

Legal Notice of Rulemaking
Nebraska Department of Transportation
Public Hearing
Wednesday, October 21, 2020 - 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 repealing or revising the following proposed regulations.

17 NAC 1, Public Use Airport/Heliport Licensing

- During an extensive review of all NDOT regulations, it was determined that this regulation would benefit from a revision pertaining to heliports. This includes removing the regulation language for private-use heliports, as the Division's statutory authority to register private-use heliports is questionable.

410 NAC 7, The Accommodation of Mailboxes and Newspaper Delivery Boxes and Support Posts on Highway Rights-Of-Way

- NDOT is transferring this regulation to Title 412 due to a change in ownership within the agency. Because of this action, NDOT is required by law to repeal the chapter and re-adopt the regulation as a new chapter within the new title.

412 NAC 2, The Accommodation of Mailboxes and Newspaper Delivery Boxes and Support Posts on Highway Rights-Of-Way

- NDOT is re-adopting this regulation after repealing it from 410 NAC 7 and updating it to reflect current best practices. These practices include both State and Federal changes that have been implemented since the regulation last received a substantive revision.

414 NAC 1, Nebraska Scenic Byways Program

- NDOT is updating this regulation, originally adopted in 1996, to remove portions of the rule which are no longer applicable.

428 NAC 3, Instruction Manual for Annual Reporting of One- and Six-Year Plans for Highway, Road and Street Improvements

- NDOT is proposing to repeal this regulation in its entirety. The regulation is no longer necessary due to NDOT- and Board-sponsored legislation (LB 82) passed in 2019 by the Legislature. The Legislation requires local political subdivisions to certify to the NBCS their compliance with the law rather than submit the one- and six-year plans to the NBCS for NBCS staff to review. Because of this change in law, 428 NAC 3 is obsolete and unnecessary.

428 NAC 3, Instruction Manual for Standardized System of Annual Reporting Road, Street, and Highway Programs as adopted by the Board of Public Roads Classifications and Standards and approved by the Auditor of Public Accounts

- NDOT is proposing to repeal this regulation in its entirety. The regulation is no longer necessary due to NDOT- and Board-sponsored legislation (LB 82) passed in 2019 by the Legislature. The Legislation requires local political subdivisions to certify to the NBCS their compliance with the law rather than submit the SSAR report to the NBCS for NBCS staff to review. Because of this change in law, 428 NAC 3 is obsolete 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 (October 31, 2020). Pre- and post-hearing comments should be directed in writing to NDOT's External Affairs Manager, Sarah Soula, PO 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 amendments to the regulations or to comment online, visit: <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi> ("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; voice telephone (402) 479-4324; TDD telephone (402) 479-3834; fax (402) 479-3758; erich.strack@nebraska.gov. To view or pick up copies in person: 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 14, 2020. Notification should be submitted to Sarah Soula (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:	17	PREPARED BY:	Erich Strack
CHAPTER:	1	DATE PREPARED:	August 20, 2020
SUBJECT:	Public Use Airport/Heliport Licensing	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 17, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA DEPARTMENT OF TRANSPORTATION
AERONAUTICS DIVISION

RULES AND REGULATIONS CONCERNING
PUBLIC USE AIRPORT/HELIPORT LICENSING

TITLE 17 – NEBRASKA DEPARTMENT OF TRANSPORTATION – AERONAUTICS DIVISION

Chapter 1 - Public Use Airport/Heliport Licensing

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TITLE 17 – NEBRASKA DEPARTMENT OF TRANSPORTATION – AERONAUTICS DIVISION

Chapter 1 - Public Use Airport/Heliport Licensing

001 Definitions

001.01A Airport means any area that is used, or intended for use, for landing and takeoff of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way.

001.01B Displaced Threshold means a threshold that is located at a point on the runway other than at the beginning of the runway surface. The area behind the displaced threshold is available for rollout or takeoff of aircraft.

001.01C Effective Runway Length means the longest takeoff length available.

001.01D Heliport means any area for exclusive use by rotorcraft that is used, or intended for use, for landing and takeoff of rotorcraft, and any appurtenant areas that are used, or intended for use, for heliport buildings or other heliport facilities or rights of way.

001.01E Public-Use means available for use by the general flying public.

~~001.01F Private Use means available for use by the owner and only for use by others upon specific invitation of the owner.~~

001.01GF Primary Runway means the runway designated by the Aeronautics Division of the Nebraska Department of Transportation as the primary runway, considering length, wind coverage, surface and other factors deemed appropriate.

001.01GH Runway means a paved or unpaved area of prescribed dimension available for aircraft takeoffs and landings.

001.01H Threshold means the beginning of the runway that is available for landing.

002 Site Application and Approval

002.01 The sponsor of a proposed public-use airport or heliport shall:

002.01A Submit a Federal Aviation Administration (FAA) Form 7480-1 "Notice of Landing Area Proposal" to the FAA;

002.01B Request a license from the Department. Include a copy of FAA Form 7480-1 and any FAA response or conditions with the request;

002.01C Request and assure an on-site inspection by a representative of the Department;

002.01D Receive approval of the site from the Nebraska Aeronautics Commission;

002.01E Meet or exceed the conditions described in the FAA Form 7480-1 response.

TITLE 17 – NEBRASKA DEPARTMENT OF TRANSPORTATION – AERONAUTICS DIVISION

Chapter 1 - Public Use Airport/Heliport Licensing (continued)

002.01F Obtain a license from the Department. Airports shall meet or exceed minimum standards pursuant to section 17 NAC 1-003.02 and any other safety conditions established by the Department. Heliports shall meet or exceed minimum standards pursuant to 17 NAC 1-004.01B. The license does not relieve the airport owner of responsibility for complying with local zoning regulations.

003 Licensing

003.01 - Public Use Airports

003.01A A public-use airport shall be licensed by the Department for a period not to exceed 3 years and shall maintain or exceed the minimum standards as outlined in section 17 NDA 1-003.02 or possess a waiver pursuant to 17 NAC 1-003.02H.

003.01B Public-use airports, currently licensed and maintained in accordance with Aeronautics Division of the Nebraska Department of Transportation regulations in effect December 31, 2000, may continue to be licensed by the Department until December 31, 2008, provided there are no new uncorrected violations.

003.01C A public-use airport certificated in accordance with Federal Aviation Regulation Part 139 shall be considered to meet these standards and shall be licensed indefinitely until such time as the airport ceases to be certificated in accordance with FAR Part 139. When the airport ceases to be certificated, the airport shall notify the Department in writing.

003.01D When a public use airport's license expires or is surrendered or revoked the airport owner must (1) file the appropriate notice with the Federal Aviation Administration changing the status of the airport from public-use, and (2) cease operation as a public-use airport.

003.02 Minimum Standards for Public Use Airports

003.02A The effective runway length of a paved primary runway shall be at least 1400 feet plus 25% of the MSL (Mean Sea Level) elevation of the site. The effective runway length of an unpaved primary runway shall be at least 1800 feet plus 25% of the MSL elevation of the site.

003.02B A paved runway shall be at least 50 feet wide. An unpaved runway shall be at least 100 feet wide.

003.02C No object shall penetrate above the primary surfaces, approach surfaces, and transitional surfaces.

003.02D Objects shall include anything fixed or mobile except aeronautical facilities whose location is fixed and necessary because of their function.

Except as otherwise noted in 003.02G below, all crops except hay shall be considered objects and their height shall be measured as the height of the crops when fully grown, despite the actual crop height at any specific time.

TITLE 17 – NEBRASKA DEPARTMENT OF TRANSPORTATION – AERONAUTICS DIVISION

Chapter 1 - Public Use Airport/Heliport Licensing (continued)

Roads and railroads are considered to be objects and the following heights shall be added to the height of the road or railroad to accommodate the height of vehicles:

- 1) Interstate Highway – 17 feet.
- 2) Public highway or road – 15 feet.
- 3) Private road – 10 feet.
- 4) Railroad – 23 feet.

Parked aircraft and vehicles are considered objects. Parking areas shall be placed so that the tallest aircraft or vehicle does not penetrate the approach, primary, and transitional surfaces.

003.02E The primary surface shall be the same elevation as the nearest point on the runway centerline and is 250 feet wide centered on the runway centerline. The primary surface includes the full length of the runway and extends 200 feet beyond each runway threshold for paved runways.

003.02F The approach surface extends outward from the primary surface and upward along a 20 to 1 slope (20 feet horizontal to 1 foot vertical) for a horizontal distance of 1,000 feet. The width of the approach slope is 250 feet at the beginning and widens out to 450 feet at the farthest point. The approach surface begins at the end of the primary surface and is longitudinally centered on the runway centerline.

003.02G Except in the case of terrain, the transitional surface extends upwards from all approach and primary surfaces at a slope of 7 to 1 (7 feet horizontal to 1 foot vertical) perpendicular to the runway centerline. In the case of terrain, the transitional surface extends upward from all approach and primary surfaces at a slope of 4 to 1 (4 feet horizontal to 1 foot vertical) perpendicular to the runway centerline. The transitional surface includes all areas that are not in the approach or primary surface. The transitional surface ends at a height of 50 feet above the elevation of the nearest runway centerline. Crops are not considered objects in the transitional surface.

003.02H The Department may waive the minimum standards, pursuant to 17 NAC 1- 003.02A-G, when such waiver, in the opinion of the Department, does not endanger public health, safety or welfare. The airport/heliport license shall state the conditions of the waiver by reference or in full.

004 Licensing - Public Use Heliport

004.01 A public use heliport shall be licensed by the Aeronautics Division of the Nebraska Department of Transportation for a period not to exceed 3 years and shall maintain or exceed the minimum standards set forth in 17 NAC 1-004.01B.

004.02 A public use heliport shall comply with the technical information and guidelines of the Federal Aviation Administration Advisory Circular No. 150/5390-2C, "Heliport Design" dated April 2012.

~~005 Private Use Airport/Heliport~~

~~005.01~~ ~~A private use airport/heliport may be registered as prescribed by the Department.~~

TITLE 17 – NEBRASKA DEPARTMENT OF TRANSPORTATION – AERONAUTICS DIVISION

Chapter 1 - Public Use Airport/Heliport Licensing (continued)

~~005.02 Such registration is for informational purposes only, allowing the airport or heliport to be depicted on the current Nebraska State Aeronautical chart, at the request of the owner. Registration constitutes no endorsement from the Department regarding the configuration or safety of the registered airport/heliport.~~

~~005.03 A private use airport/heliport may be registered for commercial agricultural use if it is the permanent base of operation for an aerial pesticide applicator.~~

~~005.04 Registration may be terminated if operations from the registered site conflict with the operations of any existing or proposed Public Use Airport/Heliport. Periodic re-registration is required.~~

ANNOTATION

Title 17
Chapter 1

Enabling Legislation
3-102; 3-109; 3-128;
3-133; 3-135; 3-136;
3-137; 3-140
Neb. Rev. Stat.