

Brian Sandoval  
*Governor*



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Chief

## Nevada Highway Patrol

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Carson City, Nevada 89711  
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### **NOTICE OF PUBLIC WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS**

The Department of Public Safety, Nevada Highway Patrol Division, will hold a teleconferenced public workshop at 9:30 A.M., on October 12th, at the Nevada Legislature Building, Room 3137, 401 S. Carson St., Carson City, NV 89701 and at the Grant Sawyer State Office Building, Room 4401, 555 E. Washington Ave., Las Vegas, NV 89101. The purpose of the hearing is to receive comments from all interested persons regarding the re-adoption of regulations that pertain to Chapter 706 of the Nevada Administrative Code.

The adoption of the Code of Federal Regulations, Title 49, Parts 40, 382, 383, 385, 387, 390 to 393, inclusive, 395, 396 and 397 is in response to, and in support of, the many changes to the Federal Motor Carrier Safety Regulations (FMCSR), and in support of the Division's grant agreement with the Federal Motor Carrier Safety Administration (FMCSA) to administer the enforcement plan of the Motor Carrier Safety Assistance Program (MCSAP). The proposed regulation does not contain provisions, which are more stringent, than federal regulations that regulate the same activity.

Persons wishing to comment on the proposed action of the Department of Public Safety, Nevada Highway Patrol Division may appear at the scheduled public workshop or may address their comments, data, views, or arguments in written form to the Department of Public Safety, Nevada Highway Patrol Division, Attention Lt. Roy Baughman, at 555 Wright Way, Carson City, NV 89711 OR submitted to [Nevada.cve@dps.state.nv.us](mailto:Nevada.cve@dps.state.nv.us). Written submission must be received by the Department of Public Safety, Nevada Highway Patrol Division, on or before October 12th, 2017. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Public Safety, Nevada Highway Patrol Division, may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended 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 regulation to be adopted will be available at the Department of Public Safety, Nevada Highway Patrol Division website at <http://nhp.nv.gov> and at the following Division offices:

Nevada Highway Patrol  
3920 East Idaho Street  
Elko, NV 89801

Nevada Highway Patrol  
4615 W. Sunset Road  
Las Vegas, NV 89118

Nevada Highway Patrol  
357 Hammill Lane  
Reno, NV 89511-0216

Nevada Highway Patrol  
555 Wright Way  
Carson City, NV 89711

This notice and proposed regulation will be posted in all counties 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, <https://www.leg.state.nv.us/Register/2017Register/R062-17P.pdf>

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. This does not apply to a public body subject to the Open Meeting Law.

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 or incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of this workshop has been sent to:

Nevada Trucking Association  
8745 Technology Way #E  
Reno, NV 89521

Associated General Contractors  
PO Box 7578  
Reno, NV. 89510

This notice is posted at the following county libraries:

Carson City Library  
900 North Roop Street  
Carson City, NV 89701  
sloyd@carson.org

Eureka Branch Library  
Post Office Box 293  
Eureka, NV 89316  
rrevans@clan.lib.nv.us

Douglas County Library  
Post Office Box 337  
1625 Library Lane  
Minden, NV 89423

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445  
cyndi.o@hcnv.us

Las Vegas - Clark County Library  
7060 W. Windmill Lane  
Las Vegas, NV 89113  
administration@lvccld.org

Lyon County Library  
20 Nevin Way  
Yerington, NV 89447  
ageddes@lyon-county.org

Pershing County Library  
Post Office Box 781  
1125 Central Avenue  
Lovelock, NV 89419

Storey County Library  
P.O. Box 980  
175 East Carson St., Suite A  
Virginia City, NV 89440

Tonopah Public Library  
Post Office Box 449  
167 S. Central Street  
Tonopah, NV 89049  
fax: (775) 482-5143

Churchill County Library  
553 South Maine Street  
Fallon, NV 89406  
info@churchillcountylibrary.org

Elko County Library  
720 Court Street  
Elko, NV 89801  
krkincai@clan.lib.nv.us

Goldfield Public Library – Esmeralda  
County  
Corner of Fourth & Crook Street  
Post Office Box 430  
Goldfield, NV 89013  
FAX 775-485-3236  
kemaadon@clan.lib.nv.us

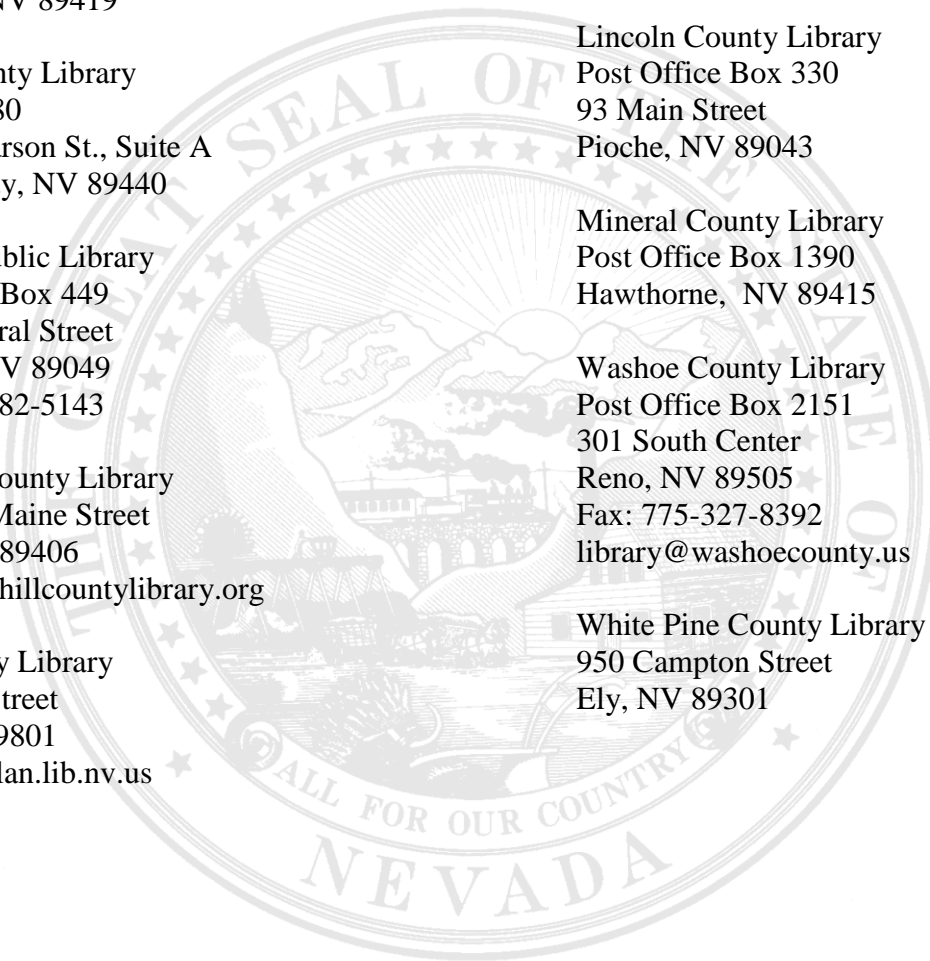
Lander County Library  
Post Office Box 141  
Battle Mountain, NV 89820  
clhamilt@clan.lib.nv.us

Lincoln County Library  
Post Office Box 330  
93 Main Street  
Pioche, NV 89043

Mineral County Library  
Post Office Box 1390  
Hawthorne, NV 89415

Washoe County Library  
Post Office Box 2151  
301 South Center  
Reno, NV 89505  
Fax: 775-327-8392  
library@washoecounty.us

White Pine County Library  
950 Campton Street  
Ely, NV 89301



**PROPOSED REGULATION OF THE  
DEPARTMENT OF PUBLIC SAFETY**

**LCB File No. R062-17**

September 11, 2017

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

AUTHORITY: §§1 and 2, NRS 706.171 and 706.173.

A REGULATION relating to motor carrier safety; revising provisions relating to the adoption and enforcement of federal regulations for motor carrier safety; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the Nevada Transportation Authority, the Department of Motor Vehicles and the Department of Public Safety to adopt by reference any appropriate rule or regulation issued by the United States Department of Transportation or other agency of the Federal Government. (NRS 706.171) This regulation revises certain regulations of the United States Department of Transportation adopted by reference by the Department of Public Safety.

**Section 1.** NAC 706.2472 is hereby amended to read as follows:

706.2472 1. The Department of Public Safety hereby adopts by reference the regulations contained in 49 C.F.R. Parts 40, 382, 383, 385, 387, 390 to 393, inclusive, 395, 396 and 397, *49 C.F.R. § 386.72* and Appendices B and G of 49 C.F.R. Chapter III, Subchapter B, as those regulations existed on ~~May 30, 2012,~~ *the effective date of this regulation, and as subsequently revised by the United States Department of Transportation unless the Director of the Department of Public Safety gives notice pursuant to subsection 4 that a revision is not suitable for this State,* with the following exceptions:

(a) References to the ~~Department of Transportation and the~~ Federal Motor Carrier Safety Administration are amended to refer to the Department of Public Safety.

(b) References to the Administrator of the Federal Motor Carrier Safety Administration ~~and to the Director~~ are amended to refer to the Director of the Department of Public Safety.

(c) Section 391.11(b)(1) applies only to drivers of commercial motor vehicles who:

- (1) Operate in interstate transportation;
- (2) Transport passengers intrastate; or
- (3) Transport hazardous material ~~of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 C.F.R. §§ 172.300 and 172.500.~~, *as defined in NRS 459.7024.*

~~(d) Section 392.5(a)(3) will not apply to motor carriers authorized to provide intrastate charter service by limousine or to the drivers of those motor carriers.~~

~~(e)~~ References to special agents in Appendix B of 49 C.F.R. Chapter III, Subchapter B, are amended to include personnel of the Department of Public Safety.

~~(f)~~ (e) The definition of “motor carrier” in 49 C.F.R. §§ 390.5 and 397.65 is amended to read:

“Motor carrier” includes, without limitation, interstate and intrastate common, contract and private carriers of property and passengers, including, without limitation, their agents, officers and representatives.

~~(g)~~ (f) The definition of “commercial motor vehicle” in 49 C.F.R. §§ 382.107, 385.3 and 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport passengers or property if the vehicle:

(a) Is designed to transport , *for compensation*, more than eight passengers, including, without limitation, the driver;

(b) *Is designed or used to transport, not for compensation, more than 15 passengers, including, without limitation, the driver;*

(c) Is used in the transportation of hazardous materials ~~in a quantity requiring placarding under regulations issued by the Secretary pursuant to 49 U.S.C. §§ 103, 104 and 106;~~ , *as defined in NRS 459.7024*; or

~~(e)~~ (d) Has a gross vehicle weight rating, gross combination weight rating , ~~or~~ gross vehicle weight *or gross combination weight* of 10,001 or more pounds, whichever is greater.

2. Intrastate commerce to transport passengers or property if the vehicle:

(a) Is one described in paragraph (a) , ~~or~~ (b) *or (c)* of subsection 1; *or*

(b) Has a gross vehicle weight rating, gross combination weight rating , ~~or~~ gross vehicle weight *or gross combination weight* of 26,001 or more pounds, whichever is greater . ~~or~~

~~—(c) Is owned or operated by a motor carrier subject to the jurisdiction of the Nevada Transportation Authority, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 383, 385, 390, 391, 393, 395, 396 and 397 if the vehicle is not one described in paragraph (a) or (b).]~~

2. To enforce these regulations, enforcement officers of the Department of Public Safety may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including, without limitation, space for cargo and warehouses.

3. The volume containing 49 C.F.R. Parts 300 to 399, inclusive, is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at the price of \$37. The volume containing 49 C.F.R. Part 40 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at the price of \$66. The volumes are also available free of charge at the Internet address <http://www.gpo.gov/fdsys>.

*4. If a provision adopted by reference pursuant to subsection 1 is revised, the Director of the Department of Public Safety will review the revision to determine its suitability for this State. If the Director of the Department of Public Safety determines that the revision is not suitable for this State, the Director of the Department of Public Safety will hold a public hearing to review his or her determination and give notice of the hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Director of the Department of Public Safety does not revise his or her determination, the Director of the Department of Public Safety will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Director of the Department of Public Safety does not give such notice, the revision becomes part of the provision adopted by reference pursuant to subsection 1.*

**Sec. 2.** NAC 706.297 is hereby amended to read as follows:



706.297 1. The Department of Motor Vehicles and the Department of Public Safety hereby adopt by reference the regulations contained in 49 C.F.R. Parts 382, 383, **385**, 387, 390 to 397, inclusive, **49 C.F.R. § 386.72** and Appendix G of 49 C.F.R. Chapter III, Subchapter B, as those regulations existed on ~~May 30, 2012,~~ ***the effective date of this regulation, and as subsequently revised by the United States Department of Transportation unless the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety gives notice pursuant to subsection 4 that a revision is not suitable for this State,*** with the following exceptions:

(a) References to the ~~Department of Transportation, the Federal Highway Administration and the~~ Federal Motor Carrier Safety Administration are amended to refer to the Department of Motor Vehicles and the Department of Public Safety.

(b) References to the ~~Federal Highway Administrator and to the Director~~ ***Administrator of the Federal Motor Carrier Safety Administration*** are amended to refer to the Director of the Department of Motor Vehicles and the ***Director of the*** Department of Public Safety.

(c) Section 391.11(b)(1) applies only to drivers operating in interstate transportation and drivers transporting hazardous material ~~of a type or quantity that requires the vehicle to be marked or placarded pursuant to 49 C.F.R. § 177.823,~~ ***as defined in NRS 459.7024.***

(d) The definition of “motor carrier” in 49 C.F.R. § 390.5 is amended to read:

“Motor carrier” includes interstate and intrastate common and contract motor carriers of property, other than fully regulated carriers, and private motor carriers, including ***, without limitation,*** their agents, officers and representatives.



(e) The definition of “commercial motor vehicle” in 49 C.F.R. § 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport property, other than household goods, if the vehicle:

(a) Is used in the transportation of hazardous materials ~~in a quantity requiring placarding under regulations issued by the Secretary pursuant to 49 U.S.C. §§ 103, 104 and 106;~~ *as defined in NRS 459.7024*; or

(b) Has a gross vehicle weight rating , ~~or~~ gross combination weight rating , *gross vehicle weight or gross combination weight* of 10,001 or more pounds.

2. Intrastate commerce to transport property, other than household goods, if the vehicle:

(a) Is one described in paragraph (a) of subsection 1;

(b) Has a gross vehicle weight ~~rating~~ *gross vehicle weight* rating , ~~or~~ gross combination weight rating , *gross vehicle weight or gross combination weight* of 26,001 or more pounds; or

(c) Is owned or operated by a motor carrier subject to the jurisdiction of the Department of Motor Vehicles, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5, 392.9 and 396.3(b)(2) and 49 C.F.R. Parts 390, 393 and 397 if the vehicle is not one described in paragraph (a) or (b).

2. To enforce these regulations, enforcement officers of the Department of Motor Vehicles and the Department of Public Safety may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including space for cargo.

3. A copy of the publication which contains the provisions described in subsection 1 may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, for the price of \$37. The publication is also available free of charge at the Internet address <http://www.gpo.gov/fdsys>.

*4. If a provision adopted by reference pursuant to subsection 1 is revised, the Director of the Department of Motor Vehicles and the Director of the Department of Public Safety will review the revision to determine its suitability for this State. If the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety determines that the revision is not suitable for this State, the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety, as applicable, will hold a public hearing to review his or her determination and give notice of the hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety, as applicable, does not revise his or her determination, the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety, as applicable, will give notice that the revision is not suitable for this State within 30 days after the hearing. If neither the Director of the Department of Motor Vehicles nor the Director of the Department of Public Safety gives such notice, the revision becomes part of the provision adopted by reference pursuant to subsection 1.*