

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF RULEMAKING HEARINGS

NOTICE IS HEREBY GIVEN THAT THE State of Nebraska, Department of Natural Resources (“Department”), will hold public rule-making hearings pursuant to *Neb. Rev. Stat.* § 84-907. The hearings will be held hourly beginning at 9:00 a.m. on Tuesday, September 29, 2020, in Room C on the lower level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

The purpose of the hearings is to take public comments concerning adoption of the Department’s repeals to the following rules: *Neb. Admin. Code Title 454* entitled “Rules of Practice and Procedure,” *Title 456* entitled “Ground Water Rules,” *Title 457* entitled “Surface Water Rules,” and *Title 460* entitled “Rules Governing the Water Resources Trust Fund.” A brief description of the proposed repeals to the rules and their hearing times are as follows:

9:00 a.m. - Title 454: Chapter 8, repeals notice requirements for Reclamation District hearings because they are redundant to statutory requirements; Chapter 12, repeals map requirement details for formation of new Irrigation Districts because they are redundant to statutory requirements; Chapter 14, repeals public records availability requirements because they are redundant to statutory requirements.

10:00 a.m. - Title 456: Chapter 3, repeals requirement for notification of change of well ownership because it is redundant to statutory requirements; Chapter 7, repeals notice requirements for industrial groundwater transfers that are redundant to statutory requirements; Chapter 8, repeals petition requirements for requesting an administrative review or contest of an industrial groundwater transfer because these requirements are covered in Department rules, *Title 454*; Chapter 9, repeals requirements for filing a notice of well abandonment with the Department because they are redundant to statutory requirements; Chapter 10, repeals requirements for submitting a Natural Resources District’s Groundwater Control Area rules to the Department because these requirements are no longer necessary as a result of L.B. 108, 94th Leg., Second Reg. Sess. (Neb. 1996).

11:00 a.m. - Title 457: Chapter 20, repeals requirements for a temporary surface water use permit to be issued by the Department because they are redundant to statutory requirements.

1:00 p.m. - Title 460: repeal in entirety due to obsolete 2004 requirements for participation in certain U.S.D.A. programs for use of the Water Resources Trust Fund; repeal does not change availability of funds and the Department will rely upon existing statutory requirements solely for administration of the Fund.

The proposed rules as repealed are available at the offices of the Secretary of State, Regulations/Licensing Division, Room 1305, State Capitol, Lincoln, Nebraska 68509, and on the Department's website at <http://dnr.nebraska.gov/rules>. The description of the fiscal and other impacts may be inspected and obtained at the Department of Natural Resources, 4th Floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. There will be no fiscal impact from the changes.

All interested persons are invited to attend and make oral or written comments at the hearings. Interested persons may also submit written comments prior to the hearings which will be made part of the hearing record at the time of hearing if received by the Department of Natural Resources on or before Monday, September 28, 2020. If auxiliary aids or reasonable accommodations are needed to participate in the hearing or if hearing impaired, please call Ron Theis at (402) 471-0577 by Tuesday, September 22, 2020.

Date: August 24, 2020



Jesse Bradley, P.G., Interim Director
Department of Natural Resources

FISCAL IMPACT STATEMENT

Agency: Department of Natural Resources	
Title: 456	Prepared by: Susan France
Chapter: 3	Date prepared: August 19, 2019
Subject: Rules for Ground Water Change of Ownership of Wells	Telephone: (402) 471-1684

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: None

Political
Subdivision: None

Regulated
Public: None

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Natural Resources	
Title: 456	Prepared by: Susan France
Chapter: 7	Date prepared: August 19, 2019
Subject: Rules for Ground Water Industrial Ground Water Transfer Notice	Telephone: (402) 471-1684

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: None

Political
Subdivision: None

Regulated
Public: None

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Natural Resources	
Title: 456	Prepared by: Susan France
Chapter: 8	Date prepared: August 19, 2019
Subject: Rules for Ground Water Contested Industrial Ground Water Transfers	Telephone: (402) 471-1684

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: None

Political
Subdivision: None

Regulated
Public: None

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Natural Resources	
Title: 456	Prepared by: Susan France
Chapter: 9	Date prepared: August 19, 2019
Subject: Rules for Ground Water Notice of Abandonment	Telephone: (402) 471-1684

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: None

Political
Subdivision: None

Regulated
Public: None

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Natural Resources	
Title: 456	Prepared by: Susan France
Chapter: 10	Date prepared: August 19, 2019
Subject: Rules for Ground Water Control Area Rules	Telephone: (402) 471-1684

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: None

Political
Subdivision: None

Regulated
Public: None

If indeterminable, explain why:

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF ~~WATER-NATURAL~~ RESOURCES

CHAPTER 3 - ~~CHANGE OF OWNERSHIP OF REGISTERED WELLS~~ (Repealed)

~~001. NOTIFICATION. The Department shall be notified in writing of any change in the ownership of any registered well by the new owner of the well.~~

ANNOTATION

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943~~
~~Section 46-602, R.R.S., Nebraska, 1943~~
~~Section 84-909(1), R.R.S., Nebraska, 1943~~

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF NATURAL RESOURCES

CHAPTER 3 - (Repealed)

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF ~~WATER NATURAL~~ RESOURCES
~~RULES FOR GROUND WATER~~

CHAPTER 7 - ~~INDUSTRIAL GROUND WATER TRANSFER NOTICE~~ (Repealed)

~~001. NOTICE. The notice submitted to the Department of Water Resources shall be an original, signed typewritten document in the format described in Appendix B. This notice shall be submitted to the Department with the \$10.00 filing fee required by § 33-105(8), R.R.S., 1943, as amended. A copy of this same notice shall be sent by the owner or leasee of the well to a newspaper of general circulation in the county or counties in which the point(s) of withdrawal are located. Following publication as required by § 46-678, the owner or leasee shall submit a proof of publication to the Department of Water Resources.~~

ANNOTATION

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943, LB 789
Section 46-677, R.R.S., Nebraska, 1943, LB 789~~

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF NATURAL RESOURCES

CHAPTER 7 - (Repealed)

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF ~~WATER-NATURAL~~ RESOURCES
~~RULES FOR GROUND-WATER~~

CHAPTER 8 - ~~CONTESTED INDUSTRIAL GROUND-WATER TRANSFERS (Repealed)~~

~~001. PETITION.~~ Any person using ground water at the time a notice to transfer ground water for industrial purposes is filed in the Department, may petition the Director for a hearing if the person's ground water wells suffer an unanticipated decline in ground water levels after the date the notice is filed. The petition shall be in the format shown in Appendix A, and shall be accompanied by the appropriate filing fee. The petition shall include, but is not limited to the following:

~~—001.01.~~ The name, mailing address, and telephone number of the petitioner.

~~001.02.~~ The ground water well registration number(s) (if applicable) of all wells owned by petitioner that experienced a decline.

~~—001.03.~~ The legal description of each ground water well that has experienced a decline.

~~001.04.~~ The name and mailing address of the industrial ground water well owner accused of causing the decline.

~~001.05.~~ The legal description of the industrial ground water well(s) expected of causing the decline.

~~—001.06.~~ The registration number of the ground water wells expected of causing the decline.

~~—001.07.~~ The alleged cause and extent of the ground water decline.

~~—001.08.~~ The nature and extent of any injuries resulting from the decline.

~~002. SERVICE.~~ A copy of the petition shall be served by the petitioner upon the industrial well user. Such service shall be by registered or certified mail. Failure to provide service shall cause the petition to be dismissed without prejudice.

~~003. HEARING.~~ The hearing shall be conducted in accordance with the Department's Rules of Practice and Procedure, Title 454, and the Administrative Procedures Act.

~~004. DECISION.~~ After the conclusion of the hearing, the Director shall issue a written order. A copy of the order shall be delivered or mailed to all parties of record.

TITLE 456
CHAPTER 8

NEBRASKA ADMINISTRATIVE CODE

~~005. APPEAL. Parties to the hearing may request a rehearing as described in the Department's Rules of Practice and Procedure, Title 454, Chapter 11 or may appeal to the Court of Appeals.~~

ANNOTATION

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943
LB-789~~

APPENDIX A: Example of Petition

BEFORE THE DEPARTMENT OF WATER RESOURCES
STATE OF NEBRASKA

In the Matter of _____)
_____) PETITION FOR
(Give Description) _____)
_____)

_____ Comes now _____, petitioner and
states:

1. _____

2. _____

3. _____

Wherefore, the undersigned respectfully requests that the Department

(State action you wish taken)

(Signature of Petitioner)

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF NATURAL RESOURCES

CHAPTER 8 - (Repealed)

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF ~~WATER-NATURAL~~ RESOURCES
~~RULES FOR GROUND WATER~~

CHAPTER 9 - ~~NOTICE OF ABANDONMENT~~ (Repealed)

~~001. REQUIREMENTS.~~ Notice of abandonment shall include:

~~—001.01. Registration number of abandoned well.~~

~~001.02. Location including 40-acre government subdivision, section, township, range and county.~~

~~—001.03. Present owner and address.~~

~~—001.04. Diameter of pump column removed from well being abandoned.~~

~~—001.05. Explanation of abandonment procedures used.~~

~~—001.06. Date of abandonment.~~

ANNOTATION

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943~~
~~Section 46-602, R.R.S., Nebraska, 1943~~

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF NATURAL RESOURCES

CHAPTER 9 - (Repealed)

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF ~~WATER-NATURAL~~ RESOURCES
~~RULES FOR GROUND WATER~~

CHAPTER 10 - ~~CONTROL AREA RULES (Repealed)~~

~~001. Natural resources districts shall submit proposed control area rules in the following manner:~~

~~001.01. All rules shall be typewritten on 8½-inch by 11-inch white paper. The top margin on all sheets shall be at least 1½ inches at the top and at least one inch on the sides and bottom.~~

~~001.02. All proposed new rules or amendments to existing rules shall be shown by underscoring new rules or words and striking by use of a hyphen (-) all words that are to be deleted.~~

~~001.03. When proposing new sections of existing rules or amendments to any section of existing rules, the natural resources district shall submit a complete set of rules showing proposed changes as described in paragraph 001.04 above.~~

~~002. After approval of the proposed rules or amendments, the natural resources district shall file within 60 days a "clean" set of rules in the Department with the changes approved incorporated in the document.~~

ANNOTATION

~~ENABLING LEGISLATION: Section 46-670, R.R.S., Nebraska, 1943
Section 46-666(3), R.R.S., Nebraska, 1943~~

NEBRASKA ADMINISTRATIVE CODE

TITLE 456 - DEPARTMENT OF NATURAL RESOURCES

CHAPTER 10 - (Repealed)