

NATURAL RESOURCES COMMISSION
TITLE 259, ADMINISTRATION OF WATER WELL
DECOMMISSIONING FUND
EFFECTIVE 07-28-2021

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CHAPTER 1 - ADMINISTRATION OF WATER WELL DECOMMISSIONING FUND

001. GENERAL PROVISIONS.

001.01 PURPOSE OF RULES. These rules are adopted for the purpose of administering the Water Well Decommissioning Fund created by Neb. Rev. Stat. § 46-1403.

001.02 GENERAL AVAILABILITY OF FUNDS. Financial assistance from the Fund shall be available only to districts that have cost-sharing programs for decommissioning water wells consistent with Neb. Rev. Stat. §§ 46-1401 to 46-1405 and these rules; and have entered into a contract with the Department setting forth the terms for providing such financial assistance.

001.03 DEFINITIONS. As used in these rules, unless the context otherwise requires:

001.03(A). “Decommissioned” or “Decommissioning” is defined under Neb. Rev. Stat. § 46-1206.01;

001.03(B). “Department” means the Nebraska Department of Natural Resources;

001.03(C). “Director” means the Director of the Department;

001.03(D). “District” means a Natural Resources District;

001.03(E). “Fiscal Year” means July 1 of any calendar year through June 30 of the next calendar year;

001.03(F). “Fund” means the Water Well Decommissioning Fund created by Neb. Rev. Stat. § 46-1403;

001.03(G). “Licensed pump installation contractor” is defined under Neb. Rev. Stat. § 46-1209;

001.03(H). “Licensed water well contractor” is defined under Neb. Rev. Stat. § 46-1213; and

001.03(I). “Water well” is defined under Neb. Rev. Stat. § 46-1212.

001.04 ACCESS TO FILES AND COMPLIANCE WITH AGREEMENT AND RULES. The files of each participating District shall be available for inspection by Department personnel and by representatives of the State Auditor's Office during normal business hours of the District. In the event the Director becomes aware of a violation of the contract between the District and the Department or of these rules, the Director may terminate the contract and/or demand reimbursement of any State funds related to

such violation.

002. QUALIFIED COST-SHARING PROGRAMS.

002.01 PROGRAM ELIGIBILITY. For a District to be eligible for reimbursement from the Fund, it must establish a water well decommissioning cost-share program consistent with the requirements as set forth in Neb. Rev. Stat. § 46-1405.

002.01(A). For purposes of Neb. Rev. Stat. § 46-1405(3), the program will be considered in compliance with this requirement if the District has budgeted at least \$10,000 for the program that Fiscal Year. If a District produces sufficient evidence to document that it can cost-share the decommissioning of at least 30 water wells for less than \$10,000, the Director may determine that such District's program is eligible if the amount budgeted for decommissioning is equal to or greater than that lesser amount.

002.01(B). For purposes of Neb. Rev. Stat. § 46-1405(4), the cost of decommissioning a water well does not include the cost of removing any exposed or buried pipes, tanks, or pumps; or any tower, wellhouse, or other apparatus or obstruction around or in the water well that might interfere with the process of decommissioning.

002.02 PROGRAM CERTIFICATION BY DISTRICT. Each District desiring reimbursement from the Fund must complete a program certification form provided by the Director. The form must be completed and returned by July 15 of each year the District wishes to receive reimbursement from the Fund.

002.03 APPROVAL OF PROGRAMS. The Director is responsible for determining whether a District cost-sharing program for decommissioning water wells complies with the requirements of Neb. Rev. Stat. § 46-1405 and this Section. Before making such determination, the Director may request additional information from the District.

003. ALLOCATION OF FUNDS.

003.01 ALLOCATION OF FUNDS. The Director will allocate funds only to Districts that have entered into a contract with the Department and have a water well decommissioning cost-sharing program consistent with the requirements of Neb. Rev. Stat. § 46-1405 and these rules. Each participating District's percentage of the funds available for a Fiscal Year will be determined by the Director on or before August 1 of that year and will be based upon that participating District's proportion of the wells decommissioned statewide with District cost-share assistance. Each District's proportion will be determined as follows: (1) for any District that has had a qualified program for at least the previous three consecutive Fiscal Years, the average number of wells decommissioned with assistance from that program in the three previous Fiscal Years will be determined; (2) for any District that has had a qualified program for only the last Fiscal Year or the last two consecutive Fiscal Years, the number of wells

decommissioned with assistance from that program in the previous Fiscal Year will be the number used for that District; (3) all average numbers determined in accordance with (1) above will be added to all numbers determined in accordance with (2) above to produce the total number of wells that have been decommissioned statewide with qualified District cost-share assistance programs; and (4) each District's number as determined in accordance with (1) or (2) above will then be divided by the total derived in accordance with (3) above to produce that District's proportion of the funds to be allocated for the then current Fiscal Year. Funds will be allocated to participating Districts on at least a quarterly basis. Except as provided in Subsection 003.03 each District's share of each allocation will be based upon the percentages determined in accordance with this Subsection.

003.02 CERTIFYING WELLS DECOMMISSIONED. On or before July 15 of each year, each District that desires to be reimbursed from the Fund will certify the number of wells decommissioned with cost-sharing assistance the previous Fiscal Year in accordance with this Subsection.

003.03 REVISING ALLOCATIONS. To assist the Director in making determinations on revising allocations, each participating District will provide the Director with a report by March 1. The report will indicate the number of wells that the District has approved for cost-share assistance and that are expected to be decommissioned and cost-shared by the District before July 1 and any other information the District desires to indicate the demand for funds in that District. If the District does not provide the report, or if the report indicates that it cannot be expected to utilize all of its percentage by July 1, the Director may reduce that District's percentage and distribute these funds to Districts that have documented the need for additional funds in that Fiscal Year. Such distribution will be based on the Director's determination of the proportionate number of well decommissionings that could still be cost-shared within those Districts in the remainder of the Fiscal Year.

003.04 EXPIRATION OF ALLOCATION. Allocations will not be carried over from one Fiscal Year to the next. Re-appropriated funds will be included in the amount allocated for the next Fiscal Year. Funds encumbered by the Department at the end of the Fiscal Year will be released if a request for reimbursement has not been received by the Director by July 15.

004. REIMBURSEMENT TO DISTRICTS.

004.01 LIMIT ON REIMBURSEMENTS. Actual reimbursements to the District for each water well decommissioned with District cost-share assistance in accordance with these rules will not exceed the lesser of: (1) 75 percent of the cost of such decommissioning; (2) \$500 for all water wells other than hand-dug wells; (3) \$700 for hand-dug water wells; or (4) the actual amount of the cost-share assistance paid by the District.

004.02 REQUESTING REIMBURSEMENT. A participating District may request reimbursement no more often than monthly, except as necessary to avoid a loss of encumbered funds in accordance with Subsection 003.04. To be eligible for such reimbursement, the District must certify the following

information for each water well for which cost-share reimbursement is being sought: (1) the total cost of decommissioning the well; (2) the cost-share amount paid by the District; and (3) that District cost-sharing for the well was in compliance with Neb. Rev. Stat. §§ 46-1401 to 46-1405, and with these rules.

Enabling Legislation: Neb. Rev. Stat. §§ 46-1401 to 46-1405

