



Nebraska Department
of Environmental Quality

TITLE 199 - Waste Reduction And Recycling Incentive Grants Program

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GOVERNOR

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Title 199
Waste Reduction And Recycling Incentive Grants Program
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NEBRASKA ADMINISTRATIVE CODE

Title 199 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 1 - DEFINITIONS

001 "Abatement" means the act or process of eliminating an existing scrap tire collection site.

002 "Agency" means any combination of two or more municipalities or counties acting together under the Interlocal Cooperation Act, a natural resources district acting alone or together with one or more counties and municipalities under the act or any joint entity as defined in Neb. Rev. Stat. Section 13-803.

003 "Applicant" means an entity applying for a grant from one of the funds pursuant to these regulations.

004 "Application" means an application for a grant under one of the funds on a form prescribed by the Department.

005 "Closure" means those actions which are taken upon the cessation of the disposal of solid waste at a disposal area, which prepare the solid waste disposal area for post-closure care, and assure that the area will remain stable in order to protect human health and the environment.

006 "Collection Site" means a site used for the temporary storage of more than one hundred scrap tires.

007 "Council" means the Nebraska Environmental Quality Council.

008 "Deconstruction" means the selective dismantlement of building components, specifically for re-use, recycling, and can be viewed as "construction in reverse". It differs from demolition where a site is cleared of its building by the most expedient means available.

009 "Department" means the Nebraska Department of Environmental Quality.

010 "Director" means the Director of the Nebraska Department of Environmental Quality.

011 "Equipment" means all personal property and fixed assets other than land and buildings purchased by a grant recipient with grant funds.

012 "Facility" means any site owned and operated or utilized by any person for the collection,

source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste and shall include a solid waste landfill.

013 "Grant" means funds allocated by the Director from one of the funds under conditions as prescribed by the Director.

014 "Grant Period" means the specific period approved by the Director to carry-out the grant funded activities.

015 "Grant Recipient" means a political subdivision or other entity or organization, public, private, or non-profit, receiving funds or equipment in the form of a grant to carry out activities approved by the Director based on the grant application and award.

016 "Matching Cash" means cash expenditures for products or services directly related to the proposed program.

017 "Matching In-Kind" means services, materials, labor or other items provided that are directly related to the proposed program.

018 "Monitoring" means the combination of activities designed to assess the impact of the solid waste disposal area upon the environment.

019 "Political Subdivisions" means a division of the State formed pursuant to proper authority for the purpose of carrying out governmental or public functions, and includes counties, townships, cities, villages, districts, authorities, and other public corporations and entities, whether organized and existing under direct provisions of the Constitution of Nebraska or statutes of this State, or by virtue of charters or other corporate articles or instruments executed under authority of such constitution or laws.

020 "Program" means a program, project or study incorporated in an application to be considered for receiving a grant from one of the funds.

021 "Scrap Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

022 "Solid Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities. Solid waste shall not include slag, a product that is a result of the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material; solid or dissolved materials in industrial discharges which are point sources subject to permits under Section 402 of the

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Federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.

023 "Solid Waste Planning", "Solid Waste Management" and "Comprehensive Planning" means planning or management respecting resource recovery and resource conservation.

Enabling Legislation: Neb. Rev. Stat. §81-15,160; §81-15,161; §13-2042

Legal Citation: Title 199, Chapter 1,
Nebraska Department of Environmental Quality

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Chapter 2 - APPLICABILITY OF GRANTS

001 Waste Reduction and Recycling Incentive Fund Grants. Grants from the Waste Reduction and Recycling Incentive Fund may be awarded to applicants for one or more of the following purposes, but not limited to:

001.01 Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

001.02 Recycling and waste reduction projects, including public education, planning, and technical assistance;

001.03 Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

001.04 Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

001.05 Programs which develop and implement composting of yard waste and composting with sewage sludge;

001.06 Technical assistance for waste reduction and waste exchange for waste generators;

001.07 Programs to assist communities and counties to develop and implement household hazardous waste management programs;

001.08 Grants awarded for programs involving land disposal shall include provisions for waste reduction and recycling;

001.09 Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate waste to generate and recover energy resources;

001.10 Purposes of planning and implementing facilities and systems to further the goals of the Integrated Solid Waste Management Act; and

001.11 Reimbursement of costs to cities of the second class, villages, and

counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from abandoned buildings.

002 Scrap Tires. Grants up to one million five hundred thousand dollars annually shall be available until June 30, 2019, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:

- (a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;
- (b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost,
- (c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less.
- (d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;
- (e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;
- (f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;
- (g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually; and
- (h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection sites.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

003 Public/Private Partnership. Priority for grants made under Neb. Rev. Stat. 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants

awarded from fees collected under Neb. Rev. Stat. 13-2042 (6).awarded from fees collected under Neb. Rev. Stat. 13-2042 (6).

004 Multi-year Grant Period. Grants awarded from landfill disposal fees collected under Neb. Rev. Stat. 13-2042 (6) may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to Neb. Rev. Stat. 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in Neb. Rev. Stat. 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under Neb. Rev. Stat. 13-2042 (6) during that year.

005 Non-Permitted Landfills. No grant shall be made to a political subdivision which operates a landfill operating without a permit unless the grant will be used to meet permit standards and the landfill is issued a permit within two years after the award of the grant.

Enabling Legislation: Neb. Rev. Stat. §81-15,160 through §81-15,163; §13-2042

Legal Citation: Title 199, Ch. 2
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Chapter 3 - GENERAL REQUIREMENTS

001 Grant Period and Expenditure of Funds. The grant period shall be a set period of time designated by the applicant and approved by the Director. Except for partial reimbursement for the purchase of crumb rubber or tire-derived products, all funding must be encumbered during the approved period, unless extended by the Director. Funds encumbered during the approved period must be expended within 45 days after the end of the approved period. Funds not expended during such time will revert back to the Department. Return of unexpended funds is the grant recipient's responsibility.

002 Earned Interest or Dividends. Any and all interest or dividends earned from grant funds is considered a part of the grant and is subject to the same restrictions and requirements as grant funds.

003 Waste Reduction and Recycling Incentive Fund Applicants. There are three funding sources for the Waste Reduction and Recycling Incentive Fund. The statutory basis for each funding source identifies specific applicants eligible to apply for such funds.

003.01 Grant awards from funds collected under the provisions of Neb. Rev. Stat. Section 81-15,161, 81-15,162, and 81-15,163 shall be available to political subdivisions or other entities or organizations, public, private or non-profit for integrated solid waste management programs.

003.02 Grant awards from funds collected under the provisions of Neb. Rev. Stat. Section 13-2042 shall be available only to counties, municipalities, and agencies for the purposes of planning and implementing facilities and systems to further the goals of the Integrated Solid Waste Management Act.

004 Incomplete Grant Applications. Incomplete grant applications shall be returned to the applicant and may be revised and resubmitted during the next application period.

005 Applicants for reimbursement of building deconstruction costs must consult with the Nebraska State Historical Society, State Historical Preservation Officer, regarding properties listed in or eligible for listing in the National Register of Historic Places. Deconstruction of such properties is not eligible for grant funding.

Enabling Legislation: Neb. Rev. Stat. 81-15,161, 81-15,162, 81-15,163; 13-2042
Legal Citation: Title 199, Ch. 3, Nebraska Department of Environmental Quality

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Chapter 4 - APPLICATION PROCEDURES

001 Waste Reduction and Recycling Incentive Fund Grant Application Deadlines. Waste Reduction and Recycling Incentive Fund grant applications shall be submitted to the Department by deadline dates established by the Department. A separate application shall be required for each grant request.

002 Application Address. All applications shall be submitted to the Lincoln office of the Nebraska Department of Environmental Quality.

003 Applications for partial reimbursement of tire-derived products and crumb rubber, for scrap tire cleanups incurred by political subdivisions, and cost-share grant applications for manufacturing tire-derived products, processing scrap tires, and for civil engineering applications will use a simplified grant application form. Applications for the reimbursement of building deconstruction costs shall be made in accordance with Section 004 of this Chapter. All other applications for a grant shall include the following information:

003.01 Name and address of applicant;

003.02 The nature and purpose of a proposed program;

003.03 A plan for development of the proposed program, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as required by the Department;

003.04 Whether money other than that for which the application is made will be used to help in meeting program costs and whether such money is available or has been sought for this purpose;

003.05 When appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

003.06 Show that the applicant possesses all necessary authority to undertake or participate in the proposed program;

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003.07 Demonstrate the probable environmental and ecological consequences that may result from the proposed program;

003.08 A comprehensive line item budget detailing all program costs and quarterly projections of expenditures; and

003.09 Any other information required by the Department.

004 Applications for the reimbursement of building deconstruction costs will use a simplified grant application form and shall include the following information:

004.01 Name and address of applicant;

004.02 Location of building;

004.03 Statement that the applicant holds or can acquire title and all necessary easements and rights-of-way to all property and related lands for the project;

004.04 Evidence that the Nebraska State Historical Society was consulted prior to deconstruction, in accordance with Chapter 3, 005 of this title;

004.05 Statement that the applicant possesses all necessary authority to undertake or participate in the proposed program, including that the applicant is a city of the second class, village, or county of five thousand or fewer population;

004.06 A comprehensive line item budget detailing all program costs and expenditures;

004.07 Statement of percent of building material recycled or reused after demolition; and

004.08 Any other information required by the Department.

Enabling Legislation: Neb. Rev. Stat. 81-15,161

Legal Citation: Title 199, Ch. 4, Nebraska Department of Environmental Quality

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Chapter 5 - METHOD OF GRANT AWARDS

001 Applicant's Ability. Grant awards shall be based on the applicant's ability to comply with Department requirements as stated in Chapters 2, 3, and 4, the application's rating in the priority system, and the programs ability to benefit the general public, further the goals of waste reduction and recycling, and to be consistent with proper waste management practices.

002 Application Ranking. All grant applications will be prioritized by Department staff and the Grants Review Board upon the request of the Director and based on points pursuant to the Program Priority System referenced in Chapter 6.

003 Award Timeline. The Director shall make awards within a reasonable time, not to exceed six months, after receipt of applications.

004 Allocate Funds. The Director shall allocate the grant for a specific dollar amount to be used only for the purposes specified in the award.

005 Equitable Funding Allocations. Allocations from the funds shall be made in an equitable manner which maximizes the benefits of the funds. When awarding grants, the Director shall balance the needs of:

005.01 All geographic areas of the State;

005.02 All sizes and classes of communities; and

005.03 All manner and scale of programs.

006 Consideration to Disadvantaged Persons. The Director shall also give consideration to eligible programs which would specifically employ disabled persons.

007 Notification. The Director shall provide, in writing, notification of grant award or denial to the applicant.

008 Partial Funding. In the event that a grant is awarded in an amount less than requested by the applicant, such a grant shall be conditional and subject to revocation by the Department if the applicant shall fail to submit to the Department, within 30 days after notice of the award, a revised line-item budget and, if requested by the Department, a revised work plan.

008.01 The revised budget and work plan must be within the scope of the original application.

008.02 Revised budgets and work plans must be approved by the Department.

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008.03 The Department may include special conditions with a partial funding award.

008.04 Revocation of a conditional award shall be made by the Department, in writing, if requirements of this section are not satisfied.

009 Redistribution of Funds. In the event that an applicant awarded funding is unable to accept the award, or having accepted, returns it to the Department due to inability to perform proposed activities, the Director may award funding to an alternate applicant from the same funding cycle or the award may be returned to the fund.

010 Application Rejection. Applications may be rejected by the Department, as a result of, but not limited to, any of the following reasons:

010.01 Failure to submit a complete application by the stated deadline as described in Chapter 4;

010.02 Falsification or misrepresentation of information;

010.03 Failure to comply with pertinent regulations; and

010.04 Similar activities funded by other grant funds for the same general time period.

011 Grant Application Resubmission.

011.01 A grant application that fails to be funded may, at the request of the applicant, be rescored in the priority system for funding during one successive grant period.

011.02 A grant application that fails to be funded for two consecutive grant periods must be resubmitted by the date designated in Chapter 4, to be reconsidered for future funding.

012 Disbursement of Grant Funds.

012.01 Funds shall be disbursed to the grant recipient in one or more allocations as approved by the Department.

012.02 Disbursements pursuant to any grants are subject to availability of funds.

Enabling Legislation: Neb. Rev. Stat. 81-15,161, 15,163; 13-2042

Legal Citation: Title 199, Ch. 5, Nebraska Department of Environmental Quality

012 Disbursement of Grant Funds. Funds shall be disbursed to the grant recipient in one or more allocations as approved by the Department.

Enabling Legislation: Neb. Rev. Stat. 81-15,161, 15,163; 13-2042

Legal Citation: Title 199, Ch. 5, Nebraska Department of Environmental Quality

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Chapter 6 - PROGRAM PRIORITY SYSTEM

001 Program Priority System. A Program Priority System will be prepared by the Department and presented in a public hearing before the Council to receive public input and approval by the Council.

The Waste Reduction and Recycling Incentive Grants Program receives funding through the collection of fees imposed under the Waste Reduction and Recycling Act and the Integrated Solid Waste Management Act. Each act has unique requirements regarding the methods for selecting projects to receive funding. The requirements of the acts are taken into consideration when making award recommendations. Each element in the priority system will be given a numerical score by which to rate each application.

Enabling Legislation: Neb. Rev. Stat. 81-15,160; 13-2018; 13-2042

Legal Citation: Title 199, Ch. 6, Nebraska Department of Environmental Quality

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Chapter 7 - UNAUTHORIZED USE OF GRANT FUNDS

001 Items for which funds will not be authorized shall include, but not be limited to, the following:

001.01 Any expenditure not approved by the Director shall be considered an unauthorized use of grant funds.

001.02 Reimbursement to employees for travel and other expenses greater than those rates and conditions of reimbursement approved for Department employees; except that this prohibition does not prevent grant recipients with other sources of income from supplementing the Departmental rate of reimbursement from the other sources of income.

002 Grants awarded pursuant to the Integrated Solid Waste Management Act may not be used to fund the following activities associated with landfills:

002.01 Landfill Closure Site Assessments;

002.02 Closure;

002.03 Monitoring; and

002.04 Remediation Costs.

Enabling Legislation: Neb. Rev. Stat. 81-15,160, 15,161; 13-2042

Legal Citation: Title 199, Ch. 7, Nebraska Department of Environmental Quality

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Chapter 8 - GENERAL ACCOUNTABILITY

001 Performance Reports. The grant recipient shall submit quarterly performance reports to the Department during the grant period. Each grant recipient's performance reports shall include but not be limited to the following:

001.01 A comprehensive expenditure report of all grant funds, including any interest or dividends earned on funding by line item, and all other income utilized to carry out the program;

001.02 Copies of all receipts for expenditures of grant funding and expenditures of interest or dividends earned on grant funding;

001.03 Summary of accomplishments addressing those objectives and goals stated in the approved application;

001.04 An inventory of all equipment purchased with grant funding including model number and serial number, and copies of purchase receipts; and

001.05 Any additional information required by the Department.

002 Program and/or Budget Modifications. If a grant recipient wishes to modify a program and/or the expenditures of funds or interest or dividends earned on the funds, the grant recipient must submit a written request to the Department. The request must include a revised work plan and/or a revised comprehensive line item budget with an explanation of why the grant recipient is unable to utilize funding as previously approved by the Director. The Department will approve or deny any proposed program and budget modifications.

002.01 Program and/or budget modifications must be within the scope of the originally approved application.

002.02 All modifications must be approved by the Department prior to initiating changes.

003 Program Extensions. If a grant recipient wishes to extend their grant period, the grant recipient must submit a written request to the Department prior to the expiration date of the grant. The request must include an explanation of the need for the additional time. The Department will approve or deny requests for program extensions.

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004 Financial Records. Grant recipients shall maintain financial records and copies of all receipts and relevant documents for expenditures of grant funds, matching cash and in-kind, and interest or dividends earned on grant funds.

005 Audits. Grant recipients are liable to audit by the Department or its agents. Audits may include, but are not limited to, on-site inspections and review of financial records and relevant documents relating to the grant-funded program.

006 Recognition of Department. Grant recipients are required to recognize funding from the Department on all published materials and news releases related to their Department funded program or activities. If required by the Department, grant recipients shall display a sign provided by the Department at site locations. The Department may also require that equipment partially or wholly funded with grant dollars be identified by a decal or other means provided by the Department acknowledging the source of funding.

Enabling Legislation: Neb. Rev. Stat. 81-15,161, 15,162.07

Legal Citation: Title 199, Ch. 8, Nebraska Department of Environmental Quality

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Chapter 9 - EQUIPMENT

001 Equipment Usage. Equipment purchased, in whole or in part, with grant funding shall be used only for the purposes approved by the Department during its expected service life.

002 Expected Service Life. The expected service life of equipment shall be determined by the Department.

003 Inventory. The grant recipient shall submit to the Department an equipment inventory list with each performance report.

003.01 After the conclusion of the designated award period, it is the grant recipient's responsibility to maintain a listing of all equipment purchased with Department funds and respond to Department requests for performance reports or annual updates on the status of the equipment during its expected service life.

004 Grant Equipment Liens. The Department maintains first lien status on all redistributed equipment and equipment purchased, in whole or in part, with grant funds, unless otherwise approved by the Director.

004.01 Length of lien on redistributed equipment and equipment purchased with grant funds shall correspond to the expected service life of the equipment.

005 Grant Equipment Maintenance. The grant recipient is responsible for all necessary and reasonable maintenance of Department funded equipment and may be held liable by the Department for any loss, damage, neglect or unreasonable deterioration of the equipment throughout the lien period.

006 Grant Equipment Disposition. The Department shall approve or deny the disposition of equipment purchased, in whole or part, with grant funds throughout the equipment lien period.

006.01 Funds realized from the approved sale of equipment purchased with grant funds shall revert to the appropriate fund in an amount congruent with the grant funded percentage of the equipment's original cost.

006.02 Any Department funded equipment which is no longer being used by the grant recipient for the approved purposes and intent for which it was obtained, may be redistributed by the Department to another eligible applicant. The Department will announce the availability of the equipment and when equipment redistribution grant applications will be accepted. Equipment redistribution shall adhere to the following guidelines:

006.02A The Department shall redistribute the equipment based on the ranking of applications on the appropriate priority system and applicants' compliance with eligibility requirements.

006.02B Recipients awarded redistributed equipment shall maintain a listing of all equipment obtained through the Department's redistribution process and respond to Department requests for performance reports or updates on the status of the equipment throughout the lien period.

Enabling Legislation: Neb. Rev. Stat. 81-15,161

Legal Citation: Title 199, Ch. 9, Nebraska Department of Environmental Quality

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Chapter 10 - GRANT CONDITIONS AND PENALTIES

001 Conditions. All grant recipients shall comply with grant conditions as specified by the Department. These conditions include, but are not limited to, the following:

001.01 Compliance with all requirements as stated in these regulations;

001.02 Compliance with audit requirements of the Department;

001.03 Maintenance of adequate and accurate records;

001.04 Completion of program activities within the grant period;

001.05 Submission of reports according to established deadlines; and

001.06 Expenditure of funds as approved by the Department.

001.07 For Deconstruction grants, grantee must hold title to all property and have the necessary easements and right-of-way for the project and related lands prior to any deconstruction activity and the payment of any grant funds to the grantee.

002 Penalties. Pursuant to Neb. Rev. Stat. 81-15,161, penalties may result from a violation of these regulations or of specific grant conditions. Penalties imposed by the Director may include, but are not limited to, withdrawal of grant funds, reimbursement of improperly expended funds; forfeiture of Department funded property; ineligibility for future funding; or a combination of the above.

003 Scrap Tire Collection Site. Any person who operates a scrap tire collection site in violation of state law which is the subject of abatement or cleanup as provided in Neb. Rev. Stat. 81-15,161.01 shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid out of the fund.

Enabling Legislation: Neb. Rev. Stat. 81-15,161, 15,163

Legal Citation: Title 199, Ch. 10, Nebraska Department of Environmental Quality

Title 199 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 11 - SEVERABILITY; APPEALS; AMENDMENT AND REPEAL; AND EFFECTIVE DATE

001 Severability. If any clause, paragraph, subsection, or section of these regulations shall be held invalid, it shall conclusively be presumed that the Environmental Quality Council would have enacted the remainder of these regulations not directly related to such clause, paragraph, subsection or section.

002 Appeals. Any appeal from any final order or final determination of the Director shall be pursuant to 81-1509.

003 Amendment and Repeal. These rules and regulations shall be amended or repealed pursuant to the Rules of Practice and Procedures of the Department of Environmental Quality. These procedures shall conform in all respects to 84-901 thru 84-920.

004 Effective Date. These rules and regulations shall become effective five (5) days after filing by the Secretary of State.

Enabling Legislation: Neb. Rev. Stat. 81-1509, 84-901 thru 84-920, 81-1505 (18)

Legal Citation: Title 199, Ch. 11, Nebraska Department of Environmental Quality