

TITLE 415 414, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA DEPARTMENT OF ROADS
~~INTERMODAL TRANSPORTATION~~ COMMUNICATION DIVISION

RULES AND REGULATIONS CONCERNING
THE NEBRASKA SCENIC BYWAYS PROGRAM

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Chapter 1 - Nebraska Scenic Byways Program (continued)

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Chapter 1 - Nebraska Scenic Byways Program

001 PURPOSE Section 39-217 Neb. Rev. Stat. authorizes the Nebraska Department of Roads to designate portions of the State Highway System as a scenic byway when the highway corridor possesses unusual, exceptional, or distinctive scenic, historic, recreational, cultural, or archaeological features. The purpose of the Nebraska Scenic Byways Program is to:

001.01 Provide local and regional organizations with additional means by which to promote certain highway corridors within the State Highway System which possess unusual, exceptional, or distinctive scenic, historic, recreational, cultural, or archeological features, and to protect and improve these features.

001.02 Provide people traveling within the State of Nebraska additional information regarding certain highway corridors within the State Highway System which possess unusual, exceptional, or distinctive scenic, historic, recreational, cultural, or archeological features, thereby increasing appreciation of, and visitation to, these resources.

002 PRINCIPLES

002.01 The foundation of this program is local initiative. Each successful applicant must have a committed Byway Management Team which will assume responsibility for the creation of a Byway Management Plan. Recommendations to the Director-State Engineer will be made by the Nebraska Scenic Byways Committee. The committee consists of representatives of the ~~Nebraska Department of Economic Development (NDED)~~ Nebraska Tourism Commission (NTC), the Nebraska Department of Roads (NDOR), the Nebraska Game and Parks Commission (NGPC), the Nebraska State Historical Society (NSHS), and the Nebraska ~~Department of Natural Resources Commission (NNRC)~~ (NDNR).

002.02 The Nebraska Scenic Byway Program will conform with federal and state laws and regulations regarding advertising signs. Designation as a Scenic Byway is not intended to affect future roadway design or construction. Designation also will not change the existing state or federal classification of the roadway, or by itself justify or lend credence to highway improvements that are not otherwise needed.

002.03 Highway corridors designated as Nebraska Scenic Byways will receive the following program benefits from the member state agencies of the Nebraska Scenic Byways Committee:

002.03A Assistance with Byway-Related Signs (NDOR),

002.03B Recognition on the official Nebraska State Road Map (NDOR),

002.03C Marketing Assistance (~~NDED~~) (NTC),

002.03D Byway Planning Assistance (NSHS, (~~NDED~~) (NTC), ~~NNRC~~, NDNR, NGPC).

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002.04 The Nebraska Scenic Byways Program will be easy to access and easy to understand.

002.05 This program will result in no more than ten total designations (there may be fewer).

003 GOALS The goals of the Nebraska Scenic Byways Program are to:

003.01 Protect and/or enhance unusual, exceptional or distinctive scenic, historic, recreational, cultural, or archeological features along non-interstate highway corridors in Nebraska.

003.02 Increase public awareness and appreciation of unusual, exceptional or distinctive scenic, historic, recreational, cultural, or archeological features along non-interstate highway corridors in Nebraska.

003.03 Facilitate efficient public travel and access to unusual, exceptional or distinctive scenic, historic, recreational, cultural, or archeological features along non-interstate highway corridors in Nebraska.

003.04 Improve interpretation of unusual, exceptional or distinctive scenic, historic, recreational, cultural, or archeological features along non-interstate highway corridors in Nebraska.

003.05 Increase regional planning and marketing efforts among tourism-related entities in Nebraska.

003.06 Lengthen the stays and increase the expenditures of those touring Nebraska.

003.07 Create an effective transportation, economic development, recreational, educational and interpretive program which is easy to access and easy to understand.

004 DEFINITIONS AND RESPONSIBILITIES

004.01 Nebraska Scenic Byways Committee: This committee consists of one representative from each of the following state agencies:

004.01A ~~Nebraska Department of Economic Development, Division of Travel and Tourism~~ Nebraska Tourism Commission,

004.01B Nebraska Department of Roads,

004.01C Nebraska Game and Parks Commission,

004.01D Nebraska State Historical Society, and

004.01E Nebraska Department of Natural Resources ~~Commission.~~

004.02 The Nebraska Scenic Byways Committee will be responsible for overseeing the design and

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implementation of the Nebraska Scenic Byways Program. The Nebraska Scenic Byways Committee will also be responsible for recommending the Nebraska Scenic Byways to the Director-State Engineer for formal designation. The Nebraska Scenic Byways Committee will oversee the delivery of the program benefits to the officially-designated Nebraska Scenic Byways.

004.03 The Nebraska Scenic Byways Committee will cease to exist after each Byway Management Team has completed and gained approval of its Byway Management Plan, or 24 months after the byways' date of official designation, whichever comes first.

004.04 Byway Management Teams: These are the organizations which apply for byway designation, receive the program benefits, and undertake the creation of the Byway Management Plans. The minimum requirements in order to qualify as a Byway Management Team are as follows:

004.04A Must have a minimum of five members.

004.04B Must have at least one county official or designated representative of the government of at least one of the counties through which the proposed byway will pass.

004.04C Must have at least one owner and/or manager of a private business which is located within five miles of the proposed byway.

004.04D Must have at least one owner and/or manager of a tourism attraction, as defined in Subsection 004.09, which is located within 40 miles of the proposed byway.

004.04E Must commit to undertaking, if designated as a Nebraska Scenic Byway, its own Byway Management Plan. Planning support will be available through the Nebraska Scenic Byways Committee.

004.05 Director-State Engineer: The Director-State Engineer of the Nebraska Department of Roads will officially designate the Nebraska Scenic Byways upon review of the recommendations made by the Nebraska Scenic Byways Committee.

004.06 District Engineers of the Nebraska Department of Roads: These officials will be asked by the Nebraska Scenic Byways Committee for input regarding the traffic patterns and other pertinent information concerning each applying route.

004.07 Federal Highway Administration (FHWA): The Nebraska Scenic Byways Committee will seek written input from the FHWA before making its recommendations to the Director-State Engineer.

004.08 State Highway System: This is the network of roads, highways and connecting links forming a group of highway transportation lines for which the Nebraska Department of Roads is the primary authority.

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004.09 Tourism Attractions: Tourism attractions (for profit, or nonprofit public or private) are sites which are expected to draw 2,500 or more visits annually from origins at least 100 miles away. Tourism attractions are sites and facilities which draw visitors from a distance because of their scenic, historic, cultural, scientific, and/or recreational attributes. Examples of eligible attractions are: historic restorations, museums, participatory sports facilities, and convention centers. Examples of ineligible businesses are those which serve more often as tourism-support facilities, such as eating and drinking places, commercial sleeping accommodations, gasoline service stations and gift shops, rather than as attractions.

005 REQUIREMENTS:

005.01 A Nebraska Scenic Byway cannot be part of the designated National System of Interstate and Defense Highways ("Interstate System").

005.02 Except for small expressway segments which total less than 20% of the byway's total length, a Nebraska Scenic Byway cannot be part of the designated State Expressway System as described in the current Nebraska Department of Roads State Highway Plan and Highway Needs Report.

005.03 A Nebraska Scenic Byway must be an existing road on the State Highway System.

005.04 A Nebraska Scenic Byway must be a linear route (no circle drives) which can act as an appealing alternative route for those intending to travel through or near the affected area.

006 EVALUATION CRITERIA

006.01 Proposed byways will be selected by the Nebraska Scenic Byways Committee based upon the following evaluation criteria. These criteria are listed in the order of their importance to the committee. The Nebraska Scenic Byways Committee may devise its own point system for these criteria.

006.01A The number and quality of the proposed byway's unusual, exceptional or distinctive scenic, historic, recreational, cultural, or archeological features within a 40-mile radius of the proposed byway. The weight given to these features will decrease as their distance from the proposed byway increases.

006.01B The demonstrated viability of the organization which will assume responsibility as the Byway Management Team.

006.01C The documented support of communities, attractions, businesses, and residents within a 40-mile radius of the proposed byway, as well as regional and statewide recommendations.

006.01D The number and quality of existing traveler services (both public and private) along the proposed byway. This includes tourism information delivery services.

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006.01E The potential for future tourism development opportunities (both public and private) within a 40-mile radius of the proposed byway. This includes tourism information delivery projects.

006.01F The traffic patterns and other pertinent information concerning the proposed byway.

007 APPLICATION AND DESIGNATION PROCESS

007.01 Because local support and control is one of the principles of the Nebraska Scenic Byways Program, the nomination process must begin at the local level. The following steps are to be taken in order to have a corridor considered for designation by the Nebraska Scenic Byways Committee:

007.01A Identify the proposed byway route on the official Nebraska State Road Map.

007.01B Organize a group of citizens who represent private and public sector interest in the program. This group will form the Byway Management Team, which will be responsible for developing the Byway Management Plan. An existing organization, such as a highway association or regional chamber of commerce, can assume the role of Byway Management Team if it meets the criteria given in Subsection 004.04.

007.01C Complete the Nebraska Scenic Byway Designation Application (see Section 008).

007.01D Submit seven copies of the application to the Nebraska Scenic Byways Committee.

007.02 The Nebraska Scenic Byways Committee will make designation recommendations to the Director-State Engineer.

007.03 The Director-State Engineer of the Nebraska Department of Roads will designate up to ten Nebraska Scenic Byways (there may be fewer).

008 APPLICATION FOR DESIGNATION AS A NEBRASKA SCENIC BYWAY Each Byway Management Team is responsible for designing, completing and submitting the application for its Scenic Byway. The Nebraska Scenic Byways Committee, through the ~~Nebraska Department of Economic Development, Division of Travel and Tourism~~ Nebraska Tourism Commission (P.O. Box 94666, Lincoln, Nebraska 68509, (402)471-3368), will be available to assist the Byway Management Teams in completing their applications. The application must not exceed 20 pages (not including letters of recommendation and supporting materials), and must:

008.01 Identify the proposed Scenic Byway on the official Nebraska State Road Map.

008.02 Identify and describe the proposed Byway Management Team. The structure of this team must meet the minimum requirements outlined in Subsection 004.04.

008.03 Describe the proposed byway's unusual, exceptional or distinctive scenic, historic, recreational, cultural, or archeological features.

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008.04 Document the support for designation among the communities, attractions, businesses, regional organizations, leaders, and residents within a 40-mile radius of the proposed byway.

008.05 Document support for designation among credible leaders/organizations beyond a 40-mile radius of the proposed byway.

008.06 Describe the existing traveler services (both public and private) along the proposed byway. This includes tourism information delivery services.

008.07 Describe the potential for future tourism development opportunities (both public and private) within a 40-mile radius of the proposed byway, including tourism information delivery projects. Include examples of the positive impact the designation might have on this potential.

008.08 Provide the signed commitment of the Byway Management Team to create and adopt a Byway Management Plan within 24 months after designation as a Scenic Byway. Include a brief description of what the group hopes to accomplish through the planning process

009 PROGRAM BENEFITS

009.01 The benefits which the Nebraska Scenic Byways Committee will deliver to each designated Nebraska Scenic Byway are detailed below, together with the appropriate Lead State Agency. The Nebraska Scenic Byways Committee, with the cooperation of the Byway Management Teams, will begin implementation of the program benefits immediately after all Nebraska Scenic Byways have been formally designated. It is the sole responsibility of the Nebraska Scenic Byways Committee to prioritize which program benefits are to be implemented as funds become available. However, input from the Byway Management Teams will be taken into consideration.

009.01A Byway Management Workshops: After official designation, the Nebraska Scenic Byways Committee will conduct one full-day workshop near each new byway for the purpose of assisting the Byway Management Team with its organization, defining its responsibilities, and obtaining the program benefits. These workshops may include the use of hired byway consultants. Lead Agency - The Nebraska ~~Department of Economic Development~~ Tourism Commission.

009.01B Byway Management Plan Assistance: The Nebraska Scenic Byways Committee will provide assistance to each Byway Management Team in fulfilling its commitment to create and adopt a Byway Management Plan within 24 months after its official designation. This assistance will come in the form of in-kind staff time from the relevant agencies. If funds become available, the Nebraska Scenic Byways Committee may provide grants to the Byway Management Teams for the purpose of planning and/or implementation of the plans' recommendations. The Byway Management Teams may use funds awarded from the Nebraska Scenic Byways Committee to hire planning consultants. It is the sole responsibility

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of each Byway Management Team to implement the recommendations of its Byway Management Plan. Lead Agency - The Nebraska ~~Department of Economic Development~~ Tourism Commission, the Nebraska Game and Parks Commission, the Nebraska State Historical Society, the Nebraska Department of Roads, and the Nebraska Department of Natural Resources ~~Commission~~.

009.01C Existing Marketing Programs: The Nebraska Scenic Byways Committee will incorporate each Nebraska Scenic Byway into all appropriate marketing efforts already in effect. This will include:

- 009.01C1 Nebraska Travel Ideas travel planner,
- 009.01C2 Nebraska Tourism Division Ad Program,
- 009.01C3 Official Nebraska Visitor Centers,
- 009.01C4 Nebraska Tourism Home Page,
- 009.01C5 Nebraska Tourism Division Public Relations Program.

Inclusion of byway information in these programs will be subject to annual review and re-authorization by the Nebraska ~~Department of Economic Development~~ Tourism Commission. Lead Agency - The Nebraska ~~Department of Economic Development~~ Tourism Commission.

009.01D Nebraska Scenic Byways Brochure: Contingent upon funding availability, the Nebraska Scenic Byways Committee, with consultation from the Byway Management Teams, will design and produce a brochure which promotes all Nebraska Scenic Byways. This brochure will be incorporated into the Nebraska Tourism Division's mailing fulfillment program. The creation of such brochures in the future will be at the sole discretion of the Nebraska ~~Department of Economic Development~~ Tourism Commission. Lead Agency - The Nebraska ~~Department of Economic Development~~ Tourism Commission.

009.01E Byway Logo Route Markers: The Nebraska Scenic Byways Committee will design and adopt an official Nebraska Scenic Byway Logo. Route markers with these logos will then be placed along each byway's right-of-way, approximately one every 8-10 miles. The ongoing maintenance of these markers will be the sole responsibility of the Nebraska Department of Roads. The Nebraska Department of Roads is not obligated to keep in place, maintain and/or replace these markers beyond 36 months after the date of each byway's official designation. Segments within municipal boundaries may be excluded from the designated Scenic Byway route to allow for state and local jurisdictional rule on signing. Lead Agency - The Nebraska Department of Roads.

009.01F The Official Nebraska State Road Map: The Nebraska Department of Roads will identify each of the Nebraska Scenic Byways on the next regular issue or update of the official Nebraska State Road Map. Inclusion of byway information in future Nebraska Road Maps beyond 36 months after each byway's official designation will be at the sole discretion of the Nebraska Department of Roads. Lead Agency - The Nebraska Department of Roads.

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009.02 Upon completion of all Byway Management Plans, or 24 months after the byways' date of official designation, whichever comes first, the Nebraska Scenic Byways Committee will dissolve. Pursuit of the Byway Management Plans' recommendations will be the sole responsibility of the Byway Management Teams. Thirty-six months after the date of official designation, the ongoing application of each program benefit will be at the sole discretion of the appropriate Lead Agency.

010 PROGRAM TIMELINE

010.01 The Nebraska Scenic Byways Committee will publicize and describe the program via a statewide media release.

010.02 The Nebraska Scenic Byways Committee will distribute Nebraska Scenic Byways Program Application packets to all interested parties.

010.03 The Nebraska Scenic Byways Committee will be available to the public for consultation and assistance in forming Byway Management Teams. The committee will also be available to assist the teams with completion of the Nebraska Scenic Byways Program Application.

010.04 The Byway Management Teams will submit applications to the Nebraska Scenic Byways Committee.

010.05 The Nebraska Scenic Byways Committee will seek input from the appropriate Nebraska Department of Roads District Engineers. The Nebraska Scenic Byways Committee will consult with other credible entities, including the Federal Highway Administration.

010.06 The Nebraska Scenic Byways Committee will make its recommendations for designation to the Director-State Engineer, who will then make the final designation decisions.

010.07 The Governor of Nebraska will direct the Nebraska Scenic Byways Committee to begin implementation of the Nebraska Scenic Byways Program's benefits (all benefits subject to funding availability).

010.08 Each Byway Management Team will begin its planning process immediately after official designation. Assistance will be available from the Nebraska Scenic Byways Committee. Each Byway Management Plan must be completed no later than 24 months after the byways' date of official designation.

010.09 The Nebraska Scenic Byways Committee officially dissolves 24 months after the byways' date of official designation, or upon completion of the final Byway Management Plan, whichever occurs first.

010.10 The requirement to provide program benefits will cease 36 months after the byways' date of official designation. Continuing a program benefit beyond 36 months after the byways' date of official designation will be at the sole discretion of the appropriate Lead Agency (see Section 009).

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011 MONITORING AND COMPLIANCE

011.01 The Nebraska Scenic Byway Management Committee will monitor the performance of each Byway Management Team in developing and following its Byway Management Plan within 24 months after the byways' date of official designation, or upon completion and approval of each byway's Byway Management Plan, whichever occurs first.

011.02 Each Byway Management Plan must be approved by the Nebraska Scenic Byways Committee. If a Byway Management Team fails to submit an acceptable Byway Management Plan within 24 months of the date of its official designation, that byway will be automatically de-designated on that same date. No replacement byway(s) will be named. The Nebraska Scenic Byways Committee will notify the Byway Management Team in writing 60 days prior to the date of automatic de-designation and again at the date of automatic de-designation. Program benefits will cease immediately upon automatic de-designation.

011.03 The Nebraska Scenic Byways Committee itself will terminate 24 months after the byways' date of official designation, or upon completion and approval of each byway's Byway Management Plan, whichever occurs first.

011.04 Following the termination of the Nebraska Scenic Byway Management Committee and prior to 36 months beyond the date of official designation, monitoring will be the responsibility of the Nebraska ~~Department of Economic Development~~ Tourism Commission and the Nebraska Department of Roads as the state agencies administering ongoing program benefits. These state agencies may continue to monitor the performance of each Byway Management Team after 36 months beyond the date of official designation.

011.05 The Nebraska ~~Department of Economic Development~~ Tourism Commission and the Nebraska Department of Roads may cancel any or all benefits within 36 months of the date of official designation as a result of a Byway Management Team's lack of progress in completing or implementing its Byway Management Plan.

011.06 After 36 months beyond the date of the byways' official designation, each program benefit will continue to be delivered only at the sole discretion of the appropriate Lead State Agency (see Section 009). There is no commitment on the part of any Nebraska state agency to continue any program benefit of the Nebraska Scenic Byways Program beyond 36 months after the date of the byways' official designation. The Nebraska ~~Department of Economic Development~~ Tourism Commission and the Nebraska Department of Roads may cancel any or all program benefits, including removal of byway logo route markers, after 36 months beyond the date of official designation for any reason. There is also no prohibition preventing any Nebraska state agency from continuing any program benefit of the Nebraska Scenic Byways Program beyond 36 months after the date of the byways' official designation.

011.07 Except in the case of automatic de-designation, 60 days prior to canceling ongoing program benefits,

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the director of the applicable agency will notify the affected Byway Management Team in writing. If the Byway Management Team is no longer in existence, written notification will be provided to the clerks of all municipalities and counties within a 40-mile radius of the designated byway. Upon subsequent evidence of corrective action and/or extenuating circumstances, the director will determine whether to revoke, delay or proceed with such cancellation.

011.08 There will be no further Scenic Byways designated under this program beyond the Director-State Engineer's one-time designation referred to throughout these regulations.

ANNOTATION

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Section 001 - 011**

**Enabling Legislation
39-201.01, 39-217, 39-1302
and 39-1311 Neb. Rev. Stat.**