



# Nebraska Department of Environmental Quality

## Annual Report to the Legislature 2003

Submitted December 1, 2003

# Table of Contents

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Chapter 1 --	<b>Agency Overview</b> .....	<b>1</b>
	Agency Goals.....	1
	Agency Statistics.....	2
	Actions Affecting Staffing.....	3
Chapter 2 --	<b>Administration/Legal/ Management Services/Field Offices</b> .....	<b>5</b>
	Administration.....	5
	Legal.....	6
	Management Services.....	6
	-- <i>Fiscal Services, Human Resources, Information Technology,         Public Information Office</i>	
	Field Offices.....	11
Chapter 3 --	<b>Environmental Quality Council</b> .....	<b>13</b>
Chapter 4 --	<b>Air Quality Division</b> .....	<b>15</b>
Chapter 5 --	<b>Waste Management Division</b> .....	<b>21</b>
	RCRA Program .....	21
	Superfund Program.....	25
	Solid Waste Program.....	28
	Planning and Aid.....	31
Chapter 6 --	<b>Water Quality Division</b> .....	<b>36</b>
	Leaking Underground Storage Tanks Program.....	36
	Agriculture Programs .....	40
	Surface Water Assessment Programs.....	45
	Ground Water Assessment Programs .....	48
	Water Quality Planning .....	51
	Water Permitting Programs .....	56
	Wastewater Engineering Management.....	61
	Financial Assistance .....	64
Chapter 7 --	<b>Environmental Assistance Division</b> .....	<b>69</b>
	Small Business and Public Assistance Program .....	69
	Community Right-To-Know .....	70
	Nebraska Environmental Partnerships .....	71
	Release Assessment.....	72
	Homeland Security .....	73
Chapter 8 --	<b>Low-Level Radioactive Waste Program</b> .....	<b>74</b>
Chapter 9 --	<b>Expenditure and Budget Summary</b> .....	<b>76</b>
Chapter 10 --	<b>Distribution of Aid</b> .....	<b>81</b>
Chapter 11 --	<b>Personnel/Staffing Issues</b> .....	<b>83</b>
Chapter 12 --	<b>Financial Assurance Requirements</b> .....	<b>85</b>

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Visit our web site at **[www.deq.state.ne.us](http://www.deq.state.ne.us)** view the agency's:

- News Releases
- Calendar of Events
- Job Listings
- Priority Issues
- Rules and Regulations
- Fact Sheets and other publications
- Program information

# CHAPTER 1:

## Agency Overview and Statistics

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The Nebraska Department of Environmental Quality was created pursuant to passage of the Nebraska Environmental Protection Act in 1971. Although the Department has grown and been given additional responsibilities over the years, its ongoing mission has remained the same — the protection of Nebraska’s air, land and water resources. Presently, the Agency is authorized a staffing level of 212 full-time employees.

The Department has a total annual budget for FY04 of approximately \$74.4 million. This funding is derived from several sources. A major source of funding is the federal government. The state also contributes significant funding for Department activities, and certain programs are funded partially or totally by fees. A breakdown of funding by fund type is shown on the following chart:

Funding Type	\$ Amount	% of Total
Federal Funds	\$33.9 million	45.6 %
State General Funds	4.1 million	5.5 %
Cash Funds	26.4 million	35.5 %
Trust Funds	10.0 million	13.4 %

Several chapters of this report give the reader a more in-depth look at Department responsibilities. Other chapters address financial issues, staffing issues, aid programs, and financial responsibility requirements. Additionally, Chapter 3 lists actions of the Environmental Quality Council during FY03.

This chapter provides: 1) a brief description of agency goals and related activities; 2) agency statistics for fiscal year 2003; 3) significant legislation of 2003 and 4) a table which identifies initiatives over the past ten years which have impacted Agency resources.

### I. Agency Goals and Related Activities

In recent years, NDEQ Administration has established and expanded a list of goals for the agency to strive for. Each section was asked to identify goals consistent with the agency goals. Through a series of meetings with each section, goals were discussed and specific program goals and activities to be reached and reported were identified. These goals meetings have been conducted annually since the goals were established, to evaluate our progress and develop strategies for the future. These efforts provide greater accountability regarding work that is being accomplished and helps programs and management monitor whether we are achieving the identified goals.

The main goals established by the Agency are:

- 1) **Effective work force.** The agency needs to structure and train its employees to be as effective as possible to offset declining resources.
- 2) **Timely permitting process.** Permit review and issuance needs to be streamlined and simplified to meet the needs of both the agency (effective work force) and those in need of a permit.
- 3) **Balanced enforcement.** Enforcement means compliance with the law and a balanced approach between compliance assistance and traditional enforcement tools needs to be reached.

- 4) **Simplify regulations.** Persons and entities affected or protected by our regulations need to be able to understand the requirements with as little difficulty as possible.
- 5) **Community presence and relations.** NDEQ needs to be present in the community that it serves -- Nebraska. The agency also needs to open communications and relationships with citizens, those we regulate, and other governmental entities.
- 6) **“Back to the Basics.”** We must excel at the fundamental things that the Legislature intends for us to do -- issue permits, inspect, assure compliance, and require remediation where necessary.
- 7) **Assistance.** We need to assist those that we regulate so they can meet or exceed minimum standards. We must make such concepts as pollution prevention and compliance assistance a natural way of doing our job.
- 8) **Measure Environmental Quality.** We need to collect information that enables us to do our job and to measure Nebraska’s environmental quality. Information collected by NDEQ must measure any changes in the quality of Nebraska’s environment over time and provide the information we need to make sound regulatory decisions.
- 9) **Meaningful Reporting.** NDEQ has a responsibility to the citizens of Nebraska to report our findings in an understandable and useful way.
- 10) **Assess Needs.** Meaningful information about the environment should be used by NDEQ to assess the needs of the citizens and environment of the State. That information, when shared with the public, will provide input opportunities on priority issues.

Through activity tracking and followup meetings with program staff, the agency continually evaluates whether goals are being achieved, and whether they need to be modified. In FY2003, goals efforts resulted in a number of specific action items aimed at improving department effectiveness.

**II. Agency Statistics, Fiscal Year 2003 (July 1, 2002 through June 30, 2003)**

**Assistance**

A primary department goal is to enhance our assistance activities. Agency assistance occurs throughout the agency, but a few representative statistics were developed by looking at activities within the Public Information Office and the Records Management Unit. The following statistics are a sampling of some of the agency’s outreach activities:

- **Over 1,381 public records requests** to review files and documents were made to the Agency’s Records Management Unit.
- **720 internet requests** were received through the agency web site’s e-mail feedback feature.

**Complaints and Inspections**

The figures below represent the numbers of complaints received and inspections conducted by the programs primarily involved with regulatory compliance.

<b>Complaints Received FY03</b>		<b>Inspections Conducted FY03</b>	
Water	298	Water	1631
Air	239	Air	463
Waste	353	Waste	470

### III. Legislation in 2003

Two pieces of legislation passed in 2003 which had a significant impact on the agency were:

**LB 94** -- This legislation requires that, as of January 1, 2004, all work performed on private on-site wastewater treatment systems (septic systems and individual lagoons) must be carried out or supervised by professional engineers or persons certified by the Department of Environmental Quality. LB94 requires that anyone who sites, lays out, constructs, reconstructs, alters, modifies, repairs, inspects or pumps on-site wastewater treatment systems must register with DEQ to become certified to perform this work. To become certified, individuals must submit an application and a \$300 fee, and also provide a sworn affidavit of at least 12 months experience prior to August 31, 2003. Following DEQ approval, the applicant will receive a provisional certificate good through December 31, 2005. Also beginning January 1, 2004, all new and modified on-site wastewater systems will have to be registered with NDEQ.

In November and December, agency staff is conducting a series of 19 outreach meetings statewide, to explain the new process and certify individuals. Certification application forms are also available on the DEQ website ([www.deq.state.ne.us](http://www.deq.state.ne.us)).

**LB 143** – This legislation eliminated the permit process for scrap tire collectors, collection sites and processors. It retained the permitting process for scrap tire haulers. The bill created storage requirements and limits the annual accumulation of tires to 500 passenger tire equivalents per year. Although these limitations do not apply to tire recyclers, the legislation states that recyclers are not permitted to accumulate scrap tires speculatively. The new law also identifies acceptable uses for tires that are not considered disposal. This includes tire derived fuel, steelmaking, retreads, crumb rubber that is used in manufactured projects, and tire chips and shreds that are used in landfill construction, septic systems, and civil engineering projects. The legislation also changed permit limits for solid waste disposal areas and processing facilities, and allows the Agency to use integrated solid waste management funds for spill response.

### IV. State and Federal Actions Affecting Agency Staffing

The following is a breakdown of legislation over the past ten years that has affected staffing requirements at the Nebraska Department of Environmental Quality. The required programs are broken into three categories: 1) programs required by the federal government which did not require additional state legislation to adopt (Federally Mandated); 2) state legislation in response to federal requirements (State Legislation/Federally Mandated); and 3) state legislation which was not federally mandated (State Legislation/ Not Federally Mandated).

#### 1993

##### **State Legislation/Federally Mandated**

- Landfill Closure

#### 1994-95 (195 FTE)

##### **State Legislation/Not Federally Mandated**

- Waste Tire Management (loans)
- Voluntary Superfund Program
- Landfill Rebates

**1996** (195 FTE)

**State Legislation/Not Federally Mandated**

- Underground Storage Tanks/Petroleum Release Reimbursement Fund/  
State Revolving Fund
- Detailed Report of Title V Air Activities

**1997** (210 FTE)

**State Legislation/Federally Mandated**

- Safe Drinking Water Act
- Resource Conservation and Recovery Act (Staff for additional implementation)

**State Legislation/Not Federally Mandated**

- Clean Air Act (Staff to address permit backlog)
- Clean Water Act (Staff to address permit backlog)

**1998** (220 FTE)

**State Legislation/Not Federally Mandated**

- Livestock Waste Management Act
- Underground Storage Tanks/Petroleum Release Reimbursement Fund

**1999** (220 FTE)

**State Legislation/Not Federally Mandated**

- Livestock Waste Management
- Withdrawal from the Central Interstate Low-Level Radioactive Waste Compact

**2000** (215 FTE)

**State Legislation/Not Federally Mandated**

- Water Quality Assessment Report
- Public Records Review Process

**2001** (209 FTE)

**State Legislation/Not Federally Mandated**

- Clean Air Act (Emission Fee Cap)
- Groundwater Monitoring Report
- Extension of Litter Reduction and Recycling Grant Program
- Public Notice Requirements for Environmental Quality Council meetings
- Integrated Waste Management Act (Additional Fund Uses)

**2002** (209 FTE)

**State Legislation/Not Federally Mandated**

- Cash fund transfer legislation

**2003** (212 FTE)

**State Legislation/Not Federally Mandated**

- On-site Wastewater Treatment Act

# CHAPTER 2:

## Administration/Legal/ Management Services/Field Offices

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The Administration and Management Services Division provide administrative and day-to-day support services to the Agency programs essential to the effective operations of the Department.

### **I. Administration**

The Administration of the Department provides oversight and policy direction in all areas of the Department's activities. The Administrative staff includes the Director, Deputy Directors, Legal Counsel, Assistant Director, Associate Director, Low-Level Radioactive Waste Program Manager, Division Administrators and the Administrative support staff. The Director and Deputy Directors are responsible for the overall function and coordination of Department activities. Generally, the Director is responsible for policy and the Deputy Directors for day-to-day management and administration. The Deputy Director of Administration serves as the manager of the Management Services Division. The Deputy Director of Programs, Assistant Director, Division Administrators, Associate Director and the Program Manager are responsible for management, policy direction, and coordination of activities in the various Sections contained within their respective Divisions.

The Administration of the Department is responsible for coordination with other local, state and federal agencies. Staff serve on various committees within the state. The administration is also responsible for coordination and negotiations with the U.S. Environmental Protection Agency. A significant amount of the agency's funding is derived through the EPA, and substantial coordination is required. In addition, the agency coordinates certain activities with the U.S. Department of Defense and the Army Corps of Engineers.

In addition, the Director coordinates agency activities with the Governor's Office and the Nebraska Legislature. The Director is responsible for ensuring that the Agency is effectively responding to the Legislature's mandates.

The Deputy Director of Administration is largely responsible for day-to-day administrative activities and Agency operations. The Deputy Director is also given responsibility on a case-by-case basis for coordinating special activities which cross the divisional lines of responsibility. The Deputy Director conducts Environmental Quality Council hearings.

The Deputy Director of Programs coordinates the various agency programmatic activities and serves as the primary contact on national issues.

## II. Legal Division

The Legal Division provides legal support to the Director and the Agency. Legal responsibilities of attorneys in the Division include:

- Preparing legal opinions interpreting federal and state laws and regulations,
- Advising the Director and Agency staff on duties and program responsibilities,
- Preparing administrative orders and other enforcement actions for the Agency,
- Representing the Agency in administrative proceedings,
- Preparing judicial referrals to the Attorney General,
- Serving as hearing officers for public and administrative contested case hearings,
- Drafting and reviewing proposed legislation, rules and regulations,
- Drafting and reviewing contracts, leases, and other legal documents,
- Reviewing other Agency documents,
- Representing the Director and Agency as requested by the Director.

The Division also assists the Attorney General's office by providing legal expertise in environmental law and participating in court cases as requested.

During calendar year 2002, the Director issued 11 administrative orders. Eighteen civil judicial cases were settled or decided by a court, and penalties of approximately \$162,193 were imposed.

## III. Management Services

The Management Services Division provides administrative and technical support to Department programs. The Deputy Director of Administration heads the division. The division's staff is divided into four sections — Fiscal Services; Human Resources; Information Management; and the Public Information Office. In addition, a grant and contractor coordinator was added to the Division in 2003. During Fiscal Year 2003, the Division provided significant time to the implementation of the Nebraska Information System (NIS) project.

### Fiscal Services

The Fiscal Services Section provides all the budgeting and finance functions and coordinates Department spending, purchasing, and accounting responsibilities. The section also provides advice and assistance to various programs on financial questions and conducts financial reviews of grantees. For example, the section provides significant staff assistance to the Water Division regarding the State Revolving Fund Loan Program.

This section serves as the financial liaison with the EPA. A significant percentage of staff time is dedicated to meeting complex tracking requirements of the federal government. This section presently has six staff members.

As stated above, this section conducts financial reviews of the Department's various grant programs. Given the substantial amount of grant funds the Department distributes, it is essential to have staff reviewing financial activities of entities which receive funds. The Fiscal Services Section also assists the Integrated Solid Waste Management Program in collecting and reporting all applicable fees. This section is also responsible for tracking receipts of Title V emission fees.

## **Human Resources/Records Management/Database Administration**

This Section is divided into three organizational teams that provide management services in the areas of Human Resources, Records Management and Database Administration.

### **Human Resources**

The Human Resources Section is responsible for assisting supervisors to recruit, hire, develop, retain, and reward a high quality of diverse staff and to promote a working environment that supports diversity which enhances the agency's mission. One of the section's goals is to help strengthen individual and organizational performance through fiscally responsible compensation and benefits programs, progressive human resource policies and targeted career and organizational development initiatives that support the agency's mission of protecting the environment.

Specifically, Human Resources consults with supervisors and employees to: process employee pay and benefits; coordinate hiring; conduct new employee orientation and terminating employee exit interviews; coordinate the agency's medical monitoring program; participate in the Health & Safety Committee; manage the classification and compensation program; and coordinate employee recognition programs. In addition, Human Resources is responsible for developing the agency's Affirmative Action Plan, monitoring the plan's goals and ensuring equal employment opportunity is an integral part of the daily activities of the agency. Other activities include: the evaluation of reasonable disability accommodations; coordination of the agency's compliance with the reporting requirements of the Accountability and Disclosure Commission, the preparation of various reports; the provision of technical assistance to supervisors concerning the administration of corrective actions conduct investigations; consultation with supervisors concerning the preparation of responses to grievances, workplace harassment or other complaints. Human Resources staff participates as a member of the agency's policy management team and consults with supervisors concerning the interpretation and communication regarding agency policies.

### **Records Management**

The Records Management Unit is primarily responsible for managing the agency's facility files. This includes coordinating the conversion of programs' files to the computerized database called the Integrated Information System (IIS) and maintaining the files after conversion. Each document is assigned a barcode number and cataloged into the computerized database. The barcode number is scanned into the IIS and the following information is assigned to the document identification number: document type, document description, originator, recipients, date the document was received by the agency, and the date the document was written. There are approximately 69,600 agency files centralized in the Records Management Unit. Centralizing the agency's records has increased accessibility to agency files.

The Records Management Unit coordinates responses to requests from the public, private consultants, and regulated entities to review file information about specific property and projects. These public records requests involve a variety of topics, including landfills, leaking underground storage tanks, hazardous waste sites, and file history of specific industries. The Unit responded to over 1,500 public records requests during FY2003.

The Records Management Unit also provides support services to the agency by distributing the agency's incoming and outgoing mail, ordering supplies and equipment and providing staffing to the main reception and switchboard area.

**Database Administration**

Database Administration activities include maintaining the agency's automated indexing and filing system, known as the Integrated Information System. Extensive research is required to provide the most accurate and relevant information to agency staff. Information relating to the regulated community is first researched and then updated in the Integrated Information System. At this time, when the Agency is converting the programs' files to the Integrated Information System, it is especially crucial to coordinate these updates with program staff, the Records Management Unit, the Information Technology Section and the regulated community.

**Information Technology**

The Information Technology Section provides computer support and information management for all Agency locations. Five professional staff members offer guidance and technical support in the acquisition and maintenance of computer hardware and software. They provide support for about 250 desktop computers, 20 printers, two midrange AS/400 computers, three network servers, and software support for Microsoft Office and Lotus Notes. They also conduct training and oversee data telecommunications for the Agency. Three professional staff design, develop, support, and provide training for computer programs that satisfy the Agency's information management needs and administer the Agency's computerized databases. One professional staff member provides support and assistance with mapping/location information through a Geographical Information System. One professional staff person is responsible for managing all of the Information Technology staff, develops and updates the agency technology plan, and coordinates Information Technology Section activities.

The agency has developed an Integrated Information System (IIS) which is a centralized, shared data base containing descriptive, locational, program specific, and paper file information for all facilities under the agency's jurisdiction. Nationally, NDEQ is among the leaders within state environmental agencies regarding information integration. In 1999, the agency received a grant from the EPA One Stop program to support our efforts towards and EPA's initiatives for data integration, burden reduction, public access, stakeholder involvement, and electronic reporting. NDEQ has used the grant money during 2000 and 2001 to improve our network, desktop equipment, and information systems. In 2002 and 2003, the agency received Network Readiness grants from EPA to support the exchange of information between states and EPA. The agency is utilizing these grants to build additional information systems and to provide agency information to staff and the public in a more graphical or browser based presentation. In addition, the agency will make available its first web based reporting application at the end of 2003, to replace the more traditional paper based reporting process.

In 2001, the agency successfully completed a pilot project with other states and EPA demonstrating the exchange of federally required information using eXtensible Markup Language (XML). This was the first successful effort to exchange data using this process. The Agency continues to be involved in the EPA/State efforts to build a National Environmental Information Exchange Network (Exchange Network). When completed, the Exchange Network will provide a consistent method for obtaining environmental information from any participating agency or program in the country. Currently the agency is participating, as members and co-chairs, of a number of the work groups for the development of the Exchange Network.

## Public Information Office

The Public Information Office serves as the Agency's initial source of communication with the public and media. The services of the Public Information Office are used by all divisions of the Agency.

A primary responsibility of this section is to handle questions from the public and media (newspaper, television and radio) regarding the Department's activities. Due to the increasing public awareness of environmental issues, the number of inquiries from both media and the general public has increased significantly in the past several years.

This Section is responsible for the writing and distribution of news releases on a wide range of environmental topics that are of importance to the public. Another means of communication with the public about timely environmental topics is through the agency's newsletter, the Environmental Update. Previous editions of the newsletter are available to the public and can be obtained by either visiting our web site, [www.deq.state.ne.us](http://www.deq.state.ne.us) or by writing to the address below. If you wish receive future issues of the newsletter, please send a request to be placed on the Environmental Update mailing list to: NDEQ Public Information Office, 1200 N St., Box 98922, Lincoln, NE 68509-8922.

In an effort to reduce production costs and paper waste relating to the newsletter, NDEQ conducted a mailing, asking newsletter recipients if they would prefer to receive e-mail notification and an electronic link to the newsletter on our web site. The response was very positive, with about 1,300 of the 2,000 respondents requesting to be notified electronically, rather than having the newsletter mailed to them. If you wish to receive electronic notification and a link to the newsletter whenever a new edition is placed on our web site, please write to the address above, or send an e-mail to [moreinfo@ndeq.state.ne.us](mailto:moreinfo@ndeq.state.ne.us) Please include your name and e-mail address.

The Section is also involved in the production of a number of other publications, including this annual report; brochures; Fact Sheets and Guidance Documents. These publications can be obtained by contacting the Public Information Office, or by visiting our web site.

### Agency's web site: [www.deq.state.ne.us](http://www.deq.state.ne.us)

The Public Information Office and the Information Technology Section have been working together to improve and expand the agency's web site. The site provides a wide array of information relating to the agency, including:

Rules and Regulations	News Releases	Calendar of Events
On-line newsletter	Program information	Featured articles
Fact Sheets	Guidance Documents	Forms

In addition, we have just added a new feature – a listing of public notices. In November, the agency began posting public notices for the agency's Agriculture, Air, Waste and Water programs. The lists include notices of proposed permits that are currently open for public comment, and upcoming public hearings. This feature is supplemental to the agency's traditional procedure of posting notices in local newspapers. It is designed to provide a centralized listing of current public notices, in addition to our continued postings in local newspapers.

In 2004, the agency intends to implement an on-line complaint and notification system on the web site. It will be designed to provide the public and regulated industry an electronic method of submitting complaints and other information to the agency, as well as a tracking system to show how the agency has responded.

**Grants/Contractual Management**

In Fiscal Year 2003 an agency employee was transferred to the Management Services Division to be primarily responsible for grant coordination and contract management. This position is utilized to assist with federal grant applications and compliance with grant conditions and requirements. In addition, the position will assist with RFP and contract development, management and compliance. This position will also provide outreach for and coordination with agency aid programs.

**Funding of Management Services**

The Management Services Division provides essential administrative and technical support to the Department. Some activities in Management Services are program specific, but many are not. Funding for the Division is provided by two methods: 1) The majority of the staff salaries and activities are funded through an overhead charge to the Department's various programs; 2) Program specific staff time and activities are charged to those programs.

## IV. Field Offices

The Field Office Section consists of 15 employees who conduct compliance inspections, complaint investigations, environmental sampling, project management, and local compliance assistance for the agency's Air Quality, Waste Management and Water Quality Divisions. Establishing local field offices has enabled the agency to provide the public with greater access to NDEQ staff, provide more timely response to citizens and develop a better understanding of local issues because NDEQ staff live and work in the local community.

During 2003 the Field Office staff continued to emphasize the development of working relationships with local agencies to more efficiently and effectively serve the public. The level of participation in local outreach activities and educational tours and programs increased significantly in 2003. The staff also identified and worked on compliance issues and agency procedures that have significance across multiple programs within the agency. Among these were emergency operational procedures for the field offices that support the main office in Lincoln, the agency's medical surveillance program, and the permitting and compliance issues related to truck wash facilities.

Work was started in 2003 on a strategic plan for the future development and maintenance of the NDEQ field offices.

The following mission statement was developed to guide the direction of the section: "The NDEQ Field Office Staff will protect the air, land and water of Nebraska by enforcing state environmental regulations, and actively participating in our local communities."

# Department of Environmental Quality

## Main Office and Field Office Sites

**Panhandle Field Office**

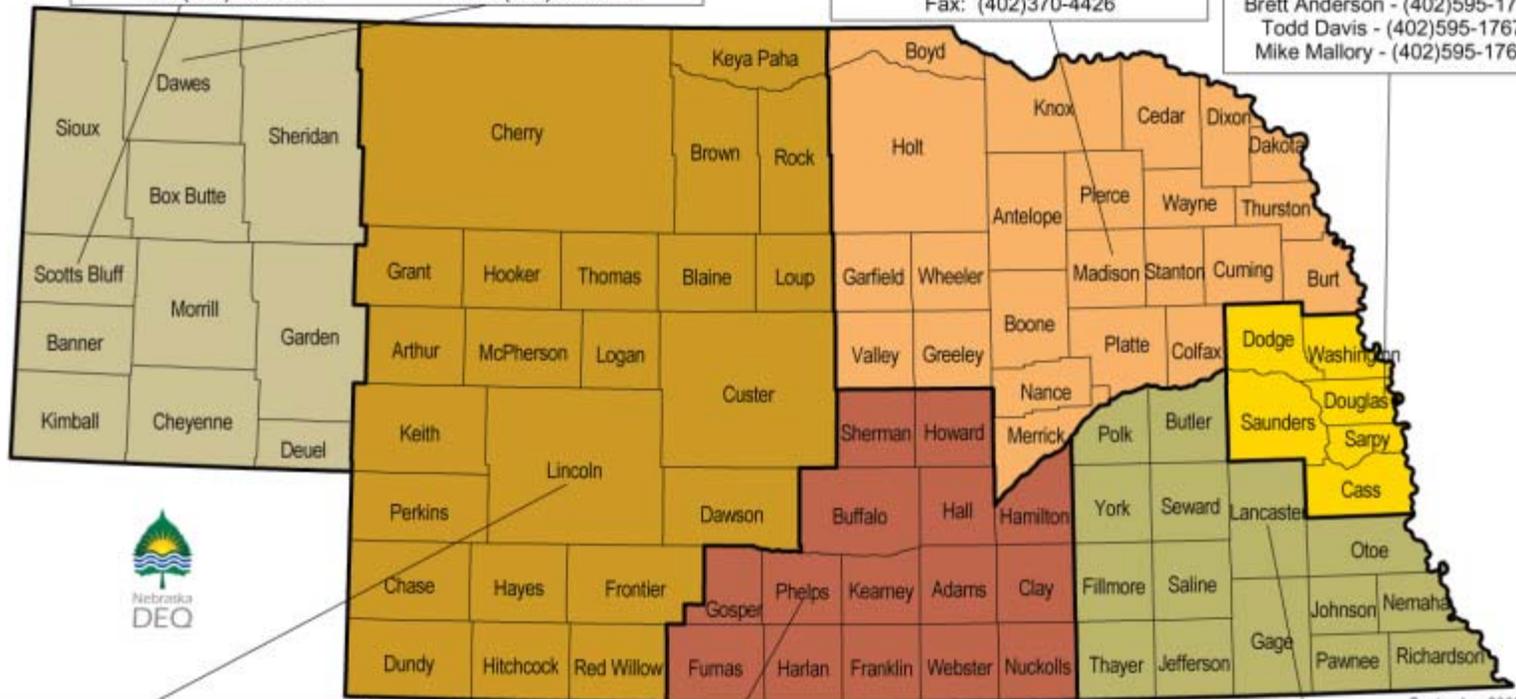
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September 2003

# CHAPTER 3:

## Environmental Quality Council

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To carry out the Nebraska Environmental Protection Act and related statutes, the Environmental Quality Council adopts rules and regulations which set air, water and land quality standards in order to protect the public health and welfare of the state, as well as regulations which guide department activities and regulatory responsibilities. The Governor appoints the director of the Department of Environmental Quality from candidates recommended by the Environmental Quality Council.

The Council has 16 members who are appointed by the Governor to four-year terms. Appointments require legislative approval. Council members represent: the food manufacturing industry; conservation interests; the agricultural processing industry; the automobile or petroleum industry; the chemical industry; heavy industry; the power generating industry; crop production; labor; the livestock industry; county government; municipal government (two members, one of which represents cities not of the primary or metropolitan class). Other members include: an at large member, a professional engineer and a doctor with knowledge about the health aspects of air, water and land pollution. The Council meets quarterly.

Following are two charts. The first summarizes Council actions during FY2003, the second lists the sixteen council members, by category.

### Council Actions

<b>Council Meeting Date</b>	<b>Regulation</b>	<b>Action</b>
September 5, 2002 Lincoln	Title 117 – Nebraska Surface Water Quality Standards	Approved as Amended
	Title 129 – Nebraska Air Quality Regulations	Approved as Amended
December 5, 2002 Lincoln	Title 128 – Nebraska Hazardous Waste Regulations	Approved as Amended
	Title 129 – Air Quality Regulations	Approved as Amended
	Title 129 – Air Quality Regulations – Informal Hearing on Rulemaking Petition, Title 129, Ch 34	Approved for Formal Hearing
March 7, 2003 Videoconference	Title 129 – Formal Rulemaking Hearing on Title 129, Chapter 34. <b>Withdrawn per 4/21/03 letter in Reg File</b>	Postponed until June 2003 Meeting
June 6, 2003 Omaha	Title 129 – Air Quality Regulations	Approved as Amended
	Title 197 – Rules and Regulations for the Certification of Wastewater Treatment Facility Operators in Nebraska	Hearing Not Held To be renoticed and rescheduled.

### Council Members

Representing	Council member	Term Expires
Livestock Industry	Robert L. Gottsch Hastings	June 22, 2005
Conservation	Steven G. Oltmans Omaha	June 22, 2007
Ag Processing Industry	Debra McDowell Grand Island	June 22, 2007
Municipal Government	James Whitaker North Platte	June 22, 2007
Public At Large	Darlene "Shortie" Kiefer Kimball	June 22, 2005
Municipal Government	Michael W. Bair Aurora	June 22, 2005
Labor	Terry R. Zahn, Sr. Omaha	June 22, 2005
Agricultural Crop Production	Robert E. Bettger Fairmont	June 22, 2005
Professional Engineer	John T. Baker Scottsbluff	June 22, 2007
Power Generating Industry	Bill Podraza Columbus	June 22, 2005
Chemical Industry	Donald Williams Orchard	June 22, 2007
County Government	Jodi Thompson Imperial	June 22, 2007
Physician	Dr. Janet Bernard North Platte	June 22, 2007
Automotive/Petroleum Industry	Mark Whitehead Lincoln	June 22, 2005
Heavy Industry	Tomas Miller Norfolk	June 22, 2007
Food Products Manufacturing	Vaughn J. Blum Columbus	June 22, 2005

# CHAPTER 4:

## Air Quality Division

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The objectives of the Air Quality Division are to achieve and maintain the ambient air quality standards, to protect the quality of the air in areas of the state that have air cleaner than the standards, and to implement air quality rules and regulations. By fulfilling these objectives, the Department is confident that public health and the environment will be adequately protected.

The major air quality programs are: the construction permit program, the operating permit program, the emission inventory/fee program, the ambient monitoring program, the compliance and enforcement program, the planning and development program, and the asbestos program.

Three local agencies -- the Lincoln/Lancaster County Health Department, the Omaha Air Quality Control, and the Douglas County Health Department -- have accepted through contract with the NDEQ, responsibility for various facets of the program. These responsibilities include air quality monitoring, planning, permitting and enforcement within their areas of jurisdiction.

### Construction Permit Program

The NDEQ has had a construction permit program for air contaminant sources since 1972. Facilities are required to obtain a construction permit before they construct, reconstruct or modify any air contaminant source or emission unit where there is a net increase in the potential to emit (PTE) above prescribed quantities. The table below provides statistics relating to applications received, processed and pending:

Pending July 2002	Applications Received	Applications Processed	Pending June 2003
99	95	93	80

Nebraska also implements the federal construction permit program, Prevention of Significant Deterioration (PSD). Sources subject to the PSD program or significant sources of hazardous air pollutants are required to control emissions with the best control technology available. Predictive air quality modeling is used to ensure that any new or modified source will not cause or contribute to violations of the ambient air quality standards.

### Operating Permit Program

The operating permit program is the result of the Federal Clean Air Act Amendments of 1990 and the passage of LB1257 (1992) by the Nebraska Legislature. The Department was required to establish and implement a comprehensive operating permit program for sources of certain air pollutants. The Federal operating permit program is referred to as the "Title V" operating permit program. The State of Nebraska's Title V operating permit program is referred to as the Class I operating permit program. While the Federal Title V program only regulates major sources of air pollution, the Nebraska program also regulates minor, or Class II, sources. The table below provides statistics relating to applications received, processed and pending:

Pending July 2002	Applications Received	Applications Processed	Pending June 2003
158	70	76	152

Since the program began in 1994, nearly 1500 applications have been submitted. The operating permit team continues to work toward taking final action on the initial round of permits and has begun processing applications for renewals. Operating permits are valid for up to five years, and the Division is beginning to work on renewal applications.

### **Emission Inventory/Fee Program**

The Department conducts an annual inventory of emissions from major industrial sources and a representative sample of minor industrial sources. Additionally, the Department conducts a comprehensive inventory of emissions from other air pollution sources, such as: area sources, mobile sources, and biogenic sources. This comprehensive inventory was recently completed for the 2002 calendar year, and will be conducted again for the 2003 calendar year. The comprehensive inventory will be useful for determining trends, as well as for regional planning efforts.

Major industrial sources of air pollution pay emission fees per ton of pollutant emitted per calendar year. The maximum over which a fee is assessed is 4000 tons per pollutant. For electrical generating facilities with a capacity of between 75 and 115 megawatts, the maximum is 400 tons per pollutant. The fees generated are used to support the major industrial source permitting programs.

The rate for 2002 emissions was \$51 per ton, an increase of \$1 per ton from the year of 2001. The Department currently does not anticipate the fee rate to significantly change for the 2003 emissions inventory.

### **Ambient Air Quality Monitoring Program**

The State of Nebraska is required to conduct ambient air monitoring by the United States Environmental Protection Agency (EPA). The Clean Air Act gives the EPA the authority to delegate certain responsibilities to the states, and one of these responsibilities is ambient air monitoring. NDEQ determines compliance with federal and state air quality standards by designing, operating and maintaining an air quality monitoring network across the state. The Lincoln-Lancaster County Health Department, the Environmental Services section of the Omaha Public Works Department, and the Douglas County Health Department assist the NDEQ in this task. The Department and local agencies conducted air quality monitoring at more than forty sites across the state.

Monitoring data is evaluated to determine the overall health risk associated with inhaling the ambient air. This risk is determined based on the levels of several pollutants measured in the air. These pollutants include carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, sulfur dioxide, and total reduced sulfur. The health effects associated with inhaling each of these pollutants has been studied, and ambient air quality standards have been set. If the level of any one pollutant exceeds its standard, human health may be compromised. Departmental activities regarding several air pollutants are described below:

Total Reduced Sulfur (TRS) – In recent years, the state ambient air standards for TRS were exceeded in two communities -- Dakota County and Lexington. Implementation efforts (i.e., working with sources to reduce emissions) appear to have been successful in reducing TRS emissions in these areas. Recent ambient monitoring data now indicates that these areas are now in compliance

with the ambient air quality standards for TRS. As a result, the number of TRS monitoring sites in these communities has been reduced from two sites to one site at Lexington, and from three sites to two sites in Dakota County.

Lead (Pb) - Currently, there are no areas in the state that exceed federal air standards for lead. However, in previous years the state had one small area in downtown Omaha near the site of the closed ASARCO lead refinery, which was listed as non-attainment for lead. On July 1, 1997, ASARCO shut down operations in order to comply with an Administrative Order issued by the Department. Since the facility shut down, ambient monitoring has shown a dramatic reduction in lead levels. ASARCO has been demolished and EPA has re-designated the area as attainment with the lead standard. As a result, ambient monitoring for lead was discontinued in October 2002.

PM<sub>10</sub> (Particulate Matter less than 10 micrometers in diameter) – There is one area of the state where relatively high concentrations of this air pollutant have been periodically demonstrated: the Weeping Water area in Cass County. This area has a high concentration of limestone quarrying, processing, and trucking operations. The Department has conducted air quality particulate monitoring in the community since 1985. Exceedances of the National Ambient Air Quality Standards (NAAQS) for PM<sub>10</sub> were recorded in 1998, 1999 and 2000. However, subsequent review of the data indicated that a definitive violation of the NAAQS was not demonstrated.

In December 2000, the NDEQ and local stakeholders (i.e., businesses, government and interested citizens) initiated a cooperative program to reduce PM<sub>10</sub> emissions and improve air quality in the region. As a result, additional emission control measures have been voluntarily implemented by sources in the area. Ultimately these control practices will be included in the Air Quality permits issued to these sources.

Improvements were made to the air quality monitoring system in the Weeping Water area during FY2003, and further future improvements are planned. Ultimately, it is anticipated that two additional PM<sub>10</sub> monitoring sites will be established in the area during FY2004. When this improvement process is completed there will be three PM<sub>10</sub> monitoring sites and two meteorological monitoring sites in the area. At the end of the FY2003, there was one PM<sub>10</sub> and one meteorological monitoring site.

PM<sub>2.5</sub> - (Particulate Matter less than 2.5 micrometers in diameter) – Federal and state ambient air quality standards for the PM<sub>2.5</sub> were established relatively recently. Nebraska began monitoring for PM<sub>2.5</sub> in 1999. Initially 17 monitoring sites were established for PM<sub>2.5</sub>. Monitoring results from these sites demonstrated compliance with the Federal and state standards. The completion of this initial compliance demonstration reduced future PM<sub>2.5</sub> monitoring needs. Thus, four PM<sub>2.5</sub> monitoring sites were shutdown in the fall of 2002 (i.e., Broken Bow, Chappel, Hartington and Merriman). At the end of FY2003, there were 14 PM<sub>2.5</sub> monitors operating at 10 sites. Some additional reductions in the Omaha metro area are under consideration.

Ozone, Carbon Monoxide (CO) -. All areas of the state are currently in compliance with the standards for these two pollutants. Elevated levels of these air pollutants are typically associated with urban areas. There are three CO monitors in the state: two in Omaha and one in Lincoln. There are four ozone monitors: three in Omaha and one north of Lincoln. Ozone levels have shown slight increases over the past year at the four monitoring sites, but they have not exceeded federal and state standards at any site. The three carbon monoxide monitoring sites have shown moderate to significant decreases in the last year.

Nitrogen Dioxide (NO<sub>2</sub>) and Sulfur Dioxide (SO<sub>2</sub>) – These pollutants are formed during the combustion of fuels. Both are acidic and can cause “acid rain”, although SO<sub>2</sub> is of more concern in this regard. NO<sub>2</sub> can also act to facilitate the formation of urban smog.

Two SO<sub>2</sub> monitors are operated in the Omaha area. Ambient SO<sub>2</sub> levels have been shown increases, but are well below federal and state standards. One of the SO<sub>2</sub> monitoring sites is under review for possible relocation.

Nebraska did not operate any NO<sub>2</sub> monitors during FY2003. Historical ambient monitoring found NO<sub>2</sub> levels were well below federal and state standards. Monitoring for NO<sub>2</sub> was discontinued several years ago with approval from EPA.

IMPROVE - (Interagency Monitoring of Protected Visual Environments) – These monitors are operated to study nation-wide/regional air quality impacts related to visibility at national parks, wilderness areas and monuments. There are three IMPROVE monitors operated in Nebraska under private party contracts that are fully funded by Federal grants from USEPA. They are located at the Crescent Lake National Wildlife Refuge in Garden County, the Halsey National Forest in Thomas County, and the Omaha Indian Reservation in Thurston County. The NDEQ has limited administrative responsibilities for the sites in Garden and Thomas Counties. The Omaha Tribe of Nebraska and Iowa has similar administrative oversight of the Thurston County site. These sites are being operated for study purposes. Currently, there are no National or Nebraska Air Quality Standards for visibility.

Monitoring at Broken Bow – Monitoring for PM<sub>10</sub>, PM<sub>2.5</sub> and TRS was initiated in 2000 in response to local concern over air quality in the region. This monitoring demonstrating that air quality in the area was meeting National and State air quality standards. Monitoring in the Broken Bow area was discontinued in the fall of 2002.

More information about the Nebraska ambient air monitoring program can be found in the annual publication entitled, *Nebraska's Air Quality Book*. Contact the Air Division at (402) 471-2189 to obtain a copy.

### **Compliance and Enforcement Program**

The Compliance Unit is responsible for conducting compliance inspections of air pollution sources, responding to citizen complaints, observing and evaluating emission tests, ambient air monitoring, acid rain, and the annual air emissions inventory.

As promoted in the Nebraska Environmental Protection Act, the Air Division attempts to obtain compliance with environmental regulations first through voluntary efforts. Voluntary compliance has helped bring about a better working relationship with the regulated community without sacrificing environmental quality. However, enforcement actions are pursued by the agency when compliance issues are serious, chronic, or cannot be otherwise resolved. To further the Department's goals to protect and enhance public health and the environment, in certain instances environmentally beneficial projects, or Supplemental Environmental Projects may be part of an enforcement settlement. Many citizens of Nebraska have benefited the last year from several hundred thousand dollars of environmental projects being performed in their community as the result of Supplemental Environmental Projects.

**Compliance Activity Summary**

<b>Compliance Activity</b>	<b>NDEQ</b>	<b>Lincoln/ Lancaster Co.</b>	<b>Omaha Air Quality Control</b>	<b>Total</b>
On-site Inspections	<b>167</b>	<b>115</b>	<b>40</b>	<b>322</b>
Stack Test Observations	<b>30</b>	<b>0</b>	<b>*</b>	<b>30</b>
Continuous Emission Mon. Audits	<b>42</b>	<b>160</b>	<b>*</b>	<b>202</b>
Complaints	<b>115</b>	<b>80</b>	<b>*</b>	<b>195</b>
Burn Permits Issued	<b>435</b>	<b>43</b>	<b>*</b>	<b>478</b>

\* -- Data not available

**Planning and Development Program**

Over the last year, the Division continued to devote significant resources to assistance or outreach activities. The Division's Outreach Plan was updated. Implementation of the activities identified in the plan is continuing. Several Fact sheets have been developed and four informational meetings regarding the air quality program were held with representatives of businesses, industries, and consulting firms. In an effort to provide sources assistance, the Division continues to sponsor annual Air Program Update Workshops. These are half-day workshops where general and technical information is provided on current events, regulations, permitting activities, and modeling activities pertaining to the Air Quality program.

In 1999, EPA promulgated the regional haze rule, which is intended to protect the visibility and ecosystems of designated parks and wilderness areas in the United States. Since 1999, Nebraska has been working with states and tribes in the Central United States to address regional haze issues. This effort has culminated in the development of a regional planning organization known as the Central States Air Planning Association (CENRAP). CENRAP membership is comprised of states, tribes, various federal agencies, and public stakeholders. The Department continues to provide leadership for CENRAP regional atmospheric modeling activities and actively participates in air pollution control strategy evaluation and development.

**Asbestos Program**

In the State of Nebraska, asbestos removal and disposal are covered by three sets of regulations. On the environmental side, the Department of Environmental Quality has been delegated the National Emission Standards for Hazardous Air Pollutants for Asbestos by the EPA. On the health and safety side, the Nebraska Department of Health and Human Services is responsible for two sets of regulations, the Asbestos Control Program Regulations and the EPA Asbestos Hazard Emergency Response Act regulations, which deal with asbestos in schools.

**Asbestos Program Summary**

<b>Activity</b>	<b>NDEQ</b>	<b>Lincoln/ Lancaster Co.</b>	<b>Omaha Air Quality Control</b>	<b>Total</b>
Asbestos Project Notifications	<b>337</b>	<b>134</b>	<b>182</b>	<b>653</b>
Asbestos Site Inspections	<b>3</b>	<b>129</b>	<b>79</b>	<b>211</b>

# CHAPTER 5:

## Waste Management Division

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The Waste Management Division is comprised of two sections and one unit. These include the Waste Management Section, the Remediation Section and the Planning and Aid Unit. Both Waste Management and Remediation share responsibilities for the hazardous waste, Superfund, voluntary remediation, and integrated waste management programs. Several waste-related grant programs are administered by the Planning and Aid Unit. Following is a summary of Waste Management Division programs.

### **Resource Conservation and Recovery Act (RCRA) Program**

DEQ was authorized in 1985 by EPA to administer portions of the Resource Conservation and Recovery Act (RCRA) program. RCRA regulations are incorporated in DEQ Title 128 – Nebraska Hazardous Waste Regulations, which is updated as the Federal RCRA regulations change. In 2003, newly adopted Title 128 regulations became effective as part of an ongoing effort to keep the RCRA program current.

The purpose of the RCRA program is to ensure proper management of hazardous wastes from the point of generation until final disposal. Activities performed under the RCRA program include:

- helping hazardous waste generators maintain compliance through a Compliance Assistance Program;
- performing compliance inspections and enforcement actions;
- investigating complaints;
- reviewing groundwater contamination monitoring and remediation systems;
- reviewing permit applications and determining whether permits should be issued for proposed treatment, storage, and disposal (TSD) facilities;
- reviewing/approving closure and post-closure plans for hazardous waste storage areas and disposal sites;
- and maintenance of data systems to support decision making and make information available to the public.

The Compliance Assistance Program helps Nebraska businesses, governmental entities, and private citizens comply with RCRA regulations in a non-enforcement mode. This program works with the regulated community in a partnership for hazardous waste minimization and pollution prevention to help waste generators actually reduce the amount of hazardous waste being generated in the state. An additional product of these efforts is ultimately reducing the amount of regulatory requirements on our citizens by helping to bring hazardous waste generators into lower RCRA threshold levels.

Compliance and enforcement activities include inspecting hazardous waste generators and transporters; hazardous waste treatment, storage and disposal (TSD) facilities; and used oil marketers and burners. Other compliance and enforcement activities include investigating complaints; and conducting comprehensive groundwater monitoring evaluations and operation and maintenance inspections on RCRA sites to evaluate the groundwater monitoring system, sampling, and analysis procedures to ensure that useful and representative data is being collected.

The RCRA program also conducts extensive permitting and closure activities to minimize and eliminate the release of hazardous material into the environment. Closure actions are required for treatment, storage or disposal (TSD) facilities that are discontinuing operations or that have operated

without a permit. Permits are required for operating TSD facilities. Post-closure permits are required for TSD facilities that have gone through closure and have remaining contamination.

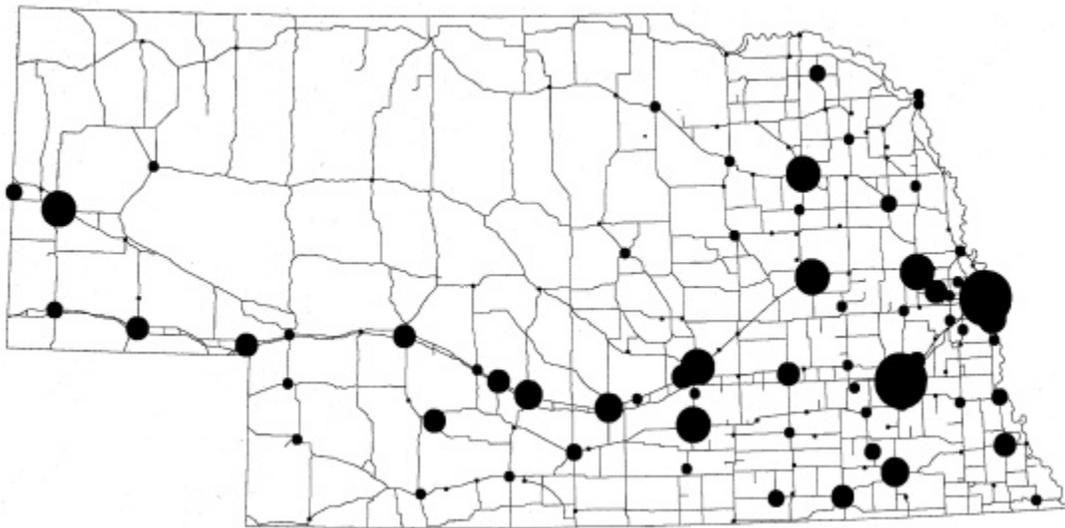
There is one operating hazardous waste storage and treatment facility in Nebraska: the Clean Harbors incinerator near Kimball. This facility has undergone annual performance test burns to demonstrate proper operation since hazardous waste treatment began in 1994. Operational and physical changes at the Clean Harbors incinerator have resulted in numerous permit modifications. These changes were made to improve the performance of the facility and ensure compliance with applicable regulations. In addition, Nebraska oversees four other active hazardous waste storage facilities which do not treat hazardous waste. One of the active storage facilities is scheduled to close in calendar year 2003.

Corrective action is an important part of the RCRA program that addresses past and present activities at RCRA facilities that resulted in hazardous waste and hazardous constituents being released into soil, groundwater, surface water, and air. This requires investigation and remediation of the release from regulated facilities. These regulations can make the former owner of a property responsible for mismanagement of hazardous waste if the current owner could not reasonably be expected to have actual knowledge of the presence of hazardous waste at the site. The federal EPA presently operates the corrective action program in Nebraska, and is responsible for regulating cleanups at Nebraska facilities. The Nebraska RCRA program is working with EPA to gain more responsibility in this area.

Currently, the RCRA Program (see Figure 1) oversees:

- 92 Large Quantity Generators (greater than 2200 pounds generated per month)
- 575 Small Quantity Generators (between 220 and 2200 pounds generated per month)
- 909 Conditionally Exempt Small Quantity Generators (less than 220 pounds generated per month)
- 1 Hazardous Waste Incinerator Facility
- 1 Federal Facility
- 59 Treatment/Storage/Disposal Facilities (active and inactive)
- 22 Transportation Facilities
- 4 Hazardous Waste Storage Facilities

**Figure 1. Location of Facilities in Nebraska Regulated under RCRA.**



● Symbols indicate relative RCRA activity based on hazardous waste generator status and number of facilities.

**Summary of Activities**

A summary of record reviews, inspections, and permit and closure activities completed in FY2003 is provided below.

Activity	FY2003	
	<u>State</u>	<u>EPA</u>
<b><u>Compliance Assistance</u></b>		
-On-site visits	15	*
-Direct Assistance Contacts	768	*
-Public Outreach Presentations (total 699 in attendance)	17	*
<b><u>Inspections</u></b>		
-Land Treatment Facilities	0	1
-Treatment and Storage Facilities	8	2
-Comprehensive Groundwater Monitoring Evaluations	1	*
-Operation and Maintenance Inspections	2	*
-Facility Self-Disclosures	2	*
-Large Quantity Generators	7	2
-Small Quantity Generators	26	3
-Conditionally Exempt Small Quantity Generators	58	11
-Transporters	3	0

Activity	FY2003	
	<u>State</u>	<u>EPA</u>
<b><u>Permitting</u></b>		
-Closure Plans Finalized	2	*
-Permits Issued/Renewed	2	1
-Modifications	5	*
-EPA Corrective Action Orders	0	2
<b><u>Record Reviews</u></b>		
-Financial Assurance	38	4
* - Data not available		

### Program Funding

Funding for RCRA program activities is provided by an EPA grant, which requires a 25% state match. This match is met with state General Funds. Additionally, the Department can charge proposed commercial hazardous waste management facilities a fee to cover expenses for facility siting committee activities. There were no new facilities proposed in FY03.

The RCRA program collects a yearly fee from commercial hazardous waste treatment and disposal facilities. Currently, there is one facility in Nebraska, which performs hazardous waste treatment or incineration. The fees are based on the total yearly volume or weight of hazardous waste treated or incinerated. Fees are due March 1, and are remitted to the state general fund.

## Superfund Program

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) became federal law in 1980. CERCLA established what has commonly become known as Superfund to deal with known or suspected contamination at inactive commercial/industrial/military facilities or so called “uncontrolled hazardous waste or abandoned sites.” The nation’s most contaminated sites are listed on the National Priorities List (NPL). Nebraska currently has eleven sites on the National Priorities List and numerous non-National Priorities List sites with known or suspected releases of hazardous substance that are not being channeled through the full Superfund process.

The investigation and remediation of contaminated sites are the primary responsibility of the U.S. EPA and other federal agencies. NDEQ participates in the Superfund process by serving as a technical support agency to the EPA and as an environmental representative for the State of Nebraska.

**Site Assessment** — The Superfund Site Assessment program identifies, assesses and characterizes sites where hazardous substances are known or suspected to pose a threat to public health and/or the environment. Currently, the sites investigated in Nebraska consist primarily of areas where groundwater contamination has been detected in municipal and private drinking water supply wells or where there is a potential for groundwater contamination.

The first site assessment step is called a pre-screening assessment. This step is a review of existing information on a potential site to determine whether a release has occurred that should be evaluated further through the Superfund process. The next site assessment step is called a preliminary assessment. This step involves the collection of background information such as property ownership, operational history and geology/hydrogeology and performing a site reconnaissance. The third step is called a site investigation, which involves sampling environmental media. In some situations, the preliminary assessment step and the site investigation step are combined. During the past year, the Department has performed work on 5 pre-screening assessments, and 4 combined preliminary assessments/site investigations.

**NPL Site Management Assistance** — The Superfund Management Assistance program provides management and technical support to the U.S. EPA at priority sites in Nebraska. This assistance includes reviewing technical documents and participating in the Superfund remedy selection process. As the most heavily contaminated sites in the nation, Superfund National Priority List sites are generally large and complex, because they often involve more than one contaminated media and have multiple sub-units with varying contaminants. The investigation and cleanup activities at these sites are organized into several phases including remedial investigations, groundwater modeling, baseline risk assessments, feasibility studies/engineering cost evaluations, field-scale pilot studies, remedy design/construction, and remedy operation and maintenance. The Department also participates in public meetings with citizens and local officials in the development of cleanup plans. The table on the following page identifies completion of major phases of work in progress toward cleanup at the proposed and final NPL sites in Nebraska.

<b>Cleanup Progress at Proposed and Final NPL Sites in Nebraska</b>							
<b>Site</b>	<b>County</b>	<b>Removal Actions</b>	<b>Site Studies</b>	<b>Remedy Selected</b>	<b>Remedy Design</b>	<b>Construction Complete</b>	<b>Cleanup Ongoing</b>
Cornhusker Army Ammo Plant (Grand Island)	Hall	X	X	X	X	X	X
Hastings Groundwater Contamination (Hastings)	Adams	X	X	X	X	X	X
Lindsay Manufacturing Co. (Lindsay)	Platte		X	X	X	X	X
Nebraska Ordnance Plant (Mead)	Saunders	X	X	X	X	X	X
Waverly Groundwater Contamination (Waverly)	Lancaster		X	X	X	X	X
10th Street Site (Columbus)	Platte	X	X	X	X		
Cleburn Street (Grand Island)	Hall		X	X	X	X	X
Ogallala Groundwater Contamination Site (Ogallala)	Keith	X	X	X	X	X	X
Bruno Coop Association (Bruno)	Butler	X	X	X	X		
Sherwood Medical (Norfolk)	Madison	X	X	X	X	X	X
Omaha Lead Site (Omaha) (Proposed)	Douglas	X	X				
<i>Note: Various Operable Units at large sites may be at different stages.</i>							

**Federal Facilities** — The Superfund Federal Facilities program provides technical assistance and regulatory oversight to the U.S. Army Corps of Engineers in support of site assessment and cleanup activities at Department of Defense active facilities and formerly used sites. Active Federal installations include Offutt Air Force Base in Bellevue and Cornhusker Army Ammunition Plant in Grand Island. Ninety-one known formerly used defense sites exist in Nebraska that include small former defensive surface-to-air missile sites, bomber target sites, radar and communications sites and other formerly occupied Department of Defense properties. Under the current Defense-State Memorandum of Agreement, investigation and cleanup activities are being performed at 3 active sites and 27 formerly used defense sites.

### **RAPMA Program**

The Remedial Action Plan Monitoring Act (RAPMA), initially created in 1995, provides property owners and parties responsible for contamination with a mechanism for developing voluntary

environmental cleanup plans which are reviewed and approved by the Department. The program provides an avenue for businesses to proceed with cleanup of property and an opportunity for regulatory review and oversight that may not be available at the federal level. Upon completion of a project, the Department will send a letter indicating whether additional action is needed.

Currently, 13 sites are active in the voluntary cleanup program. Five sites have successfully completed cleanup requirements and have received "No Further Action" letters from the Department. This program is currently involved with the development of a comprehensive RAPMA guidance document that explains the RAPMA cleanup process and requirements to assist applicants in successfully completing redevelopment projects. Over the last year, this program has been directly involved in the extensive redevelopment activities associated with the City of Omaha Riverfront Redevelopment.

### RAPMA Sites and Status

Site	Location	Status	Date of Entry into RAPMA Program
KN Energy	Holdrege	Completed 5/01/97	4/3/95
Garvey Elevator	Hastings-West	Active	4/13/95
ASARCO	Omaha-Riverfront	Completed 10/11/01	1/8/96
BNSFRR	Lincoln-N. Havelock	Active	1/17/96
Union Pacific RR	Omaha-N. Downtown	Withdrawn 3/7/03	1/17/96
Farmland Industries	Scottsbluff	Active	2/26/96
Lincoln Journal Star	Lincoln-Downtown	Active	2/26/97
Farmland Industries	Hastings-East	Completed 9/2/03	6/25/97
Hastings Areawide	Hastings	Withdrawn 6/23/00	12/17/97
Lincoln Plating Co.	Lincoln	Active	8/17/98
Witco Corporation	Omaha-North	Completed 6/29/99	1/20/99
BNSFRR	Lincoln-Lot 9 Havelock	Completed 2/20/01	4/28/99
Dana Corporation	Hastings-West	Active	9/27/99
Ballpark Complex	Lincoln-Haymarket	Active	11/9/99
Progress Rail Services	Sidney-North	Active	11/22/99
Brownie Mfg.	Waverly-Highway 6	Withdrawn 7/19/01	4/25/00
BNSFRR	Lincoln-Havelock Yards	Active	10/26/00
New Holland	Grand Island-Southwest	Active	11/9/00
Owen Parkway East	Omaha-Abbott Drive	Active	12/13/00
Omaha Riverfront Redevelopment	Omaha-Riverfront	Active	5/18/01
Sanford & Son	Lincoln-North	Active	1/22/02

## Solid Waste Program

Solid Waste regulations are incorporated in DEQ Title 132 – Integrated Solid Waste Management Regulations. The purpose of the Program is to ensure proper management of solid waste. Solid waste includes municipal solid waste typically collected and disposed in municipal landfills and other non-hazardous waste. The regulations provide technical criteria for land disposal areas and solid waste processing facilities.

Duties associated with this program include: 1) Permit issuance, renewal and modification; 2) Response to inquiries related to facility operations; 3) Compliance inspections and enforcement actions; 4) Investigation of citizen complaints; 5) Special waste characterizations; 6) Groundwater investigations and groundwater/soil remediation projects for permitted and not permitted facilities; 7) Gas emissions monitoring related to landfills and other permitted sites; 8) Closure inspections and monitoring of closure and post-closure activities; 9) Conducting public information sessions and hearings related to permits; and 10) Financial assurance initial review and monitoring compliance.

The program regulates municipal solid waste disposal areas (landfills), construction and demolition debris sites, fossil fuel combustion ash disposal sites, industrial and delisted hazardous waste sites and land application sites for repeated disposal or treatment of special wastes. In addition, solid waste processing facilities, such as compost sites, material recovery facilities and transfer stations, are also regulated by this program.

Permit modification requests are regularly submitted by the permitted facilities. Response to the modification requests are particularly time critical since the facility may need to expand or construct new cells in order to meet their disposal capacity and continue operations.

The Department assists landfill operators in making special waste characterizations for waste that requires special handling, treatment, or disposal methodologies in order to protect public health, safety, and the environment. While many of these requests are routine, others need to be evaluated by program staff to determine if the waste is acceptable at that particular landfill.

The waste management program also coordinates with the Air Quality Division and assists in monitoring landfill gas at municipal solid waste disposal areas to ensure compliance with Title 129 – Air Quality Regulations. The program staff assists the Air Quality Division in the review of the gas collection and control system designs.

Legislative Bill 128, passed by the 2001 Legislature, gave DEQ the authority to use money in the Solid Waste Cash Fund for investigation and remediation of contamination from solid waste facilities. The bill also authorizes DEQ to seek reimbursement from responsible parties to recover these costs. It is anticipated that the ability to use this fund will greatly benefit the citizens of Nebraska by speeding the clean up of contaminated water resources.

Currently, the Solid Waste Program oversees the following number of facilities:

**Total Permitted Facilities in FY 2003**

Municipal Solid Waste Disposal Areas (Landfills)	23
Industrial Waste	1
Solid Waste Compost Sites	8
Transfer Stations	39
Materials Recovery Facilities	6
Construction & Demolition Waste Disposal Areas	19
Delisted Waste Disposal Areas	1
Fossil Fuel Combustion Ash Disposal Areas	<u>7</u>
<b>Total</b>	<b>104</b>

**Summary of Activities: FY 2003**

**Compliance**

Facility Inspections (General)	224
Facility Inspections (Construction)	6
Complaints Investigated	106
Notices of Violation	24

**Permitting**

New Permits	4
Permit Renewals	9
Major Permit Modifications	3
Transferred Permits	0
Public Hearings	1
Financial Assurance Reviews	122

**Financial Assurance and Fees**

All permitted solid waste landfills are required to provide financial assurance for closure and post-closure maintenance and monitoring. All privately owned permitted solid waste processing facilities are required to provide financial assurance for closure.

The Waste Management Section collects permit fees and annual operating fees for all solid waste management facilities. Quarterly disposal fees based on cubic yards or tonnage are collected at all municipal solid waste landfills. Fifty percent of the quarterly disposal fees are redistributed as grants through the Waste Reduction and Recycling Incentives Grants Program and fifty percent of the quarterly disposal fees are utilized for administrative costs of the solid waste program and for investigation and remediation of contamination from solid waste facilities.

## Waste Tire Management Program

The waste tire management program requirements are found in DEQ Title 136 – Waste tire Management Rules and Regulations. The purpose of this program is to ensure the proper management of waste tires in the State of Nebraska. The regulations provide the criteria for the management of waste tires, which are banned from land disposal in Nebraska. Everyone who manages waste tires, except tire dealers, is regulated under this program.

The program regulates waste tire haulers, collectors, processors and collection sites. Through the annual reports and inspection activities, the program also ensures that tires are stored properly and that financial assurance funds are available for clean up in the event that a collection site is abandoned. The program also monitors the abatement of waste tire piles that existed before 1997, and illegal waste tire piles that have been created since then.

Compliance assistance is an important aspect of this program. The outreach includes responding to telephone inquiries, letters, and contacts from other states, developing guidance documents, conducting site visits and providing technical advice. The Department has developed guidance documents to explain the proper use of waste tires for blow-out and bank stabilization, and for proper use of waste tire bales. Direct financial assistance was also available through the Waste Reduction and Recycling Incentives Grant program that is described later in this chapter.

### Permit Totals, FY2003

Haulers	27
Collectors	7
Collection Sites	10
Processors	7

### Compliance

Notices of Violation	12
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### Permitting

New Permits	5
Permit Renewals	4
Transferred Permits	0

The Waste Tire Program compliance assurance program includes facility inspections, complaint investigations and appropriate enforcement actions. Compliance activities are included in the summary of activities for the Solid Waste Program.

The 2003 Legislature passed LB143, which became effective August 31, 2003. This statute eliminated the permitting program for waste tire processors and collection site owners, but retained the permitting program for waste tire haulers. The law provides that waste tires will be regulated under the Integrated Waste Management Act.

## Planning and Aid

Waste Planning and Aid includes the following programs: the Waste Reduction and Recycling Incentive Grants Program; the Litter Reduction and Recycling Grant Program; the Illegal Dumpsite Cleanup Program; and the Landfill Disposal Fee Rebate Program.

### **Waste Reduction and Recycling Incentive Grants Program**

In 1990, the Nebraska Legislature passed Legislative Bill 163, the Waste Reduction and Recycling Act, which created the Waste Reduction and Recycling Incentive Grants Program.

There are three sources of revenue for this program:

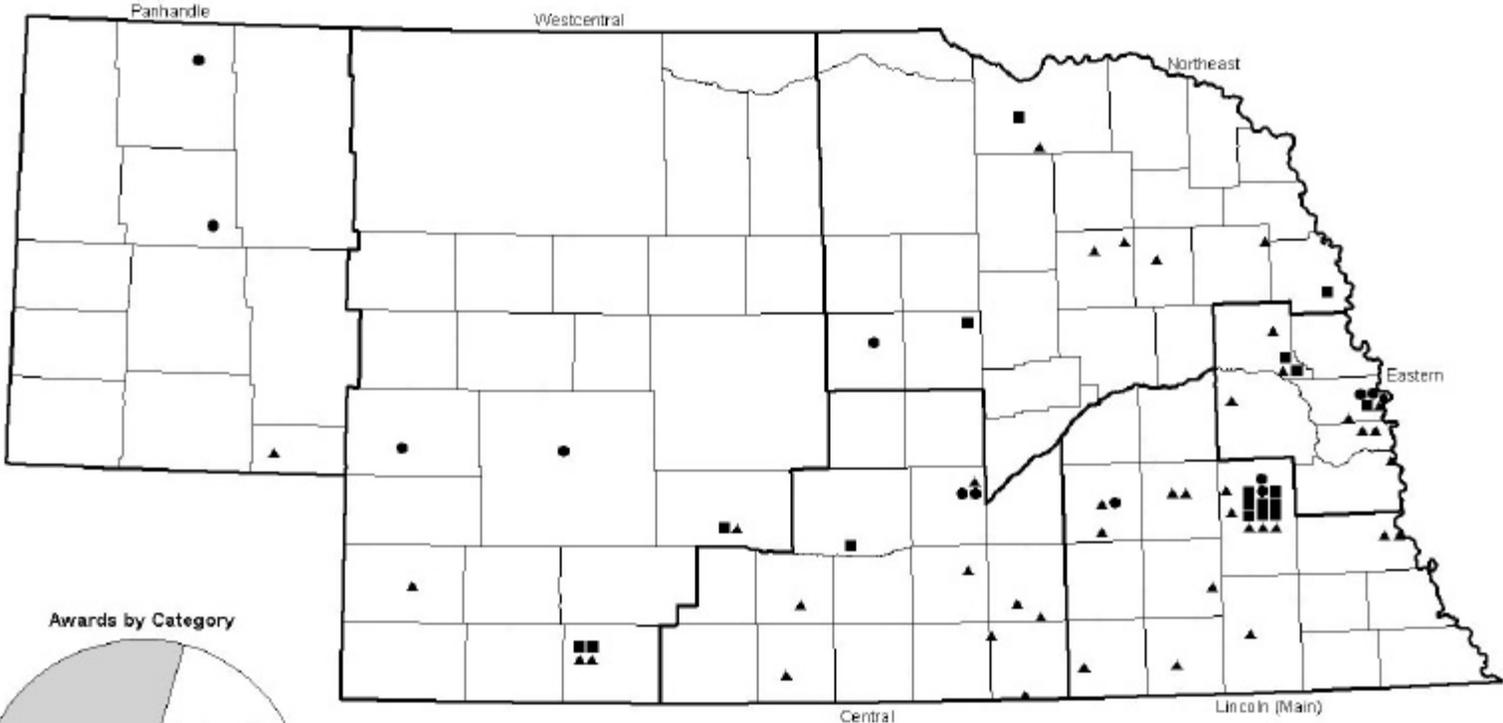
- A business fee on sales of tangible personal property, which generates about \$700,000 annually.
- A \$1 per tire fee on the retail sale of new tires in Nebraska, which generates about \$1.6 million annually;
- Fifty percent of the \$1.25 per ton disposal fee on solid waste disposed of in permitted landfills, which generates approximately \$1.1 million annually for grant awards.

The Waste Reduction and Recycling Incentive Fund provides grants to assist in financing sound integrated waste management programs and projects. These programs and projects may include, but are not limited to: recycling systems; market development for recyclable materials; intermediate processing facilities and facilities using recyclable materials in new products; yard waste composting and composting with sewage sludge; waste reduction and waste exchange; household hazardous waste programs; the consolidation of solid waste disposal facilities and use of transfer stations; and incineration for energy recovery. A portion of the grants is also obligated to fund scrap tire recycling or reduction projects.

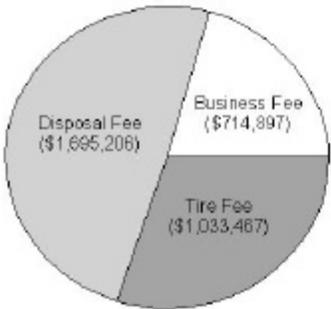
Part of the landfill disposal fee is awarded in the form of rebates to counties and municipalities through the disposal fee rebate program. LB 592, passed in 1999, provides for multi-year renewable grants to political subdivisions. Priority for multi-year grants is given to applicants who address the first component of the solid waste hierarchy, which includes toxicity reduction, and to those that indicate regional participation. Multi-year grants are limited to 50 percent of the designated fees available in the Waste Reduction and Recycling Incentive Fund after rebates and can be renewed for a period of up to five years. Applicants for multi-year grants must submit, or have on file, an updated integrated solid waste management plan.

**Summary of Activities** -- For calendar year 2003, the Department awarded \$3,443,570 in the Waste Reduction and Recycling Incentive Grants Program to seventy-two programs. Twelve of these grants were awarded in the Business Fee category (\$714,897), eighteen were awarded from the Disposal Fee (\$1,695,206) category, and forty-two received grants from the funds (\$1,033,467) set aside from the scrap tire funds. The following map shows the locations across Nebraska that received funds.

# Waste Reduction and Recycling Incentive Grants Program 2003 Grant Awards



**Awards by Category**



■ Disposal Fee	\$1,695,206	18 grants, including 5 regional
● Business Fee	\$714,897	12 grants, including 1 statewide and 2 regional
▲ Tire Fee	\$1,033,467	42 grants, including 3 regional, and 1 out of state
<b>Total</b>	<b>\$3,443,570</b>	<b>72 grants</b>

**Litter Reduction and Recycling Grant Program**

The Litter Reduction and Recycling Grant Program has been in existence since 1979. Its purpose is to provide funds to support programs to reduce litter, provide education, and promote recycling in Nebraska.

Funds from this program are provided from an annual fee assessed to manufacturers, wholesalers, and retailers having gross receipts of at least \$100,000, on products that commonly contribute to litter. For manufacturers, the annual litter fee is equal to \$175 for each million dollars of gross products manufactured. The annual litter fee for wholesalers and retailers is equal to \$175 for each million dollars of the sales made in the state. Approximately \$1.2 million is available annually.

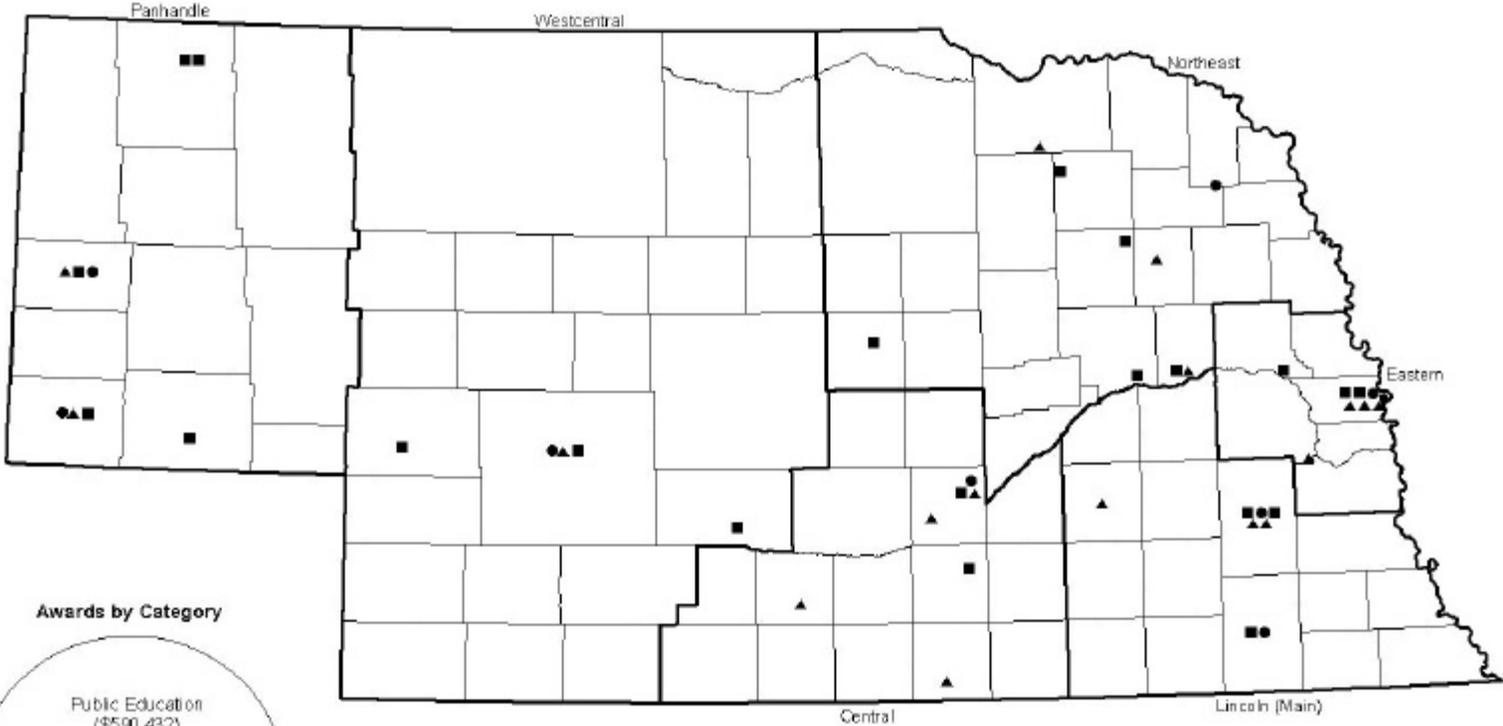
The annual litter fee is imposed on products in the following categories:

- Food for human consumption, beverages, soft drinks, carbonated water, liquor, wine, beer, and other malt beverages, unless sold by retailers solely for consumption indoors on the retailer's premises;
- Food for pet consumption;
- Cigarettes and other tobacco products;
- Household paper and household paper products;
- Cleaning agents; and
- Kitchen supplies.

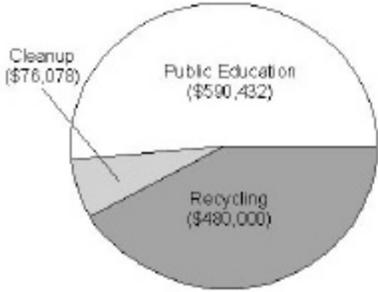
The Litter Reduction and Recycling funds are awarded in three categories listed below. Each year the Environmental Quality Council establishes the percentages for allocation of funds for each category. The chart below shows amounts awarded, number of grantees, and purpose of the grants.

<b>Category</b>	<b>Percentage allocation</b>	<b>Number of grantees</b>	<b>Amount Awarded</b>	<b>Purpose of grants</b>
Public Education	50%	21	\$590,432	Programs promoting recycling, the reduction of litter and a desire for a cleaner environment, and securing greater awareness of and compliance with anti-litter laws.
Cleanup	10%	8	\$ 76,078	Litter cleanups of public highways, waterways, recreation lands, urban areas, and public places.
Recycling	40%	17	\$480,000	New or improved community recycling and source separation programs. An important key to successful long-term recycling in Nebraska is establishing lasting markets for the recycled commodities that we collect. The Department continues to give priority consideration to recycling proposals contributing to market development.
<b>Total</b>	<b>100.0%</b>	<b>46</b>	<b>\$1,146,510</b>	

# Litter Reduction and Recycling Grant Program 2003 Grant Awards



**Awards by Category**



■ Public Education	\$590,432	21 grants, including 2 statewide and 3 regional
● Cleanup	\$76,078	8 grants, including 1 regional
▲ Recycling	\$480,000	17 grants, including 2 statewide and 1 regional
<b>Total</b>	<b>\$1,146,510</b>	<b>46 grants</b>

**Illegal Dumpsite Cleanup Program**

The Illegal Dumpsite Cleanup Program, established in 1997, is a cleanup program which provides funding assistance to political subdivisions for the cleanup of solid waste disposed of along public roadways or ditches. Through this program, items such as household waste, white goods, construction and demolition waste, and furniture are removed from the illegal site and disposed in a permitted facility or recycled.

Funding for this program is limited to five percent of the total revenue from the disposal fee collected from landfills in the preceding fiscal year. Approximately \$120,000 is available annually.

During fiscal year 2002-2003, \$111,579 was reimbursed to political subdivisions for the cleanup of illegal dump sites. A total of eleven political subdivisions received funding through the program. This included four counties, five municipalities, a state agency, and one solid waste agency. The completed cleanups have been responsible for the proper handling of illegally disposed waste and preservation of the beauty of Nebraska's roadsides.

The Department is encouraging municipalities, counties, and other political subdivisions to submit applications for the reimbursement of cleanup efforts.

**Landfill Disposal Fee Rebate Program**

The Landfill Disposal Fee Rebate Program was created as an incentive to political subdivisions to support and encourage the purchasing of products, materials, or supplies which are manufactured or produced from recycled material. Funding for the program is drawn from the Waste Reduction and Recycling Incentive Fund.

Under the program, which was created in 1994, any municipality or county may apply for a rebate if they have a written purchasing policy in effect requiring a preference for purchasing products, materials or supplies which are manufactured or produced from recycled material. If the policy is approved by NDEQ, the applicant may receive a 10 cent rebate from the \$1.25 per ton disposal fee. Rebates are issued quarterly.

Since its inception, seven communities have participated in the program. A total of \$79,326 in rebates were awarded in fiscal year 2002-2003.

# CHAPTER 6:

## Water Quality Division

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The goal of the Water Quality Division is to protect the surface and groundwater resources in Nebraska. This chapter describes the major programs that the Water Quality Division administers.

### **Petroleum Remediation Program**

DEQ's activities regarding the Petroleum Remediation Program involve two inter-related program areas: 1) overseeing remediation of petroleum contamination resulting from leaking above ground storage tanks and leaking underground storage tanks; and 2) administering a remediation assistance fund for persons responsible for cleanup costs due to petroleum releases from tanks.

### **Petroleum Remediation/Title 200 Reimbursement Fund**

The first step in the Petroleum Remediation Program is the review of tank removal assessment reports to determine whether potential contamination exists. In the event these reports indicate a threat to health, safety, or the environment, the program then requires a detailed study of the affected groundwater and soil to discover the severity of the contamination, direction of flow, and potential water supplies or points of exposure that may be impacted. Program staff review these reports to determine cleanup requirements and issue public notices with their decisions. Staff review remedial actions throughout the project and determine when sufficient cleanup has been accomplished. The program also has several "orphan" sites for which remediation is commencing through contracts paid with federal or state funds.

Due in part to the recommendations of a technical advisory committee and legislative requirements, the program has developed risk-based corrective action (RBCA) regulations and accompanying guidance. The RBCA process will allow evaluation of all petroleum release sites based on the risk they pose to human health. Those that pose no risk will be closed; those that pose significant risk will be prioritized for further work. For the past four years, the program has been initiating several investigations each month to collect information needed for Tier 1, the first step in the RBCA process. The plan is to investigate additional sites each month until eventually the information necessary for a RBCA Tier 1 evaluation has been collected at all sites. Sites that fail Tier 1 are being activated for Tier 2, the next step in the RBCA process.

Since June 1999 and through the end of September 2003, 1,268 Tier 1 site investigations have been initiated. Of the 708 Tier 1 field investigations completed thus far, 512 (72%) were closed, and 196 were determined to need a more detailed Tier 2 investigation. Of the 708 sites that have completed a Tier 1 or Tier 2 investigation, 120 (17%) have reported finding the contaminant methyl tert-butyl ether (MTBE) in groundwater. Since April 2002, 191 Tier 2 investigations have been initiated. Out of the 83 completed by September 2003, 70 (84%) have been closed.

The Petroleum Remediation Program is also responsible for the Petroleum Release Remedial Action Reimbursement Fund, established to help pay remediation costs for owners/operators of facilities which have leaking petroleum tanks. Costs for both underground and above ground tank releases are eligible for reimbursement. To assist applicants, the program developed guidelines entitled "Reasonable Rates Schedule and Reimbursement Guidance Manual" (addendum added in May 2001). The program's activities in this area include receiving and processing applications for

reimbursement from the fund and subsequently initiating reimbursements for eligible costs. Processing of applications involves:

- Reviewing the completeness of the applications;
- Checking compliance with requirements of tank registration and removal;
- Evaluating eligible costs as defined by Department regulations (Title 200);
- Determining if reasonable rates are being charged by consultants for the work; and
- Determining if the work plans and actions undertaken are consistent with the Department's regulations.

The revenue going into the fund is over \$10 million annually. As of June 30, 2003, a total of \$70,190,207 has been disbursed since the program began. During the past year, DEQ reimbursed \$4,470,803 to 142 active sites and an additional \$1,611,204 to 183 Tier 1 sites.

The following list of 15 sites, all but one of which are active, have received a total reimbursement of more than \$600,000 each. Once the statutory limit is reached (either \$975,000 or \$985,000, depending on the applicable deductible/co-payment amount), the responsibility of funding the remainder of cleanup necessary reverts to the responsible person.

Site name	City	Reimbursed amount (as of June 30, 2003)	Site Status (as of June 30, 2003)
BURLINGTON NORTHERN RR	ALLIANCE	\$975,000.00	active
KONECKY OIL	MEAD	\$975,000.00	active
BURLINGTON NORTHERN RR	ALLIANCE	\$972,578.98	active
ELKHORN VALLEY COOP	SNYDER	\$938,547.46	active
BURLINGTON NORTHERN & SF	MC COOK	\$938,315.01	active
PETERSON OIL CO INC	DAVENPORT	\$890,079.65	active
COOP FIRTH	FIRTH	\$869,268.00	active
GORDON AIRPORT AUTHORITY	GORDON	\$863,798.65	closed
TOMAHAWK TRUCK STOP	NORTH PLATTE	\$796,819.87	active
CORNER SERVICE	BANCROFT	\$770,606.90	active
NEITZEL OIL CO.	SPRINGFIELD	\$758,776.03	active
HENKEL OIL CO	NORFOLK	\$680,843.85	active
KLEPPER OIL	DU BOIS	\$657,300.42	active
KANEB PIPELINE	NORFOLK	\$637,365.48	active
WHITEHEAD OIL 33RD A	LINCOLN	\$633,757.79	active

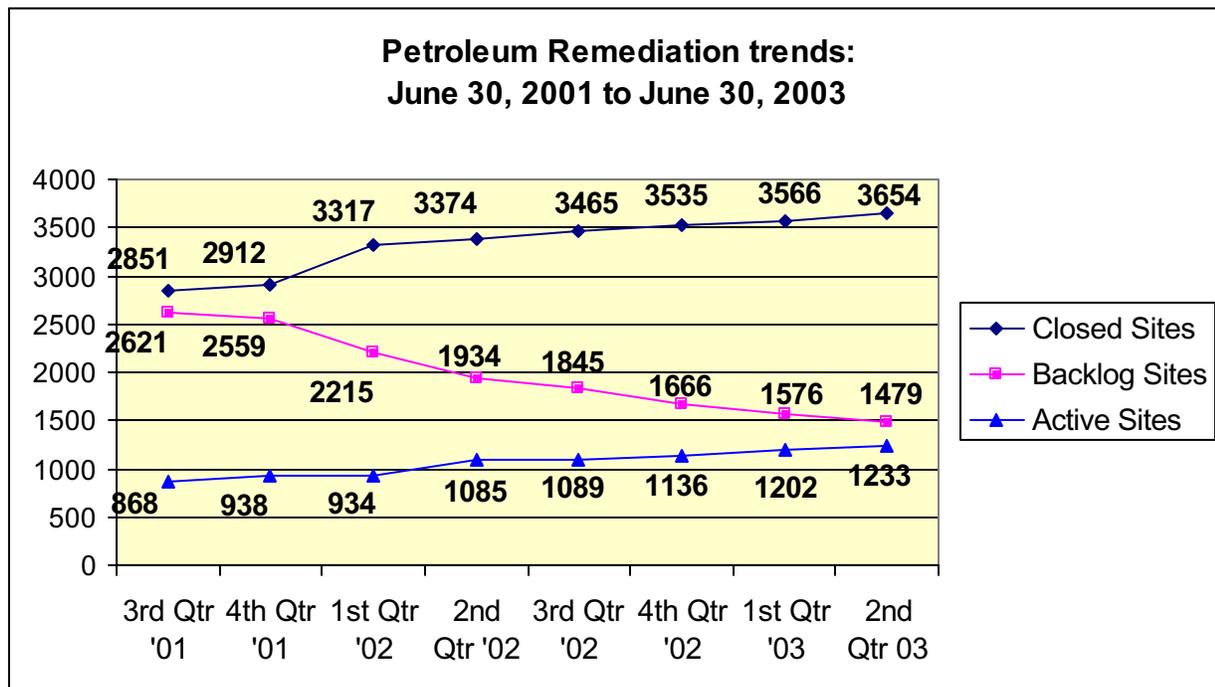
Responsible persons are able to perform voluntary remedial action prior to DEQ's approval of their plans and still be eligible for reimbursement consideration in the future. This allows sites to move forward on their own if the responsible persons do not want to wait for sufficient DEQ resources to be available. Since April 1996 when the law was enacted through September 2003, 111 suspended or backlogged LUST sites have been closed based on voluntary submittals.

As of October 2003, there were an additional 161 orphan sites in some stage of investigation/cleanup. There were also 640 "orphan" sites waiting on the inactive list. DEQ uses federal and state money for investigation and cleanup of these sites.

The following is a chart of quarterly activities for the last two fiscal years relating to Petroleum Remediation sites in Nebraska. The chart provides information relating to:

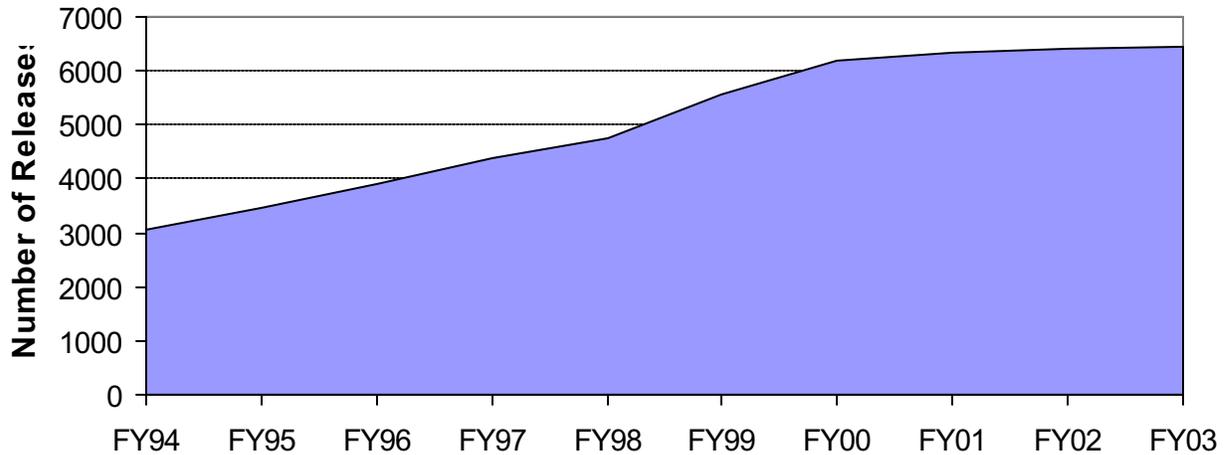
- **Closed Sites:** Sites that have been closed either because they have been cleaned up or it has been determined that no cleanup is necessary
- **Backlogged Sites:** Sites identified as potentially needing cleanup, but are on a waiting list for further investigation
- **Active Sites:** Sites that are currently being actively investigated or remediated

The number of backlogged sites continues to be reduced each quarter, due to the fact that more sites are being placed on the active list or have been closed.

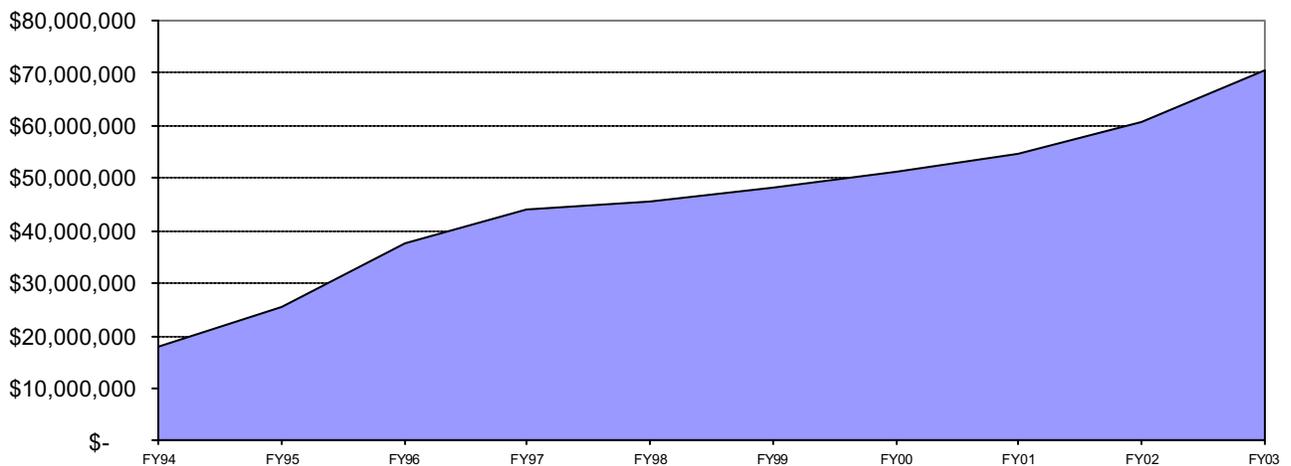


The chart below shows the cumulative number of sites that have had releases in the last several years. The second chart shows the cumulative amount that the program has spent on investigation and cleanup.

### Cumulative LUST Release Totals (last 10 years through FY03)



### Cumulative Title 200 Disbursements (last 10 years through FY03)



## Agriculture Programs

During FY2003, the Agriculture Section's Livestock Waste Control Program was evaluated by the Legislative Program Evaluation Unit (LPEU), began implementation of the newly approved National Pollutant Discharge Elimination System (NPDES) general permit for open-lot livestock operations; started planning for compliance with the new Concentrated Animal Feeding Operation (CAFO) regulations adopted by the U.S. Environmental Protection Agency (EPA); and held outreach meetings for livestock producers around the state – all in addition to the Section's regular program duties.

In addition to the Livestock Waste Control Program, the Agriculture Section administers the Chemigation and Agricultural Chemical Secondary Containment programs. During FY2003, more than 14,000 chemigation permits were issued, and a previous Secondary Containment violation case was settled, in which the violator paid a \$30,000 fine.

FY2003 saw a more than 50% drop in the number of initial inspection requests and permit applications received by the Livestock Program. This decline allowed program staff to focus on reducing the backlog of initial inspection requests; increasing the number of routine inspections, particularly of larger livestock operations; and nearly complete the conversion of about 15,000 paper files to an electronic database. The Agriculture Section recently began placing information about permit applications on public notice on the Department's web site, in addition to the required legal notice in a local newspaper.

The Legislative Program Evaluation Unit evaluated the effectiveness and efficiency of the Livestock Waste Control Program since 1998, as well as the program's level of compliance with the Livestock Waste Management Act. Agriculture Section staff provided the LPEU staff with information about the Livestock Program's activities and procedures from 1998 through 2002, including statistics, file reviews and on-site tours of a number of livestock operations. The results of the Livestock Program evaluation and DEQ's response have been completed and are available at DEQ's Lincoln offices.

During FY2003, the Livestock Program evaluated comments received during the public comment period and from two public hearings on the proposed general NPDES permit for open lot livestock operations. The general permit was issued effective April 1, 2003, and will expire March 31, 2008. The program notified existing eligible livestock operations of the issuance of the general permit and began receiving applications for coverage under that permit. The Department has received 74 applications for the general NPDES permit. As of June 30, 2003, 10 livestock operations had been notified that they were approved for coverage issued under the general NPDES permit. A separate public notice is not required for applications for this coverage. Some operations with unique circumstances may not qualify for the general permit and may still need to seek coverage under an individual NPDES permit.

In December 2002, the Environmental Protection Agency revised the Clean Water Act regulations for Concentrated Animal Feeding Operations (CAFO). During FY2003, Agriculture Section and EPA staffs held six meetings, attended by about 250 livestock producers, around the state – Bridgeport, Cozad, Enders, Norfolk, Columbus and Lincoln – to discuss the new regulations with producers. The Livestock Program staff plan additional meetings on CAFO regulations and legislation with producers statewide during the upcoming fiscal year.

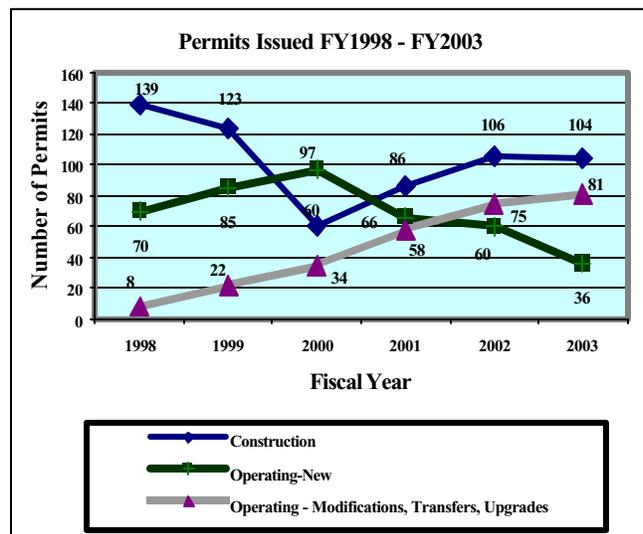
The conversion of the Section’s more than 15,000 paper files to an electronic database was nearly completed during FY2003. The Department now can provide certain types of information on livestock permits and operations in Nebraska with greater efficiency and accuracy. Certain standardized information reports are available upon request.

**Livestock Waste Control Program**

The Livestock Waste Control Program is responsible for administering Title 130, “Rules and Regulations Pertaining to Livestock Waste Control,” which applies to livestock operations. Calving operations holding cattle less than 90 days per year and most livestock operations with less than 300 animal units are exempt from Title 130 regulations.

The program oversees livestock waste control facilities that range from holding ponds and debris basins to lagoons and lift stations. The Livestock Program is responsible for permitting the construction and operation of livestock waste control facilities and the methods operations use to dispose of the livestock waste. If a livestock operation discharges, or has the potential to discharge, livestock waste, the Department may determine that a permit for a livestock waste control facility is needed. The program also receives the fees required when initial inspection requests and permit applications are submitted.

Program staff, consisting of four engineers and five program specialists, conduct inspections, review permit applications and issue permits for livestock waste control facilities statewide. In addition, there are three field office staff assigned on a part-time basis to work with the Livestock Program. The program specialists conduct initial, post-construction, compliance, routine and complaint inspections of livestock operations subject to Title 130; write permits for construction and operation of livestock waste control facilities; and provide compliance assistance. The Department is required to process permit applications and make permitting decisions within specified time frames.



To ensure compliance with Title 130, the Section engineers review all applications submitted and any modifications or design changes; evaluate test results; and provide compliance assistance to applicants. During FY2003, the Section’s engineers performed 893 reviews or compliance assistance activities, down slightly from last fiscal year. The decline in the number of reviews or compliance assistance is attributed, in part, to a significant drop in the number of applications submitted this year compared to last year.

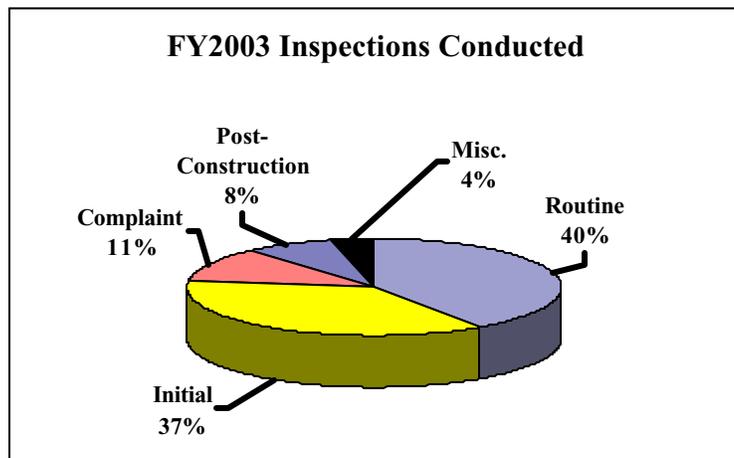
During FY2003, 104 new construction permits were issued, about the same number as the previous year. However, the number of applications received during FY2003 declined by 51% from FY2002 figures (46 applications in FY2003 versus 93 applications the previous year). The number of

construction permits issued in any year includes the issuance of permits for some applications received during the previous year(s).

Although the number of new State Operating Permits issued in FY2003 dropped by about 40% from the number issued the previous year (36 permits compared to a revised figure of 60 permits in FY2002), the number of modified, upgraded or transferred operating permits issued remained about the same as FY2002 numbers – 81 modified operating permits in FY2003, compared to a revised FY2002 figure of 75 permits. The modified operating permit numbers include modifications, upgrades to new Title 130 requirements or transfers of existing State Operating Permits.

As a result of the decline in new operating permit numbers and the flat trend in the construction and modified permit numbers, fewer permits were issued in FY2003 than in FY2002 -- a total of 221 permits in FY2003, compared to 241 permits in FY2002.

In addition to the state permitting program, the Livestock Waste Control Program administers the National Pollution Discharge Elimination System (NPDES) permitting program for Nebraska. The NPDES permit prohibits and limits discharge to waters of the State and requires control of runoff up to the amount resulting from a 25-year, 24-hour storm event. In Nebraska, only open-lot livestock operations currently are eligible for NPDES permits. That eligibility will change as the new NPDES regulations are adopted, making totally confined operations also subject to NPDES requirements.



As stated previously, some of these operations that previously had an individual NPDES permit may be eligible for the new general NPDES permit. As the Livestock Program staff began evaluating current NPDES individual

permits for eligibility under the general permit, some permitted operations were found to be inactive. Currently, in addition to the 10 operations permitted under the general NPDES permit, 177 livestock operations have active individual NPDES permits, a revision from last year's estimate of 213 permitted operations.

Again this year, the number of complaints received and the number of initial inspection requests received declined from the previous year. The decreased numbers allowed program staff to focus on reducing the backlog of initial inspections received in previous years and on conducting routine

**Inspections conducted by type FY2003 vs. FY2002**

Inspection Type	FY2003	FY2002
Routine & Maintenance	431	372
Initial	393	338
Complaint	120	118
Post-Construction	81	84
Miscellaneous	41	38

inspections of currently permitted operations.

The number of initial inspection requests received in FY2003 from new or expanding livestock operations dropped more than 56% from the previous year: 51 requests received in FY2003, compared to 116 requests received in FY2002.

The total number of inspections of livestock waste control facilities conducted by Livestock Program staff rose by 12% in FY2003. Staff conducted a total of 1,066 inspections in FY2003, compared to 950 inspections in FY2002. These numbers represented a significant effort by staff to address the remaining backlog of initial inspections for small (1,000 animal units or less) livestock operations.

The program staff also increased their focus on routine inspections, particularly of larger livestock operations, with the majority of the routine inspections being done on operations with 1,001 to 20,000 animal units. The program received slightly fewer complaints about livestock operations this year than in FY2002, but the number of complaint inspections conducted remained about the same as last year (see table), due to carryover of complaints from the previous fiscal year.

General information about the Livestock Waste Control Program, fact sheets, forms, guidance documents, the new general NPDES permit and a list of livestock operation permit applications on public notice are available on the Department's web site, [www.ndeq.state.ne.us](http://www.ndeq.state.ne.us).

### **Chemigation Program**

The Chemigation Program is responsible for protecting the irrigation water source from contamination by fertilizer or pesticides, as established in the Nebraska Chemigation Act. When fertilizer or pesticides (i.e., fungicide, herbicide or insecticide) are being applied through an irrigation system, the Chemigation Program and Nebraska's 23 Natural Resource Districts (NRDs) work together to ensure that chemigation applicators and irrigation systems comply with the requirements of the Chemigation Act and Title 195, "*Rules and Regulations Pertaining to Chemigation.*"

The NRDs are responsible for inspecting and permitting the specific safety equipment that must be installed on the irrigation system. Since permitting began in 1987, the total number of annual permits followed an upward trend initially, but has leveled off in recent years, with 14,217 site permits issued in FY2003.

The Department certifies all chemigation applicators. To receive certification, the applicators must complete training and testing, which is provided by the University of Nebraska Cooperative Extension system. Applicators must be re-certified every four years. In FY2003, 1,885 applicators were trained, tested and certified, bringing the total number of certified chemigation applicators to 3,829 applicators. Information about chemigation applicator training dates and certified applicators is available on the Department's web site, [www.ndeq.state.ne.us](http://www.ndeq.state.ne.us).

### **Agricultural Chemical Secondary Containment Program**

The Agricultural Chemical Secondary Containment Program administers Title 198, "*Rules and Regulations Pertaining to Agricultural Chemical Secondary Containment*" for commercial and private secondary containment and loadout facilities for bulk liquid fertilizer and pesticide storage. The Secondary Containment Program and Title 198 also regulate loading and rinsing activities of custom applicators of liquid fertilizers and pesticides.

The regulations provide specific requirements for design by a Nebraska Registered Engineer, construction materials, containment capacities and maintenance. Although no permit or registration is required, the operation must have a construction plan for the facility, including a management program.

In FY2003, the Department investigated 4 new complaints involving fertilizer or pesticide storage facilities. The Department has a cooperative agreement with Nebraska Department of Agriculture's Pesticide Program, which has referred cases to NDEQ in the past. One previous case was settled, in which the violator paid a \$30,000 fine. Most cases have been investigated and resolved by voluntary compliance or found to be unsubstantiated.

## Surface Water Assessment Programs

The Surface Water Unit collects physical, chemical, and biological water quality samples from streams and lakes throughout the state in conjunction with a rotating basin monitoring strategy. This strategy targets surface water monitoring in two or three river basins each year instead of throughout the entire state. Targeting resources in this manner improves the Department's ability to identify and remediate water quality problems and allows limited resources to be focused where they can produce the greatest environmental results. During a five-year cycle, all 13 river basins in the state are intensively monitored. These data are used to document existing water quality conditions, assess the support of beneficial uses (such as recreation, aquatic life, public drinking water supply), and prioritize water quality problems. The current five-year rotating monitoring cycle is listed below:

- 2003 — Loup, Niobrara, and White River-Hat Creek river basins;
- 2004 — Lower Platte and Nemaha river basins;
- 2005 — Elkhorn and Missouri Tributaries river basins; and
- 2006 — Middle Platte, North Platte, and South Platte river basins;
- 2007— Big Blue, Little Blue and Republican river basins

During 2003, surface water monitoring resources were primarily targeted in the Loup, Niobrara, and White River-Hat Creek river basins. Monitoring efforts were coordinated to the extent possible with other Department sections and with other agencies and organizations. These data will be included in a biennial water quality report to Congress and in other water quality reports produced by the Surface Water Unit. A brief description of the surface water monitoring activities conducted during 2003 follows.

**Basin Rotation Monitoring Network** – A total of 48 streams and 4 lakes in the Loup, Niobrara, and White River-Hat Creek river basins were sampled weekly from April through September for traditional parameters, bacteria and pesticides to document existing water quality conditions and assess the support of beneficial uses. These data were used, in part, to assess suitability of water quality for primary contact recreational activities such as swimming, rafting, tubing, and canoeing. The lake bacteria data were reported on the NDEQ web page to provide current information to the public on the suitability of these swimming beaches for primary contact recreation. During 2003, a total of 1,630 samples were collected for this network.

**Ambient Stream Monitoring Network** – This network was initiated in 2000 with the primary objective of providing information on the status and trends of water quality in Nebraska streams, and linking assessments of status and trends with natural and human factors that affect water quality. In addition, this network samples fish communities in coldwater streams to document existing or potential Coldwater Class A stream designations (streams capable of supporting a self-sustaining trout population).

The Ambient Stream Monitoring Network includes representative mainstem and tributary stream sites in all 13 river basins and incorporates ecoregion and land use considerations. Initially, this network consisted of 42 sites; however, in 2002, the network was expanded to 98 sites. Water samples are collected monthly and analyzed for a variety of chemical and physical parameters. In addition, heavy metals are analyzed quarterly and fish communities are sampled once a year in coldwater streams. During 2003, a total of 1,368 water samples were collected for this program.

**Ambient Fish Tissue Monitoring Program** — Forty-six fish tissue samples were collected from 27 streams and lakes across Nebraska for analysis of toxic pollutants during 2003. This information is used to assess toxic pollutant trends, identify problem areas, and assess and report on the suitability of fish for human consumption. Based on fish tissue information collected prior to 2003, fish consumption advisories will be issued or reissued for 39 sites in 2003, including 20 stream or canal segments and 19 lakes. New advisories will be issued for Phillips Lake near Lexington, North Platte River near Oshkosh, Nine-Mile Creek near Minatare, East Hershey Pond and Birdwood Creek near North Platte and Elwood Reservoir near Elwood based on elevated levels of mercury.

Advisories for suspected carcinogens are based on an average consumption rate of eight ounces of fish per week for an average sized adult over a 71-year lifetime that could result in an additional cancer risk of one in 10,000. For mercury, a noncarcinogen, an action level has been adopted for the protection of women of child-bearing age, infants, and adolescents less than 15 years of age. There is no immediate health risk from consuming an occasional meal of fish from these waterbodies. However, in order to reduce health risks that may result from long-term consumption of contaminated fish, it is recommended that consumption of fish from advisory waters not exceed an average of eight ounces of fish per week. The primary contaminants of concern in Nebraska fish are PCBs, mercury and dieldrin.

**Joint State Atrazine Monitoring Program** — The Joint State Atrazine Monitoring Program is an interstate cooperative effort between Nebraska and Kansas in the Big Blue River Basin to address public drinking water concerns about atrazine in Kansas surface waters. About two-thirds of the Big Blue River drainage is located in Nebraska; therefore, interstate cooperation is essential to the success of this program. Atrazine monitoring was initiated in 1997 at 14 stream sites in Nebraska and eight stream sites in Kansas. To better identify critical areas of atrazine runoff, the network was expanded to 17 stream sites in Nebraska and 10 in Kansas and the herbicides alachlor, acetochlor, and metolachlor were added. Best management practices will be targeted in these critical areas. In 2003, weekly grab samples were collected from April through September and monthly grab samples were collected from October through March at each of the 27 sites. A total of 754 samples (442 samples in Nebraska) were collected in 2003. In addition, runoff samples were collected at eight sites during times of significant precipitation from April through September.

**Regional Environmental Monitoring and Assessment Program (R-EMAP)** — The R-EMAP Program involves a unique randomized sample design that allows water quality status and trend assessments to be made with a known level of confidence. This program was initiated in 1994 and involves the collection of water, sediment, habitat, fish and macroinvertebrate samples from wadeable streams in conjunction with the rotating basin monitoring strategy. During 2003, no samples were collected for this network so that available resources could be used to assess the data collected during the previous five years and revise the biometrics used in evaluating the health of aquatic life populations. R-EMAP monitoring is expected to resume in 2004.

**Lake Monitoring Programs** — Lake water quality data was collected for several monitoring programs during 2003. A 25-lake ambient network involving the collection of monthly water samples from May through September was initiated in 2002 and continued through 2003. These data will be used to document existing water quality conditions and long-term trends. Similar monthly samples were collected from an additional 20 lakes to provide Pre and Post project data used to prioritize project needs and to evaluate effectiveness of Non-Point Source (NPS) pollution projects. During 2003, a total of 245 lake samples were collected statewide for these programs. In addition, weekly E. coli bacteria samples were collected from 18 swimming beaches in lakes during May thru September

This data was reported on the NDEQ web page to provide current information to the public on the suitability of these beaches for swimming.

**Nonpoint Source Monitoring** — Monitoring and assessment of surface water quality for nonpoint source pollution is crucial for effective implementation of the Nebraska Nonpoint Source Management Program. These data are used to identify and prioritize nonpoint source problem areas, develop nonpoint source watershed management plans, and evaluate the effectiveness of measures implemented to control nonpoint source pollution. Most of the surface water monitoring programs described above can be utilized for this purpose. However, the following specific nonpoint source sampling activities were also conducted during 2003: Twenty-two lake inlet streams were sampled during periods of significant precipitation to provide information on nutrient and sediment loading to lakes during runoff events; Bathymetric surveys were conducted on 9 lakes and sediment basins to provide a measure of the rate at which each lake was filling with sediment; and biological assessments were conducted on three lakes to evaluate pre and post project restoration conditions.

**Fish Kill and Citizen Complaint Investigations** —Forty-five fish kills were reported between July 1, 2002 and June 30, 2003. Most of these were attributed to low oxygen from winter and summer kill of vegetation, low flows, temperature stress and disease/parasite. A total of 29 citizen complaints were also received by the Surface Water Unit from July 1, 2002 to June 30, 2003. On-site investigations were conducted, as needed, to document existing water quality conditions, surface water quality standards violations and identify pollution sources.

## Groundwater Assessment Programs

### Groundwater Quality Monitoring Report

Legislation passed in 2001 directs NDEQ to issue an annual report to the Legislature concerning the quality of the groundwater in Nebraska. The first of these reports was issued December 1, 2001. The newest report was issued December 1, 2002 and is available on NDEQ's web site. These reports summarize the water quality monitoring efforts of the Natural Resources Districts, NDEQ, and other state, local, and federal agencies. Statistics and maps showing nitrate-nitrogen groundwater monitoring results, as well as four of the 42 pesticides sampled for in the state were presented. The report uses data from the Quality-Assessed Agrichemical Contaminant Database for Nebraska Groundwater, developed cooperatively by the Nebraska Department of Agriculture, University of Nebraska-Lincoln, and Nebraska Department of Environmental Quality using federal funding. These data are accessible to the public on the Nebraska Department of Natural Resources web site, [www.dnr.state.ne.us](http://www.dnr.state.ne.us).

### Hydrogeologic Studies and Reviews

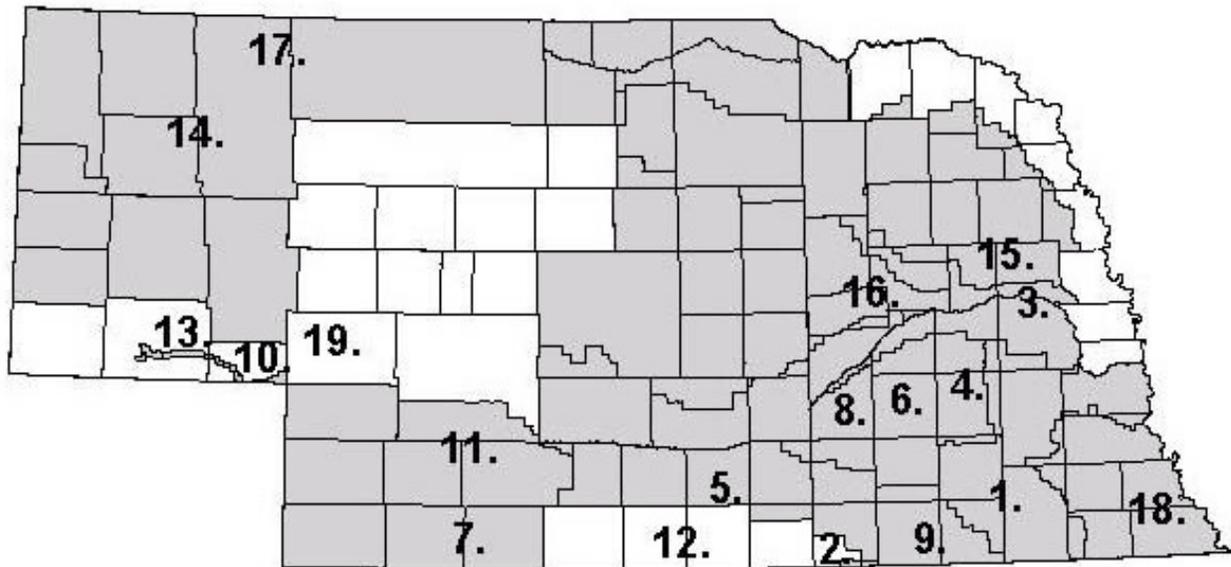
The Groundwater Unit is responsible for hydrogeologic review of various Department projects and programs to determine possible effects on groundwater quality and to recommend possible courses of action. Programs for which this review is performed include leaking underground storage tanks and surface petroleum spills, underground injection control, wastewater treatment facilities, septic systems, NPDES permits, livestock waste control facilities, the Natural Resources Districts' Groundwater Management Plans, and others.

In addition, the Unit performs studies if a situation does not fall under another program and is of environmental significance. Unit personnel continue to take responsibility under Title 118 for many site investigations and have sampled and supervised site cleanups.

### Groundwater Management Areas

The Groundwater Management Area (GWMA) program focuses on assessing areas where groundwater problems from nonpoint source contaminants (such as agricultural chemicals) exist or are likely to exist. The Agency carries out detailed field studies to collect groundwater data, assesses the data, and determines whether a correlation exists between land use practices and any nonpoint contamination trends. The Department's conclusions and recommendations are presented at public hearings during which public comments on the study are also obtained. The Director makes a determination on whether or not to designate the study area as a Groundwater Management Area. The staff works closely with the Natural Resources District(s) (NRDs) within whose boundary the area is located throughout the investigation, designation and implementation stages. The NRDs are responsible for implementation of many aspects of this program. In fact, NRDs can designate Groundwater Management Areas acting on their own authority. In addition to the three NDEQ-designated areas, 19 NRDs have designated or will shortly designate GWMA's within their jurisdiction. However, if an NRD does not implement a Groundwater Management Area, the Department has the responsibility of implementation. The following map shows NDEQ study areas (numbers) and existing GWMA's (shaded areas).

## Progress in the Groundwater Management Area Program



### NDEQ GWMA Studies

- |                                   |                                      |
|-----------------------------------|--------------------------------------|
| 1. Beatrice/DeWitt, 1988          | 11. N Middle Republican, 1995        |
| 2. Superior, 1988                 | 12. Lower Republican, 1996 – 97      |
| 3. Fremont, 1988                  | 13. E. Cheyenne Co., 1996            |
| 4. E. Upper Big Blue, 1989        | 14. Box Butte Co./Mirage Flats, 1998 |
| 5. Wilcox/Hildreth, 1989          | 15. S. Lower Elkhorn, 1999           |
| 6. York/Polk Co., 1990            | 16. E. Upper Loup, 2000              |
| 7. Red Willow/Hitchcock Co., 1990 | 17. E. Sheridan Co., 2001            |
| 8. W. Upper Big Blue, 1991        | 18. Humboldt, 2001                   |
| 9. E Little Blue, 1992 – 94       | 19. Keith-Lincoln Co., 2002 – 03     |
| 10. Deuel Co., 1992               |                                      |

### Underground Injection Control (UIC)

The Underground Injection Control (UIC) Program issues and reviews permits, conducts inspections, and performs compliance reviews for wells used to inject fluids into the subsurface. The program must ensure that injection activities are in compliance with state and federal regulations, and that groundwater is protected from potential contamination sources. Injection wells are classified by activity, with most activity concentrating on Class I, II, III, and V wells. Class II wells are associated with oil and gas production, and are regulated by the Nebraska Oil and Gas Conservation Commission. NDEQ has authority over and manages Class I, III and V wells.

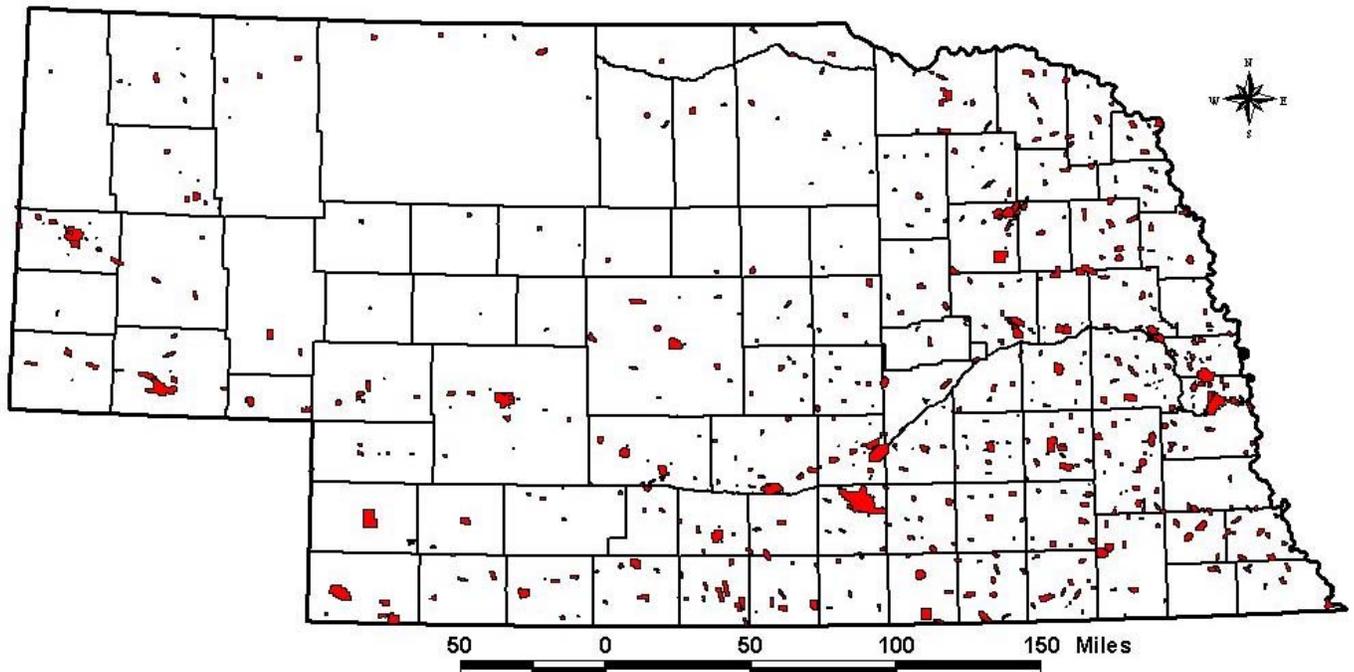
One Class I injection well currently operates within the state. The permit for this well is issued to Crow Butte Resources, Inc. for injection of wastewater below the lowermost underground source of drinking water. Class III wells are used to inject fluids for the purpose of extracting minerals. The only Class III wells in the State are at the Crow Butte Resources uranium facility near Crawford. Crow Butte Resources, Inc. operates 2501 Class III wells as of October 1, 2003.

Injection wells not included in the other specific classes are considered to be Class V wells. The EQC adopted new regulations in 2002, prohibiting the following types of Class V wells: agricultural drainage wells, untreated sewage waste disposal wells, cesspools, radioactive waste disposal wells, motor vehicle waste disposal wells, and abandoned drinking water wells used for disposal of waste. The Underground Injection Control Program is working to close these types of existing waste disposal systems.

### Wellhead Protection

The State Wellhead Protection Program is a voluntary program which assists communities and other public water suppliers in preventing contamination of their water supplies. State Wellhead Protection Program activities include delineating the zones of influence which may impact public supply wells, training communities on how to inventory all potential sources of pollution within these vulnerable zones, working with the local officials to identify options to manage these potential pollution sources, working on monitoring plans, and helping develop contingency plans to provide alternate water supplies and site new wells. All community public water supplies have a Wellhead Protection Area map as of October 1, 2002. The Nebraska Legislature passed LB 1161 in 1998 (Neb. Rev. Stat. §46-1501 – 46-1509), authorizing the Wellhead Protection Area Act. This Act sets up a process for public water supply systems to use if they choose to implement a local Wellhead Protection plan. Twenty-two community water supplies have approved Wellhead Protection Plans.

### Wellhead Protection Areas, October 1, 2002



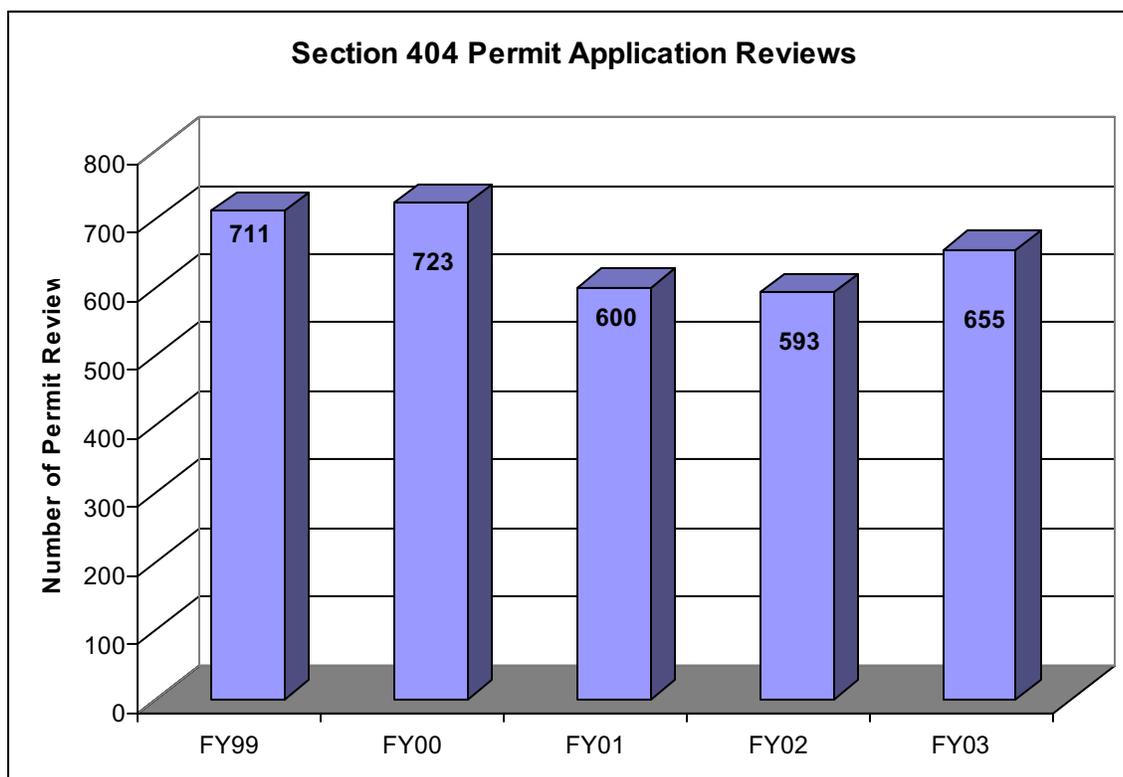
## Water Quality Planning

### Surface Water Quality Standards

The Department of Environmental Quality (NDEQ) develops water quality standards that designate the beneficial uses to be made of surface waters and the water quality criteria to protect the assigned uses. Title 117 - Nebraska Surface Water Quality Standards form the basis of water quality protection for all surface water quality programs conducted by the department. These standards were revised and approved in late 2002, and are available on the department's web page at [www.deq.state.ne.us](http://www.deq.state.ne.us). In addition to developing the standards, the Surface Water Section develops and implements procedures for applying the standards to surface water quality programs.

### Section 401 Water Quality Certification

The Planning Unit administers the Section 401 Water Quality Certification Program in accordance with Section 401 of the Clean Water Act. This program evaluates applications for federal permits and licenses that involve a discharge to waters of the state and determines whether the proposed activity complies with Title 117 – Nebraska Surface Water Quality Standards. If the activity is likely to violate the standards, conditions for complying with the standards will be issued with the certification, or certification will be denied. The U.S. Army Corps of Engineers Section 404 Dredge and Fill Permits and Federal Energy Regulatory Commission licenses are examples of federal regulatory programs that require State Water Quality Certification before federal permits or licenses can be issued. The following chart shows the number of Section 404 permit reviews conducted by the unit during the last five years.



On January 9, 2001 the U.S. Supreme Court issued a decision in the matter of Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, No. 99-1178. The Court decision eliminated the Corp's regulatory jurisdiction over isolated, non-navigable intrastate waters where the only link to interstate commerce was the use of the waters by migratory birds. Therefore no permit or other authorization by the Corps of Engineers is required for projects that might impact waters meeting those criteria.

Waters of the state are still under the authority of the Department of Environmental Quality because isolated wetlands are included in Title 117 – Nebraska Surface Water Quality Standards. Although the department has no permitting mechanism to authorize projects in advance of their implementation, procedures have been developed to assist project proponents who wish to avoid violating state water quality standards and potential enforcement actions. To maintain consistency between how NDEQ treats projects involving wetlands impacted by the court ruling and those proposed for jurisdictional wetlands, a series of checklists was developed. The checklists enable project proponents to know what information they must provide, and allow NDEQ to deliver timely and consistent decisions on these wetlands. They also enable documentation of the decision-making process for each project. Project proponents are encouraged to contact NDEQ before implementing their project so that the plans can be discussed in light of Title 117 requirements.

### **Impaired Waters and Total Maximum Daily Loads (TMDLs)**

The federal Clean Water Act requires states to prepare a list of impaired surface waters. These are waters that do not support their assigned beneficial uses as listed in Title 117 – Nebraska Surface Water Quality Standards. From this list, states are to prepare TMDLs that include the pollution control goals and strategies necessary to improve the quality of these waters and remove the identified impairments.

In 2001 the department underwent an extensive public participation process in preparing and finalizing the impaired waters listing methodologies under Section 303(d) of the Clean Water Act. The intent of the exercise was to provide information to interested parties on the water quality data assessment process. Public participation included several meetings, and responding to comments made on the proposed methodologies. The end result was assessment methods that yielded consistent and confident decisions on a water body's impairment status.

Using these methods, the 2002 Section 303(d) list was prepared and made available for public review and comment. Two public meetings, mailings, and periodic public notices were used to distribute the draft list. Only minor comments were received, and the final list was approved by EPA Region 7 in October 2002. Future TMDLs will be developed based on the approved Section 303(d) list.

Along with the 303(d) list, the Department in 2003 prepared and submitted 10 TMDLs to EPA Region 7 for review and approval. TMDLs were developed for pollutants in the following waterbodies: Holmes Lake, Standing Bear Lake, Middle Platte River and North Platte River. The pollutants addressed include nutrients, siltation/sedimentation, dissolved oxygen and bacteria. All of the TMDLs were approved and will be used as a component for managing pollutants in the respective watersheds.

### **Nonpoint Source Management Program**

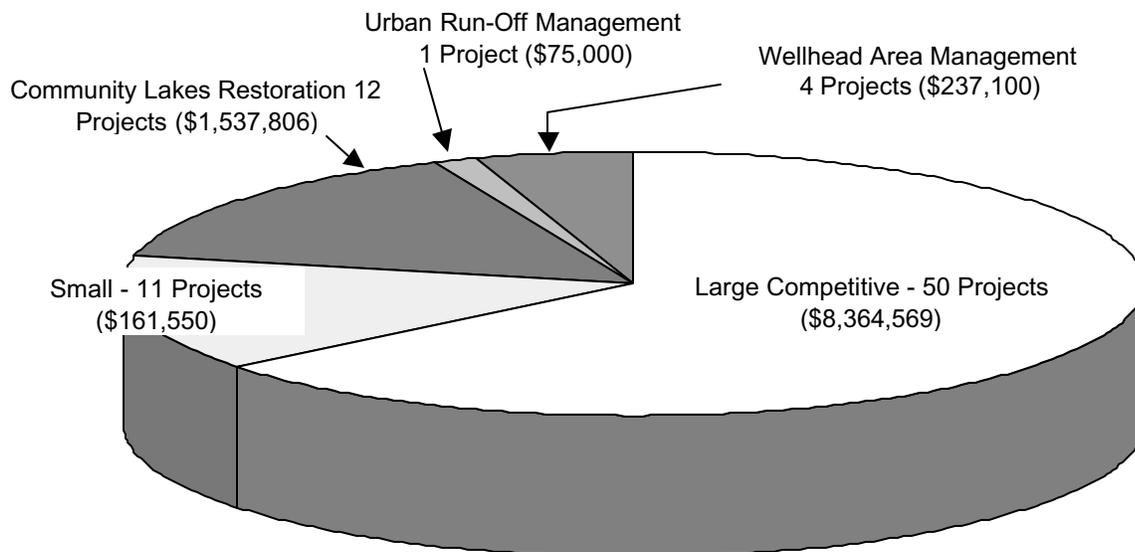
The Nebraska Nonpoint Source Management Program is an integrated statewide effort to protect and improve water quality impacted by nonpoint source pollution. The program is of particular

significance because nonpoint source pollution is the most prevalent, widespread cause of water quality degradation in Nebraska. Nonpoint source pollutants of particular concern in Nebraska include those associated with run off and percolation from agricultural and urban areas. Initiated in 1990, the program is largely funded by the Environmental Protection Agency (EPA) through Section 319 of the federal Clean Water Act and involves a multitude of federal, state and local agencies and organizations.

The department initiated major shifts in program activities, including increased emphasis on watershed and groundwater area management planning, targeting of 303(d)-listed impaired waters, community participation in project development and implementation, and installation of management practices in smaller areas of manageable size. Support for local awareness and demonstration projects has been reduced. Prioritization of eligible projects and activities will be refined.

Major components of the nonpoint source management program include program administration, nonpoint source monitoring and assessment, and implementation of nonpoint source pollution management projects through Section 319 grant funding. Nonpoint source monitoring and assessment is an integral and crucial element for the successful implementation of the program. Water quality information is needed to identify and prioritize nonpoint source problem areas, develop watershed management plans and TMDLs, and evaluate the effectiveness of measures implemented to abate nonpoint source pollution. Currently identified nonpoint source problems and priorities are defined in the primary guidance document of the Nonpoint Source Management program: “Strategic Plan and Guidance for Implementing the Nebraska Nonpoint Source Management Program – 2000-2015.” Nonpoint source monitoring activities conducted during 2003 included investigative water quality evaluations, detailed watershed assessments, and effectiveness evaluations of implemented nonpoint source management measures.

**Ongoing 319 Projects by Category**



The Nonpoint Source Management Program provides Section 319 grants to local sponsors of eligible projects in the following categories: 1) Large Competitive Projects (generally <\$300,000), 2) Small Projects Assistance (<\$15,000), 3) Community Lakes Restoration Assistance (<\$75,000), 4) Urban Run-off Management Assistance (<\$75,000) and 5) Wellhead Area Management Assistance (<\$75,000). During 2003, 78 projects were ongoing among the five grant categories. These included 50 large projects totaling \$8,364,569, 11 small projects (\$161,550), 12 community lakes projects (\$1,537,805), 1 urban run-off management project (\$75,000) and 4 wellhead area management assistance projects (\$246,700).

New projects funded by the Department during 2003 included 10 large projects totaling \$2,130,000, 6 small projects (\$68,020), and five community lake projects (\$1,275,830). A total of 103 large projects have been funded through Section 319 grants since the beginning of the program in 1990. Of these 103 projects, 52 have addressed surface water, 35 have addressed groundwater and 16 have focused on both surface water and groundwater problems.

### **Source Water Assessment Program**

When Congress amended the Safe Drinking Water Act in 1996, one of the amendments created the Source Water Assessment Program (SWAP) for public drinking water protection. Throughout the country, all states have developed a SWAP with the following basic components:

- 1) Delineate the source of each public drinking water system;
- 2) Identify potential contaminants in the source area;
- 3) Determine the drinking water source's susceptibility or vulnerability to contamination; and
- 4) Make the assessments available to the public.

In 1997, the Department of Environmental Quality was given the authority to develop a Source Water Assessment Program with the passage of LB517. In cooperation with an advisory committee and over 200 citizens (at meetings held in 22 locations statewide), the NDEQ developed a plan based on the components listed above. NDEQ is implementing the program in cooperation with the Nebraska Department of Health and Human Services, Nebraska Rural Water Association, the natural resources districts, and numerous stakeholders. A source water assessment was completed for every public water supply in Nebraska by May 2003.

### **Continuing Planning Process (CPP)**

Each state is required to establish and maintain a continuing planning process under Section 303(e) of the federal Clean Water Act. The department's concept of the CPP is that it should document processes and procedures used to make decisions relating to the Water Quality Division mission. The Planning Unit completely revised the organization of this document's previous version during FY2001 by incorporating existing process and procedure documents and proposing new sections. The completed document has not been finalized. Little progress was made during FY2002 on remaining elements due to resource constraints.

The CPP, by its name, is intended to be continuing and dynamic. However, EPA's proposed Watershed Rule, which will direct activities involving impaired waters lists, TMDLs, watershed planning, and nonpoint source pollution programs makes the CPP a required element and the cornerstone of all these activities. Therefore, it is imperative that the Department fully develop its CPP, and ensure that elements important to Nebraska are included in a timely manner.

**Water Quality Data Handling and Storage**

The department is implementing a new storage system for water quality data storage. This will make Nebraska water quality information available to anyone who has an internet connection available. The web site for this information is [www.epa.gov/storet/](http://www.epa.gov/storet/). During FY2002, the department added to the database all metadata for existing and 90% of the water quality stations established from 1998 through the present. All of the monitoring data from 1998 to present has been gathered electronically and is being prepared for storage in the database. This has taken an enormous amount of effort due to the implementation of a new naming system for water quality stations, and the need to correlate of two different naming systems used during the past four years.

The department intends to standardize the electronic transfer of data from the Department of Health and Human Services laboratory to the program for preparation and electronic storage. This process will allow a smoother transition and less time from generation to storage of water quality analysis results. The department also intends to store all of the existing water quality monitoring data in the STORET system, and make it available to the public. There will be a system in place to update the database on a regular schedule, making the most current information available to the public. Currently, the public can get access to the bacteria monitoring data for lakes on the DEQ website.

## Water Permitting Programs

The Water Quality Division administers two permitting programs that regulate point source dischargers of water pollutants:

- 1) The National Pollutant Discharge Elimination System (NPDES), and
- 2) The Nebraska Pretreatment Program (NPP).

Activities include issuing permits to control pollutants in wastewater discharges, and monitoring compliance with the permits and other applicable regulatory requirements of the programs.

The NPDES program is responsible for controlling and regulating discharges of pollutants to waters of the State so as to maintain and protect the water quality of Nebraska's streams, lakes and rivers. The NPP functions to protect municipal wastewater collection and treatment systems from damage or overloading by industries.

Anyone who directly discharges pollutants to waters of the state is required to obtain a permit. NPDES permits control pollutant discharges by establishing wastewater limitations for pollutants and/or requiring permittees to maintain certain operational standards or procedures. Permittees are required to verify compliance with permit requirements by monitoring their wastewater, maintaining records, and/or filing periodic reports.

The Department is responsible for developing and issuing NPDES permits, and for ensuring that permitted facilities comply with permit requirements. The regulatory basis for this program is through an EPA delegation agreement with the Department and NDEQ Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*. The Nebraska NPDES program encompasses a number of different types of discharges including: municipal, commercial and industrial wastewater discharges; livestock waste control (this responsibility is under the Agriculture Section); industrial discharges to public wastewater treatment systems (a.k.a. the Nebraska Pretreatment Program); municipal combined sanitary and storm sewer overflows; and industrial and municipal storm water discharges.

### NPDES Permits

Most NPDES permits limit the discharge of pollutants by establishing effluent limitations for specific pollutants such as Carbonaceous Biochemical Oxygen Demand, total suspended solids, and ammonia among others. The permittee is then responsible for testing their wastewater discharge to ensure that the limits are not exceeded. Permits may also limit toxicity in effluents and permittees may be required to demonstrate that their wastewater is not toxic to aquatic organisms (e.g., daphnia or fathead minnows). The permit may also require development of Best Management Practices Plans to reduce or control pollutant discharges.

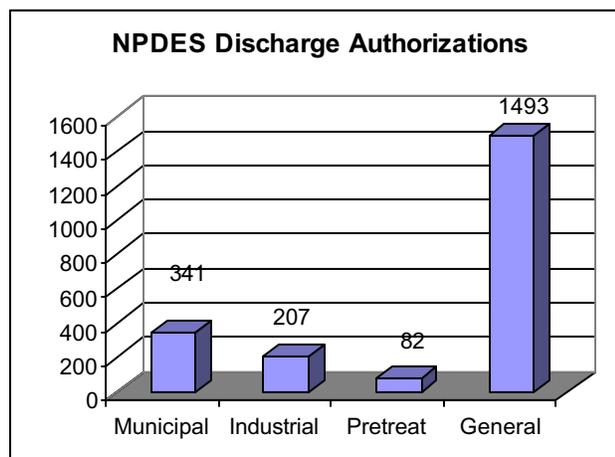
The permit development process involves identifying the pollutants of concern, and then developing permit limits based upon the more stringent of either technology based standards or water quality based standards. Technology based standards reflect effluent quality that can be achieved using treatment technology that is available to the permittee. NDEQ Title 121- *Effluent Guidelines and Standards* sets forth technology-based standards for municipal facilities and many types of industrial

facilities. Technology based standards can also be developed on a case-by-case basis when necessary.

Water quality based limits are the limits necessary to meet the in-stream water quality standards established in NDEQ Title 117 - *Nebraska Surface Water Quality Standards*. In some instances, where a surface water/groundwater interconnection may be of concern, NPDES permit limits may be based upon NDEQ Title 118 - *Groundwater Quality Standards and Use Classification*.

Permits may be developed and issued on an individual site-specific basis, or they may be developed and issued to apply to facilities with similar activities or effluent characteristics. These two types of permits are respectively referred to as individual permits and general permits. To date, the department has developed and issued 6 general permits for the following activity categories: hydrostatic testing and dewatering, gasoline contaminated groundwater remediation projects, petroleum product contaminated groundwater remediation projects, construction site storm water, industrial site storm water and land application of wastewater. In addition, a general permit for Warm Water B Controlled Discharge Lagoons is being drafted for issuance early 2004.

There are approximately 1493 active facilities provided discharge authority under general permits and 630 facilities with discharge authorizations under individual permits. The table titled "NPDES Discharge Authorizations" provides a summary of this information. The general permits include 829 construction storm water, 16 dewatering/hydrostatic testing, 520 industrial stormwater, 43 land application and 85 other NPDES facility permits. The number of active facilities with general permit discharge authorizations was estimated because of the short-term nature of construction sites that are permitted for storm water discharges.

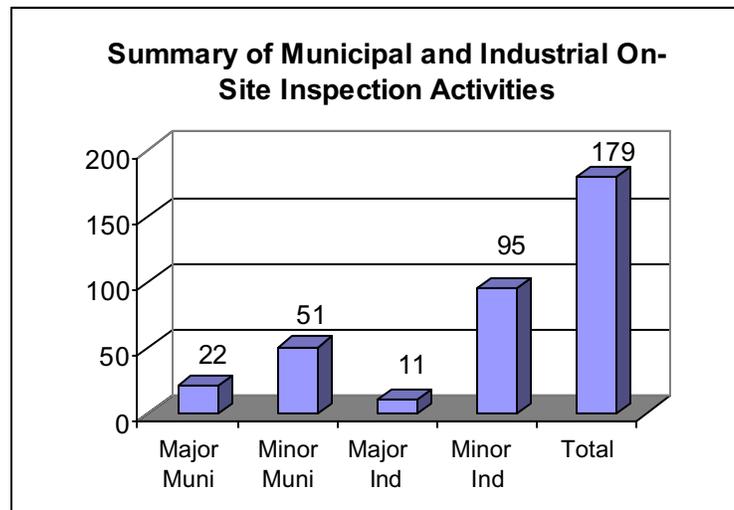
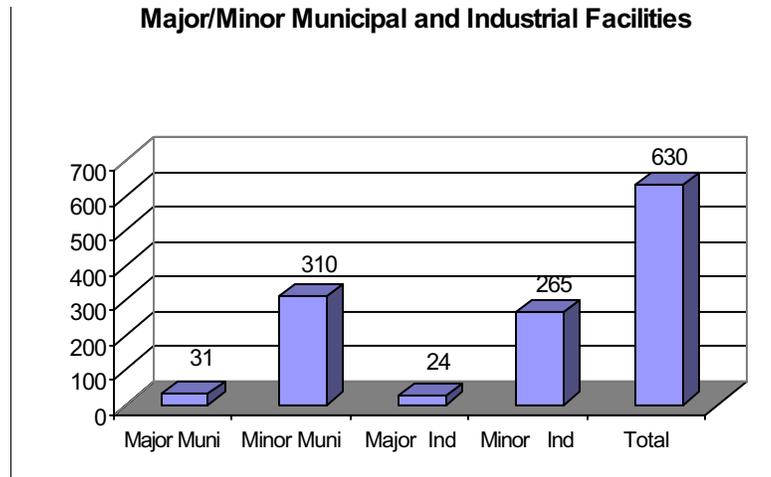


### Municipal and Industrial Facilities

Industrial and municipal facilities are both grouped as major or minor facilities based upon their size and/or their potential to impact the receiving stream. The chart titled "Major/Minor Municipal and Industrial Facilities" provides a numeric break down of these differentiations.

Municipal and industrial facilities are required to verify compliance with numeric permit limits by monitoring their effluents (i.e., self-monitoring). Monitoring frequency can vary from daily to annually depending upon the pollution and impact potential of the facility. The facility must report monitoring results to the Department; typically this is done on a quarterly basis. However, monitoring results that indicate non-compliance with permit requirements must be reported verbally within 24 hours. Records of all monitoring activities must be kept for a period of three years.

The Section verifies compliance through a variety of activities including reviewing discharge monitoring reports, following up on complaints and incident reports, conducting on-site inspections, and performing effluent monitoring inspections. During on-site inspections, section personnel walk through the facility and review operational procedures and records. Major industrial and municipal facilities receive annual on-site inspections. Minor facilities receive inspections about once in five years and usually within the basins currently being studied as part of the Basin Management Approach. Minor facilities outside these basins also received inspections on the basis of discharge monitoring report results, past compliance histories, incident reports and complaints. Inspectors performed 178 inspections in 2002. During effluent monitoring inspections effluent samples are collected and analyzed by the Department to compare with self-monitoring results. Facilities targeted for effluent monitoring inspections are chosen based upon pollution potential, past compliance or incident report histories, complaints and/or Basin Management Approach priorities.



Data generated by facility monitoring and Department on-site and effluent monitoring inspections are reviewed and entered into the federal Permit/Compliance System (PCS) computer database. This database is used to generate facility reports and review facility compliance history.

**Storm Water Program**

In compliance with federal regulations, the NPDES Storm Water Phase I and Phase II Programs regulate the discharge of pollutants in storm water from certain construction sites, industrial facilities and municipal storm sewer outfalls. Phase II was promulgated in March of 2003. Storm Water Phase II federal regulations now lower the threshold for coverage of construction sites from 5 acres or more to 1 acre or more. The industrial facilities are defined to include a number of different types of facilities in addition to typical process industries (e.g., landfills, wastewater treatment sites, recycling centers, scrap yards, mining operations, transportation facilities, and hazardous waste facilities). These regulations also increase the number of municipalities and urban areas that are subject to the NPDES program for storm water discharges.

Omaha and Lincoln were subject to the municipal separate storm sewer system (MS4) program with the implementation of Phase I. Lincoln was issued an MS4 Permit on September 1, 2002 and the Omaha MS4 Permit was issued on October 1, 2003. Phase II has expanded the areas requiring coverage under an NPDES MS4 Permit to include the urbanized areas in Douglas, Sarpy, Lancaster, Washington and Dakota Counties. The Department decided that the communities of Beatrice, Columbus, Fremont, Grand Island, Hastings, Kearney, Norfolk, North Platte and Scottsbluff were exempt as of Dec 20, 2002. However, new Total Maximum Daily Loads currently waiting release from EPA, will make all but Hastings subject to Phase II regulations for MS4's.

The Department has entered into a Memorandum of Understanding with the City of Omaha to better coordinate the NPDES construction storm water program with the City's Grading Permit Program. The Department also maintains a similar working arrangement with the City of Lincoln and Lower Platte South NRD. As a result, Omaha, Lincoln, the Lower Platte South NRD and the Department share compliance and permit application review responsibilities. This sharing of responsibilities continues to provide mutual benefits from both an environmental and a resource management perspective. This responsibility sharing is necessary; as construction permitting alone has jumped four-fold since Phase II was implemented. The Department is currently working on a similar arrangement with the Papillion Creek Watershed Partnership covering the Douglas, Sarpy, and Washington Counties.

Two general permits have been issued to provide coverage for industrial facilities and construction sites. Both of these general permits require the permittee to develop Storm Water Pollution Prevention Plans to control and reduce the discharge of pollutants. Both of these permits will be reissued in the next fiscal year. Major outreach activity is necessary to contact and permit salvage yards. EPA estimates a very small compliance rate with salvage yards (nationally on the order of 1%).

### **Combined Sewer Overflows**

The Combined Sewer Overflow program addresses those municipalities that have combined storm water and wastewater sewer systems. These systems were built prior to the existence of secondary sanitary wastewater disposal standards. When storm or snow run-off is occurring these systems may become hydraulically overloaded and excess water flows are bypassed. When bypasses occur, untreated wastewater is discharged into the receiving stream.

We are aware of at least the two cities of Omaha and Plattsmouth and the Nebraska State Fair Park in Lincoln having combined sewers subject to storm induced bypasses. Omaha's MS4 and NPDES discharge permits were issued during FY03. Plattsmouth and Nebraska State Fair Park are in the drafting stage. The long-term goal is total elimination of combined sewers in these locations, but this is a costly proposition. Federal regulations call for implementation of certain initial control measures and a long-term plan to reduce CSO discharge impacts.

## Wastewater Treatment Sludge and Biosolids Disposal

Disposal requirements for municipal and industrial wastewater treatment sludges or biosolids can be incorporated into NPDES permits. These sludge disposal requirements assure that sludges or biosolids are treated and disposed of in a manner that is environmentally sound and protective of human health. Beneficial use such as land application of biosolids is strongly encouraged.

On Feb. 19, 1993, the EPA published the federal sludge regulations. Under these regulations, an estimated 345 municipal facilities in the state have additional sludge monitoring requirements. These additional requirements include increased metal and nutrient content analyses, improved records for tracking the amount of sludge and metals applied to each disposal site, and cumulative disposal limits. The Department has not sought delegation of this program from the EPA. The program is managed out of the EPA Region 7 office in Kansas City, KS. However, the Department regulates the disposal of municipal and industrial sludges, both through the use of NPDES permit requirements and through the application of the NDEQ Title 132 - *Integrated Solid Waste Management Regulations*.

## Nebraska Pretreatment Program Permits

The Nebraska Pretreatment Program functions to protect municipal wastewater collection and treatment systems from damage or overloading by industrial dischargers. NDEQ Title 127 - *Rules and Regulations Governing the Nebraska Pretreatment Program* sets forth prohibited discharge standards that apply to all industrial users of publicly-owned wastewater treatment facilities and require permits for significant industrial users. The significant industrial users are determined by one of several means: 1) the existence of an industrial category for which pretreatment discharge standards are established in NDEQ Title 121 - *Effluent Guidelines and Standards*, 2) the volume or strength of the wastewater discharged from the facility, or 3) the potential of the industrial user to adversely effect the wastewater collection or treatment facilities.

The authority for establishing the Pretreatment Program is derived from the NPDES program requirements set forth in Section 402 of the Federal Clean Water Act. The issuance procedures and general format of Pretreatment Program and NPDES permits are very similar. Permittees are required to carry out self-monitoring activities, maintain records and submit periodic reports. Compliance activities include report reviews, on-site inspections and compliance monitoring inspections. Compliance data is entered into PCS to facilitate compliance review activities.

Although the Pretreatment Program is really a subprogram of the NPDES program, the administration of this program requires considerably more coordination and cooperation with local municipal officials. To accomplish this, the Department has entered into Memorandums of Agreement (MOAs) with 11 communities describing respective city and state responsibilities. The agreements vary in nature depending on the size and capabilities of the community. Omaha and Lincoln the most active municipal partners, accepting responsibility for a large variety of activities including facility sampling, inspections, complaint investigations, permit reviews, and industrial user technical assistance. Other communities rely more heavily upon the State for compliance inspections and technical reviews. However, all cities have agreed to conduct initial complaint or incident investigations, report significant incidents to the Department and to assist in permit development by reviewing draft permits. The Department is working with communities through out the State to get them more involved in the pretreatment program and to improve cooperative efforts in this program.

## Wastewater Engineering Management

Wastewater Engineering Management activities include the review and approval of planning documents and construction documents for municipal, industrial, and commercial wastewater treatment facilities and sanitary sewer lines. These reviews utilize technical sanitary engineering principals to ensure that wastewater facilities are designed to protect the public health and achieve compliance with environmental requirements. This program issues construction permits for wastewater facilities after plans and specifications have been reviewed and approved. In addition, the section maintains and updates State regulations, guidelines, and technical standards that provide the basis for design of these facilities. Staff also assisted with the Nebraska Environmental Partnership Program.

For SFY03, a total of 250 construction permits were issued. Of this number, 85% were for sanitary sewers or pump stations and the others were for wastewater treatment facilities. Considerable time was spent this year advising proposed ethanol facilities about wastewater requirements. Section staff drafted a major revision to NDEQ Title 123, *Rules and Regulations for Design, Operation and Maintenance of Wastewater Treatment Works* during the year. A stakeholder group has been formed and has actively participated in the process of revising Title 123.

### On-Site Assistance Program

The On-Site Assistance Program has been administered by this Department since 1983. The program is funded by an EPA grant through Sec. 104(g)(1) of the Clean Water Act. The Department received \$26,250 in grants and matched it with \$8,750 of state funds in FY03. The on-site program provides one-on-one training to wastewater treatment facility operators. This training is focused on assisting the operator to improve operation and maintenance of wastewater treatment plants. In addition the Department received \$22,500 in homeland security grants for security assessment training.

The 104(g) federal on-site assistance program for wastewater treatment facility operators provided diagnostic evaluation, initiated training, or continued assistance at Ansley, Arlington, Cass County SIDs # 2 & 5, Davey, Elmwood, Hawaiian Village, Indianola, Malcolm, Pender, Sidney, South Park Estates, Stanton, Staplehurst, Uehling, Western and Wisner. Short term assistance was given at the following places: Albion, Bancroft, Douglas, Eagle, Petersburg, Table Rock, and Walthill. Program assistance was completed this year at Elgin and Waverly. Generally, training is completed at facilities in a two-year period. Presenting the findings and accomplishments of the training to the Village Boards or City Councils or other appropriate body completes the training assistance for facilities. The training program, paired with dedicated efforts from the communities involved, has yielded positive results.

The Department continued providing classroom training to operators this year in a workshop setting. The two types of workshops are for lagoons and mechanical plants. The purpose of providing classroom training to lagoon and mechanical plant operators is to help operators obtain optimum treatment from their system and thereby meet water quality based NPDES limits.

Vulnerability Assessment (homeland security) training has been provided to approximately 20 communities, through either on-site training at the municipal wastewater treatment facility, or through one day workshops.

### **On-Site Wastewater Treatment Facilities**

The on-site wastewater treatment facilities program includes those systems which are typically not connected to a municipal wastewater treatment system. The two primary types of on-site systems are septic tanks and complete retention lagoons. The program focuses on protecting surface and groundwater in the area of proposed on-site systems through the review of plans and permitting of large systems, systems with non-domestic wastes, and subdivision development. NDEQ has agreements with local governmental agencies which allow them to manage the septic tank program in their jurisdiction. The staff continues to provide information to the public on the regulations for new on-site systems through individual telephone calls, meetings, and education seminars. Staff meets with local government officials and developers to discuss waste management alternatives for subdivisions and housing developments located outside a municipal sewer system that must be approved by the Department before construction.

Current regulations for on-site wastewater systems (Title 124) became effective October 3, 1999. These regulations set minimum design standards for all on-site systems and authorize by rule construction of simple, conforming on-site systems which constitute the vast majority of all new on-site systems. This allows the Department to focus resources on education, review of proposed subdivision developments, review of large systems, and review of systems that receive non-domestic wastes.

Staff work with non-governmental organizations, including the Nebraska On-site Wastewater Association (NOWWA), the Nebraska On-site Wastewater Task Force, and the Groundwater Foundation to educate the public about the importance of proper installation and maintenance of onsite wastewater systems and to improve the knowledge and skills of the various practitioners who install and maintain on-site systems. NOWWA has held annual conferences and produced other training seminars since its inception in March 2001.

NOWWA also sponsored legislation to require certification of practitioners in the on-site wastewater industry and to require registration of all newly constructed, reconstructed or modified on-site systems. This bill (LB94) was introduced and passed during the first session of the 98<sup>th</sup> Legislature and was approved by the Governor on March 20, 2003.

### **Wastewater Treatment Facility Operator Training and Certification Program**

Well-trained and competent operators are the critical component to ensuring that wastewater treatment plants are run in a manner protective of the environment. The life span of treatment facilities can be prolonged and the multi-million dollar investment can be protected through proper operation and maintenance. To accomplish this, the wastewater treatment facility operator training and certification program was established.

This program is responsible for administration of the certification examinations and for recertification of operators who have obtained the necessary continuing education. Staff is required to

monitor and ensure compliance on those facilities that are required to have certified operators. The wastewater operator training certification program has 785 certified operators.

To help obtain that objective the Department provides four, five-day classroom training workshops for operators and six testing opportunities throughout the year. Central Community College sponsored two additional training sessions. Next year, the program will provide four regular training sessions, one specialized training session with a guest trainer, and six examinations and will continue to develop continuing education programs. Central Community College is planning two training sessions.

Over the past two years the Department has worked with operators of industrial wastewater treatment facilities to develop training sessions and regulations for mandatory certification of industrial operators. This effort has resulted in a two-day training workshop offered by Southeast Community Collage and the revision of Title 197 to include mandatory certification of industrial operators.

## Financial Assistance Section

This section administers distribution of state and federal assistance for the Clean Water State Revolving Loan Fund and the Drinking Water State Revolving Loan Fund.

### Clean Water State Revolving Loan Fund

The Nebraska Clean Water State Revolving Loan Fund (CWSRF) program provides low interest loans and small community matching grants to municipalities for construction of wastewater treatment facilities and sanitary sewer collection systems to alleviate public health and environmental problems. The loan principal repayments go into new loans and interest earnings on the Fund is used 1) to pay off the state match bond issues and 2) to make new loans.

The CWSRF program receives an annual federal EPA capitalization grant. A 20% state match, required to obtain the federal grant, is provided through Nebraska Investment Finance Authority (NIFA) bond issues. After fifteen years of activity the Fund capitalization level exceeds \$124 million: \$107 million received from federal grants with the match provided from fees, state general fund appropriations, and \$18.52 million in match from NIFA bond issues. There is also \$62 million in recycled principal available or reloaned by the program. The program made loans to 115 municipalities at a total loan amount of \$172 million, adjusted to reflect final loan amounts.

## CWSRF SOURCE OF FUNDS

FUNDS MADE AVAILABLE	FFY2003	FFY2004 Estimate
Capitalization Grant - CWSRF	7,069,900	6,787,700
NIFA Series 2003B Bond Match		1,086,032
NIFA Series 2002C Bond match	1,250,000	
Administration Cash Match <sup>(1)</sup>	282,796	271,508
Interest Earnings <sup>(2)</sup>	2,176,190	2,312,468
Loan Repayments <sup>(2)</sup>	18,053,035	16,919,309
<b>TOTAL CWSRF</b>	<b>28,831,921</b>	<b>27,377,017</b>
<i>Less Loan Awards &amp; Admin Costs</i>	<i>1,646,264</i>	<i>271,508</i>
<b>Available for Loans</b>	<b>27,185,657</b>	<b>27,105,509</b>

<sup>(1)</sup> Source of Cash Match is the Administrative Fee Account outside of the SRF

<sup>(2)</sup> Interest earnings and loan repayments are estimated.

The FY03 program Funds consist of \$7 million CWSRF capitalization grant, \$1.25 million NIFA bond match and about \$20 million in repayments and interest. The program disbursed \$22 million for wastewater treatment project construction costs. Loan contracts were signed with 12 communities for a total obligation of \$17 million. The program now has a high level of participation from small communities; however, marketing efforts are continuing to further encourage small community participation. The following chart shows the municipalities that received Clean Water State Revolving Fund loans in FY2003.

## Municipalities Receiving CWSRF Loans in FY2003

MUNICIPALITY	LOAN DATE	LOAN AMOUNT	SMALL TOWN GRANT AMOUNT
Gibbon	7/24/02	7,000,000	
North Platte	8/23/02	2,350,000	
Neligh Amd#1	8/26/02	60,000	
Adams	9/12/02	1,082,000	\$100,000
Scottsbluff	10/24/02	1,140,000	
SID #1 Butler County	10/28/02	300,000	
Adams Amd#1	2/19/03	944,000	
Murray	6/09/03	1,163,000	
Lindsay	6/10/03	405,000	\$100,000
Meadow Grove	6/18/03	154,600	\$100,000
Jackson	6/23/03	56,950	\$53,000
Schuyler	6/24/03	2,800,000	
Cook	6/25/03	580,200	\$100,000
Exeter	6/25/03	66,500	\$47,000

Nine SRF wastewater projects completed construction and initiated operation in SFY03: Chambers, Eagle, Kearney, Kimball, Maywood, McGrew, Neligh, Shelton, and Wahoo. Fourteen projects are under construction: Adams, Brule, Butler Co. SID#1, Crab Orchard, Dannebrog, Fremont, Holbrook, Lindsay, Murray, North Platte, Omaha CSO, Scottsbluff, Sutton, and Wahoo.

### Small Community Matching Grants

A subprogram of the CWSRF, the small community matching grants program provides matching grants to municipalities with population of 800 or less. This program has provided \$2.968 million in grant funding for 32 projects in conjunction with a CWSRF loan during the thirteen years of the program. Many small municipalities find that needed projects are too costly without the additional grant subsidy provided along with the CWSRF loan. During FY2000, legislation was passed providing the department with authority to allocate up to \$500,000 per year for small town matching grants. Funding for these grants is taken out of the CWSRF cash fund, a fund generated through fees collected on CWSRF loans. In FY2003 additional legislation increased the population level for eligible communities to 5,000 or less. The department intends to provide funding to as many qualifying projects as possible; therefore, grant amounts are limited so that any one community can receive to \$100,000. The FY2003 legislation also provided authority to make grants for Community Assessments and Facility Plans. The department will start providing some of these planning grants during FY2004.

### Drinking Water State Revolving Loan Fund

In August 1996 the federal Safe Drinking Water Act was amended to include a Drinking Water State Revolving Fund program (DWSRF). In 1997 the Nebraska Legislature passed LB517, which amended the Nebraska Safe Drinking Water Act and established the DWSRF. An agreement between the NDEQ and the Nebraska Department of Health and Human Services Regulation and

Licensure (DHHSR&L), effective on October 30, 1997, defined the authority of the two agencies in administering the DWSRF program.

The DWSRF is similar to the Clean Water State Revolving Fund (CWSRF) in that both obtain the required 20% state match through appropriations and revenue bonds, give low interest loans, and will be self-sustaining. The DWSRF is unique in that loans may be awarded to privately owned public water supplies. Other program differences include the availability of 30% loan forgiveness, and set-asides for program administration, technical assistance, wellhead protection, capacity development, and operator certification.

## DWSRF Source of Funds

	FFY2003	FFY 2004 ESTIMATE
Capitalization Grant DWSRF	8,004,100	8,000,000
NIFA Series 2003A Match Bonds	1,472,458	
Future NIFA Bonds		1,600,000
Loan Repayments	1,419,019	1,120,000
<b>TOTAL DWSRF</b>	<b>10,895,577</b>	<b>10,720,000</b>
Less Loan Awards and Set-Asides	1,180,246	1,180,000
Available for Loans	9,715,331	9,540,000

The FY2003 DWSRF capitalization grant allocation totaled \$8 million from FY03 federal appropriations. The program disbursed \$9 million for drinking water project construction. Loan contracts were signed with 16 communities for a total obligation of \$17 million including Loan Forgiveness. The following chart shows the municipalities receiving Drinking Water State Revolving Fund loans in FY2003.

### Municipalities Receiving DWSRF Loans in FY2003

MUNICIPALITY	LOAN DATE	LOAN AMOUNT	LOAN FORGIVENESS
Bennet	7/02/02	220,000	
Ceresco Amd#1	8/9/02	28,586	
North Platte	8/23/02	7,630,975	
Stamford	9/13/02	306,000	
Kearney	9/27/02	1,500,000	
Wausa	11/12/02	360,000	
Auburn	12/30/02	668,383	
Niobrara	1/21/03	175,000	
Stanton Co SID #1	1/21/03	400,000	
Bloomfield	3/03/03	215,000	
Sidney Amd#1	3/21/03	100,000	

So. Sioux City	3/21/03	773,125	
Beaver Lake Assn.	5/05/03	3,350,000	
Tekamah Amd#1	5/7/03	50,000	
Giltner	5/12/03	866,000	
Benedict	6/18/03	455,000	100,000

Thirteen DWSRF projects completed construction and initiated operation in SFY03: Beatrice, Ceresco, Clay Center, Cuming Co. RWD#1, Davenport, Grafton, Kearney, Lewis & Clark NRD, Odell, Sidney, Stamford Phase 1, Stanton, and Valentine. Seventeen projects are under construction, including those who have received loans so far during SFY2004: Bassett, Beaver Lake Association, Benedict, Bennet, Bloomfield, Bloomington, Boyd County RWD#2, Duncan, Giltner, Maywood, North Platte, Paxton, Stamford Phase 2, Stanton Co. SID#1, South Sioux City, Tekamah, and Wausa.

Detailed capitalization funding uses, including planned set-aside options and anticipated levels of loan forgiveness, are shown in Table 2. Section 1452 of the Safe Drinking Water Act authorizes states to set-aside funds to implement provisions of the SDWA. Discussion on the planned utilization of these set-asides follows.

The DWSRF Administration Expense (4%) will be used for DWSRF program administration. These activities may include program operating costs for both NDEQ and DHHSR&L including day to day program management activities for both agencies, and other costs associated with debt issuance, financial management, consulting, and support services necessary to provide a complete program.

The Small System Technical Assistance (2%) set-aside will be used to provide technical assistance to Public Water Supply Systems serving 10,000 or fewer persons. This will be accomplished through contracts with organizations with expertise in dealing with small systems and is coordinated by the DHHSR&L.

Under the Source Water Protection Implementation (15%) set-aside NDEQ and HHSR&L will use two-thirds (\$1,282,400) of the funds from the FFY97 grant to delineate and assess source water protection areas as required under Section 1453. The FY2002 funds (\$195,000) will be used to provide community assessment and preliminary engineering reports eligible under Section 1452 (k). In FY2003, \$200,000 is allocated for community assessments and preliminary engineering reports, \$200,000 is allocated for wellhead protection project grants and \$800,410 is allocated for land acquisition. The Nebraska Environmental Partnerships program will oversee the grants provided for community assessments and preliminary engineering reports.

The DHHSR&L has determined eligibility for Public Water Supply program management, development and implementation of a capacity development strategy, and a water operator certification program set-aside of \$300,000 (3.75%). The state may use up to a total of 10 percent for this set-aside but must provide a one-to-one state match by Section 1452(g)(2). DHHSR&L has determined the 3.75% set-aside eligibility by using program overmatch dollars for federal fiscal years 1993 to 1997. No additional state dollars will be required for the 3.75% set-aside amount.

The DWSRF intends to provide loan forgiveness to disadvantaged communities to the extent funds are available as outlined in Table 2. Loan forgiveness funds will be targeted to the highest priority projects on the Project Priority List until all designated funds are allocated.

**TABLE 2 DWSRF FUNDING USES AND STATUTORY LIMITS**

	CAPITALIZATION GRANT ALLOCATION PERCENTAGE		FEDERAL	STATE
	LEGAL LIMIT	INTENDED USE LEVEL		
<b><u>FY2003</u></b>				
DWSRF			6,023,444	1,600,820
DWSRF Administration	4%	4%	320,164	
Small System Technical Assistance	2%	2%	160,082	
Source Water Protection Implementation	15%	15%	1,200,410	
Public Water System Program Administration	10%	3.73%	300,000	
<b>TOTAL</b>			<b>8,004,100</b>	<b>1,600,820</b>
2003 Loan Forgiveness	30%	6.25%	500,000	
<b><u>FY2004 Projected Funding</u></b>				
DWSRF			6,023,444	1,600,820
DWSRF Administration	4%	4%	320,164	
Small System Technical Assistance	2%	2%	160,082	
Source Water Protection Implementation	15%	15%	1,200,410	
Public Water System Program Administration	10%	3.75%	300,000	
<b>TOTAL</b>			<b>8,004,100</b>	<b>1,600,820</b>
2004 Loan Forgiveness	30%	6.25%	500,000	

# CHAPTER 7:

## Environmental Assistance Division

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The purpose of the Environmental Assistance Division (EAD) is to serve the regulated community and the general public by providing assistance and coordinating and providing outreach activities. The division consists of several programs: Small Business and Public Assistance, One-Stop Permitting Assistance, Pollution Prevention, Release Assessment, SARA Title III – Community Right-To-Know, and Nebraska Environmental Partnerships (NEP). By centralizing these programs, the division brings greater focus to the department's overall assistance and outreach efforts and provides a better understanding of the department's regulations and environmental issues.

There have been two significant changes in the Division over the last year. Because of continuing budget problems the position of Pollution Prevention Coordinator was eliminated. However, the Department will continue to pursue the promotion of Pollution Prevention activities in the normal course of activities. At a minimum, staff that is involved in providing assistance, e.g. the Small Business and Public Assistance Coordinator and the Environmental Assistance Coordinators in the Waste Management and Air Quality Divisions, will continue to be active in Pollution Prevention activities.

The second change was the relocation of the Release Assessment program from the Water Quality Division to the Environmental Assistance Division. The Release Assessment program is responsible for coordinating the Department's response to unplanned releases into the environment. The releases range from fuel spilled during traffic accidents to releases into the atmosphere from tire fires. The Release Assessment Coordinator has also tasked with coordinating the establishment of a comprehensive, Department-wide complaint tracking system. It is expected that the system will be operational in early 2004. Finally, the Release Assessment Coordinator has been very involved in activities associated with Homeland Security. Representatives from various programs within the Department are pursuing the requirements related to Homeland Security. The Release Assessment Coordinator serves in an oversight capacity to ensure that the needed communication and coordination occurs between these various entities.

The division continues to coordinate environmental partnership efforts with the Nebraska Public Power District (NPPD). The overall objective of the Partnership is to capitalize on the strengths of each organization to the benefit all Nebraskans. Over the term of the Partnership one of the primary projects has been exploring the potential for recovering methane from livestock waste. Partially as a result of the Partnership, a livestock operation in Northeast Nebraska is actively pursuing the establishment of a methane recovery operation. There has also been significant activity devoted to examining the implications the continued drought has had on the operations of power generating facilities and this effort will continue in 2004.

### **Small Business and Public Assistance Program**

The Small Business and Public Assistance program was created as a result of the Clean Air Act Amendments of 1990 to assist sources in complying with air quality regulations. The department realized the potential beneficial impact of the program and expanded the scope of the program to encompass all environmental media – air, waste and water.

The program is divided into four major components: the Small Business Compliance Advisory Panel, the Public Advocate (who serves as the ombudsman for the purposes of the Clean Air Act), the Assistance program, and the One-Stop Permitting program. The Small Business and Public Assistance program coordinator performs all four functions.

The Small Business Compliance Advisory Panel is comprised of seven people: two representatives from the general public selected by the Governor, four representatives from small business selected by the Legislature, and one department representative selected by the Director. The panel has three functions: 1) to evaluate the effectiveness of the Small Business and Public Assistance program and to identify any obstacles that may cause it to become less effective, 2) to provide feedback on outreach and education methods provided by the program, and 3) to review written documents developed by department programs to ensure the information is understood by the lay person.

Another component is that of ombudsman. The ombudsman provides several services to the public by acting as a clearinghouse for department information. The ombudsman receives requests for regulatory information or environmental complaints from the public, and either addresses the issue or ensures that the appropriate department employee follows up on the issue. This role of interfacing with the public ensures the department is accessible and responsive to public concerns.

The Assistance program includes site visits, development of outreach materials, workshops, and business and industry assistance in understanding their obligations under state law. The program also helps analyze outreach efforts and identifies additional rules or regulations that may affect future small business operations. In addition, the assistance program provides a directory of environmental engineers and consultants, which can be used by those seeking private environmental assistance.

The One-Stop Permit Assistance program was established to serve as a clearinghouse for information related to the department's various permitting processes. This program's objective is to ensure that businesses and industry are aware of what permits they are required to apply for, what information they will need to provide in the permit application, and the permit process. The one-stop program coordinator doesn't personally address all inquiries, but brings together appropriate staff to address questions or concerns and ensure that inquiries receive a timely response. The one-stop program also coordinates activities with other state, federal or other assistance organizations and regulatory programs in an attempt to address questions and concerns in a timely and comprehensive manner.

### **Community Right-To-Know**

The Environmental Assistance Division provides assistance to those subject to the Nebraska Emergency Planning and Community Right-To-Know Act and the related federal Emergency Planning and Community Right-To-Know Act. These acts are designed to: 1) increase the public's knowledge and access to information concerning the presence and release of hazardous chemicals in their communities, 2) provide emergency planning and response information, and 3) provide information on toxic chemical releases to the environment. Compliance assistance is available to any persons or facilities requesting it through the division. The EPA enforces this program.

The Community Right-To-Know program distributes outreach materials, responds to public requests for information, and receives and stores vast amounts of information required under this act. The information that facilities are required to provide the department, includes: 1) a one-time report of an extremely hazardous substance at a facility that triggers the emergency planning process, 2) notification of any significant changes to a facility's emergency plans, 3) notification of the sudden release of a hazardous substance, 4) an annual report listing the hazardous chemicals present at 10,000 pounds or above the threshold planning quantity at the facility, 5) an annual quantitative report of the listed chemicals, and 6) an annual facility inventory report of toxic chemicals manufactured, stored or used, and the amounts released to the environment by the specific media.

A facility in Nebraska is required to submit a Tier II report if listed hazardous substances are present at any one time during the preceding calendar year at the facility in amounts either equal to or greater than amounts established by EPA. In calendar year 2002, approximately 2000 Nebraska

facilities reported Tier II information on regulated chemicals above EPA-established thresholds. This is comparable to previous recent years.

Over the last year, Environmental Assistance Division has been working with the department's Data Management section to enable online entry of required information. Facilities will be able to access, view, change and report their chemical information online instead of submitting a paper copy form each year. This information will be more readily accessible for purposes such as developing local emergency plans. Additionally, the Community Right-To-Know Coordinator has become more involved in the Release Assessment Program.

### **Nebraska Environmental Partnerships (NEP)**

The Nebraska Environmental Partnerships program was formed to help Nebraska's small communities address the challenges posed by: 1) complex environmental regulations, 2) limited financial resources, and 3) aging infrastructure.

The Nebraska Environmental Partnerships program is a unique state-coordinated effort aimed at helping small towns meet these challenges through a team process that helps local communities prioritize risks, and find technically and financially feasible solutions.

In contrast to the typical governmental approach of establishing mandates and expecting citizens to comply, the Environmental Partnerships program establishes partnerships with communities with a goal of finding customized solutions that will benefit everyone. It is a consensus, teamwork approach.

The Environmental Partnerships program typically works with communities of 1,000 or less. Community assessment grants are normally the starting point for assistance that consists of an analysis of current environmental health infrastructure, discussion of the analysis results, prioritizing issues and finding solutions.

To date, the program has implemented its community-based team process and provided some form of customized assistance to more than 230 small communities throughout Nebraska. More than 100 communities have received grants to perform community environmental assessments. Community assessment grant funds are limited, but Nebraska Environmental Partnerships staff is continuing to seek additional funds.

The Environmental Partnerships program is partnering with the Drinking Water State Revolving Fund (DWSRF) to administer a grant program that will allow Community Assessments to be upgraded to Preliminary Engineering Reports (PERs). These grants are intended to be used as a part of the State's capacity development strategy to help communities develop technical, managerial, and financial capacity particularly as it relates to long-term capital improvement needs.

The Environmental Partnerships program is also partnering with the Clean Water State Revolving Fund (CWSRF) to administer a facility planning grant program that will provide financial assistance to high priority Publicly Owned Wastewater Treatment Works. The facility planning grants may be provided to municipalities with populations of 5,000 inhabitants or fewer that demonstrate serious financial hardship.

The program is also responsible for coordinating a number of other projects that assist small communities. It is actively involved in coordinating and participating in regional water system meetings throughout the state, and has sponsored projects for constructing wetland treatment systems and improving the operation of septic systems. The program has also sponsored training for state agency staff aimed at improving communication. The program has, with the Nebraska Environmental Trust and the Department of Natural Resources, funded the closure of abandoned wells. DEQ's Water Quality Division is now administering the abandoned well program.

The Environmental Partnerships program has presented information to the Environmental Council of the States (ECOS). ECOS is an organization comprised of the directors of the States' environmental agencies. Its mission is to improve the environment of the U.S. by championing the roles of States in environmental management; providing for the exchange of ideas, views, and experiences among States; fostering cooperation and coordination in environmental management; and articulating state positions to Congress, federal agencies and the public on environmental issues.

ECOS has sought the Department's advice and asked that we appear at workshops to explain the NEP program. ECOS has recognized the NEP program as unique and has held it up as a model for other states to follow in providing assistance to small communities.

### **Release Assessment**

Through the Release Assessment Program, DEQ personnel provide technical and regulatory assistance to those responsible for spills, leaks and accidents that pose a hazard to either the environment or public health. Assistance is also provided to those at the local level that are the first on the scene at these releases, typically this is the local fire department.

A Release Assessment Coordinating group has been formed and the Release Assessment Coordinator directs its activities. The purpose of this group is to better communicate and resolve issues related to common spill reports and complaints. The result is an improved and coordinated effort to address all of the various issues associated with a chemical accident or other event.

The Release Assessment Coordinator is responsible for training, equipping and supervising a group of personnel who provide initial assistance and response to spills. These individuals have the responsibility of maintaining an emergency system, on call 24 hours a day. They represent the environmental interests of the state at the scene of a petroleum or chemical spill. All personnel are members of the State Emergency Response Team (SERT) and coordinate closely with the local, state and federal agencies involved in emergency response situations.

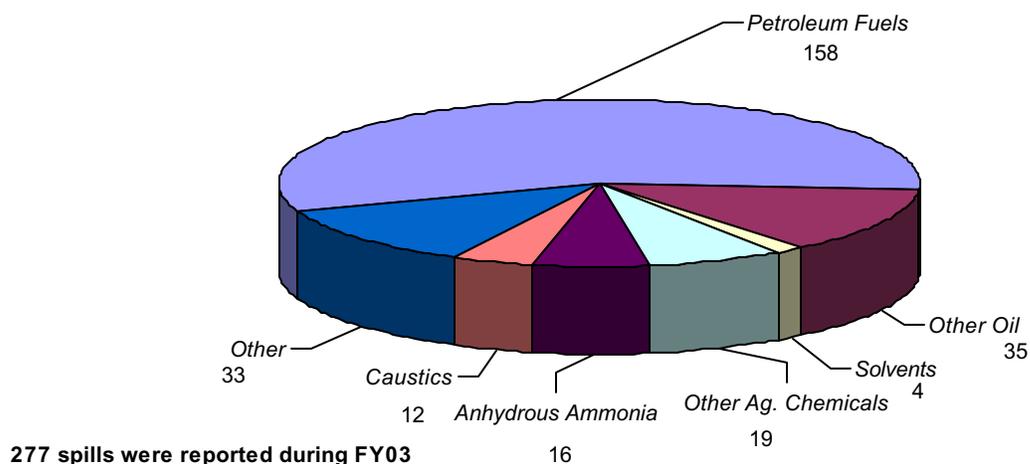
The Release Assessment Program assists in arranging for the disposal of harmful and potentially hazardous materials. Similar to the Petroleum Remediation Program, staff also oversees the remedial action requirements when cleanup is necessary. The chart on the next page shows the number of spills that were reported, by material type.

The Release Assessment Coordinator in conjunction with staff from Information Technology is developing a department wide system for receiving a wide variety of information from the public and the regulated community. This includes information related to complaints, spills and releases into the environment, fish kills, and other types of environmental information the public submits to the Department. Ultimately the system will enable the public to submit some information on-line. Additionally the system will provide the department with a more effective manner to share the information submitted. The Release Assessment Coordinator will ensure that the information submitted is routed to the appropriate program and that the department provides a timely response to the information.

Local authorities are required by state and federal law to prepare emergency response plans adequate to address releases into the environment. The Release Assessment Coordinator is available to provide expertise in those areas of the plan that involve the response to releases into the environment.

The chart below shows the number of spills that were reported, by material type.

**Release Assessment Spills Reported in FY03  
(by material type)**



### Homeland Security

The Department has been actively involved in the state's Homeland Security efforts, which are directed by the Lieutenant Governor. The Department's Deputy Director of Programs represents the Department on the Lieutenant Governor's Homeland Security Leadership Group. The Leadership Group has directed appropriate state agencies to form the following Teams: Plan, Exercise, Training, and Web/Information. The Release Assessment Coordinator serves as the overall team coordinator and reports directly to the Deputy Director of Programs.

Over the last year the Teams have been formed and are made up of staff across the Department. Efforts by the Planning Team have been concentrated on updating the State Emergency Operations Plan. The Exercise Team has begun work to develop both an in house exercise and is active in preparing for a statewide exercise, which will occur in late 2004. The Training Team has been examining various available courses and ensuring that those involved with Homeland Security activities have the required knowledge, skills and abilities. The Web/Information Team is in the process of forming. To date they have been assessing information to determine if it is appropriate to be on the Department's external web site.

As is the case with many state agencies the Department will devote significant resources to obtaining and updating the equipment needed to address Homeland Security needs. Federal funds, administered by the Nebraska Emergency Management Agency, will be utilized to accomplish this.

# CHAPTER 8:

## Low-Level Radioactive Waste Program

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As described in Nebraska's Low-Level Radioactive Waste (LLRW) Disposal Act, the Department of Environmental Quality (NDEQ) has had the regulatory responsibility to conduct an independent technical review of any proposal to build and operate a LLRW disposal facility in the state for the Central Interstate LLRW Compact region. The Compact is comprised of Nebraska, Kansas, Arkansas, Oklahoma and Louisiana. US Ecology, a contractor for the Compact, submitted a license application for a facility in Boyd County, Nebraska on July 27, 1990.

The application review was a cooperative effort between the NDEQ and the Nebraska Department of Health and Human Services Regulation & Licensure. The departments' LLRW Program organized a team of technical professionals from government, the university and private organizations to assist in the review of the license application

### **License Decision**

After a comprehensive review, US Ecology's license application was denied on December 18, 1998. Following the decision, US Ecology, filed a petition for a contested case proceeding on January 15, 1999. The contested case hearing has not moved forward – the result of a preliminary injunction issued by a federal court judge in March 1999, and reaffirmed in a federal court ruling in September, 2002.

### **Litigation**

In late December 1998, several major generators of low-level radioactive waste in the compact region, the Central Interstate Commission and US Ecology filed a lawsuit in federal court, alleging that the State of Nebraska acted in bad faith in making its determination to deny US Ecology's license application.

On September 30, 2002, a federal court issued a decision against the State of Nebraska. It was the court's determination that there was political influence in the decision-making process. The State strongly disagreed with the judgment and has appealed the decision to the 8<sup>th</sup> Circuit Court of Appeals. The case was argued on June 12, 2003. As of November 13, 2003, no decision has been rendered on the appeal.

### **State Membership in Central Interstate Compact Commission**

Separately, in August 1999, by action of the State Legislature, the State notified the Central Interstate Compact that it had decided to withdraw its membership from the Central Interstate Compact. Compact rules outline that a state's withdrawal is effective five years after notification. In September 1999, the Commission held a special meeting to discuss the withdrawal. Compact rules describe that its members can invoke sanctions against a withdrawing state that has not fulfilled its obligations.

On June 25, 2003 the Commission revoked Nebraska's membership to the Compact and imposed several sanctions upon the State. Nebraska has filed suit disputing the Compact's actions. The State contends that the sanctions adopted violate state and federal law, and the express terms of the Compact--making them invalid and unenforceable. The case is expected to go to trial in June of 2004.

## Funds

Since March 8, 1999, the Department has paid LLRW Program expenses from the State's general fund budget and from Cash Fund transfers. On that date, a federal court judge issued an order in the generator's lawsuit restraining the Department from collecting or spending any funds received from the Central Interstate Compact Commission, state generators of low-level radioactive waste, or US Ecology.

Two cash funds historically funded from these outside resources and distributed by the department are the Community Improvements Cash Fund and the Local Monitoring Committee Cash Fund.

The *Community Improvements Cash Fund* had been an annual \$300,000 distribution to the public bodies near the site being considered for the proposed facility. The non-host compact member states provided the financial compensation to the State of Nebraska for distribution. When collected, these funds were distributed according to a formula outlined in state statute. These funds have not been collected since fiscal year 1999-2000.

The Local Monitoring Committee, created by statute, is an independent body of local citizens organized to represent the interest and needs of its respective community to the state regulators and to the developer. The committee had been funded by an annual \$100,000 appropriation provided by US Ecology and administered by NDEQ through the *Local Monitoring Committee Cash Fund*. These funds have not been collected from US Ecology since 1999. The 1999 Legislature appropriated \$50,000 of state general funds to assist the committee. No additional funds have been appropriated since that date.

# CHAPTER 9:

## Expenditure and Budget Summary

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The following information summarizes department expenditures for fiscal year 2003 and outlines budget projections for fiscal year 2004. The figures in the expenditure summaries were derived from the state accounting system. The budget projections were prepared by the department. Some limited flexibility exists to adjust these numbers to meet unforeseen needs.

**Chart A** shows actual FY03 expenditures for each federal grant, including the state match.

**Chart B** lists actual FY03 expenditures of programs funded by state general funds and/or cash funds. This chart lists expenditures by activity. Activity in this case is not considered a program activity, but is a category of expenditure. Activities listed in this chart are personal services, operating expenses, travel, capital outlay, consulting and distribution of aid.

**Chart C** is the proposed FY04 budget for each federal grant. Chart C also lists proposed match for each program for which a non-federal match is required. Additionally, match for the 319H grant is provided for by in-kind services in the groundwater management area program. As in FY02, a portion of the required match for the air program is provided by local funding.

**Chart D** lists proposed FY04 budgets for programs funded by state funds. This chart lists proposed expenditures by activity. Please note, activity is not a program activity, but a category of expenditure. Activities listed are personnel services, operations, travel, capital outlay, consulting and distribution of aid.

Activities of agency programs are described in Chapters 2 through 8 of this report.

### Chart A -- Actual Expenditure for Each Federal Grant for State Fiscal Year 2003

Grant Program / Title	Assistance ID #	Grant	Match	Total
Pollution Prevention Performance Partnership	BG997322-02	5,093	8,174	13,267
Pollution Prevention Performance Partnership	BG997322-03	30,590	17,994	48,584
Performance Partnership	BG997325-A1	3,784,375	1,080,556	4,864,931
Wetlands Protection	CD997676-01	18,834	19,296	38,130
Joint State Atrazine Study	CP997369-01	66,735		66,735
TMDL Development	CP997693-01	368		368
Nebraska Reservoir Sediment Study	CP997883-01	432		432
Clean Water State Revolving Fund	CS310001-XX	4,036,225	3,596,513	7,632,738
604 B Water Quality Management	C6007328-A1	1,976		1,976
604 B Water Quality Management	C6007328-12	60,469		60,469
319 H Non-Point Source	C9007403-XX	3,420,893	101,410	3,522,303
Improved Public Access	EA997978-01	1,690		1,690
Drinking Water State Revolving Fund	FS997573-97	272,487		272,487
Drinking Water State Revolving Fund	FS997805-XX	7,388,995	852,772	8,241,767
Underground Injection Control	G987092-02	16,963	18,623	35,587
Underground Injection Control	G987092-03	49,267	53,286	102,552
Hardship Grant	HG997067-01	67,913	4,219	72,132
Water 106 Supplemental Grant	I997743-01	283,440		283,440
Leaking Underground Storage Tanks	LS007449-02	811,878	130,361	942,239
Long Pine Rural Clean Water Program	NA	7,962		7,962
Department of Defense	NE-02	108,004		108,004
Department of Defense	NE-03	7,860		7,860
Pollution Prevention Incentive	NP997736-01	(36,630)		(36,630)
Pollution Prevention Incentive	NP997736-02	123,043		123,043
Network Readiness	OS830276-01	287,456		287,456
PM 2.5 Ambient Air Monitoring	PM997968-01	343,828		343,828
Operator Training	T987163-01	29,473	8,264	37,737
Operator Training	T997402-02	4,764		4,764
Operator Training	T997912-01	4	6,992	6,996
Superfund Core / Voluntary Cleanup	V997530-02	353,378	43,476	396,854
Superfund Management Assistance	V997531-01	55		55
Superfund Management Assistance	V997531-02	81,892		81,892
Superfund Site Assessment	V997532-01	159,276		159,276
Superfund Site Assessment	V997532-02	7,047		7,047
NDEQ TMDL	X987008-01	38,575		38,575
MST for TMDLS	X987093-01	9,305		9,305
Pollution Prevention Technical Assistance	X987189-01	37,270		37,270
One Stop Permitting	X997773-01	136,784		136,784
Pollution Prevention	X997918-01	57,123		57,123
<b>Totals</b>		<b>22,075,091</b>	<b>5,941,937</b>	<b>28,017,028</b>

Grants Listed with a Grant Number XX contain more than two grants with the same prefix. These grants were combined  
 Performance Partnership BG997325-A1 is made up of Water 106, Air 105, Groundwater, RCRA 3011 and TSCA Grants  
 319 H Non Point Source Match comes from the Groundwater Management Area Program (Subprogram 35)  
 A portion of the match for the State Revolving Fund Programs is provided by Revenue Bonds issued by NIFA

**Chart B - Actual Expenditure of State Funds for State Programs for Fiscal Year 2003 Including Aid**

Program	Subprogram	Fund Type	Personal Services	Operating Expenses	Travel	Capital Outlay	Consulting /Contracting	Total	Distribution of Aid	Total
Community Right to Know	041	G	65,869	4,916	1,931		3,646	76,363		76,363
Agency Organizational Dues	099	G		69,000				69,000		69,000
Low Level Radioactive Waste	085	G/C	187,854	77,588	94,715		6,969,898	7,330,056		7,330,056
CLEAR / Environmental Trust	011	C					736,725	736,725	10,672	747,397
Ag - Livestock	016	G/C	999,768	26,876	41,533		28,270	1,096,447		1,096,447
Mineral Exploration	029	C	47,736	17,319	6,452		378	71,885		71,885
Chemigation	034	C	13,469	10,765	59		1,788	26,080		26,080
Groundwater Management Areas	035	G	91,787	3,846	4,868		2,247	102,749		102,749
Operator Certification	040	C	59,367	22,914	2,686		152	85,119		85,119
Petroleum Release Remedial Action Act	051	C	747,703	282,226	15,896	7,283	3,494,334	4,547,442	6,244,134	10,791,576
Emergency Response	057	G	94,354	4,399	3,790	195	1,854	104,592		104,592
Engineering Reviews	061	G	220,933	3,006	702			224,641		224,641
Integrated Solid Waste Management	004	C	856,726	333,407	35,814	2,723	125,451	1,354,119	111,579	1,465,698
Litter Reduction	024	C	85,605	27,753	1,373		410	115,142	1,107,818	1,222,960
Sutherland Settlement Agreement	031	C	678					678		678
Remedial Action Plan Monitoring Act	036	C	80,689	30,437	1,449		2,294	114,868		114,868
Superfund State Cost Share	047	G					104,152	104,152	16,053	120,205
Waste Reduction & Recycling	091	C	174,429	60,325	5,199		2,592	242,546	2,760,514	3,003,060
Emission Inventory - Title V	033	C	1,117,981	450,054	33,612		502,328	2,103,975		2,103,975
Totals			4,844,947	1,424,832	250,079	10,201	11,976,519	18,506,578	10,250,770	28,757,348

**FUND TYPE LEGEND**

G - Program Expends General Funds

C - Program Expends Cash Funds

G/C - Program Expends Both General and Cash Funds

**Chart C - Proposed Budget for Each Federal Grant Program for State Fiscal Year 200**

Grant / Program Title	Match	Grant	Total
Performance Partnership	1,132,389	3,817,326	4,949,715
Pollution Prevent Pereformance Partnership	1,567	625	2,192
Clean Water State Revolving Fund	2,028,000	10,140,000	12,168,000
604 B Water Quality Management		63,767	63,767
319 H Non-Point Source	107,797	3,646,503	3,754,300
Improved Public Access		577	577
Drinking Water State Revolving Fund	2,011,269	10,056,347	12,067,616
Underground Injection Control	72,993	67,146	140,139
Hardship Grant	12,745	254,892	267,637
Water 106 Supplemental Grant		16,610	16,610
Leaking Underground Storage Tanks	84,959	849,621	934,580
Department of Defense		100,834	100,834
Network Readiness		285,448	285,448
PM 2.5 Ambient Air Monitoring		349,446	349,446
Operator Training	12,068	36,203	48,271
Superfund Core	23,200	216,872	240,072
Superfund Management Assistance		89,772	89,772
Superfund Site Assessment		164,034	164,034
Pollution Prevention Technical Assistance		60,180	60,180
State 128 (A) Response		113,259	113,259

Performance Partnership BG997325-A1 is made up of Water 106, Air 105, Groundwater, RCRA 3011 and TSCA Grants

319 H Non Point Source Match comes from the Groundwater Management Area Program (Subprogram 35)

A portion of the match for the State Revolving Fund Programs is provided by Revenue Bonds issued by NIFA

**Chart D - Proposed Budget of State Funds for State Programs for Fiscal Year 2004 Including Aid**

Program	Subprogram	Fund Type	Personal Services	Operating Expenses	Travel	Capital Outlay	Consulting /Contracting	Total	Distribution of Aid	Total
Community Right to Know	041	G	65,825	3,038	1,932		3,511	74,306		74,306
Agency Organizational Dues	099	G		69,000				69,000		69,000
Low Level Radioactive Waste	085	G/C	205,462	74,261	21,078		653,435	954,236		954,236
CLEAR / Environmental Trust	011	C					736,725	736,725		736,725
Ag - Livestock	016	G/C	1,038,774	19,853	41,503		31,057	1,131,187		1,131,187
Mineral Exploration	029	C	48,880	16,997	6,417		699	72,993		72,993
Chemigation	034	C	13,662	10,772	59		1,788	26,281		26,281
Groundwater Management Areas	035	G	96,824	3,850	4,873		2,250	107,797		107,797
Operator Certification	040	C	25,054	19,280	2,686		2,555	49,575		49,575
Petroleum Release Remedial Action Act	051	C	669,599	279,958	15,926	275	7,011,699	7,977,457	7,500,000	15,477,457
Emergency Response	057	G	91,882	4,325	3,688	195	1,854	101,944		101,944
Engineering Reviews	061	G	222,515	2,313	701			225,529		225,529
Integrated Solid Waste Management	004	C	867,797	330,074	35,822	3,906	125,494	1,363,093	111,579	1,474,672
Litter Reduction	024	C	80,554	26,380	2,382		470	109,786	1,107,818	1,217,604
Sutherland Settlement Agreement	031	C	477					477		477
Remedial Action Plan Monitoring Act	036	C	84,432	25,179	1,372		2,121	113,104		113,104
Superfund State Cost Share	023	C					150,000	150,000	50,000	200,000
Waste Reduction & Recycling	091	C	95,812	50,323	6,369		3,592	156,096	2,760,514	2,916,610
Emission Inventory - Title V	033	C	1,127,085	446,599	33,213		504,168	2,111,065		2,111,065
<b>Totals</b>			<b>4,734,634</b>	<b>1,382,202</b>	<b>178,021</b>	<b>4,376</b>	<b>9,231,418</b>	<b>15,530,651</b>	<b>11,529,911</b>	<b>27,060,562</b>

FUND TYPE LEGEND

G - Program Expends General Funds

C - Program Expends Cash Funds

G/C - Program Expends Both General and Cash Funds

# CHAPTER 10:

## Distribution of Aid

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The Department has a number of programs that distribute aid for specific activities. These range from funding for roadside cleanup to providing loans through the State Revolving Fund Loan Program for construction of wastewater treatment facilities and drinking water systems.

This chapter provides a summary of those aid activities for fiscal year 2003. It also provides information regarding the Litter Reduction and Recycling Grant Program as required by §81-1504.01, passed in the 1993 legislative session.

### **Waste Management Grants**

Following is a summary of funds provided in 2003 through the waste grants programs managed in the Waste Planning and Aid Unit.

The Litter Reduction and Recycling Grant Program provides funds to reduce litter, provide education and promote recycling in Nebraska. It operates on an annual rather than a fiscal year basis. Funding for the program is an annual fee on manufacturers, wholesalers and retailers who have significant sales in categories of products that would generally be considered to produce litter. Approximately \$1.2 million is available annually through this program.

In calendar year 2003, 46 Litter Reduction and Recycling grants were awarded, totaling \$1,146,510. The grants were awarded in three categories: Public Education, \$590,432; Cleanup, \$76,078; and Recycling, \$480,000. These grants were awarded to both public and private entities.

The Waste Reduction and Recycling Incentive Grants Program provides grants for various solid waste management activities. Revenues to the fund are provided by proceeds from various fees, including a one dollar fee on each new tire sold in the state, and a retail business fee on tangible personal property sold in the state. In addition, 50% of a fee collected on the disposal of solid waste going to landfills goes to this fund.

In fiscal year 2003, 72 projects totaling \$3,443,570 were funded from the Waste Reduction and Recycling Incentive Grants Program.

The Illegal Dumpsite Cleanup Program, established in 1997, receives up to five percent of the total revenue from the disposal fee collected in the preceding fiscal year. This program provides funding for political subdivisions to cleanup solid waste disposed of along public roadways or ditches. During Fiscal Year 2003, \$111,579 was reimbursed to political subdivisions for the cleanup of illegal dump sites.

The Landfill Disposal Fee Rebate Program was created as an incentive to political subdivisions to support and encourage the purchasing of products, materials, or supplies that are manufactured or produced from recycled material. Funding for the program is from the Waste Reduction and Recycling Incentive Fund.

Any municipality or county may apply for a rebate if they have a written purchasing policy in effect requiring a preference for purchasing products, materials or supplies which are manufactured or produced from recycled material. If the policy is approved by NDEQ, the applicant may receive a 10 cent rebate from the \$1.25 per ton disposal fee. Rebates are issued quarterly.

Since its inception in 1994, seven communities have participated in the program. Approximately \$79,326 in rebates were awarded in fiscal year 2003.

### **Water Programs**

The Leaking Underground Storage Tank program provides aid through the Petroleum Release Remedial Action Fund to assist in paying the cost of cleanup of sites where petroleum has leaked from tanks, generally service stations. Funding to this program is provided mostly by a fee on petroleum sold in Nebraska. Over \$70 million has been disbursed since the program began. The program provided \$6,082,007 to 225 sites for investigation and cleanup in FY2003.

The Clean Water State Revolving Loan Fund (SRF) provides low interest loans to municipalities for construction of wastewater treatment facilities and sanitary sewer collection systems. The sources of funding for this program include federal grants, an initial state general fund appropriation and funds from Nebraska Investment Financial Authority (NIFA) through bond issuance. In FY2003, loans totaling \$17 million were allocated, and \$22 million was disbursed.

The Drinking Water State Revolving Fund provides funding assistance on Drinking Water projects. In FY2003, loans totaling \$17 million were allocated, and \$9 million was disbursed.

The construction of wastewater and drinking water facilities is a multi-year process. There are projects which have been approved in previous fiscal years which have may received funds in fiscal year 2003. Conversely, projects approved in fiscal year 2003 may receive funds in future fiscal years.

The Nonpoint Source Management program provides pass through funding for the prevention and abatement of nonpoint source water pollution and the restoration of watershed resources under Section 319 of the federal Clean Water Act. This funding is provided to units of government, educational institutions, and non-profit organizations, for projects that facilitate implementation of the state Nonpoint Source Management Plan. Funds provided in FY2003 included: \$8,364,569 for large projects; \$161,550 for small projects; \$1,537,806 for community lake restoration projects; \$237,100 for wellhead area management projects; and \$75,000 for urban run-off management.

### **Nebraska Environmental Partnerships**

In FY2003 the Nebraska Environmental Partnerships program funded Community Assessment grants to 4 communities, totaling \$10,000.

The Nebraska Environmental Partnerships program used Drinking Water State Revolving Fund (DWSRF) set-aside funds to provide planning grant assistance to small public water supply systems as a part of the State's capacity development strategy to help communities develop technical, managerial, and financial capacity particularly as it relates to long-term capital improvement needs. This financial assistance is being provided to communities to identify capital improvement needs as well as increase their readiness to proceed in accomplishing these improvements. Ten planning grants in the amount of \$10,000 each were awarded in FY2003, and three have been funded.

# CHAPTER 11:

## Staffing Issues

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This chapter consists of an assessment of the department's ability to hire and retain qualified staff with a chart showing turnover by job classification for the last ten years.

Because the department deals with a wide array of complex environmental issues, it is essential to the operations that technically competent people are hired for vacant positions. Without highly trained and experienced staff, the department would not be able to effectively carry out its mission of protecting Nebraska's environment.

Recruiting qualified and experienced employees for the more advanced positions that require extensive education and experience remains a focus. The department feels fortunate in its recruiting efforts in 2003.

Staff retention continues to be an important goal for the agency. Turnover creates a lack of continuity in the department's programs and enforcement activities, and causes additional taxpayer dollars to be spent for training of replacement staff members. The department strives to continue to try to foster and maintain an employee-friendly workplace and advocate continual training and promotion from within, when there are qualified internal applicants.

Reaching our Affirmative Action goals also remains a challenge. The department receives very few applications from qualified members of protected groups. The agency will continue to try innovative ideas to recruit members of protected groups.

The chart on the following page shows the activity on specific job categories:

<b>Employees Assuming Agency Positions (by Discipline)</b>											
<i>These figures include new hires, promotions, transfers and classification upgrades for a one-year period. Figures for 2003 are from October 1, 2002 through September 30, 2003.</i>											
	93	94	95	96	97	98	99	00	01	02	03
Director/Deputy Director/Assistant Director/ Division Administrator	0	0	1	0	0	1	4	0	0	0	0
Section Supervisor	0	0	1	3	0	0	0	3	0	2	0
Unit Supervisor/Records Manager	1	0	0	3	1	3	0	4	3	0	2
Human Resources	0	1	2	0	1	8	7	6	3	0	0
Federal Aid Administrator, Financial Assurance Coordinator	1	0	0	1	0	1	2	0	0	2	1
Clerical/Accounting	5	3	3	4	8	9	7	0	4	5	1
Information Technology/Public Information/Research Analyst	1	0	5	0	3	2	2	3	1	0	1
Attorney	0	0	0	0	0	0	1	0	0	1	0
Environmental Engineer	0	4	7	3	4	9	6	5	3	3	2
Field Data Specialist	0	0	0	0	0	0	0	0	0	0	0
Compliance Specialist	3	1	5	1	1	4	7	0	0	0	0
Programs Specialist	8	4	9	7	9	21	5	12	6	6	7
Geologist, Groundwater	1	4	1	1	0	2	0	0	1	1	1
Environmental Assistance Coordinator											1
<b>TOTALS</b>	20	17	36	23	27	60	41	33	21	20	16

# CHAPTER 12:

## Financial Assurance Requirements

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Section 81-1505(21) provides the statutory authority for the Department to develop, and the Council to adopt as regulations, requirements for all applicants to establish proof of financial responsibility. The requirements pertain to all new or renewal permit applicants regulated under the Nebraska Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act, unless a class of permittees is exempted by the Council. In addition, section 81-15,100 of the Low-Level Radioactive Waste Disposal Act provides the authority for the Council to adopt financial assurance requirements. The purpose of financial responsibility is for an applicant to provide funds to be used in the event of abandonment, default or other inability of the permittee to comply with terms or conditions of its permit or license. State statutes also identify types of funding mechanisms that applicants can use to meet the requirements.

Following is a table which provides a comprehensive list of existing financial assurance requirements for each permittee. Financial assurance amounts are listed in two categories: the first is the obligated amount, which lists the total amount of financial assurance which must be provided by the time of closure of the facility. Second is the current amount demonstrated, which lists the amount of financial assurance which is currently accrued towards the obligated amount. The table lists the facility location, permit type, initial date financial assurance provided, method or type of financial assurance provided and the guarantor for each permittee.

## NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	FA Mechanism	Guarantor
<b>Municipal Solid Waste Disposal Areas (MSWDA), Sanitary Landfills (LF)</b>							
Alliance Landfill	Alliance	MSWDA	03/17/94	\$ 2,510,923	\$ 946,762	Enterprise Fund	City of Alliance
Beatrice Landfill	Beatrice	Sanitary LF	07/12/00	\$ 123,956	\$ 123,956	Financial Test	City of Beatrice
Beatrice Area SW Agency	Beatrice	MSWDA	07/12/00	\$ 2,619,870	\$ 1,890,266	Financial Test	City of Beatrice
Butler County Landfill	David City	MSWDA	04/09/96	\$ 3,556,896	\$ 1,025,265	Trust Fund	Cornerstone Bank
Douglas County Landfill	Bennington	MSWDA	03/28/00	\$ 9,963,889	\$ 9,963,889	Surety Bond	Evergreen Ntl. Indemnity Co.
G & P Dev Landfill	Milford	MSWDA	07/01/96	\$ 2,749,442	\$ 1,127,245	Trust Fund	Cornerstone Bank
Gering Landfill	Gering	MSWDA	02/13/96	\$ 561,332	\$ 310,102	Enterprise Fund	City of Gering
L.P. Gill Landfill	Jackson	MSWDA	04/09/96	\$ 3,737,091	\$ 1,449,383	Trust Fund	Security Natl. Bank
Grand Island Landfill	Grand Is.	MSWDA	03/31/96	\$ 6,072,321	\$ 1,546,918	Enterprise Fund	City of Grand Island
Hastings Area Landfill	Hastings	MSWDA	08/12/96	\$ 3,238,395	\$ 1,140,898	Enterprise Fund	City of Hastings
Hastings Landfill	Hastings	Sanitary LF	10/01/97	\$ 259,200	\$ 20,632	Faith & Credit	City of Hastings
Holdrege Landfill	Holdrege	MSWDA	07/29/96	\$ 2,048,789	\$ 696,949	Enterprise Fund	City of Holdrege
J-Bar-J Landfill	Ogallala	MSWDA	03/28/00	\$ 2,015,192	\$ 2,015,192	Performance Bond	Evergreen Ntl. Indemnity Co.
Kearney Landfill	Kearney	MSWDA	03/31/94	\$ 2,126,705	\$ 1,265,330	Trust Fund	Wells Fargo Bank
Kimball Landfill	Kimball	MSWDA	05/10/96	\$ 1,106,238	\$ 230,295	Enterprise Fund	City of Kimball
Lexington Landfill	Lexington	Sanitary LF	07/25/96	\$ 1,076,868	\$ 250,000	Faith & Credit	City of Lexington
Lexington Area Agency	Lexington	MSWDA	01/19/97	\$ 1,735,189	\$ 539,373	Enterprise Fund	Lexington Area SW Agency
Lincoln Bluff Road	Lincoln	MSWDA	04/01/96	\$ 14,265,577	\$ 14,265,577	Financial Test	City of Lincoln
Loup Central Landfill	Elba	MSWDA	04/09/96	\$ 1,975,598	\$ 353,411	Trust Fund	Citizens Bank & Tr St. Paul
McCook Landfill	McCook	Sanitary LF	03/04/96	\$ 888,256	\$ 72,755	Faith & Credit	City of McCook
Minden Disposal Area	Minden	Sanitary LF	11/18/96	\$ 360,282	\$ 66,546	Faith & Credit	City of Minden
NE Ecology Landfill	Geneva	MSWDA	07/01/96	\$ 1,400,330	\$ 298,496	Trust Fund	Cornerstone Bank
NNSWC Landfill	Clarkson	MSWDA	04/09/96	\$ 9,473,389	\$ 1,970,480	Enterprise Fund	NNSWC
Pheasant Point Landfill	Bennington	MSWDA	08/01/03	\$ 16,738,766	\$ 16,738,766	Surety Bond	Evergreen Ntl. Indemnity Co.
Sarpy County Landfill	Papillion	MSWDA	03/31/96	\$ 5,735,008	\$ 4,901,008	Enterprise Fund	Sarpy County
Sidney Landfill	Sidney	MSWDA	02/11/97	\$ 2,103,259	\$ 323,486	Enterprise Fund	City of Sidney
SWANN Landfill	Chadron	MSWDA	9/25/97	\$ 933,770	\$ 217,207	Enterprise Fund	SWANN
Valentine Landfill	Valentine	MSWDA	04/09/96	\$ 1,036,889	\$ 178,798	Enterprise Fund	City of Valentine
York Landfill	York	Sanitary LF	05/14/96	\$ 62,150	\$ 8,795	Faith & Credit	City of York
York Area SW Landfill	York	MSWDA	05/14/96	\$ 2,764,000	\$ 583,000	Enterprise Fund	City of York
<b>Construction/Demolition Landfills</b>							
Abe's Trash Service	Blair	Const./Demol.	03/30/98	\$ 99,355	\$ 99,380	Escrow Account	Bank of Bennington
Alliance C & D Landfill	Alliance	Const./Demol.	12/02/99	\$ 113,409	\$ 7,707	Enterprise Fund	City of Alliance
Anderson Excavating	Omaha	Const./Demol.	10/19/98	\$ 180,119	\$ 184,000	Surety Bond	Employers Mutual Cas. Co.
Arnold C & D	Arnold	Const./Demol.	07/24/00	\$ 14,444	\$ 3,158	Enterprise Fund	Village of Arnold
Bud's Sanitary Service	Newman Grove	Const./Demol.	06/01/97	\$ 29,055	\$ 29,055	Letter of Credit	First Natl. Bank Newman Gr
Butler County	David City	Const./Demol.	06/01/97	\$ 171,011	\$ 171,011	Surety Bond	Evergreen Ntl. Indemnity Co.

## NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	FA Mechanism	Guarantor
Gage County	Beatrice	Const./Demol.	02/23/98	\$ 174,180	\$ 172,753	Letter of Credit	1st Natl. Bank, Beatrice
Hawkins Construction	Omaha	Const./Demol.	3/9/96	\$ 62,292	\$ 64,123	Surety Bond	Fireman's Fund Ins. Co.
Kimball C & D Landfill	Kimball	Const./Demol.	04/01/01	\$ 33,851	\$ 4,249	Enterprise Fund	City of Kimball
Lexington C & D Limited Fill	Lexington	Const./Demol.	09/30/98	\$ 135,030	\$ 33,713	Enterprise Fund	Lexington Area SW Agency
Lincoln North 48th St.	Lincoln	Const./Demol.	04/01/96	\$ 1,121,047	\$ 1,121,047	Financial Test	City of Lincoln
Loup Central C & D	Elba	Const./Demol.	04/09/96	\$ 21,044	\$ 4,755	Trust Fund	Citizens Bank & Tr. St. Paul
NPPD Gerald Gentleman	Sutherland	Const./Demol.	04/01/95	\$ 117,543	\$ 117,543	Financial Test	NPPD
O'Neill C & D Landfill	O'Neill	Const./Demol.	06/01/01	\$ 50,234	\$ 10,122	Enterprise Fund	City of O'Neill
PAD LLC	Hastings	Const./Demol.	06/05/02	\$ 129,745	\$ 130,000	Letter of Credit	Five Points Bank
Plainview C & D	Plainview	Const./Demol.	09/26/00	\$ 23,078	\$ 15,142	Enterprise Fund	City of Plainview
Sidney C & D	Sidney	Const./Demol.	11/23/99	\$ 110,711	\$ 15,753	Enterprise Fund	City of Sidney
SW NE Solid Waste Agency	Imperial	Const./Demol.	06/01/01	\$ 35,925	\$ 3,580	Enterprise Fund	City of Imperial
Stewart C & D	Indianola	Const./Demol.	07/25/00	\$ 67,172	\$ 9,472	Trust Agreement	Adams Bank & Trust
<b>Fossil Fuel Combustion Ash (FFCA), Industrial Waste Landfills, Monofills</b>							
Ash Grove Cement Co.	Louisville	Indus. Waste	03/01/03	\$ 5,005,703	\$ 5,005,703	Financial Test	Ash Grove
Hastings Utilities	Hastings	FFCA	2/1//01	\$ 349,902	\$ 126,222	Enterprise Fund	City of Hastings
Fremont Utilities	Fremont	FFCA	05/28/96	\$ 222,447	\$ 340,000	Enterprise Fund	City of Fremont
NPPD Gerald Gentleman 4	Sutherland	FFCA	04/01/95	\$ 761,117	\$ 761,117	Financial Test	NPPD
NPPD Sheldon Station 3	Sheldon	FFCA	04/01/95	\$ 112,016	\$ 112,016	Financial Test	NPPD
NPPD Sheldon Station 4	Sheldon	FFCA	07/01/01	\$ 404,281	\$ 404,281	Financial Test	NPPD
OPPD NE City	NE City	FFCA	04/04/95	\$ 3,734,373	\$ 3,734,373	Financial Test	OPPD
OPPD North Omaha	Omaha	FFCA	04/04/95	\$ 1,555,192	\$ 1,555,192	Financial Test	OPPD
Platte Generation	Grand Island	FFCA	08/25/97	\$ 176,074	\$ 176,074	Enterprise Fund	City of Grand Island
OPPD Fort Calhoun (IW)	Ft. Calhoun	Indus. Waste	04/04/95	\$ 266,237	\$ 266,237	Financial Test	OPPD
Clean Harbors Technology Waste Management	Kimball	Monofill	08/01/95	\$ 2,682,331	\$ 2,682,331	Insurance Policy	Steadfast Insurance Co.
	Bennington	Indus. Waste	04/01/02	\$ 2,620,200	\$ 2,620,200	Surety Bond	Evergreen Ntl. Indemnity Co.
<b>Transfer Stations</b>							
Bud's Sanitary Service	Newman Gr.	Transfer Station	07/08/94	\$ 3,223	\$ 3,223	Letter of Credit	First Natl. Bank, NG
Central Sanitation	Cenral City	Transfer Station	07/02/03	\$ 7,635	\$ 7,635	Surety Bond	Capitol Indemnity Corp
Custer Transfer Station	Broken Bow	Transfer Station	06/27/94	\$ 6,573	\$ 6,573	Letter of Credit	NE State Bank & Trust
Waste Management of NE	Bridgeport	Transfer Station	08/15/03	\$ 6,732	\$ 6,732	Surety Bond	Evergreen Ntl. Indemnity Co.
Fremont CRD, Inc.	Fremont	Transfer Station	04/09/96	\$ 6,573	\$ 6,573	Surety Bond	American Guar & Liability Co
King Transfer Station	Walthill	Transfer Station	04/02/96	\$ 552	\$ 552	Escrow Account	First Natl. Bank, Walthill
J & J Sanitation Inc.	Ord	Transfer Station	09/22/00	\$ 7,813	\$ 7,813	Surety Bond	Capitol Indemnity Corp
Sanitation Systems	Wilber	Transfer Station	07/03/03	\$ 10,955	\$ 10,955	Surety Bond	Capitol Indemnity Corp
Seneca Sanitation	Dubois	Transfer Station	03/07/96	\$ 5,372	\$ 5,372	Letter of Credit	First Natl. Bank, Centralia
Waste Management of NE	Gering	Transfer Station	08/15/03	\$ 9,455	\$ 10,204	Surety Bond	Evergreen Ntl. Indemnity Co.

## NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	FA Mechanism	Guarantor
Saunders County San. Inc.	Wahoo	Transfer Station	07/02/03	\$ 5,372	\$ 5,372	Surety Bond	Capitol Indemnity Corp
River City Recycling	Omaha	Mat. Recovery	01/01/01	\$ 24,530	\$ 24,530	Escrow Account	US Bank Ntl Assoc
Butler County MRF	David City	Mat. Recovery	08/15/03	\$ 6,274	\$ 6,274	Surety Bond	Evergreen Ntl. Indemnity Co.
Tracy MRF	York	Mat. Recovery	04/01/03	\$ 3,982	\$ 3,982	Letter of Credit	Cornerstone Bank
Doernamann Const. Co.	Clarkson	Compost	12/15/99	\$ 51,400	\$ 51,400	Letter of Credit	Clarkson Bank
<b>RCRA Closure and RCRA Post-Closure (PC)</b>							
3-D Incorporated	Alda	RCRA Closure	01/25/93	\$ 22,479	\$ 22,479	Trust Fund	Bank of Doniphan
Behlen Manufacturing Co.	Columbus	RCRA PC	08/30/94	\$ 390,375	\$ 390,375	Financial Test	Behlen Mfg. Co.
Clean Harbors Technology	Kimball	RCRA Closure	05/10/95	\$ 9,711,251	\$ 9,711,251	Insurance Policy	Steadfast Insurance Co.
Curtis Metals	Curtis	RCRA PC	05/07/87	\$ 1,541,568	\$ 1,541,568	Corporate Guarant	Burlington Northern
Douglas County Landfill	Omaha	RCRA PC	03/08/85	\$ 859,403	\$ 859,403	Trust Fund	First Natl Bank of Omaha
Eaton Corporation	Omaha	RCRA PC	03/27/84	\$ 4,463,158	\$ 4,463,158	Letter of Credit	Key Bnk Ntl. Assoc.
Lockwood Corporation	Gering	RCRA PC	09/29/87	\$ 128,328	\$ 128,328	Trust Fund	US Bank
Malnove Corporation	Omaha	RCRA PC	10/05/89	\$ 370,000	\$ 370,000	Letter of Credit	Wells Fargo
Tenneco Automotive Inc.	Cozad	RCRA PC	11/25/85	\$ 1,411,000	\$ 1,411,000	Letter of Credit	Chase Manhattan Bank
Safety Kleen	Gering	RCRA Closure	10/15/01	\$ 97,829	\$ 97,829	Insurance Policy	Indian Harbors Insurance Co.
Safety Kleen	Grand Island	RCRA Closure	10/15/01	\$ 159,402	\$ 159,402	Insurance Policy	Indian Harbors Insurance Co.
Safety Kleen	Omaha	RCRA Closure	10/15/01	\$ 358,279	\$ 358,279	Insurance Policy	Indian Harbors Insurance Co.
Telex Communications	Lincoln	RCRA PC	10/27/88	\$ 236,450	\$ 236,450	Letter of Credit	Chase Manhattan Bank
Valmont Industries	Valley	RCRA PC	10/30/85	\$ 900,000	\$ 900,000	Financial Test	Valmont Industries
<b>Underground Injection Control (UIC)</b>							
Crow Butte Resources, Inc.	Crawford	UIC		\$ 14,909,670	\$ 14,909,670	Letter of Credit	Royal Bank of Canada
<b>Scrap Tire Sites</b>							
Ash Grove Cement Co.	Louisville	Scrap Tire	07/30/97	\$ 32,572	\$ 32,572	Letter of Credit	Bank of America
B & R Wallrock	Weeping Water	Scrap Tire	04/10/00	\$ 2,500	\$ 2,500	Surety Bond	Union Insurance Co.
Butler County Landfill	David City	Scrap Tire	05/16/97	\$ 234,900	\$ 234,900	Surety Bond	American Guar & Liability Co
Central American Tire Salvag	Kansas C, KS	Scrap Tire	12/17/02	\$ 2,500	\$ 2,500	Letter of Credit	Union Bank
Champlin Tire Recycling Inc	Concordia KS	Scrap Tire	10/04/96	\$ 15,000	\$ 15,000	Letter of Credit	Gold Bank
Don's New & Used Tires	Lincoln	Scrap Tire	03/13/03	\$ 2,500	\$ 2,500	Surety Bond	Old Republic Surety Co.
EnTire Recycling Inc	Nebraska City	Scrap Tire	04/21/96	\$ 2,500	\$ 2,500	Escrow Account	The First National Bank
Gerdes & Sons	Talmage	Scrap Tire	01/08/97	\$ 2,500	\$ 2,500	Surety Bond	Union Insurance Co.
GreenMan Technologies	Savage MN	ScrapTire	07/01/97	\$ 2,500	\$ 2,500	Surety Bond	BancInsure Inc.
Industrial Services Inc	Lincoln	Scrap Tire	12/20/96	\$ 2,500	\$ 2,500	Surety Bond	Old Republic Surety Co.
J & M Steel	Hastings	Scrap Tire	08/27/98	\$ 2,500	\$ 2,500	Letter of Credit	1st Bank & Trust,Clay Center
James Schulte	Kimball	Scrap Tire	09/16/97	\$ 2,500	\$ 2,500	Letter of Credit	American Nat'l Bank
ABC Tire LLC	Kansas C, KS	Scrap Tire	09/16/98	\$ 2,500	\$ 2,500	Surety Bond	Travelers Casualty & Surety
Andrew LaBeau III	Dix	Scrap Tire	01/05/00	\$ 2,500	\$ 2,500	Letter of Credit	American Nat'l Bank
Marty Lukassen	Mitchell	Scrap Tire	03/03/03	\$ 2,500	\$ 2,500	Surety Bond	Union Insurance Co.

## NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	FA Mechanism	Guarantor
Lee Pester	Lincoln	Scrap Tire	07/01/96	\$ 2,500	\$ 2,500	Guarantee Bond	Old Republic Surety Co.
Leo Porter	Oshkosh	Scrap Tire	06/09/00	\$ 2,500	\$ 2,500	Letter of Credit	Nebraska State Bank
Fleetwood Services	Scottsbluff	Scrap Tire	07/31/01	\$ 2,500	\$ 2,500	Surety Bond	Union Surety Co.
Nebraska Tire Recyclers LLC	Elgin	Scrap Tire	05/03/02	\$ 51,630	\$ 51,630	Letter of Credit	Bank of Elgin
Nebraska Rubber Innovatio	O'Neill	Scrap Tire	02/03/00	\$ 20,000	\$ 20,000	Letter of Credit	Marquette Bank Nebraska
R & C Tire Recycling	Norfolk	Scrap Tire	01/21/02	\$ 2,500	\$ 2,500	Surety Bond	Old Republic Surety Co.
Resource Management Co	Brownell, KS	Scrap Tire	06/08/99	\$ 2,500	\$ 2,500	Letter of Credit	First State Bank, Ness Cy,KS
River City Recycling	Omaha	Scrap Tire	09/07/99	\$ 72,900	\$ 72,900	Letter of Credit	US Bank, Minneapolis, MN
SWANN	Chadron	Scrap Tire	10/01/96	\$ 16,647	\$ 16,647	Letter of Credit	First Nat'l Bank of Chadron
Stan's Recycling	Geneva	Scrap Tire	0215/02	\$ 2,500	\$ 2,500	Letter of Credit	Geneva State Bank
Tire Recycling Centers USA	Lincoln	Scrap Tire	01/09/01	\$ 6,405	\$ 6,405	Escrow Account	First American Bank, IA
Tire Town, Inc.	Leavenworth	Scrap Tire	03/15/96	\$ 2,500	\$ 2,500	Letter of Credit	First Commercial Bank
William Volkmer	Exeter	Scrap Tire	06/15/99	\$ 2,500	\$ 2,500	Letter of Credit	Farmers & Merchants Bank