

LEGISLATIVE BILL 667

Approved by the Governor May 21, 2001

Introduced by Schrock, 38; Baker, 44; Hudkins, 21; Jones, 43; Kremer, 34;
Preister, 5; Stuhr, 24

AN ACT relating to water; to amend sections 46-602.01, 46-636, 46-1209, 46-1210, 46-1213, 46-1214, 46-1229, 46-1233, 46-1235, 46-1238, 46-1239, 46-1240, 46-1241, 71-5301.01, 71-5304, 71-5304.02, 71-5307, 71-5309, 71-5310, and 81-1505, Reissue Revised Statutes of Nebraska, sections 2-3254, 46-230, 46-602, 46-604, 46-606, 46-637, 46-656.25, 46-1011, 46-1204.01, 46-1224, 61-210, 71-5301, 71-5302, 71-5303, 71-5304.01, 71-5305, 71-5305.02, 71-5306, 71-5308, 71-5311, 71-5311.01, 71-5315, 71-5316, 71-5318, 71-5322, and 71-5324, Revised Statutes Supplement, 2000, and sections 46-1202 and 46-1214.01, Reissue Revised Statutes of Nebraska, as amended by sections 2 and 6, respectively, Legislative Bill 133, Ninety-seventh Legislature, First Session, 2001; to redefine a term and change provisions relating to public water systems; to redefine terms, change provisions, and change penalties relating to water well registration; to change provisions relating to pumping for irrigation purposes; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3254, Revised Statutes Supplement, 2000, is amended to read:

2-3254. (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of an improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with all applicable law and with the district's goals, criteria, and policies, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not so conform, the findings shall be entered in the board's records and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Natural Resources, except that if such project involves a public water ~~supply~~ system as defined in section 71-5301, the filing of the information shall be with the Department of Health and Human Services Regulation and Licensure rather than the Director of Natural Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Natural Resources and the Department of Health and Human Services

Regulation and Licensure, if applicable, except that if such special project involves a public water ~~supply~~ system as defined in section 71-5301, only the Department of Health and Human Services Regulation and Licensure shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the project improvement area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any project improvement area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the project improvement area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the project improvement area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such project in accordance with the

apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 2. Section 46-230, Revised Statutes Supplement, 2000, is amended to read:

46-230. As the adjudication of a stream progresses and as each claim is finally adjudicated, the director shall make and cause to be entered of record in his or her office an order determining and establishing the several priorities of right to use the water of such stream, the amount of the appropriation of the several persons claiming water from such stream and the character of use for which each appropriation shall be found to have been made, and the address of the owner of each water appropriation. It shall be the duty of every owner of an appropriation to give notice to the department of its address and any change of its address or of the name of the owner of the appropriation. Notification shall be in such form and shall include such evidence of ownership as the director may by regulation require. Upon receipt of such notice, the department shall update its records. The department shall establish a uniform fee for filing such notices, notices filed pursuant to section 27 of this act, and notices filed pursuant to subsection (6) of section 46-602. Such fees shall be no higher than the amount necessary to cover the costs incurred by the department for processing such notices in accordance with this section and section 27 of this act and subsection (6) of section 46-602. The fee shall be paid at the time of filing the notice and shall be remitted to the State Treasurer for credit to the Department of Natural Resources Cash Fund.

Sec. 3. Section 46-602, Revised Statutes Supplement, 2000, is amended to read:

46-602. (1) Each water well completed in this state on or after the operative date of this section, excluding test holes and dewatering wells to be used for less than ninety days, shall be registered with the Department of Natural Resources as provided in this section within sixty days after completion of construction of the water well. The water well contractor as defined in section 46-1213 constructing the water well, or the owner of the water well if the owner constructed the water well, shall file the registration on a form made available by the department and shall also file with the department the information from the well log required pursuant to section 46-1241. The department shall, by January 1, 2002, provide water well contractors with the option of filing such registration forms electronically. No signature shall be required on forms filed electronically. The fee required by section 46-1224 shall be the source of funds for any required fee to a contractor which provides the on-line services for such registration. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to section 46-1224.

(2) If the newly constructed water well is a replacement water well, the registration number of the water well it replaces, if applicable, and the date the original water well was or will be decommissioned shall be included on the registration form. For purposes of this section, replacement water well means a water well which (a) replaces an abandoned water well within three years after the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be abandoned within one year after such

construction and (b) is constructed to provide water to the same tract of land served by the water well being replaced. No water well shall be registered as a replacement water well until the department has received a properly completed notice of abandonment for the water well being replaced.

(3) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, a registration form and a detailed site plan shall be filed for each water well. The registration form shall include the registration numbers of other water wells included in the series if such water wells are already registered.

(4) A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well. One registration form and a detailed site plan shall be filed for each such series.

(5) One registration form shall be required along with a detailed site plan which shows the location of each such water well in the site and a log from each such water well for water wells constructed as part of a single site plan for (a) monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, (b) water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who have a permit issued pursuant to the Industrial Ground Water Regulatory Act and also have an underground injection control permit issued by the Department of Environmental Quality.

(6) The department shall be notified by the owner of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and include such evidence of ownership as the Director of Natural Resources by rule and regulation directs. The department shall use such notice to update the registration on file. The department shall establish a uniform fee for filing such notices, notices filed pursuant to section 27 of this act, and notices filed pursuant to section 46-230. Such fees shall be no higher than the amount necessary to cover the costs incurred by the department for processing such notices in accordance with this section, section 46-230, and section 27 of this act. The fee shall be paid at the time of filing the notice and shall be remitted to the State Treasurer for credit to the Department of Natural Resources Cash Fund.

(7) The water well contractor or pump installation contractor responsible therefor shall notify the department on a form provided by the department of any pump installation or any modifications to the construction of the water well or pump, after the initial registration of the well. A water well owner shall notify the department on a form provided by the department of any other changes or any inaccuracies in recorded water well information, including, but not limited to, changes in use. The fee for filing any such document shall be governed by section 33-105.

(8) Whenever a water well becomes an illegal water well as defined in section 46-656.07, the owner of the water well shall either correct the deficiency that causes the well to be an illegal water well or shall cause the proper decommissioning of the water well in accordance with rules and regulations adopted pursuant to the Water Well Standards and Contractors' Licensing Act. Upon proper decommissioning of any water well, written notice of abandonment shall be provided by the owner to the department within sixty days. The department shall not collect a fee for the filing of the notice.

(9) Except for water wells which are used solely for domestic purposes and were constructed before September 9, 1993, and for test holes and dewatering wells used for less than ninety days, each water well which was completed in this state before the operative date of this section and which is not registered on that date shall be an illegal water well until it is registered with the Department of Natural Resources. Such registration shall be completed by a water well contractor or by the current owner of the water well, shall be on forms provided by the department, and shall provide as much of the information required by subsections (1) through (5) of this section for registration of a new water well as is possible at the time of registration. For each water well completed in this state on or after September 9, 1993, the water well contractor as defined in section 46-1213 constructing the water well and the owner of the water well shall complete the appropriate registration form after the completion of the water well. The registration form for water wells, excluding test holes and dewatering wells with intended use of ninety days or less, shall be filed with the Department of Natural Resources by the owner within thirty days after completion of the water well. Registration shall be on a form provided by the Director of Natural Resources. The form shall contain (a) the name, address, and signature of the owner, (b)

the legal description of the water well, (c) the date drilling commenced and the date construction was completed, (d) the intended use of the water well, (e) the description and depth of geologic materials encountered, (f) the depth and diameter or dimension of the constructed water well and test hole, (g) the depth and diameter or dimension of the excavated hole if applicable, (h) the depth of the formation stabilizer or gravel pack and size of particles if used, (i) the depth and thickness of grout or other sealing materials if applicable, (j) casing information, including length, inside diameter, wall thickness, and type of material if applicable, (k) the static water level, (l) the water level when pumped at the designated rate, giving the rate of pumping and amount of time pumped, if applicable, (m) the yield of the water well in gallons per minute if applicable, (n) the identification number of any permit for the water well issued pursuant to Chapter 46, article 6, Chapter 66, article 11, or any other law, (o) the name, address, and license number of any license issued pursuant to the Water Well Standards and Contractors' Licensing Act to any person, other than the owner of the water well, who constructed the water well, (p) screen information, including length, trade name, inside and outside diameter, slot size, and type of material if applicable, (q) the signature of the water well contractor, (r) when the newly constructed water well is a replacement water well, the registration number of the water well it replaces, if applicable, and the date the original water well was or will be decommissioned, and (s) such additional information conformable to the statement of purpose contained in section 46-601 as the director requires. A series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes shall have a registration form completed for each well in the series. A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well, and one registration form and detailed site plan shall be completed for each such series. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, one registration form shall be required which shall include a detailed site plan which shows the location of each such water well in the site and a log from each such water well. The Department of Natural Resources shall be notified of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and shall include such evidence of ownership as the director by rule and regulation directs. The department shall use such notice to update the registration on file. The registration requirement in this subsection shall not apply to water wells constructed prior to September 9, 1993, unless previously required to be registered.

(2) Whenever a water well becomes an illegal water well as defined in section 46-1207.01, the owner of the water well shall decommission the water well by completely filling and sealing the water well cavity in accordance with the rules and regulations adopted pursuant to the Water Well Standards and Contractors' Licensing Act. The method specified in such rules and regulations for filling and sealing water well cavities shall be designed to eliminate any safety hazard created by illegal water wells and to prevent deterioration in the quality of the underlying ground water. Upon proper decommissioning of any water well, written notice of the abandonment shall be provided by the owner to the department within sixty days. The department shall not collect a fee for the filing of the notice.

(3) For purposes of this section, replacement water well means a water well which (a) replaces an abandoned water well within three years of the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be decommissioned within one year of construction of the new water well and (b) is constructed to provide water to the same tract of land served by the water well being replaced.

(4) For purposes of water well registration under this section, registration fees shall be collected as provided in sections 46-606 and 46-1224.

Sec. 4. Section 46-602.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-602.01. Prior to commencing construction of or installation of a pump in a water well in a control area or management area, a water well contractor as defined in section 46-1213 or a pump installation contractor as defined in section 46-1209 shall take those steps necessary to satisfy himself or herself that the person for whom the well is to be constructed or the pump

installed has obtained a permit as required by the Nebraska Ground Water Management and Protection Act.

Any person who commences or causes construction of or installation of a pump in a water well for which the required permit has not been obtained or who knowingly furnishes false information regarding such permit shall be guilty of an offense punishable as provided in section 46-613.02.

Sec. 5. Section 46-604, Revised Statutes Supplement, 2000, is amended to read:

46-604. The Director of Natural Resources shall retain the registration form required by section 46-602 and shall ~~provide a copy~~ make a copy available to the natural resources district within which the water well is located, ~~to the Conservation and Survey Division of the University of Nebraska,~~ to the owner of the water well, and to the water well contractor as defined in section 46-1213. ~~By January 31 of each year, each water well contractor shall file a report with the Department of Natural Resources of any water well he or she drilled during the previous year if a copy of the registration form was not received by the water well contractor pursuant to this section.~~

Sec. 6. Section 46-606, Revised Statutes Supplement, 2000, is amended to read:

46-606. (1) The Director of Natural Resources shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each water well registered under section 46-602 except as provided in subsections (2) through (5) of this section.

(2) For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first ten such water wells registered under section 46-602, and for each group of ten or fewer such water wells registered thereafter, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224.

(3) For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the director shall collect in advance a fee of thirty dollars for each such series and the fee required by section 46-1224.

(4) For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first five such water wells registered under section 46-602, and for each group of five or fewer such water wells registered thereafter, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224. However, if such water wells are a part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected as if only one water well was being registered and the fee required by section 46-1224 shall be collected.

(5)(a) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first two such wells registered under section 46-602.

(b) Any additional water wells which are part of a series registered under this subsection shall not be subject to a new well registration fee.

(6) The director shall remit the fees collected to the State Treasurer for credit to the appropriate fund. The State Treasurer shall credit the registration fees to the Water Well Decommissioning Fund. From the fees required by section 46-1224, the State Treasurer shall credit to the Department of Natural Resources Cash Fund the amount determined by the Department of Natural Resources to be necessary to pay for the costs of registering such water wells on-line as authorized by subsection (1) of section 46-1224 and shall credit the remainder of the fees required by section 46-1224 to the Water Well Standards and Contractors' Licensing Fund.

Sec. 7. Section 46-636, Reissue Revised Statutes of Nebraska, is amended to read:

46-636. The Legislature finds that the pumping of water for irrigation purposes from water wells located within fifty feet of the bank of a channel of any natural stream may have a direct effect on the surface flow of such stream.

Sec. 8. Section 46-637, Revised Statutes Supplement, 2000, is amended to read:

46-637. The use of water described in section 46-636 may only be made after securing a permit from the Department of Natural Resources for such use. If the applicant is an individual, the application for a permit shall include the applicant's social security number. In approving or disapproving applications for such permits, the Director of Natural Resources shall take into account the effect that such pumping may have on the amount of water in the stream and its ability to meet the requirements of appropriators from the stream. This section does not apply to (1) water wells located within fifty feet of the bank of a channel of any natural stream which were in existence on July 1, 2000, and (2) replacement water wells as defined in section 46-602 that are located within fifty feet of the banks of a channel of a stream if the water wells being replaced were originally constructed prior to July 1, 2000, and were located within fifty feet of the bank of a channel of any natural stream.

Sec. 9. Section 46-656.25, Revised Statutes Supplement, 2000, is amended to read:

46-656.25. (1) A district in which a management area has been designated shall by order adopt one or more of the following controls for the management area:

(a) It may determine the permissible total withdrawal of ground water for each day, month, or year and allocate such withdrawal among the ground water users;

(b) It may adopt a system of rotation for use of ground water;

(c) It may adopt well-spacing requirements more restrictive than those found in sections 46-609 and 46-651;

(d) It may require the installation of devices for measuring ground water withdrawals from water wells;

(e) It may adopt a system which requires reduction of irrigated acres pursuant to subsection (2) of section 46-656.26;

(f) It may require the use of best management practices;

(g) It may require the analysis of water or deep soils for fertilizer and chemical content;

(h) It may provide educational requirements, including mandatory educational requirements, designed to protect water quality or to stabilize or reduce the incidence of ground water depletion, conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements;

(i) It may require water quality monitoring and reporting of results to the district for all water wells within all or part of the management area; and

(j) It may adopt and promulgate such other reasonable rules and regulations as are necessary to carry out the purpose for which a management area was designated.

(2) In adopting, amending, or repealing any control authorized by subsection (1) of this section or sections 46-656.26 and 46-656.27, the district's considerations shall include, but not be limited to, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the management area or will improve the administration of the area.

(3) Upon request by the district, the Director of Natural Resources shall review and comment on the adoption, amendment, or repeal of any authorized control in a management area. The director may hold a public hearing to consider testimony regarding the control prior to commenting on the adoption, amendment, or repeal of the control. The director shall consult with the district and fix a time, place, and date for such hearing. In reviewing and commenting on an authorized control in a management area, the director's considerations shall include, but not be limited to, those enumerated in subsection (2) of this section.

(4) If because of varying ground water uses, varying surface water uses, different irrigation distribution systems, or varying climatic, hydrologic, geologic, or soil conditions existing within a management area the uniform application throughout such area of one or more controls would fail to carry out the intent of the Nebraska Ground Water Management and Protection Act in a reasonably effective and equitable manner, the controls adopted by the district pursuant to this section may contain different provisions for different categories of ground water use or portions of the management area which differ from each other because of varying climatic, hydrologic, geologic, or soil conditions. Any differences in such provisions shall recognize and be directed toward such varying ground water uses or varying conditions. Except as otherwise provided in this section, the provisions of all controls for different categories of ground water use shall be uniform for

all portions of the area which have substantially similar climatic, hydrologic, geologic, and soil conditions.

(5) The district may establish different water allocations for different irrigation distribution systems, on the condition that such different water allocations shall be authorized for no more than five years from the time such allocations are adopted.

(6)(a) The district may establish different provisions for different hydrologic relationships between ground water and surface water.

(b) For management areas a purpose of which is the integrated management of hydrologically connected ground water and surface water, the district may establish different provisions for water wells constructed before the designation of a management area for integrated management of hydrologically connected ground water and surface water and for water wells constructed on or after the designation date or any other later date or dates established by the district.

(c) For a management area in a basin or part of a basin that is or was the subject of litigation over an interstate water compact or decree in which the State of Nebraska is a named defendant, the district may establish different provisions for restriction of water wells constructed after January 1, 2001, if such litigation was commenced before or on the operative date of this section. If such litigation is commenced after the operative date of this section, the district may establish different provisions for restriction of water wells constructed after the date on which such litigation is commenced in federal court. An appeal from a decision of the district under this subdivision shall be in accordance with the hearing procedures established in the Nebraska Ground Water Management and Protection Act.

(d) The district shall make a replacement water well as defined in section 46-602, or as further defined in district rules and regulations, subject to the same provisions as the water well it replaces.

(7) If the district determines, following a public hearing conducted pursuant to section 46-656.19, that the impact on surface water supplies or the depletion or contamination of the ground water supply in the management area or any portion of the management area is so excessive that the public interest cannot be protected solely through implementation of reasonable controls adopted pursuant to subsection (1) of this section, it may close all or a portion of the management area to the issuance of any additional permits for a period of not more than five calendar years. The area may be further closed thereafter by a similar procedure for additional time periods of the same length. Any such area may be reopened at any time the district determines that conditions warrant new permits at which time the district shall consider all previously submitted applications for permits in the order in which they were received.

(8) Whenever a management area designated under section 46-656.39 or 46-656.52 encompasses portions of two or more districts, the responsibilities and authorities delegated in this section and sections 46-656.26 and 46-656.27 shall be exercised jointly and uniformly by agreement of the respective boards of all districts so affected. Whenever management areas designated by two or more districts adjoin each other, the districts are encouraged to exercise the responsibilities and authorities jointly and uniformly by agreement of the respective boards.

(9) For the purpose of determining whether conflicts exist between ground water users and surface water appropriators, surface water appropriators under the Nebraska Ground Water Management and Protection Act does not include holders of instream flow appropriations under sections 46-2,107 to 46-2,119.

Sec. 10. Section 46-1011, Revised Statutes Supplement, 2000, is amended to read:

46-1011. Plans and specifications for any proposed improvement authorized by sections 46-1001 to 46-1020 shall be filed with the director, the Department of Health and Human Services Regulation and Licensure, and the secretary of the district. No construction of any such improvement shall begin until the plans and specifications for such improvement have been approved by the director and the Department of Health and Human Services Regulation and Licensure, except that if the improvement involves a public water ~~supply~~ system as defined in section 71-5301, only the Department of Health and Human Services Regulation and Licensure shall be required to review the plans and specifications for such improvement and approve the same if in compliance with Chapter 71, article 53, and departmental regulations adopted thereunder.

The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she

desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any political subdivision organized under the laws of the State of Nebraska.

Sec. 11. Section 46-1202, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 133, Ninety-seventh Legislature, First Session, 2001, is amended to read:

46-1202. The purposes of the Water Well Standards and Contractors' Licensing Act are to: (1) Provide for the protection of ground water through the licensing and regulation of water well contractors and pump installation contractors and the certification of water well drilling supervisors, pump installation supervisors, water well monitoring technicians, and natural resources ground water technicians in the State of Nebraska; (2) protect the health and general welfare of the citizens of the state; (3) protect ground water resources from potential pollution by providing for proper siting and construction of water wells and proper decommissioning of ~~illegal~~ water wells; and (4) provide data on potential water supplies through well logs which will promote the economic and efficient utilization and management of the water resources of the state.

Sec. 12. Section 46-1204.01, Revised Statutes Supplement, 2000, is amended to read:

46-1204.01. Abandoned water well ~~shall mean~~ means any water well the use of which has been accomplished or permanently discontinued, which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services Regulation and Licensure, and the owner of which has filed a notice of abandonment with the Department of Natural Resources if required by ~~subsection (2) of~~ section 46-602.

Sec. 13. Section 46-1209, Reissue Revised Statutes of Nebraska, is amended to read:

46-1209. Pump installation contractor ~~shall mean~~ means the principal officer, director, manager, or owner-operator of any business engaged in the installation of pumps and pumping equipment. ~~The term shall or the decommissioning of water wells. Pump installation contractor does not include:~~ (1) An individual who installs or repairs pumps and pumping equipment for a water well, or who decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; (2) a pump installation supervisor; or (3) an individual who repairs pumps and pumping equipment at a location other than a water well location.

Sec. 14. Section 46-1210, Reissue Revised Statutes of Nebraska, is amended to read:

46-1210. Pump installation supervisor ~~shall mean~~ means any individual engaged in the installation of pumps and pumping equipment or the decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a pump installation contractor. ~~The term shall~~ Pump installation supervisor does not include: (1) An individual who installs or repairs pumps or pumping equipment for a water well, or decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; (2) an individual who repairs pumps and pumping equipment at a location other than a water well location; or (3) any licensed pump installation contractor.

Sec. 15. Section 46-1213, Reissue Revised Statutes of Nebraska, is amended to read:

46-1213. Water well contractor ~~shall mean~~ means the principal officer, director, manager, or owner-operator of any business engaged in the construction or decommissioning of water wells. ~~The term shall~~ Water well contractor does not include: (1) An individual who constructs a water well, or who decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; or (2) a water well drilling supervisor.

Sec. 16. Section 46-1214, Reissue Revised Statutes of Nebraska, is amended to read:

46-1214. Water well drilling supervisor ~~shall mean~~ means any individual engaged in the construction or decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other

employees of a contractor engaged in the construction of water wells water well contractor. ~~The term shall~~ Water well drilling supervisor does not include: (1) An individual who constructs a water well, or decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; or (2) any licensed water well contractor.

Sec. 17. Section 46-1214.01, Reissue Revised Statutes of Nebraska, as amended by section 6, Legislative Bill 133, Ninety-seventh Legislature, First Session, 2001, is amended to read:

46-1214.01. Water well monitoring technician means any individual engaged solely in the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment or pumping systems. Water well monitoring technician does not include: (1) An individual who constructs or decommissions a water well or installs or repairs pumps or pumping equipment or a water well; (2) a natural resources ground water technician; or (3) an individual who carries out the measurement, sampling, or inspection of a water well which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode.

Sec. 18. Section 46-1224, Revised Statutes Supplement, 2000, is amended to read:

46-1224. (1) Except as provided in subsections (2) through (6) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Licensing Act. Except as provided in subsection (4) of this section, the fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' Licensing Act. Additionally, such fund shall be used to pay any required fee to a contractor which provides the on-line services for registration of water wells. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The board shall set an application fee of no more than twenty-five dollars regardless of the number of licenses or certificates for which the application is being made. An individual may apply for one or more licenses and one or more certificates under a single application. Application fees paid shall be retained by the department whether such initial license or certificate is issued or denied.

(3) The board shall set a single license fee at not less than fifty dollars nor more than two hundred dollars annually and a certification fee at not less than twenty-five nor more than forty dollars annually. An individual who is licensed both as a pump installation contractor and a water well contractor shall pay a fee of not less than seventy-five dollars and not more than three hundred dollars. An individual who is certified as both a pump installation supervisor and water well drilling supervisor shall pay a fee of not less than thirty-five dollars and not more than fifty dollars.

(4) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump less than fifty gallons per minute and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or more. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee set pursuant to this subsection shall be collected for each of the first ten such water wells registered, and for each group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic

information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the Director of Natural Resources with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The director shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(5) The late fee for a late application by a licensee shall be five hundred dollars, and the late fee for a late application by a certificate holder shall be two hundred dollars.

(6) The board shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars.

Sec. 19. Section 46-1229, Reissue Revised Statutes of Nebraska, is amended to read:

46-1229. ~~Each water well contractor or pump installation contractor~~ Any person desiring to engage in the construction of water wells, ~~or the installation of pumps and pumping equipment, or the decommissioning of water wells~~ shall make initial application for a license to the department. Each such application shall include satisfactory evidence that the applicant is at least the age of majority and is of good moral character. The department shall charge an application fee set by the board pursuant to section 46-1224 for the filing of such application. The department shall not act upon any application until the application fee for such license has been paid. A license to engage in the construction or decommissioning of water wells or the installation of pumps and pumping equipment shall be issued to every applicant who demonstrates professional competence by successfully passing the examination prescribed in section 46-1223, pays the appropriate license fee, and otherwise complies with the Water Well Standards and Contractors' Licensing Act and all standards, rules, and regulations adopted and promulgated pursuant to such act. Applicants shall receive licenses for any category or combination of categories for which they have successfully passed the required examination. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 20. Section 46-1233, Reissue Revised Statutes of Nebraska, is amended to read:

46-1233. No water well shall be constructed, ~~no or~~ pump or pumping equipment shall be installed, and no water well shall be decommissioned by a person engaged in the construction of water wells or installation of pumps and pumping equipment unless the construction, ~~or installation, or decommissioning~~ is carried out or supervised by a licensed water well contractor, water well drilling supervisor, pump installation contractor, or pump installation supervisor. For purposes of this section, supervision ~~shall mean~~ means the ready availability of the person licensed or certified pursuant to the Water Well Standards and Contractors' Licensing Act for consultation and direction of the activities of any person not licensed or certified who assists in the construction of a water well, ~~or the installation of pump pumps and pumping equipment, or decommissioning of a water well.~~ Contact with the licensed contractor or certified supervisor by telecommunication shall be sufficient to show ready availability.

Sec. 21. Section 46-1235, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235. In cases other than those relating to failure to meet the requirements for an initial license or an initial certificate, the department may deny, refuse renewal of, suspend, or revoke licenses or certificates or may take other disciplinary action for any of the following acts or offenses:

(1) Practice of fraud or deceit in obtaining a license or certificate;

(2) Violation of the Water Well Standards and Contractors' Licensing Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;

(3) Incompetence or gross negligence in the performance of any activity for which licenses or certificates are issued pursuant to the act;

(4) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or certificate holder or of members of the general public;

(5) Practice of the trade fraudulently, beyond the authorized scope, or with manifest incapacity;

(6) Practice of the trade while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical disability;

(7) Permitting, aiding, or abetting the practice of the trade or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;

(8) Having had a license or certificate denied, refused renewal, limited, suspended, or revoked or having been disciplined in any other manner by another state or jurisdiction to practice water well construction, water well drilling, water well decommissioning, or pump installation based upon acts by the applicant, licensee, or certificate holder similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate or the taking of other disciplinary action by another state or jurisdiction shall be conclusive evidence;

(9) Unprofessional conduct as may be defined in rules and regulations of the board with approval of the department;

(10) Practice of the trade while the license or certificate to do so is suspended or practice of the trade in contravention of any limitation placed upon the license or certificate; or

(11) Failing to file the report required by section 46-604 a water well registration required by subsection (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice required by subsection (7) of such section.

A licensee or certificate holder shall not engage in the practice of the trade after a license or certificate is revoked or during the time for which it is suspended. If a license or certificate is suspended, the suspension shall be for a definite period of time to be fixed by the Director of Regulation and Licensure, and such license or certificate shall be automatically reinstated upon the expiration of such period if the current renewal fee has been paid. If such license or certificate is revoked, such revocation shall be for one year.

Sec. 22. Section 46-1238, Reissue Revised Statutes of Nebraska, is amended to read:

46-1238. Any person who fails to employ or use at least one individual appropriately licensed or certified and available, in accordance with section 46-1233, or any person who engages, without a license or certificate for such activities, in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices, in addition to the other penalties provided in the Water Well Standards and Contractors' Licensing Act, may be enjoined from continuing such activities.

Sec. 23. Section 46-1239, Reissue Revised Statutes of Nebraska, is amended to read:

46-1239. Any person who fails to employ or use at least one individual appropriately licensed or certified and available, in accordance with section 46-1233, or any person who engages, without a license or certificate for such activities, in the construction of water wells, ~~or~~ the installation of pumps and pumping equipment, or the decommissioning of water wells is guilty of a Class II misdemeanor or subject to a civil penalty of not more than one thousand dollars for each day the violation occurs.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. An action to collect a civil penalty shall be brought within two years of the alleged violation providing the basis of the penalty, except that if the cause of action is not discovered and could not be reasonably discovered within the two-year period, the action may be commenced within two years after the date of discovery or after the date of discovery of facts which would reasonably lead to discovery, whichever is earlier. The department shall, within thirty days after receipt, remit the civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 24. Section 46-1240, Reissue Revised Statutes of Nebraska, is amended to read:

46-1240. Any person who engages in or any person who employs or uses a person who engages in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices or who fails to decommission or decommissions an illegal water well without complying with the

standards adopted and promulgated pursuant to the Water Well Standards and Contractors' Licensing Act shall be guilty of a Class III misdemeanor or subject to a civil penalty of not more than five hundred dollars for each day an intentional violation occurs and may be enjoined from continuing such activity, including a mandatory injunction.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. An action to collect a civil penalty shall be brought within two years of the alleged violation providing the basis of the penalty, except that if the cause of action is not discovered and could not be reasonably discovered within the two-year period, the action may be commenced within two years after the date of discovery or after the date of discovery of facts which would reasonably lead to discovery, whichever is earlier. The department shall, within thirty days after receipt, remit the civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 25. Section 46-1241, Reissue Revised Statutes of Nebraska, is amended to read:

46-1241. Any owner of a water well or water well contractor who engages in an act of or the business of constructing a water well shall keep and maintain an accurate well log of the construction of each such water well. The well log shall be available to the department for inspection and copying during reasonable hours or the regular business hours of the contractor.

The well log shall include the following information:

- (1) Legal description of the water well;
- (2) Description and depth of geologic materials encountered;
- (3) Depth and diameter or dimension of constructed water well and test hole;
- (4) Depth and diameter or dimension of excavated hole if applicable;
- (5) Depth of formation stabilizer or gravel pack and size of particles if used;
- (6) Depth and thickness of grout or other sealing material if applicable;
- (7) Casing information, including length, inside diameter, wall thickness, and type of material if applicable;
- (8) Screen information, including length, trade name, inside and outside diameter, slot size, and type of material if applicable;
- (9) Static water level;
- (10) Water level when pumped at the designated rate, giving the rate of pumping and amount of time pumped, if applicable;
- (11) Yield of water well in gallons per minute or gallons per hour if applicable;
- (12) Signature of water well contractor;
- (13) Dates drilling commenced and construction completed;
- (14) Intended use of the water well;
- (15) ~~Name, address, and signature~~ and address of the owner;
- (16) Identification number of any permit for the water well issued pursuant to Chapter 46, article 6, Chapter 66, article 11, or any other law;
- (17) Name, address, and license number of any license issued pursuant to the Water Well Standards and Contractors' Licensing Act of any person, other than the owner of the water well, who constructed the water well; and
- (18) Other data as the board reasonably requires.

Sec. 26. Section 61-210, Revised Statutes Supplement, 2000, is amended to read:

61-210. The Department of Natural Resources Cash Fund is created. The State Treasurer shall credit to such fund such money as is specifically appropriated or reappropriated by the Legislature. The State Treasurer shall also credit such fund with payments, if any, accepted for services rendered by the department and fees collected pursuant to subdivision (10) of section 33-105, subsection (6) of section 46-602, subsection (6) of section 46-606, section 46-230, ~~and~~ section 61-209, and section 27 of this act. The funds made available to the Department of Natural Resources by the United States, through the Natural Resources Conservation Service of the Department of Agriculture or through any other agencies, shall be credited to the fund by the State Treasurer. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The Department of Natural Resources shall allocate money from the fund to pay costs of the programs or activities of the department. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall

issue warrants on the fund, and the State Treasurer shall countersign and pay from, but never in excess of, the amounts to the credit of the fund. The State Treasurer shall transfer any money in the Department of Water Resources Cash Fund and in the Nebraska Natural Resources Commission Cash Fund on July 1, 2000, to the Department of Natural Resources Cash Fund.

Sec. 27. (1) Any person transferring ownership of real property not inside the corporate limits of a municipality shall complete and provide to the transferee, at or before the closing of the transfer, a water resources update notice acknowledging (a) whether any surface water rights issued pursuant to Chapter 46, article 2, and in the name of any party other than an irrigation district, public power and irrigation district, or mutual irrigation company are attached to the real property, ownership of which is being transferred, and (b) whether there are any water wells, except water wells used solely for domestic purposes and constructed prior to September 9, 1993, on the real property, ownership of which is being transferred. If the water resources update notice discloses the existence of such surface water rights or such water wells, the transferee shall complete the water resources update notice and shall file it with the Department of Natural Resources within sixty days after recording the deed or other instrument by which the transfer of ownership of real property is made. The department shall use such notice to update ownership of surface water rights and water well registrations as required by sections 46-230 and 46-602.

(2) The department shall prescribe the form and content of the water resources update notice and shall make such forms available to title insurance companies and other persons as deemed appropriate by the department. The requirement that a water resources update notice be filed with the department or the failure to file such a notice does not affect the recording, legality, or sufficiency of a deed or other instrument evidencing the transfer of ownership of real property.

(3) The department shall establish a uniform fee which shall be no higher than the amount necessary to cover costs incurred by the department for processing the water resources update notices, notices filed pursuant to section 46-230, and notices filed pursuant to subsection (6) of section 46-602. The fee shall be paid at the time of filing the water resources update notice and shall be remitted to the State Treasurer for credit to the Department of Natural Resources Cash Fund.

Sec. 28. Section 71-5301, Revised Statutes Supplement, 2000, is amended to read:

71-5301. For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

- (1) Council means the Advisory Council on Public Water Supply;
- (2) Director means the Director of Regulation and Licensure or his or her authorized representative;
- (3) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the Director of Regulation and Licensure has consummated a legal and binding contract covering specifically delegated responsibilities;
- (4) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;
- (5) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;
- (6) Owner means any person owning or operating a public water ~~supply~~ system;
- (7) Person means any individual, firm, partnership, limited liability company, association, company, corporation, political subdivision, or other entity;
- (8) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;
- (9) Public water ~~supply~~ system means a ~~water supply system designed to provide the public system for providing the public with water for human consumption through pipes or, after August 5, 1998, other constructed conveyances,~~ if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. Public water ~~supply~~ system includes, ~~but is not limited to,~~ (a) any collection, treatment, storage, ~~or~~ and distribution facilities

under control of the operator of such system and used primarily in connection with such system and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. For purposes of this subdivision, Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water system.

Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection if (i) the water is used exclusively for purposes other than residential uses, such as consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

Special irrigation district means an ~~An~~ irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water supply system if the system or the residential or similar users of the system comply with exclusion provisions of subdivision (ii) or (iii) of this subdivision; - A water supplier that would be a public water system only as a result of the amendments made by the 1996 amendments to the federal Safe Drinking Water Act shall not be considered a public water system until August 7, 1998;

(10) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the Director of Regulation and Licensure, may have an adverse effect on the health of persons and (b) apply only to public water ~~supply~~ systems;

(11) Lead free (a) when used with respect to solders and flux means solders and flux containing not more than two-tenths percent lead and (b) when used with respect to pipe and pipe fittings means pipe and pipe fittings containing not more than eight percent lead;

(12) Community water system means a public water ~~supply~~ system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

(13) Noncommunity water system means a public water ~~supply~~ system that is not a community water system;

(14) Nontransient noncommunity water system means a public water ~~supply~~ system that is not a community water ~~supply~~ system and that regularly serves at least twenty-five of the same individuals over six months per year; and

(15) Small system means a public water ~~supply~~ system that regularly serves less than ten thousand individuals.

Sec. 29. Section 71-5301.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5301.01. (1) After July 1, 1988, any pipe, pipe fitting, solder, or flux which is used in the installation or repair of any public water ~~supply~~ system shall be lead free.

(2) By July 1, 1988, the owner of any public water ~~supply~~ system shall, by the adoption of plumbing codes or ordinances, contract, or other enforceable means, require that any solder or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water ~~supply~~ system be lead free.

(3) The owner of any public water ~~supply~~ system shall inspect the installation or repair of facilities described in subsection (2) of this section to determine compliance with such subsection.

(4) The owner of a public water ~~supply~~ system shall cause any joint or pipe in facilities described in subsection (2) of this section to be replaced if the owner or the director finds that such joint or pipe is not lead free.

(5) This section shall not apply to the repair of leaded joints in cast iron pipes in any public water ~~supply~~ system that are in existence and use on July 1, 1988.

Sec. 30. Section 71-5302, Revised Statutes Supplement, 2000, is amended to read:

71-5302. (1) The Director of Regulation and Licensure shall adopt

and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water supplied to consumers through all public water ~~supply~~ systems shall not contain amounts of chemical, radiological, physical, or bacteriological material determined by the Director of Regulation and Licensure to be harmful to human health.

(2) The Director of Regulation and Licensure may adopt and promulgate rules and regulations to require the monitoring of drinking water supplied to consumers through public water ~~supply~~ systems for chemical, radiological, physical, or bacteriological material determined by the Director of Regulation and Licensure to be potentially harmful to human health.

(3) In determining what materials are harmful or potentially harmful to human health and in setting maximum levels for such harmful materials, the Director of Regulation and Licensure shall be guided by:

(a) General knowledge of the medical profession and related scientific fields as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(4) Subject to section 71-5310, state drinking water standards shall apply to each public water ~~supply~~ system in the state, except that such standards shall not apply to a public water ~~supply~~ system:

(a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(b) Which obtains all of its water from, but is not owned or operated by, a public water ~~supply~~ system to which such standards apply;

(c) Which does not sell water to any person; and

(d) Which is not a carrier which conveys passengers in interstate commerce.

(5) The Director of Regulation and Licensure may adopt alternative monitoring requirements for public water ~~supply~~ systems in accordance with section 1418 of the federal Safe Drinking Water Act, as such section existed on the operative date of this section.

(6) The Director of Regulation and Licensure may adopt a system for the ranking of safe drinking water projects with known needs or for which loan applications have been received by the Department of Health and Human Services Regulation and Licensure or the Department of Environmental Quality. In establishing the ranking system the Director of Regulation and Licensure shall consider, among other things, the risk to human health, compliance with the federal Safe Drinking Water Act, as the act existed on the operative date of this section, and assistance to systems most in need based upon affordability criteria adopted by the Director of Regulation and Licensure. This priority system shall be reviewed annually by the Director of Regulation and Licensure.

Sec. 31. Section 71-5303, Revised Statutes Supplement, 2000, is amended to read:

71-5303. (1) No person shall operate or maintain a public water ~~supply~~ system without first obtaining a permit to operate such system from the director. No fee shall be charged for the issuance of such permit.

(2) The director shall inspect public water ~~supply~~ systems and report findings to the owner, publish a list of those systems not in compliance, and promote the training of and certify the competence of operators. The director may deny, revoke, suspend, or refuse renewal of a permit or certification, issue administrative orders scheduling action to be taken, take emergency action as provided in section 71-5304.01, and seek a temporary or permanent injunction or such other legal process as is deemed necessary to obtain compliance with the Nebraska Safe Drinking Water Act.

(3) The Department of Health and Human Services Regulation and Licensure may deny, revoke, suspend, or refuse to renew a permit or certification for noncompliance with the act, the rules and regulations adopted and promulgated under the act, or the terms of a variance or exemption issued pursuant to section 71-5310.

(4) Any person shall be granted, upon request, an opportunity for a hearing before the department under the Administrative Procedure Act prior to the denial or revocation of a permit or certification. The denial or revocation by the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 32. Section 71-5304, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304. (1) The director shall adopt and promulgate necessary minimum rules and regulations governing the siting, design, construction, alteration, and operation of public water ~~supply~~ systems to insure that such

public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological materials which are determined by the director, pursuant to section 71-5302, to be harmful to the physical health of human beings. In adopting such rules and regulations, the director shall attempt to meet the following objectives:

(a) Insure that facilities are physically separated, to the greatest extent possible, from water or land areas which contain high levels of materials which are harmful to humans;

(b) Insure that such facilities, and all parts thereof, are physically sealed so that leakage of harmful materials into the public water system itself from sources outside the system shall not occur;

(c) Insure that all materials which are used in the construction of a system shall not place harmful materials into the public water system;

(d) Insure that all chemicals or other substances used to treat and purify water are free from harmful materials; and

(e) Insure, to the greatest extent possible, that such rules and regulations will allow uninterrupted and efficient operation of public water systems.

(2) The rules and regulations may contain differences and distinctions based on the physical size of the facilities and number of persons served, so long as the objectives of this section are met.

Sec. 33. Section 71-5304.01, Revised Statutes Supplement, 2000, is amended to read:

71-5304.01. (1) Whenever the Director of Regulation and Licensure has reason to believe that a violation of any provision of the Nebraska Safe Drinking Water Act, any rule or regulation adopted and promulgated under such act, or any term of a variance or exemption issued pursuant to section 71-5310 has occurred, he or she may cause an administrative order to be served upon the permittee or permittees alleged to be in violation. Such order shall specify the violation and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless the permittee or permittees named in the order request in writing a hearing before the Director of Regulation and Licensure no later than thirty days after the date such order is served. In lieu of such order, the Director of Regulation and Licensure may require that the permittee or permittees appear before the Director of Regulation and Licensure at a time and place specified in the notice and answer the charges. The notice shall be served on the permittee or permittees alleged to be in violation not less than thirty days before the time set for the hearing.

(2) Whenever the Director of Regulation and Licensure finds that an emergency exists requiring immediate action to protect the public health and welfare concerning a material which is determined by the Director of Regulation and Licensure to be harmful or potentially harmful to human health, the Director of Regulation and Licensure may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the Director of Regulation and Licensure deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply immediately and, on written application to the Director of Regulation and Licensure, shall be afforded a hearing as soon as possible and not later than ten days after receipt of such application by such affected person. On the basis of such hearing, the Director of Regulation and Licensure shall continue such order in effect, revoke it, or modify it.

(3) The Director of Regulation and Licensure shall afford to the alleged violator an opportunity for a fair hearing before the Department of Health and Human Services Regulation and Licensure under the Administrative Procedure Act.

(4) In addition to any other remedy provided by law, the Director of Regulation and Licensure may issue an order assessing an administrative penalty upon a violator.

(5) The range of administrative penalties assessed under this section for a public water ~~supply~~ system serving ten thousand or more persons shall be not less than one thousand dollars per day or part thereof for each violation, not to exceed twenty-five thousand dollars in the aggregate. Administrative penalties for a small system shall be not more than five hundred dollars per day or part thereof for each violation, not to exceed five thousand dollars in the aggregate. In determining the amount of the administrative penalty, the department shall take into consideration all relevant circumstances, including, but not limited to, the harm or potential harm which the violation causes or may cause, the violator's previous compliance record, the nature and persistence of the violation, any corrective

actions taken, and any other factors which the department may reasonably deem relevant. The administrative penalty assessment shall state specific amounts to be paid for each violation identified in the order.

(6) An administrative penalty shall be paid within sixty days after the date of issuance of the order assessing the penalty. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for the penalty amount plus any statutory interest rate applicable to judgments. An order under this section imposing an administrative penalty may be appealed to the Director of Regulation and Licensure in the manner provided for in subsection (1) of this section. Any administrative penalty paid pursuant to this section shall be remitted to the State Treasurer for credit to the permanent school fund. An action may be brought in the appropriate court to collect any unpaid administrative penalty and for attorney's fees and costs incurred directly in the collection of the penalty.

Sec. 34. Section 71-5304.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304.02. (1) The director may require a public water ~~supply~~ system to give notice to the persons served by the system and to the Department of Health and Human Services Regulation and Licensure whenever the system:

(a) Is not in compliance with an applicable maximum contaminant level or treatment technique requirement of or a testing procedure prescribed by rules and regulations adopted and promulgated under the Nebraska Safe Drinking Water Act;

(b) Fails to perform monitoring, testing, analyzing, or sampling as required;

(c) Is subject to a variance or exemption; or

(d) Is not in compliance with the requirements prescribed by a variance or exemption.

(2) The director may require a public water ~~supply~~ system to give notice to the persons served by the public water ~~supply~~ system of potential sources of contamination as identified by the director under subsection (2) of section 71-5302, of possible health effects of such contamination, and of possible mitigation measures.

(3) The director shall by rule and regulation prescribe the form and manner for giving such notice.

Sec. 35. Section 71-5305, Revised Statutes Supplement, 2000, is amended to read:

71-5305. (1) No major construction, extension, or alteration of a public water ~~supply~~ system shall be commenced without written authorization from the director. No such authorization shall be needed in the case of minor repairs and matters of maintenance. No such authorization shall be granted unless plans and specifications, prepared by a professional engineer, and any additional information required by the department have been submitted to the department or its designated agent for review.

(2) Upon a finding that there has been compliance with the minimum sanitary requirements adopted pursuant to section 71-5304, authorization to proceed with construction shall be granted by the director or his or her designated agent. In issuing authorization for the development of new public water supply sources, consideration shall be given to the location and effects of other water supply systems and the location of points of discharge or disposal for solid and liquid wastes.

Sec. 36. Section 71-5305.02, Revised Statutes Supplement, 2000, is amended to read:

71-5305.02. The Department of Health and Human Services Regulation and Licensure shall develop a capacity development strategy to assist public water ~~supply~~ systems in acquiring and maintaining technical, managerial, and financial capacity pursuant to section 71-5305.01. The department shall consider and solicit public comment on:

(1) The methods or criteria the department will use to identify and prioritize the public water ~~supply~~ systems most in need of improving technical, managerial, and financial capacity;

(2) A description of the institutional, regulatory, financial, tax, or legal factors at the federal, state, or local level that encourage or impair capacity development;

(3) A description of how the department will:

(a) Assist public water ~~supply~~ systems in complying with the Nebraska Safe Drinking Water Act;

(b) Encourage the development of partnerships between public water ~~supply~~ systems to enhance the technical, managerial, and financial capacity of the systems; and

(c) Assist public water ~~supply~~ systems in the training and certification of operators; and

(4) A description of how the department will establish a baseline and measure improvements in capacity with respect to the act.

Sec. 37. Section 71-5306, Revised Statutes Supplement, 2000, is amended to read:

71-5306. (1) To carry out the provisions and purposes of the Nebraska Safe Drinking Water Act, the director may:

(a) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(b) Require all laboratory analyses to be performed at the Department of Health and Human Services Regulation and Licensure Laboratory, or at any other certified laboratory which has entered into an agreement with the Department of Health and Human Services Regulation and Licensure therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2619 to 71-2621;

(c) Certify laboratories performing tests on water that is intended for human consumption. The director may establish, through rules and regulations, standards for certification. Such standards may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results. Such standards shall be consistent with requirements for performing laboratory tests established by the federal Environmental Protection Agency to the extent such requirements are consistent with state law. The director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification. Inspection fees for certifying other laboratories shall be established and collected to defray the cost of the inspections;

(d) Receive financial and technical assistance from an agency of the federal government or from any other public or private agency;

(e) Enter the premises of a public water ~~supply~~ system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(f) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of the Nebraska Safe Drinking Water Act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers;

(g) Require the owner and operator of a public water ~~supply~~ system to establish and maintain records, make reports, and provide information as the Department of Health and Human Services Regulation and Licensure may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with the Nebraska Safe Drinking Water Act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports; and

(h) Assess by regulation a fee for any review of plans and specifications pertaining to a public water ~~supply~~ system governed by section 71-5305 and a fee for any issuance or reissuance of a certificate of competency issued pursuant to sections 71-5307 to 71-5309 in order to defray no more than the actual cost of the services provided.

(2) All such fees collected by the Department of Health and Human Services Regulation and Licensure shall be ~~paid into the state treasury and shall be credited~~ remitted to the State Treasurer for credit to the Safe Drinking Water Act Cash Fund, which is hereby created. Such fund shall be used by the department for the purpose of administering the Nebraska Safe Drinking Water Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 38. Section 71-5307, Reissue Revised Statutes of Nebraska, is amended to read:

71-5307. ~~Commencing January 1, 1979, no public water supply~~ No public water system shall be issued or otherwise hold a permit to operate a

public water ~~supply~~ system, granted by the department, unless its operator possesses a certificate of competency issued by the department.

Sec. 39. Section 71-5308, Revised Statutes Supplement, 2000, is amended to read:

71-5308. (1) Application for a certificate of competency to act as a certified operator of a public water ~~supply~~ system shall be made upon forms prepared by the director and shall contain such information as the director, by rule and regulation, deems necessary. If the applicant is an individual, the application shall include the applicant's social security number.

(2) Certificates of competency to act as certified operators of public water ~~supply~~ systems shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year. Certificates of competency may be renewed triennially upon application. The department shall notify each certificate holder at least ninety days before the expiration of the certificate by a letter addressed to him or her at his or her last place of residence as noted upon its records.

(3) The department shall, within thirty days after receipt of an application, make an investigation and, if found in compliance with regulations adopted pursuant to section 71-5309, shall issue a certificate of competency, valid until midnight of December 31 of the third year.

Sec. 40. Section 71-5309, Reissue Revised Statutes of Nebraska, is amended to read:

71-5309. (1) The director shall adopt and promulgate minimum necessary rules and regulations governing the qualifications of operators of public water ~~supply~~ systems. In adopting such rules and regulations, the director shall give consideration to the levels of training and experience which are required, in the opinion of the director, to insure to the greatest extent possible that the public water ~~supply~~ systems shall be operated in such a manner that (a) maximum efficiency can be attained, (b) interruptions in service will not occur, (c) chemical treatment of the water will be adequate to maintain purity and safety, and (d) harmful materials will not enter the public water ~~supply~~ system. The director may require, by rule and regulation, that the applicant for a certificate of competency successfully pass an examination on the subject of operation of a public water ~~supply~~ system. The rules and regulations, and any tests so administered, may set out different requirements for different sizes of public water ~~supply~~ systems, so long as the criteria set forth in this section are followed.

(2) Any such certificate of competency may be denied, suspended, revoked, or refused renewal by the director for due cause. Due cause shall include, but not be limited to, (a) fraud in processing the certificate, (b) habitual intoxication or addiction to the use of drugs, (c) conviction of a felony, (d) physical or mental incapacity to perform professional duties, (e) violation of any of the provisions of the Nebraska Safe Drinking Water Act or any rules or regulations adopted and promulgated under such act, and (f) failure to pay the required fee. Except in cases of failure to pay the required fees, no certificate of competency shall be denied, suspended, or revoked except after due notice and opportunity for a hearing. Any denial, suspension, or revocation of such certificate of competency may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 41. Section 71-5310, Reissue Revised Statutes of Nebraska, is amended to read:

71-5310. (1) The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 71-5302 under conditions and in such manner as they deem necessary and desirable. Such variances or exemptions shall be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the federal Safe Drinking Water Act, Public Law 93-523, ~~93rd Congress~~ as the act existed on the operative date of this section.

(2) Prior to granting a variance or an exemption, the director shall provide notice, in a newspaper of general circulation serving the area served by the public water ~~supply~~ system, of the proposed exemption or variance and that interested persons may request a public hearing on the proposed exemption or variance. The director may require the system to provide other appropriate notice as he or she deems necessary to provide adequate notice to persons served by the system.

If a public hearing is requested, the director shall set a time and place for the hearing and such hearing shall be held before the Department of Health and Human Services Regulation and Licensure prior to the variance or exemption being issued. Frivolous and insubstantial requests for a hearing may be denied by the director. An exemption or variance shall be conditioned on monitoring, testing, analyzing, or other requirements to insure the

protection of the public health. A variance or an exemption granted shall include a schedule of compliance under which the public water ~~supply~~ system is required to meet each contaminant level or treatment technique requirement for which a variance or an exemption is granted within a reasonable time as specified by the director with the approval of the council.

Sec. 42. Section 71-5311, Revised Statutes Supplement, 2000, is amended to read:

71-5311. (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the Nebraska Safe Drinking Water Act.

(2) The council shall be composed of seven members appointed by the Governor, (a) one of whom shall be a professional engineer, (b) one of whom shall be a licensed physician, (c) two of whom shall be consumers of a public water ~~supply~~ system, (d) two of whom shall be operators of a public water ~~supply~~ system who possess a certificate of competency issued by the Department of Health and Human Services Regulation and Licensure to operate a public water ~~supply~~ system. One such operator shall represent a system serving a population of five thousand or less, and one such operator shall represent a system serving a population of more than five thousand, and (e) one of whom shall be, at the time of appointment, (i) an individual who owns a public water ~~supply~~ system, (ii) a member of the governing board of a public or private corporation which owns a public water ~~supply~~ system, or (iii) in the case of a political subdivision which owns a public water ~~supply~~ system, a member of the subdivision's governing board or board of public works or similar board which oversees the operation of a public water ~~supply~~ system.

Any owner or operator of a public water ~~supply~~ system serving on the council on March 2, 1989, shall continue to serve until the term of such member expires. As his or her term expires, such owner or operator shall be replaced by a person qualified as prescribed in subdivisions (d) and (e) of this subsection respectively.

(3) All members shall be appointed for three-year terms. No member shall serve more than three consecutive three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

(4) The council shall meet not less than once each year. Special meetings of the council may be called by the director or upon the written request of any two members of the council explaining the reason for such meeting. The place of the meeting shall be set by the director. Such officers as the council deems necessary shall be elected every three years beginning with the first meeting in the year 1990. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation, but each member shall be entitled, while serving on the business of the council, to receive his or her travel and other necessary expenses while so serving away from his or her place of residence as provided in sections 81-1174 to 81-1177.

Sec. 43. Section 71-5311.01, Revised Statutes Supplement, 2000, is amended to read:

71-5311.01. The failure or inability of any public water ~~supply~~ system to receive funds under the Drinking Water State Revolving Fund Act or any other loan or grant program or any delay in obtaining the funds shall not alter the obligation of the system to comply in a timely manner with the Nebraska Safe Drinking Water Act and rules and regulations adopted and promulgated under the act.

Sec. 44. Section 71-5315, Revised Statutes Supplement, 2000, is amended to read:

71-5315. The Legislature finds that safe drinking water is essential to the protection of public health. The Legislature further finds that the construction, rehabilitation, operation, and maintenance of modern and efficient public water ~~supply~~ systems and safe drinking water projects are essential to protecting and improving the quality of the state's drinking water, that protecting water quality is an issue of concern to all citizens of the state, and that adequate public water ~~supply~~ systems and safe drinking water projects are essential to public health and to economic growth and development. Systems need to have adequate technical, managerial, and financial capacities to assure that the public is protected. Needed assistance can be provided to systems through the funds created by the

Drinking Water State Revolving Fund Act. The Legislature finds and determines that the funds should be available in perpetuity for providing financial assistance to such systems and for such projects.

The Legislature finds and determines that these funds will consist of both state money and federal grant funds. In addition, the funds can be increased and additional needed safe drinking water projects for owners of public water ~~supply~~ systems can be undertaken more expeditiously through the issuance of revenue bonds by the Nebraska Investment Finance Authority and the deposit of the proceeds thereof into the Drinking Water Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund.

The Legislature finds and determines that the issuance of revenue bonds for financing the funds serves a public purpose by assisting public water ~~supply~~ systems in providing and improving safe drinking water projects and thereby providing safe drinking water to the citizens of the state, promoting the health and well-being of the citizens, and assisting in the economic growth and development of the state. The full faith and credit and the taxing power of the state are not pledged to the payment of such bonds or the interest thereon.

Sec. 45. Section 71-5316, Revised Statutes Supplement, 2000, is amended to read:

71-5316. For purposes of the Drinking Water State Revolving Fund Act, unless the context otherwise requires:

(1) Safe Drinking Water Act means the federal Safe Drinking Water Act, as ~~amended~~ the act existed on the operative date of this section;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of a safe drinking water project for a public water ~~supply~~ system; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of public water ~~supply~~ systems; or the inspection or supervision of any of such items;

(3) Council means the Environmental Quality Council;

(4) Department means the Department of Environmental Quality;

(5) Director means the Director of Environmental Quality;

(6) Operate and maintain means all necessary activities, including the normal replacement of equipment or appurtenances, to assure the dependable and economical function of a public water ~~supply~~ system in accordance with its intended purpose;

(7) Owner means any person owning or operating a public water ~~supply~~ system;

(8) Public water ~~supply~~ system has the definition found in section 71-5301; and

(9) Safe drinking water project means the structures, equipment, surroundings, and processes required to establish and operate a public water ~~supply~~ system.

Sec. 46. Section 71-5318, Revised Statutes Supplement, 2000, is amended to read:

71-5318. (1) The Drinking Water Facilities Loan Fund is created. The fund shall be held as a trust fund for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities related to financial administration of the fund, administration or provision of technical assistance through public water ~~supply~~ system source water assessment programs, and implementation of a source water petition program under the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Safe Drinking Water Act, ~~as amended~~, and the regulations adopted and

promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

(2) The Land Acquisition and Source Water Loan Fund is created. The fund shall be held as a trust for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may, in consultation with the Director of Regulation and Licensure, conduct activities other than the making of loans permitted under section 1452(k) of the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for security, investment, and repayment of bonds.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, to pay or secure the payment of bonds and the interest thereon, except that amounts credited to the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Land Acquisition and Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

(3) There is hereby created the Drinking Water Administration Fund. Any funds available for administering loans or fees collected pursuant to the Drinking Water State Revolving Fund Act shall be remitted to the State Treasurer for credit to such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

Sec. 47. Section 71-5322, Revised Statutes Supplement, 2000, is amended to read:

71-5322. The department shall have the following powers and duties:

(1) The power to establish a program to make loans to owners of public water ~~supply~~ systems, individually or jointly, for construction or modification of safe drinking water projects in accordance with the Drinking Water State Revolving Fund Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power, if so authorized by the council pursuant to section 71-5321, to execute and deliver documents obligating the Drinking Water Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund and the assets thereof to the extent permitted by section 71-5318 to repay, with interest, loans to or credits into such funds and to execute and deliver documents pledging to the extent permitted by section 71-5318 all or part of such funds and assets to secure, directly or indirectly, the loans or credits;

(3) The duty to prepare an annual report for the Governor and the Legislature;

(4) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the funds;

(c) Accounting for disbursements made by the funds; and

(d) Balancing the funds at the beginning and end of the accounting period;

(5) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(6) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by

the council;

(7) The power to develop an intended use plan, in consultation with the Director of Regulation and Licensure, for adoption by the council;

(8) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act; and

(9) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Drinking Water State Revolving Fund Act.

Sec. 48. Section 71-5324, Revised Statutes Supplement, 2000, is amended to read:

71-5324. (1) All loans made under the Drinking Water State Revolving Fund Act shall be made only to owners of public water ~~supply~~ systems that:

(a) Meet the requirements of financial, technical, and managerial capability set by the department;

(b) Pledge sufficient revenue sources for the repayment of the loan if such revenue may by law be pledged for that purpose;

(c) In the case of a privately owned public water ~~supply~~ system, pledge sufficient revenue, collateral, or other security for the repayment of the loan;

(d) Agree to maintain financial records according to generally accepted government accounting principles and to conduct an audit of the financial records according to generally accepted government auditing standards; and

(e) Provide a written assurance, signed by an attorney holding an active license to practice in the State of Nebraska, that the recipient has proper title, easements, and rights-of-way to the property on or through which the safe drinking water project is to be constructed or extended.

(2) Loans made for the construction of a safe drinking water project shall be made only to owners of public water ~~supply~~ systems which meet the conditions of subsection (1) of this section and, in addition, that:

(a) Require the contractor of the project to post separate performance and payment bonds or other security approved by the department in the amount of the bid;

(b) Provide a written notice of completion and start of operation of the safe drinking water project;

(c) Employ a registered professional engineer to provide and be responsible for engineering services on the project such as an engineering report, construction contract documents, observation of construction, and startup services; and

(d) Agree to operate and maintain the safe drinking water project so that it will function properly over the structural and material design life.

Sec. 49. Section 81-1505, Reissue Revised Statutes of Nebraska, is amended to read:

81-1505. (1) In order to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act, the council shall adopt and promulgate rules and regulations which shall set standards of air, water, and land quality to be applicable to the air, waters, and land of this state or portions thereof. Such standards of quality shall be such as to protect the public health and welfare. The council shall classify air, water, and land contaminant sources according to levels and types of discharges, emissions, and other characteristics which relate to air, water, and land pollution and may require reporting for any such class or classes. Such classifications and standards made pursuant to this section may be made for application to the state as a whole or to any designated area of the state and shall be made with special reference to effects on health, economic and social factors, and physical effects on property. Such standards and classifications may be amended as determined necessary by the council.

(2) In adopting the classifications of waters and water quality standards, the primary purpose for such classifications and standards shall be to protect the public health and welfare and the council shall give consideration to:

(a) The size, depth, surface area, or underground area covered, the volume, direction, and rate of flow, stream gradient, and temperature of the water;

(b) The character of the area affected by such classification or standards, its peculiar suitability for particular purposes, conserving the value of the area, and encouraging the most appropriate use of lands within such area for domestic, agricultural, industrial, recreational, and aquatic life purposes;

(c) The uses which have been made, are being made, or are likely to be made, of such waters for agricultural, transportation, domestic, and industrial consumption, for fishing and aquatic culture, for the disposal of sewage, industrial waste, and other wastes, or other uses within this state and, at the discretion of the council, any such uses in another state on interstate waters flowing through or originating in this state;

(d) The extent of present pollution or contamination of such waters which has already occurred or resulted from past discharges therein; and

(e) Procedures pursuant to section 401 of the Clean Water Act, ~~as amended~~, 33 U.S.C. 1251 et seq., as such section existed on the operative date of this section, for certification by the department of activities requiring a federal license or permit which may result in a discharge.

(3) In adopting effluent limitations or prohibitions, the council shall give consideration to the type, class, or category of discharges and the quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable or other waters of the state, including schedules of compliance, best practicable control technology, and best available control technology.

(4) In adopting standards of performance, the council shall give consideration to the discharge of pollutants which reflect the greatest degree of effluent reduction which the council determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(5) In adopting toxic pollutant standards and limitations, the council shall give consideration to the combinations of pollutants, the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

(6) In adopting pretreatment standards, the council shall give consideration to the prohibitions or limitations to noncompatible pollutants, prohibitions against the passage through a publicly owned treatment works of pollutants which would cause interference with or obstruction to the operation of publicly owned treatment works, damage to such works, and the prevention of the discharge of pollutants therefrom which are inadequately treated.

(7) In adopting treatment standards, the council shall give consideration to providing for processes to which wastewater shall be subjected in a publicly owned wastewater treatment works in order to make such wastewater suitable for subsequent use.

(8) In adopting regulations pertaining to the disposal of domestic and industrial liquid wastes, the council shall give consideration to the minimum amount of biochemical oxygen demand, suspended solids, or equivalent in the case of industrial wastewaters, which must be removed from the wastewaters and the degree of disinfection necessary to meet water quality standards with respect to construction, installation, change of, alterations in, or additions to any wastewater treatment works or disposal systems, including issuance of permits and proper abandonment, and requirements necessary for proper operation and maintenance thereof.

(9)(a) The council shall adopt and promulgate rules and regulations for controlling mineral exploration holes and mineral production and injection wells. The rules and regulations shall include standards for the construction, operation, and abandonment of such holes and wells. The standards shall protect the public health and welfare and air, land, water, and subsurface resources so as to control, minimize, and eliminate hazards to humans, animals, and the environment. Consideration shall be given to:

(i) Area conditions such as suitability of location, geologic formations, topography, industry, agriculture, population density, wildlife, fish and other aquatic life, sites of archeological and historical importance, mineral, land, and water resources, and the existing economic activities of the area including, but not limited to, agriculture, recreation, tourism, and industry;

(ii) A site-specific evaluation of the geologic and hydrologic suitability of the site and the injection, disposal, and production zones;

(iii) The quality of the existing ground water, the effects of exemption of the aquifer from any existing water quality standards, and requirements for restoration of the aquifer;

(iv) Standards for design and use of production facilities, which shall include, but not be limited to, all wells, pumping equipment, surface structures, and associated land required for operation of injection or production wells; and

(v) Conditions required for closure, abandonment, or restoration of

mineral exploration holes, injection and production wells, and production facilities in order to protect the public health and welfare and air, land, water, and subsurface resources.

(b) The council shall establish fees for regulated activities and facilities and for permits for such activities and facilities. The fees shall be sufficient but shall not exceed the amount necessary to pay the department for the direct and indirect costs of evaluating, processing, and monitoring during and after operation of regulated facilities or performance of regulated activities.

(c) With respect to mineral production wells, the council shall adopt and promulgate rules and regulations which require restoration of air, land, water, and subsurface resources and require mineral production well permit applications to include a restoration plan for the air, land, water, and subsurface resources affected. Such rules and regulations may provide for issuance of a research and development permit which authorizes construction and operation of a pilot plant by the permittee for the purpose of demonstrating the permittee's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

The rules and regulations adopted and promulgated may also provide for issuance of a commercial permit after a finding by the department that the injection and restoration procedures authorized by the research and development permit have been successful in demonstrating the applicant's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

(d) For the purpose of this subsection, unless the context otherwise requires, restoration shall mean the employment, during and after an activity, of procedures reasonably designed to control, minimize, and eliminate hazards to humans, animals, and the environment, to protect the public health and welfare and air, land, water, and subsurface resources, and to return each resource to a quality of use consistent with the uses for which the resource was suitable prior to the activity.

(10) In adopting livestock waste control regulations, the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause and all requirements of the Livestock Waste Management Act.

(11) In adopting regulations for the issuance of permits under the National Pollutant Discharge Elimination System created by the Clean Water Act, ~~as amended~~, 33 U.S.C. 1251 et seq., as the act existed on the operative date of this section, the council shall consider when such permits shall be required and exemptions, application and filing requirements, terms and conditions affecting such permits, notice and public participation, duration and review of such permits, and monitoring, recording, and reporting under the system.

(12) The council shall adopt and promulgate rules and regulations for air pollution control which shall include:

(a) A construction permit program which requires the owner or operator of an air contaminant source to obtain a permit prior to construction;

(b) An operating permit program consistent with requirements of the Clean Air Act, ~~as amended~~, 42 U.S.C. 7401 et seq., as the act existed on the operative date of this section, and an operating permit program for minor sources of air pollution, which programs shall require permits for both new and existing sources;

(c) Provisions for operating permits to be issued after public notice, to be terminated, modified, or revoked for cause, and to be modified to incorporate new requirements;

(d) Provisions for applications to be on forms provided by the department and to contain information necessary to make a determination on the appropriateness of issuance or denial. The department shall make a completeness determination in a timely fashion and after such determination shall act on the application within time limits set by the council. Applications for operating permits shall include provisions for certification of compliance by the applicant;

(e) Requirements for operating permits which may include such conditions as necessary to protect public health and welfare, including, but not limited to (i) monitoring and reporting requirements on all sources subject to the permit, (ii) payment of annual fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality permit program, (iii) retention of records, (iv) compliance with all

air quality standards, (v) a permit term of no more than five years from date of issuance, (vi) any applicable schedule of compliance leading to compliance with air quality regulations, (vii) site access to the department for inspection of the facility and records, (viii) emission limits or control technology requirements, (ix) periodic compliance certification, and (x) other conditions necessary to carry out the purposes of the Environmental Protection Act. For purposes of this subsection, control technology shall mean a design, equipment, a work practice, an operational standard which may include a requirement for operator training or certification, or any combination thereof;

(f) Classification of air quality control regions;

(g) Standards for air quality that may be established based upon protection of public health and welfare, emission limitations established by the United States Environmental Protection Agency, and maximum achievable control technology standards for sources of toxic air pollutants. For purposes of this subdivision, maximum achievable control technology standards shall mean an emission limit or control technology standard which requires the maximum degree of emission reduction that the council, taking into consideration the cost of achieving such emission reduction, any health and environmental impacts not related to air quality, and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which the standard applies through application of measures, processes, methods, systems, or techniques, including, but not limited to, measures which accomplish one or a combination of the following:

(i) Reduce the volume of or eliminate emissions of the pollutants through process changes, substitution of materials, or other modifications;

(ii) Enclose systems or processes to eliminate emissions; or

(iii) Collect, capture, or treat the pollutants when released from a process, stack, storage, or fugitive emission point;

(h) Restrictions on open burning and fugitive emissions;

(i) Provisions for issuance of general operating permits, after public notice, for sources with similar operating conditions and for revoking such general authority to specific permittees;

(j) Provisions for implementation of the sulfur dioxide allowance system of the Clean Air Act, ~~as amended~~, 42 U.S.C. 7401 et seq., as the act existed on the operative date of this section through the operating permit program;

(k) A provision that operating permits will not be issued if the Environmental Protection Agency objects in a timely manner;

(l) Provisions for periodic reporting of emissions;

(m) Limitations on emissions from process operations, fuel-burning equipment, and incinerator emissions and such other restrictions on emissions as are necessary to protect the public health and welfare;

(n) Time schedules for compliance;

(o) Requirements for owner or operator testing and monitoring of emissions;

(p) Control technology requirements when it is not feasible to prescribe or enforce an emission standard; and

(q) Procedures and definitions necessary to carry out payment of the annual emission fee set in section 81-1505.04.

(13)(a) In adopting regulations for hazardous waste management, the council shall give consideration to generation of hazardous wastes, labeling practices, containers used, treatment, storage, collection, transportation including a manifest system, processing, resource recovery, and disposal of hazardous wastes. It shall consider the permitting, licensing, design and construction, and development and operational plans for hazardous waste treatment, storage, and disposal facilities, and conditions for licensing or permitting of hazardous waste treatment, storage, and disposal areas. It shall consider modification, suspension, or revocation of such licenses and permits, including requirements for waste analysis, site improvements, fire prevention, safety, security, restricted access, and covering and handling of hazardous liquids and materials. Licenses and permits for hazardous waste treatment, storage, and disposal facilities shall not be issued until certification by the State Fire Marshal as to fire prevention and fire safety has been received by the department. The council shall further consider the need at treatment, storage, or disposal facilities for required equipment, communications and alarms, personnel training, and contingency plans for any emergencies that might arise and for a coordinator during such emergencies.

In addition the council shall give consideration to (i) ground water monitoring, (ii) use and management of containers and tanks, (iii) surface impoundments, (iv) waste piles, (v) land treatment, (vi) incinerators, (vii) chemical or biological treatment, (viii) landfills including the surveying

thereof, and (ix) special requirements for ignitable, reactive, or incompatible wastes.

In considering closure and postclosure of hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would result in the owner or operator closing his or her facility so as to minimize the need for future maintenance, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, postclosure escape of hazardous waste, hazardous waste constituents, and leachate to the ground water or surface waters, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, waste decomposition to the atmosphere. In considering corrective action for hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would require the owner or operator, or any previous owner or operator with actual knowledge of the presence of hazardous waste at the facility, to undertake corrective action or such other response measures necessary to protect human health or the environment for all releases of hazardous waste or hazardous constituents from any treatment, storage, or disposal facility or any solid waste management unit at such facility regardless of the time at which waste was placed in such unit.

Such regulations adopted pursuant to this subsection shall in all respects comply with the Environmental Protection Act and the Resource Conservation and Recovery Act, ~~as amended~~, 42 U.S.C. 6901 et seq., as the act existed on the operative date of this section.

(b) In adopting regulations for hazardous waste management, the council shall consider, in addition to criteria in subdivision (a) of this subsection, establishing criteria for (i) identifying hazardous waste including extraction procedures, toxicity, persistence, and degradability in nature, potential for accumulation in tissue, flammability or ignitability, corrosiveness, reactivity, and generation of pressure through decomposition, heat, or other means, and other hazardous characteristics, (ii) listing all materials it deems hazardous and which should be subject to regulation, and (iii) locating treatment, storage, or disposal facilities for such wastes. In adopting criteria for flammability and ignitability of wastes pursuant to subdivision (b)(i) of this subsection, no regulation shall be adopted without the approval of the State Fire Marshal.

(c) In adopting regulations for hazardous waste management, the council shall establish a schedule of fees to be paid to the director by licensees or permittees operating hazardous waste processing facilities or disposal areas on the basis of a monetary value per cubic foot or per pound of the hazardous wastes, sufficient but not exceeding the amount necessary to reimburse the department for the costs of monitoring such facilities or areas during and after operation of such facilities or areas. The licensees may assess a cost against persons using the facilities or areas. The director shall remit any money collected from fees paid to him or her to the State Treasurer who shall credit the entire amount thereof to the General Fund.

(d) In adopting regulations for solid waste disposal, the council shall consider storage, collection, transportation, processing, resource recovery, and disposal of solid waste, developmental and operational plans for solid waste disposal areas, conditions for permitting of solid waste disposal areas, modification, suspension, or revocation of such permits, regulations of operations of disposal areas, including site improvements, fire prevention, ground water protection, safety and restricted access, handling of liquid and hazardous materials, insect and rodent control, salvage operations, and the methods of disposing of accumulations of junk outside of solid waste disposal areas. Such regulations shall in all respects comply with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Resource Conservation and Recovery Act, ~~as amended~~, 42 U.S.C. 6901 et seq., as the act existed on the operative date of this section.

(14) In adopting regulations governing discharges or emissions of oil and other hazardous materials into the waters, in the air, or upon the land of the state, the council shall consider the requirements of the Integrated Solid Waste Management Act, methods for prevention of such discharges or emissions, and the responsibility of the discharger or emitter for cleanup, toxicity, degradability, and dispersal characteristics of the substance.

(15) In adopting regulations governing composting and composting sites, the council shall give consideration to:

(a) Approval of a proposed site by the local governing body, including the zoning authority, if any, prior to issuance of a permit by the department;

(b) Issuance of permits by the department for such composting

operations, with conditions if necessary;

(c) Submission of construction and operational plans by the applicant for a permit to the department, with approval of such plans before issuance of such permit;

(d) A term of five years for such permits, which shall not be transferable;

(e) Renewal of permits if the operation has been in substantial compliance with composting regulations adopted pursuant to this subsection, permit conditions, and operational plans;

(f) Review by the department of materials to be composted, including chemical analysis when found by the department to be necessary;

(g) Inspections of such compost sites at least semiannually followed by ratings, with a copy of such ratings to be given to the site management. Operations out of compliance with composting regulations, permit conditions, or operational plans shall be given a reasonable time for voluntary compliance, and failure to do so within the specified time shall result in a hearing after notice is given, at which time the owner or operator shall appear and show cause why his or her permit should not be revoked;

(h) Special permits of the department for demonstration projects not to exceed six months;

(i) Exemptions from permits of the department; and

(j) The Integrated Solid Waste Management Act.

(16) Any person operating or responsible for the operation of air, water, or land contaminant sources of any class for which the rules and regulations of the council require reporting shall make reports containing information as may be required by the department concerning quality and quantity of discharges and emissions, location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of discharges and emissions, and such other information as is relevant to air, water, or land pollution and is available.

(17) Prior to adopting, amending, or repealing standards and classifications of air, water, and land quality and rules and regulations under the Integrated Solid Waste Management Act or the Livestock Waste Management Act, the council shall, after due notice, conduct public hearings thereon. Notice of public hearings shall specify the waters or the area of the state for which standards of air, water, or land are sought to be adopted, amended, or repealed and the time, date, and place of such hearing. Such hearing shall be held in the general area to be affected by such standards. Copies of such notice shall be:

(a) Published at least twice in a newspaper regularly published or circulated in a county or counties bordering or through which flow the waters or the atmosphere of which is affected, or the particular portion of land which is affected, for which standards are sought to be adopted. The first date of publication shall not be more than thirty days nor less than twenty days before the date fixed for such hearing; and

(b) Mailed at least twenty days before such hearing to such persons and political subdivisions as the council has reason to believe may be affected by the proposed standards.

(18) Standards of quality of the air, water, or land of the state and rules and regulations adopted under the Integrated Solid Waste Management Act or the Livestock Waste Management Act or any amendment or repeal of such standards or rules and regulations shall become effective upon adoption by the council and filing in the office of the Secretary of State. In adopting standards of air, water, and land quality or making any amendment thereof, the council shall specify a reasonable time for persons discharging wastes into the air, water, or land of the state to comply with such standards and upon the expiration of any such period of time may revoke or modify any permit previously issued which authorizes the discharge of wastes into the air, water, or land of this state which results in reducing the quality of such air, water, or land below the standards established therefor by the council.

(19) All standards of quality of air, water, or land and all rules and regulations adopted pursuant to law by the council prior to May 29, 1981, and applicable to specified air, water, or land are hereby approved and adopted as standards of quality of and rules and regulations for such air, water, or land.

(20) In addition to such standards as are heretofore authorized, the council shall adopt and promulgate rules and regulations to set standards of performance, effluent standards, pretreatment standards, treatment standards, toxic pollutant standards and limitations, effluent limitations, effluent prohibitions, and quantitative limitations or concentrations which shall in all respects conform with and meet the requirements of the National Pollutant Discharge Elimination System in the Clean Water Act, ~~as amended,~~ 33 U.S.C.

1251 et seq., as the act existed on the operative date of this section.

(21)(a) The council shall adopt and promulgate rules and regulations requiring all new or renewal permit or license applicants regulated under the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act to establish proof of financial responsibility by providing funds in the event of abandonment, default, or other inability of the permittee or licensee to meet the requirements of its permit or license or other conditions imposed by the department pursuant to the acts. The council may exempt classes of permittees or licensees from the requirements of this subdivision when a finding is made that such exemption will not result in a significant risk to the public health and welfare.

(b) Proof of financial responsibility shall include any of the following made payable to or held in trust for the benefit of the state and approved by the department:

(i) A surety bond executed by the applicant and a corporate surety licensed to do business in this state;

(ii) A deposit of cash, negotiable bonds of the United States or the state, negotiable certificates of deposit, or an irrevocable letter of credit of any bank or other savings institution organized or transacting business in the United States in an amount or which has a market value equal to or greater than the amount of the bonds required for the bonded area under the same terms and conditions upon which surety bonds are deposited;

(iii) An established escrow account; or

(iv) A bond of the applicant without separate surety upon a satisfactory demonstration to the director that such applicant has the financial means sufficient to self-bond pursuant to bonding requirements adopted by the council consistent with the purposes of this subdivision.

(c) The director shall determine the amount of the bond, deposit, or escrow account which shall be reasonable and sufficient so the department may, if the permittee or licensee is unable or unwilling to do so and in the event of forfeiture of the bond or other financial responsibility methods, arrange to rectify any improper management technique committed during the term of the permit or license and assure the performance of duties and responsibilities required by the permit or license pursuant to law, rules, and regulations.

(d) In determining the amount of the bond or other method of financial responsibility, the director shall consider the requirements of the permit or license or any conditions specified by the department, the probable difficulty of completing the requirements of such permit, license, or conditions due to such factors as topography, geology of the site, and hydrology, and the prior history of environmental activities of the applicant.

This subsection shall apply to hazardous waste treatment, storage, or disposal facilities which have received interim status.

(22) The council shall adopt and promulgate rules and regulations no more stringent than the provisions of section 1453 et seq. of the federal Safe Drinking Water Act, as such section existed on the operative date of this section, for public water supply system source water assessment programs.

The council may adopt and promulgate rules and regulations to implement a source water petition program no more stringent than section 1454 et seq. of the federal Safe Drinking Water Act, as such section existed on the operative date of this section.

Sec. 50. Sections 1, 7 to 10, 28 to 50, 52, and 53 of this act become operative on their effective date. The other sections of this act become operative on July 1, 2001.

Sec. 51. Original sections 46-602.01, 46-1209, 46-1210, 46-1213, 46-1214, 46-1229, 46-1233, 46-1235, 46-1238, 46-1239, 46-1240, and 46-1241, Reissue Revised Statutes of Nebraska, sections 46-230, 46-602, 46-604, 46-606, 46-1204.01, 46-1224, and 61-210, Revised Statutes Supplement, 2000, and sections 46-1202 and 46-1214.01, Reissue Revised Statutes of Nebraska, as amended by sections 2 and 6, respectively, Legislative Bill 133, Ninety-seventh Legislature, First Session, 2001, are repealed.

Sec. 52. Original sections 46-636, 71-5301.01, 71-5304, 71-5304.02, 71-5307, 71-5309, 71-5310, and 81-1505, Reissue Revised Statutes of Nebraska, and sections 2-3254, 46-637, 46-656.25, 46-1011, 71-5301, 71-5302, 71-5303, 71-5304.01, 71-5305, 71-5305.02, 71-5306, 71-5308, 71-5311, 71-5311.01, 71-5315, 71-5316, 71-5318, 71-5322, and 71-5324, Revised Statutes Supplement, 2000, are repealed.

Sec. 53. Since an emergency exists, this act takes effect when passed and approved according to law.