



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 The proposed revisions will 1) eliminate the currently out-of-date language and adopt the Attorney General's Model Rule for Contested Cases (53 NAC 4) by reference, and 2) Include the two statutory boards NDOT oversees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 This proposed revision will allow the two Boards to repeal their out-of-date regulations on Contested Cases, which is included in this rulemaking.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.

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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.

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RULE & REGULATION PRELIMINARY FISCAL IMPACT STATEMENT

AGENCY:	Nebraska Department of Transportation		
TITLE:	411	PREPARED BY:	Erich Strack
CHAPTER:	1	DATE PREPARED:	September 30, 2019
SUBJECT:	Manual on Uniform Traffic Control Devices	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:

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TITLE 411, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA DEPARTMENT OF ROADTRANSPORTAION
TRAFFIC ENGINEERING DIVISION

RULES AND REGULATIONS CONCERNING
MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, 2009 EDITION

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TITLE 411 – NEBRASKA DEPARTMENT OF ROADTRANSPORTATION – TRAFFIC ENGINEERING DIVISION

Chapter 1 – Manual on Uniform Traffic Control Devices, 2009 Edition

001 ADOPTION OF THIS RULE BY THE NEBRASKA DEPARTMENT OF TRANSPORTATIONROADS

001.01 The Nebraska Department of Transportation Roads by this Rule does adopt the Manual on Uniform Traffic Control Devices (MUTCD), 2009 Edition, published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F, filed herewith.

001.02 The Nebraska Department of Transportation Roads by this Rule does adopt the List of Known Errors in the 2009 MUTCD dated ~~November 29, 2011~~ January 12, 2017 and Revision 1 and 2 of the 2009 MUTCD dated May 2012 published by the Federal Highway Administration (FHWA), filed herewith.

001.03 The Nebraska Department of Transportation Roads by this Rule does adopt the Nebraska Supplement to the Manual on Uniform Traffic Control Devices, ~~2011~~ 2019 filed herewith.

001.04 The 2009 Edition of the MUTCD, with Revisions 1 and 2 incorporated, the List of Known Errors in the 2009 MUTCD dated ~~November 29, 2011~~ January 12, 2017 and the Nebraska Supplement may be viewed from the following website: <http://dot.nebraska.gov/media/3455/ne-mutcd-2011.pdf><https://dot.nebraska.gov/media/12109/ne-mutcd-2019.pdf>.

ANNOTATION

Title 411
Chapter 1

Enabling Legislation
§60-6,118
Neb. Rev. Stat.

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