

Nebraska Small Business Compliance Advisory Panel Annual Report to the Governor of Nebraska for 2015

January 1, 2016



**Nebraska Department of
Environmental Quality**



Serving Small Businesses and the Environment

Message from the Nebraska Small Business Compliance Advisory Panel

Today's small businesses face a multitude of challenge to remain competitive – not only in local markets, but also global ones. Environmental regulations are just one of the many issues that business owners must stay on top of. While larger firms have dedicated staff to keep track of changing requirements, small businesses do not. Most often, it is during a visit by a regulatory agency that a business finds out it did not understand all of its obligations – environment or otherwise. Unfortunately, during such an inspection the window of opportunity the businesses had to receive the assistance it needs has closed.

As several of the members of the Nebraska Small Business Compliance Advisory Panel (SBCAP) are small business owners ourselves, we understand the hesitancy that many people feel contacting the Nebraska Department of Environmental Quality (NDEQ) for assistance – whether it be understanding aspects of their permits, what they must do to comply with their permit, or other requirements they may have. That is why we are very encouraged by Director Macy's vision for the direction of NDEQ – increasing assistance and outreach, taking that outreach effort to communities throughout the state, and focusing on how to make the permitting and compliance processes easier, more straight-forward, and more efficient for Nebraska's businesses as well as the Department.

We also recognize that because NDEQ is an enforcement agency, there will be individuals who will be hesitant to contact the Department; hence one of the reasons for the SBCAP. To complement NDEQ's assistance outreach efforts in 2016, we are looking to educate the public in the role that the SBCAP can play in environmental assistance through participation in the 2016 NDEQ Environmental Update workshops and sponsoring lunch hour or mid-day meetings in our communities where NDEQ staff can present on different outreach or regulatory topics that are pertinent.

There will always be some who will be hesitant to contact the NDEQ for assistance. Regardless, as a state agency, NDEQ needs to continually highlight and promote its outreach and assistance efforts; and the SBCAP needs to engage fellow business owners to encourage them to be proactive, not reactive, in determining and understanding their environmental requirements. Again, we applaud the Department's efforts, but also encourage it to continue to better its outreach efforts.



Jim Hellbusch, Nebraska Small Business Compliance Advisory Panel Chair

Background Information

The Clean Air Act Amendments of 1990 require each State to prepare a plan for helping small businesses to comply with provisions of the Act through the creation of compliance assistance programs. Section 507 of the Act requires states to prepare a small business environmental compliance assistance program; establish an “ombudsman” to act as a liaison between small businesses and the associated regulatory programs; and to form a Small Business Compliance Advisory Panel of not less than seven individuals. In 1992, Nebraska adopted enabling legislation codified as Nebraska Revised Statute §81-1505.03 calling for the creation of the Small Business Compliance Advisory Panel and outlining its responsibilities. The plan developed by NDEQ provided water quality and waste management assistance, in addition to the required assistance with air quality issues. In NDEQ’s plan, the ombudsman responsibilities are fulfilled by the Small Business and Public Assistance Coordinator.

Four members of the Panel are selected by the Legislature and are owners or representatives of small business stationary sources of air emissions. Currently, these members include:

Jim Hellbusch (Chair)
Duo Lift Mfg. Company, Inc
Columbus, NE

Steve Rexroth
Miracle Workers Auto Collision
Lincoln, NE

Jack Schreiner
Bruckman Rubber
Hastings, NE

Rick Bettger
House of Muffler and Brakes
Omaha, NE

Two members are selected by the Governor to represent the general public who are not small business owners or representatives of small business stationary sources of air emissions. Currently, these members include:

Sharon Hueftle
South Central Economic
Development District
Holdrege, NE

Starr Lehl
Nebraska Department of Economic Development
Development Consultant – Western Region
Scottsbluff, NE

The Director of NDEQ appoints one member to represent the Department on the Panel.

Terry Johnson
NDEQ Norfolk Field Office
Norfolk, NE

The current non-voting board Secretariat responsible for setting Panel meetings and acting as liaison between the Panel and NDEQ is:

Ryan Green
NDEQ Small Business and Public Assistance Coordinator
Lincoln, NE

SBCAP Goals for 2016

Panel members outlined the following goals for 2016.

- When appropriate, provide input concerning any new or changing environmental regulations;
- Gauge the regulated community's satisfaction with the Department's assistance initiatives;
- Provide Panel services in the members' communities, including sponsoring/promoting lunchtime meetings where NDEQ staff can present on different outreach or regulatory topics;
- Continue to meet annually with the Department regarding interaction of NDEQ and small businesses; and
- Participate in the 2016 Environmental Update workshops, perhaps briefly highlighting the SBCAP and the role the Panel can play in assisting the regulated community.

SBCAP Activities for 2015

On Tuesday, November 10, 2015, the Panel held its annual meeting, with NDEQ hosting the event at the Department's Van Dorn facility. Members present at the meeting included Jim Hellbusch, Starr Lehl, Rick Bettger, and Terry Johnson. A summary of items discussed at the meeting follows.

Joe Francis welcomed everyone to the annual SBCAP meeting, then introduced Director Macy, who outlined his vision and goals for the Department – to meet its statutory responsibilities while focusing on making compliance easier for everyone in the regulated community through compliance assistance outreach, streamlining Department processes and letting “local people solve local problems.” Mr. Macy discussed the concept for online permitting applications, and Dennis Burling conducted a demonstration of the Construction Storm Water General permit online application. Mr. Macy also discussed the effects the new Clean Air Act ozone ambient air quality standard would have for the greater Omaha metropolitan area, the Department's efforts with the state's Carbon Mitigation Strategy, new Clean Water Act ammonia standards, and bringing transparency to the inspection process.

Regarding regulatory updates, the Air Quality Division representatives informed Panel members that EPA set the new ozone standard at 70 parts per billion. The design value in the Omaha area is 63 ppb, and NDEQ expects the area's ozone values to stay low due to vehicle emission standards and changes to power plant emission rates. The five new Air Construction general permits were discussed, as were possible plans for future permit topics.

The Waste Management Division discussed the Department's efforts to bring state regulations more in line with recent federal rules regarding the disposal and laundering of solvent wipes. The changes were well received by the regulated community. Proposed changes to the Waste Reduction Recycling Grants and Litter Reduction Recycling Grants programs were also discussed; the Department brought the proposed changes before the Environmental Quality Council two days after this meeting (November 12, 2015). Finally, Department efforts regarding the avian influenza outbreak during the summer of 2015 were summarized.

The Water Quality Division updated the panel members on efforts to update Nebraska Title 119 – Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System (NPDES). The Division will soon be conducting outreach

regarding the new ammonia standards. The NPDES unit would also like to create more general permits to streamline their permitting process.

The SBCAP members were then updated on compliance assistance and outreach efforts conducted by the Department over the last year. Discussions about the new Inspection Exit Summary form that inspectors leave at the conclusion of an inspection, Director Macy's vision for assistance visits from the Department when new or renewed permits are issued, and the expansion of the Department's 'Environmental Update' workshops followed.

During roundtable discussions, panel members stated they were encouraged and excited by the assistance and outreach initiatives presented by Director Macy, as well as the process efficiency efforts that the Department is undertaking to streamline the permitting process. Panel members also stated that the interaction between NDEQ and other state agencies is important, and are appreciative NDEQ takes efforts to coordinate its emergency response activities with its sister agencies. SBCAP members also discussed sponsoring community lunchtime meetings where NDEQ can explain its outreach initiatives.

NDEQ Assistance Activities – The Small Business and Public Assistance Program

The Small Business and Public Assistance Coordinator duties are divided into four major components: working with the Panel, as discussed above; and the three duties outlined below.

- *Coordinator for NDEQ's One-Stop Permitting Assistance program.* The One-Stop program is designed to help businesses understand their regulatory obligations by providing comprehensive guidance regarding all state environmental permits or compliance conditions they must meet. The Coordinator acts as a single point of contact at NDEQ for entities. This year, nine business entities or individuals took advantage of this service.
- *Public Advocate for the NDEQ.* The Coordinator, at the discretion of the NDEQ Director, is responsible for investigating situations when the public or regulated community believes the Department's response to particular situations involving environmental issues is not appropriate. The Public Advocate serves as the ombudsman for purposes of the Clean Air Act 507 program. The Coordinator worked with two businesses in 2015. The first was a manufacturing facility who began working with the Public Advocate in 2014, but continued to have questions regarding the necessity of air permits for incinerators. The second was a painting business which was cited by the Department for incorrect disposal of waste and wastewater. The Public Advocate and another staff member visited with the business owner, and the business later submitted the necessary permit applications for an on-site lagoon; resolving the issue.
- *Coordinator for the NDEQ's Compliance Assistance Team.* The Department's Compliance Assistance Team is composed of department staff from within the Department's various Divisions. Its function is to ensure effective help to the regulated community. Current NDEQ personnel who are part of the team include Erik Waiss, Waste Management Division; Carrie McCaleb, Air Quality Division; Aaron Boucher, Air Quality Division; Mike McBride, Water Quality Division; John Danforth, Water Quality Division; Dawn Martin, Water Quality Division; and Ryan Green, Field Services and Assistance Division. Currently the

Compliance Assistance Team is working on permit assistance effort that will be implemented Department-wide on January 1, 2016. The program is a concept where inspectors/assistance personnel will visit with newly-permitted facilities, or facilities that have had a permit renewed. The permit writer/inspector/assistance team member will visit these facilities and go through the permit with the business, ensuring that the business is aware of any requirements outlined in their permit. The ultimate goal is making compliance easier for the business and to facilitate our inspections. The Compliance Assistance Team presented their recommendations to the NDEQ Policy Team in December.

Comprehensive Assistance Provided by NDEQ

The Small Business and Public Assistance Program is only one component of NDEQ's overall assistance program; Department staff provides environmental assistance in a wide variety of forms and forums. Assistance occurs during inspections or when staff visits regulated entities to explain the requirements of newly issued permits. Businesses are also referred to assistance coordinators by NDEQ inspectors for follow-up compliance assistance.

In the calendar year 2015, from January 1 through November 30, Department staff:

- Provided 379 on-site assistance visits;
- Provided 18 pre-application or one-stop assistance meetings; and
- Made 288 appearances at various conferences, workshops and meetings; presenting or participated in other partnering and outreach efforts.

In addition to the on-site assistance visits and presentations or training events listed above, daily telephone and email contacts with the regulated community or general public account for a significant proportion of NDEQ's assistance activities. The following summarizes a portion of this year's Air Quality, Water Quality, and Waste Management Division compliance assistance activities, as well as other Field Services and Assistance Division activities not mentioned above.

Air Quality Division

The Air Quality Division permitting staff responds to calls and queries on an ongoing and continual basis daily via the Hotline. Staff also worked to get revisions to Nebraska Title 129 – Nebraska Air Quality Regulations to allow the Department to develop General Construction Permits (GCPs). As of the time of this report, the drum mix and hot mix asphalt plant GCPs were issued, two draft concrete batch plant GCPs are currently on public notice, and the crushing and emergency engine GCPs are still being drafted and may be ready for public notice before the end of the 2015. The goal of the GCP program is to speed up the permitting process for common types of operations, allowing permitting staff to spend more time working on the more complex permitting applications. Staff have also worked on two new forms – *Notification of Off-Permit Change*, and *Permit Amendment for Change in Name, Ownership or Operational Control*. The Air Construction Permitting Unit has also had a number of pre-permit application meetings with entities regarding required air permits or air-related compliance issues.

The Air Planning Unit has engaged the public power sector in group meetings regarding the final Clean Power Plan, while the Director has engaged environmental groups in one-on-one discussions. Planning Unit staff have also initiated household, community and industry surveys

to gauge public opinion on the Clean Power Plan and issues surrounding it and inform the Department's outreach process moving forward.

Water Quality Division

Department staff have been working to develop an online process businesses and individuals can utilize to apply for NPDES General Construction Storm Water Permits (CSW-NOI). New users will have to create an account, but the passwords they create do not expire. The NDEQ website application process will not only allow users to start a new application, but will also show them any existing permits they have. As the current CSW-NOI process requires an examination of any impacts on threatened or endangered species, the online application system sends a notification to the Nebraska Game and Parks Commission, so they are aware of a need to review the permit.

The Onsite Wastewater Unit contracted with the Nebraska Onsite Wastewater Association and the University of Nebraska-Lincoln Extension service to develop and present fifteen training sessions at various locations around the state in 2015. These sessions were intended to provide opportunities for certified onsite wastewater professionals to maintain continuing education requirements, in order to renew their certifications every two years. NDEQ onsite wastewater staff also participated in several of these training sessions, in order to provide "Question & Answer" sessions to the community of certified installers, pumpers and inspectors. In addition, the Operator Certification program participated in twelve training and continuing education programs for certified wastewater operators in Nebraska. These training programs were developed in conjunction with several different organizations, including the League of Nebraska Municipalities, the Nebraska Rural Water Association, the Nebraska Water Environment Association, Midwest Assistance Program, and Central Community College.

The Agriculture Section contracts with the University of Nebraska to provide training and testing leading to Chemigation Applicator Certification. In 2015, 2091 applicators were trained, tested and certified. The Chemigation program, which functions in cooperation with Nebraska's 23 Natural Resources Districts (NRDs), works to ensure that users of irrigation systems applying fertilizers and pesticides do not contaminate the sources of irrigation water. A chemigation applicator initially must be certified by the Department, and re-certified every four years.

Field Services and Assistance Division

The Field Services and Assistance Division hosted the Department's annual *Environmental Update* workshop in two locations in April, 2015 – Lincoln and North Platte. Approximately 150 people were in attendance between the two workshops; with the North Platte workshop having roughly 20 in attendance. Division personnel also partnered with the Nebraska Public Power District to host the 2015 *Power Summit* on October 28th, with 75 in attendance. The workshop provides an opportunity for NDEQ and the state's electric power producers to discuss issues of mutual interest. In November, two workshops, Environmental Update – Ethanol Workshops, focused on environmental issues affecting the ethanol industry were held in Norfolk and Grand Island with 30 in attendance. On December 11, 2015, an Environmental Update – AFO Workshop was held in Norfolk for the state's animal feeding operation businesses and consultants.

Please direct any questions regarding this report, comments, or suggestions to:

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