

Legal Notice of Rule Making
Nebraska Department of Transportation
Public Hearing
Friday, August 24, 2018, 1:00 - 3:00 PM
Nebraska Department of Transportation
Central Headquarters Bldg., Rm. 103
1500 Highway 2, Lincoln, Nebraska



The Nebraska Department of Transportation (NDOT) has commenced rule making and will hold a public hearing concerning the repeal of the following regulations:

- 17 NAC 7 - Practice and Procedure for Hearings in Contested Cases
- 407 NAC 1 - Hearing Practice and Procedure of the Department of Roads
- 408 NAC 2 - Roadside Trees, Shrubs, Bushes and Vines
- 411 NAC 6 - Snowmobiles on State Highways
- 413 NAC 1 - Consultant Services
- 428 NAC 5 - Hearing Practice and Procedure of the Board of Public Roads Classifications and Standards

NDOT completed a detailed review of its rules and regulations by directive of the Governor's Executive Order 17-04; the above regulations were determined to be unnecessary, outdated, or both. NDOT may issue guidance documents covering some of the subject matter these regulations relate to if determined necessary.

Interested persons are invited to attend the public hearing. Comments and recommendations may be presented orally or in writing at the hearing. They may also be mailed, faxed, or e-mailed prior to the hearing until the public comment date close (September 3, 2018). Pre-hearing and post-hearing comments should be directed in writing to NDOT's Public Hearings Officer, Tony Bui, P.O. Box 94759, Lincoln, Nebraska 68509-4759; tony.bui@nebraska.gov; voice telephone (402) 479-4994, TDD telephone (402) 479-3834, fax (402) 479-3989. Comments may also be posted online through the Secretary of State's website (see below).

The proposed changes to the regulations may be viewed, downloaded, or commented on at: www.sos.state.ne.us/rules-and-regs/regtrack ("Agency": Transportation). To obtain a free paper copy of the proposed changes, the Proposed Regulation Policy Pre-Review Checklists, or the Fiscal Impact Statements, contact NDOT's Government Affairs Office at PO Box 94759,

Lincoln, Nebraska 68509-4759; erich.strack@nebraska.gov; voice telephone (402) 479-4324, TDD telephone (402) 479-3834, fax (402) 479-3758. Copies may be viewed or picked up in person at the NDOT Director's Office, 1500 Highway 2, Lincoln, NE.

NDOT will make every reasonable accommodation to provide an accessible meeting facility for all persons. Appropriate provisions for the hearing and visually challenged or persons with limited English proficiency (LEP) will be made if NDOT is notified by August 17, 2018. Notification should be submitted to Tony Bui, Public Hearings Officer (see contact information above).

This notice is provided pursuant to the Administrative Procedure Act.

RULE & REGULATION PRELIMINARY FISCAL IMPACT STATEMENT

AGENCY:	Nebraska Department of Transportation		
TITLE:	407	PREPARED BY:	Erich Strack
CHAPTER:	1	DATE PREPARED:	May 23, 2018
SUBJECT:	Hearing Practice and Procedure of the Department of Roads	TELEPHONE:	402-479-4324

TYPE OF FISCAL IMPACT:

	STATE AGENCY	POLITICAL SUBDIVISION	REGULATED PUBLIC
No Fiscal Impact	X	X	X
Increased Costs			
Decreased Costs			
Increased Revenue			
Decreased Revenue			
Indeterminable			

PROVIDE AN ESTIMATED COST AND DESCRIPTION OF IMPACT:

State Agency	
Political Subdivision	
Regulated Public	

IF INDETERMINABLE, EXPLAIN WHY:

Title 407 - NEBRASKA DEPARTMENT OF ROADS - LOCAL LIAISON DIVISION

Chapter 1 - Hearing Practice and Procedure of the Department of Roads

001 HEARING PROCEDURE FOR THE PROMULGATION, AMENDMENT OR REPEAL OF THE RULES AND REGULATIONS OF THE DEPARTMENT OF ROADS

001.01 An informal hearing shall be held to consider promulgation, amendment or repeal of any Rule or Regulation of the Department of Roads unless waived by the Governor.

001.02 Notice as to time and place of the hearing shall be published in a newspaper of general circulation in the State at least thirty days in advance of the hearing.

001.03 Any party who desires a continuance shall, immediately upon receipt of notice of hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the Director-State Engineers Office in writing, by letter or telegram of said desire, stating in detail the reasons why such continuance is necessary. Any such party may be required to submit affidavits in support of such request. For good cause shown, the Director-State Engineer may grant a continuance, and he may at any time order a continuance on his own motion. Only under exceptional circumstances will requests for continuance of a hearing be considered unless submitted on or before the seventh day prior to the date set for hearing.

001.04 The hearing shall be held at the Nebraska Department of Roads, Central Complex, 1500 Nebraska Hwy. 2, Lincoln, Nebraska, or if requested by petition, the hearing may be held at a time and place considered more appropriate and convenient for all parties involved.

001.05 All hearings will be recorded and transcribed, in summary, for record.

001.06 A petition for the promulgation, amendment or repeal of any Department Rule or Regulation shall state the precise wording of the proposed rule or addition, or the precise wording of the present regulation to be deleted or repealed, shall state briefly the reasons for such promulgation, amendment or repeal and shall state the name and address of the petitioner. All such requests will be considered on or about July 1 or January 1 of each year by an individual or individuals selected by the Director-State Engineer or by the Director-State Engineer himself. The Department, through the Director-State Engineer, may, at any time, set a date for a hearing for the promulgation, amendment or repeal of any rule or regulation as recommended by any of the division or section heads.

001.07 Failure of any petitioner to appear at the time and place set for hearing unless otherwise allowed by the Department on good cause shown, will be deemed sufficient grounds for the Department to dismiss the petition.

001.08 The chairman of the hearing shall be a member of the Department of Roads and shall have the power to adjust the procedure of the hearing to meet special circumstances.

Title 407 - NEBRASKA DEPARTMENT OF ROADS - LOCAL LIAISON DIVISION

Chapter 1 - Hearing Practice and Procedure of the Department of Roads (Continued)

001.09 Those members of the Department present shall be available to answer questions concerning the changes in the Rules and Regulations.

001.10 The chairman will make an opening statement which shall fulfill all necessary legal requirements by setting out the purpose and giving recorded notice of the hearing.

001.11 The presiding officer shall have the power to recess the hearing at any time and to close it when all relevant discussion has been heard.

001.12 Copies of the transcript shall be supplied to all division and section heads concerned in time to be reviewed before a decision is made.

001.13 The findings shall consist of a concise statement of the conclusions upon each contested revision. Interested parties testifying at the hearing shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or attorney of record.

001.14 The validity of the final order shall be subject to review in accordance with the laws of the State of Nebraska.

001.15 When any petition for the promulgation, amendment or repeal of any Rule or Regulation by the Department has been denied in whole or in part, a subsequent petition covering substantially the same subject matter will not be considered by the Department within one hundred eighty calendar days from the date of the final denial in whole or in part of the previous petition, except for good cause shown.

ANNOTATION

**Title 407
Chapter 1
Section 001**

**Enabling Legislation
39-699 Neb. Rev. Stat.**