

Nebraska Small Business Compliance Advisory Panel Annual Report to the Governor of Nebraska for 2017

January 1, 2018



Message from the Nebraska Small Business Compliance Advisory Panel

The environment that businesses operate in is ever-changing; new customer demands, new market headwinds or tailwinds, and new regulatory challenges. Most small business owners find themselves constantly “coming up to speed” on requirements they didn’t even realize they were responsible for meeting. Larger businesses and corporations may have the ability to hire consultants to help navigate these ever-changing situations; but that is often a luxury that small business owners cannot afford.

And while a small business owner may contact a bank about lending questions, or a supplier about material inquiries, they are hesitant to contact a regulatory agency regarding questions about their permits or their related responsibilities. As members of the Nebraska Small Business Compliance Advisory Panel (SBCAP or Panel), some of our key goals are to act as liaisons for these people with the Nebraska Department of Environmental Quality (NDEQ) and to guide the Department in their assistance and outreach efforts with business owners.

We applaud many of the initiatives the Department has undertaken in the past few years, including internal process improvements to get permits to businesses in a timelier manner, offering more and more resources online, and partnering with other state agencies and entities to help new business owners navigate the complexities of starting a new endeavor.

Is there still hesitancy for people to contact NDEQ for help? Certainly there is. Do situations arise where the response from the Department may be something that a small business owner doesn’t want to hear? Definitely. But we can also say that the complaints that come to our members are fewer; that things have gotten better. Equally important, we feel that NDEQ takes our input and advice seriously on improvements the Department can take in their outreach and assistance efforts. We look forward to continuing that partnership on 2018 and beyond.



Jim Hellbusch, Nebraska Small Business Compliance Advisory Panel Chair

Background Information

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

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

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

Steve Rexroth
Miracle Workers Auto Collision
Lincoln, NE

Jack Schreiner
Bruckman Rubber
Hastings, NE

Rick Bettger
Omaha Car Care
Omaha, NE

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

Sharon Hueftle
South Central Economic
Development District
Holdrege, NE

Starr Lehl
Scottsbluff Economic Development Director
Scottsbluff, NE

The Director of NDEQ appoints one member as Department representative to the Panel. Terry Johnson, with the NDEQ Norfolk Field Office, was the Department representative on the SBCAP. Terry left the Department in early December 2017. The Director is currently examining potential new appointees.

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

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

SBCAP Goals for 2016

During the Panel's annual meeting with NDEQ staff, the Air Quality Division informed the Panel members of its process improvement event involving mapping the current air permitting application process. The Department is looking at its public notices procedure to examine whether doing electronic notices may be possible, saving between one and five days in the permitting process. The Department is also examining developing spreadsheets that facilities may use to calculate their emissions as part of their permitting applications. While it will take time and resources to develop spreadsheets, it may help speed up the permitting process in the future, with the goal of getting to a 65 day turnaround period to issue most Air construction permits.

Panel members had questions related to water quality and nitrate levels. One of the members commented that Hastings is investing money into its water system to deal with increasing nitrate levels, and wanted to know if progress is being made on nitrate levels in the state's groundwater. The state is making progress, but about twenty percent of Nebraska has nitrate issues. NDEQ Water Quality Permit staff informed the Panel of efforts to create several additional general permits to shorten permitting timeframes. Electronic discharge monitoring reporting has also begun. Staff are also hoping to get regulations updated to allow electronic public notices.

Panel members examined the goals they approved in 2016, and decided to keep many of the same objectives for 2017, chiefly:

- Gauge the regulated community's satisfaction with the Department's assistance initiatives;
- Provide input concerning any new or changing environmental regulations;
- Act as liaisons in their communities, fielding questions from business owners and sponsoring lunchtime meetings where NDEQ staff can present on different outreach or regulatory topics; and
- Continue meeting annually with the NDEQ.

NDEQ Assistance Activities – The Small Business and Public Assistance Program

In addition to working with the Panel, as previous described, the Small Business and Public Assistance Coordinator duties also include the following.

- *Serving as the Public Advocate for the NDEQ.* The Coordinator, at the discretion of the NDEQ Director, is responsible for investigating situations when the public or the regulated community believes NDEQ's response to environmental issues is not appropriate. The Department received several public complaints this year to which the Coordinator was notified of ongoing compliance issues with two different companies. At the time of this report, no additional action has yet been requested as the complaints are being examined by the appropriate Department compliance staff.
- *Coordinator for NDEQ's One-Stop Permitting Assistance program.* The One-Stop program is available to the business community and is designed to help them meet regulatory obligations by providing comprehensive guidance regarding all permits or compliance conditions they must meet. The SBPA Coordinator acts as a single point of contact at NDEQ

for regulated or potentially regulated entities, bringing together appropriate NDEQ personnel to address the client's questions. Information for ten different projects was requested by NDEQ staff in 2017, with eight separate meetings. Through the NDEQ/NPPD Environmental Partnership, the SBPA Coordinator also coordinated with Nebraska Public Power District and Nebraska Department of Economic Development staff in November to host two webinars highlighting the assistance NDEQ can give economic developers as they work to Grow Nebraska. Approximately 20 participants called in for the webinars.

Comprehensive Assistance Provided by NDEQ

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

In the calendar year 2017, from January 1 through November 30, Department staff:

- Provided 195 on-site assistance visits;
- Provided 26 permit assistance visits (PAVs);
- Participated in 137 speaking engagements/presentations at various conferences, workshops, or meetings;
- Participated in 181 other assistance, partnering, or outreach efforts at various conferences, workshops, or meetings;
- Participated in 136 coordination events with other state agencies and the EPA to provide assistance to businesses, industry, and the general public.

In addition to the on-site assistance visits and presentations or training events listed above, daily telephone and email contacts with the regulated community or general public account for a significant proportion of NDEQ's assistance activities. The following summarizes a portion of this year's Air Quality, Water Quality, and Land Management Division compliance assistance activities.

Air Quality Division

The Air Quality Division permitting staff respond to calls and queries from industry to the Department's Air Permit Hotline. Staff issued three new air general permits (two construction, one operating) to add to the seven existing air general construction permits available through an online application process. The new general permits include an incinerator construction permit, an incinerator operating permit, and a surface coating construction permit. The Division participated in other process improvement activities – extensive review and revision of permitting processes and standard permit conditions, and Division-wide implementation of Quality Delivery Inventory and Productivity (QDIP)/Swim Lane Board daily huddles – to improve Division efficiency.

Air Quality Division staff also participated in outreach to citizens of Dodge County and others interested in the Lincoln Premium Poultry facility, holding a question and answer session on August 8, 2017 prior to the public hearing for the requested air construction permit. As part of

the outreach effort, staff created information posters to explain the state’s air permitting process to the public.

Image 1: Copy of the Air Quality Division Poster Presented at the Lincoln Premium Poultry Information Session on August 8, 2017

Nebraska Air Quality Program

Why Do We Permit?
Congress passed the Clean Air Act requiring the protection of national air quality through National Ambient Air Quality Standards (NAAQS)

Who Do We Permit?
Facilities with potential air emissions above construction and operating permit thresholds

Permitting Process

- Application Review
- Permit Drafting
- 30-Day Public Notice Period
- Permit Decision

State and Federal Air Regulations

- Title 129 – Nebraska Air Quality Regulations
- New Source Performance Standards (NSPS)
- National Emission Standards for Hazardous Air Pollutants (NESHAP)

Regulated Pollutants

Hazardous Air Pollutants
187 Different HAPs

Criteria Pollutants
Lead
Particulates
Sulfur Oxides
Nitrogen Oxides
Ozone
Carbon Monoxide

Greenhouse Gases
Carbon Dioxide
Methane
Nitrous Oxide

Nebraska air quality meets all NAAQS

Construction Permits	Modeling/Monitoring	Operating Permits
Project specific permits that evaluate the Potential to Emit (PTE)	Ensures compliance with the NAAQS to protect human health	Evaluates all operations at a facility based on PTE and actual emissions
PTE – The maximum quantity of air pollutant(s) sources can emit in a year given its physical and operational design	Can predict future air quality and allow one to evaluate different types of controls	Actual Emissions -Emissions based on actual operating times and actual operating conditions at the facility
Permits are issued to protect outdoor air quality	The NDEQ, Douglas County Health Dept., and Lincoln Lancaster Health Dept. operate ambient air monitors at 26 sites	A facility must apply for an air operating permit within 12 months of startup operations
Can include operational limitations and requirements for testing and records		Operating permits must be renewed every 5 years

Compliance

Routine inspections
Compliant Investigations
Facility Records Review
Periodic stack testing
Enforcement

State law does not allow NDEQ to regulate noise, odor, mobile sources, traffic nuisance, or property values

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DEPT. OF ENVIRONMENTAL QUALITY
<http://deq.ne.gov>
402-471-2186

Water Quality and Water Permits Divisions

NDEQ partnered with the United States Department of Agriculture – Natural Resource Conservation Service (USDA –NRCS) and the Little Blue Natural Resource District to conduct a detailed assessment of the Big Sandy Creek Watershed in 2017 through a National Water Quality Initiative Pilot project. The purpose of this assessment was to identify and characterize critical areas contributing high concentrations of the bacterium *Escherichia coli* (*E. coli*) and the herbicide Atrazine to Big Sandy Creek and the Little Blue River. The assessment identified priority management practices such as no till, cover crops, delayed or reduced Atrazine application, and alternative herbicide use to reduce Atrazine runoff. Grazing management, exclusion fencing, manure management and feedlot runoff control were priority practices identified to reduce *E. coli* runoff. An application to fund implementation of these practices was submitted to USDA for the 2018 National Water Quality Initiative program.

Land Management Division

In 2017, the Brownfields and Voluntary Cleanup Programs continued their collaboration with regional EPA staff and the Technical Assistance to Brownfields program based out of Kansas State University, as well as participation with Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Brownfield focus groups. NDEQ staff continue to update and modernize Department guidance following the requirements of LB867, including all financial assurance documents. Staff have created maps of all the various types of solid waste facilities around the state, which will soon to be downloadable from the Department's website.

Field Services and Assistance Division

The Field Services and Assistance Division again hosted three annual *Environmental Update* programs in the spring of 2017 in North Platte, Norfolk, and Mead as part of Director's Macy's goal to provide outreach activities to parts of the state outside the Lincoln-Omaha corridor. Field Service and Assistance Division staff continued their annual review and update of Department guidance documents – including a general overview of the Department's various permitting programs and transferring permits from one business owner to another. Division personnel partnered with the Nebraska Public Power District to host the 2017 *Power Summit* in October along with two webinar events for economic developers in November. The webinars included presenters from the Nebraska Department of Economic Development and the Scottsbluff Economic Development office and focused on requirements that may affect businesses coming to Nebraska.

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

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