

NEBRASKA ADMINISTRATIVE CODE

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Title 256 – DEPARTMENT OF NATURAL RESOURCES

Chapter 3 - ACTION BY THE DIRECTOR

001 Review and Report by the Director. On receipt of a completed application and feasibility report required by Chapter 2 of these rules and regulations, the Director shall review the application and feasibility report and shall, within six months of receipt, prepare a report containing his or her findings and recommendations with respect to the application and will file such report with the Commission. Copies of the Director's report will be furnished to the applicant. The Director's report shall include the following items:

001.01 A recommendation of approval or rejection of the program or project for funding eligibility.

001.02 If approval is recommended, a recommendation that the allocation be made in the form of a grant, loan, acquisition of state interest, or combination thereof.

001.03 If a program or project is recommended for loan assistance, a recommendation of the appropriate repayment period.

001.04 A recommended degree of assistance for each type of allocation recommended by the Director which shall be developed with assistance from a subcommittee of the Commission's Program Committee.

001.05 Any conditions which the Director recommends be placed on project design, construction, operation, or maintenance to ensure the consistency of the project with the Act and with other state policies, plans and programs.

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002 Committee Findings and Public Hearings. To assist the Director in making his or her review and report, the Director may refer the application and feasibility report, or any parts thereof, to such review committees as he or she may establish. In addition, the Director may, at his or her discretion, conduct one or more public hearings at such location (s) as he or she shall choose for the purpose of receiving public testimony on all aspects of the proposed program or project. The record of any such public hearing shall constitute a part of the Director's report to the Commission.

003 Considerations in Passing on Applications. In passing on applications, the Director shall consider:

003.01 The needs of the area to be served by the program or project and the benefit to be received from the program or project by the area served.

003.02 The availability of revenue to the applicant from all sources.

003.03 Whether the program or project is of such general public benefit that state financial assistance is justified.

003.04 The relationship of the program or project to the overall statewide water and related land needs.

003.05 Other factors relating to the nature of the project and the appropriate level of financial assistance.

004 Required Findings of Fact. Prior to making any report to the Commission recommending approval of a program or project for funding eligibility, the Director shall make the following findings of fact:

004.01 The plan does not conflict with any existing Nebraska State land plan.

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004.02 The proposed program or project is technically, economically, and financially feasible based upon standards contained within these rules and regulations or otherwise adopted and supplied to the applicant by the Commission or the Department.

004.03 The plan for development of the proposed program or project is satisfactory.

004.04 The plan of development minimizes any adverse impact on the natural environment.

004.05 The applicant is qualified, responsible, and legally capable of carrying out the program or project.

004.06 In the case of a loan, the borrower has demonstrated the ability to repay the loan, and there is assurance of adequate operation, maintenance, and replacement during the repayment life of the project.

004.07 The plan considers other plans and programs of the state in accordance with the provisions of Sections 84-135, Reissue Revised Statutes of Nebraska, 1994, and resources development plans of the political subdivisions of the state.

004.08 The project will not jeopardize the continued existence of any threatened or endangered species or result in the destruction or modification of the critical habitat of any such species.