

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by directive of the Governor's Executive Order 17-04; the above regulations were determined to be unnecessary, outdated, or both.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:	411	PREPARED BY:	Erich Strack
CHAPTER:	6	DATE PREPARED:	May 31, 2018
SUBJECT:	Use of Snowmobiles on the State Highway System	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 411 - NEBRASKA DEPARTMENT OF ROADS - TRAFFIC ENGINEERING DIVISION~~

~~Chapter 6 - Use of Snowmobiles on the State Highway System~~

~~001 DEFINITIONS~~

~~001.01 Department shall mean the Nebraska Department of Roads.~~

~~001.02 Freeway shall mean an expressway with full control of access.~~

~~001.03 Highway shall mean a road or street including the entire area within the right of way, which has been designated a part of the State Highway System.~~

~~001.04 Interstate highway shall mean a divided arterial highway for through traffic with full control of access and grade separation at intersections and which highway has been designated I-76, I-80, I-129, I-180, I-480 or I-680.~~

~~001.05 Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled handicapped chairs.~~

~~001.06 Operate shall mean to ride in or on and control the operation of a snowmobile.~~

~~001.07 Operator shall mean every person who operates or is in actual physical control of a snowmobile.~~

~~001.08 Person shall mean any individual, partnership, corporation, the State and its agencies and subdivision, and any body of persons whether incorporated or not.~~

~~001.09 Right of way shall mean land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street or highway.~~

~~001.10 Road shall mean a public way for the purpose of vehicle travel, including the entire area within the right of way. A road designated as part of the State Highway System may be called a highway while a road in an urban area may be called a street.~~

~~001.11 Roadway shall mean the portion of a highway, including shoulders for vehicular use.~~

~~001.12 Snowmobile shall mean a self-propelled motor vehicle designed to travel on snow or ice or a natural terrain, steered by wheels, skis or runners and propelled by a belt-driven track with or without steel cleats.~~

~~001.13 State Highway System shall mean the roads, streets, and highways shown on the map provided for in Section 39-1311, as forming a group of highway transportation lines for which the Department shall be the primary authority. The State Highway System shall include, but not be limited to: rights of way, connecting links, drainage facilities, and the bridges, appurtenances, easements and structures used in conjunction with such roads, streets, and highways.~~

Title 411 - NEBRASKA DEPARTMENT OF ROADS - TRAFFIC ENGINEERING DIVISION

Chapter 6 - Use of Snowmobiles on the State Highway System

002 NO SNOWMOBILE SHALL BE OPERATED AT ANY TIME WITHIN THE RIGHT OF WAY OF ANY INTERSTATE HIGHWAY OR FREEWAY WITHIN THIS STATE.

003 NO PERSON SHALL OPERATE A SNOWMOBILE WITHIN THE RIGHT OF WAY OF ANY OTHER ROAD OR HIGHWAY ON THE STATE HIGHWAY SYSTEM EXCEPT AS PERMITTED IN SECTIONS 003.01, 003.02, AND 003.03.

003.01 In crossing a State Highway, all crossings shall be made as provided in Neb. Rev. Stat., Section 60-6,335, Subsections 2 through 4.

003.02 In Snow Emergencies in which:

003.02A The road has been closed to motor vehicle travel by the Department and;

003.02B Snowmobiles are the only practical mode of transportation to provide for the health and welfare of the public by performing such services as aiding stranded motorists, delivering medical supplies, fuel, food and livestock supplies and not for recreational purposes.

003.02C The snowmobile shall be operated only on the roadway of a closed segment of the highway, and shall comply with all licensing and insurance requirements and all applicable rules of the road as established for motor vehicles in the state statutes, and Neb. Rev. Stat., Chapter 60, Article 6.

003.03 As a registered contestant in an international or other sponsored snowmobile contest which has received the prior written approval of the Department.

004 SNOWMOBILE CONTEST PERMITS

004.01 The sponsoring group must make application to the Department at least six months in advance of any proposed snowmobile contest to be held within the highway right of way.

004.01A The application shall contain the exact location at which the contest is to be held, including point of beginning and point of termination, the route for detouring traffic, the names of all contestants, and a signing plan that will comply with the requirements of the Manual on Uniform Traffic Control Devices as adopted pursuant to Neb. Rev. Stat., Section 60-6,118.

Title 411 - NEBRASKA DEPARTMENT OF ROADS - TRAFFIC ENGINEERING DIVISION

Chapter 6 - Use of Snowmobiles on the State Highway System

004.01B The sponsoring group shall obtain the necessary written agreements with the County, City or Village to use the county road or street as a detour for highway traffic. The agreement shall contain a provision that the sponsoring group is responsible to the County, City or Village for any damage to the county road or streets and any damage to abutting land or landowner caused by the traveling public using the detour. Copies of this agreement shall be submitted with the application.

004.02 The Department will determine if it is in the best interest of the general public to permit the contest on the roadway of such segment of the State Highway System and if the proposal will create undue hardship on the traveling public by requiring the use of a detour. Those requests that are approved will have a permit issued subject to the following conditions:

004.02A The sponsoring group shall be responsible for all costs associated with detouring the traffic from the highway right of way, damages to the highway and hold the Department harmless from any claims that may result from the use of the highway for the snowmobile contest.

004.02B The sponsoring group shall provide a \$10,000 cash performance guarantee to the Department to cover any damages to the highway or expenses incurred by the Department due to the contest. The performance guarantee will be returned when the contest is over and the highway returned to its original condition. The group shall also provide a liability policy to the Department in the amount of one million dollars extended coverage with the Department named as additional insured.

004.02C All snowmobile operators shall comply with licensing and insurance requirements for motor vehicles as provided in the state statutes.

ANNOTATION

**Title 411
Chapter 6**

**Enabling Legislation
60-6,335 & 60-6,118
Neb. Rev. Stat.**

