

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

TITLE 259 – REGULATIONS GOVERNING THE
ADMINISTRATION OF THE
WATER WELL DECOMMISSIONING FUND

NEBRASKA ADMINISTRATIVE CODE
NEBRASKA DEPARTMENT OF NATURAL RESOURCES
TITLE 259
RULES AND REGULATIONS GOVERNING THE
ADMINISTRATION OF THE WATER WELL DECOMMISSIONING FUND

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TITLE 259 - NEBRASKA DEPARTMENT OF NATURAL RESOURCES RULES
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FUND

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General Provisions	Sections 46-1401 through 46-1405, R.R.S.2004 as amended by Sections 9 and 10, LB508, 99 th Nebraska Legislature, Second Session (2006)	Chapter 1
Qualified Cost-Sharing Programs	Sec. 46-1405, R.R.S.2004 as amended by Sec. 10, LB508, 99 th Nebraska Legislature, Second Session (2006)	Chapter 2
Reimbursement to Districts	Sec. 46-1404, R.R.S.2004 as amended by Sec. 9, LB508, 99 th Nebraska Legislature, Second Session (2006)	Chapter 4

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Chapter 1 - GENERAL PROVISIONS

001 Purpose of Rules. These rules and regulations are adopted for the purpose of administering the Water Well Decommissioning Fund created by section 46-1403, R.R.S.2004 as amended.

002 General availability of funds. Financial assistance from the Fund shall be available only to natural resources districts which have cost-sharing programs for decommissioning water wells consistent with sections 46-1401 through 46-1405, R.R.S.2004 as amended and these rules and regulations and which have entered into a contractual arrangement with the Department setting forth the terms for providing such financial assistance.

003 Definitions. As used in these rules and regulations, unless the context otherwise requires:

003.01 "Decommissioning" shall mean the act of filling, sealing, and plugging a water well in accordance with the rules and regulations of the Department of Health and Human Services, Regulations and Licensure;

003.02 "Department" shall mean the Department of Natural Resources created by Section 81-101, R.R.S.2003 as amended;

003.03 "Director" shall mean the individual holding the position of Director of Natural Resources created by section 81-102, R.R.S.2003 as amended;

003.04 "District" or "Natural Resources District" shall mean a district created and operating in accordance with Chapter 2, Article 32, Reissue Revised Statutes of Nebraska;

003.05 "Fund" shall mean the Water Well Decommissioning Fund created by section 46-1403, R.R.S.2004 as amended;

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003.06 "Licensed pump installation contractor" shall mean an individual as defined in section 46-1209, R.R.S.2004 as amended and holding a current license issued in accordance with Chapter 46, Article 12, Nebraska Revised Statutes;

003.07 "Licensed water well contractor" shall mean an individual as defined in section 46-1213, R.R.S.2004 as amended and holding a current license issued pursuant to Chapter 46, Article 12, Nebraska Revised Statutes; and

003.08. "Water well" shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting water into the underground water reservoir. Water well shall not include any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to repressure oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission.

004 Access to Files and Compliance with Agreement and Rules and Regulations. The files of each participating natural resources district shall be available for inspection by personnel of the Department and by representatives of the State Auditor's Office during normal business hours of the district. In the event that the Director becomes aware of a violation of the contract between the district and the Department or of these rules and regulations, the Director may terminate the contract and/or demand reimbursement of any state funds related to such violation.

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Chapter 2 - QUALIFIED COST-SHARING PROGRAMS.

001 Program Eligibility. For a district to be eligible for reimbursement from the Fund, it must establish a water well decommissioning cost-share program which is consistent with the following requirements:

001.01. The district program must apply only to water wells which are decommissioned in accordance with all applicable state laws, standards, rules, and regulations and by a licensed water well contractor or licensed pump installation contractor.

001.02. The program must not exclude any category of water wells from cost-share eligibility.

001.03. The program must be available for at least thirty water wells per year. To establish and maintain eligibility, a district does not have to provide cost-share assistance to at least thirty water wells each year. For a given fiscal year a program that is otherwise consistent with these rules will be consistent with this requirement if the district has budgeted at least \$10,000 for that program that fiscal year. If a natural resources district produces sufficient evidence to document that it can cost-share the decommissioning of at least thirty 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.

001.04. The district program must provide at least 60% of the cost of decommissioning water wells, except that a district may establish a maximum cost-share amount of no less than \$500 for all water wells other than hand-dug water wells and no less than \$700 for hand-dug water wells. For purposes of these rules, 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.

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002 Program Certification by District. Each natural resources district desiring reimbursement from the Fund shall complete a program certification form provided by the Director. The form shall be completed and returned by July 15 of each year the district wishes to receive reimbursement from the Fund.

003 Approval of Programs. The Director shall be responsible for determining whether a natural resources district cost-sharing program for decommissioning water wells complies with the requirements of this chapter. Before making any such determination, the Director may request additional information from any district.

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Chapter 3 – ALLOCATION OF FUNDS

001 Allocation of Funds. The Director shall allocate funds only to districts which have entered into a contractual arrangement with the Department and have a water well decommissioning cost-sharing program consistent with the requirements of Chapter 2 of these rules and regulations. 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 shall be based upon that participating district's proportion of the wells decommissioned statewide with natural resource district cost-share assistance. Each district's proportion shall 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 shall 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 shall be the number used for that district; (3) all average numbers determined in accordance with (1) above shall 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 shall 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 shall be allocated to participating districts from those available in the Water Well Decommissioning Fund on at least a quarterly basis. Except as provided in Rule 003 of this Chapter each district's share of each allocation shall be based upon the percentages determined in accordance with this rule.

002 Certifying Wells Decommissioned. On or before July 15 of each year, each district which desires to be reimbursed from the Fund shall certify the number of wells decommissioned with cost-sharing assistance the previous fiscal year in accordance with this chapter.

003 Revising Allocations. The percentages determined pursuant to rule 001 of this chapter may be adjusted by the Director after March 1 if the Director determines that one or more districts cannot reasonably be expected to use their full percentage of the funds available for that fiscal

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year. To assist the Director in making such determinations, each participating district shall provide the Director with a report by March 1. The report shall indicate the number of wells which that district has approved for cost-share assistance and which 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 such report provides adequate evidence that the district is likely to provide sufficient decommissioning cost-share assistance to utilize all of the district's percentage of the available funds by July 1, that district's percentage will be maintained. If any district does not provide the report, or if any district's 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 any funds thus made available to districts which have documented the need for additional funds in that fiscal year. Such distribution shall 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.

004 Expiration of Allocation. Except to the extent that the Department encumbers funds at the end of the fiscal year to reimburse districts for cost-share assistance paid by them in that fiscal year, allocations shall not be carried over from one fiscal year to the next. Any unexpended but reappropriated 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 shall also be released if a request for reimbursement for such funds has not been received by the Director by July 15.

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Chapter 4 - REIMBURSEMENT TO DISTRICTS

001 Limit on Reimbursements. Actual reimbursements to the district for each water well decommissioned with district cost-share assistance in accordance with these rules and regulations shall not exceed the lesser of: (1) 75% 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.

002 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 Rule 004 of Chapter 3 of these rules and regulations. 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 sections 46-1401 through 46-1405, R.R.S.2004, as amended, and with these rules and regulations.