



December 21, 2020

Honorable Pete Ricketts
Governor
State Capitol, 2nd Floor N.E.
Lincoln, NE 68509-4848

RE: Small Business Compliance Advisory Panel Annual Report, 2020

Dear Governor Ricketts,

In accordance with the provisions of the Nebraska Environmental Protection Act (81-1505.03(2)), enclosed is the ***Nebraska Small Business Compliance Advisory Panel Annual Report to the Governor of Nebraska for 2020.***

The federal Clean Air Act (CAA) Amendments of 1990 required all states to establish a Small Business Assistance Program and Small Business Compliance Advisory Panel (SBCAP) to assist small businesses in complying with provisions of the Clean Air Act. However, the Nebraska Department of Environment and Energy's (NDEE) assistance program has always offered multi-media support for all agency programs, not just Air.

The SBCAP is required to meet annually. In 2020, COVID-19 affected our ability to meet as a group in accordance with Open Meeting Act requirements. Instead, NDEE actively pursued SBCAP member engagement and input through individualized meetings to discuss progress and challenges in 2020.

We are proud to report, Nebraska's SBCAP has actively engaged from the start, providing our department with recommendations and insight on how we can work to improve our assistance, tools, initiatives, and outreach efforts to better serve the regulated community and help small businesses grow across the State of Nebraska.

The Panel consists of four owners or representatives of small business stationary sources of air emissions selected by the state legislature; two individuals representing the general public selected by the Governor; and one member from the department. In 2020, one member of the panel resigned and NDEE's appointee was promoted to a different position. In 2021, we will request the Legislature take action to fill the small business vacancy. The agency will be ready to provide recommendations to the Legislature should they seek assistance in finding a candidate.

During the individual meetings in September 2020, discussions centered on year-to-date milestones, pandemic adaptations and accomplishments. Some examples include streamlining activities related to virtual inspections, defining assistance metrics and increased requests for compliance assistance visits. NDEE continued to promote Outreach and Assistance list-serv communications, webinar training, archived video events and ongoing outreach efforts. Panel members noted pandemic challenges and suggested areas of improvement to consider in the coming year. NDEE discussed action items from last year's annual panel meeting and expected 2020 annual report highlights.



Nebraska's Small Business Compliance Advisory Panel active involvement continues to be appreciated and valued as we continue to work on developing the best compliance, training and assistance tools possible while engaging in beneficial partnerships to Grow Nebraska. We look forward to 2021 and the possibility of meeting in person after the pandemic is over.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Macy".

Jim Macy, Director
Nebraska Department of Environment and Energy

**2020
Nebraska Small Business
Compliance Advisory Panel
Annual Report**

**Submitted to Governor Pete Ricketts
January 1, 2021**

Message from the Small Business Compliance Advisory Panel

Since 2000, the Small Business Compliance Advisory Panel (SBCAP) has worked closely with Nebraska Department of Environment and Energy (NDEE) to support small businesses across the State of Nebraska.

This partnership has been and continues to be valuable by providing a voice for businesses through statewide representation and collaborative efforts of both the panel and the agency. Nebraska SBCAP is a leader in our region, as many neighboring states do not have an active or participating panel. We appreciate the ongoing opportunity.

We believe the SBCAP and NDEE have made continuous progress in breaking down barriers, increasing trust and providing relevant regulatory information to assist business owners and members of the regulated community. We will continue to work on these as primary goals in 2021.

In 2020, NDEE met with members of our panel individually to comply with provisions of the Open Meetings Act amidst the challenges associated with the COVID-19 global pandemic. In spite of coronavirus, NDEE reported an increase in requests for Compliance Assistance Visits (CAV) of which my business was also able to take part.

The CAV demonstrated the ongoing need and value of continued outreach, education and partnership for small business to engage with NDEE. Small business in Nebraska is always challenging, but was especially so in 2020 concerning the pandemic, maintaining economic stability, handling supply chain disruptions, making payroll, and finding quality employees.

Together, the panel and the agency want to convey their ongoing dedication to grow communities through providing support to small and new businesses, to alleviate concerns of business owners or their representatives contacting the department for help, and to find ways to share regulatory changes or requirements in a way non-experts can understand. Small Business is personal and requires sacrifice to make it work, often with limited resources, whether we are in the midst of a pandemic or not.

Sincerely,



Jim Hellbusch
Small Business Compliance Advisory Panel Chair
Owner of Duo-Lift Manufacturing-Columbus, NE



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Background

The Clean Air Act Amendments of 1990 require each State to prepare a plan for helping small business comply with the provisions of the Act through the creation of compliance assistance programs. Section 507 of the Act requires states to prepare a small business compliance assistance program, establish an “ombudsman” to act as a liaison between small businesses and associated regulatory programs, and to form a Small Business Compliance Advisory Panel (SBCAP) of not less than seven individuals.

In 1992, Nebraska adopted enabling legislation codified as Nebraska Revised Statute §81-1505.03 requiring the creation of the Small Business Compliance Advisory Panel while outlining its responsibilities. In the department’s plan, an ombudsman role and multi-programmatic assistance activities were outlined for environmental programs of water quality, waste management, and air as required by the Clean Air Act.

The agency’s Environmental Assistance Coordinators serve as the ombudsman(s) and the link between NDEE, the SBCAP and small business in Nebraska. Since the 2019 merger with the Nebraska Energy Office, ongoing work has included energy programs in outreach and compliance activities.

NDEE’s Environmental Assistance Coordinators have recently transitioned to the Public Information Office due to the agency’s functional reorganization in October 2020. The reorganization strategically centralizes and aligns these positions to support NDEE assistance, compliance and outreach activities.

Small Business Compliance Advisory Panel Members

The Panel is comprised of seven members selected by the Legislature, Governor and NDEE director.

The Legislature selects four members to serve on the panel. These representatives are owners of small businesses or representatives of stationary sources of air emissions. One appointment is vacant due to a resignation in 2020. In 2021, we will request the Legislature take action to fill the small business vacancy.

The Governor selects two panel members to represent the general-public and who are not small business owners or representatives of small business stationary sources of air emissions.

The director of NDEE appoints one voting member as department representative to the Panel. In 2019, the director appointed NDEE’s Air Division Administrator to serve on the panel. The director will be assigning a new appointee in 2021 due to the recent promotion of the current agency representative.

2020 PANEL MEMBERS

Legislative Appointees

**Small Business Owners or
Representatives of Stationary Air
Emission Sources**

Jim Hellbusch-Panel Chair/Owner
Duo-Lift Mfg. Columbus, NE

Rick Bettger-Owner of Omaha Car Care
Omaha, NE

Vacant: previous position held in
Lincoln, NE

Jack Schreiner-Owner of Bruckman
Rubber Hastings, NE

Governor Appointees

General Public Representatives

Sharon Hueftle-Executive Director
South Central Economic Development
District

Starr Lehl- Economic Development
Director, City of Scottsbluff

NDEE Appointees

Kevin J. Stoner, Air Division
Administrator

SBCAP Engagement and Accomplishments in 2020

Past annual reports show that the SBCAP and NDEE have made progress in breaking down barriers, increasing trust and providing relevant regulatory information to assist businesses and communities. This



Figure 1. Example of NDEE outreach materials.

was evident in 2020 as the COVID-19 pandemic required significant flexibility and adaptations on the part of NDEE, small businesses, communities, groups and individuals continuing to engage in economic development activities.

COVID challenges for small business have included supply chain and product distribution interruptions, applications to grants supporting continued employment, increased employee illness and absenteeism, and changes to manufacturing lines to allow for social distancing along with many others. Many businesses have closed their doors due to the pandemic, affecting local sales receipts and jobs for rural Nebraskans. Communities and economic development groups are finding new ways to promote and encourage prospective businesses to select their local areas. NDEE, through its Grow Nebraska Team, is an active participant and partner in these business development activities, conveying low permitting fees, assistance in navigating permit requirements and timelines, quality environmental conditions, and offering community infrastructure funding, waste reduction grants and low-cost energy loans.

Small business environmental compliance was directly impacted by the pandemic. NDEE recognized these potential non-compliance issues in March 2020 and communicated with the regulated community via a press release and list-serv announcements. NDEE encouraged active communication with the regulated community for any problems encountered related to COVID-19. A special [Link to NDEE COVID-19 webpage](#) was added to the department’s website, providing additional resources for pandemic-related environmental issues. For example, flexibility was offered under the Confined Animal Feeding Operations regulatory requirements, to allow producers to exceed the number of permitted livestock to assist in reducing mass mortalities and reduce associated economic impacts.

Some businesses noted COVID-19 was impacting their ability to find service providers able to conduct necessary sampling or testing (within regulatory timeframes), as well as impacting the availability of limited staff to engage with inspectors from NDEE during scheduled site visits. The department adapted to these conditions and initiated the use of virtual inspections to accommodate the regulated communities’ concerns. Electronic technologies like video conferencing with mobile devices virtually put inspectors inside a permitted facility.



Figure 1. Compliance Assistance Visit in Blair, Nebraska September 2020.

NDEE also used this innovative tool to conduct its first multi-program virtual compliance assistance visit at the SBCAP chair's facility in Columbus. One staff member made the site visit in-person, but provided a multi-programmatic experience using video conferencing technologies to engage other staff remotely. Staff conducted four additional multi-program, on-site environmental compliance assistance visits in 2020 for requesting facilities.

Small Business Compliance Assistance Services and Activities

Each year, NDEE provides the Panel a review of its efforts to engage the small business community across the state. The department offers a suite of compliance, outreach, education and assistance services for supporting the regulated community toward their environmental permitting and compliance goals. Compliance assistance services and activities are labeled in various ways across sections, programs and divisions within NDEE; however, all are designed to help educate the public and the regulated community on issues related to permitting, regulatory compliance, access to resources, and obtaining answers to general questions.

NDEE's internal Grow Nebraska Team (GNT), established in 2018, provides outreach to new businesses proposing operations in Nebraska within 10-days of a request for information, in addition to the services outlined below.

The following summarizes the primary compliance assistance activities offered by the agency.

- **Compliance Assistance Visit (CAV):** An on-site service offered by NDEE in response to a request by a business or regulated party to receive support for one or multiple environmental program areas to which they are currently subject or considering under proposed operations. Compliance assistance activities (see individual Site Assistance/Training below) may be provided during an inspection; however, a CAV cannot be requested after an inspection that may result in enforcement until that issue is resolved. A CAV focuses on supporting the efforts of an entity to achieve voluntary compliance; however, it does not absolve it from receiving an enforcement action if egregious violations are found during the visit.
- **Permit Assistance Visit (PAV):** An on-site service (or meeting) offered by NDEE in response to a request by a business or regulated party to receive support under a new, modified or existing permit to address permit related questions.
- **One-Stop Meeting:** A One-Stop Meeting allows for a newly proposed or expanding business and their selected representatives to engage with applicable NDEE permitting programs and other regulatory agencies. The goal of each meeting is to provide the permittee an opportunity to ask questions and receive direction toward attainment of the necessary permits to achieve environmental regulatory compliance.
- **Scoping Meeting:** A meeting within or outside of NDEE to introduce a new or proposed business to involved staff, programs and agencies. The meeting may include a review of processes or technologies, tools, resources, and strategic partnerships to assist the business in making the appropriate contacts for applicable regulatory requirements or business needs.
- **Individual Site Assistance/Training:** An on-site services offered by NDEE in response to a request or during or after a Compliance Inspection.

Small Business Compliance Advisory Committee Annual Meeting - Highlights of Discussions with Panel Members in 2020

Under normal circumstances, the SBCAP meets in person annually under the provisions of the Open Meetings Act. Due to the COVID-19 pandemic in 2020, the Panel was unable to meet in person or take advantage of an Executive Order issued by the Governor allowing public bodies a limited waiver of the Open Meetings Act to meet by videoconference between mid-March to end of May. In light of this, the Panel asked NDEE liaisons to meet with panel members individually to review last year's report, discuss additional work accomplished by NDEE in 2020 and seek input for future goals or improvements.

Discussion Topic Highlights

- Reviewed Open Meeting Act stipulations for in-person meetings and viable videoconferencing options; panel members affirmed COVID related issues were the reason individual calls were being initiated.
- Discussed NDEE's Outreach and Assistance email list-serv communications tool; confirmed that all SBCAP members were subscribed. Last year panel members committed to be actively engaged on the list-serv as one of their goals.

Agency and Division Updates

- Reviewed the newly adopted *Letter of Non Compliance* (LNC) with an effective date of September 1, 2020. The LNC replaces Letters of Warning, Notices of Violation, corrective action letters, and Letters of Concern, in an effort to simplify and clarify the 'Return to Compliance' process. The LNC is now a part of the structured enforcement methodology. An accompanying guidance document entitled *Inspection Tips for Regulated Facilities* was also developed. Panel members were pleased with both new documents and thought them beneficial for compliance and communication with the regulated community.
- Land Planning and Aid and Waste Programs Sections:
 - Regulatory updates to Titles 126, 128 and 132 are in process and expected to be presented to the Environmental Quality Council in either the late fall 2020 or early spring 2021.
- NPDES, Water and Wastewater Program updates:
 - An Industrial Stormwater online permit is being developed for NDEE's website.
 - Compliance information was shared regarding water programs and how NDEE is addressing Significant Noncompliance reported to EPA's ECHO database. Oftentimes inspectors will show communities or businesses how to access the database, and provide the training for determining compliance as reported online through the system.
- Air Program Updates:
 - The regulated community generally provided positive feedback to NDEE regarding its use of virtual inspections and desktop reviews of compliance paperwork. Regulated facilities indicated the virtual inspections save them time and staff resources

- Positive feedback was received from stakeholder groups on new Air Permitting standardized language, under General Conditions I & II and how NDEE engaged with the public comment process, in addition to Source Trial process changes. Panel members were pleased with agency efforts of initiating list-serv communications, publishing press releases and seeking public comments.
- Panel members were informed of NDEE staffing shifts, recent retirements, and the addition of a compliance assistance staff person working on projects for landfills and transfer stations.
- Discussed NDEE's continued engagement with the Governor's Long Term Recovery Taskforce related to the 2019 flooding events across the state, noting NDEE's statutory responsibilities in providing emergency support functions to Nebraska Emergency Management Agency for Hazardous Materials and Energy issues.

Direct Assistance Outreach, Goals and Activities

- NDEE reported continuing work efforts to define consistent compliance assistance metrics for tracking and reporting; citing challenges with new programs and having all align with metrics definitions for the variety of programs across the agency.
- NDEE reported that five facilities took advantage of Compliance Assistance Visits over the reporting period, a record number compared to prior years, even in light of the virus.
- Outreach planning topic discussions included a final update that all goals in the 2019 outreach plan had been met. Staff also reported that development of the 2020 Outreach plan was in progress when the pandemic began. Though the agency's 2020 Outreach Plan was not finalized, some of the preliminary goals in the 2020 draft plan were implemented with ongoing success.

Examples include:

- Continuation of ongoing training webinars with CEU certificates issued electronically to attendees for the first time.
- A series of five concurrent energy code webinars was developed simultaneously targeting specific NDEE stakeholders, and delivered within 6-weeks to record attendance.
- Completing a review and update of NDEE's online Permit Matrix in September.

NDEE discussed ongoing efforts toward strategic partnership engagement (i.e. Nebraska Industrial Council on the Environment, Nebraska Regional Officials Council and others), and asked panel members for feedback on additional partnerships that should be targeted in the future. Questions to individual panel members were geared toward future actionable items, ongoing partnerships, suggestions for new members (with one panel member's resignation in 2020), and how to better engage with the panel at the community level. Other questions asked were:

- What can NDEE do to "make compliance easy?"
- What would panel members like to see in an assistance webinar?
- How can we best reach businesses and engage with them toward environmental compliance?

SBCAP Comments and Suggestions

The following discussion represents the comments and suggestions provided by SBCAP members:

- Panel members appreciate NDEE's continued efforts to work with them, and expand outreach efforts through Compliance Assistance Visits, and other outreach and assistance tools, including the list-serv.
- On filling the vacancy on the Panel, members indicated it is important to consider geographic diversity when filling the position, but also noted it is more difficult to schedule meetings when members are located so far apart. Members also suggested the panel could benefit from an appointee active in the ethanol or livestock slaughter industry.

Compliance Assistance

- Recommend NDEE build a set of questions that would quickly tell the agency and business whether the business needs to conduct a full Potential to Emit (PTE) calculation to determine if they are required to have a permit. This would save some companies a great deal of time and money. Similar question sets could be developed for land and water permits.
- Potential to Emit calculations are unreasonable. These calculations require an assumption of machine operation at full capacity on a time scale of 24/7/365. Federal regulations are the same for all sizes of business. Federal regulations should be changed and not one-size fits all.
- Regarding the new Letter of Non-Compliance, one member commented the LNC is a clear and direct means of communication between the department and regulated community while another described it as 'scary'.

Future Partnerships or Outreach Targets

- NE Business Development Center in Omaha funded a "Nebraska SourceLink" a website that connects people to resources. The site will be patterned after Kansas SourceLink, which shows resources targeted at different business stages. Panel members suggested that NDEE might want to consider what information would be beneficial to add or include to the Nebraska SourceLink site.
- Recommend NDEE consider engagement with the Manufacturers Roundtable meetings. This may support NDEE in its efforts to reach different sectors of manufacturing and collaborate toward compliance goals.
- Recommend that NDEE should get on agenda for Nebraska Economic Developers – this would also be a good outreach partner for NDEE.
- Central NE Manufacturer's Partnership is organization that NDEE may want to consider for outreach in the future.

Outreach and Engagement

- Suggest reviving a business card the agency once printed with contact information. Recommend that NDEE update this information again and make it available as a small reference card or on the website.
- Recommend NDEE consider developing brief (two-minute) videos on how to ask for a Compliance or Permit Assistance Visit. Panel members commented that doing so may take the edge off business anxieties and give a face to the organization. It would support the message that NDEE staff are there to help--not to catch them doing something wrong.
- Develop a message or a marketing angle for social media. NDEE should ask themselves, 'what are our weaknesses in communicating to our target audiences and how do we address those

weaknesses?’ There is a need to overcome images people have of NDEE. Webpages and other documents need to be directed at target audiences – many are not.

- Humor does not detract from serious organizations and could be considered in social media to gain followers.

General Comments

- The South Central Economic Development District is working to localize supply chains to extent possible and conserve agriculture as a basis for the Midwest way of life, citing the pandemic has had very detrimental effects to the rural and agricultural economy.
- No longer receives calls complaining about NDEE – people do not fear calling NDEE as much – they expect to get help rather than fined.

Annual Report Assistance Totals

Small businesses are subject to routine compliance assurance inspections, as well as field, fiscal and equipment audits to determine accounting and regulatory compliance. During these audits and inspections, NDEE takes the opportunity to include elements of training and education. These activities result in some of the most useful compliance assistance NDEE provides. For this report, new data is incorporated from engineering, energy, and agriculture for inspections and assistance activities.

2020 Annual Report Data provided by Air Permitting and Compliance, NPDES, Engineering, Assistance, Energy, Waste, and Grant Programs; Brownfields, and Agriculture

- Performed 117 Compliance and 23 Permit Assistance Visits
 - At least 5 CAV’s were multi-programmatic
- Conducted 1,277 Inspections and Control Audits (includes training to facilities)
- Issued 964 Permits with offers of compliance assistance services and visits
- Engaged with Stakeholders 191 times on permit reviews prior to issuance
- Hosted 90 total Pre-Application, Scoping and One-Stop Meetings
 - *An estimated 28% completed the permit process following the one-on-one meetings**
- Participated in 50 external and 108 internal training events
- Distributed greater than \$10.2 Million in grants under energy, weatherization and litter, reduction and recycling grant programs

2020 Outreach Topics and Webinar Statistics

Webinars continue to have record attendance and is an ongoing outreach strategy used by the department. COVID highlighted the value of having this resource as a way to engage and interact with stakeholders subject to Directed Health Measures and social distancing. In 2020, Energy Code update webinars helped small municipalities with a compliance deadline of July 1. The orange dotted line in Figure 3 below indicates an increasing trend line across 2019-2020 events.

A total of 1,154 participants received training over the last 12 webinars on program specific compliance requirements, electronic reporting, grants and codes. For most, and with the exception of one outlier in December 2019, retention is approximately 75% of those that register. In 2020, events became 100% remote, and for the first time, attendance certificates were provided electronically so attendees could

receive continuing education credits to assist them in maintaining their professional licenses and certifications.

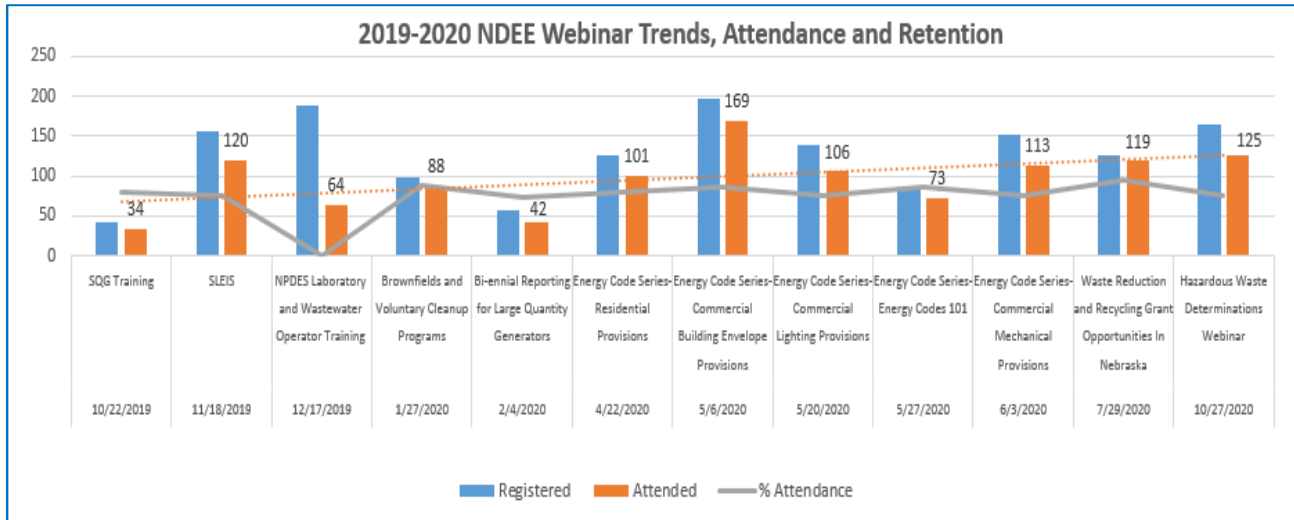


Figure 3. NDEE Webinar Trends, Attendance and Retention from October 2019 thru October 2020.

The SBCAP, NDEE staff and webinar attendees noted that webinars should be continued as the online format limited costs of travel and time for potential stakeholders, maximized efficiency, and exceeded the number of people a conference room would hold for an individual event.

Direct and immediate voice of the customer feedback is collected from mini-surveys at the end of each webinar. These surveys provide valuable information on topics the regulated community wishes to learn about in the future. Results are skewed toward energy topics in 2020, due to the five Energy Code Series of Webinars conducted from April-June. The results of the mini-surveys have been communicated with SBCAP members over the last two years. Feedback received has provided an opportunity for the Panel to provide their suggestions regarding the public response. To-date, webinar attendees have consistently indicated they have the greatest interest in attending webinars on reporting and compliance, air permitting and hazardous waste topics in the future.

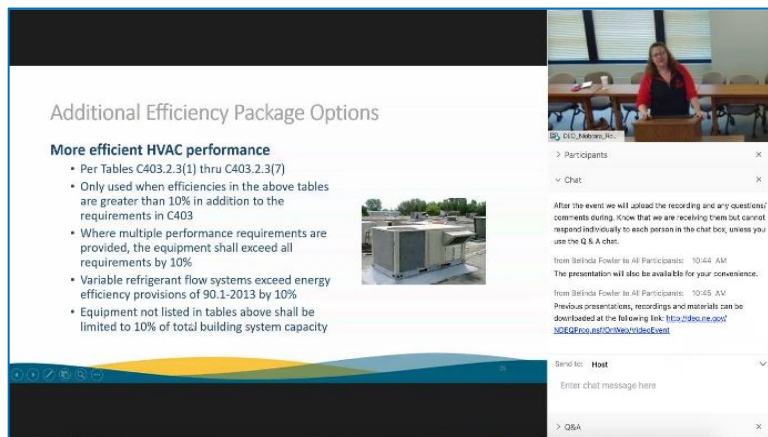


Figure 4. Public Webinar screenshot for energy code series of webinars in 2020.

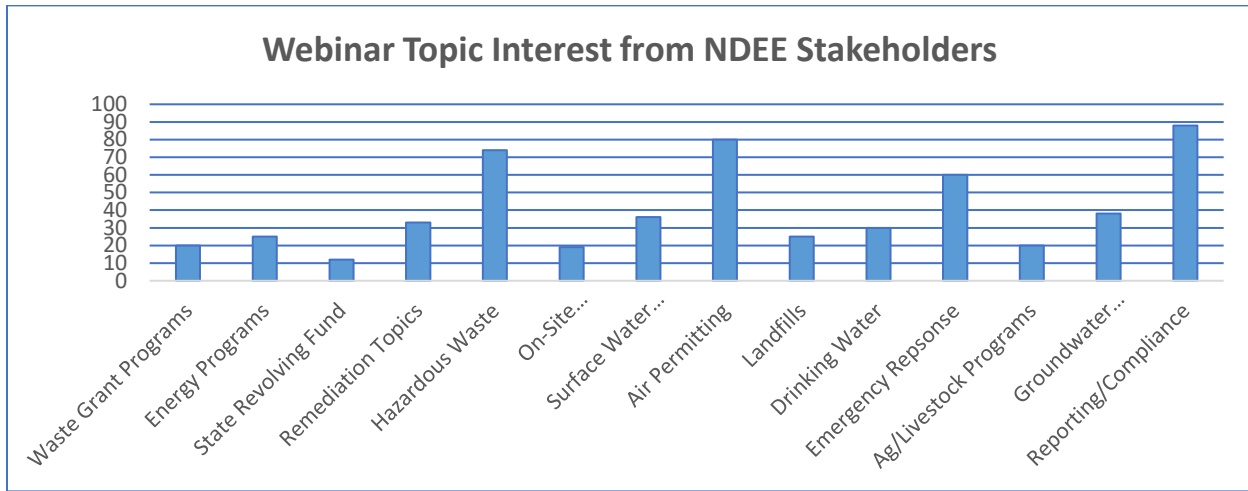


Figure 5. Webinar topic interest from stakeholders attending NDEE webinars and participating in post-event surveys.

Video Events and Social Media Reach

Webinar recordings, Q&A documents and slide decks are posted to the agency’s website as part of the [Video Events Page](#) and growing resource library. Promotion of these and other assistance resources happens with the help of the SBCAP, on the website and through NDEE’s social media channels; before and following each event, with ever-increasing engagement as noted by the Facebook post reach in Figure 6.

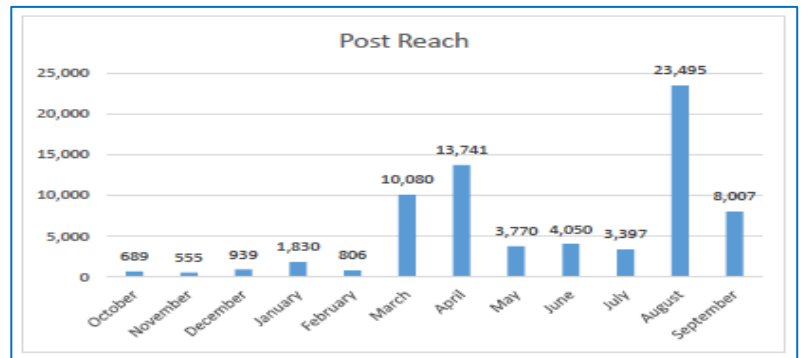


Figure 6. NDEE Facebook account Post Reach October 2019-September 2020.

Conclusion: Status of Nebraska Small Business

Updates published by the Nebraska Department of Economic Development in 2020 indicate continued positive movement for Nebraska’s Small Business economy and over 5,000 new jobs created, even in light of the pandemic.

As compared to the Small Business Administration’s (SBA) 2019 Small Business Profile, the diversity metric has shifted slightly. In 2019, diversity was measured by the number of minority owned business employees. In 2020, diversity is measured by self-employed minorities and notes a decrease of almost 50% from the past reporting year. Most importantly, these reports consistently demonstrate over 99% of Nebraska Businesses fall into the small business category.

Section 507 of the Clean Air Act (CAA) has adopted SBA definitions of small business as defined by Standard Industrial Classification categories and annual receipts, but do not align in terms of the number of employees per business. The SBA commonly defines small business as those with 500 employees or less, or in manufacturing and mining sectors or with \$7.5 Million in average annual receipts for many nonmanufacturing industries. The CAA defines small business as having 100 employees or less. Regardless of the definition, the panel and the agency want to continue to work together to advance protection of the environment and human health while maintaining a balance with small business.

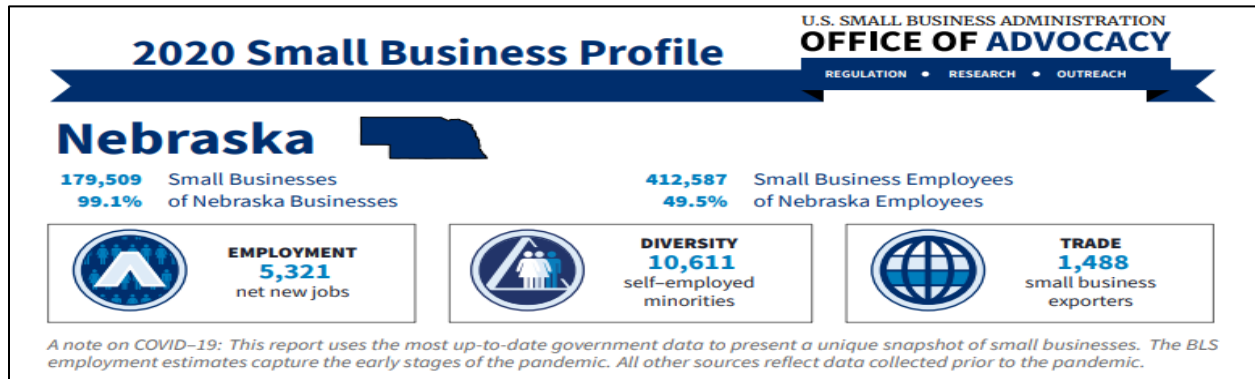


Figure 7. United States Small Business Profile Summary Statistics for the State of Nebraska, 2020.
Source: <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04144125/2020-Small-Business-Economic-Profile-NE.pdf>

As Nebraska continues to attract and retain new talent in the small business sector, it is important to continue to highlight the value of maintaining and promoting the roles, achievements, and activities of the Small Business Compliance Advisory Panel in relation to its ongoing partnership with NDEE.

We appreciate your support and consideration of our achievements in 2020 and look forward to even more accomplishments in 2021.

Please direct any questions regarding this report to:

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