been remitted to another jurisdiction on behalf of the taxpayer; and***

***(3) less any other taxable use of the special fuel during the refund period.***

**NAC 366.220.2 is hereby amended to read as follows:**

2. A special fuel user may obtain a refund pursuant to subsection 5 of NRS 366.207 without providing the documentation required by subsection 1 if the motor vehicle with auxiliary equipment is a ***motor vehicle which has a common fuel reservoir used to propel the motor vehicle on the highway or operate the auxiliary equipment. If the special fuel user operates a***

*vehicle for which a proportional use exemption should be allowed, and is not listed in this section or the percent conflicts with the special user's claim of a higher percentage than is listed, the special fuel user must submit proof, acceptable to the Department, to substantiate his position. The operator of a motor vehicle listed herein may obtain a refund of the quoted percentage of the tax paid on the refundable fuel used on Nevada's public roads by the following types of vehicles:* ~~[(truck which mixes concrete, a garbage truck with a trash~~

~~compactor or a vehicle with a pump, conveyor or other device for loading or unloading the vehicle. The operator of such a vehicle may obtain a refund of:~~

~~(a) Twenty percent of the tax paid on the special fuel consumed if the auxiliary equipment is a concrete mixer or trash compactor;~~

~~(b) The tax paid on three fourths of a gallon of special fuel for every 1,000 gallons of liquid loaded or unloaded if the auxiliary equipment is a pump; or~~

~~(c) The tax paid on three fourths of a gallon of special fuel for every 6,000 pounds of commodities loaded or unloaded if the auxiliary equipment is a conveyor or other device for the loading or unloading of materials other than liquids.]~~

<u>CODE</u>	<u>TYPE OF ELIGIBLE VEHICLE</u>	
10	Boom Trucks-Block Boom.....	10%
11	Car Carrier with Hydraulic Winch.....	10%
12	Cement Mixers.....	30%
13	Distribution Truck Hot Asphalt.....	10%
14	Dump Trailers.....	15%
15	Dump Trucks.....	23%
16	Garbage Trucks with Compactor.....	20%
17	Line Truck-Digger/Derrick, Aerial Lift Truck.....	20%
18	Milk Tank trucks.....	30%
19	Mobile Cranes.....	42%
20	Pneumatic Tank Trucks.....	15%
21	Refrigeration Truck.....	15%
22	Roll off containers.....	23%



22	<i>Sanitation Truck.....</i>	<i>15%</i>
23	<i>Semi-Wrecker.....</i>	<i>35%</i>
24	<i>Service Truck with Jack Hammer, Pneumatic Drill.....</i>	<i>15%</i>
25	<i>Snow Plow.....</i>	<i>10%</i>
26	<i>Super Sucker.....</i>	<i>90%</i>
27	<i>Sweeper Truck.....</i>	<i>20%</i>
28	<i>Tank Trucks.....</i>	<i>24%</i>

*In order to receive a proportional use exemption refund for special fuel use from the Department of Motor Vehicles and Public Safety, the claimant must provide proof acceptable to the Department that:*

- 1. The Nevada special fuel tax has been previously paid on the fuel covered by the claim; and*
- 2. The special fuel was used in Nevada to operate auxiliary equipment mounted on the vehicle.*