

NOTICE OF PUBLIC HEARING FOR RULEMAKING

Notice is hereby given that the Nebraska Department of Economic Development will hold a public hearing for rulemaking pursuant to Neb. Rev. Stat. § 84-907 on October 7, 2022, at 10:00 a.m. (CST) at the Fallbrook Public Hearing Room # 031, 245 Fallbrook Blvd., Lincoln, Nebraska 68521.

The purpose of the hearing is to receive oral or written public comments about the proposed adoption of Title 88, Nebraska Administrative Code, Chapter 1, entitled Rules of Practice and Procedure for Hearings in Contested Cases Before the Department. This action is proposed to implement a procedure for contested cases before the Department. This action is specifically required by Neb. Rev. Stat. §§ 81-12,212(5) and 81-12,186(5) of the Nebraska Rural Projects Act and the Nebraska Transformational Projects Act, respectively.

Copies of the proposed rules and regulations, and the Fiscal Impact Statement, are available at the offices of the Department of Economic Development, 245 Fallbrook Blvd, Suite 002, Lincoln, Nebraska 68521 and online at <https://opportunity.nebraska.gov/programs/community/rural-projects/>. Copies are also available at the offices of the Secretary of State, 1201 N Street, Suite 120, Lincoln, Nebraska 68509 and online at <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi>.

There is no expected fiscal impact on state agencies, political subdivisions, or persons regulated.

Interested persons are invited to attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments to the Department of Economic Development prior to the hearing which will be made part of the hearing records at the time of the hearing.

All testimony and written submissions made a part of the hearing records will be considered by the Department of Economic Development in making its decision about adoption of the proposed rules and regulations.

Individuals requiring physical and sensory accommodations to participate in the hearing, including interpreter services, Braille, large print or recorded materials, should contact the Department of Economic Development no later than seven (7) days prior to the hearing.

The Department of Economic Development employee to contact with respect to all matters in this notice is: Ben Goins, Nebraska Department of Economic Development; PO Box 94666, 245 Fallbrook Blvd, Suite 002, Lincoln, NE 68521; e-mail: benjamin.goins@nebraska.gov; telephone (402) 471-0822 (direct), or (402) 471-3111 (department switchboard), or (800) 426-6505 (toll free department switchboard), or for those with hearing/speech impairments the Nebraska Relay System at 711, or (800) 833-7352 (TDD) or (800) 833-0920 (Voice).

NEBRASKA ADMINISTRATIVE CODE

TITLE 88 - NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

CHAPTER 1 - Rules of Practice and Procedure for Hearings in Contested Cases Before the Department.

001. Adoption of model rules and additional definitions.

001.01. Adoption of model rules. For any contested hearing before the Department, the model Rules of Practice and Procedure for Hearings in Contested Cases Before an Agency promulgated as Title 53, Chapter 4 of the Nebraska Administrative Code by the Attorney General are incorporated by reference.

001.02. Additional definitions. The following definitions shall apply throughout this chapter:

001.02A. Director shall mean the director of the Agency, the Nebraska Department of Economic Development.

001.02B. Protest shall mean a petition seeking redetermination by the Director of an appealable decision made by the Agency.

002. Additional rules. The following rules shall apply to any petition or pleading as applicable:

002.01. Motions practice. Any party may file a motion with the Hearing Officer as soon as a party becomes aware of facts requiring the motion. The motion must state a request for relief and support for the relief requested. If the consent of all parties is not obtained, a hearing on the motion may be scheduled and the parties notified. The burden will be on the party filing the motion to show good cause why it should be granted. Notice will be given to all parties of the ruling on the motion.

002.01A. Motion for dismissal. The Hearing Officer may grant a motion for dismissal for, but not limited to, the following grounds:

002.01A1. Lack of jurisdiction, including but not limited to whether the petitioner is the proper party in the proceeding, whether the petition fails to state a claim, or whether the petition was filed within the statutory time limit; or

002.01A2. Upon a party being held in default under the Administrative Procedure Act for failure to attend or participate in a prehearing conference, hearing, or other stage of a contested case, or who fails to make a good faith effort to comply with a prehearing order.

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Department of Economic Development	
Title: 88	Prepared by: Dave Dearmont
Chapter: 1	Date prepared: 3/29/2022
Subject: Contested Cases	Telephone: (402)471-3777

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 & a Description of Impact:

State Agency: No fiscal impact. Proposed regulations create an appeal process required by statute.

Political

Subdivision: No fiscal impact. Proposed regulations create an appeal process required by statute.

Regulated

Public: No fiscal impact. Proposed regulations create an appeal process required by statute.

If indeterminable, explain why: