

NEBRASKA ADMINISTRATIVE CODE
NEBRASKA NATURAL RESOURCES COMMISSION

TITLE 263 – ADMINISTRATION OF NATURAL RESOURCES WATER QUALITY FUND

CHAPTER 1 – ADMINISTRATION OF NATURAL RESOURCES WATER QUALITY FUND

001. GENERAL PROVISIONS.

001.01. PURPOSE OF RULES. These rules are adopted for the purpose of administering the Natural Resources Water Quality Fund governed by Neb. Rev. Stat. §§ 2-15,122 and 2-15,123.

001.02. GENERAL AVAILABILITY OF FUNDS. Financial assistance from the Fund will be available only to Districts that have programs qualifying for such assistance under these rules and which 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). “Commission,” “Department,” “Director,” and “District” have the same meaning as in Title 259; and

001.03(B). “Fund” means the Natural Resources Water Quality Fund created by Neb. Rev. Stat. § 2-15,122.

001.04. ACCESS TO FILES AND COMPLIANCE WITH AGREEMENT AND RULES. Each participating District must maintain records adequate to document that the District had expenditures qualified pursuant to Section 003 of these rules in amounts equal to or exceeding the amount provided from the Fund plus the required cost-share. Such files are to 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. DISTRIBUTION OF FUNDS.

002.01. SCHEDULE FOR DISTRIBUTING FUNDS. Funds will be distributed, pursuant to Subsection 002.02 to participating Districts on or before the 15th day of August, each year and at such other times during the year as the Director determines that sufficient additional funds are available to make a distribution and the participating Districts indicate their ability to use additional funds.

002.02. DETERMINING DISTRIBUTIONS. The money available for each distribution from the Fund will be divided among participating Districts as follows:

002.02(A). Except as provided by Subsection 002.04, 60 percent of the funds available will be distributed to Districts on the basis of proportionate fertilizer sales within the Districts during the preceding three calendar years for which sales records by county are available from Nebraska Agricultural Statistics or a comparable source. For a county that is contained within more than one District, each District's proportion of sales will be based upon its proportionate land area within the county. If sales records are not made available for any county, the Director will establish that county's portion of the statewide sales total. That decision will be based upon the best available information, which may include, but not be limited to, county land area and sales in adjacent counties. In the event the Commission chooses to reserve up to 10 percent of funds available for special distribution pursuant to Subsection 002.04, the amount of funds available for distribution pursuant to this Subsection will be decreased by the amount reserved.

002.02(B). 20 percent of the funds available will be divided equally among all participating Districts.

002.02(C). 20 percent of the funds will be distributed among Districts which have (1) a designated ground water management area for water quality purposes or (2) a clean lakes watershed area designated pursuant to Section 314 of the Clean Water Act, or comparable federally-funded program. Each District's distribution pursuant to this Subsection will be based upon the proportionate land area in that District which is in such a designated area compared to the total land area within the State in such designated areas. If specific lands are in more than one such designated area, they will be counted only once for purposes of this Subsection.

002.03. At least 30 days prior to a distribution pursuant to Subsection 002.02, the Department will notify each District of the estimated amount of funds to be distributed to that District. If any District does not believe it could fully utilize any such distribution in the amount estimated, it must provide the Department with timely notification of the amount of funds that it could utilize for qualified programs. The difference between that amount and the amount that would otherwise be distributed to that District pursuant to Subsection 002.02 will be divided among the other participating Districts according to Subsections 002.02(A) through 002.02(C).

002.04. The Commission may reserve up to 10 percent of the funds that otherwise would be distributed pursuant to Subsection 002.02 as part of the first distribution in any fiscal year. Any such reserved funds will be distributed by the Director to participating Districts for specific programs and/or projects by September 15 of the fiscal year in which they are to be expended. If the available funds are not sufficient to fund all those for which application has been made, priority will be given to programs and projects offering innovative ways to address water quality problems. No District may receive more than 25 percent of the funds distributed pursuant to this Subsection in any one fiscal year unless funds are available for all other qualified applications submitted.

003. QUALIFYING EXPENDITURES.

003.01. QUALIFYING PROGRAMS AND PROJECTS. Subject to the requirement of Subsection 003.02, a participating District may expend funds distributed pursuant to

Section 002 of these rules for costs incurred by that District for any of the following programs and projects: (1) the purchase, installation, maintenance, and use of ground water or surface water sampling and testing equipment; (2) education and information programs related to water quality issues; (3) administration of ground water quality management areas; (4) purchase, installation, and maintenance of special monitoring wells and related equipment; (5) flow meters and other equipment required in ground water management areas; (6) source water protection programs and activities; (7) preparation and updating of ground water management plans; (8) implementation of water quality "best management" practices in both rural and urban areas, including programs that cost-share expenses of landowners and operators in installing or using such practices; (9) soil sampling and testing programs for soils in and below the crop root zone; (10) water quality research; (11) well decommissionings; (12) chemigation permitting and inspection programs; (13) investigations, because of water quality concerns, of potential replacement sources of water for public water suppliers; (14) animal waste management activities including research, treatment lagoon cost-sharing, feedlot waste effluent management, and inactive feedlot management; and (15) other water quality related programs and projects approved in advance by the Director. The Director has sole discretion to determine whether a District's program qualifies for funding pursuant to this Subsection.

003.02. COST-SHARE REQUIREMENT. For each two dollars expended by the District from the funds distributed pursuant to Section 002 of these rules, the District must spend at least three dollars in funds derived from other non-state sources for the programs and projects identified in Subsection 003.01.

003.03. CERTIFICATION OF EXPENDITURES AND REIMBURSEMENT OF FUNDS. Funds distributed pursuant to Section 002 of these rules must be expended by the District in the fiscal year distributed. On or before August 31, the District must account for expenditure of the funds made available from the Fund in the previous fiscal year. In the event that all funds distributed in the previous fiscal year were not expended by June 30 of that fiscal year, or that any funds were expended for programs or projects that the Director determines were not qualified for funding, or that the District did not match the funds distributed in the proportion required by Subsection 003.02, the District shall reimburse the Department for the amount unexpended, improperly expended, or unmatched. All such reimbursed funds will be redeposited in the Fund for redistribution in accordance with Section 002 of these rules. No new distributions may be made to a District that has not made a reimbursement required by this Section.

Enabling Legislation: Neb. Rev. Stat. § 2-15,122 and 2-15,123