

DRAFT PROPOSED REGULATION OF THE

THE BOARD OF DIRECTORS OF THE DEPARTMENT OF TRANSPORTATION (“Board”)

The following document contains the initial draft regulation proposed by the Board for the delegation of authority to the Director of the Department of Transportation (“Director”). The Board will solicit comments from the industry on the proposed regulation pursuant to NRS 233B.0608(1) to determine whether the regulation would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation, or expansion of a small business. The Board will consider all comments and address the industry’s biggest concern(s), if any.

Purpose: The purpose of this regulation is to provide the process by which the Board will act by resolution to delegate authority to the Director. In accordance with NRS 408.131(6), the Board shall delegate to the Director such authority as it deems necessary under the provisions of this chapter, except as provided otherwise in NRS 408.389. The Board shall act by resolution, vote or order entered in its records pursuant to NRS 408.131(7). This regulation is needed to comply with the recommendations in DIA Report No. 25-03, which stated, in pertinent part, “NDOT and the Board must adopt formal regulations in accordance with the APA [Nevada Administrative Procedure Act] to increase Board and legislative oversight and transparency, ensure public access to the rulemaking process, and ensure fair notice to the public for participation in rulemaking procedures.”

Authority: NRS 408.100(6), 408.131(6) and (7), and 408.141(1).

Explanation: Material in *blue bold italics* is new language; material in **[bold brackets]** is to be omitted from current regulation. All comments received from the small business impact notice will be considered but not all may be addressed. The matters to be addressed will be referenced in this draft as *italics* for revised and matters in brackets **[omitted material]** is language to be omitted.

Section 1. *Chapter 408 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to X, inclusive, of this regulation.*

Sec. 2. *The Board shall delegate to the director through a resolution adopted in accordance with paragraphs (a) through (e) such authority as the Board deems necessary under the provisions of this chapter (NRS 408.131, 408.205).*

(a) The Board shall cause to be prepared a draft resolution containing the details of the authority it seeks to delegate to the Director. The draft resolution shall be included in the public meeting notice posted in accordance with subparagraphs (b) and (c).

(b) The Board shall schedule a public meeting in accordance with the Nevada Open Meeting Law not less than 30 days after the posting of the public notice for such meeting to consider the draft resolution.

(c) The notice of the public meeting must be posted on the Department website at least 30 days before the public meeting date. Notice must be given to all persons on the Department's mailing list for regulations. Notice may be additionally posted in other locations such as courthouses, businesses, and professional associations to ensure a wide-ranging response, and help address stakeholder concerns.

(d) At the public hearing on the resolution, the Board must accept comments from the public. The Board must accept comments made both in person and in writing, but the Board may set a deadline for receipt of written comments to allow time for their consideration.

(e) The Board must fully consider all comments received at the public meeting. This consideration may be done orally, on the record. The consideration of written comments must include responses to such comments and the reasons why the requested change, if any, was made or rejected.

(f) After full consideration of public comments and the responses to such comments, the Board shall vote on whether to pass the resolution delegating authority to the Director. Upon the Board's passage of the resolution, the Director shall have the power and authority delegated to the Director in such resolution in accordance with NRS 408.205(2).