

**ADOPTED REGULATION OF THE  
DEPARTMENT OF MOTOR VEHICLES**

**LCB File No. R079-07**

Effective January 30, 2008

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

AUTHORITY: §§1 and 7, NRS 366.085 and 366.110; §2, NRS 482.123 and 482.160; §3-5, NRS 484.173 and 484.7777; §6, NRS 706.121 and 706.171.

A REGULATION relating to special mobile equipment; revising provisions governing the interpretation of the term “incidentally operated or moved upon a highway” for the purposes of various sections of the Nevada Revised Statutes; revising requirements concerning the operation and movement of special mobile equipment upon a highway; and providing other matters properly relating thereto.

**Section 1.** 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 ~~[“off-highway business use” as defined in 26 U.S.C. § 4041(b)(1)(C).]~~ *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 484.041, 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.*

**Sec. 2.** Chapter 482 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. As used in NRS 482.123 and 484.173, 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 484.041, 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 484.173, 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. 3.** Chapter 484 of NAC is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this regulation.

**Sec. 4. 1.** *As used in NRS 482.123 and 484.173, 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 484.041, 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 484.173, 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. 1. *Special mobile equipment may travel on a public highway that is not a controlled-access highway as defined in NRS 484.041, if:***

*(a) The transportation of other person or property is not the intent of the travel; or*

*(b) The travel is required to complete a task and is limited to a specific project for which the special mobile equipment is assigned.*

*2. Special mobile equipment may travel more than 5 miles from the point where the special mobile equipment first entered the public highway if the special mobile equipment:*

*(a) Maintains or cleans a public highway during or immediately following a flood or other emergency as determined by emergency personnel; or*

*(b) Facilitates the movement of traffic on a public highway.*

*3. Special mobile equipment that is incidentally operated or moved upon a highway must not jeopardize traffic safety or impede the flow of traffic.*

**Sec. 6.** Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

*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 484.041, 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.*

**Sec. 1.** NAC 366.006 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**366.006 Special mobile equipment: Vehicles not specified in statutory definition. (NRS 366.085, 366.110)** As used in NRS 366.085, the term “special mobile equipment” does not include:

1. Any truck that:

(a) Is used as a water truck on any portion of a public highway, other than a controlled-access highway as defined in NRS 484.041; and

(b) Was originally designed and manufactured as a vehicle to carry cargo; or

2. Any vehicle:

(a) That is used to sweep any portion of a public highway, other than a controlled-access highway as defined in NRS 484.041;

(b) That was originally designed and manufactured to transport persons or property; and

(c) To which machinery for sweeping is mounted or attached.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R079-07**

The Department of Motor Vehicles adopted regulations assigned LCB File No. R079-07 which pertain to chapters 366, 482, 484 and 706 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop, and notices of intent to act upon the regulation were sent by email to persons who were known to have an interest in the subject of the establishment of provisions relating to: special mobile equipment; provisions governing the term “incidentally operated or moved upon a highway” for the purposes of various sections on the Nevada Revised Statutes and the revision of requirements concerning the operation and movement of special mobile equipment upon a highway. These documents were also made available on the website of the Nevada Department of Motor Vehicles (DMV), [www.dmvnv.com](http://www.dmvnv.com), emailed with posting instructions to all county libraries in Nevada, and posted at the following locations:

Nevada Department of Motor Vehicles Branch Offices:

Office of the Director (Carson City DMV – Customer Lobby) 555 Wright Way Carson City, NV 89711	1085 Highway 95 Hawthorne, NV 89415
8250 West Flamingo Rd. Las Vegas, NV 89147	3030 S. Needles Highway, Ste. 900 Laughlin, NV 89028
3920 E. Idaho St. Elko, NV 89801	1780 E. Basin Ave. Pahrump, NV 89060
178 No. Avenue F Ely, NV 89301	330 N. Sandhill Rd., Ste. H Mesquite, NV 89027
973 W. Williams Ave. Fallon, NV 89406	7170 N. Decatur Blvd. Las Vegas, NV 89131
4110 Donovan Way N. Las Vegas, NV 89030	1137 S. Main St., #C-8 Tonopah, NV 89049
3505 Construction Way Winnemucca, NV 89445	215 West Bridge St. No. 9 Yerington, NV 89447
1694 County Rd. Minden, NV 89423	305 Galletti Way Reno, NV 89512
1399 American Pacific Dr. Henderson, NV 89014	2701 E. Sahara Ave. Las Vegas, NV 89104

A workshop was held on December 19, 2007, and a hearing was held on December 20, 2007 regarding the proposed amendments; a recording of both meetings was made and is



on file at the Nevada Department of Motor Vehicles, Research and Development Division, 555 Wright Way, Carson City, Nevada 89711. On or about November 16, 2007, the Director of the Department of Motor Vehicles issued a Notice of Intent to Act Upon a Regulation with a Notice of Public Workshop to be held December 19, 2007, at 10 a.m. and a Notice of Public Hearing to be held December 20, 2007, at 10 a.m., at the following location:

**Carson City  
Legislative Counsel Bureau, Room 2134  
401 South Carson Street,  
Carson City, Nevada 89701.**

The Hearing was teleconferenced to the following locations:

**Las Vegas  
Grant Sawyer Building, Suite 4400  
555 East Washington Avenue,  
Las Vegas, Nevada 89101**

and

**Elko  
Great Basin College, High Tech Center, Room 121  
1500 College Drive,  
Elko, Nevada 89801**

Copies of the workshop and hearing recording or hearing minutes may be obtained by contacting Sean McDonald by telephone (775) 684-4773 or email, [smcdonald@dmv.nv.gov](mailto:smcdonald@dmv.nv.gov).

**2. The number of persons who:**

**(a) Attended the workshop:** December 19, 2007 – 12 Total

1. Carson City – 7 (of which 4 were from the DMV)
2. Las Vegas – 4 (of which 3 were from the DMV)
3. Elko – 1 (from the DMV)

**(b) Testified at the workshop:** December 19, 2007 – 4 Total

1. Carson City – 3 Total

- Assemblyman Pete Goicoechea Nevada District 35 (speaking on behalf of Assemblymen John Carpenter, Tom Grady and himself) proposed the inclusion of the following subsection to proposed Regulations NAC Chapter 366:

NAC 366.0065 Section 2, Subsection (d) The term Special Mobile Equipment does not include: farm machinery or implements of husbandry.

- Doug Busselman, Executive Vice President for the Nevada Farm Bureau, supported the recommendation made by Assemblyman Pete Goicoechea. In order to establish uniformity, Mr. Busselman recommended the Subsections in Chapters 482, 484 and 706, also be updated to include the verbiage above.
- Assemblyman Pete Goicoechea sought to reconfirm the definition of “Incidentally operated or moved upon a highway” after hearing testimony from David Dieleman (Las Vegas – below). Edgar Roberts confirmed, vehicles having the special mobile equipment designation would be allowed to move from jobsite to jobsite as long as they did not exceed 5 miles.
- John Madole representing Associated General Contractors (AGC) spoke in support of Regulations as drafted. However, he expressed concern that Regulations proposed by NDOT (scheduled to be heard on January 8, 2008) may adversely impact these Regulations. AGC has concern regarding a preliminary proposal from NDOT restricting SME vehicles in excess of 8 feet 6 inches in width or greater to movement by transport only. However it is Mr. Madoles understanding that these oversize limitations will not be limited.

2. Las Vegas – 1 Total

- David Dieleman representing Vehicle Crane, had questions with regards to the movement of cranes across a roadway. Although NDOT regulations regarding the particular subject matter (weight restrictions) in question will be heard on January 8, 2008, Mr. Dieleman wanted additional explanation and clarification as to what qualifies a vehicle as SME, the term “incidental use”, and how they were defined in the proposed Regulations.

3. Elko – None

**(c) Attended the hearing:** December 20, 2007 – 12 Total

1. Carson City – 7 (of which 4 were from the DMV)
2. Las Vegas – 4 (of which all were from the DMV)
3. Elko – 1 (from the DMV)

**(d) Testified at the hearing:** December 20, 2007 – 1 Total

1. Carson City – 1

- Buzz Harris, representing the Nevada Association of General Contractors (AGC) was unable to attend the workshop held on 12/19 but wanted clarification regarding a letter sent to the Director of the Nevada Department of Motor Vehicles (DMV) Ginny Lewis, by Susan Martinovich, Director of the Nevada Department of Transportation (NDOT). The letter proposed placing additional restrictions on special mobile equipment “incidentally operated or moved upon a public highway.” Mr. Harris spoke in opposition to NDOT’s proposed additions and requested confirmation be read into the record providing additional changes would not be made to the existing draft of regulations. Edgar Roberts, Administrator for the Motor Carrier Division, confirmed additional language restricting the movement of special mobile equipment “incidentally operated or moved upon a public highway” would not be entered into the existing draft and was not to be considered as part of the record. Edgar Roberts reiterated, as stated by the Legislative Council Bureau

(LCB), additional language further restricting special mobile equipment in Chapter 484 would be arbitrary. Vehicles impeding the flow of traffic (including special mobile equipment) are considered to be in violation of Chapter 484.

2. Las Vegas – None
3. Elko – None

(e) **Submitted to the agency written statements:** – None

1. Carson City – None
2. Las Vegas – None
3. Elko – None

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

There is no estimated adverse or beneficial economic effect on businesses. However, public comment was solicited as explained in response to question #1.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.**

The permanent regulation was adopted on December 26, 2007, and included the changes suggested at the workshop held on November 19, 2007. The proposed changes included the addition of a subsection further clarifying the term “special mobile equipment” does not include any farm machinery and/or implements of husbandry. See example below:

*2. As used in NRS 482.123 and 484.173, 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;*

~~*for*~~

*(c) Any trailer;*

*or*

*(d) Any farm machinery and/or implements of husbandry*

These changes were requested by Assemblymen Pete Goicoechea, John Carpenter and Tom Grady during the workshop conducted on December 19, 2007 to further clarify the separation of farm machinery and/or implements of husbandry from what is classified as special mobile equipment.

5. **The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:**
  - (a) **Both adverse and beneficial effects; and**
  - (b) **Both immediate and long-term effects.**

There is no estimated adverse or beneficial economic effect on businesses.

6. **The estimated cost to the agency for enforcement of the adopted regulation.**

There should be no extra cost to enforce this regulation.

7. **A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

8. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

N/A.

9. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A.

10. **Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation, or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The Director has determined that the proposed regulation does not impose a direct or significant economic burden upon a small business or restrict the formation, operation, or expansion of a small business.