



# **Nebraska Department of Environmental Quality**

## **Annual Report to the Legislature 2012**

**Submitted December 1, 2012**

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# CHAPTER 1:

## Agency Overview

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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 216 full-time employees.

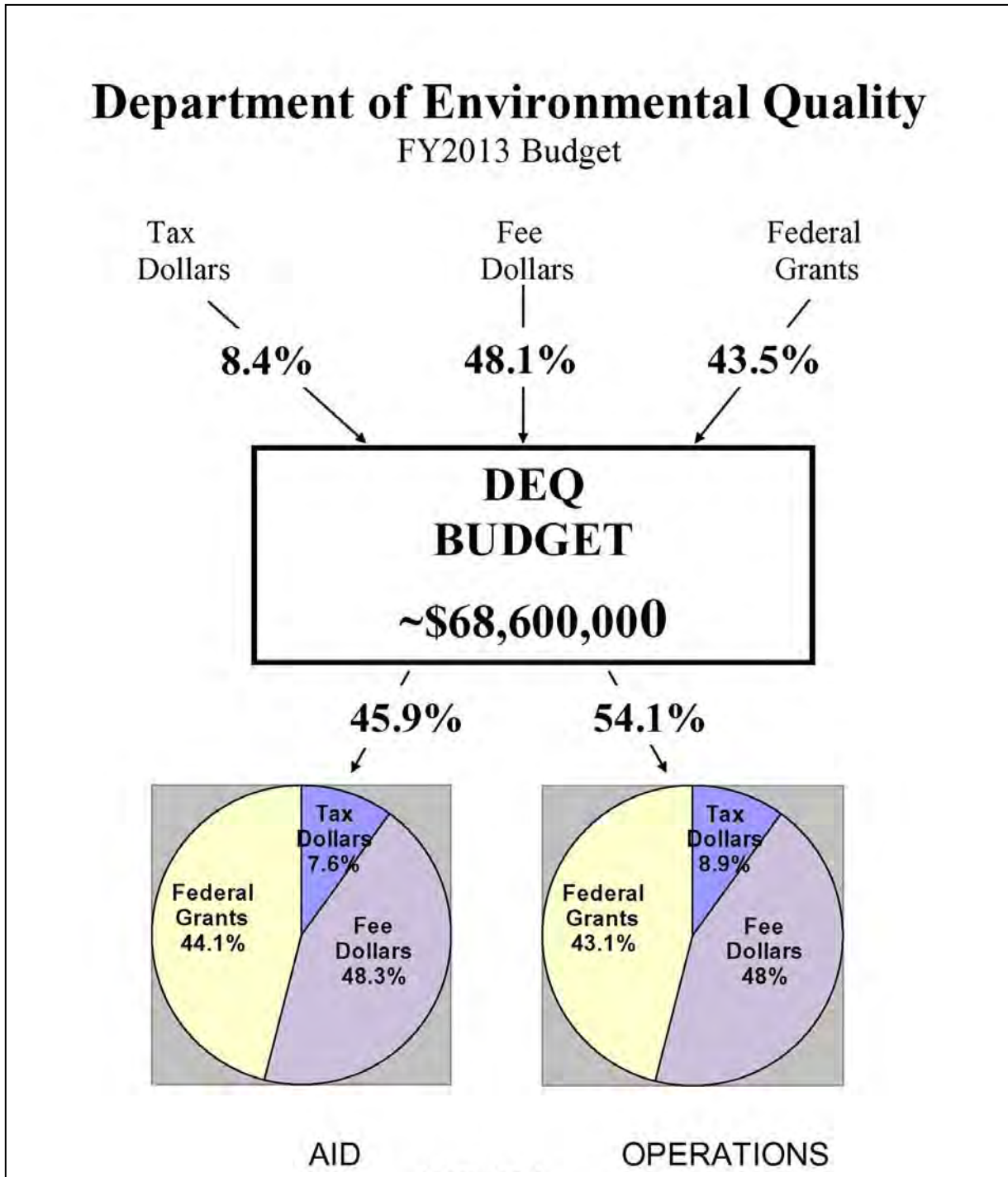
The Department has a total annual budget for FY13 of approximately \$68.6 million. This includes money collected from state taxes, fees and federal grants. Of that amount, \$31.5 million is redistributed to other agencies, organizations and individuals in the form of aid (grants and loans).

On the table below, the columns listed as aid represent the amount of the agency's budget that is redistributed to other entities as grants and loans. The operations columns represent the amounts used for the operation of the agency. However, the operations categories also include contracts where money is used on behalf of others, such as when the agency assigns a private contractor to investigate and clean up a petroleum remediation site.

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 table:

<b>Funding Type</b>	<b>Operations: \$ Amount</b>	<b>Percent of Operations Budget</b>	<b>Aid: \$ Amount</b>	<b>Percent of Aid Budget</b>
<b>Federal Funds</b> (Grants)	\$16 million	43.1%	\$13.9 million	44.1%
<b>State General Funds</b> (Tax \$)	\$3.3 million	8.9%	\$2.4 million	7.6%
<b>Cash Funds</b> (Fees)	\$17.8 million	48%	\$15.2 million	48%
<b>Total</b>	\$37.1 million		\$31.5 million	

The following graphic depicts the department's FY13 budget by funding source and percent anticipated to be expended by fund type and activity (aid or operations).



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 FY12.

This chapter provides: 1) a brief description of agency goals; 2) significant issues in 2012;

3) significant legislation of 2012 and 4) a table that identifies initiatives over the past ten years that have impacted Agency resources.

## I. Agency Goals and Related Activities

In recent years, NDEQ Administration has established a list of agency goals. Staff from all programs were asked to identify goals consistent with the agency goals. Through a series of staff meetings, goals were discussed and specific program goals and activities to be reached and reported were identified. These goals meetings have been conducted periodically 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 help 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.

## II. Significant Issues in 2012: Proposed Keystone XL Pipeline

In late 2011 and in 2012, NDEQ has been involved in the evaluation of the proposed Keystone XL Pipeline. TransCanada Keystone Pipeline, LP (Keystone) proposes to construct, operate and maintain the Keystone XL pipeline, which is an 875 mile long, 36-inch diameter crude oil pipeline from the U.S.-Canadian border to Steele City, Nebraska.

Legislative bills passed in the Special Session of 2011 and in the 2012 Legislative Session provided NDEQ the authority to evaluate proposed oil pipeline routes in Nebraska. In late 2011, NDEQ formed a team of agency staff and hired HDR Engineering, Inc. of Omaha as its consultant in the review of the proposed Keystone XL project. The review was halted in January 2012 when the permit was denied at the federal level.

The state evaluation resumed in April 2012, after LB 1161 was enacted and TransCanada submitted a revised route corridor report to the State of Nebraska. NDEQ conducted four information sessions in May in O'Neill, Neligh, Albion and Central City to discuss Keystone's proposed route corridor and seek public input. In July, NDEQ provided a Feedback Report to Keystone that identified public concerns and agency observations.

Keystone submitted a Supplemental Environmental Report to NDEQ on Sept. 5, 2012, which provided detailed route information and served as the basis for the state's evaluation. On Oct. 30, 2012, NDEQ released its Draft Evaluation Report and announced that a public hearing will be held in Albion on Dec. 4, 2012. In addition, the agency announced that the public comment period will conclude on Dec. 4, 2012.

NDEQ will consider all public comment and testimony as it develops the Final Evaluation Report. (See LB 1161 summary on the following page for more information on related legislation.)

## III. 2012 Legislative Summary

Six pieces of legislation passed in 2012 had an impact on the agency. They include:

**LB 498** – This bill creates an exception in the Industrial Ground Water Regulatory Act for a permit issued by the Department of Natural Resources, when the permit holder needs additional water beyond what is allowed under the original permit. The bill allows the exception for any permitted facility requesting an increase in the maximum daily volumetric flow rate or annual volume levels to those authorized under a permit issued by the Department of Environmental Quality pursuant to the Environmental Protection Act for in-situ mining activities.

**LB 760** – Changes provisions relating to Environmental Quality Council meetings to allow at least two regular meetings each year, rather than four. The bill also amends language that all grants to political subdivision under the control of the department shall be made by the director in accordance with priorities established by the EQC unless otherwise directed by statute.

**LB 782** – This bill requires all reports to the Legislature, to be submitted electronically to save State money and time resources. The Department of Environmental Quality submits eight reports to the Legislature annually.

**LB 845** – Amends the Oil Pipeline Reclamation Act to ensure proper reclamation is accomplished as part of an oil pipeline construction process, including restoration of areas through which a pipeline is constructed.

**LB 873** – Extends the date for reporting releases to be eligible for reimbursement from the Petroleum Remedial Action Fund, and for the Department to fund remedial action addressing such releases, to June 30, 2016.

**LB 1161** – This bill amended LBs 1 and 4 from the 2011 Special Session regarding State of Nebraska authorities as it relates to evaluation of proposed oil pipeline routes “in, through and across Nebraska”. Specifically, amendments to LB 4 language authorizes the Department of Environmental Quality to evaluate any route for an oil pipeline in Nebraska submitted by a pipeline carrier for the “stated purpose of being included in a federal agency's National Environmental Policy Act (NEPA) review process” or to collaborate and make an agreement with a federal agency for the effective and timely evaluation of a proposed route in a NEPA review involving the preparation of a Supplemental Environmental Impact Statement (SEIS). It requires the department to analyze environmental, economic, social and other impacts that are associated with a pipeline route and route alternatives and it outlines minimum public participation requirements. The process requires the Department to submit its evaluation of a proposed route to the Governor. Within 30 days the Governor is required to provide written notice to the federal agency whether the Governor approves any of the state routes reviewed in the SEIS. If the Governor does not approve the route, the pipeline carrier may file an application with the Public Service Commission pursuant to the process outlined in the Major Oil Pipeline Siting Act to seek approval. Finally, the amended language to LB 4 provides that a pipeline carrier is to reimburse the department for the cost of the evaluation

#### 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).

##### **2003 (212 FTE)**

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

- On-site Wastewater Treatment Act (septic systems)

##### **2004 (217 FTE)**

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

- Livestock Waste Management Act

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

- Air Quality Permit Fees

##### **2005 (217 FTE)**

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

- Air Emission Fees
- Petroleum Release Remedial Action Act

##### **2006 (217 FTE)**

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

- Livestock Waste Management Act
- Stormwater Grants



- Emission Trading

**2007** (218 FTE)**State Legislation/Not Federally Mandated**

- Drinking Water State Revolving Fund
- Livestock Waste Management Act
- Wastewater Treatment Operator Certification
- Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act

**2008** (218 FTE)**State Legislation/Not Federally Mandated**

- Remedial Action Plan Monitoring Act
- Wastewater Treatment Facilities Construction Act
- Petroleum Release Remedial Action Act

**2009** (218 FTE)**State Legislation/Not Federally Mandated**

- Livestock Waste Management Act
- Integrated Solid Waste Management Act (rebate fee schedule)
- Waste Reduction and Recycling Incentive Fund (deconstruction grants)
- Waste Reduction and Recycling Incentive Fund (scrap tire projects)

**2010** (215.25 FTE)**State Legislation/Not Federally Mandated**

- LB1 Special Session

**2011** (215.25 FTE)**State Legislation/Not Federally Mandated**

- LB28 Nebraska Chemigation Act
- LB29 Emergency Response
- LB30 Integrated Waste Management (Compost)
- LB156 Clean Air Act (Emission Fee)

**2012** (216 FTE)**State Legislation/Not Federally Mandated**

- Deficit Funding Bill 1 FTE

# CHAPTER 2:

## Administration/Legal/ Management Services

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The Administration, Management Services and Legal Divisions provide administrative, legal 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 Directors, Government Relations 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 Directors and the Program Manager are responsible for management, policy implementation, and coordination of activities in the various sections contained within their respective divisions.

Department Administration 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.

The Director coordinates agency activities with the Governor's Office and the Nebraska Legislature. The Director is responsible for ensuring that the Agency effectively responds to state Legislative activities and actions.

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 of Programs coordinates the various agency programmatic activities.

### **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, and
- Representing the Director and Agency as requested by the Director.

During FY2012, the Director issued 20 administrative orders requiring compliance with environmental statutes and regulations. The Attorney General settled 16 civil judicial cases and judgments were entered for a total of \$1,510,650 in civil penalties with deferments possible in many cases for subsequent compliance. In addition, these judgments included \$429,050 for supplemental environmental projects (\$3,200 to Trenton Volunteer Fire Department, \$1,000 to Northeast Nebraska Resource Conservation and Development, \$12,000 to South Sioux Municipal Foundation, \$34,000 to the City of Hastings, \$350,000 to the City of Grand Island, \$1,300 to Hebron Fire Department, \$7,000 to Thayer Central Public Schools and \$18,050 to the Attorney General's Environmental Protection Fund.)

### **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 six areas — Fiscal Services, Human Resources, Records Management, Information Technology, Public Information, and Grant and Contract Coordination.

#### **Fiscal Services**

The Fiscal Services Section provides budgeting and finance functions to the Department, and manages Department spending, purchasing, receipting, accounting and auditing responsibilities. The section offers advice and assistance to programs on financial questions and conducts financial reviews of grantees.

The Section provides significant staff assistance and support to the Water Division regarding the State Revolving Fund Loan Program. Assistance includes receipting, collections, payment of loan disbursements, grant activity reconciliation and budgeting. The fiscal services section also coordinates bond activity with NIFA and the Trustee – issuance, retirement and interest payments. The SRF program requires annual Revenue Projection reports and financial statements to be audited. The Fiscal Services Section produces these reports, and coordinates the annual audit requirement.

The Fiscal Services Section serves as the financial liaison regarding grants with the EPA. A significant percentage of staff time is dedicated to meeting complex tracking requirements of the federal government. Given the substantial amount of grant funds the Department distributes, it is essential to dedicate staff time to reviewing financial activities of programs receiving grant funds.

The Fiscal Services Section also assists the Integrated Solid Waste Management and Livestock programs in collecting and reporting all applicable fees. This section is also responsible for tracking receipt of Title V air emission fees, and all other Department fees and permits.

With the advent of American Recovery and Reconstruction Act (ARRA) funding, many fiscal activities were segregated, to provide as much transparency as possible to transactions funded with ARRA money. Heightened federal oversight has caused the Fiscal Services Section increased contact with Federal EPA, Region 7, State Auditors and program staff.

#### **Human Resources**

The Human Resources team assists supervisors to recruit, hire, develop, retain, and reward a high quality of diverse staff. The team supports agency efforts to provide a working environment that strengthens individual and organizational performance through:

- fiscally responsible compensation and benefits programs;
- progressive human resources 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 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 monitoring the agency's diversity, monitoring diversity and ensuring equal employment opportunity is an integral part of the daily activities of the agency. Other activities include: providing of technical assistance to supervisors concerning performance management and investigations of conduct complaints; maintaining, communicating and developing agency policies; evaluating reasonable disability accommodations; and coordinating reporting requirements of the conflicts of interest provisions of the Nebraska Political Accountability and Disclosure. The Human Resources Section is responsible for processing the agency's bi-weekly payroll.

### **Records Management/Database Administration**

The Records Management Section is responsible for managing the agency's paper and electronic records. The section also operates the agency's centralized mail handling process. Centralizing the mail process prepared the agency for the 2011 implementation of the first Enterprise Content Management (ECM) project for facility related documents. The purpose of the project is to scan and image all facility related documents for the agency. Incoming mail is scanned and indexed in the ECM. Images are routed to agency staff through an electronic workflow process, eliminating the need to route paper documents. Outgoing mail documents are still provided to the Records Section in paper format and then scanned and indexed. Staff can access current facility related documents on their desktop computer through the ECM or through the agency Integrated Information System (IIS) Document Tracking System (DTS). Between July 1, 2011 and June 30, 2012, 56,362 documents were captured and stored in the ECM. Centralizing the agency's records has increased the agency's ability to respond to records requests from the public. Accessibility to documents has increased for agency staff as well.

The Records Management Section coordinates responses to requests for information from the public, private consultants, and regulated entities that wish to research the history of environmental activities by the agency. These records requests involve a variety of topics such as landfills, leaking underground storage tanks, ethanol plants, wastewater treatment facilities, hazardous waste sites, and regulation development. The Section responded to approximately 1,460 records requests during FY2012.

A new application was developed in the Enterprise Content Management (ECM) System to support the records management process of the Supplemental Environmental Impact Statement to the Keystone XL Pipeline project. As of October 1, 2012, approximately 1660 public comments and 370 public documents were captured and stored in the ECM. These items are available for public viewing on the agency web site. Utilizing the ECM for the storage and presentation of project documents helps keep the project transparent and available to the public in a timely manner.

Database Administration is the management of facility data for the agency's Integrated Information System (IIS). Database Administration provides accurate descriptive and locational information for each facility in the IIS. The Geographic Coordinate Project, completed this year, was to obtain a coordinate for every facility in the Integrated Information System. The agency continues to improve the accuracy of the coordinates. With the agency's map server scheduled to go online late 2012, the agency will be providing facility information for more than 49,000 facilities to staff, the public and government agencies.

The Records Management Section also provides other support functions for the agency, such as ordering supplies, staffing the main reception and switchboard area, and providing assistance in special projects or requests as needed.

### **Information Technology**

The Information Technology Section provides computer support and information management for all Agency locations. Four 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, about 20 printers, one midrange AS/400 computer, three network servers, and software support. They also conduct training and oversee telecommunications for the Agency. Four professional staff design, develop, support, and provide training for computer programs in supporting the Agency's information management needs and the administration of the Agency's computerized databases. One professional staff member provides support and assistance with mapping/locational information through a Geographical Information System. One professional staff person is responsible for managing all of the Information Technology staff, maintaining and updating the agency technology plan, and coordinating 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 and other items under the agency's jurisdiction. Nationally, NDEQ is among the leaders within state environmental agencies regarding information integration. Over the past decade, the program has implemented EPA grants to improve the network and information systems. These funds have been and continue to be used in efforts to integrate data that is shared among environmental agencies, to provide greater public access to this information, and to build additional information systems. In addition, the agency made 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.

In 2006, the agency, in conjunction with the environmental agencies from Iowa, Kansas, Missouri and EPA Region VII, started work on a Homeland Emergency Response Exchange (HERE) project to share information with each of the respective state Emergency Management Agencies. This project utilizes the technology of the Exchange Network to make information available before a disaster or catastrophic event. The project was operational in November of 2007. Since going operational, the project has expanded to other states in the country and is also being utilized by local planners and emergency response staff. An improved and expanded version of the HERE application was deployed in the original four states in the fall of 2009.

Since late 2010, the agency has been participating in the Enterprise Content Management Shared Services project with Nebraska's Chief Information Officer and other state agencies. The purpose of the project is to create and store electronic images of the agency's documents, to improve management of and access to public records. A Request for Proposals (RFP) was issued, vendors evaluated, a vendor selected, and a contract has been signed. The agency is one of three partners working with the vendor during implementation to demonstrate and accept the requirements of the RFP. As part of the acceptance process, the agency is incorporating the ECM into existing business processes and operations. On April 11, 2011 the agency implemented the first project. This project is covered in more detail in the Records Management portion of the report. As support for the project, about two thirds (160) of the agency PC based computers were replaced between April and September. Additionally, about 170 nineteen inch monitors were installed as a second monitor so agency staff could better utilize the agency ECM application. And all but one of the agency field office locations is now connected to the state network. The last office is being worked on at this time. A project was implemented in the ECM to track public comments and all documents related to the Pipeline Review Project in the first part of 2012. By the end of 2012, a new GIS map application will be available from the agency web site and will allow the public to view facility related documents from the ECM.

The application development staff in cooperation with the NPDES water permitting program staff have been designing and developing a permit writing module. When completed the module will assist permit writers in developing quality permit documents based upon agency rules, standards, and water quality information.

### **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. 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.

The Public Information Office has been involved in public outreach efforts relating to the proposed Keystone XL pipeline project. (More information about the project can be found in Chapter 1 – Significant Issues in 2012.) Outreach involvement includes public information meetings which occurred in May 2012, updating the project web site at <https://ecmp.nebraska.gov/deg-seis>, coordinating responses to comments, editorial review of reports, and planning for the Dec. 4 information session and hearing.

An increasingly important method of communicating with the public is the agency's web site: <http://deg.ne.gov>. The web site has grown considerably in recent years, and an agency-wide effort is on-going to revise the site to make it more accessible and interactive for our customers.

The site provides a wide array of information to the public relating to the agency, including:

Environmental Alerts	NDEQ News	Calendar of Events
Rules and Regulations	Publications	Requests for Proposals
Topics of Interest	Program Information	Public Notices
Enforcement Resolutions	Assistance	Cleanups
Compliance	Financial	Maps and Data
Permits and Authorization	Contact Us/Report a Problem	

An important component of the web site is to promote two-way communication. As part of those efforts, the agency's main e-mail address is provided at numerous locations on our web site. That e-mail address is: [NDEQ.moreinfo@Nebraska.gov](mailto:NDEQ.moreinfo@Nebraska.gov). The Public Information Office coordinates responses to those e-mails. The site also features "Report a Problem," with a link to the e-mail address to report an environmental issue of concern, at [NDEQ.problem@nebraska.gov](mailto:NDEQ.problem@nebraska.gov). The site also includes phone information and procedures relating to reporting a spill.

The agency is moving toward more standardized forms, including some that can be filled on-line or submitted electronically.

### **Grants/Contract Coordination**

The Grant and Coordination Office assists with federal grant applications and compliance with grant conditions and requirements, particularly reporting requirements. In addition, the office assists with Requests For Proposals, contract development, tracking, management, and ensures contracts are kept current and contractors meet contract conditions. This office also provides assistance to the Fiscal Services Section.

### **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.

# CHAPTER 3:

## Environmental Quality Council

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The Environmental Quality Council was established through the Nebraska Environmental Protection Act as the body that adopts rules and regulations which set air, water and land quality standards in order to protect the public health and welfare of the state. They adopt regulations that guide the activities and responsibilities of the Nebraska Department of Environmental Quality. In addition, the Governor appoints the Director of the Department of Environmental Quality based on candidates recommended by the Council.

The Council has 17 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); a professional engineer; a biologist; a representative of minority interests; and a doctor with knowledge about the human health aspects of air, water and land pollution.

The Council is required by statute to meet at least twice each year. The Department of Environmental Quality publishes notice of these meetings together with an agenda and a description of proposed regulations to be considered. At these meetings, the Council holds public hearings on the proposed regulations. Any interested person may submit written comments on the proposed regulations and/or testify at the public hearing. The Council considers these comments and testimony prior to making a decision on whether to adopt, modify or deny new state environmental regulations and amendments to existing regulations. The Council can also consider rule-making petitions submitted by the public.

Although the Council is responsible for review and adoption of rules and regulations, it does not have involvement or oversight in the administrative functions or day-to-day responsibilities of the agency. The Director of the Department of Environmental Quality is responsible for administration of the department and the rules and regulations adopted by the Council.

Following are two tables. The first lists the council members, the second summarizes Council actions during FY2012.



**Council Members**

<b>Representing</b>	<b>Council member</b>	<b>Term expires</b>
Agricultural Crop Production	Rod Gangwish Shelton	June 22, 2013
Ag Processing Industry	Douglas Anderson Aurora	June 22, 2015
Automotive/Petroleum Industry	Mark Whitehead Lincoln	June 22, 2013
Biologist	Mark Czaplewski Grand Island	June 22, 2013
Chemical Industry	Donald E. Williams Orchard	June 22, 2015
Conservation	John C. Turnbull York	June 22, 2015
County Government	Earl McNutt McCook	June 22, 2015
Food Products Manufacturing	Michelle Bucklin Omaha	June 22, 2013
Heavy Industry	John Kinter Norfolk	June 22, 2015
Labor	Robert Hall Wahoo	June 22, 2013
Livestock Industry	Alden Zuhlke Brunswick	June 22, 2013
Minority Populations	Dr. Ethel Williams Omaha	June 22, 2013
Municipal Government	Vern Powers Hastings	June 22, 2015
Municipal Government	Lance Hedquist South Sioux City	June 22, 2013
Physician	Ronald Sheppard Callaway	June 22, 2015
Power Generating Industry	Joseph Citta, Jr., Columbus	June 22, 2013
Professional Engineer	John T. Baker Scottsbluff	June 22, 2015

**FY 2012  
Environmental Quality Council Actions**

<b>Council Meeting Date</b>	<b>Regulation</b>	<b>Action</b>
December 1, 2011	Amendments to Title 117 – Surface Water Quality Standards	Approved
	Amendments to Title 195 – Rules and Regulations Pertaining to Chemigation	Approved
	Amendments to Title 133 – Litter Reduction and Recycling Grant Program	Approved
	Amendments to Title 129 – Air Quality Regulations	Approved
	Amendments to Title 129 – Air Quality Regulations	Withdrawn
	2012 Funding Percentage Allocations for the Litter Reduction and Recycling Grant Program	Approved
March 15, 2012	Amendments to Title 124 – Rules and Regulations for the Design, Operation and Maintenance of On-Site Wastewater Treatment Systems	Approved
	Amendments to Title 129 – Air Quality Regulations	Approved
	Citizen Rulemaking Petition to Title 132 – Integrated Solid Waste Management Regulations	Denied
June 21, 2012	Clean Water and Drinking Water State Revolving Loan Funds Intended Use Plans	Approved
	Amendments to Title 129 – Nebraska Air Quality Regulations	Approved

# 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 federal and state air quality rules and regulations. Each year, thousands of tons of air pollutants are emitted into the air from industrial and other man-made activities. Many of these air pollutants affect human health, reduce visibility, cause property damage and harm the environment. The air pollutants of most concern are particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, ozone, lead, and 187 listed hazardous air pollutants.

The primary air quality programs which help assure healthy air quality are: the construction permit program, operating permit program, emission inventory program, ambient air quality monitoring program, inspection and compliance program, the air toxics program, and planning and development program.

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

### **Permitting Section**

During FY12, the NDEQ developed Title 129 regulations regarding particulate matter with an aerodynamic diameter of 2.5 micrometers or less (PM<sub>2.5</sub>, or PM fine). These regulations were patterned after the Federal rules promulgated in October 2010 and impacted the construction permit program, and to a lesser extent, the operating permit program. However, there has been no significant impact to the number of permit applications submitted by sources for PM<sub>2.5</sub> because new projects and modifications also triggered requirements for the existing PM<sub>10</sub> standards (particulate matter less than 10 micrometers in size). PM<sub>2.5</sub> emissions are a subset of PM<sub>10</sub> emissions.

The NDEQ also began to fully implement the greenhouse gas rules adopted into Title 129 last fiscal year. This resulted in an increase in major source (Title V) permit applications under the operating permit program, but had little effect to the construction permit program. Other regulatory actions last year by EPA provided a three year deferral for GHG emissions (specifically carbon dioxide, CO<sub>2</sub>) from bioenergy and other biogenic sources under both permitting programs. During the deferral period, biogenic CO<sub>2</sub> emissions will not count toward permit applicability. The deferral of biogenic CO<sub>2</sub> emissions from permit applicability allowed some sources (particularly smaller ethanol plants) to avoid triggering the major source operating permit program for GHGs since a significant fraction of their total GHG emissions (CO<sub>2</sub> emissions from fermentation) are now excluded from permit applicability.

### Construction Permit Program

NDEQ has maintained a construction permit program for air contaminant sources since the 1970's. 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 above specified thresholds. The table below provides information relating to construction permit applications received, processed and pending:

<b>Pending July 1, 2011</b>	<b>Applications Received</b>	<b>Applications Processed</b>	<b>Pending June 30, 2012</b>
<b>52</b>	<b>54</b>	<b>54</b>	<b>52</b>

Nebraska also implements the federal construction permit program, Prevention of Significant Deterioration (PSD). The purpose of the PSD program is to protect areas of the state which are cleaner than the ambient air quality standards, while still allowing industrial and economic growth. The PSD program applies to sources that emit significant levels of certain types of emissions. If a source is regulated under PSD, the NDEQ conducts additional, more rigorous reviews of their construction permit application to ensure that best available control technology will be used. Best available controls are employed to minimize impacts on the environment. Before issuing a permit, the NDEQ must also assure that the source will not cause or contribute significantly to any deterioration of air quality, making the area potentially vulnerable to violations of the ambient air quality standards. The PSD program also ensures that visibility in nearby national parks and wilderness areas is protected. The NDEQ notifies federal land managers of pending PSD decisions. Lastly, the PSD program requires that permitting authorities advise nearby States and Tribes of pending PSD decisions so they may express any concerns they have with potential downwind impacts in their areas.

As a part of its state program, the NDEQ requires significant sources of hazardous air pollutants to control emissions with the best control technology available (Toxics BACT).

The Legislature passed LB449 in 2004, which provides the NDEQ the authority to assess construction permit application fees. Fee amounts are based upon the emissions potential of the facility. The fees generated through this program are used to pay a portion of the costs associated with processing construction permit applications. The remainder of the program is funded using federal grant funds, state general funds, and emission fees.

During FY06-08, NDEQ received an increasing number of applications from business and industry for air quality construction permits to build new or expand current business ventures across the state, including ethanol plants, power plants, and grain processing facilities. That trend changed during FY09 and continued through FY12 as a slower economy delayed or cancelled many capital projects at sources. Permit applications from grain and fertilizer handling facilities have been trending upwards over the last year.

	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
<b>Number of Construction Permit Applications Received</b>	<b>104</b>	<b>53</b>	<b>55</b>	<b>52</b>	<b>54</b>

### 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 operating permits are reviewed and renewed every five years. Operating permits are issued for both large and small sources of air pollution.

The Nebraska operating permit program offers an innovative alternative for sources who have taken measures to keep their emissions very low. This program is called the low emitter program. NDEQ also has general permits and permits by rule available for certain source categories. The table below provides statistics relating to all applications received, processed and pending under the operating permit program:

<b>Pending June 2011</b>	<b>Operating Permit Applications Received</b>	<b>Operating Permit Applications Processed</b>	<b>Pending June 2012</b>
<b>95</b>	<b>43</b>	<b>53</b>	<b>85</b>

From 2002 through 2004, the operating program was successful in eliminating the majority of the permitting backlog created at the onset of the program. However, this success has caused inconsistency in the amount of permits being received over a five-year time-frame. Because these permits were issued for five year terms, the operating permit program experienced a surge in renewal applications beginning in FY08 through FY10. Renewal applications then dropped significantly in FY11. The following table summarizes the applications received from FY07 through FY12 (applications for all application types, including applications for permit revisions, general permits, permit-by-rule, etc.).

	<b>FY07</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
<b>Number of Operating Permit Applications Received</b>	<b>58</b>	<b>92</b>	<b>75</b>	<b>61</b>	<b>32</b>	<b>43</b>

The Department has the authority to issue operating permits for a fixed term of up to five years. To prevent a reoccurrence of this large fluctuation, the program has been seeking volunteer sources to accept shorter permit terms, i.e., three or four year permit terms. By doing this, the program will be able to stabilize the receipt of future renewal applications over a five year period.

## Compliance Section

### Ambient Air Quality Monitoring Program

The State of Nebraska operates an ambient air-monitoring network to determine compliance with the National Ambient Air Quality Standards (NAAQS) and State Ambient Air Quality Standards (SAAQS). In addition, the Nebraska network includes two sites for monitoring regional haze impacts that are part of a national program to help protect visibility in our National Parks and Monuments.

Three agencies are involved in the day-to-day operation of the network: the Nebraska Department of Environmental Quality, Lincoln/Lancaster County Health Department, and Douglas County Health Department. The Omaha Air Quality Control (part of the Omaha Public Works Department) also provides technical support for network related activities.

National standards have been established by the Environmental Protection Agency for the following six pollutants, to protect both public health and welfare:

- Particulate Matter
  - With a diameter of 10 micrometers or less (PM<sub>10</sub>)
  - With a diameter of 2.5 micrometers or less (PM<sub>2.5</sub>)
- Sulfur Dioxide (SO<sub>2</sub>)
- Nitrogen Dioxide (NO<sub>2</sub>)
- Carbon Monoxide (CO)
- Ozone (O<sub>3</sub>)
- Lead (Pb)

Nebraska has an additional ambient air quality standard for Total Reduced Sulfur (TRS). The TRS standard was adopted by the Environmental Quality Council in 1997 and is a public health based standard. The Department currently monitors TRS in Dakota City/South Sioux City.

NDEQ evaluates the adequacy of its monitoring network in accordance with federal regulations each year. Changes may be made to the network due to monitoring regulation changes, updates to the ambient standards, perceived changes in pollution trends, and/or funding issues. Loss of site access is another consideration that occasionally occurs. The Nebraska monitoring network includes sites at which air quality is monitored to evaluate attainment with the standards and other health and welfare associated priorities.

Most of the sites in the monitoring network evaluate pollutants for which standards are established (i.e., PM<sub>2.5</sub>, PM<sub>10</sub>, CO, SO<sub>2</sub>, Lead, Ozone or TRS). There are two additional types of sites in the network: Interagency Monitoring of Protected Visual Environments (IMPROVE), and National Atmospheric Deposition Program/National Trends Network (NADP/NTN) sites.

IMPROVE monitors provide information for studying regional haze that may impact the visibility in listed federal Class I National Park and Wilderness Areas. There are two

IMPROVE monitoring sites in Nebraska at Halsey National Forest and Crescent Lake National Wildlife Refuge. These sites provide data on pollution trends and transport.

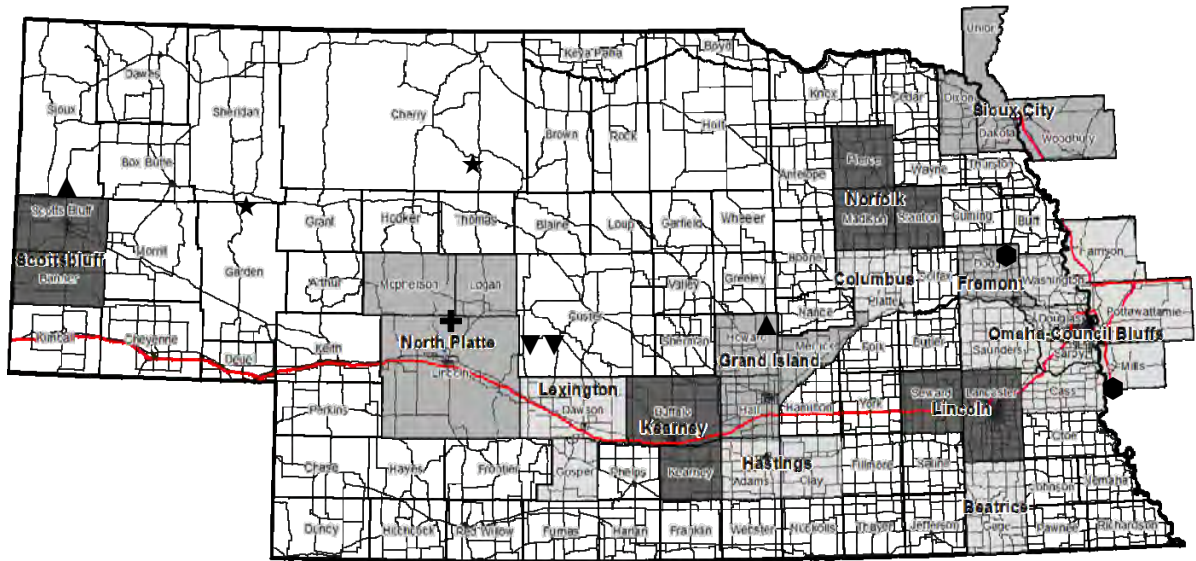
The National Trends Network (NTN) of the National Atmospheric Deposition Program (NADP) is a nationwide network of sites that monitor for deposition constituents in precipitation. The deposition constituents examined include acidity, sulfates, nitrates, ammonium chloride, and base-cations (e.g., calcium, magnesium, potassium and sodium). There are two NADP/NTN sites in Nebraska: one near Mead and one near North Platte. Both have been operational for over 20 years. These sites are operated by the University of Nebraska, with analytical and data development support from the NADP. The Mead site was upgraded to include mercury (Hg) deposition monitoring and was part of the NADP/Mercury Deposition Network (MDN). Both sites maintain the NADP monitoring. The monitoring in Mead is made possible through cooperative efforts of the NDEQ and the University of Nebraska. Additional information about the NADP/NTN can be found at: <http://nadp.sws.uiuc.edu/nadpoverview.asp>.

### **Monitoring Information On-Line**

Ozone and continuous PM<sub>2.5</sub> data from Lincoln and Omaha is reported hourly to the EPA AirNOW system, which makes contemporaneous air quality information available to the public on web at <http://www.airnow.gov/>. The Douglas County Health Department also participates in the ENVIROFLASH program that allows members of the public to sign-up to receive air quality alerts via email.

Both the Douglas County Health Department and the Lincoln/Lancaster County Health Department also report daily Air Quality Index (AQI) evaluations on the Omaha and Lincoln web sites. The AQI is a numeric rating of the current air quality in each city, and provides the public with a quick and simple means to evaluate current air quality in each metro area.

Nebraska Monitoring Sites not in a Metropolitan Statistical Area



- ▲ **PM<sub>2.5</sub>**
- ▼ **PM<sub>10</sub>**
- **Lead**
- ★ **IMPROVE**
- ⊕ **NADP/NTN**

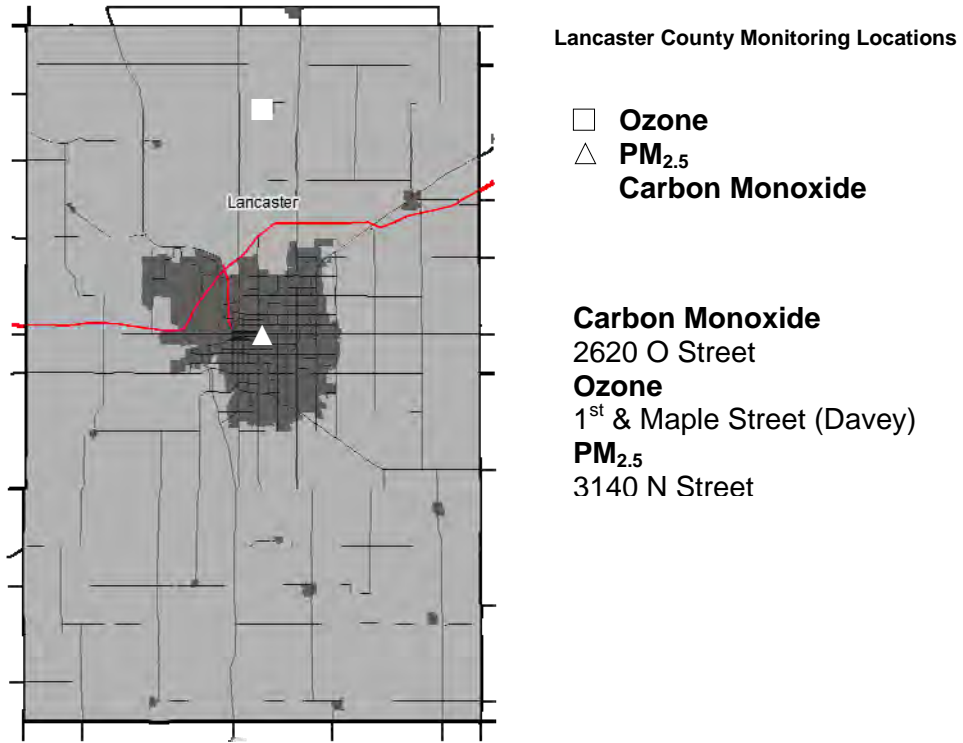
- PM<sub>2.5</sub>**  
Grand Island, 2124 North Lafayette Avenue
- PM<sub>10</sub>**  
Scottsbluff, Highway 26 & 5th Avenue
- PM<sub>10</sub>**  
Cozad, 215 West 8th Street
- NADP/NTN**  
Gothenburg, 9<sup>th</sup> Street
- NADP/NTN**  
Maxwell, North Platte Agricultural Experiment Station

- IMPROVE**  
Garden County, Crescent Lake Wildlife Refuge
- Lead**  
Thomas County, Nebraska National Forest
- Lead**  
Fremont
- Lead**  
Auburn

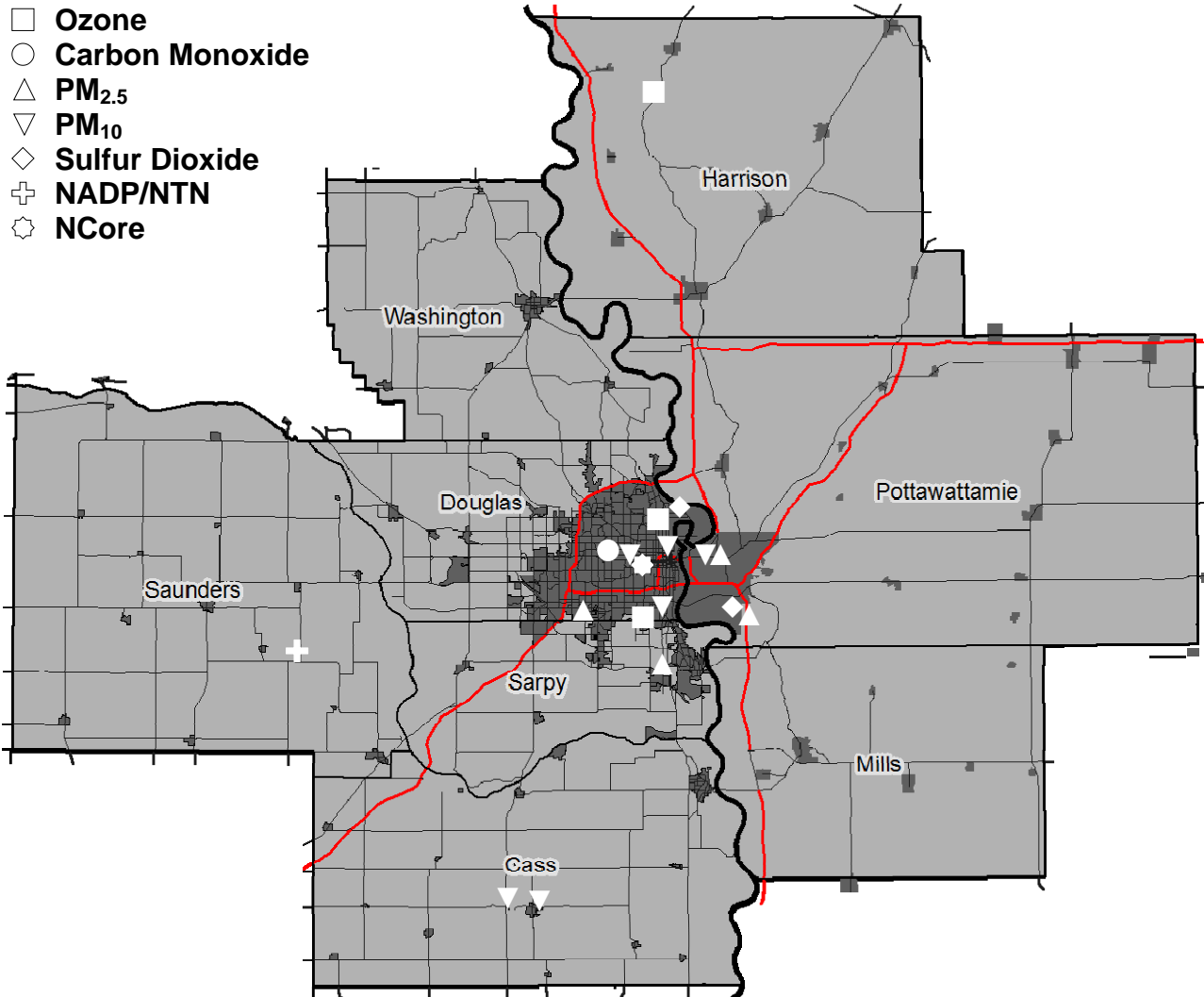
The map above shows monitoring sites that are in non-metropolitan areas. Maps on the next three pages show monitoring sites in the metropolitan areas of Lancaster County, Omaha-Council Bluffs, and South Sioux City. (The Omaha and South Sioux City maps also include adjoining counties in Iowa that are part of the region.)



**Nebraska Monitoring Sites in Metropolitan Areas**



**Omaha-Council Bluffs Metropolitan Statistical Area Monitor Location**



**Carbon Monoxide**

4102 Woolworth Avenue (NCore Trace Monitor)  
7747 Dodge Street, Omaha

**Sulfur Dioxide**

4102 Woolworth Avenue (NCore Trace Monitor)  
1616 Whitmore Street  
2115 Navajo Road (Council Bluffs, IA)

**NADP/NTN**

Mead, Saunders County

**PM<sub>2.5</sub>**

4102 Woolworth Avenue (NCore)  
9225 Berry Street  
2912 Coffey Avenue (Bellevue, NE)  
2242 Wright Street (Blair, NE)  
3130 C Avenue (Council Bluffs, IA)  
2115 Navajo Road (Council Bluffs, IA)

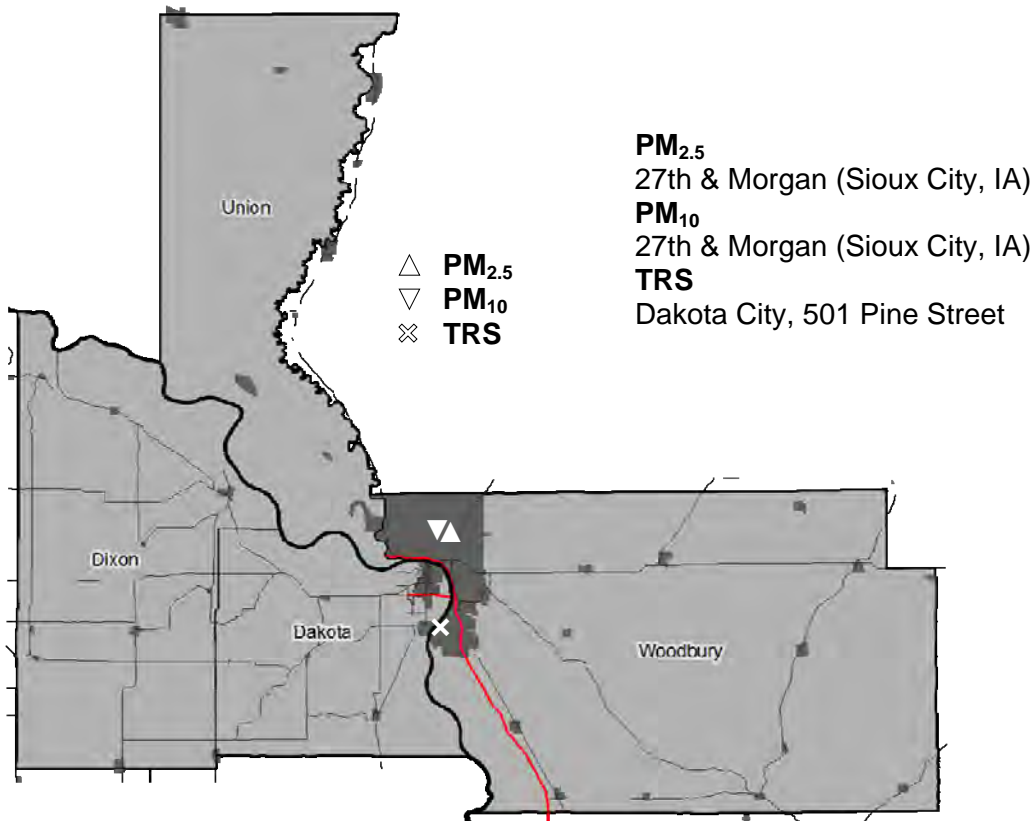
**Ozone**

4102 Woolworth Avenue (NCore)  
30<sup>th</sup> & Fort Streets  
2411 O Street  
1575 Highway 183 (Harrison County, IA)

**PM<sub>10</sub>**

4102 Woolworth Avenue (NCore)  
19<sup>th</sup> & Burt Streets  
46<sup>th</sup> & Farnam Streets  
2411 O Street  
102 P Street (Weeping Water, NE)  
5102 Highway 2 (Weeping Water, NE)  
3130 C Avenue (Council Bluffs, IA)

### Sioux City Metropolitan Statistical Area Monitor Locations



### Renewable Power Projects

The NDEQ operates two sites that are powered totally through renewable energy sources: a solar powered site near Weeping Water, and a solar/wind turbine powered site at the Scottsbluff High School. Both sites have successfully operated on renewable energy and are examples of energy conservation. The Scottsbluff site was designed to be portable so that it could be easily set up in any location within the state where sufficient solar and/or wind resources exist. The Scottsbluff site also allows an opportunity for NDEQ to partner with the local high school to educate the students about air quality and renewable energy.

### Inspections and Facility Compliance

The Compliance Program is responsible for conducting compliance inspections of air pollution sources, responding to citizen complaints, observing and evaluating emission tests, and the acid rain program.

Consistent with 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 otherwise be 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.

### Compliance Activity Summary

Compliance Activity	NDEQ	LLCHD	OAQC
On-site Inspections	139	99	62
Facility Stack Tests Reviewed	78	4	0
On site observations conducted	43	6	0
Continuous Emission Monitoring Audits Reviewed	39	0	0
On-site observations conducted	12	1	0
Complaints Received	185	2	91
Burn Permits Issued	69	27	61
Burn Permits Denied	4	0	2

### Grants, Planning, and Outreach Unit

The Air Quality Division's Grants, Planning, and Outreach Unit, formerly called the Program Planning and Development Unit, provides support and training to permitting and compliance staff, provides outreach and training to the regulated and general public, and provides information and analyses to Department and other policy makers. The Unit includes the air dispersion modeling and emissions inventory functions for the Air Division. It is also responsible for maintaining state air quality regulations, updating the state implementation plan, providing expert information on National Emissions Standards for Hazardous Air Pollutants (NESHAPS, also known as air toxics), New Source Performance Standards (NSPS) and National Ambient Air Quality Standards (NAAQS). The Unit coordinates local agency activities, as well as negotiates work plans with the EPA. The Unit also administers the Nebraska Clean Diesel Grant Program.

During 2011 and 2012, under the Nebraska Clean Diesel Grant Program, two new rebate grant programs for long haul trucks were created. The 2011 Clean Diesel Rebate and the 2012 Expanded Clean Diesel programs awarded \$308,000 toward the purchase and installation of new diesel or battery powered auxiliary power units (APUs). APUs were chosen because significant reductions are achieved across a range of areas such as idling, fuel consumption, diesel emissions and greenhouse gases. A total of 25 grants were awarded which culminated in 88 rebates. As a result of these programs, idling was reduced an average of 75%\* and the following reduction in diesel related pollutants were achieved.

Diesel Pollutant and Fuel Reductions*						
	NOx	PM2.5	HC	CO	CO2	Fuel: Diesel-Equivalent
Annual Reductions	119.04 (short tons/year)	8.87 (short tons/year)	9.82 (short tons/year)	43.03 (short tons/year)	299.7 (short tons/year)	27,000 (gallons)
Lifetime Reductions	2,618.93 (short tons)	195.03 (short tons)	216.13 (short tons)	946.63 (short tons)	6,593.4 (short tons)	594,000 (gallons)

\*All reductions were calculated using EPA's Diesel Emissions Quantifier.

The Air Toxics Notebook and the New Source Performance Standards (NSPS) Notebook continued to be maintained as valuable online resources for staff and regulated sources. The Grants, Planning, and Outreach Unit also announced the release of their new webpage, the AirNews Page (<http://deq.ne.gov/AirDates.nsf/AirNewsMain.xsp>). The AirNews Page is designed to provide easy access to information about the NDEQ Air Division, including important dates and deadlines, access to the AirNews Listserv archive, and links to other important forms and documents on the NDEQ website.

The annual Air Updates Workshops were again offered at four locations. They were conducted in Lincoln, Grand Island, Norfolk, and Scottsbluff in August of 2012. A total of 145 participants attended the workshops. For those unable to attend, all of the materials were made available through the AirNews Page.

In 2011, the Department submitted a state implementation plan to address Nebraska's obligations under the Regional Haze and Best Available Retrofit Technology Program. In July, 2012, EPA issued a final decision to partially approve and to partially disapprove Nebraska's Regional Haze implementation plan and to implement a federal implementation plan. The disapproval was based on the EPA's determination of inadequate controls at Gerald Gentlemen Power Station in Sutherland. The federal implementation plan utilized a separate rule-making that the Cross State Air Pollution Program achieved higher reductions than Best Available Retrofit Technology. This was possible since Nebraska, including Gerald Gentlemen Power Station, were included in the Cross State Air Pollution Program. However, in August, 2012, the United States Court of Appeals vacated the Cross State Air Pollution Program. EPA is expected to challenge the ruling and is still determining how to proceed, including how the decision will affect Nebraska's implementation plan for Gerald Gentlemen Power Station.

### **Emission Inventory and Emission Fees**

Each year, the Department conducts an inventory of emissions from major industrial sources and a representative sample of lower-emitting, minor industrial sources. Every three years, the Department assists the EPA to prepare a comprehensive national inventory of emissions. The emissions inventory is used to support the planning efforts for national rulemaking and to assess trends in emissions. Emission inventories are due on March 31<sup>st</sup> each year. The NDEQ also uses emission inventory to support the assessment of annual emission fees. Major sources of air pollution are required to pay emission fees for each ton of pollutant actually emitted during the calendar year. The maximum emission for which a fee is assessed is 4,000 tons per pollutant. For electrical generating facilities with a capacity of between 75 and 115 megawatts, the maximum emission is 400 tons per

pollutant. The fees generated are used to support the administration of the permitting program.

The Department makes every attempt to set the fee rate at the minimal level needed to pay reasonable direct and indirect costs of developing and administering the air quality permit program. An analysis detailing how the Department arrived at the fee rate is made available to fee payers and is on the NDEQ's website. The fee rate is determined in May of each year. The rate for 2011 emissions was \$64 per ton, down 3.0% from the 2010 emissions fee of \$66 per ton.

### **Future Air Issues for Nebraska**

Under the federal Clean Air Act, the EPA issues National Ambient Air Quality Standards (NAAQS) for "criteria pollutants." These standards are intended to protect public health and the environment. States must determine whether they are in attainment of these standards and take corrective action if needed. The standards are reviewed and revised periodically, based on the most recent scientific information available.

Nebraska is currently in attainment of all the NAAQS. There is concern, however, that the Omaha-Council Bluffs area may not remain in compliance with the ozone and particulate matter NAAQS when these standards are expected to be revised in the future. The 2012 ozone monitoring season witnessed very high ozone readings throughout the state, including the Omaha-Council Bluffs area. These high readings can be attributed to several factors, including the extremely warm and dry summer and the wildfires in Colorado. Additionally Nebraska has experienced exceedences in the particulate matter standard in Weeping Water. The expectation is that the EPA will be issuing revised standards for particulate matter by the end of 2012 and ozone in 2014. The levels and form of the revised standards will be a major factor in the future attainment of the NAAQS in Nebraska.

For more information about the Nebraska air quality program, please refer to the annual Air Quality Reports and the Ambient Air Monitoring Network Plan, both of which are available on the agency's website at <http://deq.ne.gov/> under "Focus on Air."

# 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 sections share responsibilities for hazardous waste (RCRA), 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**

NDEQ was authorized in 1985 by EPA to administer portions of the Resource Conservation and Recovery Act (RCRA) program. RCRA regulations are incorporated in NDEQ Title 128 - Nebraska Hazardous Waste Regulations, which is updated as the Federal RCRA regulations change. There were no regulatory changes made in fiscal year 2012 to the Title 128 regulations.

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,
- maintaining data systems to support decision-making and making 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 promoting 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 industries by helping to bring hazardous waste generators into lower RCRA threshold levels.

Compliance and enforcement activities include investigating complaints and the inspection of 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 conducting comprehensive groundwater monitoring evaluations and operation and maintenance inspections of sampling and analysis procedures at RCRA sites 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 Environmental Services, Inc. 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 two active hazardous waste storage facilities which do not treat hazardous waste.

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. Corrective action 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. EPA presently operates the corrective action program in Nebraska, and is responsible for regulating cleanups at Nebraska facilities.

### **Program Funding**

Funding for RCRA program activities is provided by an EPA grant, which requires a 25% state match.

Additionally, the Department can charge proposed commercial hazardous waste management facilities a fee to cover expenses for facility siting committee activities. No new facilities have been proposed in Nebraska since 1994, and that is the last time this fee was collected. There were no new facilities proposed in FY12.

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



Currently, the RCRA Program oversees:

- 57 Large Quantity Generators (greater than 2200 pounds of hazardous waste generated per month) See Figure 1
- 423 Small Quantity Generators (between 220 and 2200 pounds generated per month)
- 1244 Conditionally Exempt Small Quantity Generators (less than 220 pounds generated per month)
- 1 Hazardous Waste Incinerator Facility
- 32 Treatment/Storage/Disposal Facilities (active and inactive)
- 14 Hazardous Waste Transporters

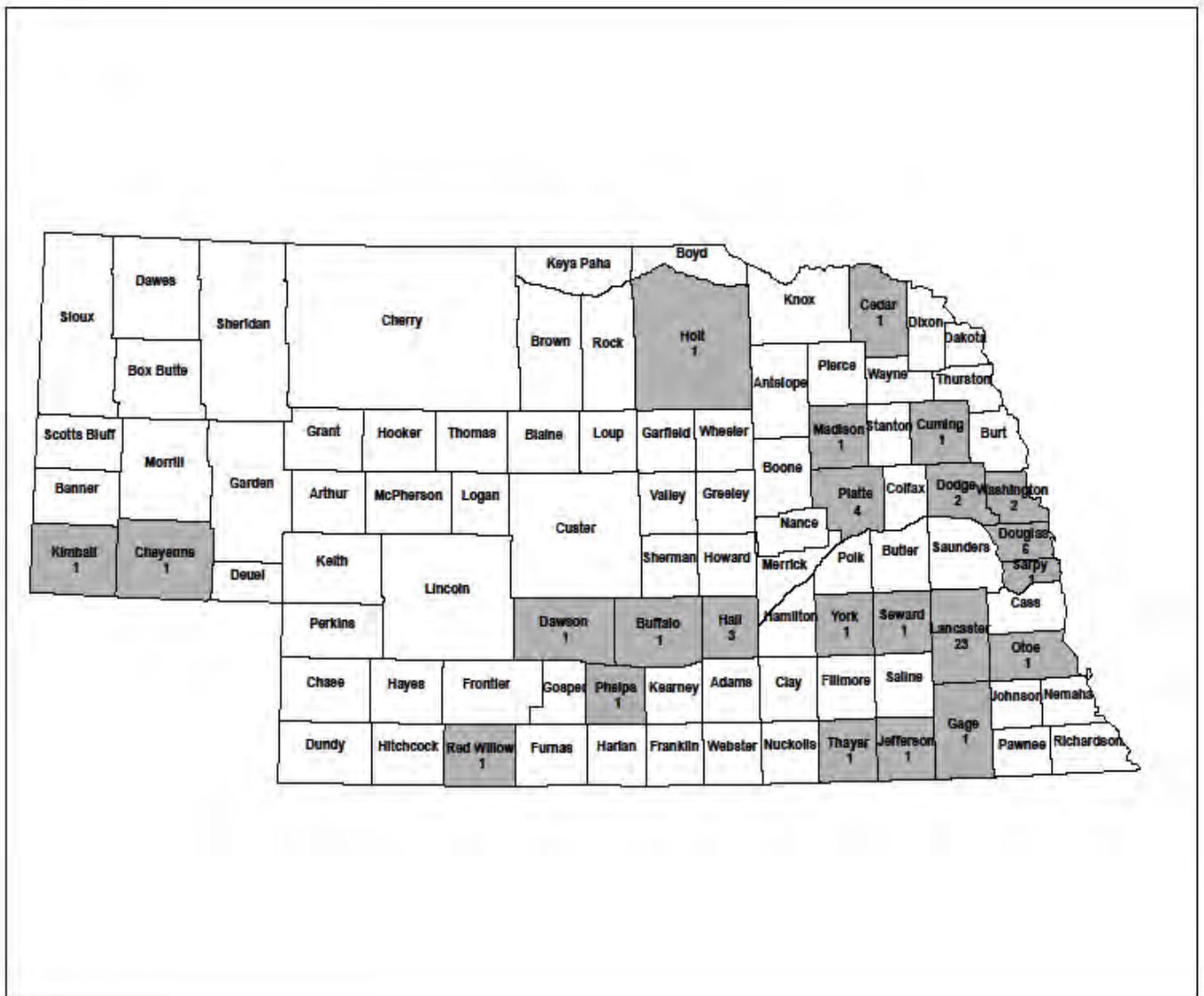


Table 1. Location of Large Quantity Generators in Nebraska Regulated Under RCRA

<b>Summary of FY2012 RCRA Activities</b>		
<b>Activity</b>	<b>State</b>	<b>EPA</b>
<b>Compliance Assistance</b>		
On-site Visits	2	0
Direct Assistance Contacts	950	*
Public Outreach Presentations (total 346 in attendance)	5	*
<b>Inspections</b>		
Land Treatment Facilities	0	3
Treatment and Storage Facilities	1	1
Comprehensive Groundwater Monitoring Evaluations	0	0
Operation and Maintenance Inspections	1	0
Facility Self-Disclosure	0	0
Large Quantity Generator	6	5
Small Quantity Generator	6	3
Conditionally Exempt Small Quantity Generators	15	3
Transporters	0	0
<b>Permitting</b>		
Closure Plans Finalized	0	0
Permits Issued/Renewed	3	1
Modifications	4	0
EPA Corrective Action Orders	0	0
<b>Record Reviews</b>		
Financial Assurance	17	0
*Data not available		

## 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 thirteen sites on the National Priorities List. One site, the Waverly Groundwater Contamination Site, was deleted from the NPL on November 20, 2006 as the cleanup goals for the site have been achieved. Twelve of the sites are in the cleanup phase and one site (West Highway 6 & 281 in Hastings) is relatively new to the National Priority List and is in the site study stage. Numerous other non-National Priorities List sites with known or suspected releases of hazardous substances exist in the state, but are not being addressed through the federal Superfund process.

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

**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 significant 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, geology/hydrogeology, and performing a site reconnaissance. The third step is called a site investigation, which involves sampling environmental media, such as soil and groundwater. In some situations, the preliminary assessment step and the site investigation step are combined. For large and/or complex sites, an expanded site investigation may also be performed to collect additional soil and groundwater samples to further define the extent of contamination. In addition, some sites that have been investigated in the past may be reassessed if new information is obtained that indicates that a threat to public health and/or the environment may exist. During the past year, the Department has performed work on four pre-screening assessments, one preliminary assessment, three site investigations and one site reassessment. In addition, the Department reviewed numerous site assessments conducted by EPA in the State and provided recommendations on the need for follow up action.

**NPL Site Management Assistance** — The Superfund Management Assistance program provides management and technical support to the 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 next page identifies completion of major phases of work at NPL sites in Nebraska.

### Cleanup Progress at NPL Sites in Nebraska

Site	County	Removal Actions	Site Studies	Remedy Selected	Remedy Design	Remedy Construction	Cleanup
Cornhusker Army Ammo Plant (Grand Island)	Hall	X	X	X	X	X	Ongoing
Hastings Groundwater Contamination (Hastings)	Adams	X	X	X	X	X	Ongoing
Lindsay Manufacturing Co. (Lindsay)	Platte	■	X	X	X	X	Ongoing
Nebraska Ordnance Plant (Mead)	Saunders	X	X	X	X	X	Ongoing
10th Street Site (Columbus)	Platte	X	X	X	X	X	Ongoing
Cleburn Street (Grand Island)	Hall	■	X	X	X	X	Ongoing
Ogallala Groundwater Contamination Site (Ogallala)	Keith	X	X	X	X	X	Ongoing
Bruno Coop Association (Bruno)	Butler	X	X	X	X	X	Ongoing
Sherwood Medical (Norfolk)	Madison	X	X	X	X	X	Ongoing
Omaha Lead Site (Omaha)	Douglas	X	X	X	X	X	Ongoing
Parkview Well Site (Grand Island)	Hall	X	X	X	X	X	Ongoing
Garvey Elevator (Hastings)	Adams	X	X	X	X	X	Ongoing
West Highway 6 & 281 (Hastings)	Adams	Ongoing	Ongoing				

**Chart definitions:**

**Removal Actions:** Short-term action intended to stabilize or clean up an incident or site that poses an imminent or substantial threat to human health or the environment.

**Site Studies:** Investigation of the nature and extent of contamination at a site, the potential long-term risks to human health and the environment posed by the contamination, and evaluation of a list of potential cleanup actions to address the contamination.

**Remedy Selected:** Preferred cleanup action selected from the list of potential cleanup actions.

**Remedy Design:** Completion of detailed engineering design plans for the cleanup system.

**Remedy Construction:** Status of the construction of the cleanup system.

**Cleanup:** Status of operation and maintenance of the cleanup system.

**Symbol key:**

X = Activity Completed      ■ = Activity Not Necessary      Blank = Activity Not Started

*Note: Various Operable Units at large sites may be at different stages.*

**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 and military munitions response 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. One hundred 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 or planned to be performed at three active sites and 15 formerly used defense sites. Military munitions response activities are being performed at six sites. A military munitions response site is a site that may have the potential for unexploded ordnance, discarded military munitions, and munitions constituents in soil and groundwater that may pose an explosive hazard or threat to the environment.

## Nebraska Voluntary Cleanup Program

The Remedial Action Plan Monitoring Act (RAPMA), initially created in 1995, established the Nebraska Voluntary Cleanup Program (VCP). The Voluntary Cleanup Program provides property owners and parties responsible for contamination with a mechanism for developing voluntary environmental cleanup plans that are reviewed and approved by the Department. The voluntary cleanup 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. In addition, the program serves as an alternative cleanup program to the more traditional federal cleanup programs like Superfund or RCRA.

The department has a Memorandum of Agreement (MOA) with EPA Region VII, which provides federal approval of voluntary cleanup programs. Under this agreement, any site that joins the voluntary cleanup program and successfully completes the cleanup action is assured that EPA will not pursue federal enforcement under CERCLA.

To date, 40 sites have entered the voluntary cleanup program. Currently, 17 sites are active in the voluntary cleanup program. Two sites have been deferred to the EPA Superfund program. Four sites withdrew from the program. Five sites have been terminated from the program due to lack of activity in completing the investigation and/or cleanup. Twelve sites have successfully completed cleanup requirements and have received "No Further Action" letters from the Department.

The department has seen a significant increase in applications to the voluntary cleanup program over the last several years. New applicants include the City of Lincoln on the West Haymarket Redevelopment Site North and South, Hoover Manufacturing in Beatrice, Magnolia Metal Corporation in Auburn, Union Pacific Railroad leased property in Auburn, CVS Pharmacy in south Lincoln, two former manufactured gas plant (FMGP) sites in Blair and Plattsmouth, Vishay Dale Electronics in Norfolk, Quality Analytical Services in Omaha and multiple former USDA grain bin sites. One current EPA brownfield grantee (Former PCS Nitrogen site in Sarpy County) and another FMGP site in Omaha are likely to apply to the program in the near future. Significant cleanup activities are ongoing at the West Haymarket Redevelopment Site North, the former Nebraska Solvents Company site in Grand Island, the former Pfizer facility in Omaha, the Archer Daniels Midland facility in Lincoln, CVS Pharmacy in Lincoln and the two FMGP sites in Blair and Plattsmouth. Cleanup activities are also anticipated to commence next year at Magnolia Metal Corporation in Auburn, Plaza North Station LLC in Omaha and Vishay Dale Electronics in Norfolk. Cleanups were completed this year at Lincoln Plating Company, UPRR Child Development Center and the Izaak Walton Trap Range in Fremont.

The fee structure for this program was revised in 2008. The application fee to participate in the program was reduced from \$5,000 to \$2,000, and the initial deposit to pay for state oversight costs was reduced from \$5,000 to \$3,000.

**Brownfield Assessments and Cleanups** — A brownfield site is vacant or under-used industrial or commercial property where expansion or redevelopment is complicated by unresolved contamination concerns. The voluntary cleanup program performs assessments and cleanups at brownfield sites in Nebraska. These assessments and cleanups are performed by NDEQ at no cost to interested parties in Nebraska communities. A brownfield assessment is a preliminary investigation to evaluate the environmental conditions at a property, similar to a Phase I and Phase II Environmental Site Assessment. Cleanups can involve a variety of measures that are implemented to contain and reduce contamination at a site. During the past year, the Department has performed 15 brownfield assessments.

### Voluntary Cleanup Program 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	Deferred to EPA Superfund	4/13/95
ASARCO	Omaha-Riverfront	Completed 10/11/01	1/8/96
BNSFRR	Lincoln-N. Havelock	Terminated 12/4/06	1/17/96
Union Pacific RR	Omaha-N. Downtown	Withdrawn 3/7/03	1/17/96
Farmland Industries	Scottsbluff	Completed 7/2/09	2/26/96
Lincoln Journal Star	Lincoln-Downtown	Terminated 1/28/09	2/26/97
Farmland Industries	Hastings-East	Completed 9/2/03	6/25/97
Hastings Area wide	Hastings	Withdrawn 6/23/00	12/17/97
Lincoln Plating Co.	Lincoln	Completed 7/26/12	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	Deferred to EPA Superfund	9/27/99
Ballpark Complex	Lincoln-Haymarket	Completed 9/1/06	11/9/99
Progress Rail Services	Sidney-North	Completed 1/3/06	11/22/99
Brownie Manufacturing	Waverly-Highway 6	Withdrawn 7/19/01	4/25/00
BNSFRR	Lincoln-Havelock Yards	Terminated 12/4/06	10/26/00
New Holland	Grand Island-Southwest	Active	11/9/00
Owen Parkway East	Omaha-Abbott Drive	Withdrawn 11/26/02	12/13/00
Omaha Riverfront Redevelopment - 3 parcels	Omaha-Riverfront	Completed 6/18/03, 12/9/03, 11/9/04	5/18/01
Sanford & Son	Lincoln-North	Terminated 4/18/07	1/22/02
Union Pacific RR Child Development Center	Omaha-N. Downtown	Completed 1/13/12	3/5/04

Vishay Dale Electronics	Norfolk	Terminated 4/20/09	11/13/06
Union Pacific RR Nebraska Solvent Site	Grand Island	Active	2/23/07
Archer Daniels Midland	Lincoln	Active	11/3/08
Plaza North Station LLC	Omaha	Active	7/14/09
Former Pfizer Facility	Omaha	Active	7/28/09
CVS Pharmacy	Lincoln	Active	10/13/10
West Haymarket Redevelopment Site North	Lincoln	Active	10/27/10
Izaak Walton Trap Range	Fremont	Completed 4/6/12	10/28/10
Magnolia Metal Corporation	Auburn	Active	3/9/11
Dettmer Lease Property	Auburn	Active	4/7/11
Hoover Manufacturing	Beatrice	Active	5/27/11
Blair FMGP	Blair	Active	6/28/11
Plattsmouth FMGP	Plattsmouth	Active	6/28/11
Former USDA CCC Grain Bin Sites	Multiple Sites	Active	3/16/12
Vishay Dale Electronics	Norfolk	Active	4/2/12
Lewis and Clark Landing	Omaha	Active	4/20/12
West Haymarket Redevelopment Site South	Lincoln	Active	6/11/12
Quality Analytical Services	Omaha	Active	8/2/12

## Solid Waste Program

Solid Waste regulations are incorporated in NDEQ *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 assigned to 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) Alternate waste management method approvals; 6) Groundwater investigations and groundwater/soil remediation projects for permitted and non-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; 10) Financial assurance review and monitoring compliance; and 11) Assisting regulated facilities and the general public in recycling, re-use and proper management of waste-like materials.

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 regulated by this program.

Permit modification requests are regularly submitted by 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 needs and continue operations.

The waste management program coordinates with other department divisions to ensure that permits issued include adequate protection of all environmental media. The requirements in solid waste permits include protection against excessive emissions of landfill gas to the atmosphere, storm water runoff controls, and restrictions on accepting hazardous waste for disposal at a landfill.

Currently, the Solid Waste Program oversees the following facilities, by type:

<b>Total Permitted Facilities in FY 2012</b>	
Municipal Solid Waste Disposal Areas (Landfills)	23
Industrial Waste	1
Solid Waste Compost Sites	8
Transfer Stations	39
Materials Recovery Facilities	5
Construction & Demolition Waste Disposal Areas	29
Delisted Waste Disposal Areas	1
Fossil Fuel Combustion Ash Disposal Areas	8
<b>Total</b>	<b>114</b>

The following chart indicates the number of inspections, complaints and permitting-related activities that the program was involved with in FY2012:



<b>Summary of Activities: FY2012</b>	
<b>Compliance</b>	
Facility Inspections (General)	123
Facility Inspections (Construction)	1
Complaints Received	130
Complaints Investigated	119
Complaints Closed	119
<b>Permitting</b>	
New Permits Issued	2
Permit Renewals	18
Major Permit Modifications	3
Transferred Permits	1
Public Hearings	1
Financial Assurance Reviews	163
Facilities Closed	0

### **Financial Assurance**

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.

### **Program Funding**

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 and transfer stations moving waste for disposal out of state. Fifty percent of the quarterly disposal fees are redistributed as grants and administration of 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, investigation and remediation of contamination from solid waste facilities, and emergency response activities.

### **Waste Tire Management Program**

The waste tire management program is also regulated under Title 132. Approved beneficial uses of waste tires are outlined in the regulations. Waste tire haulers are required to obtain individual permits annually and are required to post financial assurance. Financial assurance is designed to provide adequate funds to clean up any waste tires that are illegally disposed by the transporter.

Waste tire management facilities (except tire dealers) are allowed to accumulate up to 500 tires without further requirements, other than mosquito control and fire prevention measures. Accumulation of more than 500 waste tires is prohibited.

Compliance assistance is an important aspect of this program. Program activities include 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. Direct financial assistance is also available through the Waste Reduction and Recycling Incentives Grant program, which is described later in this chapter.

<b>Waste Tire Permit Totals, FY2012</b>	
<b>Permitting</b>	
Renewed Hauler Permits	20
New Permits Issued	2

The waste tire 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.

## 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.

Main responsibilities of Planning and Aid Unit include:

- Oversight and review – The Unit reviews grants submissions, performs compliance inspections, monitors the activities, budgets and equipment purchases of grantees, and conducts quarterly performance reviews.
- Outreach – The Unit promotes the availability of grant funding, coordinates the ranking process with the Citizen Advisory Committee, announces grant awards, provides integrated waste management information to the public, and contributes to the development of the Nebraska Recycling Resource Directory, which is located at DEQ's web site at <http://deq.ne.gov>, under "Assistance."

### Review Process

The Litter Reduction and Recycling Grant Program and the Waste Reduction and Recycling Grants Incentive Program both utilize a Program Priority System to rank applications received annually by the Department. Applications for funding assistance are prioritized by evaluating the following factors:

- Program Design and Implementation
- Program Impact
- Demonstrated Ability
- Matching Contributions

Each year, grant requests exceed the available funding. The NDEQ Director created the 24-member Citizen Advisory Committee to review all grant applications and rank them according to the Program Priority System. The Director relies heavily on the Citizen Advisory Committee's rankings when making grant awards.

### Expected Service Life

The Planning and Aid Unit grant programs utilize an expected service life procedure for grant-funded equipment. The expected service life determines how long the grantee is responsible for equipment status reports to the Department and how long the Department maintains an interest in the equipment.

An expected service life is assigned to all equipment purchased with grant funds (in whole or in part) that has a value of \$1,000 or more per item. Equipment costing less than \$1,000 can be assigned an expected service life on a case-by-case basis. Purchase of equipment is documented at the time of purchase. When the grant is closed out, the grantee is provided a sticker to properly identify the equipment and is notified of the length of the expected service life.

### 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 \$500,000 annually.
- A \$1 per tire fee on the retail sale of new tires in Nebraska, which generates about \$1.9 million annually;
- Fifty percent of the \$1.25 per ton disposal fee on solid waste disposed of in permitted landfills, which generates approximately \$1.2 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.

LB 29, passed in 2011, changed the funding source for the cleanup of illegal road side dumps from the Integrated Solid Waste Management Cash Fund to the Waste Reduction and Recycling Fund. The illegal dump site cleanup program is a reimbursement program available to political subdivisions.

## Fund Summary

### Waste Reduction and Recycling Fund July 1, 2011 - June 30, 2012

<b>Fund Balance June 30, 2011</b>	<b>\$</b>	<b>2,936,150</b>
Revenues:		
New Tire Fees		1,948,318
Business Fees		453,137
Solid Waste Disposal Fee		1,335,450
Interest, Grant Returns		232,616
<b>Net Collections for Year</b>	<b>\$</b>	<b>3,969,521</b>
Expenditures:		
Administration		315,083
Grant Funds Expended		2,444,305
<b>Total Expenditures FY 2012</b>	<b>\$</b>	<b>2,759,388</b>
<b>Fund Balance June 30, 2012</b>	<b>\$</b>	<b>4,146,283</b>

**Summary of Activities** - For FY2012, the Department awarded \$3,546,661 for Waste Reduction and Recycling Incentive Grants to 161 projects. Fourteen of these grants were awarded from the Business Fee category (\$774,715), 16 were awarded from the Disposal Fee category (\$916,461), and 131 received grants from the funds prioritized for scrap tire projects (\$1,855,485). The following list indicates the communities across Nebraska where private and public entities received funds. The map on the following page shows locations of grantees.

**Waste Reduction & Recycling Grants for FY2011**

Business Fee \$ 774,715 14 grants, including, 3 statewide  
 Disposal Fee \$ 916,461 16 grants, including, 6 regional

Business Fee

Columbus  
 Fremont  
 Grand Island  
 Gretna  
 Hebron  
 Kimball  
 Lincoln – 2 grants  
 Madison  
 Oakland  
 Omaha – 4 grants

Disposal Fees

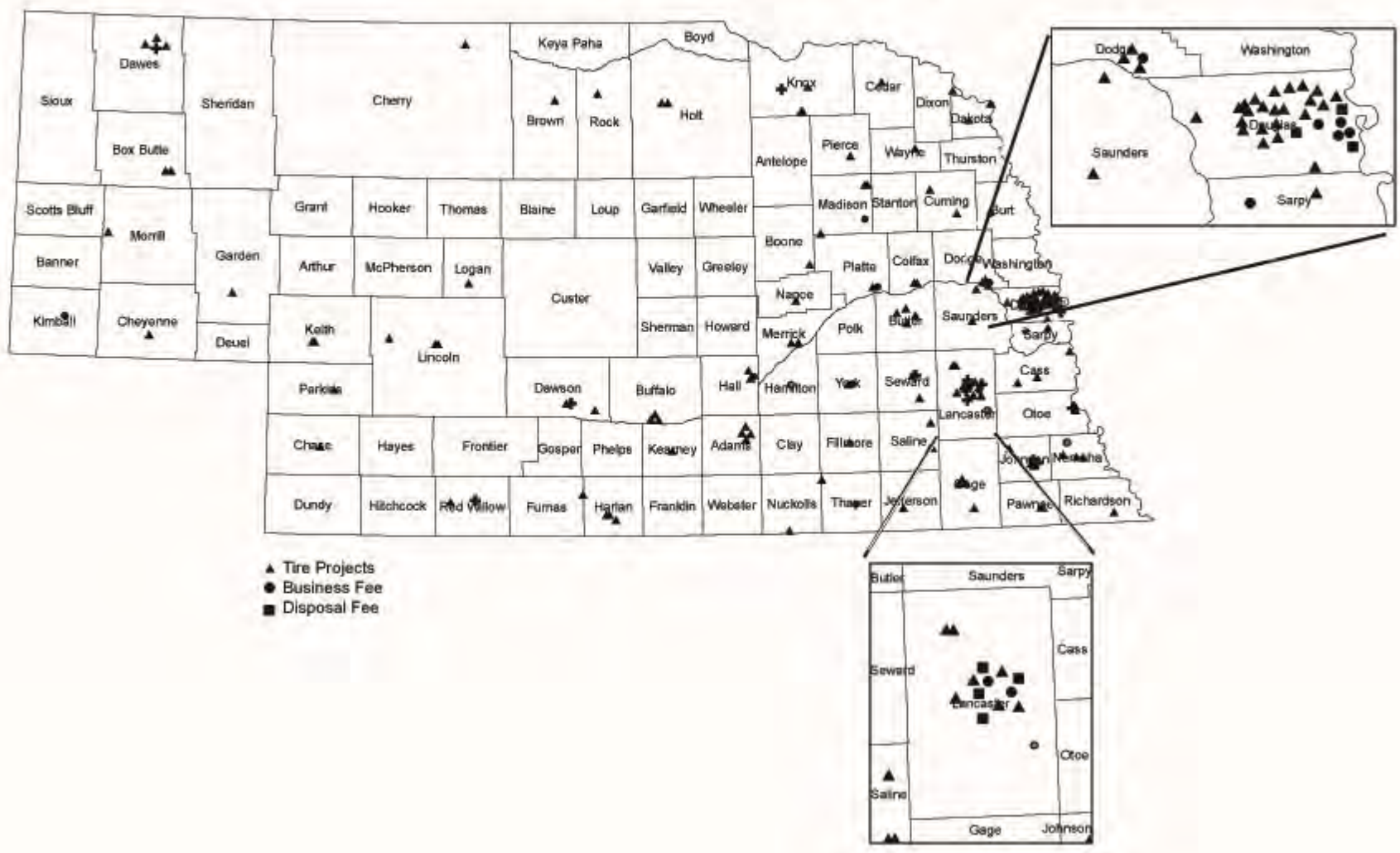
Chadron  
 Lexington  
 Lincoln – 4 grants  
 McCook  
 Omaha – 3 grants  
 Nebraska City  
 Seward  
 Tecumseh – 2 grants  
 Verdigre  
 York

**Scrap Tire Grant Awards for FY 2011**

131 grants 3 regional grants Total awarded \$1,855,485

Ainsworth	Geneva	Pierce
Alliance – 2 grants	Grand Island – 2 grants	Plattsmouth
Alma	Hartington	Ponca
Atkinson – 2 grants	Hastings – 4 grants	Ralston
Auburn – 2 grants	Hubbard	Raymond – 2 grants
Aurora	Imperial	Schuyler – 2 grants
Bassett	Johnson	Seward
Bayard	Kearney – 3 grants	Sidney
Beatrice – 3 grants	Lexington	South Sioux City
Bennet	Lincoln – 4 grants	St. Edward
Brock	Madrid	Stapleton
Cedar Bluffs	McCook	Sterling
Center	Milford	Superior
Central City – 2 grants	Minden	Sutherland
Chadron – 3 grants	NE City – 2 grants	Tecumseh – 3 grants
Columbus	Newman Grove	Valentine
Creighton – 2 grants	Norfolk – 2 grants	Valley
Crete	North Platte – 2 grants	Wahoo
Davenport	Ogallala – 2 grants	Wayne
David City – 4 grants	Omaha – 21 grants	Weeping Water
Elmwood	Orleans – 2 grants	West Point
Emerald	Oshkosh	Wilber – 2 grants
Fairbury	Overton	Wisner
Falls City	Oxford	Wymore
Fremont – 3 grants	Papillion	York
Fullerton	Pawnee City – 2 grants	

# Waste Reduction and Recycling Incentive Grant Program 2012 Grant Awards



## 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 products manufactured. The annual litter fee for wholesalers and retailers is equal to \$175 for each million dollars of sales made in the state. Approximately \$1.8 million is received annually.

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

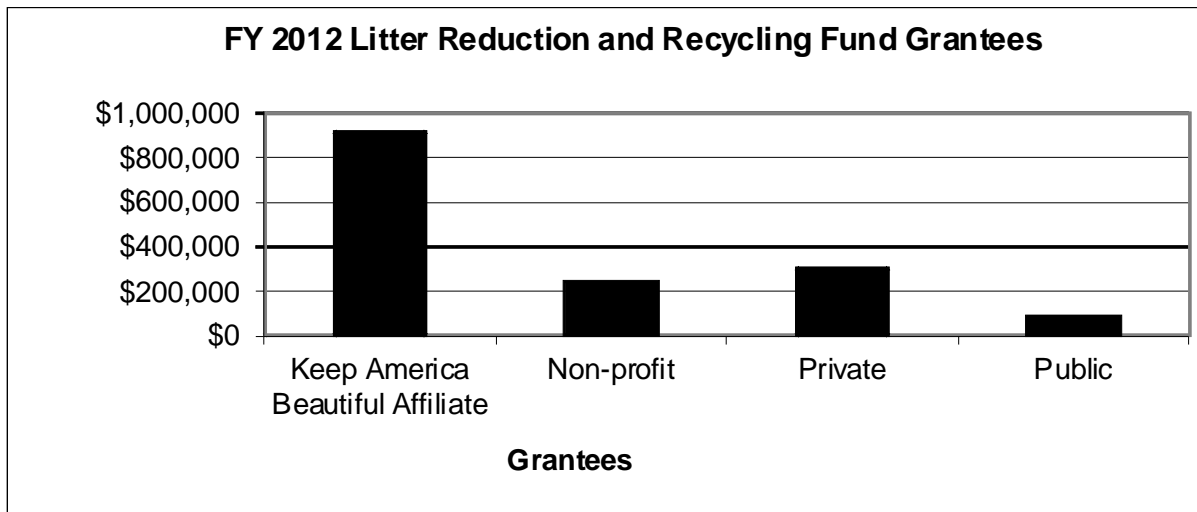
- Food for human consumption, beverages, soft drinks, carbonated water, liquor, wine, beer, and other malt beverages, unless sold by retailers solely for consumption indoors on the retailer's premises;
- Food for pet consumption;
- Cigarettes and other tobacco products;
- Household paper and household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

## Fund Summary

### Litter Reduction and Recycling Fund July 1, 2011 - June 30, 2012

<b>Fund Balance June 30, 2011</b>	<b>\$</b>	<b>369,689</b>
Revenues:		
Litter Taxes Collected		1,848,622
Interest, Grant Returns		195,940
<b>Net Collections for Year</b>	<b>\$</b>	<b>2,044,562</b>
Expenditures:		
Department of Environmental Quality Administration		267,834
Grant Funds Expended		1,657,297
<b>Total Expenditures FY 2012</b>	<b>\$</b>	<b>1,925,131</b>
<b>Fund Balance June 30, 2012</b>	<b>\$</b>	<b>489,120</b>

In FY2012, \$1,554,178 was awarded from the Litter Reduction and Recycling Grant Program. Grant funding is awarded to several types of programs; Keep America Beautiful affiliates, non-profits, private businesses, and public entities. Many of these programs utilize the Litter Reduction and Recycling Grant Program funds to leverage additional dollars for a comprehensive approach to litter reduction and recycling. Below is a chart reflecting FY2012 grantees.



**FY 2012 Grant Allocations**

**Litter Reduction and Recycling Fund**

In FY2012, the Department gave 57 Litter Reduction and Recycling Grant Program awards to organizations in Nebraska. The breakdown is as follows:

<b>Public Education</b>	(40%)	21 grants	\$ 620,003
<b>Cleanup</b>	( 5%)	9 grants	\$ 81,675
<b>Recycling</b>	(55%)	27 grants	\$ 852,500
			<b>\$1,554,178</b>

**Public Education**

In FY2012, 21 grants totaling \$620,003 were awarded under the category of public education. The Public Education programs educate citizens in the areas of litter reduction, cleanup, and recycling through a variety of individual and community activities. The citizens of Nebraska are cultivating a greater awareness of their impact on the environment through their purchasing and disposal actions. The educational programs are an excellent means of providing information on proper waste disposal, recycling, and available products that contain recycled material. Priority is given to programs that promote markets for recycled materials or purchasing products made from recycled materials. The following list indicates the locations that received funds.



## Cleanup

In FY2012, 9 grants totaling \$81,675 were awarded under the category of cleanup. The cleanup programs utilize Nebraska residents of all ages to pick up litter and debris along Nebraska's highways, waterways, recreation lands, urban areas, and other public use areas within the state. Not only are the public areas improved through the removal of litter and debris, but also much of the material collected during the cleanups is recycled. The recycling proceeds are often utilized to benefit the respective programs. The following list indicates the locations that received funds.

## Recycling

In FY2012, 27 grants totaling \$852,500 were awarded under the category of recycling. The recycling programs provide an alternative to the disposal of solid waste in Nebraska's landfills. The programs recycle more than just aluminum, paper, glass, and plastic. Materials such as electronic computer components, paint, aerosol cans, fertilizer, pesticides, and household hazardous waste are collected and either reprocessed to be used again or are disposed of in an environmentally friendly manner. Recycling conserves our natural resources, landfill space, and energy. Jobs are created and revenue is generated through the opportunities that recycling provides. Recycling efforts that promote the purchase of recycled content products continue to receive priority for funding. This support helps to "close the loop" and enhance the recycling efforts in Nebraska. The list below indicates the communities where private and public entities received funds. The map on the next page shows locations of grantees.

### FY 2012 Public Education Grant Awards:

Total Awarded - \$620,003                      21 total grants

Alliance	Lincoln
Beatrice (2 grants)	Norfolk
Boston, MA	North Platte
Cass County	Ogallala
Chadron	Omaha
Columbus	Ord
Fremont	Schuyler
Grand Island	Scottsbluff
Kimball	Sidney
Lexington	So Sioux City

### FY 2012 Cleanup Grant Awards

Total Awarded - \$81,675                      9 total grants

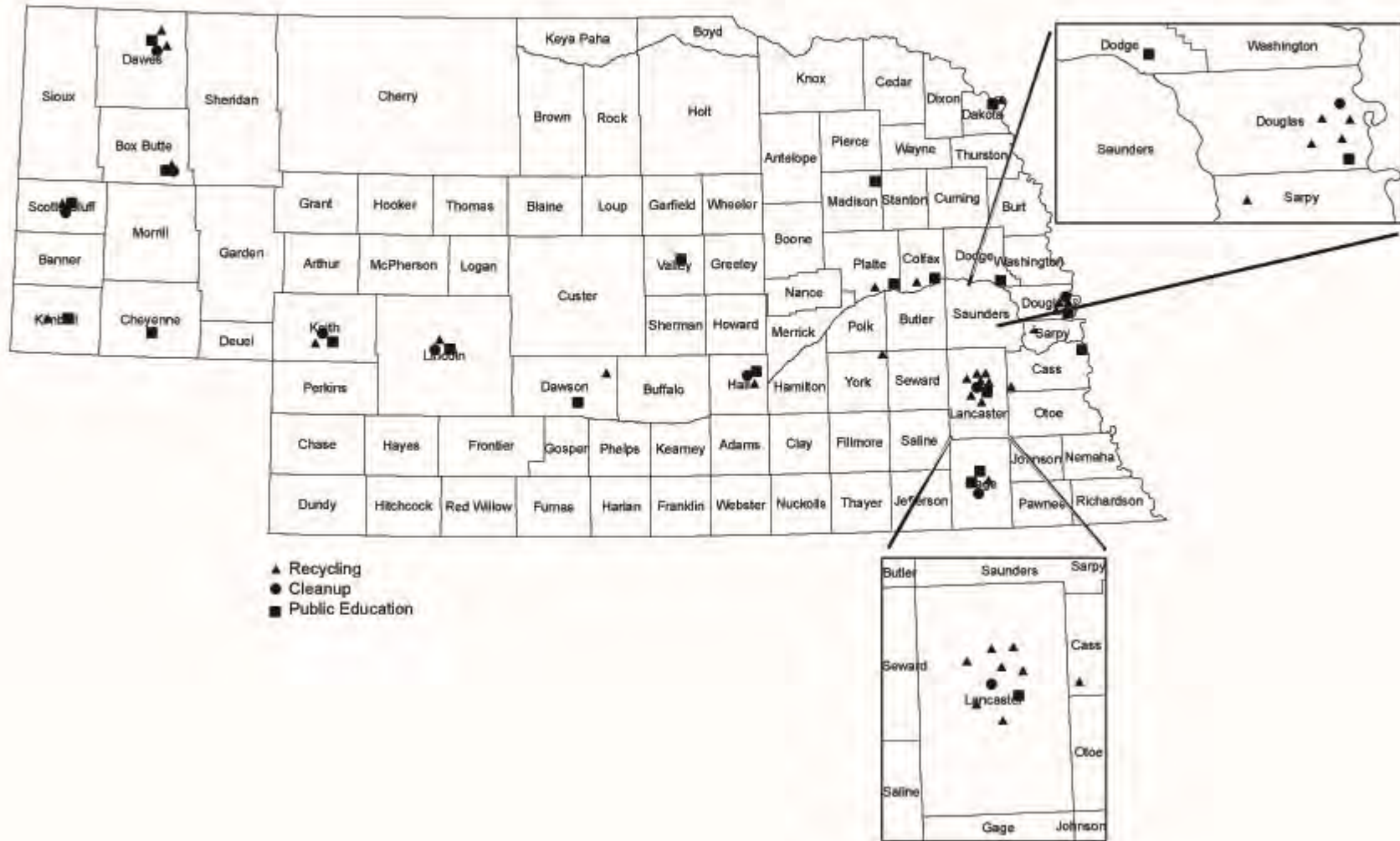
Alliance	North Platte
Beatrice	Ogallala
Chadron	Omaha
Grand Island	Scottsbluff
Lincoln	

### FY 2012 Recycling Grant Awards

Total Awarded - \$852,500                      27 total grants

Alliance	Lincoln – 7 grants
Beatrice	North Platte
Chadron – 2 grants	Ogallala
Columbus	Omaha - 4 grants
Eagle	Schuyler
Grand Island	Scottsbluff
Gresham	So Sioux City

# Litter Reduction and Recycling Grant Program 2012 Grant Awards



### **Illegal Dumpsite Cleanup Program**

The Illegal Dumpsite Cleanup Program, established in 1997, is a cleanup program that 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 \$130,000 is available annually. The Department is encouraging municipalities, counties, and other political subdivisions to submit applications for the reimbursement of cleanup efforts. In FY2012, the program provided \$67,626 to four recipients.

### **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 that 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 that 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 provided no more than quarterly and no less than annually. In FY2012, the program provided \$127,875 to 11 recipients.

# 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 programs administered by the Water Quality Division, including: petroleum remediation programs, agriculture programs, surface water and groundwater monitoring and assessment programs, wastewater permitting and certification programs, and financial assistance programs.

### **Petroleum Remediation Program**

NDEQ's activities regarding the Petroleum Remediation Program involve two interrelated program areas:

1. overseeing the **investigation and cleanup** of petroleum contamination resulting from leaking above-ground and underground storage tanks; and
2. administering a **financial assistance program** for persons responsible for investigation and cleanup costs due to petroleum releases from tanks.

#### **Investigation and Cleanup**

The first step in the Petroleum Remediation Program is the review of tank removal assessment reports or other documentation to determine whether potential contamination exists. After some initial indication that there may be petroleum contamination at a site, NDEQ decides whether more investigation and cleanup is required. The agency also determines whether parties who caused the contamination are available and financially capable of assuming responsibility.

In the event these reports indicate a threat to health, safety, or the environment, NDEQ requires a detailed study of the affected groundwater and soil to discover the severity of the contamination, direction of groundwater flow, and potential water supplies or points of exposure that may be impacted. Program staff review these reports to determine if cleanup requirements are needed and issue a public notice of their decision. Staff review remedial actions throughout the project and determine when sufficient cleanup has been accomplished.

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 allows evaluation of all petroleum release sites based on the risk they pose to human health and the environment. Those that pose no significant risk are closed; those that pose significant risk are prioritized for further work. In recent years, the program has been initiating many new investigations to collect information needed for Tier 1, the first step in the RBCA process. The plan is to continue investigating additional sites until eventually the information necessary for a RBCA Tier 1 evaluation has been collected at all sites. Sites that fail Tier 1 are activated for Tier 2, which is a more detailed investigation and the next step in the RBCA process. If sites fail Tier 2, they are normally scheduled for cleanup.

#### **Financial Assistance – Petroleum Release Remedial Action Reimbursement Fund**

When contamination has been found at a site, and the NDEQ has determined that more investigation and/or cleanup is required, the agency will also determine the "responsible person(s)." This term refers primarily to those who owned or operated the site when the leak occurred. Those

who are determined to be the responsible persons may be eligible for reimbursement through the Petroleum Release Remedial Action Reimbursement Fund.

This fund helps pay for investigation and cleanup costs for owners/operators of facilities that have leaking petroleum tanks. Costs for both underground and above ground tank releases are eligible for reimbursement. The program's activities in this area include receiving and processing applications for reimbursement from the fund and subsequently initiating reimbursements for eligible costs. To assist applicants, the program developed guidelines entitled "Reasonable Rates Schedule and Reimbursement Guidance Manual."

### **"Orphan" sites**

In situations involving "orphan" sites (sites where the person or business that caused the contamination either cannot be identified or located or does not have the resources to pay for their share of cleanup costs), investigation and remediation costs are paid with federal and/or state funds. In FY12, 26 orphan sites were activated for investigation and/or cleanup. As of August 31, 2012, there were 544 orphan sites waiting on the inactive list.

### **Pay for Performance**

Some orphan sites are selected by the state to be cleaned up through a different process known as "Pay for Performance." Under the Pay for Performance program, pre-qualified contractors are invited to submit bids to clean up specific petroleum-contaminated sites. NDEQ has signed 36 Pay for Performance contracts since the program's inception. Of these projects, 10 have been successfully completed, 14 were terminated prior to completion, and 12 are still in the cleanup phase. This program saves the state time and money in getting these sites cleaned up.

### **Program Statistics**

Since June 1999, through July 25, 2012, 2,487 Tier 1 site investigations have been initiated. Of the 2,225 Tier 1 field investigations completed, 1,360 (61%) were closed, and 865 (39%) were determined to need a more detailed Tier 2 investigation. Since April 2002, 702 Tier 2 investigations have been completed; 502 (72%) of these sites have been closed. Of all the sites that have completed a Tier 1 or Tier 2 investigation, 309 (14%) have reported finding the contaminant methyl tert-butyl ether (MTBE) in groundwater.

The revenue going into the cleanup fund in FY12 was about \$11.4 million. As of June 30, 2012, a total of \$169,695,681 has been disbursed since the program began. During FY12, NDEQ reimbursed \$2,661,010 to 109 Tier 1 sites and an additional \$4,004,402 to 137 other active sites.

The 34 sites listed on the next page are all currently active sites that 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. Some inactive (closed) sites have also reached the statutory limit.

Responsible Person	City	Reimbursed amount as of June 30, 2012	Has Statutory Limit Been Reached?*
BURLINGTON NORTHERN & SFR	ALLIANCE	\$975,000.00	yes
BURLINGTON NORTHERN & SFR	ALLIANCE	\$972,578.98	yes
BURLINGTON NORTHERN & SFR	MC COOK	\$975,000.00	yes
BURLINGTON NORTHERN RR	LINCOLN	\$893,355.53	yes
CORNER SERVICE	BANCROFT	\$973,000.00	yes
KONECKY OIL	MEAD	\$975,000.00	yes
BURLINGTON NORTHERN & SFR	ALLIANCE	\$973,682.45	yes
ELKHORN VALLEY COOP	SNYDER	\$953,516.14	no
MAGERS SERVICE	NORTH PLATTE	\$947,669.57	no
WORTMAN MOTOR CO.	DONIPHAN	\$904,569.11	no
WESTERN COOPERATIVE CO.	ALLIANCE	\$923,121.12	no
COBB MOTORS INC	STUART	\$918,030.47	no
AG VALLEY COOP	BARTLEY	\$907,069.79	no
CONOCO PHILLIPS	SIDNEY	\$899,811.46	no
BURLINGTON NORTHERN & SFR	ALLIANCE	\$879,751.99	no
UNOCAL CORPORATION	OGALLALA	\$862,421.88	no
NEITZEL OIL CO.	SPRINGFIELD	\$851,693.57	no
IBP ATV(AT THE VERTICALS)	DAKOTA CITY	\$838,655.32	no
FOOTE OIL COMPANY	HASTINGS	\$787,929.16	no
CARPENTER OIL & PROPANE	STERLING	\$748,608.22	no
FARMERS COOP GRAIN SUPPLY	TRENTON	\$737,538.80	no
COASTAL REFINING & MARKET	CHESTER	\$710,366.72	no
AG VALLEY COOP	CURTIS	\$705,395.73	no
LEIGH OIL CO	LEIGH	\$686,527.14	no
WYMORE OIL CO	WYMORE	\$696,242.99	no
SINCLAIR OIL CORP.	GRAND ISLAND	\$686,863.89	no
WHITEHEAD OIL 33RD A	LINCOLN	\$684,515.56	no
CITY OF LINCOLN	LINCOLN	\$677,910.17	no
LOHR PETROLEUM CO	COLUMBUS	\$676,837.88	no
FLYING J INC	GRETNA	\$671,696.87	no
ROESENER OIL CO	COOK	\$659,843.83	no
WESTERN COOPERATIVE CO.	ALLIANCE	\$648,274.60	no
SANDHILL OIL	THEDFORD	\$626,631.91	no
FORMER FARMERS COOP	CEDAR BLUFFS	\$607,091.97	no

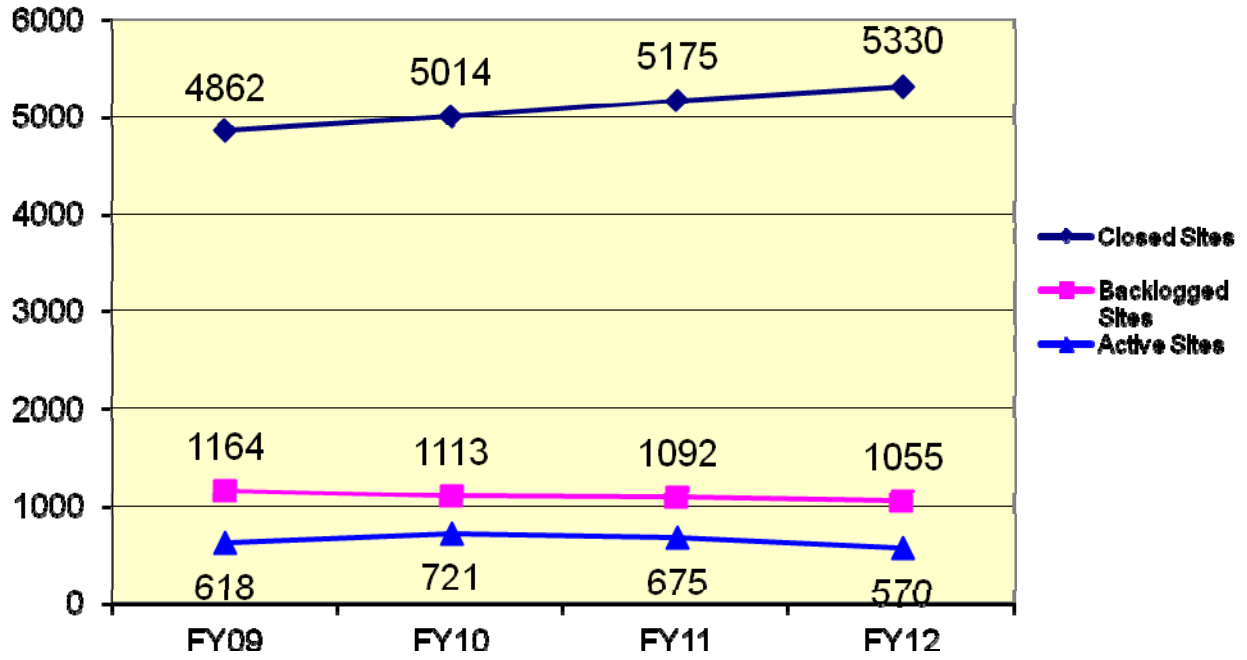
\* Those with a yes indicate that the statutory limit was reached prior to June 30, 2012. The total reimbursed amount may have been reduced due to noncompliance.

Responsible persons are able to perform voluntary remedial action prior to NDEQ's approval of their plans and still be eligible for reimbursement consideration in the future. This allows sites to move forward on their own initiative. About 211 suspended or backlogged leaking underground storage tank sites have been closed based on voluntary submittals.

The following is a chart of end of year totals for the past four years relating to Petroleum Remediation sites in Nebraska. The chart provides information relating to:

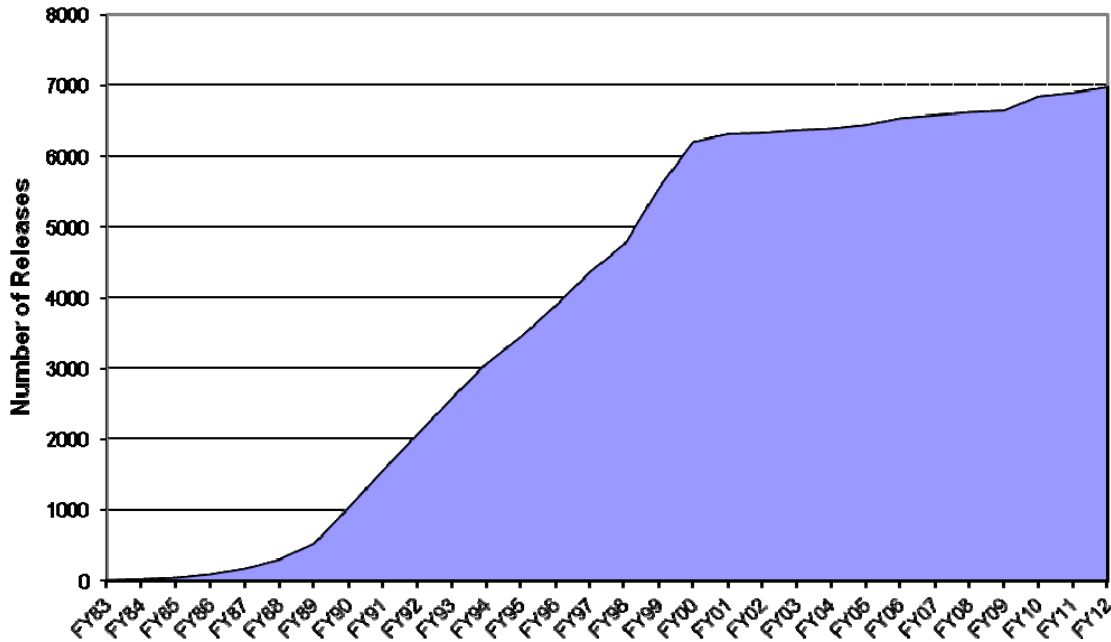
- **Closed Sites:** Sites that have been closed either because they have been cleaned up or it has been determined that no cleanup is necessary
- **Backlogged Sites:** Sites identified as potentially needing cleanup, but are on a waiting list for further investigation
- **Active Sites:** Sites that are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

**LUST trends:  
End-of-Year Totals, FY09-FY12**

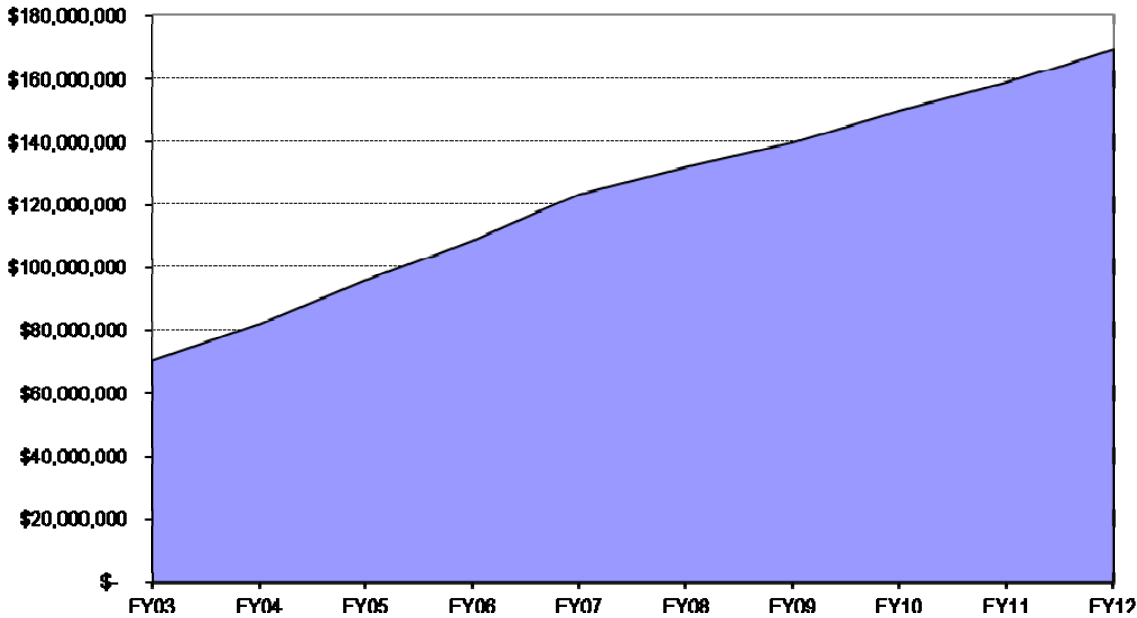


The chart below shows the cumulative number of sites that have had releases identified. The second chart shows the cumulative amount that the program has spent on investigation and cleanup in the past several years.

**Cumulative LUST Release Totals (Through FY12)**



**Cumulative Title 200 Disbursements (last 10 years through FY12)**





## Agriculture Section

The Agriculture Section programs consist of the Livestock Waste Control Program, the Chemigation Program, and the Agricultural Chemical Containment Program.

### LIVESTOCK WASTE CONTROL PROGRAM

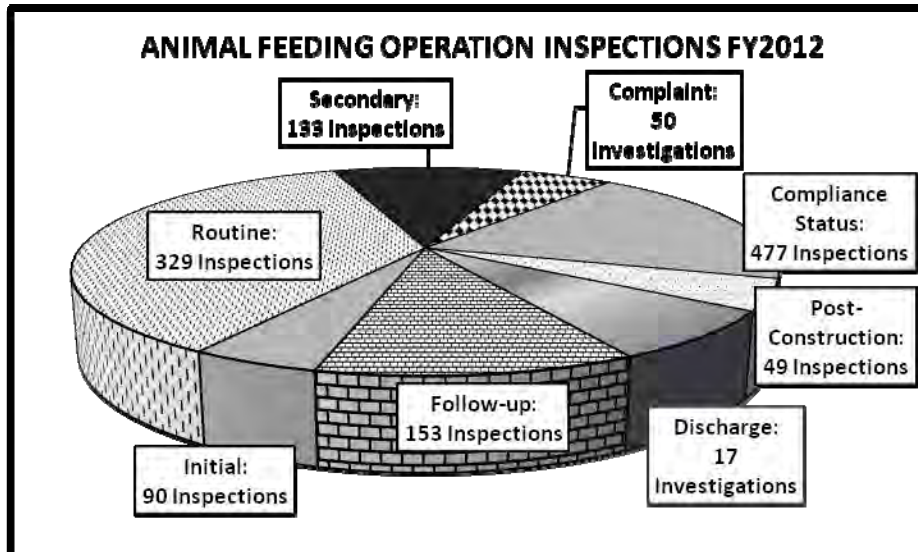
#### Overview

The Livestock Waste Control Program (LWC) is charged with the overall responsibility to protect Nebraska’s surface water and groundwater from discharge of livestock waste from any of the thousands of Animal Feeding Operations (AFOs) in Nebraska.

To accomplish this responsibility, the program administers *Title 130 - Livestock Waste Control Regulations*. The LWC program primarily focuses on the 750 active large Concentrated Animal Feeding Operations (CAFOs) required to have permits, but also works with approximately 2,000 Medium AFOs. The LWC Program uses inspections, permitting, and periodic monitoring to fulfill this responsibility. The permitting includes administering the National Pollutant Discharge Elimination System (NPDES) program for CAFOs.

Amendments to Title 130 became effective October 4, 2011 to reflect changes in the U.S. Environmental Protection Agency (EPA) CAFO Rule for NPDES permitting, which primarily involved who needs to apply for NPDES permit coverage. The changes were necessary to ensure the Department could continue to administer the NPDES permit program for EPA. As a result, only CAFOs that discharge are required to apply for NPDES permit coverage.

#### Inspection



The LWC Program staff conducted a total of 1,298 livestock waste control inspections and investigations in FY2012 (including complaint and discharge investigations). The chart above illustrates the breakdown by type of inspection or investigation. A concerted effort was made during the fiscal year to revisit many medium sized operations to ensure that they were in

compliance with Title 130 and the EPA CAFO Rule. As a result, there were more compliance status inspections and less routine compliance inspections.

A short description of each type of inspection and investigation follows:

Initial Inspection. Before constructing a new operation or expanding an existing operation, all medium and large AFOs – whether or not the operation currently is permitted -- must request an initial inspection by LWC Program staff. The reason for this inspection is to determine if livestock waste control facilities (LWCF) must be constructed, expanded, or modified to prevent a discharge and to properly manage the livestock waste generated by the operation.

Post Construction Inspection. Upon completion of any required construction of a LWCF, program staff conduct a post-construction inspection to verify the waste control facility was constructed as approved by the Department.

Routine Inspections. Once a CAFO or an AFO has received a permit, and the Department has approved operation of the LWCF, program staff will conduct periodic, routine inspections to monitor operation of the livestock waste control facilities, management of the operation's livestock waste, and the records these CAFOs and AFOs are required to maintain. Routine inspections are regularly scheduled inspections of an AFO, involving a detailed, extensive inspection of the LWCF, recordkeeping, and waste management at the operation.

Follow-Up Inspections. These are conducted in response to some specific activity, situation, or request by the operation. Follow-up inspections could be prompted by an operation's request for a "second opinion" on a requirement; or to monitor the AFO's progress on completing a construction or repair project; or to follow up after a complaint inspection or enforcement action, for example.

Compliance Status Inspections. Generally conducted to verify the AFO's operating status or level of compliance with a specific requirement; these inspections are usually less urgent, non-emergency situations.

Discharge Investigations. Discharge investigations are conducted when discharges of livestock waste from livestock waste control facilities are reported. Sometimes these discharges are not recorded as complaints because the AFO does self-reporting, as required by the regulations.

Complaint Investigations. In FY2012, the LWC Program received 50 complaints. When a complaint is received, LWC Program staff will investigate the complaint and may conduct an on-site complaint investigation. During FY2012, Program staff conducted 50 complaint investigations.

Secondary Inspections. Secondary Inspections are primarily conducted for training purposes and to assist the primary inspector in evaluating unusual or atypical AFOs.

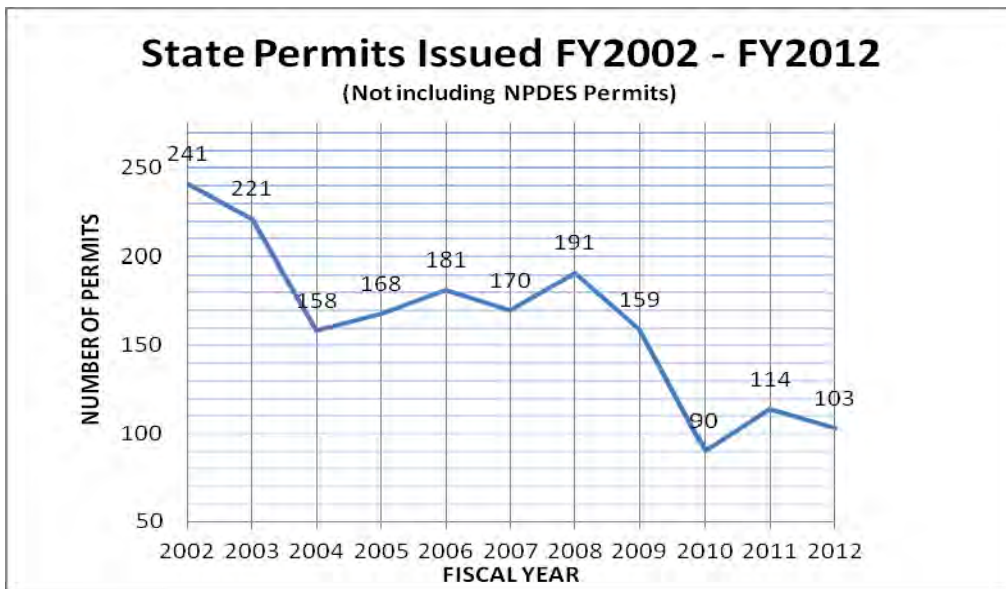
**State Permitting**

After conducting an initial inspection, the Department may require the AFO to submit an application for a Construction and Operating Permit – the state permitting process for livestock waste control facilities – prior to construction of livestock waste control facilities.

The Department received a total of 106 permit applications and issued 103 permits during FY2012, as shown in the table above. The totals do not include applications received or permits issued for any NPDES permits. The chart below shows the total number of state permits issued for livestock waste control facilities for each year since FY2002.

Construction and Operating Permits - FY2012		
Type of Application or Permit	Applications Received	Permits Issued
New permits	48	46
Modified permits	36	37
Transfer permits	22	20
<b>TOTAL</b>	<b>106</b>	<b>103</b>

Once a permitted AFO has completed its construction project, the Department conducts a post-construction inspection. If the post-construction inspection shows the construction was completed as approved, the Department notifies the AFO that operation of the new livestock waste control facility is approved. In FY2012, the Department gave approval to 92 AFOs for operation of their new or expanded LWC facilities.



**National Pollutant Discharge Elimination System (NPDES) Permit**

The LWC Program also oversees the NPDES permitting process for livestock, issuing coverage under individual NPDES permits to CAFOs, as well as coverage under a NPDES General Permit for Open-Lot Cattle Operations. Both permits expire every five years, and permittees are required to submit a reissuance application to continue NPDES permit coverage.

The table below summarizes the number of NPDES applications received and permits issued for livestock waste control facilities in FY2012.

<b>NPDES PERMITS – FY2012</b>		
Type of NPDES Application/Permit	Applications Received	Permits Issued
<b>GENERAL PERMIT FOR OPEN LOTS</b>		
New Coverage	13	11
Modified or Transferred	22	13
Reissued	0	3
<b>SUBTOTAL GENERAL PERMIT:</b>	<b>35</b>	<b>27</b>
<b>INDIVIDUAL PERMIT</b>		
New Coverage	3	0
Modified or Transferred	0	0
Reissued	13	1
<b>SUBTOTAL INDIVIDUAL PERMIT:</b>	<b>16</b>	<b>1</b>
<b>NPDES TOTALS:</b>	<b>51</b>	<b>28</b>

The NPDES general permit expires on March 31, 2013. Individuals with coverage under the general permit are required to apply for reissuance by October 1, 2012. In preparation for the receipt of hundreds of applications for reissuance, the section drafted four new NPDES general permits for cattle operations. The content of each permit is the same except for the expiration date. The permits expire in 2, 3, 4, and 5 years after issuance. The intent is to distribute the permits so all do not expire at the same time. The permits were signed on July 26, 2012 so individuals could apply for coverage under the new permits prior to the October 1, 2012 reapplication date. The effective date of each permit is April 1, 2013.

### Fees

The annual fee is assessed on all permitted Large CAFOs and all CAFOs covered under a NPDES permit. The fee is determined based upon the number of head of livestock for which the operation has a permit. The fees provide 20% of the Department's costs to administer the livestock waste control program, as required by statute. The Department received \$333,390 in annual permit fees from 675 permitted AFOs. In addition, the Department received 91 initial inspection fees, 125 permit application fees, and one late payment fee.

General information about the Livestock Waste Control Program, including applications, fact sheets, forms, guidance documents, copies of the NPDES General Permit and the four new general permits, Title 130 regulations, and public notices of permit issuance or denial, can all be found on the Department's web site at: <http://deg.ne.gov>.

### CHEMIGATION PROGRAM

The Chemigation program, which functions in cooperation with Nebraska's 23 Natural Resources Districts (NRDs), works to make sure that users of irrigation systems applying fertilizers and pesticides do not contaminate the sources of irrigation water. These regulations are contained in *Title 195 – Chemigation Regulations*.

The NRDs inspect systems and issue site permits for specific safety equipment that is required to be installed on irrigation systems that chemigate. Chemigation permits for chemigation sites are issued annually, and are reported to the Department on a calendar year basis, rather than by fiscal year. Since permitting began in 1987, the total number of annual permits issued initially followed an upward trend, but leveled off in recent years. However, in 2011, the NRDs issued 21,479 chemigation permits, considerably more than the 19,529 permits issued in 2010.

In FY2012 Title 195 was revised so that the NRDs are charged with maintaining a database of the chemigation permit information. The NRDs will maintain each application or the information contained in the application and provide such information to the Department upon request. Title 195 became effective April 1, 2012.

A chemigation applicator initially must be certified by the Department, and re-certified every four years. To receive certification, an applicator must complete training and testing, which is provided under contract with the University of Nebraska Cooperative Extension. Applicator certifications also are reported on a calendar-year basis. The application form for the Chemigation Applicator Certification includes the United States Citizenship Attestation Form required of individuals that receive State benefits.

In 2012, 1030 applicators have been trained, tested and certified, bringing the current number of certified chemigation applicators to 4741 applicators. Information about chemigation applicator training dates and certified applicators is available after the first of each year on the Department's web site, <http://deq.ne.gov>.

Also in FY 2012, the Department completed one interagency agreement with the University of Nebraska concerning the Chemigation program. The completed agreement was for the development of an internet-based chemigation training program. The internet-based chemigation training program is finalized and currently being implemented. Another intergovernmental agreement is to implement the chemigation annual training program for applicator certification. This agreement runs through 2012. Negotiations for a new contract with the University for the 2013 through 2015 calendar years is being finalized.

## **AGRICULTURAL CHEMICAL CONTAINMENT PROGRAM**

The Agricultural Chemical Containment program regulates the construction and use of commercial and private facilities for the storage, loading, and rinsing activities of bulk liquid fertilizers and bulk liquid and dry pesticides. These regulations are contained in *Title 198 - "Rules and Regulations Pertaining to Agricultural Chemical Containment."*

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

During FY 2012 in cooperation with the Nebraska Agri-Business Association (NABA) and the Nebraska Cooperative Council (NCC), a major public education effort regarding Title 198 was conducted. In general, there was a concern that Title 198 rules and regulations were not being followed, especially by individual producers who may be storing bulk liquid fertilizer in containers that would require secondary containment and/or loadout facilities. This education effort included development of a summary document outlining the rules and regulations which was then put on the Department's website and distributed by NABA and NCC to their members.

The Department and the Nebraska Department of Agriculture have a cooperative agreement that outlines the procedure for coordinating inspection activities between the two agencies. The agreement enhances the communication between the agencies and provides specific protocols to be followed when investigating Title 198 complaints. In FY2012, Agriculture Section staff conducted a total of nine inspections of complaints suspected to be related to chemical containment systems.

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## Water Quality Monitoring and Assessment Programs

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### Surface Water Assessment Programs

In 2001, NDEQ completed a comprehensive study on water quality monitoring in response to LB 1234, and began implementing comprehensive, integrated surface water monitoring programs throughout the state by working with additional monitoring partners to collect water samples. These programs use contractual and voluntary monitoring relationships to collect samples, which has significantly improved the efficiency and effectiveness of NDEQ's statewide monitoring networks. Current monitoring partners include the Natural Resources Districts (NRDs), Nebraska Public Power District (NPPD), U.S. Army Corps of Engineers (USACE), Nebraska Game and Parks Commission, University of Nebraska-Lincoln, Central District Health Department, the City of Carter Lake, and U.S. Geological Survey.

The Surface Water Monitoring and Assessment programs collect physical, chemical and biological water quality samples from streams and lakes, implements surface water improvement projects, and prepares surface water quality reports. Several monitoring programs collect stream and lake samples throughout the state; however, most monitoring is focused in two or three river basins each year in conjunction with a rotating basin monitoring strategy.

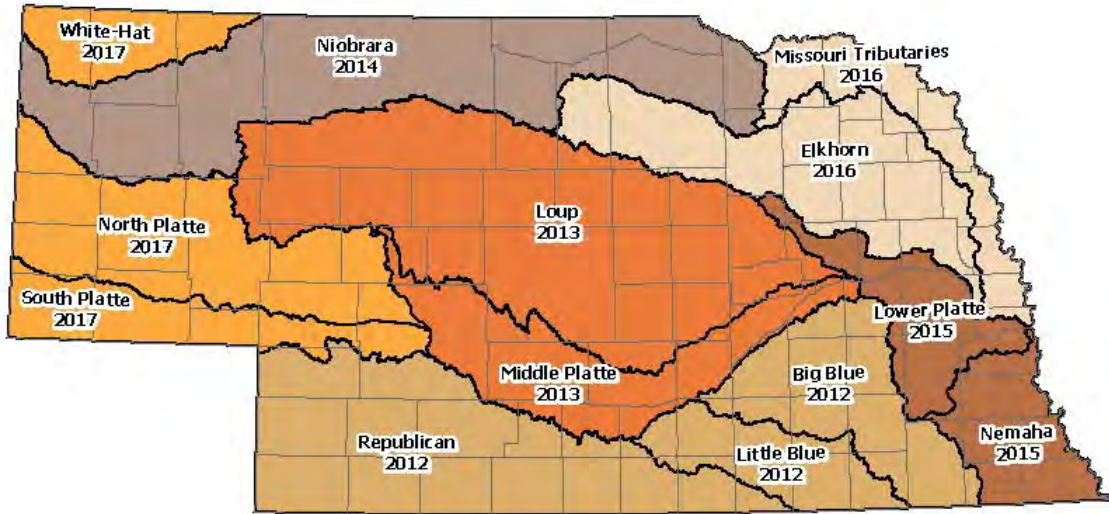
A brief description of the basin monitoring strategy, as well as other water implementation monitoring of assessment programs is provided below. Additionally, a more detailed overview of the programs are provided in the agency's annual publication [Nebraska Water Monitoring Programs Report](#).

**Basin Rotation Monitoring Program** — The Basin Rotation Monitoring Program targets one to three river basins each year for intensive monitoring. Targeting resources in this manner improves NDEQ's ability to identify and remediate water quality problems and allows resources to be focused where they can produce the greatest environmental results. During a six-year cycle, all 13 major river basins in the state are intensively monitored (see map below for details). Monitoring data are used to document existing water quality conditions, assess the support of beneficial uses (such as aquatic life, recreation, and public drinking water supply), and prioritize water quality problems. The current six-year basin rotation monitoring cycle is:

- 2012 -- Big Blue, Little Blue and Republican River basins;
- 2013 -- Middle Platte and Loup River basins;
- 2014 -- Niobrara River basin;
- 2015 -- Lower Platte and Nemaha River basins;
- 2016 -- Elkhorn and Missouri Tributaries River basins; and
- 2017 -- White River-Hat Creek, North Platte and South Platte River basins.

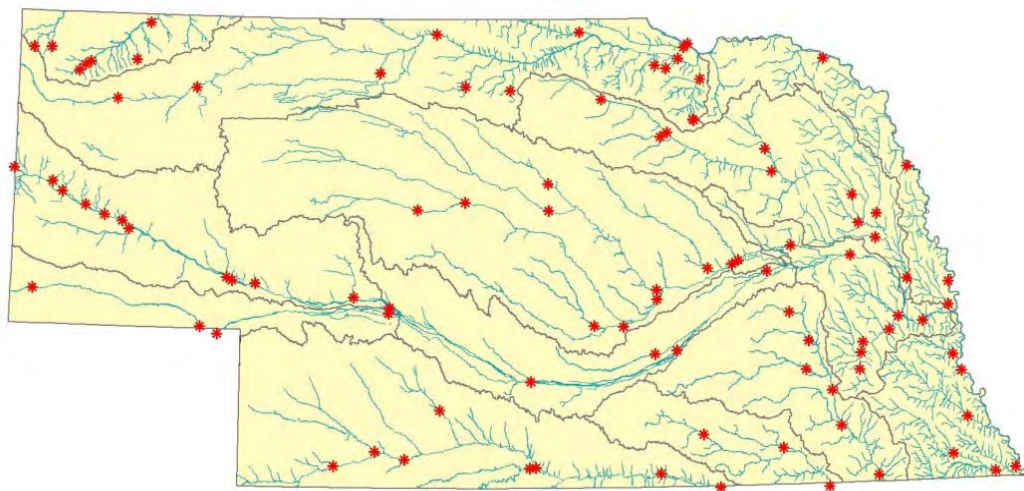
In 2012, a total of 28 stream and 9 lake sites in the Big Blue, Little Blue, and Republican River basins were sampled weekly from May through September. The lake sites were sampled for *E. coli* bacteria and field measurements including temperature, pH, oxygen, conductivity and turbidity while the stream sites also analyzed for physical/chemical parameters including the nutrients, total suspended solids, chlorides and select pesticides. The data is used to document existing water quality conditions, identify water quality problems, identify pollutant(s) of concern and their sources and estimate pollutant loadings. During 2012, 588 stream samples plus 189 lake samples were collected for a total of 777 samples.

**Six-year basin rotation monitoring schedule**



**Ambient Stream Monitoring Program** — This program has a network of 97 fixed stations located on main stem and tributary streams across the state (see map below for details). The primary objectives are to provide information on the status and trends of water quality in streams within each of the state's 13 river basins and link assessments of status and trends with natural and human factors that affect water quality. Fifty-eight of the 97 sites are located on main stem streams. Ecoregion and land use considerations were used in selecting many of the stream locations. Samples are collected monthly and analyzed for traditional chemical and physical parameters and include some herbicides and heavy metals. During 2012, approximately 1,160 water samples were collected for this program.

Locations of NDEQ ambient stream monitoring sites



**Lake Beach Bacteria and Toxic Algae Monitoring** — *E. coli* bacteria and toxic blue-green algae (microcystin toxin) were monitored weekly during 2012 at 49 beaches on 46 different lakes during the recreation season from May through September. Over 1,000 samples were assessed for each parameter. Especially targeted were the major public lakes with designated swimming



beaches. The microcystin toxin was added to the existing beach bacteria program in 2004 following the deaths of several dogs after they drank water from lakes with blue-green algae blooms. Microcystins are the most common toxins released by blue-green algae. Several monitoring partners assisted NDEQ in collecting these samples including NRDs, NPPD, the Central District Health Department, the City of Carter Lake, and U.S. Army Corps of Engineers. The analysis procedures provide a quick-turnaround time, allowing the samples collected on Monday to be posted on the NDEQ web-page by Thursday afternoon, and prior to each weekend's recreation activities. Levels of microcystin above 20 ppb resulted in public health alerts to be issued and signs posted recommending full body contact activities in the water be avoided. During 2012, health alerts were issued on five different lakes and the amount of time the lakes were on alert ranged from two to seven weeks. Results and health alerts are listed weekly during the recreational season on the NDEQ's web site <http://deq.ne.gov>.

**Fish Tissue Monitoring Program** — The NDEQ has been sampling and assessing toxins in fish tissue annually since 1978. In 2012, a total of 66 fish tissue samples were collected from 23 streams and 23 lakes across Nebraska for analysis of pollutants. This information is used to assess pollutant trends, identify potential problem areas and to inform the public about health risk concerns identified through fish consumption advisories. Nebraska began issuing fish consumption advisories in 1990. The data is received from the EPA lab approximately one year after collections and therefore, the final report on the 2011 data is expected to be completed by the end of 2012 and the 2012 data report is anticipated in the spring of 2013.

The report "Findings of the 2010 Regional Ambient Fish Tissue Program in Nebraska" and current list of advisory sites can be found at DEQ's web site, <http://deq.ne.gov>. The report is located at Publications/Surface Water Monitoring/Reports. The direct URL is: <http://deq.ne.gov/Publications/Pages/WAT173>. A summary of fish advisory information is located at DEQ's web site by going to the Topics of Interest category and selecting Fish Consumption Advisories; the direct URL is: <http://deq.ne.gov/SurfaceWater/Pages/FCA>.

Currently, Nebraska has 78 state-issued advisories. The primary contaminants of concern in fish tissue in Nebraska and most other states are mercury and polychlorinated biphenyl compounds (PCBs). The NDEQ's Policy for Issuing Fish Consumption Advisories uses an 8-oz weekly meal portion combined with a consumer body weight of 70 kg (154 lbs.), an absorption factor of 1.0 and an exposure period of 30 years for calculating health risks. Carcinogenic effects are still averaged over a lifetime of 70 years because it is assumed cancer can develop at anytime during one's lifetime, even after the exposure to the carcinogen has ended. Health advisories are not intended to discourage people from eating fish in moderation. Actually, fish are a high quality protein, low in saturated fat, and high in omega-3 fatty acid. It is a primary goal of the program to ensure that the public have as much information as possible regarding the water bodies that they use for fishing. An immediate health risk is unlikely from an occasional meal of fish from waters where fish consumption advisories have been issued; however, in order to reduce health risks that may result from long-term consumption, it is recommended that eating fish from advisory waters not exceed an average of eight ounces of fish per week.

**Stream Biological Monitoring Program** — This program is used to evaluate the health of aquatic life population and involves a unique randomized sample design that allows water quality status and trend assessments to be determined with a known level of confidence. During 2012, a total of 36 stream sites were sampled in the Big Blue, Little Blue and Republican River basins. This program has been conducted since 1994, using various fish, macroinvertebrate, and habitat sampling protocols and ecoregion-based reference sites.

Sampling is conducted in conjunction with the basin rotation monitoring strategy. Data from 2004 to 2008 were recently assessed and used to verify the biological criteria used in evaluating the health of aquatic life populations in Nebraska streams. The current approach allows evaluations of aquatic life health to be made with greater confidence even though fewer samples are collected. A report entitled “Nebraska Stream Biological Monitoring Program 2004-2008” is available on DEQ’s web site, <http://deq.ne.gov> located in Publications/Water Quality/Reports.

**Lake Monitoring Program** — Lake monitoring is currently conducted on approximately 50 lakes across the state. Monitoring involves the collection of monthly water samples from May through September. These data are used to document existing water quality conditions, evaluate long-term trends, design watershed and lake restoration/protection projects, and evaluate project effectiveness. Monitoring focuses on nutrients, sediment, pesticides, heavy metals, dissolved oxygen, pH, temperature, conductivity and water clarity. In 2012, approximately 300 samples were collected at deep water locations with additional profiles collected from mid-lake locations. In addition, some inlet streams are sampled during periods of significant precipitation to provide information on nutrient, sediment and pesticide loadings to lakes during runoff events.

**Fish Kill and Citizen Complaint Investigations** — The surface water unit responds to reports of fish kills and other environmental concerns of citizens related to surface water. On-site investigations are conducted, as needed, to document existing water quality conditions, surface water quality standards violations and identify pollution sources and responsible parties. A total of 25 fish kills were reported between July 1, 2011 and June 30, 2012. This compares to 16 during the same time period the year before. Most of the fish kills (11) were attributed to low dissolved oxygen levels from winter/summer kill. Eight fish kills were attributed to disease/parasite issues, two from thermal stress, two were from fish being trapped in remnant pools, one was from unknown causes, and one was investigated as possible illegal waste dumping upstream.

Between July 1, 2011 and June 30, 2012 the surface water unit received 53 notifications of complaints concerning surface water issues. This compares to 39 notifications during the same time period the year before. (While many of these cases were referred to other agency programs that more closely relate to the problem, sometimes the surface water unit would assist by providing observations or samples to help document conditions.)

**Integrated Report** — Beginning in 2004, and every two years thereafter, states are required to prepare a biennial water quality report called the Integrated Report, which is a combination of the Section 305(b) and Section 303(d) reporting requirements of the Clean Water Act. The Integrated Report provides a comprehensive summary of the status and trends of surface water quality in Nebraska and includes a list of impaired surface waters that do not support their assigned beneficial uses. The 2012 Integrated Report, which was approved by the EPA in April 2012, is available on NDEQ’s web site <http://deq.ne.gov>, by selecting Publications, then selecting Water Quality. Or, the report’s direct URL is: <http://deq.ne.gov/Publica.nsf/Pages/WAT184>

**Nebraska Water Monitoring Programs Report** — A report summarizing the monitoring programs performed or required by NDEQ called the “Nebraska Water Monitoring Programs Report” was prepared again in 2011. This report describes the numerous monitoring programs NDEQ is involved with, its partners, and several highlights of recent monitoring efforts. Future enhancements to this report will include more in-depth examinations of what our monitoring programs are telling us, how we are using them to manage and improve water quality, and to inform the public of the trends observed. The 2011 Nebraska Water Monitoring Programs Report is available on the NDEQ’s web site <http://deq.ne.gov>, by selecting Publications, then selecting Water Quality. Or, the report’s direct URL is: <http://deq.ne.gov/Publica.nsf/pages/WAT169>.

## Groundwater Assessment Programs

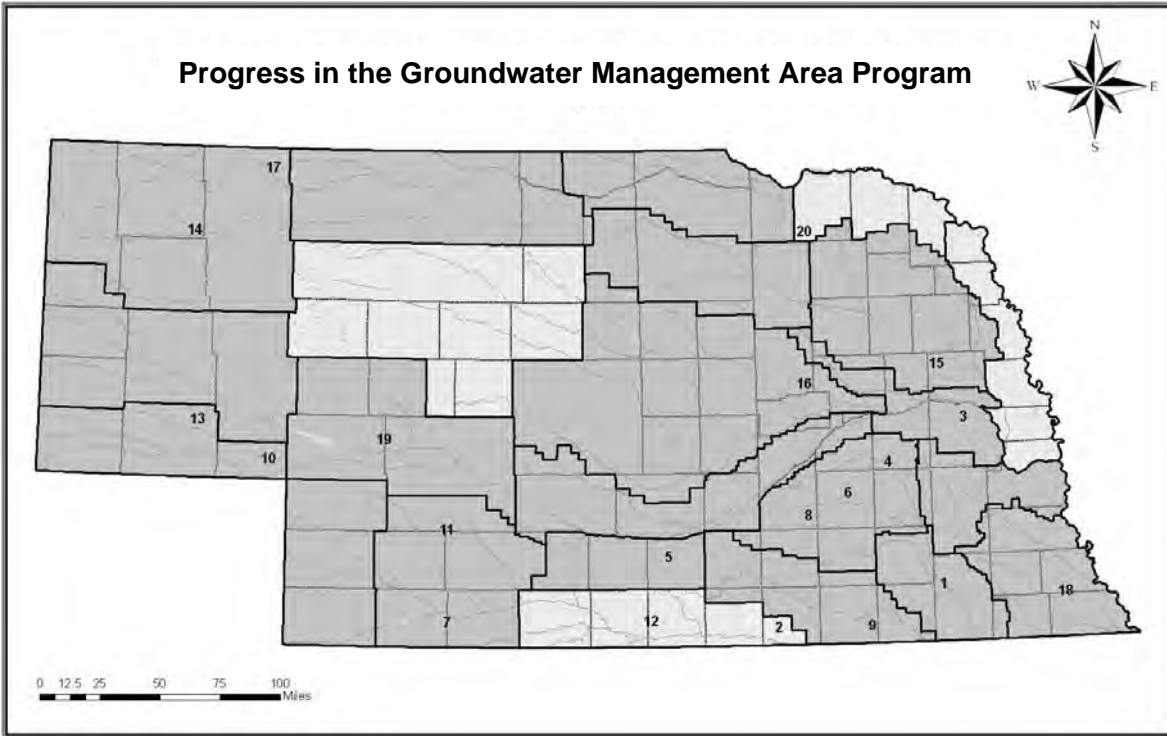
**Groundwater Quality Monitoring Report** — Legislation passed in 2001 directed NDEQ to issue an annual report to the Legislature concerning the quality of the groundwater in Nebraska. The first of these reports was issued December 1, 2001. These reports summarize the water quality monitoring efforts of the Natural Resources Districts, NDEQ, and other state, local and federal agencies, and can be found on the agency's web site, <http://deq.ne.gov>. (Select Publications, then select Water Quality, then select 2011 Groundwater Quality Monitoring Report. Or, the Water Quality Division reports' index URL is: <http://deq.ne.gov/Publications/pages/WAT183>.) Statistics and maps showing nitrate-nitrogen groundwater monitoring results as well as four of the 42 pesticides sampled in the state are 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, <http://dnr.ne.gov>.

**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 Groundwater Unit performs reviews and oversees remediation if a situation does not fall under another agency program and is of environmental significance. Unit personnel continue to take responsibility under *Title 118 — Groundwater Quality Standards and Use Classification* 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 (NRD) 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, 20 NRDs have designated GWMA's within their jurisdiction. However, if an NRD does not implement a Groundwater Management Area, the Department has the responsibility of implementation. The Department reviews and comments on all proposed GWMA rules and regulations prior to public notice. The following map shows NDEQ study areas (numbers) and existing GWMA's (shaded areas). A new study was recently completed in Cuming County. The final

report on this study in the review process and will be made available shortly.



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. Lower 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 - 1994    | 19. Keith-Lincoln Co., 2002 - 2003   |
| 10. Deuel Co., 1992               | 20. Bazile Triangle, 2004            |

**Underground Injection Control (UIC)** — The Underground Injection Control (UIC) program reviews and issues 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. Most wells are 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. Class IV wells are illegal and have never been allowed in Nebraska.

Three Class I injection wells are currently permitted within the state. The permits are issued for injection of wastewater below the lowermost underground source of drinking water. Two Class I wells are issued to the Crow Butte Resources uranium mine near Crawford and the other to the City of McCook.

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 operates 4252 Class III wells as of October 1, 2012.

Injection wells not included in the other specific classes are considered to be Class V wells. The EQC revised *Title 122 - Rules and Regulations for Underground Injections and Mineral Production Wells* 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. A common example of Class V wells would be those associated with heat pump systems.

**Mineral Exploration Program** — The Mineral Exploration program issues and reviews permits, conducts inspections, and performs compliance reviews for holes drilled, driven, bored, or dug for the purpose of mineral exploration. These permits are issued to persons exploring for potential mineral resources such as consolidated rock; sand and gravel; or material commingled, in solution, or otherwise occurring beneath the surface or in waters of the State, and are regulated under Title 135 – Rules and Regulations for Mineral Exploration Holes. This type of exploration specifically excludes oil and gas exploration, which is regulated by the Nebraska Oil and Gas Conservation Commission.

Wells that are drilled for the production of a mineral resource using in-situ leach technology are regulated as Class III injection wells, and are governed by Title 122 – Rules & Regulations for Underground Injection and Mineral Production Wells.

**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, 2009. 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. Ninety six community water supplies have approved Wellhead Protection Plans as of October 1, 2012.

## Water Quality Planning

### Surface Water Quality Standards

NDEQ develops water quality standards that designate the beneficial uses to be made of surface waters and the water quality criteria to protect these assigned uses. Title 117 - Nebraska Surface Water Quality Standards forms the basis of water quality protection for all surface water quality programs conducted by the Department. The federal Clean Water Act specifies that States review their water quality standards and revise where appropriate once every three years. NDEQ's latest triennial review was completed in FY2012. Governor Heinemann approved these revisions and they became the official surface water quality standards regulation for the State of Nebraska on April 1, 2012. These revised Standards were submitted to EPA Region VII for approval under the Clean Water Act.

EPA notified NDEQ on June 22, 2012 that the majority of the FY2012 Water Quality Standards revision package was approved under the Clean Water Act. The revisions involved numerous criteria changes for toxic pollutants to protect the Aquatic Life and Public Drinking Water Supply beneficial uses. In addition, nutrient criteria for lakes and reservoirs were adopted and approved to replace criteria adopted in 2006 that EPA would not approve. These nutrient criteria consist of three parameters; total nitrogen, total phosphorus, and chlorophyll  $\alpha$ ; that describe a lake's desired trophic state. The one item that EPA would not approve in the 2012 submittal was a nutrient criteria provision that would have disregarded total nitrogen or total phosphorus values that exceeded criteria if the chlorophyll  $\alpha$  values met the established criterion. As approved by EPA, each of the three parameters (total nitrogen, total phosphorus, and chlorophyll  $\alpha$ ) must be assessed and met independently for the nutrient criteria to be met.

The standards are available on the department's web page at <http://deq.ne.gov/>. In addition to developing the standards, the Planning Unit develops and implements procedures for applying the standards to surface water quality programs, such as NPDES permits.

### Section 401 Water Quality Certification

The Planning Unit administers the 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 Department reviewed 423 Section 404 permit applications during FY2012.

On January 9, 2001 the U.S. Supreme Court issued a decision in the matter of Solid Waste Agency of Northern Cook County (SWANCC) 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. Following the SWANCC decision in 2001, the Supreme Court handed down a decision in *Rapanos et ux., et al. v. United States* on June 19, 2006 that

further limits the Corps of Engineers jurisdiction over waters of the U.S. This had the effect of further reducing the number of projects that needed a Corps 404 permit. However, these waters of the state are still under the authority of the Department of Environmental Quality, because isolated wetlands are regulated by Title 117.

Although the department has no permitting mechanism to authorize projects in advance of their implementation, procedures have been developed to assist project sponsors 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 sponsors to know what information they must provide, and allow NDEQ to deliver timely and consistent decisions on these wetlands. The checklists also provide documentation of the decision-making process for each project. Project sponsors 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, Section 303(d) requires states to prepare a list of impaired surface waters. These are waters that do not support the assigned beneficial uses as listed in Title 117. 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 so that these waters may meet the beneficial uses assigned to them via Title 117. As in previous years, the Department has opted to combine the required CWA Section 303(d) list with the Section 305(b) report on the general status of water quality in the state. This combination is referred to as the Integrated Report. The 2012 Integrated Report is available on NDEQ's web site <http://deq.ne.gov>, by selecting Publications, then selecting Water Quality. Or, the report's direct URL is: <http://http://deq.ne.gov/Publica.nsf/Pages/WAT166>. The 2012 Integrated Report was submitted to EPA Region 7 in April 1, 2012 and was approved by EPA April 16, 2012.

In 2012, the Department prepared and submitted to EPA Region 7 several TMDLs for segments in the North Platte, Loup, Big Blue, and Lower Platte River Basin. Details can be seen below:

TMDL Name	# of Segments	Pollutant	Status
<b>North Platte Basin</b>			
North Platte River Basin	13	<i>E. Coli</i>	Approved by EPA on 05/09/2012
<b>Loup River Basin</b>			
Mud Creek	2	<i>E. Coli</i>	Approved by EPA on 05/02/2012
Mud Creek	1	<i>Atrazine</i>	Approved by EPA on 05/02/2012
<b>Little Blue River Basin</b>			
Little Blue River Basin	6	<i>E. Coli</i>	Submitted to EPA 09/05/2012
Little Blue River Basin	4	<i>Atrazine</i>	Submitted to EPA 09/05/2012
<b>Lower Platte River Basin</b>			
Fremont State Lakes	8	<i>Phosphorous</i>	Public Notice ends 10/01/2012. Final Submission to EPA to follow.
Conestoga Reservoir	1	<i>Phosphorous</i>	Under Draft Review
Conestoga Reservoir	1	<i>Sedimentation</i>	Under Draft Review
<b>Nemaha River Basin</b>			
Buck and Duck Creeks	3	<i>E. Coli</i>	Under Draft Review

## 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 runoff 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 (CWA) and involves a multitude of federal, state and local agencies and organizations.

Through this program, the Department initiated major shifts in program activities, including increased emphasis on watershed and groundwater management area 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. Because of the program changes it was necessary to reduce financial support for local awareness and demonstration projects. 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 2011 included investigative water quality evaluations, detailed watershed assessments, and effectiveness evaluations of implemented nonpoint source management measures.

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 (negotiated);
- 4) Urban Run-off Management Assistance (<\$75,000);
- 5) Wellhead Protection Area Management Assistance (negotiated)

During 2012, 15 new projects were managed among the five grant categories. These included:

- 11 large projects totaling \$1,348,559 in Section 319 funding
- 4 small projects totaling \$40,874 in Section 319 funding.

To date a total of 195 large projects, spending \$59,930,015, have been funded through Section 319 grants since the beginning of the program in 1990 and have addressed both surface water and ground water quality concerns.



### **Source Water Assessment and Protection**

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. Every state has developed a Source Water Assessment Program 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.

NDEQ is implementing their EPA approved program in cooperation with the Nebraska Health and Human Services System, Nebraska Rural Water Association, the Natural Resources Districts, and numerous other stakeholders. All assessments were completed and distributed by August 2003; however, delineations continue to be updated as needed upon receipt of new information about public water supply systems.

Beginning in SFY2004, funds were set aside from the Drinking Water State Revolving Fund (DWSRF) to finance source water protection projects statewide. Grants are given to political subdivisions, in Nebraska, that operate a public water system serving a population of 10,000 or less. Eligible activities address drinking water quality, quantity, security, and/or education within the source water protection area. To date, Source Water Protection funds have been distributed to 53 individual entities to complete 69 separate Source Water Protection projects throughout the state. In SFY2012, Source Water Protection funds were distributed to the following six public water systems: The Cities of Clay Center, Crawford, Oakdale, Ord and the Villages of Glenvil and Trenton. The total amount available in SFY2012 was \$100,000.

### **Water Quality Data Handling and Storage**

The department has implemented the STORET electronic storage system for water quality data. This will make Nebraska surface water quality information available to anyone who has an internet connection. The web site for this information is [www.epa.gov/storet](http://www.epa.gov/storet). During FY2012, the department continued to add monitoring results to the STORET database, monitoring results conducted on surface waters of the state. The end result will be the centralization of NDEQ's previous and current surface water quality monitoring information.

## Wastewater Permitting and Certification Programs

There are a number of certification and permitting programs relating to wastewater treatment facilities, ranging from certification of those who work on septic systems to the permitting of large municipal facilities. These programs include:

- **Onsite Wastewater Treatment Facilities Program** – This certification program involves smaller systems, such as septic systems and private lagoons. Anyone doing work on these types of facilities must be certified.
- **Wastewater Treatment Facility Operator Certification Program** – This program administers the certification program for wastewater treatment facility operators, to ensure proper operation and maintenance programs at these facilities.
- **Wastewater Construction Permit Program** – This permit program is for communities that are constructing new wastewater facilities or are renovating or expanding existing facilities.
- **The National Pollutant Discharge Elimination System (NPDES) Program**, which is responsible for regulating discharges of pollutants to waters of the State so as to maintain and protect the water quality of Nebraska's streams, lakes, rivers, and groundwater. Other NPDES-related programs include:
  - **Combined Sewer Overflows**, which addresses those municipalities that have combined storm water and wastewater sewer systems.
  - **Wastewater Treatment Sludge and Biosolids Disposal**, which are requirements for treatment and disposal of municipal and industrial wastewater sludges and biosolids, and
  - **Storm Water Permit Program** – This permit programs involves: 1) Construction sites of a specific size; and 2) the Municipal Separate Storm Sewer System permits for medium and large municipalities.
- **The Nebraska Pretreatment Program**, which functions to protect municipal wastewater collection and treatment systems from damage or overloading by industries.

### Onsite Wastewater Treatment Facilities

The Onsite Wastewater Program covers septic tanks, holding tanks, small lagoons, and other engineered wastewater treatment systems typically not connected to a municipal wastewater treatment system. The majority of these systems are for single households, although there are onsite or decentralized systems that provide wastewater treatment for multiple houses (these systems are sometimes called cluster systems), churches, camps, camper trailer parks, a variety of businesses with high strength wastes (such as restaurants, butcher shops, and wineries), ethanol plants, and other commercial or industrial facilities. The U.S. EPA estimates that nearly one in four households depend on onsite systems for wastewater treatment.

The *Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act* (Act) passed in 2003 required that anyone doing work associated with onsite wastewater systems be certified by the State of Nebraska. The Act provided for the registration of all onsite wastewater systems constructed, reconstructed, altered, or modified. The law also provided for certification and system registration fees to support the program. The Act was

amended in 2007 by LB333, which provided for application fees for permits and subdivision approvals and established a fee waiver provision for government inspectors. Nebraska Administrative Code *Title 124 – Rules and Regulations for the Design, Operation and Maintenance of Onsite Wastewater Treatment Systems* was last amended, effective August 11, 2012 and some of the more significant changes are note below.

The program is focused on the protection of surface and groundwater in the area of proposed onsite systems through the use of standardized design requirements, the certification of onsite professionals, review and approval of plans for subdivision development, and review of plans and issuance of permits for large onsite systems, systems where other concerns have been identified (such as setback, soil limitations, shallow groundwater, design), or systems with non-domestic wastes (such as wineries, butchers shops, camping trailer parks, animal housing or veterinarian clinics, equipment shops, hair salons, and drinking water treatment facilities). Certification of onsite professionals covers design, installation, inspection, maintenance, and pumping of onsite systems. Subdivision review and approval requirements apply when onsite systems will be used on any proposed lots that will have less than three acres suitable for building. Program staff work to make sure that the design, installation, modification, repair, and maintenance of onsite wastewater systems is performed by qualified and certified professionals who understand Title 124 and the proper practices of their trade.

A certification by examination is required for professionals to obtain initial certification. A total of 12 hours of approved continuing education in the two-year certification period is required for certificate renewal. Examinations for certification began in July of 2005. The Department has held 275 exam sessions and administered nearly 1,900 exams since the certification program began, with 30 exam sessions in FY12. A total of 527 people currently hold onsite certificates. Some professionals obtain certification in multiple categories. All current certificates expire December 31, 2013, unless renewed.

The registration requirement provides a statewide inventory of new or modified onsite systems. Since registrations began in 2004, nearly 13,000 systems have been registered, with 1,579 systems registered in FY12.

NDEQ has cooperative agreements with other governmental agencies (state and local) to help implement and coordinate the program. The government inspector fee waiver provision in LB333 helps with implementation locally. There are currently 17 certified Inspectors from local governments. NDEQ also works cooperatively with Nebraska Department of Health and Human Services personnel to resolve health related onsite wastewater handling issues. NDEQ provides information to the public, industry practitioners, and local governments on the regulations for onsite systems through telephone calls, email, regular mail, newsletters, Onsite Program webpage, meetings, and educational seminars. Staff talk with local government officials and meet with owners, developers, and their onsite professionals to discuss subdivision requirements (required before any construction) and waste management plans and alternatives for subdivisions and housing developments located where municipal sewer systems aren't available.

There were 109 new onsite related complaints in FY12 and program staff resolved a total of 111 complaints, which includes both old and new complaints. There were 31 Notices of Violation issued and five requests for formal enforcement action (NDEQ Administrative Order or referral to the Nebraska Attorney General) taken in FY12. Enforcement resolutions included NDEQ Administrative Orders issued to two individuals requiring they cease work on septic systems until they become certified and an Order issued to the owner of a septic system for operating a system that had not been constructed in accordance with the Department approved and permitted design. Department staff also participated in a successful trial before a judge (prosecuted by the Attorney

General's office) that resulted in an injunction enjoining a septic system pumper from further onsite system pumping activities until he received proper certification.

The Private Onsite Wastewater Treatment System Advisory Committee advises the Department on administration of the Act and proposed rules and regulations. Title 124 was amended effective August 11, 2012, with changes endorsed by the Advisory Committee. Changes include: A mound system endorsement for construction of endorsed mounds by qualified Master Installers; Design criteria for endorsed mound system design (mound systems are typically used in high ground water areas and previously all required an engineer design and permit); A change to allow for approved online or self-study type continuing education; A late renewal provision with a new late renewal penalty; Proration of continuing education requirements for new certificates obtained late in the two-year certification cycle; and the elimination of all forms from the regulations with application requirements prescribed with the option to use Department provided forms.

The regulations set minimum design standards for all onsite wastewater treatment systems and include an "Authorization by Rule" provision which allows for the installation of typical onsite systems by a certified professional and subsequent operation by the owner without a site-specific construction or operating permit. These standard conforming systems constitute the vast majority of all new onsite systems. This allows the Department more time to focus resources on the certification of qualified professionals, education, complaint response, work with local governmental entities to address onsite wastewater issues, review of proposed subdivision developments, and review of permit applications which may include large systems or systems that receive non-domestic wastes.

Department engineers review construction/operating permit applications for systems that do not meet requirements for Authorization by Rule. Title 124 also provides for Department approval prior to construction of any subdivision which contain any lot less than three acres where onsite wastewater treatment is proposed. In the past year, the program received 45 applications for construction/operating permits and 7 applications (totaling 44 subject lots) for subdivision review and approval.

Program staff work with many other organizations, including local health offices, county and city planning and zoning, the Nebraska Onsite Wastewater Association (NOWWA), the Nebraska Onsite Wastewater Task Force, UNL Cooperative Extension, Nebraska Realtors, Nebraska Association of County Officials, and the Groundwater Foundation to educate the public about the importance of proper installation and maintenance of onsite wastewater treatment systems and to improve the knowledge and skills of the various practitioners who install and maintain onsite systems. NOWWA has held annual conferences and produced other training seminars since its inception in March 2001. UNL Cooperative Extension has continued to develop and deliver a variety of quality training and continuing education programs. This past year program staff reviewed and approved a total of 10 programs offering a total of 18.5 professional development hours for continuing education. A schedule of continuing education programs is posted, along with other Onsite Program information, on the Onsite Program webpages on the Department website.

Staff put in extra effort during FY12 to create new forms and to update guidance documents and fact sheets (nearly 60 in all) needed to implement amendments to Title 124. The online guidance documents and fact sheets include links to relevant forms making all these documents readily and easily available to everyone via the internet. The webpage continues to be an unqualified success as it has proven to be a convenient way for the Department to present, and citizens to access, timely and relevant information about onsite wastewater issues affecting Nebraskans.

Department staff also worked on the development of a new inspection program encouraged by onsite professionals. The inspection program will focus on the evaluation of reporting and construction activities of certified Installers to ensure that Title 124 requirements are met.

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

Competent and qualified operators are a critical component to ensure that wastewater treatment plants are well run and protect the environment. The life span of treatment facilities can be prolonged and proper operation and maintenance programs can protect the owner's substantial financial infrastructure investment. The Wastewater Treatment Facility Operator Certification Program was established to help accomplish this. The program administers the operator certification program, which includes administering certification exams, issuing certificates, evaluating continuing education programs, tracking certificate compliance, processing certificate renewals, and conducting facility ratings to determine operator needs, in addition to continuing to evaluate ways to help wastewater treatment facility operators obtain continuing education to maintain their certification and help them do their jobs.

This program administers nationally accredited certification exams to new wastewater operators and issues certification renewals for operators who have obtained the necessary Department approved continuing education as provided for in *Title 197 – Rules and Regulations for the Certification of Wastewater Treatment Operators in Nebraska*. Staff will continue to monitor those facilities that are required to have certified operators and work with them to help them comply with the regulations. The wastewater operator certification program has 870 certified operators with municipal certificates and 77 operators with industrial certificates.

The Department also reviews applications and issues operator certification exemptions for towns and other entities that have full-retention non-discharging lagoon wastewater treatment facilities that may not require qualified operators due to very limited maintenance and operational needs. The exemption is for a fixed four-year period and the period under current review will end at the end of 2012. The Department has contacted a total of 238 facilities that may be eligible for the exemption and, of these, issued four-year operator exemptions to 209 facilities. Program staff also revised and updated the four-year exempt application questionnaire in FY12 in preparation for mail-outs in the fall of 2012 for the new exemption period beginning 2013.

In FY12, the Department provided ten Discharge Monitoring Report training sessions, and 12 operator certification examination sessions. Testing of municipal and industrial wastewater treatment facility operators will continue in FY13.

### **Wastewater Construction Permit Program**

The Wastewater Section administers the Department's construction permit program for wastewater works built in the State. Industries and municipalities are required to submit engineering plans and specifications for the designs of their new or revised wastewater facilities to the Department for review and approval. These plans are reviewed by the Section's engineering staff to assure that the designs meet the Department's design standards for protecting the public health and the environment from the effects of improperly handled or treated wastewater.

The State's design standards for wastewater facilities are found in NDEQ Title 123, *Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works*. These design standards are updated periodically to keep Nebraska consistent with national standards.

The State's design standards are written to encourage the use of proven technologies, but have also allowed Nebraska communities to utilize innovative designs where they are appropriate.

Title 123 also contains basic rules for the operation and maintenance of collection systems and wastewater treatment facilities. It requires that Operation and Maintenance Manuals be prepared by utilities that describe the procedures needed to provide reliable sewer service to the public. Title 123 also contains rules for the proper abandonment of wastewater facilities that have been removed from service. The abandonment rules are intended to protect the public from the threat of unsafe conditions or public health hazards.

For FY2012, a total of 188 wastewater projects were submitted to the Department for review and approval.

Considerable time was spent last year working with communities that need to upgrade their wastewater treatment facilities. Section engineers regularly met with municipal officials, funding agencies, and consulting engineers to develop affordable projects for Nebraska's communities. The section also met with food processing industries, power generating plants, ethanol plants, and other industries to assist them in planning for their projects. Staff also worked with the owners of many privately owned wastewater facilities that were not properly designed or built and do not function properly.

Engineers from the Department's Wastewater Section continued to meet monthly with the City of Omaha during FY2012 to discuss Omaha's plans to separate their combined sewer system. These meetings have been valuable to both sides. Omaha's project is expected to have about 80 separate construction projects over a 15-year period. Each of these individual projects must be submitted to NDEQ for review and approval. Engineers from the Wastewater Section contributed to the Department's review of Omaha's Long Term Control Plan that was approved by the Department in 2010.

### **National Pollution Elimination System (NPDES) and Related Programs**

The Wastewater Section administers permitting programs that regulate point source dischargers of water pollutants, including:

- **The National Pollutant Discharge Elimination System (NPDES) Program**, which is responsible for regulating discharges of pollutants to waters of the State so as to maintain and protect the water quality of Nebraska's streams, lakes, rivers, and groundwater. Other NPDES-related programs include:
  - **Combined Sewer Overflows**, which addresses those municipalities that have combined storm water and wastewater sewer systems.
  - **Wastewater Treatment Sludge and Biosolids Disposal**, which are requirements for treatment and disposal of municipal and industrial wastewater sludges and biosolids, and
  - **Storm Water Permit Program** – This permit programs involves: 1) Construction sites of a specific size; 2) the Municipal Separate Storm Sewer System permits for medium and large municipalities; 3) Industrial facilities.
- **The Nebraska Pretreatment Program**, which functions to protect municipal wastewater collection and treatment systems from damage or overloading by industries.

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

### **NPDES Permits**

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.

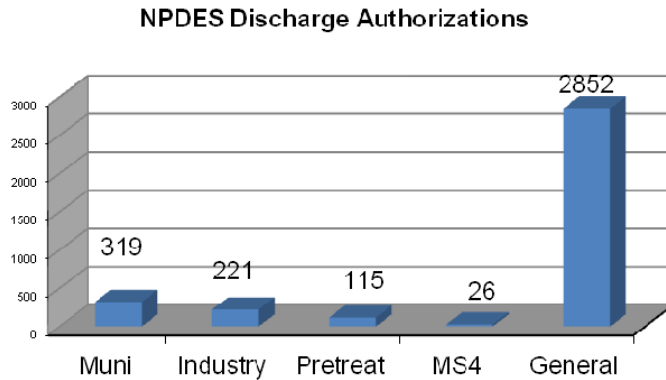
The Department is responsible for developing and issuing NPDES permits, and for ensuring that permitted facilities comply with permit requirements. The regulatory basis for this program is through an EPA delegation agreement with the Department and NDEQ *Title 119 - Rules and Regulations Pertaining to 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; industrial discharges to public wastewater treatment systems (also known as the Nebraska Pretreatment Program); municipal combined sanitary and storm sewer overflows; and industrial and municipal storm water discharges. The graph on the next page titled "NPDES Discharge Authorizations" shows the distribution of permits issued to various types of NPDES dischargers, except Livestock. The "General Permits" category includes discharge authorizations issued to groundwater remediation sites, storm water discharges, and dewatering/hydrostatic testing, , pesticides applications to, over, and near waters of the State, dewatering, hydrostatic testing, dewatering discharges within the City of Omaha, land application of concrete grooving/grinding slurry and discharges from small municipal separate storm sewers..

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 119 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 general permits for the following activity categories: hydrostatic testing, dewatering, dewatering discharges within the City of Omaha, land application of concrete grooving/grinding slurry, pesticides applications to, over, and near waters of the State, gasoline contaminated groundwater remediation projects, petroleum product contaminated groundwater remediation projects, construction site storm water, and industrial site storm water. Municipal Separate Storm Sewer System (MS4) permits have been issued to entities, including metropolitan areas and counties that meet the criteria of the NPDES storm water program. There currently are a total of 26 metropolitan areas and counties in Nebraska that have received MS4 permits. The Construction Storm Water General Permit was reissued January 1, 2008. A new Industrial Storm Water General Permit was issued on July 1, 2011 and allows 6 months for industrial activities regulated by the NPDES storm water program to apply.



There are 655 facilities with discharge authorizations under individual permits (municipal, industry and pretreatment), and 26 municipal storm water permits (MS4). There are 2852 active facilities authorized to discharge under other general permits. The graph titled "NPDES Discharge Authorizations" provides a summary of this information. The general permits include 2172 active authorizations under the construction general storm water permit, 37 dewatering including Omaha, 9 hydrostatic testing, 591 industrial storm water, 36 pesticide, and 7 petroleum remediation sites.

**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 types of facilities.

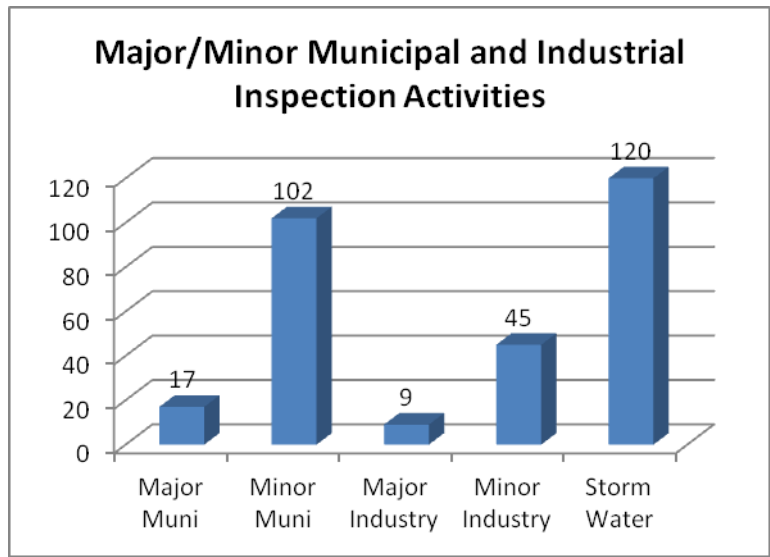
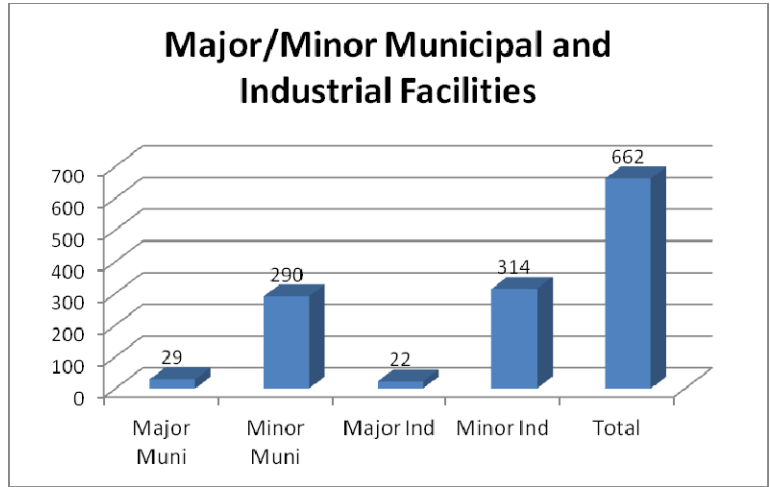
Municipal and industrial facilities are required to verify compliance with numeric permit limits by monitoring their effluents (i.e., self-monitoring). Monitoring frequency can vary from daily to annually depending upon the pollution and impact potential of the facility. The facility must report monitoring 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. The priority of minor facilities inspections is based on discharge compliance histories, incident reports and complaints. Inspectors performed 293 total NPDES inspections in Fiscal Year 2012. In addition, the inspectors completed 84 pretreatment inspections and 49 inspections of non-discharging wastewater lagoons. 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. Eight facilities had effluent monitoring inspections in Fiscal Year 2012.

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



**Combined Sewer Overflows**

The Combined Sewer Overflow (CSO) 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 melt run-off is occurring, these systems may become hydraulically overloaded and excess water flows bypass the treatment system. When bypasses occur, untreated wastewater is discharged into the receiving stream.

The cities of Omaha and Plattsmouth have combined sewers that are subject to storm-induced bypasses.

The City of Omaha submitted a substantively complete long-term control plan on October 1, 2007 in compliance with an Administrative Consent Order between the City and NDEQ. On September 25, 2009, the City submitted their Final Long Term Control Plan, also in compliance with the Administrative Consent Order. This order requires Omaha to complete the long-term control plan projects by 2024. The projects included in the plan span 15 years and are estimated to cost \$1.5 billion. In 2012 the order was modified to add an additional 3 years due to the 2011 Missouri River flood. The goal of the projects is to reduce or eliminate combined sewer overflows and comply with State and Federal regulations.

The City of Omaha's CSO NPDES permit has been re-issued effective October 1, 2010 and includes a schedule for project implementation. This schedule utilizes the first five years of project implementation as defined by the Long Term Control Plan.

The City of Plattsmouth has finalized and submitted the Long Term Control Plan for their CSO. Final schedules were included in the City's modified NPDES permit in 2009. Plattsmouth has committed to separating their storm and sanitary sewer lines. Separation projects began on July 1, 2010 and the City's re-issued permit, effective October 1, 2010, includes a schedule for completion of this work in the next five years. As with Omaha, this schedule was modified due to the 2011 Missouri River flood.

### **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 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 330 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*.

### **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 by EPA in March of 2003. Storm Water Phase II federal regulations lowered the threshold for coverage of construction sites from five acres or more to one acre or more. And, sites that are less than one acre can also be regulated in Phase II, if they are part of a common plan of development or sale. 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.

The cities of Omaha and Lincoln were subject to the Municipal Separate Storm Sewer System (also known as the MS4) Program with the implementation of Phase I. Lincoln was issued an MS4 Permit on September 1, 2002. This permit was reissued on July 1, 2008. The Omaha MS4 Permit was issued on October 1, 2003 and was reissued in October 1, 2008. 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. An NPDES permit for Douglas, Sarpy and Washington Counties was issued effective August 1, 2004 and reissued October 1, 2009. The Dakota County MS4 permit was issued effective December 1, 2004.

The Department determined that the communities of Beatrice, Columbus, Fremont, Grand Island, Hastings, Kearney, Lexington, Norfolk, North Platte and Scottsbluff were exempt as of December 20, 2002. However, new approved Total Maximum Daily Loads and a review of the criteria for each municipality, made all subject to Phase II regulations for MS4s. A statewide general permit was issued January 1, 2006. The Storm Water Management Plans for all of these cities have been received, public noticed and each of these communities was authorized under this general permit. These permittees have entered into a cooperative agreement to form the Phase II Storm Water Cooperative. Their Storm Water Management Plans are being coordinated so that development work and implementation plans can be shared between them. The NDEQ is working closely with this group. The re-issuance of the statewide general permit for small MS4s is scheduled for 2012. Dakota County, South Sioux City, and Dakota City will also be covered under this state wide permit when it becomes effective.

Nearly \$1.825 million in grant funds was awarded in FY2012 to MS4 permittees. This grant, established by Legislative Bill 1226 in 2006, is awarded annually to the development and implementation of the MS4 communities' Storm Water Management Plans. The grant is distributed by population and requires a matching 20% from each of the grantees. Funds are distributed near the end of each calendar year.

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. The NPDES General Permit for Storm Water Discharges from Construction Sites, NER110000 was issued with change on January 1, 2008. The NPDES General Permit for Storm Water Discharges from Industrial Activity, NER900000, was issued July 1, 2011. The new permit requires benchmark monitoring for certain industrial activities. This monitoring was to be in place by July 1, 2012.

### **Nebraska Pretreatment Program Permits**

The Nebraska Pretreatment Program functions to protect municipal wastewater collection and treatment systems from damage or overloading by industrial dischargers. The pretreatment regulations are found in Title 119. The rules and regulations set 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 119, 2) the volume or strength of the wastewater discharged from the facility, or 3) the potential of the industrial user to adversely affect 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 are entered into ICIS to facilitate compliance review activities.

Although the Pretreatment Program is really a subprogram of the NPDES program, administration of this program requires 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 are 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 with agreements conduct initial complaint or incident investigations, report significant incidents to the Department and assist in permit development by reviewing draft permits. The Department is working with communities throughout the State to get them more involved in the pretreatment program and to improve cooperative efforts in this program.

## State Revolving Loan Fund Programs

The Water Quality Division's Financial Assistance 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

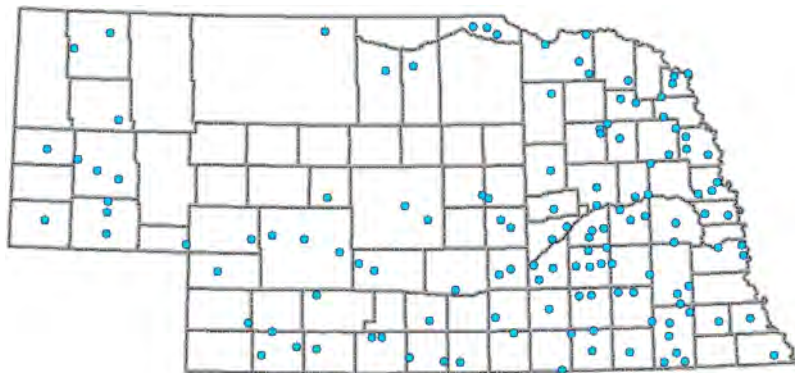
The Nebraska Clean Water State Revolving Loan Fund (CWSRF) program provides low interest loans and small community matching grants to municipalities for construction of wastewater treatment facilities and sanitary sewer collection systems to alleviate public health and environmental problems. The loan principal repayments go into new loans, and interest earnings on the Fund are used to pay off the state match bond issues and 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 24 years of activity, the Fund's Net Assets have reached \$233 million. Since its inception, the program has made loans totaling \$378 million to 171 municipalities for 238 projects. The American Recovery and Reinvestment Act (ARRA or stimulus), passed by the federal government on February 17, 2009, provided \$20,045,000 extra funding for the CWSRF program during FY2009 and FY2010. The added stimulus funding did not require the 20% state match, but did require that 50% of the ARRA funds be provided as principal forgiveness (similar to the small community grants) and that 20% of the funds go to green infrastructure. All of the green infrastructure funds were allocated to land application facilities (a categorically qualified green infrastructure project). ARRA funds were fully obligated to projects before the February 17, 2010 deadline.

In FY2012, the CWSRF funded projects totaling \$10,741,527 in loans and \$2,382,735 in principal forgiveness and grant funds to the same projects.

The EPA awarded the 2011 capitalization grant, in the amount of \$7,529,000, in September 2011. A \$1,505,800 bond was used to match this federal grant.

The map below shows the locations of CWSRF projects over the 24 years of the loan program.



### Municipalities Receiving CWSRF Loans in FY2012

Municipality	Loan Date	Loan Amount	Principal Forgiveness and Small Community Grant Amount
Blair Amd #1	6/27/2012	552,615	17,385
Plattsmouth	6/27/2012	1,735,961	44,039
Brainard	6/21/2012	1,070,000	250,000
Marquette (15 yr loan)	5/16/2012	53,000	32,800
Bruning	5/15/2012	344,300	250,000
Wisner	4/30/2012	105,000	105,000
Lancaster County SID #5 (Cheney)	4/16/2012	350,000	
Lindsay	4/16/2012	537,500	250,000
Osmond Amd #2	4/9/2012	133,609	7,635
Lynch Amd #1 (10 yr loan)	3/14/2012	10,239	7,761
Oxford	2/22/2012	200,750	200,750
Ansley	1/18/2012	969,100	500,000
Lynch	1/11/2012	16,500	16,500
Hayes Center Amd #1	1/9/2012	9,500	65,500
Osmond Amd #1	12/12/2011	166,453	135,365
Oakland Amd #1	10/24/2011	137,000	
Albion	10/14/2011	3,000,000	500,000
Plattsmouth Amd #1	9/29/2011	600,000	
Omaha Amd #2	9/13/2011	1,000,000	
<b>TOTAL</b>		<b>\$10,991,527</b>	<b>\$2,382,735</b>

Twenty-eight projects were under construction: Albion, Ansley, Aurora, Bassett, Blair, Brainard, Bruning, Clarkson, Duncan, Gosper County SID #1, Hayes Center, Lancaster County SID #5, Leigh, Lincoln, Lindsay, Lower Platte North NRD, Marquette, Nebraska City, Ogallala, Omaha, Oxford, Plattsmouth, Polk County SID #1, Shelby, Tekamah, Wakefield, Wisner, and Wolbach.

The following 8 SRF wastewater projects initiated operation in SFY2012: Oakland, Lawrence, Stuart, Wayne, Cozad, Kearney, Ogallala, and Broken Bow.

### Construction Administration Fund Small Community Matching Grants

In addition to and concurrent with loans, the CWSRF provides small community matching grants to financially distressed municipalities with population of 10,000 or less. This program has provided \$7.0 million in grant funding for 77 projects concurrent with a CWSRF loan during twenty four years of the program. Many small municipalities find that needed projects are too costly without the additional grant subsidy provided concurrent with the CWSRF loan. During FY2008, legislation was passed providing the department with authority to allocate up to 65% of prior-year revenue from fees collected on CWSRF loans to the various grants. This legislation also increased the population level for eligible communities to 10,000 or less. The department intends to provide increased funding to as many qualifying projects as possible; therefore, for FY2012, up to

\$850,000 was available for small community grants, and any one community could receive a maximum of \$250,000. The program provided \$500,000 in small community grants to each of the communities of Ansley and Albion.

### **Drinking Water State Revolving Loan Fund**

The Nebraska Drinking Water State Revolving Loan Fund (DWSRF) program provides low-interest loans and loan forgiveness to owners of public water systems. The loan principal repayments go into new loans, and interest earnings on the Fund are used to pay off the state match bond issues and to make new loans. An agreement between the NDEQ and the Nebraska Department of Health and Human Services, Division of Public Health (NDHHS-DPH), 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 in that both obtain the required 20% state match through appropriations or 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 loan forgiveness, and set-asides for program administration, technical assistance, wellhead protection, capacity development and operator certification. After 15 years of activity, the Fund capitalization level has reached \$128 million.

### **DWSRF Set Aside Funds and Administration Cash Fund**

Administrative costs are being paid out of the administrative cash fund and may include program operating costs for both NDEQ and NDHHS-DPH, including day-to-day DWSRF program management activities for both agencies. Also included are other costs associated with debt issuance, financial management, consulting, and support services necessary to provide a complete program.

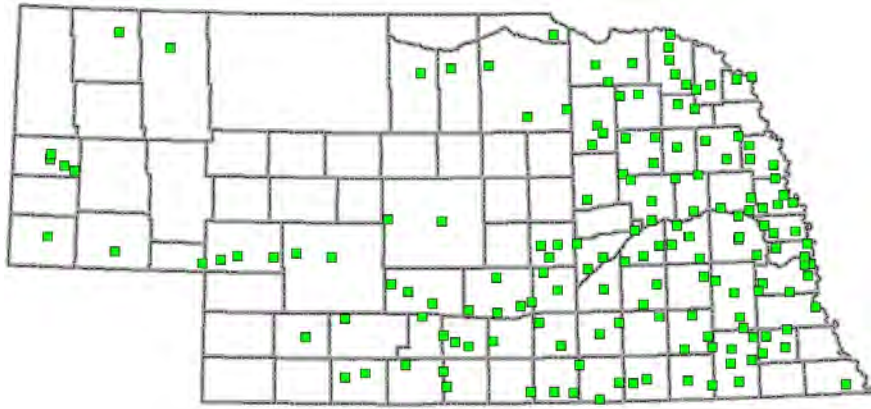
The Small System Technical Assistance set-aside (2%) provides technical assistance to Public Water Supply Systems serving 10,000 or fewer persons. This is accomplished through contracts with organizations with expertise in dealing with small systems and is coordinated by the NDHHS-DPH.

In FY2012, under the Source Water Protection Implementation set-aside (15%), eighteen grants for preliminary engineering reports totaling \$256,320 were awarded to highpriority ranked communities to address public health issues associated with public water supplies, and \$100,000 for source water protection project grants. The NDEQ administers the grants provided for preliminary engineering reports and the Department's Source Water Program oversees the source water protection grants.

The DHHS-DPH 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 \$750,000. The state may use up to a total of 10 percent for this set-aside but must provide a one-to-one state match. DHHS-DPH has determined the set-aside eligibility by using program overmatch dollars for federal fiscal years 1993 to 1997. No additional state dollars are required for the set-aside amount.

The FY2011 DWSRF capitalization grant allocation totaled \$9,418,000 million. The program disbursed \$25 million for drinking water project construction. Of that amount, disadvantaged communities received \$2,036,253 in forgiveness funding.

The map below shows the locations of DWSRF projects over the 15 years of the loan program.



**Municipalities Receiving DWSRF Loans in FY2012**

Municipality	Loan Date	Loan Amount	Principal Forgiveness
Aurora (15 yr loan)	4/12/2012	260,000	65,000
Holdrege	3/2/2012	235,928	58,982
Shelton	1/17/2012	1,036,000	259,000
Terrytown	1/5/2012	1,288,000	322,000
Hay Springs	10/21/2011	305,000	76,250
West Knox RWS-LNNRD	9/12/2011	886,054	221,513
Creighton	8/10/2011	449,600	112,400
Cairo	7/27/2011	536,560	134,140
Platte Center Amd #1	7/26/2011	391,159	83,841
Sutherland Amd #1	7/13/2011	116,624	36,707
Lincoln (unpledged)	7/7/2011	15,000,000	-
Cortland (30 yr loan)	4/12/2012	1,670,358	417,589
Bridgeport Amd #1	3/2/2012	736,719	245,572
<b>TOTAL</b>		<b>\$22,917,557</b>	<b>\$2,027,439</b>

This past State Fiscal Year (SFY), the DWSRF entered into 10 binding commitments and 3 loan amendments to existing funded communities in order to provide financial assistance to PWS projects totaling \$24,944,996 of which disadvantaged communities received \$2,027,439 in forgiveness funding. Further, the Federal Fiscal Year (FFY) 2010 and 2011 capitalization grants required that a minimum of 30% of those grants be reserved for additional subsidization (e.g., principal forgiveness) and 20% for the Green Project Reserve (GPR) (e.g., water meters). The FFY 2010 grant requirements have been met and 24% and 49% of the FFY 2011 requirements



were met before the end of the SFY, respectively. With numerous loan closings scheduled there are no problems anticipated with meeting the required grant conditions.

In addition, from the FFY 2011 capitalization grant \$1,638,360 was allocated to the 2% (\$188,360), 10% (\$750,000) and 15% (\$700,000) Set-Asides. More details on the programs associated with these Set-Asides can be found in the Drinking Water State Revolving Fund Annual Report for SFY 2012 on our website at <http://deq.ne.gov/>.

# CHAPTER 7:

## Field Services and Assistance Division

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The purpose of the Field Services and Assistance Division is to provide information and assistance to the public and the regulated community, as well as to conduct inspections, maintain monitoring programs and manage specific projects. With regard to performing inspections, operating monitoring programs and managing projects, Field Services staff coordinates all activities with the Agency's Air Quality, Waste Management and Water Quality Divisions. Many of the field activities occur out of the department offices located in Omaha, Norfolk, Chadron, Scottsbluff, North Platte and Holdrege.

In addition to Field Services, the division consists of the following programs: Small Business and Public Assistance, SARA Title III Community Right-To-Know, Release Assessment, Homeland Security, and Quality Assurance.

Over the last year, the programs within the Field Services and Assistance Division have devoted efforts to a number of significant projects. A short summary of some of those efforts follow.

- The Field Services and Assistance Division devotes significant resources to the coordination of the review and response to submissions pursuant to the National Environmental Protection Act. The purpose of the assessments by NDEQ's program reviewers is to ensure related projects are conducted in an environmentally responsible manner. During FY2012, 102 notifications were received.
- The Community Right-to-Know program continues to work with Local Emergency Planning Committees in planning efforts, such as planning and participating in emergency response exercises. The program also participates in educational activities. The Program participated in several local emergency management agency meetings over the last year and participated on the State Emergency Response Commission Education/Outreach Committee.
- 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 and make strides toward a sustainable Nebraska. Three of the primary efforts of the Partnership have been:
  - Sponsorship of the "Power Summit" which brings those responsible for generation electricity together with environmental regulators for purposes of examining topics of mutual interest.
  - In cooperation with the United States Department of Agriculture – Rural Development and the EPA AgStar Program, continuing the promotion of the capture and use of methane from concentrated animal feeding operations.
  - The Partnership is involved in the examination of energy conservation issues with small communities and their publicly-owned wastewater treatment plants.
- The Release Assessment program continues to enhance the Department's ability to respond to releases into the environment by securing equipment and coordinating and providing additional training for the Department's Immediate Response Team. Additionally the Release Assessment program serves as the Department's Complaint Coordinator. The Complaint

Coordinator is implementing the Department-wide notification system. The system is designed to increase the effectiveness and bring consistency to the Department's response to notifications and complaints.

- The Division, primarily through the efforts of the Small Business and Public Assistance Coordinator, is responsible for the planning and conduct of the Department's annual Environmental Update. The Environmental Update is a one-day conference held for the regulated community and environmental consultants. The purpose of the conference is to provide an opportunity for NDEQ programs to present updates and explain new developments in their programs.
- The Environmental Assistance Division provides assistance to the Waste Management Division in the conduct of the federal Brownfields program. The Brownfields program's purpose is to restore blighted and contaminated areas of the country to productive use. The Field Service and Assistance Division has been reviewing and providing comments on grant applications to those organizations applying for federal Brownfields grants.
- The Division is responsible for the Department's Quality Assurance Program. The function of the Quality Assurance Program is to ensure that environmental data used by the Department in regulatory and decision-making activities is properly documented and sufficiently reliable to meet Department needs. NDEQ is committed to ensuring that environmental data used by the Department are sufficiently precise, accurate, and complete to carry out NDEQ's responsibilities.
- In FY2012, the Division has continued to provide leadership and facilitate focused improvement efforts to streamline regulatory processes, which has included improving NDEQ's 319 Non-point pollution grants process.
- The Field Office Section Supervisor has initiated one-on-one informal visits with small community Municipal Clerks. Clerks often receive requests for information associated with the Department's various programs and providing them with knowledge of the Department's programs, and letting the Clerks know who to contact in given situations, benefits the citizens of the state.

### **Field Offices**

The NDEQ Field Office Section is responsible for conducting compliance inspections, complaint investigations, environmental sampling, project management, and local compliance assistance for the agency's Air Quality, Waste Management and Water Quality Divisions. The number of inspections and other duties performed by field office staff is incorporated in the charts and graphs provided by other divisions in the previous chapters. There are 16 employees in six offices around the state. The field offices enable the agency to provide the public with greater access to NDEQ staff, to provide more timely responses to citizens. Additionally, Field Offices help the entire Department develop a better understanding of local issues because NDEQ staff live and work in the local community.

One of NDEQ's goals is to have a strong community presence and build relationships with the public and with local entities. This is accomplished in a number of different ways in the field offices. One way is by making personal one-on-one contacts with local governmental agencies that have mutual needs or responsibilities. Another way to establish a local presence is to participate on local task forces, boards of directors and emergency planning organizations. The feedback that the agency

receives is that the NDEQ representatives who participate in these local organizations add depth and insight which is highly valued. Another way a local presence is established is by participating in environmental education events in their regions. Building a strong community presence helps NDEQ carry out the work of preserving the state's natural resources and serving the citizens of Nebraska.

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

The Small Business and Public Assistance program was created as a result of Section 507 of the Clean Air Act Amendments of 1990. The 507 programs were created to assist sources in complying with air quality regulations. Similar to many state's environmental agencies, the Nebraska DEQ expanded its scope to encompass all environmental media - air, waste and water.

The program is divided into four major components: the Small Business and Public Assistance (SBPA) program, the Public Advocate, the One-Stop Permit Assistance program, and the Small Business Compliance Advisory Panel. The SBPA program coordinator is involved with all four functions; as well as coordinating with other DEQ personnel within the Air Quality, Water Quality and Waste Management divisions involved in compliance assistance activities on the department's Compliance Assistance Team.

The SBPA assistance program includes site visits, development of outreach materials, workshops, and helping the regulated community to understand their obligations under state and federal 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. Over 100 calls came into the SBPA Coordinator line for assistance, and the Small Business and Compliance Assistance Coordinator is responsible for the Department's annual Environmental Update workshop, which was attended by over 160 individuals.

The Public Advocate serves as the ombudsman for purposes of the Clean Air Act 507 program, receiving requests for regulatory information or environmental complaints from the public, and 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. In this role, the SBPA Coordinator provided outreach to numerous individuals to address specific questions or concerns they had; as well as working with the citizens of Gering, Nebraska and Milford, Nebraska regarding on-going landfill concerns in each community.

The One-Stop Permit Assistance program was established to offer information and permit assistance related to the department's various divisions; providing the customer with one initial point of contact in the environmental permitting process. This program's objectives are to ensure businesses are aware of the permits they are required to apply for, know information they will need to provide in the application process, and 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 comprehensive manner for the client. Seven One-Stop Permit initial meetings were held, including several for various Nebraska Department of Economic Development projects.

The Small Business Compliance Advisory Panel (SBCAP) resulted from amendments to the Nebraska Environmental Protection Act of 1992. The Panel is comprised of seven members: two representatives from the general public selected by the Governor, four representatives from small

businesses selected by the Legislature, and one representative selected by the Director. The panel evaluates the effectiveness of the SBPA program, providing feedback on outreach and education methods and identifying program obstacles. The SBCAP provides a report to the Governor annually, on January 1, regarding the SBPA program. One panel vacancy from 2011 was filled, but additional vacancies have opened on the panel in 2012, and nominees for panel member replacements are being sought.

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

The Community Right-to-Know program 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 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 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 2012, approximately 3,050 Nebraska facilities reported Tier II information on regulated chemicals above EPA-established thresholds. This was consistent with the previous year.

Facilities required to report information pursuant to the Community Right-to-Know program are able to access, view, change and report their chemical information online. Approximately 90% of the facilities reported online in Nebraska in 2012. The information stored electronically is much more usable and enhances the ability of Local Emergency Planning Committees to access the data for use in their local emergency plans.

Additionally, the Community Right-To-Know Coordinator has been active in establishing relationships with the Local Emergency Planning Committees by attending their local meetings and making presentations at related conferences. In 2012, the Community Right-to-Know Coordinator attended 16 local meetings and assisted with local emergency exercises and provided information regarding chemicals at facilities in their communities. In 2012 the Community Right-to-Know Coordinator assisted with the planning of the "Regional LEPC Conference" in North Platte, NE. These events provided information and training to over 200 First Responders and Local Emergency Planning Committee members.

### **Release Assessment Program**

Through the Release Assessment program, NDEQ 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.

The Release Assessment Coordinator is responsible for training, equipping and coordinating a group of personnel who, in addition to their responsibilities to other departmental programs, provide initial assistance and response to spills. These individuals have the responsibility of maintaining an emergency response system, which is on call 24 hours a day. The Release Assessment Program assists in arranging for the disposal of harmful and potentially hazardous materials. The Program represents the environmental interests of the state at the scene of a petroleum/chemical spill or other environmental emergency. All personnel are members of the Nebraska Hazardous Incident Team (NHIT) and coordinate closely with the local, state and federal agencies involved in emergency response situations.

Over the last year the Release Assessment Program has assumed the responsibility for responding to incidents involving mercury releases. Previously the Department of Health and Human Services was responsible for such responses. The agencies in examining how to most effectively serve the citizens of Nebraska determined that using NDEQ's 24hours a day, 7 days a week response capabilities, while maintaining the DHHS capabilities to provide advice and education on how to handle relatively minor mercury releases, most effectively serve our citizens.

The agency has implemented a department-wide electronic system for receiving information from the public and the regulated community related to complaints and spills. 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(s) so that the department may provide a timely response to the information.

### **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 Department has exerted efforts over the last year to revise and update the Department's Emergency Operations Plan. The Director signed the revised version of the plan in February of this year. In the coming year the FSAD will design an activity to exercise the revised plan. As has been the case in the past, Department staff, specifically the Community Right to Know Coordinator, have participated in a number of Local Emergency Response Committee exercises. Most significantly those exercises included incidents related to releases of anhydrous ammonia, pipeline releases, and responding to, and mitigating spills of materials into the surface waters of our state.

# CHAPTER 8:

## Expenditure and Budget Summary

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The following information summarizes department expenditures for fiscal year 2012 and outlines budget projections for fiscal year 2012. 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 FY12 expenditures for each federal grant, including the state match.

**Chart B** lists actual FY12 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, contracting and distribution of aid.

**Chart C** is the proposed FY13 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 by in-kind services in the Groundwater Management Area program.

**Chart D** lists proposed FY13 budgets for programs funded by state funds. This chart lists proposed expenditures by activity. As in Chart B, activity is not a program activity, but a category of expenditure. Activities listed are personnel services, operations, travel, capital outlay, contracting and distribution of aid.

Agency program activities are described in Chapters 2 through 7 of this report.

**Chart A -- Actual Expenditure for Each Federal Grant for State Fiscal Year 2012**

<b>Grant Program / Title</b>	<b>Assistance ID #</b>	<b>Grant</b>	<b>Match</b>	<b>Total</b>
ARRA Clean Diesel (Air)	2D97706001-01	(35,910)	-	(35,910)
ARRA Clean Water State Revolving Fund	2W97705101-01	53,197	-	53,197
ARRA Leaking Underground Storage Tanks	2L97705001-01	88,915	-	88,915
ARRA Drinking Water State Revolving Fund	2F97705601-01	278,050	-	278,050
Performance Partnership	BG997325-07	4,240,031	1,185,457	5,425,488
604 B Water Quality Management	C6007328-20	26,281	-	26,281
604 B Water Quality Management	C6007328-21	52,792	-	52,792
319 H Non-Point Source	C9007403-XX	2,180,728	-	2,180,728
Clean Water State Revolving Fund	CS310001-08	-	874	874
Clean Water State Revolving Fund	CS310001-09	7,343	570,859	578,202
Clean Water State Revolving Fund	CS310001-10	1,936,297	715,499	2,651,796
Clean Water State Revolving Fund	CS310001-11	466,410	2,029,166	2,495,576
Clean Diesel	DS987972-01	341,378	-	341,378
Drinking Water State Revolving Fund	FS997805-XX	8,463,624	-	8,463,624
106 Enforcement & Permitting	I977239-01	3,576	-	3,576
Section 106 Monitoring	I987678-XX	190,270	-	190,270
Leaking Underground Storage Tanks	LS987161-05	52,967	(15,888)	37,079
Leaking Underground Storage Tanks	LS987161-06	732,054	102,778	834,832
Leaking Underground Storage Tanks	LS987161-07	720,625	61,745	782,370
Department of Defense	NE-10	128,511	-	128,511
Node 2.0 Implementations	OS834029-01	8,973	-	8,973
Section 128 (a) State Response	RP987322-03	58,731	-	58,731
Section 128 (a) State Response	RP987322-04	442,143	-	442,143
Superfund UNL Mead	V987587-01	3,217	-	3,217
Superfund Management Assistance	V997531-07	142,834	-	142,834
Superfund Site Assessment	V997532-05	27,975	-	27,975
Superfund Site Assessment	V997532-06	163,265	-	163,265
Superfund Core	VC987267-05	6,400	2,565	8,965
Superfund Core	VC987267-06	163,165	15,554	178,719
Tuttle Creek Lake	WS987733-01	69,439	-	69,439
PM 2.5 Ambient Air Monitoring	XA987923-01	252,444	-	252,444
<b>Totals</b>		<b>\$ 21,265,725</b>	<b>\$ 4,668,609</b>	<b>\$ 25,934,334</b>

Administrative costs are negotiated with the EPA as a combined, per hour rate, and then charged back against each grant based on direct service hours worked

Performance Partnership is made up of Water 106, Air 105, Groundwater, RCRA 3011, a part of 319 H program, Underground Injection Control, and Mineral Exploration

A portion of 319 H Non Point Source Match comes from the Groundwater Management Area Program (Subprogram 035)

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 2012 Including Aid**

Program	Subprogram	Fund Type	Personal Services	Operating Expenses	Travel	Capital Outlay	Consulting /Contracting	Total	Distribution of Aid	Total
Integrated Solid Waste Management	004	C	1,098,079	372,996	29,839	-	8,357	1,509,271	5,521	1,514,792
CLEAR / Environmental Trust	011	C	-	-	-	-	206,508	206,508	-	206,508
Ag - Livestock	016	G/C	1,336,453	32,775	56,810	-	9,706	1,435,744	-	1,435,744
Air Construction Permits	020	C	1,162	5,098	673	-	-	6,933	-	6,933
Superfund State Cost Share	023	G/C	-	-	-	-	-	-	326,813	326,813
Litter Reduction	024	C	117,443	38,684	1,635	-	110,072	267,834	1,657,297	1,925,131
Mineral Exploration	029	C	87,492	35,513	15,988	-	1,538	140,531	-	140,531
Private Onsite Wastewater Cert & Registration	030	C	233,574	87,693	3,516	-	-	324,783	-	324,783
Environmental Official Training	031	C	-	3	-	-	93,300	93,303	-	93,303
Emission Inventory - Title V	033	C	1,870,087	656,650	28,407	-	64,322	2,619,466	-	2,619,466
Chemigation	034	C	6,924	4,112	(2,474)	-	60,626	69,188	-	69,188
Groundwater Management Areas	035	G	43,341	5,921	913	-	-	50,175	-	50,175
Remedial Action Plan Monitoring Act	036	C	94,555	35,867	694	-	-	131,116	-	131,116
Private Onsite Wastewater Permit & Approval	037	C	22,978	7,609	-	-	-	30,587	-	30,587
Operator Certification	040	C	56,530	21,890	907	-	5,738	85,065	-	85,065
Community Right to Know	041	G	76,583	632	2,175	-	483	79,873	-	79,873
Pipeline SEIS	050	G/C	113,628	40,395	4,516	-	196,510	355,049	-	355,049
Petroleum Release Remedial Action Act	051	C	860,862	419,073	11,746	467,123	3,513,795	5,272,599	6,803,605	12,076,204
Emergency Response	057	C	211,067	84,175	5,192	1,926	827	303,187	-	303,187
Engineering Reviews	061	G	217,458	1,504	354	-	745	220,061	-	220,061
Stormwater Grants	067	G	8,501	-	408	-	-	8,909	1,824,996	1,833,905
Waste Reduction & Recycling	091	C	219,814	89,238	4,763	-	1,268	315,083	2,444,305	2,759,388
Agency Organizational Dues	099	G	-	11,000	-	-	-	11,000	-	11,000
<b>Totals</b>			<b>\$ 6,676,531</b>	<b>\$ 1,950,828</b>	<b>\$ 166,062</b>	<b>\$ 469,049</b>	<b>\$ 4,273,795</b>	<b>\$ 13,536,265</b>	<b>\$ 13,062,537</b>	<b>\$ 26,598,802</b>

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 2013

Grant / Program Title	Grant	Match	Total
Performance Partnership	4,513,703	1,375,239	5,888,942
Clean Water State Revolving Fund	5,305,099	2,220,399	7,525,498
604 B Water Quality Management	115,816	-	115,816
319 H Non-Point Source	3,320,749	-	3,320,749
Drinking Water State Revolving Fund	10,181,688	979,908	11,161,596
Leaking Underground Storage Tanks	744,095	85,010	829,105
Clean Diesel	435,000	-	435,000
Section 106 Monitoring	169,500	-	169,500
Department of Defense	149,752	-	149,752
PM 2.5 Ambient Air Monitoring	214,017	-	214,017
Superfund UNL Mead	-	-	-
Superfund Core	162,860	18,097	180,957
Superfund Management Assistance	132,743	-	132,743
Superfund Site Assessment	195,984	-	195,984
Section 128 (a) State Response	543,222	-	543,222
<b>Totals</b>	<b>\$ 26,184,228</b>	<b>\$ 4,678,653</b>	<b>\$ 30,862,881</b>

Performance Partnership is made up of Water 106, Air 105, Groundwater, RCRA 3011, a part of 319 H program, Underground Injection Control, and Mineral Exploration

319 H Non Point Source Match comes from the Groundwater Management Area Program (Subprogram 035)

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 2013 Including Aid**

Program	Subprogram	Fund Type	Personal Services	Operating Expenses	Travel	Capital Outlay	Consulting /Contracting	Total	Distribution of Aid	Total
Integrated Solid Waste Management	004	C	1,204,652	471,636	37,468	-	30,000	1,743,756	-	1,743,756
Ag - Livestock	016	G/C	1,469,386	36,325	59,892	-	9,105	1,574,708	-	1,574,708
Air Construction Permits	020	C	46,667	26,750	500	-	1,306	75,223	-	75,223
Superfund State Cost Share	023	G/C	-	-	-	-	-	-	621,850	621,850
Litter Reduction	024	C	114,519	43,692	1,898	-	110,000	270,109	1,600,000	1,870,109
Mineral Exploration	029	C	105,621	48,805	16,250	-	1,500	172,176	-	172,176
Private Onsite Wastewater Cert & Registration	030	C	236,289	95,823	3,375	-	-	335,487	-	335,487
Emission Inventory - Title V	033	C	2,029,713	784,631	26,875	-	75,000	2,916,219	-	2,916,219
Chemigation	034	C	4,751	4,070	163	-	27,000	35,984	-	35,984
Groundwater Management Areas	035	G	43,688	-	150	-	-	43,838	-	43,838
Remedial Action Plan Monitoring Act	036	C	115,948	44,152	-	-	-	160,100	-	160,100
Private Onsite Wastewater Permit & Approval	037	C	24,446	8,462	-	-	-	32,908	-	32,908
Operator Certification	040	C	51,058	23,459	1,650	-	7,700	83,867	-	83,867
Community Right to Know	041	G	87,845	4,553	4,341	-	1,700	98,439	-	98,439
Petroleum Release Remedial Action Act	051	C	917,500	466,789	12,978	-	6,389,229	7,786,496	9,175,000	16,961,496
Emergency Response	057	C	192,979	84,754	4,092	-	1,000	282,825	-	282,825
Engineering Reviews	061	G	241,010	2,101	778	1,175	-	245,064	-	245,064
Stormwater Grants	067	G	9,050	-	-	-	-	9,050	1,824,996	1,834,046
Waste Reduction & Recycling	091	C	194,206	90,393	5,201	-	5,000	294,800	2,600,000	2,894,800
Agency Organizational Dues	099	G	-	11,000	-	-	-	11,000	-	11,000
<b>Totals</b>			<b>\$ 7,089,328</b>	<b>\$ 2,247,395</b>	<b>\$ 175,611</b>	<b>\$ 1,175</b>	<b>\$ 6,658,540</b>	<b>\$ 16,172,049</b>	<b>\$ 15,821,846</b>	<b>\$ 31,993,895</b>

FUND TYPE LEGEND

G - Program Expends General Funds

C - Program Expends Cash Funds

G/C - Program Expends Both General and Cash Funds

# CHAPTER 9:

## 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 Programs for construction of wastewater treatment facilities and drinking water systems.

### **WASTE MANAGEMENT AID PROGRAMS**

Following is a summary of funds provided in FY 2012 through the waste grants programs managed in the Waste Planning and Aid Unit.

#### **A. Litter Reduction and Recycling**

The Litter Reduction and Recycling Grant Program provides funds to reduce litter, provide education and promote recycling in Nebraska. 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 \$2.04 million was received in FY2012.

In FY 2012, 57 Litter Reduction and Recycling grants were awarded, totaling \$1,554,178. The grants were awarded in three categories: Public Education, \$620,003; Cleanup, \$81,675; and Recycling, \$852,500. These grants were awarded to both public and private entities.

#### **B. Waste Reduction and Recycling**

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 FY 2012, 161 projects totaling \$3,546,661 were funded from the Waste Reduction and Recycling Incentive Grants Program.

#### **C. Illegal Dumpsite Cleanup 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 clean up solid waste disposed of along public roadways or ditches. In FY2012, the program provided \$67,626 to four recipients.

#### **D. 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 that are manufactured or produced from recycled material. Funding for the program is from the Waste Reduction and Recycling Incentive Fund. In FY2012, the program provided \$127,875 to 11 recipients.

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 provided no more than quarterly and no less than annually.

Additional information about these programs can be found in the Planning and Aid portion of Chapter 5.

## **WATER QUALITY AID PROGRAMS**

### **A. Petroleum Remediation**

The Petroleum Remediation 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 \$169 million has been disbursed since the program began. The program provided \$6,665,412 to 246 sites for investigation and cleanup in FY2012.

Additional information about this program can be found in the Petroleum Remediation portion of Chapter 6.

### **B. State Revolving Loan Fund Program**

**I. Clean Water (Wastewater) State Revolving Loan Fund Program** -- Grant and loan programs administered by DEQ related to wastewater facilities, which are funded through the Clean Water State Revolving Fund program, include:

- The **Clean Water State Revolving Loan Fund** 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 (including ARRA funds), and funds from Nebraska Investment Financial Authority (NIFA) through bond issuance. In FY2012, the CWSRF funded projects totaling \$10,741,527 in loans and \$2,382,735 in principal forgiveness and grant funds.
- **Clean Water Construction Administration Small Community Matching Grants** provide matching grants to eligible communities with populations of 10,000 or less. In FY2012, \$1 million was allocated for small town grants.

**II. Drinking Water State Revolving Fund Program** -- The Drinking Water State Revolving Fund provides low interest loans and loan forgiveness to owners of public water systems. In FY2012, the program disbursed \$25 million for drinking water project construction.

Additional information about these programs can be found in the State Revolving Loan Programs portion of Chapter 6.

**C. Nonpoint Source Management**

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 FY2012 included \$2,348,559 for 11 large projects and \$40,874 for four small projects.

Additional information about these programs can be found in the Water Quality Planning portion of Chapter 6.

**D. Storm Water Grants**

In 2006, the Nebraska Legislature passed LB1226, which established the Storm Water Management Plan Program. This grant program provides funding to cities and counties with storm water permits to implement their local Storm Water Management Plans (SWMPs). In FY2012, \$1.825 million was distributed to communities to implement aspects of their Storm Water Management Plans. The grant recipients must provide a 20% cash match for any funds received and submit annual reports for the duration of the project.

Additional information about this program can be found in the NPDES and Related Programs portion of Chapter 6.

# CHAPTER 10:

## Staffing

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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 our 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. To assist with recruiting top talent, the agency's Human Resource Section worked closely with The Nebraska Department of Administrative Service to develop new classifications in the Environmental Quality Programs Specialist and the Groundwater Geologist series. With the creation of the Environmental Quality Programs Specialist I, Environmental Quality Programs Specialist II, Groundwater Geologist I and Groundwater Geologist II positions, the agency feels this will help significantly with agency competitiveness in the job market. The department feels very fortunate to have recruited excellent staff in 2011/2012.

Staff retention continues to be an important goal for the agency. Staff turnover impacts continuity in the department's programs and enforcement activities, and causes additional costs for training of replacement staff members. The department strives to foster and maintain an employee-friendly workplace by offering transfer and promotional opportunities for qualified internal applicants. In addition, training and tuition assistance are provided to interested staff.

The department monitors diversity to encourage the receipt of applications from qualified members of protected groups by seeking to recruit members of protected groups.

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

<b>Employees Assuming Agency Positions</b>										
<i>These figures include new hires, promotions, transfers and classification upgrades for a one-year period. Figures for 2012 are from October 1, 2011 through September 30, 2012.</i>										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Director/Deputy Director/Assistant Director/Division Administrator	0	1	0	0	0	0	0	0	0	0
Section Supervisor, Records Manager, Budget Officer	0	0	0	0	2	0	4	0	0	0
Unit Supervisor	2	2	1	1	2	0	5	2	0	2
Human Resources	0	1	0	0	0	2	0	1	0	0
Federal Aid Administrator, Financial Assurance Coordinator, Accountant	1	2	2	0	0	0	0	2	1	1
Clerical/Accounting Clerk	1	5	0	4	6	4	9	3	5	0
Information Technology/Public Information/Research Analyst	1	1	1	0	3	2	3	0	1	0
Attorney	0	1	3	0	0	0	0	1	0	0
Environmental Engineer	2	2	6	3	5	2	4	0	3	2
Field Data Specialist	0	0	0	0	0	0	0	0	0	0
Compliance Specialist	0	1	0	0	0	1	0	0	0	0
Programs Specialist	7	2	12	7	12	13	17	8	9	11
Geologist, Groundwater	1	4	1	3	0	4	3	2	0	2
Environmental Assistance Coordinator	1	1	0	0	0	0	0	0	1	1
<b>TOTALS</b>	16	23	26	18	30	29	45	20	20	19



# CHAPTER 11:

## 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, and the Livestock Waste Management Act, unless a class of permittees is exempted by the Council. 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 (Sanitary LF)</b>							
Alliance Landfill	Alliance	MSWDA	03/17/94	\$ 3,271,378	\$ 1,502,324	Enterprise Fund	City of Alliance
Beatrice Landfill	Beatrice	Sanitary LF	07/12/00	\$ 145,900	\$ 145,900	Financial Test	City of Beatrice
Beatrice Area SW Agency	Beatrice	MSWDA	07/12/00	\$ 3,562,000	\$ 3,562,000	Financial Test	City of Beatrice
Butler County Landfill	David City	MSWDA	10/03/08	\$ 6,264,152	\$ 3,114,262	Trust Fund	US Bank
Douglas County Landfill	Bennington	MSWDA	03/28/00	\$ 11,934,467	\$ 11,934,467	Surety Bond	Evergreen Ntl. Indemnity Co.
G & P Dev Landfill	Milford	MSWDA	10/03/08	\$ 9,184,432	\$ 2,582,092	Trust Fund	US Bank
Gering Landfill	Gering	MSWDA	02/13/96	\$ 1,440,339	\$ 611,184	Enterprise Fund	City of Gering
L.P. Gill Landfill	Jackson	MSWDA	04/09/96	\$ 5,539,178	\$ 2,374,857	Trust Fund	Security Natl. Bank
Grand Island Landfill	Grand Is.	MSWDA	03/31/96	\$ 9,253,760	\$ 4,187,491	Enterprise Fund	City of Grand Island
Hastings Area Landfill	Hastings	MSWDA	08/12/96	\$ 5,188,005	\$ 2,460,238	Enterprise Fund	City of Hastings
Hastings Landfill	Hastings	Sanitary LF	10/01/97	\$ 154,996	\$ 26,137	Faith & Credit	City of Hastings
Holdrege Landfill	Holdrege	MSWDA	07/29/96	\$ 2,943,268	\$ 1,726,206	Enterprise Fund	City of Holdrege
J-Bar-J Landfill	Ogallala	MSWDA	03/28/00	\$ 4,197,351	\$ 3,031,651	Performance Bond	Evergreen Ntl. Indemnity Co.
Kearney Landfill	Kearney	MSWDA	03/31/94	\$ 6,260,948	\$ 3,588,073	Trust Fund	Wells Fargo Bank
Kimball Landfill	Kimball	MSWDA	05/10/96	\$ 1,544,041	\$ 1,011,468	Enterprise Fund	City of Kimball
Lexington Landfill	Lexington	Sanitary LF	07/25/96	\$ 687,866	\$ 250,049	Faith & Credit	City of Lexington
Lexington Area Agency	Lexington	MSWDA	01/19/97	\$ 2,357,207	\$ 1,665,448	Enterprise Fund	Lexington Area SW Agency
Lincoln Bluff Road Landfill	Lincoln	MSWDA	04/01/96	\$ 19,662,213	\$ 19,662,213	Financial Test	City of Lincoln
Loup Central Landfill	Elba	MSWDA	04/09/96	\$ 2,227,240	\$ 762,523	Trust Fund	Citizens Bank & Tr St. Paul
McCook Landfill	McCook	Sanitary LF	03/04/96	\$ 682,170	\$ 90,956	Faith & Credit	City of McCook
Minden Disposal Area	Minden	Sanitary LF	11/18/96	\$ 123,251	\$ 84,318	Faith & Credit	City of Minden
NE Ecology Landfill	Geneva	MSWDA	10/03/08	\$ 2,205,055	\$ 692,580	Trust Fund	US Bank
NNSWC Landfill	Clarkson	MSWDA	04/09/96	\$ 18,925,653	\$ 4,546,105	Enterprise Fund	NNSWC
Pheasant Point Landfill	Bennington	MSWDA	08/01/03	\$ 23,613,750	\$ 22,427,102	Surety Bond	Evergreen Ntl. Indemnity Co.
Sarpy County Landfill	Papillion	MSWDA	03/31/96	\$ 6,872,249	\$ 7,182,126	Enterprise Fund	Sarpy County
Sidney Landfill	Sidney	MSWDA	02/11/97	\$ 2,216,480	\$ 823,298	Enterprise Fund	City of Sidney
SWANN Landfill	Chadron	MSWDA	9/25/97	\$ 1,799,920	\$ 596,117	Enterprise Fund	SWANN
Valentine Landfill	Valentine	MSWDA	04/09/96	\$ 1,655,864	\$ 422,932	Enterprise Fund	City of Valentine
York Landfill	York	Sanitary LF	05/14/96	\$ 228,460	\$ 11,090	Faith & Credit	City of York
York Area SW Landfill	York	MSWDA	05/14/96	\$ 3,343,269	\$ 1,011,127	Enterprise Fund	City of York
*MSWDAs are landfills that are operating under current solid waste management regulations.							
**Sanitary LFs are closed facilities that have post-closure monitoring and maintenance.							
<b>Construction/Demolition Landfills (Const./Demol.)</b>							
Abe's Trash Service C & D	Blair	Const./Demol.	03/30/98	\$ 219,266	\$ 219,266	Escrow Account	Bank of Bennington
Alliance C & D Landfill	Alliance	Const./Demol.	12/02/99	\$ 140,748	\$ 37,679	Enterprise Fund	City of Alliance
Anderson Excavating C & D	Omaha	Const./Demol.	10/19/98	\$ 514,113	\$ 514,113	Surety Bond	Employers Mutual Cas. Co.
Arnold C & D Landfill	Arnold	Const./Demol.	07/24/00	\$ 35,524	\$ 20,561	Enterprise Fund	Village of Arnold
Benkelman C & D Landfill	Benkelman	Const./Demol.	10/15/06	\$ 61,864	\$ 9,801	Enterprise Fund	City of Benkelman

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Broken Bow C & D Landfill	Broken Bow	Const./Demol.	11/23/07	\$ 105,109	\$ 15,542	Enterprise Fund	City of Broken Bow
Bud's Sanitary Service C & D	Newman Grove	Const./Demol.	06/01/97	\$ 34,523	\$ 34,523	Letter of Credit	First Natl. Bank Newman Gr
Butler County C & D Landfill	David City	Const./Demol.	06/01/97	\$ 343,245	\$ 328,736	Surety Bond	Evergreen Ntl. Indemnity Co.
Eco-Storage C & D Landfill	Omaha	Const./Demol.	04/01/09	\$ 87,064	\$ 17,750	Trust Agreement	Security Natl. Bank
Franklin C&D Landfill	Franklin	Const./Demol.	11/08/10	\$ 22,160	\$ 4,733	Enterprise Fund	City of Franklin
Gage County C & D Landfill	Beatrice	Const./Demol.	02/23/98	\$ 199,399	\$ 199,399	Letter of Credit	1st Natl. Bank, Beatrice
Hawkins Construction C & D	Omaha	Const./Demol.	01/03/02	\$ 359,781	\$ 359,781	Surety Bond	Hartford Fire Ins. Co.
Holdrege C & D Landfill	Holdrege	Const./Demol.	05/01/09	\$ 290,105	\$ 24,260	Enterprise Fund	City of Holdrege
KGP Services C & D	Norfolk	Const./Demol.	11/06/03	\$ 70,619	\$ 69,937	Escrow Account	Elkhorn Valley Bank & Trust
Kimball C & D Landfill	Kimball	Const./Demol.	04/01/01	\$ 49,531	\$ 46,787	Enterprise Fund	City of Kimball
Lexington C & D Landfill	Lexington	Const./Demol.	09/30/98	\$ 163,724	\$ 137,263	Enterprise Fund	Lexington Area SW Agency
Lincoln North 48th St. C & D	Lincoln	Const./Demol.	04/01/96	\$ 1,090,237	\$ 1,090,237	Financial Test	City of Lincoln
Loup Central C & D Landfill#1	Elba	Const./Demol.	1/28/2001	\$ 7,272	\$ 7,272	Trust Fund	Citizens Bank & Tr. St. Paul
Loup Central C & D Landfill#2	Elba	Const./Demol.	1/28/2001	\$ 88,056	\$ 26,106	Trust Fund	Citizens Bank & Tr. St. Paul
L.P. Gill Landfill C & D	Jackson	Const./Demol.	04/09/96	\$ 129,585	\$ 23,277	Trust Fund	Security Natl. Bank
NPPD Gerald Gentleman	Sutherland	Const./Demol.	04/01/95	\$ 235,065	\$ 235,065	Financial Test	NPPD
O'Neill C & D Landfill	O'Neill	Const./Demol.	06/01/01	\$ 73,095	\$ 40,433	Enterprise Fund	City of O'Neill
PAD LLC C & D Landfill	Hastings	Const./Demol.	06/05/02	\$ 159,257	\$ 159,257	Escrow Account	Five Points Bank
Plainview C & D Landfill	Plainview	Const./Demol.	09/26/00	\$ 43,130	\$ 35,383	Enterprise Fund	City of Plainview
Rainwood Hill LLC C & D	Omaha	Const./Demol.	02/10/08	\$ 188,155	\$ 188,155	Surety Bond	International Fidelity Ins. Co.
Schmader C & D Landfill	West Point	Const./Demol.	07/27/12	\$ 94,613	\$ 94,613	Letter of Credit	Charter West Ntl Bank
Sidney C & D Landfill	Sidney	Const./Demol.	11/23/99	\$ 91,816	\$ 39,876	Enterprise Fund	City of Sidney
SW NE Solid Waste Agency	Imperial	Const./Demol.	06/01/01	\$ 134,744	\$ 32,079	Enterprise Fund	City of Imperial
Three Valleys C & D Landfill	Indianola	Const./Demol.	02/24/10	\$ 73,737	\$ 73,737	Letter of Credit	McCook Ntl Bank
York C & D Landfill	York	Const./Demol.	12/01/07	\$ 240,766	\$ 35,394	Enterprise Fund	City of York
<b>Fossil Fuel Combustion Ash (Fossil Fuel), Industrial Waste Landfills (Indus. Waste), Monofills</b>							
Ash Grove Cement Co.	Louisville	Indus. Waste	03/01/03	\$ 6,134,991	\$ 6,134,991	Financial Test	Ash Grove
Clean Harbors Technology	Kimball	Monofill	08/01/95	\$ 3,686,289	\$ 3,686,289	Insurance Policy	Steadfast Insurance Co.
Fremont Utilities	Fremont	Fossil Fuel	05/28/96	\$ 365,148	\$ 500,000	Enterprise Fund	City of Fremont
Hastings Utilities	Hastings	Fossil Fuel	2/1/01	\$ 3,969,300	\$ 866,926	Enterprise Fund	City of Hastings
NPPD Gerald Gentleman 4	Sutherland	Fossil Fuel	04/01/95	\$ 1,515,833	\$ 1,515,833	Financial Test	NPPD
NPPD Sheldon Station 3	Sheldon	Fossil Fuel	04/01/95	\$ 139,579	\$ 139,579	Financial Test	NPPD
NPPD Sheldon Station 4	Sheldon	Fossil Fuel	07/01/01	\$ 631,579	\$ 631,579	Financial Test	NPPD
OPPD NE City 1	NE City	Fossil Fuel	04/04/95	\$ 4,220,252	\$ 4,220,252	Financial Test	OPPD
OPPD NE City 2	NE City	Fossil Fuel	06/30/09	\$ 820,576	\$ 820,576	Financial Test	OPPD
OPPD North Omaha	Omaha	Fossil Fuel	04/04/95	\$ 1,773,628	\$ 1,773,628	Financial Test	OPPD
OPPD Fort Calhoun (IW)	Ft. Calhoun	Indus. Waste	04/04/95	\$ 204,477	\$ 204,477	Financial Test	OPPD
Platte Generation	Grand Island	Fossil Fuel	08/25/97	\$ 326,521	\$ 326,521	Enterprise Fund	City of Grand Island

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Waste Management of NE	Bennington	Indus. Waste	04/01/02	\$ 3,812,353	\$ 3,812,353	Surety Bond	Evergreen Ntl. Indemnity Co.
<b>Transfer Stations, Material Recovery Facilities (Mat. Recovery), Compost Sites</b>							
AltEn LLC	Mead	Compost	04/01/07	\$ 188,466	\$ 188,508	Escrow Account	American Ntl Bank
Bud's Sanitary Service	Newman Gr.	Transfer Station	07/08/94	\$ 3,937	\$ 3,937	Letter of Credit	First Natl. Bank, NG
Custer Transfer Station	Broken Bow	Transfer Station	06/27/94	\$ 10,693	\$ 10,693	Letter of Credit	Great Western Bank
Doernemann Const. Co.	Clarkson	Compost	12/15/99	\$ 89,551	\$ 89,551	Letter of Credit	Charter West Bank
Edgetown Properties LLC	Madison	Transfer Station	06/27/12	\$ 7,500	\$ 7,500	Escrow Account	Frontier Bank
Fremont CRD, Inc.	Fremont	Transfer Station	07/02/03	\$ 12,627	\$ 12,627	Surety Bond	Capitol Indemnity Corp
King Transfer Station	Walthill	Transfer Station	04/02/96	\$ 1,182	\$ 1,187	Escrow Account	First Natl. Bank, Walthill
Recycling Enterprises of NE, Inc.	Lincoln	Mat. Recovery	08/30/12	\$ 60,390	\$ 60,390	Letter of Credit	CityBank & Trust Co.
River City Recycling	Omaha	Mat. Recovery	01/01/01	\$ 41,176	\$ 45,474	Escrow Account	US Bank Ntl Assoc
Sarpy County	Papillion	Transfer Station	04/17/12	\$ 98,643	\$ 98,643	Surety Bond	Travelers Surety Co. of Amer.
Seneca Sanitation	Dubois	Transfer Station	02/01/04	\$ 4,224	\$ 4,224	Letter of Credit	First Natl. Bank, Centralia
Stericycle	Lincoln	Processing Fac	07/01/12	\$ 52,457	\$ 53,000	Surety Bond	Westchester Fire Ins. Co.
Waste Connections of NE	Bridgeport	Transfer Station	08/15/03	\$ 3,956	\$ 3,956	Surety Bond	Evergreen Ntl. Indemnity Co.
Waste Connections of NE	Gering	Transfer Station	08/15/03	\$ 10,076	\$ 14,740	Surety Bond	Evergreen Ntl. Indemnity Co.
Waste Connections of NE	Ord	Transfer Station	07/02/03	\$ 8,387	\$ 8,387	Surety Bond	Capitol Indemnity Corp
Waste Connections of NE	Wahoo	Transfer Station	07/02/03	\$ 5,917	\$ 5,917	Surety Bond	Capitol Indemnity Corp
Waste Connections of NE	Central City	Transfer Station	07/02/03	\$ 10,523	\$ 10,523	Surety Bond	Platte River Ins Co.
<b>RCRA Closure and RCRA Post-Closure (RCRA PC)</b>							
Agrium Advanced Technologies	Fairbury	RCRA PC	07/11/11	\$ 630,697	\$ 630,697	Letter of Credit	The Bank of Nova Scotia
Agromac International	Gering	RCRA PC	12/11/07	\$ 8,089	\$ 8,089	Escrow Account	Platte Valley Ntl. Bank
Behlen Manufacturing Co.	Columbus	RCRA PC	02/29/12	\$ 125,000	\$ 125,000	Financial Test	Behlen Mfg
Bosch Security Systems	Lincoln	RCRA PC	06/02/09	\$ 10,344	\$ 10,344	Letter of Credit	Bank of Montreal
Clean Harbors Technology	Kimball	RCRA Closure	05/10/95	\$ 17,063,532	\$ 17,063,532	Insurance Policy	Steadfast Insurance Co.
Douglas County Landfill	Omaha	RCRA PC	03/08/85	\$ 314,860	\$ 1,007,918	Trust Fund	First Natl Bank of Omaha
Eaton Corporation	Omaha	RCRA PC	06/08/09	\$ 4,463,158	\$ 4,463,158	Letter of Credit	JP Morgan/Chase Bank
Safety Kleen	Grand Island	RCRA Closure	10/15/01	\$ 133,436	\$ 133,346	Insurance Policy	Indian Harbors Insurance Co.
Safety Kleen	Omaha	RCRA Closure	10/15/01	\$ 353,532	\$ 353,532	Insurance Policy	Indian Harbors Insurance Co.
Tenneco Automotive Inc.	Cozad	RCRA PC	11/25/85	\$ 74,773	\$ 74,773	Letter of Credit	JP Morgan/Chase Bank
USA Tire Management	Dakota City	RCRA Closure	12/14/07	\$ 15,284	\$ 15,284	Escrow Account	Great Southern Bank
Valmont Industries	Valley	RCRA PC	10/30/85	\$ 119,000	\$ 119,000	Financial Test	Valmont Industries
Van Diest Supply Liquid Plant	McCook	RCRA PC	02/16/06	\$ 2,627,776	\$ 2,627,776	Letter of Credit	1st State Bank Webster Cty IA
Van Diest Supply Zimmerman	McCook	RCRA Closure	05/19/10	\$ 2,711,612	\$ 2,711,612	Letter of Credit	1st State Bank Webster Cty IA
<b>Underground Injection Control (UIC)</b>							
Crow Butte Resources, Inc.	Crawford	UIC		\$ 11,114,877	\$ 11,114,877	Letter of Credit	Royal Bank of Canada

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Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	FA Mechanism	Guarantor
<b>Waste Tire Sites</b>							
ABC Tire LLC	Kansas C, KS	Waste Tire	12/08/08	\$ 10,000	\$ 10,000	Letter of Credit	Arvest Bank
Beck's Tire Service, Inc.	Kansas C, MO	Waste Tire	6/11/11`	\$ 5,000	\$ 5,000	Surety Bond	Merchants Bonding Company
Butler County Landfill	David City	Waste Tire	05/16/97	\$ 50,000	\$ 50,000	Surety Bond	Travelers Casualty & Surety
Champlin Tire Recycling Inc	Concordia KS	Waste Tire	10/04/96	\$ 10,000	\$ 10,000	Letter of Credit	United Bank & Trust
David's Tire	Nevada, MO	Waste Tire	10/22/09	\$ 10,000	\$ 10,000	Surety Bond	Ohio Casualty Ins. Co.
D & B Salvage	Correctville, IA	Waste Tire	11/17/08	\$ 10,000	\$ 10,000	Surety Bond	Great American Ins.Co.
Don's New & Used Tires	Lincoln	Waste Tire	03/13/03	\$ 5,000	\$ 5,000	Surety Bond	Old Republic Surety Co.
Double A Trucking	Shelby	Waste Tire	06/05/06	\$ 10,000	\$ 10,000	Letter of Credit	Bank of the Valley
EnTire Recycling Inc	Brock	Waste Tire	03/23/05	\$ 10,000	\$ 10,000	Letter of Credit	The First National Bank
Gill Hauling Inc.	Jackson	Waste Tire	02/04/09	\$ 10,000	\$ 10,000	Letter of Credit	Dakota County State Bank
Hoke Welding & Repair Inc	Gering	Waste Tire	04/04/12	\$ 5,000	\$ 5,000	Surety Bond	Old Republic Surety Co.
J & M Steel	Hastings	Waste Tire	08/27/98	\$ 5,000	\$ 5,000	Letter of Credit	1st Bank & Trust,Clay Center
Kenny Frazier	Edmond OK	Waste Tire	05/26/04	\$ 5,000	\$ 5,000	Escrow Account	Bank of America, Inc.
Lee Pester	Lincoln	Waste Tire	08/13/12	\$ 5,000	\$ 5,000	Surety Bond	Nationwide Mutual Ins.
Leo Porter	Oshkosh	Waste Tire	02/21/08	\$ 5,000	\$ 5,000	Escrow Account	Nebraska State Bank
Liberty Tire Services of Ohio	Savage, MN	Waste Tire	03/09/09	\$ 10,000	\$ 10,000	Surety Bond	Evergreen Ntl. Indemnity Co.
New Horizons Enterprises LLC	Lincoln	Waste Tire	05/11/12	\$ 5,000	\$ 5,000	Surety Bond	Granite Re, Inc.
Resource Management Co	Brownell, KS	Waste Tire	01/17/06	\$ 10,000	\$ 10,000	Letter of Credit	First State Bank, Ness Cy,KS
Richard D. Morrival	Tabor, IA	Waste Tire	12/15/10	\$ 5,000	\$ 5,000	Letter of Credit	Glenwood State Bank, IA
River City Recycling	Omaha	Waste Tire	04/05/12	\$ 43,750	\$ 43,750	Letter of Credit	Mutual of Omaha Bank
Tire Cutters	Centralia KS	Waste Tire	05/13/06	\$ 5,000	\$ 5,000	Letter of Credit	1st Natl. Bank, Centralia, KS
Tire Town, Inc.	Leavenworth,K	Waste Tire	03/07/05	\$ 10,000	\$ 10,000	Letter of Credit	Enterprise Bank & Trust
Winnebago Tribe of Nebraska	Winnebago	Waste Tire	09/15/10	\$ 5,000	\$ 5,000	Letter of Credit	Charter West National Bank