



Legal Notice of Rulemaking
Nebraska Department of Transportation
Public Hearing

Tuesday, November 5, 2019, 9:00-11:00 AM
Nebraska Department of Transportation
Central Headquarters Bldg., Rm. 103
1500 Hwy 2, Lincoln, Nebraska

The Nebraska Department of Transportation (NDOT) has commenced rulemaking and will hold a public hearing concerning revisions to the following regulations:

- **407 NAC 2 - Contested Cases:** This regulation governs the Department's procedure for contested cases. NDOT is proposing to revise this existing regulation to update the language. The proposed revisions will 1) eliminate the currently out-of-date language and adopt the Attorney General's Model Rule for Contested Cases (53 NAC 4) by reference, and 2) Include the two statutory boards NDOT oversees (Nebraska Board of Examiners for County Highway and City Street Superintendents and the Nebraska Board of Public Roads Classifications and Standards). This proposed revision will allow the two Boards to repeal their out-of-date regulations on Contested Cases, which is included in this rulemaking.
- **411 NAC 1 - Manual on Uniform Traffic Control Devices:** This regulation provides for a uniform system of traffic control devices throughout Nebraska that match national standards for traffic control through the adoption of the Federal Highway Administration's (FHWA) "Manual on Uniform Traffic Control Devices" (MUTCD). The MUTCD provides traffic control guidance for all roads open to public traffic.

The MUTCD is periodically updated by FHWA. The proposed regulation changes will update Title 411 to match the current MUTCD revision.

NDOT will also be adopting an updated Nebraska Supplement to the MUTCD. Federal regulation allows state DOTs to create a supplemental manual containing state-specific sign and control device standards.

- **415 NAC 2 - Nebraska Transportation Public Assistance Program:** This regulation governs funding distribution and defines eligible recipients and sub-recipients of state and federal funds for transportation services in Nebraska.

The regulation covers NDOT, and any municipality or non-profit organization that applies and is eligible for funding assistance.

In addition to revising the previous three regulations, NDOT is proposing to repeal the following regulations:

- **17 NAC 8 - Promotion of Aviation:** NDOT is proposing the repeal of this unnecessary regulation. NDOT is an avid promoter of aviation in the state of Nebraska. However, this regulation neither regulates nor sets any parameters for the promotion of aviation and is thus, unnecessary. The repeal of this regulation was supported by the passage of LB 190 (2019).
- **17 NAC 9 - Rental of Aircraft:** NDOT is proposing the repeal of this unnecessary regulation. NDOT's Aeronautics Division is not an expert in the liability or insurance fields and should not have a duty or need to oversee, review, or file aircraft renters' liability notices and acknowledgements. The repeal of this regulation was supported by the passage of LB 190 (2019).
- **411 NAC 2 - School Bus Loading Area Signs:** NDOT is proposing to repeal this regulation. The regulation, formerly mandated by §60-6,176, required NDOT to adopt a regulation with specifications for a single sign to be erected in school bus loading areas. That statute was repealed by LB 190 (2019) and NDOT has determined that the sign specifications can be incorporated into the Nebraska Supplement to the Federal Manual on Uniform Traffic Control Devices which is adopted pursuant to regulation 411 NAC 1 rendering this regulation unnecessary.
- **425 NAC 1 - Hearing Practice and Procedure of the Board of Examiners for County Highway and City Street Superintendents and Hearing Practice and Procedure for Contested Cases:** This regulation is being proposed for repeal. NDOT has chosen to include the Board in its update of 407 NAC 2, which is also included in this rulemaking, rendering this regulation duplicative and unnecessary.
- **428 NAC 5 - Hearing Practice and Procedure of the Board of Public Roads Classifications and Standards:** This regulation is being proposed for repeal. NDOT has chosen to include the Board in its update of 407 NAC 2, which is also included in this rulemaking, rendering this regulation duplicative and unnecessary.

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 or until the close of the public comment period (November 15, 2019). Pre-hearing and post-hearing comments should be directed in writing to NDOT's Public Involvement Manager, Sarah Soula, P.O. Box 94759, Lincoln, Nebraska 68509-4759; sarah.soula@nebraska.gov; voice telephone 402-479-4871, TDD telephone 402-479-3834, fax 402-479-3989. Comments may also be posted online through the Secretary of State's website (see below).

To view or download the proposed changes to the regulations or to comment online, visit: 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, 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 October 29, 2019. Notification should be submitted to Sarah Soula, Public Involvement Manager (see contact information above).

This notice is provided pursuant to the Administrative Procedure Act.

OCT 01 2019

RULE & REGULATION PRELIMINARY FISCAL IMPACT STATEMENT

| | | | |
|-----------------|---------------------------------------|-----------------------|--------------------|
| AGENCY: | Nebraska Department of Transportation | | |
| TITLE: | 411 | PREPARED BY: | Erich Strack |
| CHAPTER: | 2 | DATE PREPARED: | September 30, 2019 |
| SUBJECT: | School Bus Loading Area Signs | 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:

OCT 01 2019

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Title 411 - NEBRASKA DEPARTMENT OF ROADS - TRAFFIC ENGINEERING DIVISION

Chapter 2 - Standards for School Bus Loading Area Warning Signs

001 THE FOLLOWING DESIGN AND USAGE STANDARD MUST BE USED FOR SCHOOL BUS LOADING AREA WARNING SIGNS PURSUANT TO NEB. REV. STAT. SECTION 60-6,175 AND 60-6,176.

002 SCHOOL BUS LOADING AREA WARNING SIGNS SHALL BE DESIGNED AND MANUFACTURED IN THE FOLLOWING MANNER:

002.01 The sign shall be Type S6-1A metal, rectangular sign 36 inches wide by 36 inches long.

002.02 The sign shall have black letters on a yellow background and shall contain the following words "SCHOOL BUS LOADING AREA - PROCEED UNLESS BUS STOP SIGNAL ARM IS EXTENDED."

002.03 Details of a conforming sign under this rule are shown on Exhibit 1.

003 SCHOOL BUS LOADING AREA WARNING SIGNS SHALL BE INSTALLED IN THE FOLLOWING MANNER:

003.01 The bottom edge of the sign shall be 7 feet above the surface of the street or highway.

003.02 The street side edge of the sign shall be 1 to 2 feet away from the curb or pavement edge of the street or highway.

003.03 Details of a conforming installation are shown on Exhibit 1.

004 SCHOOL BUS LOADING BAYS, ZONES AND WARNING SIGNS SHALL BE PLACED IN THE FOLLOWING MANNER:

004.01 The school bus loading area shall be a recessed curb off-street set-back bay area as shown on Exhibit 1, Diagram A, when:

004.01A The road is a two-lane street without parking on either side; or

004.01B The road is a two-lane street without parking along the school frontage; or

004.01C The road is a three-lane street without parking where the center lane is a two-way left turn lane.

004.02 The school bus loading area may be on-street loading area as shown on Exhibit 1, Diagram B, when:

004.02A The road has two or more traffic lanes and a parallel or angle parking lane along the school frontage when parking control signs (curb painting and color optional) are in place to restrict parking in the school bus loading area to buses at all times that the area will be used to load and unload

Title 411 - NEBRASKA DEPARTMENT OF ROADS - TRAFFIC ENGINEERING DIVISION

Chapter 2 - Standards for School Bus Loading Area Warning Signs (Continued)

passengers.

004.03 The school bus loading area may be an on-street loading area when allowed under 004.04, and when:

004.03A The road is at least a two-lane street with traffic in more than one lane traveling in the same direction as the lane closest to the school property.

004.04 A traffic lane may be used as a school bus loading area only after the authority in control of the road in question conducts a "capacity analysis" to ascertain the "Level of Service" (LOS) of the road at the times a lane of traffic would be used as a school bus loading area. The LOS will be ascertained according to the applicable portions of the Highway Capacity Manual, Special Report 209, of the Transportation Research Board.

004.04A If the LOS is Level "C" or better, the lane of traffic may be used as a school bus loading area.

004.04B If the LOS is lower than Level "C," a lane of traffic shall not be used as a school bus loading area unless the lane closure provisions of the Manual on Uniform Traffic Control Devices are implemented.

004.05 Signs shall be placed not more than 50 feet from the extreme ends of the designated loading bay or area so that they face away from the loading area at a 90 degree angle to the direction of travel of the passing traffic (see Exhibit 1). A third sign shall be placed on the opposite side of the street immediately across from the sign nearest the exit point of the loading zone or bay. This third sign will face the same direction as the sign immediately across the street from it. Signs will be in place so that traffic moving in either direction can see a warning sign prior to reaching the area of the street immediately adjacent to the loading zone or bay.

004.06 On a one-way street, one sign at the rear of the school bus loading area shall be sufficient.

005 THE SCHOOL DISTRICT SHALL BE RESPONSIBLE FOR THE COST OF PURCHASING, INSTALLING AND MAINTAINING THE SIGNS.

ANNOTATION

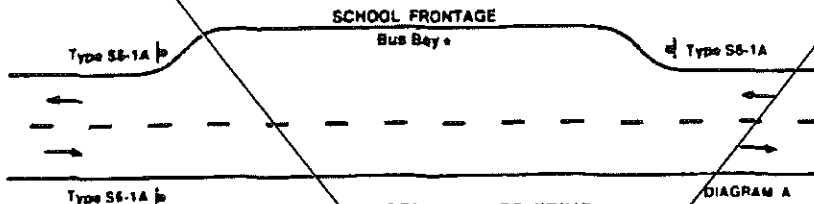
**Title 411
Chapter 2**

**Enabling Legislation
60-6,175 through 60-6,176
Neb. Rev. Stat.**

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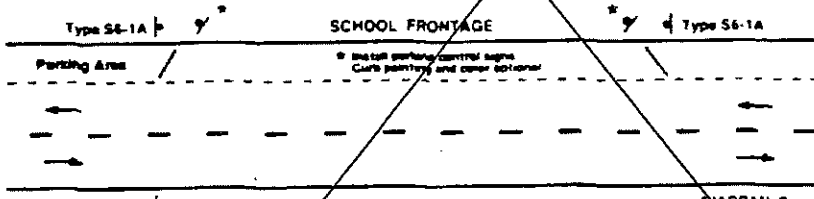
Title 411 - NEBRASKA DEPARTMENT OF ROADS - TRAFFIC ENGINEERING DIVISION

Chapter 2 - Standards for School Bus Loading Area Warning Signs (Continued)



STREET ARRANGEMENTS REQUIRING CURB SETBACK FOR BAY

- 2-lane street without parking on either side
- 2-lane street without parking along school frontage
- 3-lane street without parking and center 2-way left-turn lane

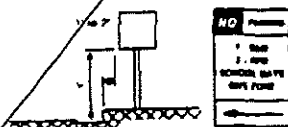


STREET ARRANGEMENTS IN WHICH BUS BAY CAN BE PROVIDED BY CURB PARKING CONTROL

- 2, 3- and 4-lane streets with parallel or angle parking along school frontage

* Length of bay determined by maximum accumulation of buses during peak periods, plus entrance and exit maneuvering space.

NOTE: The term "lane" as used herein is a space intended for moving traffic.



Note: Appropriate parking control signs may be necessary for certain conditions

SCHOOL BUS LOADING AREA
 PROCEED UNLESS BUS STOP SIGNAL ARM IS EXTENDED

Type S6-1A
 36" x 36"
 Back-on-Yellow

| | |
|--|-----------|
| NEBRASKA DEPARTMENT OF ROADS TRAFFIC ENGINEERING DIVISION | |
| SECT. 60-6-175, 60-6-176 NEB. REV. STAT. | |
| SIGNING AND BUS BAY DETAILS | |
| DATE NOVEMBER 87 | EXHIBIT 1 |

APPROVED
 DON STENBERG
 ATTORNEY GENERAL
 BY *[Signature]*
 Assistant Attorney General
 DATE SEP 26 '94

APPROVAL

10V 4 1994

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 "JAMIN NE"
 1994

