

Title 196 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 3 - DESIGNATION OF MANAGEMENT AREAS

001 If the Director determines from the studies conducted pursuant to Chapter 2, Section 003 that one or more sources of contamination are nonpoint sources and if a management area, a purpose of which is protection of water quality, has been established, he or she shall consider whether to:

001.01 Require the district which established the management area to adopt an action plan;  
or

001.02 Modify the boundaries of the management area.

002 If the Director determines that one or more of the sources are nonpoint sources and if such a management area has not been established, he or she shall consider whether to designate a management area.

003 The Director shall, within thirty days after completion of the written report, consult with the district within whose boundaries the area of contamination is located and fix a time and place to hold a public hearing to obtain testimony on whether a management area shall be designated, an action plan shall be required, or an existing management area's boundaries shall be modified. The public hearing shall:

003.01 Be conducted pursuant to Title 115 - Rules of Practice and Procedure;

003.02 Collect any other relevant evidence regarding the designation of a management area, requirement of an action plan, or modification of an existing management area's boundaries;

003.03 Be held within one hundred twenty days after completion of the written report;

003.04 Be located within or in reasonable proximity to the area considered in the report;

003.05 Provide opportunity for all interested persons to appear and present testimony;  
and

003.06 Include presentations by the Conservation and Survey Division of the University of Nebraska, Department of Health and Human Services Regulation and Licensure, Department of Natural Resources, and the appropriate district of any information in their possession which they deem relevant to the purpose of the hearing.

004 Notice of the hearing shall be published by the Department in newspapers which provide for general circulation within the geographic area at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the management area.

005 The Director may, if necessary, after hearing evidence presented at the hearing, commission additional studies or investigations to gather information to determine whether a management area shall be designated.

006 When determining whether to designate or modify the boundaries of a management area or to require a district which has established a management area, a purpose of which is protection of water quality, to adopt an action plan for the affected area, the Director shall consider:

006.01 Whether contamination of ground water has occurred or is likely to occur in the reasonably foreseeable future;

006.02 Whether ground water users, including but not limited to, domestic, municipal, industrial, and agricultural, are experiencing, or will experience within the foreseeable future, substantial economic hardships as a direct result of current or reasonably anticipated activities which cause or contribute to nonpoint source contamination of ground water within the area;

006.03 Whether methods are available and technically feasible to stabilize or reduce the level of contamination; and

006.04 Whether, if a management area has been established that includes the affected area, the controls adopted, administered and enforced by the district are sufficient to address the ground water quality issues in the management area; and

006.05 Administrative factors directly affecting the ability to implement and carry out regulatory activities.

007 If the Director determines that no management area should be established, a management area's boundaries should not be modified, or no action plan should be required, he or she shall issue an order to that effect.

008 If the Director determines that a management area shall be established, that the boundaries of an existing management area shall be modified, or that the district shall be required to adopt an action plan, he or she shall:

008.01 Define the geographic and stratigraphic boundaries of the area to be designated. In defining these boundaries the Director shall:

008.01A Consult with the Conservation and Survey Division and any other relevant state agencies and the district or districts affected; and

008.01B Consider the effect on political subdivisions and the socioeconomic and administrative factors directly affecting the ability to implement and carry out local ground water quality management. They could include, but are not limited to, financial resources, zoning authorities, and enforcement capabilities.

008.02 Prepare a report which includes the specific reasons for the creation of the management area, modification of its boundaries, or the requiring of an action plan for a

management area, and a full disclosure of the possible causes of conditions necessitating such action. Possible causes could include, but are not limited to, fertilizer and pesticide application, irrigation practices, hydrogeologic factors, and overland runoff.

008.03 Issue an order designating the area as a management area, specifying the modified boundaries of the management area, or requiring an action plan. The order shall include a geographic and stratigraphic definition of the area.

Enabling Legislation: Neb. Rev. Stat. § 46-656.38 and 46-656.39

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For more information, contact  
[MoreInfo@NDEQ.state.NE.US](mailto:MoreInfo@NDEQ.state.NE.US)

**Nebraska Department of Environmental Quality**  
**1200 "N" Street, Suite 400**  
**PO Box 98922**  
**Lincoln, NE 68509**  
**(402)471-2186 fax: (402)471-2909**