

Agenda Item 6. Report and Recommendations from the Ad-Hoc Committee for the Rules and Regulations and Bylaws of the Trust.

*Possible Action: a motion to approve, modify and approve or deny Ad Hoc – The Rules and Regulations and Bylaws Committee recommendations.*

\_\_/\_\_/2016 (Board Meeting Date) - Repaginate and Housekeeping changes throughout.

\_\_/\_\_/2016 (Board Meeting Date) - Amendments to Chapter 1, Section 001 - 006, Correct Statute reference in Section 002.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING SCOPE OF ACTIVITIES

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 1 - SCOPE OF ACTIVITIES

1 Purpose of the Trust Fund. The Environmental Trust Fund shall be administered by the Board for the purpose of conserving, enhancing, and restoring the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and natural areas of aesthetic or scenic values. In a manner consistent with these rules and regulations and the governing statute, the Board shall administer the Trust Fund to complement existing governmental and private efforts by encouraging and leveraging the use of private resources on environmental needs with the greatest potential benefit on future environmental quality in Nebraska.

2 Purpose of the Endowment Fund. The Nebraska Environmental Endowment Fund shall be administered by the Board to provide an enhanced and partially self-perpetuating source of income for the Trust. The Endowment Fund shall include proceeds designated therefore by the board from any gift, grant, bequest, royalty or donation and the proceeds of any grant made by the Board to the Endowment Fund pursuant to Neb. Rev. Stat. § 81-15,174.01, ~~Cum. Supp., 2000.~~

3 Board Activities. The functions of the Board shall be to:

3.1 Administer the Environmental Trust Fund and the Nebraska Environmental Endowment Fund in a manner consistent with the rules and regulations and applicable statutes of the state of Nebraska.

3.2 Apply for and accept gifts, grants, bequests, royalties and donations for the purposes of the Funds; acquire and dispose of personal property in furtherance of the purposes of the Funds; and designate the Fund where such gifts, grants, bequests, royalties and donations shall be credited.

3.3 Adopt by-laws to govern the proceedings of the board; keep records, conduct hearings, adopt and promulgate rules and regulations to carry out its duties and implement the Nebraska Environmental Trust Act.

3.4 Contract with the Nebraska Game and Parks Commission for administrative support including, but not limited to, payroll and accounting functions.

3.5 Contract with governmental and private agencies to receive services and technical assistance.

3.6 Contract with governmental and private agencies to provide services and technical assistance.

3.7 Establish ad-hoc advisory boards and subcommittees.

3.8 Establish environmental funding categories for the use of the Funds.

3.9 Sponsor or assist environmental proposals; cooperate with or assist other units of the state, political subdivisions, and private, public and federal agencies, foundations and individuals in furtherance of the purposes of the Trust.

3.10 Award and issue grants pursuant to a calendar established annually to govern grant submission, review and award.

3.11 The board shall hire an executive director, who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it.

4 The Board shall not:

4.1 Own land or be the holder of any other legal interest in land.

4.2 Undertake conservation projects under the funding categories for expenditure of the Funds as a sole sponsor.

5 Conflict of Interest. Members of the board shall comply with the conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act.

5.1 Agency Director Abstentions. In addition, any board member who is also a director of a state agency shall abstain from voting on applications where more than 50% of the value of grant award accrues to the agency as primary, tangible benefits. Grant funds administered by the agency and passed through to other grant recipients are not considered to accrue value to the agency.

6 Evaluation. The board may evaluate the long-term effects of the projects it funds every five years. The evaluation may assess a sample of projects. The board may hire

an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 2, Section 001 - 005, Correct Statute reference in Section 001.3.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 2

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING FUNDING CATEGORES

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 2 - FUNDING CATEGORIES

1 Initial Statutory Funding Categories. The Board shall observe the following initial funding categories for allocating funds prior to July 1, 1995. The funding categories listed below are not listed with any particular significance as to their priority.

1.1 Critical habitat areas, including wetlands acquisition, preservation, and restoration and acquisition and easements of areas critical to rare or endangered species.

1.2 Surface water quality, including actions to preserve lakes and streams from degradation;

1.3 Ground water quality, including fostering "best management" practices as defined in [Nebraska Revised Statue § 46-706.13](#) ~~section 46-657~~, actions to preserve ground water from degradation, and remediation of soils or ground water; and

1.4 Development of recycling markets and reduction of solid waste volume and toxicity.

2 Refining and Clarifying Initial Funding Categories. The Board may make any desired refinements and clarifications in these initial funding categories as appropriate. Before making such refinements and clarifications, the Board shall hold at least one public meeting where the public is offered the opportunity of commenting on the proposed refinements and clarifications.

3 Establishing Five-Year Funding Categories. The Board shall establish funding categories for Trust Fund allocations for five-year periods, the first period beginning on July 1, 1995. The Board will conduct at least one public meeting in each of the three congressional districts to obtain input and recommendations for the first five-year funding categories. Decisions on the initial five-year categories shall be made in accordance with the adopted calendar and shall govern allocations made from the fund

after July 1, 1995. Projects which have received allocations in accordance with the statutory categories lasting until July 1, 1995, will remain eligible for disbursements until the project is completed consistent with the original grant agreement.

4 Refinements and Clarifications in Five-Year Funding Categories. The Board may make any desired refinements and clarifications in five-year funding categories at any time. However, such refinements and clarifications shall not adversely affect the eligibility of a project for funding assistance unless they were adopted prior to the date established by the Board opening the subsequent applications cycle. Before making such refinements and clarifications, the Board shall hold at least one public meeting where the public is offered the opportunity of commenting on the proposed refinements and clarifications.

5 Annual Priorities Within the Funding Categories. The Board may establish annual priorities within the Five-Year Categories. The Board will conduct at least one public meeting in each of the three congressional districts to obtain input and recommendations on any annual priorities it may designate.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 3, Section 001 - 003, Correct Statute reference in Section 003.2 and 003.3.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 3

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING ENDOWMENT FUND

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 3 - ENDOWMENT FUND

1 Solicitation of Gifts, Grants, Bequests, Royalties and Donations. The Board will establish a fund raising plan and will review the plan at least annually. No solicitation of gifts, grants, bequests, royalties or donations will be conducted outside of this plan, without approval of the Board.

2 Receipt of Gifts, Grants, Bequests, Royalties and Donations.

2.1 The Board may accept any gift, grant, bequest, royalty or donation specifically designated for restricted purposes or projects which fall within the scope and purpose of the Trust as defined in Chapter 1 and funding categories as defined in Chapter 2, except that the Board will not accept title to or legal interest in real property. The Board may establish a dollar value below which it will not accept specifically designated gifts. The Board may refuse any gift, grant, quest, royalty or donation at its sole discretion.

2.2 The Board may establish policies for the management of assets credited to the Funds subject to provisions of statute. Before adopting such policies, the Board shall hold at least one public meeting where the public is offered the opportunity of commenting on the policies.

2.3 Gifts of cash, including bank notes, checks, money orders, currency or other legal tender will be credited to the Fund designated by the donor, if any. If the donor does not designate a Fund, the gift will be credited to the Endowment Fund.

2.4 The value of gifts other than cash will be credited to the Fund designated by the donor, if any. If the donor does not designate a fund, the gift will be credited to the Endowment Fund.

2.5 The Executive Director, on behalf of the Trust, may accept any gift of cash broadly designated for the purposes of the Trust. The Executive Director will not accept any specifically designated or restricted gift of cash or any gift

other than cash without prior approval of the Board or a committee designated by the Board to act in its stead.

### 3 Allocation of Receipts and Proceeds.

3.1 The Executive Director will prepare an annual statement of all gifts, grants, bequests, royalties, and donations to the Funds for the prior fiscal year. The statement will indicate donor Fund designations, if any. The statement will include a report of any earnings on gifts, grants, bequests, royalties, donations or investments available for allocation by the Board.

3.2 The Board may allocate each fiscal year an amount from the Endowment Fund to the Trust Fund for projects which conform to the funding categories of the board to the extent that the board determines those projects have merit. The amount of this allocation shall not include the principal of any grants previously made from the Trust Fund to the Endowment Fund from proceeds originally credited to the Trust Fund pursuant to [Nebraska Revised Statute § 9-812](#) ~~section 9-812~~.

3.3 The Board may award a grant each fiscal year from the Trust Fund to the Endowment Fund. The grant may not exceed 200% of all other proceeds credited to the Endowment Fund in that year and may not exceed fifty percent of the total proceeds credited to the Trust Fund pursuant to [Nebraska Revised Statute § 9-812](#) ~~section 9-812 of Nebraska statute~~ for that year. Grant awards allocated to the Endowment Fund from the Trust Fund shall remain invested in the Endowment Fund and shall not be reallocated.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 4, Section 001 - 002, New Language in Section 001.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 4, Section 001 - 002, Strike Section 001.1 and re-number remaining.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 4

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING APPLICATION PROCESS

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 4 - APPLICATION PROCESS

1 Form of Application and Accompanying Materials. An applicant for financial assistance from the Trust shall comply with prevailing application method(s) approved by the board no later than three months prior to the submission deadline ~~file one original and 6 copies of the application and all supporting materials at the office of the Trust.~~ The ~~contents of the~~ application shall ~~include a completed~~ be complete in every aspect at the time of submittal ~~application form supplied by the Board~~ and such may include additional information to demonstrate the project's eligibility for funding according to criteria defined in Chapter 5 and to demonstrate the project's consistency with the annual rating factors as defined in Chapter 7.

~~1.1— Applicants are encouraged to submit all application materials in 8.5" by 11" format and to submit applications on recycled paper using two-sided copies. Applicants which include materials which cannot be produced in this format, or which require special processing, may be required to submit up to 17 copies of such documents.~~

1.1 The Executive Director shall review each application submitted and shall determine whether the application is complete for initial review. The Grants Committee of the Board shall review each such application and shall make a preliminary recommendation of approval or rejection of the proposal for eligibility.

1.2 For any application, the Grants Committee will determine whether further information will be needed to evaluate the eligibility of the proposal. If additional information is needed, the Executive Director will so notify the applicant, and provide a reasonable time period for submission of the additional material.

2 Time Frame for Filing and Review. All applications shall be filed by the dates set by the Board as part of the adopted calendar for the application and review processes. All necessary reviews of each application shall also be completed in accordance with that calendar.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 5, Section 001 - 006, Correct Statute reference in Section 002.1.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 5

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING CRITERIA FOR ELIGIBILITY

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 5 - CRITERIA FOR ELIGIBILITY

1 Eligibility Requirements. To be eligible for consideration in the rating processes for funding, the applicant's proposed project must be consistent with the following criteria for eligibility as described in sections 002 to 006 of this chapter.

1.1 The grants shall not be used to provide direct assistance to regulatory programs.

1.2 The grants shall not be used to implement actions mandated by regulations except remediation.

1.3 No more than sixty percent of grant allocations in any year shall assist remediation of soils or ground water, and no grants for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized.

1.4 The fund shall not pay for private benefits or provide assistance to projects or portions of projects whose benefits are primarily private in nature. Compensation for contributions made to a project, such as land or land rights, shall not constitute payment for private benefits.

1.5 The fund shall not relieve private liability for environmental damage or, except for projects for remediation of soils or ground water, provide assistance to projects in order to relieve such liability. For purposes of this section, "private liability" shall mean liability to a person or entity and shall include fines or penalties imposed by a governmental entity.

1.6 The fund shall not pay for projects to the extent such projects have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship. For purposes of this section, "direct beneficiaries" shall not be deemed to include a person who receives incidental benefits from a project which primarily benefits the general public.

1.7 The grants should assist those projects which offer the greatest environmental benefits relative to cost.

1.8 The grants should assist those projects which provide clear and direct environmental benefits.

1.9 The grants should assist those projects which will make a real contribution to achieving the board's environmental categories.

1.10 The grants should assist those projects which offer the greatest public benefits; and

1.11 The grants shall not pay for land or easements acquired without the full and express consent of the landowner.

2 Environmental Acceptance. A project is considered to be environmentally acceptable when:

2.1 The project will not jeopardize the continued existence of any threatened or endangered species or result in the destruction or modification of the critical habitat of any such species and shall meet the requirements contained in the Nongame and Endangered Species Conservation Act, [Nebraska Revised Statute § 37-801 Neb. Rev. Stat. §37-430 et seq.](#); and

2.2 The plan of development minimizes any adverse impacts on the natural environment, adequately addresses existing cultural resources and results in environmental net gain.

2.3 In addition to any proposed mitigation measures, all aspects of the project which can be anticipated to result in environmental enhancement shall be considered in determining whether the plan minimizes adverse impacts. The Board may request additional information it deems necessary in determining environmental acceptability. The applicant, if required by the Board, will be provided a reasonable period of time to respond to requests for information and such other items as the applicant or the Board identifies as relevant to the issue of environmental acceptance.

3 Clear and Direct Environmental Benefits. A project will be considered to have clear and direct environmental benefits if the realization of those benefits can be reasonably expected, as a result of the project and if those benefits will be obvious, even if not quantifiable. The application will need to describe the environmental benefits anticipated as a result of the project and how those benefits will be clearly and directly attained. Educational projects may be considered to have clear and direct environmental benefits.

4 Contribution to Achieve the Board's Funding Categories. Only those projects which contribute to the then existing environmental categories established pursuant to Chapter 2 of these rules shall be eligible for financial assistance.

5 Public Benefits. For a project to be eligible for funding assistance, it must produce public, not just private benefits.

6 Financial and Technical Feasibility. Financial and technical feasibility may be evaluated by the use of subcommittees, contractual assistance or advisory groups. Standards for each of these factors are as set out below:

6.1 Financial Feasibility. A project is financially feasible if sufficient funds can be made available to complete the project and if sufficient annual revenues can be obtained to operate, maintain, and replace the project as applicable. Each applicant shall submit a project budget identifying the nature and amount of each source of funds to be used for the project; a schedule indicating when such funds will be received; and a schedule indicating when the funds available will be expended for project purposes. The remaining financial data supplied by the applicant will depend upon the type of applicant.

6.2 Technical Feasibility. A project that is structural in nature shall be considered technically feasible when it can and will be designed, constructed, and operated to accomplish the purpose(s) for which it was planned utilizing accepted engineering and other technical principles and concepts. A project which is nonstructural in nature shall be considered to be technically feasible when it can and will be designed and carried out to accomplish the purpose(s) for which it was planned.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 6

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING EVALUATING PROPOSALS FOR  
ELIGIBILITY

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 6 - EVALUATING  
PROPOSALS FOR ELIGIBILITY

1 Eligibility Review. Upon receipt of all application material, the Executive Director shall submit the application to the Grants Committee of the Board appointed by the Chairperson and any technical advisory committee(s) established by the Board for final eligibility review. The Grants Committee and Advisory Committees members shall complete their reviews so that the application may be considered in accordance with the calendar established annually by the Board. The Grants Committee or any technical advisory committee member may request the Executive Director to obtain additional information from the applicant.

2 Grants Committee Action. After receiving comments from any technical advisory committee reviewing an application, the Grants Committee shall make the following recommendations to the Board:

2.1 A recommendation of approval or rejection of the project for funding eligibility.

2.2 A recommended degree of assistance for the project if it is found eligible by the Board and if it receives sufficient ranking to permit funding.

2.3 Any conditions which the Grants Committee recommends be placed on the project to ensure its consistency with the objectives of the Trust Fund and with other state policies, plans, and programs.

3 Required Findings. Prior to making any recommendation to the Board for approval of a project for funding eligibility, the Grants Committee shall determine that the project is consistent with the requirements of Chapter 5 of these rules.

4 Eligibility Findings Combined With Recommended Ratings. The Grants Committee shall make the recommendations to the Board on project eligibility in accordance with this chapter and at the same time provide the Board with a preliminary ranking list for all projects in accordance with Chapter 7 of these rules.

5 Action by the Board on Eligibility Recommendations. The Board may adopt or revise and adopt the recommendations of the Grants Committee. For each project for which eligibility is established by the Board, the Board shall also establish the total amount of money for which the project is eligible if it receives sufficient ranking for funding. Projects determined eligible for funding by the Board shall not be entitled to any funds until they have been subjected to the ranking processes and have received sufficient ranking for funding given the funds available.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 7

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING PROJECT RANKING SYSTEMS

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 7 - PROJECT RANKING SYSTEMS

1 Pursuant to this Chapter and the factors set forth herein, the Executive Director shall prepare Project Ranking Systems to be used to rank all applications which are eligible. The Project Ranking Systems shall be approved by an affirmative vote of the Board after public hearing. Similarly, any subsequent amendments to a Project Ranking System shall be approved by an affirmative vote of the Board after public hearing.

2 The Project Ranking Systems adopted by the Board shall be used by the Grants Committee for ranking of projects as described in Chapter 8.

3 Ranking Factors. The Project Ranking Systems shall assign a numeric value to each criterion and combine these values into a total score for each application. Each Ranking System shall include, but is not limited to, criteria to evaluate each application to the extent that the project will accomplish the following:

3.1 Conform with the funding categories established pursuant to Chapter 2 of these rules.

3.2 Produce a commitment of funds from other funding sources.

3.3 Provide in-kind match to requested grant funds.

3.4 Result in a public-private partnership.

3.5 Help the Board attain a geographic mix of projects over time. This does not mean that a strict geographic mix will be sought during each funding cycle but that points may be awarded to projects in specific areas if it becomes apparent that the area is receiving funding for proportionately fewer projects than other areas of the state.

3.6 Be cost effective. Cost effective shall include, as applicable, a comparison of the cost of the project to its expected monetary and non-monetary benefits and whether there is another reasonably available means of accomplishing the same purpose or purposes more economically.

3.7 Have economic impacts.

3.8 Produce direct environmental impacts.

3.9 Produce environmental benefits to the general public, especially benefits which are long term in nature.

3.10 Provide a plan for evaluating the results of the expenditure of grant funds.

4 Projects which are funded as multi-year projects may be exempted from the ranking process by the Board for the duration of the project or for up to the next two annual rankings following the ranking in which the initial commitment to the project is made provided that annual evaluations of progress toward project goals are submitted and accepted by the Executive Director. No commitment may exceed three years without formal action by the board to renew the grant or contract.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 8, Section 001 - 007, New Language in Section 006.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 8, Section 001 - 007, Correct Statute reference in Section 007.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 8

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING RANKING ELIGIBLE PROJECTS FOR FUNDING

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 8 - RANKING ELIGIBLE PROJECTS FOR FUNDING

1 After the evaluation of applications for eligibility, all eligible projects shall be ranked according to the Project Ranking System established and adopted by the Board for the competition to which the application was submitted.

2 Preliminary ranking shall be performed by the Grants Committee of the Board appointed by the Chairperson. In deciding the assignment of points for each eligible project, the Committee shall do so in a manner which provides a fair comparison of projects regardless of cost. More expensive projects shall not receive additional points just because they are larger in scale. Points shall be assigned with consideration of the anticipated effects of the project relative to its costs. The Committee may request assistance from the Executive Director to the extent necessary to evaluate each proposal.

3 The Grants Committee may request additional information from any applicant in written form. All additional supplements shall be in writing and signed by the applicant.

4 The Grants Committee shall report the results of the ranking process to the Chairperson by the date established therefore on the calendar approved annually by the Board. The report shall indicate the results of the ranking process with the highest scoring project at the top of the list along with the number of points scored and the amount of funding recommended to be approved. Lower ranked projects shall follow in sequential order showing the same information for each.

5 Upon receipt of the Grants Committee report, the Chairperson shall call a meeting of the Board to adopt or revise and adopt the Committee report and schedule a public hearing on the proposed funding list.

6 After the public hearing is conducted on the proposed funding list, the Board may take action on actual funding. If the Board decides that any proposed project does not have sufficient merit to justify funding from the Trust, the Board may choose not to fund the project notwithstanding its consistency with eligibility criteria or its final ranking. The proposed list may be revised after the public hearing only with the approval of ~~eight~~ a majority of board members present.

7 Notwithstanding ratings determined in this Chapter, no allocation of funds shall be made for remediation in a manner inconsistent with Nebraska Revised Statute § 81-15,176 (2)(b).

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 9, Section 001 - 014, New Language in Section 003.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendments to Chapter 9, Section 001 - 014, Strike Numbering of Section 006.3 A and combine with preceding Section 006.3.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 9

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING GRANT ADMINISTRATION

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 9 - GRANT ADMINISTRATION

1 After the Board takes action to award grants to specific projects, the Executive Director shall begin notification procedures. The Executive Director shall also prepare grant documents for disbursement in accordance with this chapter.

1.1 Grant documents shall include a notice of grant award, a disbursement schedule, standard conditions and any special conditions all of which will be included in a grant agreement to be signed by the grantee.

2 The Executive Director shall prepare standard conditions applicable to all grants and shall have discretion to negotiate specific conditions within the limits of the intent specified by the Board.

3 Grant award letters which bind the ~~fund~~ Trust Fund shall be signed by the Chairperson and the Executive Director.

4 The grant period shall be a set period of time designated in the grant documents based upon activities approved for grant funding. All grant funds shall be expended in accordance with conditions of the grant. Any unexpended funds remaining after the grant period shall be returned by the grantee to the Fund.

4.1 All interest earned by grant funds shall be considered a part of the grant and, therefore, is subject to all of the requirements of the grant.

5 Any grant agreement which includes the transfer or acquisition of real property which is taxable before such transfer or acquisition shall specify a mechanism to address the continued payment of property taxes or payments in lieu of property taxes.

6 Any grant agreement which includes a construction project may require, but not be limited to, the following special conditions:

6.1 Final plans and specifications shall be approved by the Executive Director. The Executive Director may require that plans and specifications be stamped by a Professional Engineer registered to practice in the State of Nebraska.

6.2 A construction schedule including commencement of construction; accountability for inspection during construction; construction completion; and initiation of operation (if applicable).

6.3 The Executive Director may provide a contingency within the grant for change orders. **All change orders must be approved by the Executive Director in a manner set out within the grant agreement.**

~~6.3—A~~

6.4 Upon completion of the project, a certification of completion shall be filed with the Board, which certifies that construction was substantially consistent with the approved plans and specifications. The certification shall be signed by the grantee. The Executive Director may also require a certification signed by a Professional Engineer registered to practice in the State of Nebraska.

7 The applicant shall assure the Executive Director that all legal requirements have or can be met prior to the allocation of funds. Legal information may include the following as appropriate for the project, this list is not exclusive to other necessary information:

7.1 If the applicant is a governmental entity, citation(s) to the legal authorities relied upon by the applicant to undertake or participate in the project.

7.2 An explanation, with appropriate documentation of legal authorities, of the applicant's intention to finance that part of the project for which assistance from the fund is not requested.

7.3 A showing that the applicant has or can acquire any necessary land rights or water rights.

7.4 Copies of any available proposed or executed contracts or bids for construction or consultant services necessary for completion of the project which would help document the project's estimated costs.

7.5 A listing of any permits, licenses, or other approvals required for the project, their current status, and the estimated schedule for compliance.

7.6 An explanation of the applicant's plan to require consultants, contractors, and subcontractors to obtain liability insurance or bonding to ensure the proper design and construction of the project as applicable.

7.7 An analysis of the applicant's potential liability for damages because of the project including failure of structural measures and an explanation of the applicant's plan to protect itself from any such liability.

7.8 Such other information, plans, and specifications as requested by the Executive Director or the Board and are reasonably necessary to confirm the applicant's authority.

8 Funds shall be disbursed to the grantee no more often than once per month in accordance with the grant agreement.

9 The grantee shall keep financial records for the project and shall submit periodic progress reports as required to the Executive Director during the grant period. At the end of the grant period, the grantee shall submit a final financial report summarizing the project. Failure to submit the progress reports may be considered a violation of the grant agreement. The progress report shall include, but not be limited to:

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

9.2 Copies of all receipts for expenditures of grant funding and expenditures of all interest earned on grant funding;

9.3 An inventory of all equipment or personal property purchased with grant funding including model number and serial number; and

9.4 Any additional information required.

10 If a grantee wishes to modify a project other than one covered by section 006 above, the grantee must submit a proposed amendment to the grant agreement including a revised line-item budget. The proposed amendment must be submitted to the Executive Director at least 30 days prior to the requested changes with an explanation of need. The Executive Director will then either approve or deny the proposal and inform the grantee in writing of his or her decision.

10.1 Any expenditure of grant funds not in accordance with the grant agreement and not pursuant to the process set out in section 008 may be considered a violation of the grant requirement.

11 Equipment and other personal property purchased with grant funding shall be used only for purposes of the grant.

12 Failure by the grantee to comply with these regulations or with the grant agreement may result in a revocation of the grant, a withholding of grant disbursements or a requirement to reimburse the fund for money already disbursed under the agreement.

12.1 Prior to any action under 012 by the Executive Director, there shall be a written notice to the grantee explaining the intended action and the reason it may be taken. The grantee shall have 15 days to respond to the notice and may request an informal meeting with the Executive Director within that time frame. After 15 days have expired, the Executive Director may proceed with his or her action under section 012.

13 In addition to financial progress reports as required in section 009, grantees shall submit annual reports to the Board. The Board shall conduct annual reviews of all projects for compliance with the project goals and grant requirements. Annual reports shall be due as specified in the grant agreement.

14 The Executive Director shall conduct periodic financial audits of all projects at a frequency as determined by the Executive Director. Audits shall be performed to ensure proper use of grant funds and to determine compliance with these regulations and with the grant agreement.

14.1 Grantees shall retain all records related to a project and shall allow access to the records by the Executive Director or his or her designee during regular business hours or at any reasonable hour of the day.

14.2 The grantee shall allow access for inspection of any equipment, property, or other tangible object for which grant funds were expended to the Executive Director or his or her designee.

TITLE 137, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 10

NEBRASKA ENVIRONMENTAL TRUST BOARD

RULES AND REGULATIONS CONCERNING DEFINITIONS

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: February 3, 2005

Title 137 - NEBRASKA ENVIRONMENTAL TRUST BOARD Chapter 10 - DEFINITIONS

1 "Calendar" shall mean the calendar established each year by the Board to set out various deadline dates relating to establishment of funding categories, receipt and review of grant applications, and allocation of grants.

2 "Applicant" shall mean any person, or their authorized agent, who submits and signs an application for grant allocations.

3 "Executive Director" shall mean the Executive Director of the Nebraska Environmental Trust.

4 "In-kind Match" shall mean the economic value of any non-monetary donated contribution to the development of a project by the applicant or project co-sponsors including but not limited to labor, equipment usage, lands, land rights, facilities or other items essential to the project.

5 "Primary, Tangible Benefits" shall mean a project's net values, expressed in monetary terms, of increases in products and services and of reductions in costs, damages, or losses of primary beneficiaries.

6 "Board" shall mean the Nebraska Environmental Trust Board.

7 "Trust Fund" shall mean the Nebraska Environmental Trust Fund.

8 "Endowment Fund" shall mean the Nebraska Environmental Endowment Fund.

9 "Funds" shall mean both the Nebraska Environmental Trust and the Nebraska Environmental Endowment.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Repaginate and Housekeeping changes throughout.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendment to Article II, Section 1 - 6, Edit for clarity in Section 1.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendment to Article II, Section 1 - 6, Addition of Section 6.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendment to Article III, Section 1 - 6, Edit to conform with state law in Section 3.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendment to Article III, Section 1 - 6, Edit for clarity in Section 5.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendment to Article IV, Section 1 - 4, Amendment of committee and committee chairperson duties in Section 1 throughout.

\_\_\_/\_\_\_/2016 (Board Meeting Date) - Amendment to Article IV, Section 1 - 4, Edit for clarity of practice in Section 1, Subsection D.

## **BYLAWS OF THE NEBRASKA ENVIRONMENTAL TRUST BOARD**

### **ARTICLE I**

#### **Name and Authority**

The name of this public body is the Nebraska Environmental Trust Board (hereinafter “Board”). The purpose of this Board is to carry out the duties assigned to it under the Nebraska Environmental Trust Act, sections 81-15,167 to 81-15,176, Nebraska Revised Statutes, as amended.

### **ARTICLE II**

#### **Officers**

Section 1. The elected officers of the Board shall be a Chairperson and a Vice-Chairperson.

Section 2. The election of officers shall be held annually at the third quarter meeting. The Chairperson shall be selected from among citizen members and the Vice-Chairperson from the agency directors. The officers shall hold office at the pleasure of the Board. The office of Chairperson shall rotate each year by Congressional district.

Section 3. If there is more than one nominee for an office, voting shall be by secret ballot but the vote count shall be recorded in the minutes. If there are more than two nominees and no candidate receives a majority of the votes cast on the first ballot, a runoff election will be conducted between the two candidates receiving the most votes. New officers shall begin their term of office at the close of the meeting at which they were elected.

Section 4. The Chairperson shall preside over all regular and special meetings of the Board; sign appropriate documents on behalf of the Board; be an ex-officio member of all committees of the Board, carryout any responsibility, duty or authority delegated to him or her by the Board; and represent the Board as necessary. The Vice Chairperson shall serve as Chairperson in case of the temporary absence or disability of the Chairperson.

Section 5. In the event of the permanent absence or disability of an officer, an election shall be held to replace such officer for the remainder of that term. A newly elected Chairperson shall be from the same Congressional district as the Chairperson replaced.

Section 6. The Executive Director of the Trust shall serve in the un-elected position of Executive Secretary to fulfill the needs of Robert's Rules of Order.

### ARTICLE III

#### Board Meetings

Section 1. All Board meetings shall be advertised and conducted in accordance with the Nebraska Public Meetings Law, sections 84-1408 et seq. Nebraska Revised Statutes.

Section 2. An agenda shall be developed and maintained by the Executive Director of the Nebraska Environmental Trust. Items may be placed on the agenda by the Chairperson, Executive Director or at the request of any Board member. A tentative agenda shall be provided to all members at least ten days prior to the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours prior to the commencement of the meeting.

Section 3. A simple majority of the members of the Board shall constitute a quorum and ~~except as provided in section 81-15, 175~~ shall be required to take action and make determinations.

Section 4. A schedule for quarterly meetings of the Board shall be established when the Board establishes the annual grant calendar. Except for emergency situations, written notice of the time and place of all special meetings shall be made in advance to all Board members no less than 14 days prior to the meeting.

Section 5. Public notice of all Board meetings shall be by legal notice published in a newspaper or newspapers of general circulation in the state. Except for emergency situations, all meetings shall have at least 10 days published notice.

Section 6. At the discretion of the Chairperson, any meeting or public hearing may be presided over by a hearing officer.

### ARTICLE IV

#### Committees

Section 1. The Board shall establish the following standing committees:

A: Executive Committee. Membership: The Chairperson of the Board, the Vice-Chairperson, the immediate Past Chairperson, the Chairperson of the Finance Committee, the Chairperson of the Legislative Committee, the Chairperson of the Grants Committee and the Director of the Nebraska Game and Parks Commission.

Duties: The Executive Committee conducts annual evaluation of the Executive Director; acts as a search committee to develop a list of candidates for consideration by the Board in the case of a vacancy of the Executive Director; and carries out any responsibility, duty or authority delegated to it by the Board.

B: Finance Committee. Membership: One citizen Board member from each Congressional District and one agency director.

Duties: The Finance Committee develops the biennial and annual budget for Board approval; develops policy guidelines for Board approval regarding fund solicitation, receipt, and fund development programming; makes recommendations to the Board on designation of receipts to the Funds of the Trust; and carries out any responsibility, duty or authority delegated to it by the Board. The Chairperson of the Finance Committee shall be designated the Second Vice-Chairperson of the Board to fulfill the needs of Robert's Rules of Order.

C. Legislative Committee. Membership: One citizen Board member from each Congressional District and two agency directors. One such agency director shall be designated as committee liaison to the Governor.

Duties: The Legislative Committee develops policy guidelines for Board approval to direct staff action on legislation that addresses the operation of the Trust and carries out any responsibility, duty or authority delegated to it by the Board. The Chairperson of the Legislative Committee shall be designated the Third Vice-Chairperson of the Board to fulfill the needs of Robert's Rules of Order.

D. Grants Committee. Membership: Four citizen Board members, at least one from each Congressional District and two agency directors. The Chairperson of the committee shall rotate each year by Congressional district.

Duties: The Grants Committee prepares recommendations on grant application eligibility, ranking and funding levels for consideration by the Board and carries out any responsibility, duty or authority delegated to it by the Board. The Chairperson of the Grants Committee shall be designated the Fourth Vice-Chairperson of the Board to fulfill the needs of Robert's Rules of Order.

E. Performance Review Committee. Membership: The Board Chair and two citizen members, to provide one citizen member from each congressional district, and one agency director.

Duties: The Performance Review Committee conducts a review of grants involving real property annually, including contracting for site inspections, title review and other activities as appropriate. The Committee may recommend to the Board other grant categories for periodic

reviews. The Committee carries out any other responsibility, duty or authority delegated to it by the Board.

Section 2. The Board at any regular or special Board meeting may establish special committees, ad-hoc advisory Boards and subcommittees.

Section 3. The Board chairperson shall appoint all chairpersons and members of standing committees, special committees, ad-hoc advisory Boards and committees.

Section 4. A simple majority of the members of a committee shall constitute a quorum. Action by the committee shall require a majority vote of the members present. Each committee shall meet at the call of the committee chairperson and any standing committee shall also meet at the call of two or more members. Except in case of an emergency, members shall be given at least five (5) days notice of the time and place of the meeting. Committee members may participate in a meeting by telephone or electronic conferencing so long as each member may hear all other members who are participating.

## **ARTICLE V**

### **Parliamentary Procedure**

Section 1. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board's parliamentary procedure unless those rules are inconsistent with law, these bylaws, or the Board's rules and regulations, or they are waived by action of the Board.

## **ARTICLE VI**

### **Annual Report**

Section 1. The Board of the Nebraska Environmental Trust resolves to present an annual written report to the Governor and the Executive Board of the Nebraska Legislature on or before December 31<sup>st</sup> of each year. This report will subsequently be available to the public electronically or by request to the Trust office.

## **ARTICLE VII**

### **Amendment of Bylaws**

Section 1. These bylaws may be amended at any regular meeting of the Board by action of the Board provided that the amendment has been submitted in writing at the previous regular meeting.

Adopted by the Nebraska Environmental Trust Board this 8<sup>th</sup> day of September 1993.

Amended by the Nebraska Environmental Trust Board this 7<sup>th</sup> day of October 1997.

Amended by the Nebraska Environmental Trust Board this 1<sup>st</sup> day of November 2002.

Amended by the Nebraska Environmental Trust Board this 29th day of July, 2005.

By \_\_\_\_\_ Paul Dunn, Chairperson