

NEBRASKA ADMINISTRATIVE CODE
TITLE 461 NEBRASKA ADMINISTRATIVE CODE
NEBRASKA DEPARTMENT OF NATURAL RESOURCES
RULES GOVERNING THE ADMINISTRATION OF THE WATER RESOURCES CASH FUND

DRAFT August 2007

NEBRASKA ADMINISTRATIVE CODE

TITLE 461 --- RULES GOVERNING THE ADMINISTRATION OF THE WATER RESOURCES
CASH FUND

ALPHABETICAL TABLE OF CONTENTS

<u>SUBJECT OR TITLE</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
Allocation and Distribution	§ 61-218, <u>R.S.S.</u> , 2007	Ch. 2
General Provisions	§ 46-702, 61-218, 61-219, <u>R.S.S.</u> , 2007	Ch. 1
Report to the Legislature	§ 61-218, <u>R.S.S.</u> , 2007.	Ch. 3

NEBRASKA ADMINISTRATIVE CODE

TITLE 461 --- RULES GOVERNING THE ADMINISTRATION OF THE WATER RESOURCES
CASH FUND

NUMERICAL TABLE OF CONTENTS

<u>SUBJECT OR TITLE</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
General Provisions	§ 46-702, 61-218, 61-219, <u>R.S.S.</u> , 2007	Ch. 1
Allocation and Distribution	§ 61-218, <u>R.S.S.</u> , 2007	Ch. 2
Report to the Legislature	§ 61-218, <u>R.S.S.</u> , 2007	Ch. 3

TITLE 461 --- RULES GOVERNING THE ADMINISTRATION OF THE WATER RESOURCES
CASH FUND

Chapter 1 - GENERAL PROVISIONS

001 Purpose of Rules. These rules are adopted for the purpose of administering the Water Resources Cash Fund.

002 General Availability of Funds. In accordance with Neb. Rev. Stat. sections 46-702, 61-218, and 61-219, R. S. Supp., 2007, the Department of Natural Resources is authorized to make expenditures from the Fund for costs incurred by the Department, by natural resources districts, or by other political subdivisions (a), to aid management actions taken to reduce consumptive uses of water in river basins, subbasins, or reaches that are deemed by the Department as overappropriated pursuant to Neb. Rev. Stat. section 46-713 or fully appropriated pursuant to Neb. Rev. Stat. section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement and (b) to the extent funds are not expended pursuant to subdivision (a), the Department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in Neb. Rev. Stat. sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement. The fund shall not be used to pay for administrative expenses or any salaries for the Department or any political subdivision. Notwithstanding such general authority, moneys from the Fund are to be allocated and expended only in accordance with these rules and regulations.

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

003.01 "Agreement" shall mean the Nebraska Department of Natural Resources Application/Agreement to expend money from the Fund;

003.02 "Department" shall mean the Nebraska Department of Natural Resources created by Neb. Rev. Stat. 81-101 (Reissue 2003), as amended;

003.03 "Director" shall mean the individual holding the position of Director of Natural Resources created by Neb. Rev. Stat. 81-102 (Reissue 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 Resources Cash Fund;

003.06 "Person" shall be as defined pursuant to Title 454, Chapter 1, of the Nebraska Administrative Code.

003.07 "Match of Local Funding" shall mean funding used by a local jurisdiction for an eligible activity that is not from state tax revenue derived sources.

TITLE 461 --- RULES GOVERNING THE ADMINISTRATION OF THE WATER RESOURCES
CASH FUND

Chapter 2 - ALLOCATION AND DISTRIBUTION OF FUNDS

001 Primary Allocation and Distribution of Funds

Subject to the Director's discretion, up to one hundred percent (100%) of the money appropriated to the Fund for a state fiscal year may be utilized by the Department to fund activities for the purpose of reducing consumptive uses of water in river basins, subbasins, or reaches which are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement.

002 Alternative Allocations and Distribution of Funds

In the event all of the funds appropriated for a state fiscal year are not allocated and distributed in accordance with Section 001 of this Chapter, the Director may, in his or her discretion, make funds available to eligible natural resources districts for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement.

002.01 The Director shall, no later than May 1 of each year beginning in 2008, determine the amount of funding available to eligible natural resources districts for the respective year and notify natural resources districts of this determination.

002.02 General eligibility is determined by priorities established in Section 002 of Chapter 1.

002.03 Specific eligibility for funding requires implementation of integrated management plans in accordance with section 46-715 as required by the Department.

002.04 Application for funding shall be presented to the Department in writing by June 15 of the funding year and shall include:

002.04.01 An explanation of how the planned activity will reduce consumptive uses of water in river basins, subbasins, or reaches that are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to section 46-714 or assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715;

002.04.02 The controls, rules, and regulations of the district designed to carry out the activity;

002.04.03 A schedule of implementation of the activity or its components;

002.04.04 A budget demonstrating a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity.

002.05 The Director shall determine whether or not an application is approved for funding under this section.

002.05.01 If approved for funds, the District shall enter into a contract with Department specifying the terms and conditions for receipt of such financial assistance.

002.05.02 The Director shall have sole discretion to determine whether an expense qualifies for funding.

002.05.03 Each contract shall require a semi-annual report by the District addressing the specifications of the contract.

002.06 Access to Files and Compliance with Agreement and Rules and Regulations. Each natural resources district receiving funds shall maintain records adequate to document that the District had expenditures qualified pursuant to these rules in amounts equal to or exceeding the amount provided from the Fund plus any matching funds as required by the contract between the District and the Department. Such files 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 Department. 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.

003 In the event all of the funds appropriated for a state fiscal year are not allocated and distributed in accordance with Section 001 or Section 002 of this Chapter, the Director may apply funds to conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in Neb. Rev. Stat. sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement. Use of funds in this manner is the sole discretion of the Director.

TITLE 461 --- RULES GOVERNING THE ADMINISTRATION OF THE WATER RESOURCES
CASH FUND

Chapter 3 - REPORT TO THE LEGISLATURE

001 The Department of Natural Resources shall submit an annual report to the Legislature no later than October 1 of each year, beginning in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year.

002 The report shall provide:

002.01 Details regarding the use and cost of activities carried out by the Department;

002.02 Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.