



Nebraska Department of Environmental Quality

Annual Report to the Legislature 2002

Submitted December 1, 2002

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Visit our web site at **www.deq.state.ne.us** view the agency's:

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

CHAPTER 1:

Agency Overview and Statistics

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 209 full-time employees.

The Department has a total annual budget for FY03 of approximately \$83.9 million. This funding is derived from several sources. A major source of funding is the federal government. The state also contributes significant funding for Department activities, and certain programs are funded partially or totally by fees. A breakdown of funding by fund type is shown on the following chart:

Funding Type	\$ Amount	% of Total
Federal Funds	\$27.4 million	32.6 %
State General Funds	6.6 million	7.9 %
Cash Funds	29.9 million	35.6 %
Trust Funds	20.0 million	23.9 %

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 FY02.

This chapter provides: 1) a brief description of agency goals and related activities; 2) agency statistics for fiscal year 2002; and 3) a table which identifies initiatives over the past ten years which have impacted Agency resources.

I. Agency Goals and Related Activities

In 1999, NDEQ Administration established seven goals for the agency to strive for, and the agency continues to pursue these goals. The Administration asked each section to identify goals consistent with the agency goals. Through a series of meetings with each section, goals were discussed and specific program goals and activities to be reached and reported were identified. These goals meetings have been conducted annually since the goals were established, to evaluate our progress and develop strategies for the future. These efforts provide greater accountability regarding work that is being accomplished and helps programs and management monitor whether we are achieving the identified goals.

The seven 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.

Through activity tracking and followup meetings with program staff, the agency intends to continually evaluate whether goals are being achieved, and whether they need to be modified.

II. Agency Statistics, Fiscal Year 2002 (July 1, 2001 through June 30, 2002)

Assistance

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

- **Over 1,350 public records requests** to review files and documents were made to the Agency's Records Management Unit.
- **700 internet requests** were received through the agency web site's e-mail feedback feature.

Complaints and Inspections

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

Complaints Received FY02		Inspections Conducted FY02	
Water	196	Water	1213
Air	117	Air	233
Waste	154	Waste	366

Permits Added and Removed in FY02

The chart below summarizes the number of permits that were added and removed from four major permitting areas of the department, as well as the amount of permits pending as of June 30, 2002. "Added" refers to permit applications received or permits that needed to be modified or renewed during FY02. "Removed" refers to permits that were issued, modified, reissued, denied, or withdrawn by the applicant during FY02. The first category, NPDES water discharge permits, includes municipal and industrial sources. The second category refers to the construction and operating permits for waste control facilities at livestock operations. Air permits either authorize construction of or impose conditions for operation of facilities which emit pollutants into the air. The department, because of timelines in the Clean Air Act, received a significant number of permit applications in Fiscal Year 2002. It will take some time to get them through the permitting process. Waste permits are primarily for landfills and waste processing/handling facilities.

Programs	Added During FY02	Removed During FY02	Ending Total (6/30/02)
NPDES water discharge permits	70	54	221
Livestock construction and operating permits	239	229	73
Air permits	112	123	257
Waste permits	93	112	51

III. 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).

1992 (173 FTE)

Federally Mandated

- NPDES Sludge Management
- Municipal Water Pollution Prevention

State Legislation/Federally Mandated

- Integrated Solid Waste Management Act
- Amendments to NE Clean Air Act

State Legislation/Not Federally Mandated

- NE Environmental Trust Act

1993

State Legislation/Federally Mandated

- Landfill Closure

1994-95 (195 FTE)

State Legislation/Not Federally Mandated

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

1996 (195 FTE)

State Legislation/Not Federally Mandated

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

1997 (210 FTE)

State Legislation/Federally Mandated

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

State Legislation/Not Federally Mandated

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

1998 (220 FTE)

State Legislation/Not Federally Mandated

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

1999 (220 FTE)

State Legislation/Not Federally Mandated

- Livestock Waste Management

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

2000 (215 FTE)**State Legislation/Not Federally Mandated**

- Water Quality Assessment Report
- Public Records Review Process

2001 (209 FTE)**State Legislation/Not Federally Mandated**

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

2002 (209 FTE)**State Legislation/Not Federally Mandated**

- Cash fund transfer legislation

CHAPTER 2:

Administration/Legal/ Management Services/Field Offices

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

I. Administration

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

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

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

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

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

II. Legal Division

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

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

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

During calendar year 2001, the Director issued 9 administrative orders. Eighteen civil judicial cases were settled or decided by a court, and penalties of approximately \$2,007,100 were imposed.

III. Management Services

The Management Services Division provides administrative and technical support to Department programs. The Deputy Director of Administration heads the division. The division's staff is divided into four sections — Fiscal Services; Human Resources; Information Management; and the Public Information Office. During Fiscal Year 2002, the Division provided significant time to the implementation of the Nebraska Information System (NIS) project.

Fiscal Services

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

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

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

Human Resources/Records Management/Database Administration

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

Human Resources

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

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

Records Management

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

The Records Management Unit coordinates responses to requests from the public, private consultants, and regulated entities to review file information about specific property and projects. These public records requests involve a variety of topics, including landfills, leaking underground storage tanks, hazardous waste sites, and file history of specific industries. The Unit responded to over 1,365 public records requests during FY2002

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

Database Administration

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

Information Technology

The Information Technology Section provides computer support and information management for the Agency. Nine professional staff members offer guidance and technical support in the acquisition and maintenance of computer hardware and software, conduct training and oversee data telecommunications for the Agency. In addition, they design and develop computer programs that satisfy the Agency's information management needs, administer the Agency's computerized databases and provide mapping/location information through a Geographical Information System.

The agency has developed an Integrated Information System (IIS) which is a centralized, shared data base containing descriptive, locational, program specific, and paper file information for all facilities under the agency's jurisdiction. Nationally, NDEQ is among the leaders within state environmental agencies regarding information integration. In 1999, the agency received a grant from the EPA One Stop program to support our efforts towards and EPA's initiatives for data integration, burden reduction, public access, stakeholder involvement, and electronic reporting. NDEQ has used the grant money during 2000 and 2001 to improve our network, desktop equipment, and information systems. The agency is working on delivering our agency information to staff and the public in a more graphical or browser based presentation. In addition, we will explore options for web based reporting instead of the more traditional paper based reporting.

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 has worked with the Conservation and Survey Division of the University of Nebraska to obtain coordinates for facilities in our Integrated Information System to support our spatial analysis work. Agency staff will use ArcView software to conduct spatial queries, make maps and support their process for environmental decisions.

Public Information Office

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

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

This Section is responsible for the writing and distribution of news releases on a wide range of environmental topics that are of importance to the public. Another means of communication with the public about timely environmental topics is through the agency's newsletter, the Environmental

Update. Previous editions of the newsletter are available to the public and can be obtained by either visiting our web site, www.deq.state.ne.us or by writing to the address below. If you wish receive future issues of the newsletter, please send a request to be placed on the Environmental Update mailing list to: NDEQ Public Information Office, 1200 N St., Box 98922, Lincoln, NE 68509-8922.

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

The Public Information Office is also involved in the production of a number of other publications, including this annual report; brochures; Fact Sheets and Guidance documents. The Section works in conjunction with the Information Technology Section to provide these materials, and other DEQ information, on the agency's web site: www.deq.state.ne.us

Funding of Management Services

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

IV. Field Offices

The Field Office Section consists of 15 employees who conduct compliance inspections, complaint investigations, environmental sampling, project management, and local compliance assistance for the agency's Air Quality, Waste Management and Water Quality Divisions. Field offices are located in six cities across the state (for locations, refer to the map on the following page).

Establishing local field offices enables the agency to:

- Provide the public with greater access to NDEQ staff.
- Realize savings in travel time and expense for conducting site visits and inspections.
- Provide more timely response to citizen.
- Develop a better understanding of local issues because staff live and work in the local community.

During 2002, the NDEQ field offices emphasized the development of working relationships with local agencies to better serve the public and conserve human resources available to protect the environment. At the end of 2002, the NDEQ Chadron office will be relocated into the offices of the Upper Niobrara White Natural Resources District located in Chadron, NE. This move is in keeping with the agency's desire to locate with local agencies having a similar mission of protecting the natural resources of the state. This brings the number of NDEQ Field Offices located with Natural Resources Districts (NRD) to three. In 2000, the Central Field Office was opened in the offices of the Tri-Basin NRD in Holdrege. The Eastern Field Office was co-located with the Papio-Missouri River NRD in the Omaha metropolitan area that same year.

Department of Environmental Quality

Main Office and Field Office Sites

Panhandle Field Office

Scottsbluff Office

4500 Avenue "I", Room 129
PO Box 1500
Scottsbluff, NE 69363-1500
John Flint - (308)632-0544
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Chadron Office

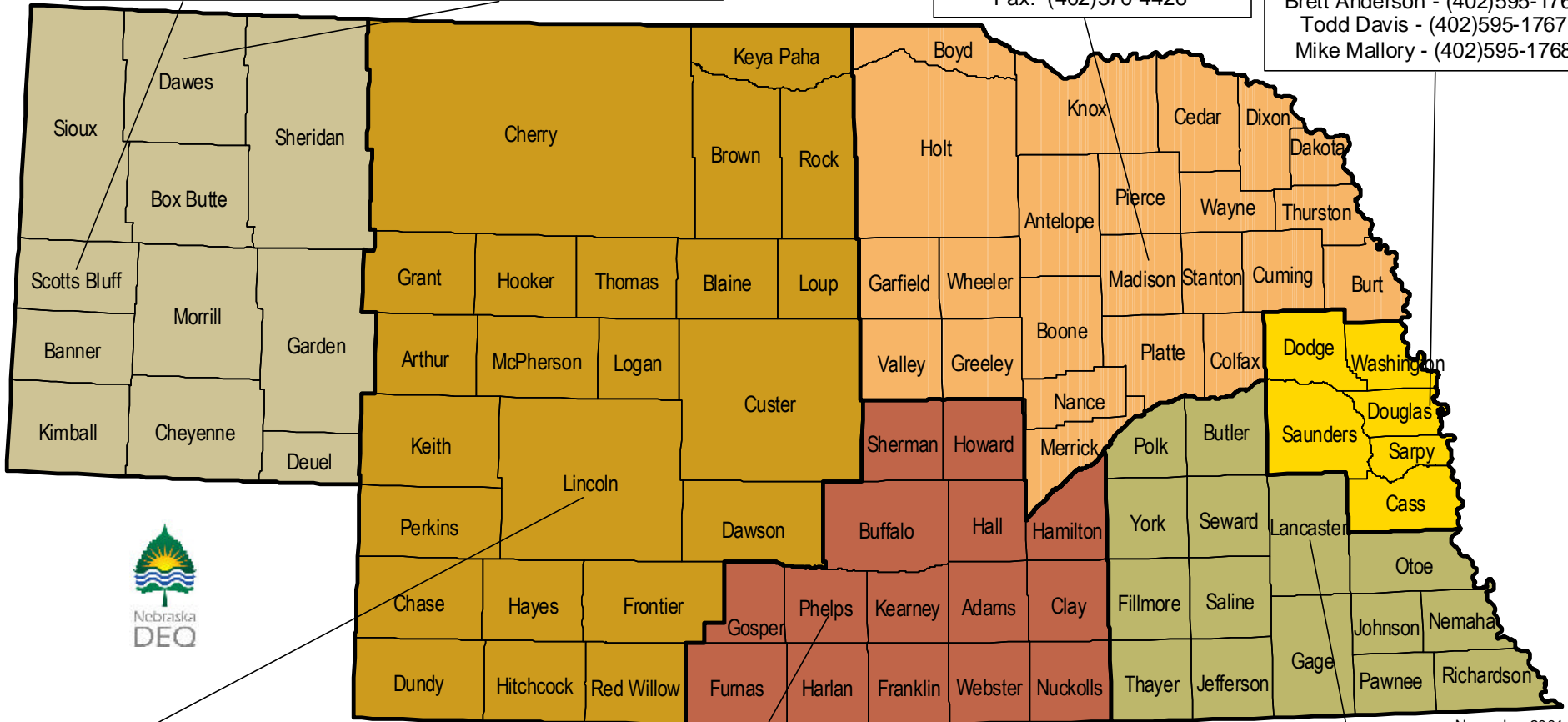
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November 2001

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Richard Reimer - (308)535-8142
James Sexson - (308)535-8140

Central Field Office

1308 2nd Street
Holdrege, NE 68949
Fax: (308)995-6992

Jerry Newth - (308)995-3150
Chris Helms - (308)995-3942
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CHAPTER 3:

Environmental Quality Council

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

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

Following are two charts. The first summarizes Council actions during FY2002, the second lists the sixteen council members, by category.

Council Actions

Council Meeting Date	Regulation	Action
September 7, 2001 Lincoln	Title 122 – Rules and Regulations for Underground Injection and Mineral Production Wells	Approved as Amended
	Title 129 – Nebraska Air Quality Regulations	Approved as Amended
	Title 199 – Waste Reduction and Recycling Incentive Grants Program	Approved as Amended
December 6, 2001 Lincoln	Title 128 – Nebraska Hazardous Waste Regulations	Approved as Amended
	Title 196 – Rules and Regulations Pertaining to Special Protection Areas	Approved as Amended
March 7, 2002 (Videoconference Mtg)	Title 129 – Nebraska Air Quality Regulations	Approved as Amended
June 5, 2002 Holdrege	Title 197 – Rules and Regulations for the Certification of Wastewater Treatment Facility Operators in Nebraska – Appendix C	Approved as Amended

Council Members

Representing	Council member	Term Expires
Livestock Industry	Robert L. Gottsch Hastings	June 22, 2005
Conservation	Steven G. Oltmans Omaha	June 22, 2003
Ag Processing Industry	Richard W. Sommer, Chair Chadron	June 22, 2003
Municipal Government	James Whitaker North Platte	June 22, 2003
Public At Large	Darlene "Shortie" Kiefer Kimball	June 22, 2005
Municipal Government	Michael W. Bair Aurora	June 22, 2005
Labor	Terry R. Zahn, Sr. Omaha	June 22, 2005
Agricultural Crop Production	Robert E. Bettger Fairmont	June 22, 2005
Professional Engineer	John T. Baker Scottsbluff	June 22, 2003
Power Generating Industry	Bill Podraza Columbus	June 22, 2005
Chemical Industry	Robert Blobaum Blair	June 22, 2003
County Government	Jodi Thompson Imperial	June 22, 2003
Physician	Dr. Janet Bernard North Platte	June 22, 2003
Automotive/Petroleum Industry	Mark Whitehead Lincoln	June 22, 2005
Heavy Industry	Norman R. Nelson Fremont	June 22, 2003
Food Products Manufacturing	Vaughn J. Blum Columbus	June 22, 2005

CHAPTER 4:

Air Quality Division

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

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

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

Construction Permit Program

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

Pending July 2001	Applications Received	Applications Processed	Pending June 2002
107	82	90	99

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

Operating Permit Program

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

Pending July 2001	Applications Received	Applications Processed	Pending June 2002
161	30	33	158

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

Emission Inventory/Fee Program

The Department conducts an annual inventory of emissions from major industrial sources and a representative sample of minor industrial sources. Additionally, on a three-year basis, the Department conducts a comprehensive inventory of emissions from other air pollution sources. This comprehensive inventory was completed for the 1999 calendar year, and will be conducted again for the 2002 calendar year. The comprehensive inventory will be useful for determining trends, as well as for regional planning efforts.

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

As reported last year, the Department anticipated that the fee rate for 2001 emissions would significantly increase. The rate for 2001 emissions was \$50 per ton, an increase of \$21 per ton. There were three main reasons for this increase: 1) Institution of the 400-ton per pollutant fee cap for certain electric generating facilities; 2) Carryover balances being reduced; and 3) The costs of the program increasing due to the utilizing of consultants for permitting assistance. The Department does not anticipate the fee rate to significantly change for the 2002 emissions inventory.

Ambient Air Quality Monitoring Program

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

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

Total Reduced Sulfur (TRS) – In recent years, the state ambient air standards for TRS were exceeded in two communities -- Dakota County and Lexington. Implementation efforts (working with sources to reduce emissions) will continue in an effort to bring these areas into compliance with the standard. In the past two years, significant reductions in TRS appear to have occurred in both communities.

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

PM₁₀ – PM₁₀ refers to particulate matter smaller than 10 microns. The Weeping Water area in Cass County has a high concentration of limestone quarrying and trucking operations and the Department has conducted air quality particulate monitoring in the community since 1985. Exceedances of the National Ambient Air Standards were recorded in 1998, 1999 and 2000. Because of these elevated recordings, NDEQ and Weeping Water Stakeholders (businesses, government and interested citizens) began a proactive program in December 2000 with a goal of reducing particulate matter in the ambient air. Upon a review of the monitoring data, EPA has determined that the exceedances could not be irrefutably validated. Therefore, the previous deadlines established by EPA for the program have been abandoned.

EPA has encouraged the stakeholders and the Department to continue developing and implementing a particulate reduction program in order to maintain attainment with the National Ambient Air Standards. Additional ambient air monitoring will be installed to demonstrate that the area is maintaining compliance with the Standards. NDEQ and the stakeholders intend to have particulate control practices implemented and made federally enforceable, as they cooperatively work on improving the ambient air in the Weeping Water area.

Ozone, Carbon Monoxide (CO), PM_{2.5} - All areas are meeting standards. Ozone levels have shown slight increases over the past year at the four monitoring sites, but they have not exceeded the National Ambient Air Quality Standards at any site. The three carbon monoxide monitoring sites have shown moderate to significant decreases in the last year.

PM_{2.5} refers to particulate matter smaller than 2.5 microns. Nebraska currently operates samplers across the state to collect 24-hour PM_{2.5} samples. Nebraska is well below the standards for PM_{2.5}.

Special Purpose Monitoring

In response to community concerns over potential exposure to dust and total reduced sulfur, the Department initiated monitoring for PM₁₀ and TRS in Broken Bow in 1999. No exceedances of the standards have been detected over the three years of monitoring. Therefore, the monitors were removed in the Fall of 2002.

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

Compliance and Enforcement Program

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

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

Compliance Activity Summary

Compliance Activity	NDEQ	Lincoln/ Lancaster Co.	Omaha Air Quality Control	Total
On-site Inspections	167	115	*	282
Stack Test Observations	21	1	*	22
Continuous Emission Mon. Audits	4	8	*	12
Complaints	108	29	*	137
Burn Permits Issued	533	34	*	567

* -- Statistics from Omaha Air Quality Control were not available at the time of publication.

Planning and Development Program

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

In 1999, EPA promulgated the regional haze rule, which is intended to protect the visibility and ecosystems of designated parks and wilderness areas in the United States. Since 1999, Nebraska has been working with states and tribes in the Central United States to address regional haze issues. This effort has culminated in the development of a regional planning organization known as the Central States Air Planning Association (CENRAP). CENRAP membership is comprised of states, tribes,

various federal agencies, and public stakeholders. The Department continues to provide leadership for CENRAP regional atmospheric modeling activities and actively participates in air pollution control strategy evaluation and development.

Asbestos Program

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

Asbestos Program Summary

Activity	NDEQ	Lincoln/ Lancaster Co.	Omaha Air Quality Control	Total
Asbestos Project Notifications	251	91	117	459
Asbestos Site Inspections	4	101	89	194

CHAPTER 5:

Waste Management Division

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

Resource Conservation and Recovery Act (RCRA) Program

DEQ was authorized in 1985 by EPA to administer portions of the Resource Conservation and Recovery Act (RCRA) program. RCRA regulations are incorporated in DEQ Title 128 – Nebraska Hazardous Waste Regulations, which is updated as the Federal RCRA regulations change. In 2001, newly adopted regulations became effective in Title 128 as part of an ongoing effort to keep the RCRA program current.

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

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

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

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

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

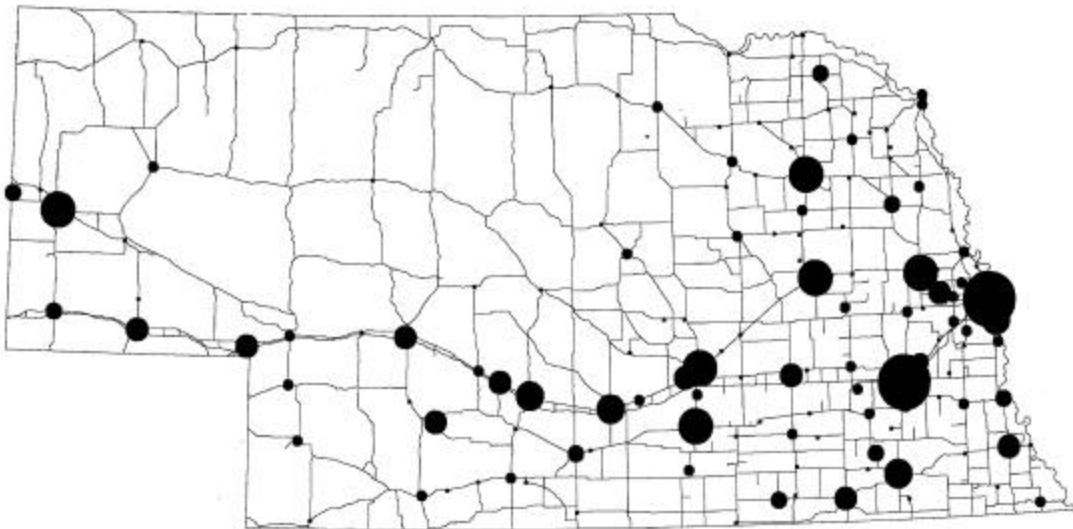
without a permit. Permits are required for operating TSD facilities. Post-closure permits are required for TSD facilities that have gone through closure and have remaining contamination.

There is one operating hazardous waste storage and treatment facility in Nebraska: the Clean Harbors incinerator near Kimball. This facility has undergone annual performance test burns to demonstrate proper operation since hazardous waste treatment began in 1994. Operational and physical changes at the Clean Harbors incinerator have resulted in numerous permit modifications. These changes were made to improve the performance of the facility and ensure compliance with applicable regulations. In addition, Nebraska oversees four other active hazardous waste storage facilities. These four 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, ground water, surface water, and air. This requires investigation and remediation of the release from regulated facilities. These regulations can make the former owner of a property responsible for mismanagement of hazardous waste if the current owner could not reasonably be expected to have actual knowledge of the presence of hazardous waste at the site. The federal EPA presently operates the corrective action program in Nebraska, and is responsible for regulating cleanups at Nebraska facilities. The Nebraska RCRA program is working with EPA to gain more responsibility in this area.

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

- 87 Large Quantity Generators (greater than 2200 pounds per month)
- 616 Small Quantity Generators (between 220 and 2200 pounds per month)
- 861 Conditionally Exempt Small Quantity Generators (less than 220 pounds per month)
- 1 Hazardous Waste Incinerator Facility
- 1 Federal Facility
- 55 Treatment/Storage/Disposal Facilities (active and inactive)
- 23 Transportation Facilities

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

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

Summary of Activities

A summary of record reviews, inspections, and permit and closure activities completed in FY2002 is provided below.

Activity	FY2002	
	State	EPA
<u>Compliance Assistance</u>		
-On-site visits	12	-
-Direct Assistance Contacts	1042	-
-Public Outreach Presentations (total 467 in attendance)	20	-
<u>Inspections</u>		
-Land Treatment Facilities	0	4
-Treatment and Storage Facilities	3	3
-Comprehensive Ground Water Monitoring Evaluations	0	-
-Operation and Maintenance Inspections	2	-
-Facility Self-Disclosures	1	-
-Large Quantity Generators	10	9
-Small Quantity Generators	18	2
-Conditionally Exempt Small Quantity Generators	57	2
-Transporters	0	0

Activity	FY2002	
	<u>State</u>	<u>EPA</u>
<u>Permitting</u>		
-Closure Plans Finalized	2	-
-Permits Issued/Renewed	1	-
-Modifications	11	-
-EPA Corrective Action Orders	0	0
<u>Record Reviews</u>		
-Financial Assurance	34	6

Program Funding

Funding for RCRA program activities is provided by an EPA grant, which requires a 25% state match. This match is met with state General Funds. Additionally, the Department can charge proposed commercial hazardous waste management facilities a fee to cover expenses for facility siting committee activities. There were no new facilities proposed in FY02.

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

Superfund Program

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

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

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

The first site assessment step is called a pre-screening assessment. This step is a review of existing information on a potential site to determine whether a release has occurred that should be evaluated further through the Superfund process. The next site assessment step is called a preliminary assessment. This step involves the collection of background information such as property ownership, operational history and geology/hydrogeology and performing a site reconnaissance. The third step is called a site investigation, which involves sampling environmental media. The Department has environmental service contracts with two consulting firms to conduct the field sampling activity. In some situations, the preliminary assessment step and the site investigation step are combined. During the past year, the Department has performed work on 20 pre-screening assessments, 4 combined preliminary assessments/site investigations, and 4 site investigations.

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

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

Federal Facilities — The Superfund Federal Facilities program provides technical assistance and regulatory oversight to the U.S. Army Corps of Engineers in support of site assessment and cleanup activities at Department of Defense active facilities and formerly used sites. Active Federal installations include Offutt Air Force Base in Bellevue and Cornhusker Army Ammunition Plant in Grand Island. Ninety-one known formerly used defense sites exist in Nebraska that include small former defensive surface-to-air missile sites, bomber target sites, radar and communications sites and other formerly occupied Department of Defense properties. Under the current Defense-State Memorandum of Agreement, investigation and cleanup activities are being performed at 3 active sites and 23 formerly used defense sites.

RAPMA Program

The Remedial Action Plan Monitoring Act (RAPMA), initially created in 1995, provides property owners and parties responsible for contamination with a mechanism for developing voluntary environmental cleanup plans which are reviewed and approved by the Department. The program provides an avenue for businesses to proceed with cleanup of property and an opportunity for

regulatory review and oversight that may not be available at the federal level. Upon completion of a project, the Department will send a letter indicating whether additional action is needed.

Currently, 14 sites are active in the voluntary cleanup program. Four sites have successfully completed cleanup requirements and have received "No Further Action" letters from the Department. This program is currently involved with the development of a comprehensive RAPMA guidance document that explains the RAPMA cleanup process and requirements to assist applicants in successfully completing redevelopment projects. Over the last year, this program has been directly involved in the extensive redevelopment activities associated with the City of Omaha Riverfront Redevelopment.

RAPMA Sites and Status

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

Solid Waste Program

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

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

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

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

Special waste disposal regulations were revised on May 27, 2000 for waste that requires special handling, treatment, or disposal methodologies in order to protect public health, safety, and the environment. The Department assists landfill operators in making special waste characterizations. While many of these requests are routine, others need to be evaluated by program staff to determine if the waste is acceptable at that particular landfill.

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

Legislative Bill 128, passed by the 2001 Legislature, gave DEQ the authority to use money in the Integrated Solid Waste Management Cash Fund for investigation and remediation of contamination from solid waste facilities. The bill also authorizes DEQ to seek reimbursement from responsible parties to recover these costs. DEQ is in the process of selecting the highest priority projects to begin using this fund. Clean up work will begin on at least two sites in 2003.

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

Total Permitted Facilities in FY 2002

Municipal Solid Waste Disposal Areas (Landfills)	23
Solid Waste Compost Sites	8
Transfer Stations	39
Materials Recovery Facilities	6
Construction & Demolition Waste Disposal Areas	18
Delisted Waste Disposal Areas	1
Fossil Fuel Combustion Ash Disposal Areas	<u>7</u>
Total	102

Summary of Activities: FY 2002

Compliance

Facility Inspections (General)	222
Facility Inspections (Construction)	13
Complaints Investigated	154
Enforcement Actions	3
Notices of Violation	33

Permitting

New Permits	9
Permit Renewals	21
Major Permit Modifications	4
Transferred Permits	1
Public Hearings	2
Financial Assurance Reviews	109

Financial Assurance and Fees

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

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

Scrap Tire Management Program

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

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

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

Permit Totals, FY2002

Haulers	27
Collectors	11
Collection Sites	12
Processors	12

Compliance

Enforcement Actions	3
Notices of Violation	12

Permitting

New Permits	6
Permit Renewals	18
Transferred Permits	0

The Scrap Tire Program compliance assurance activities include 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.

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:

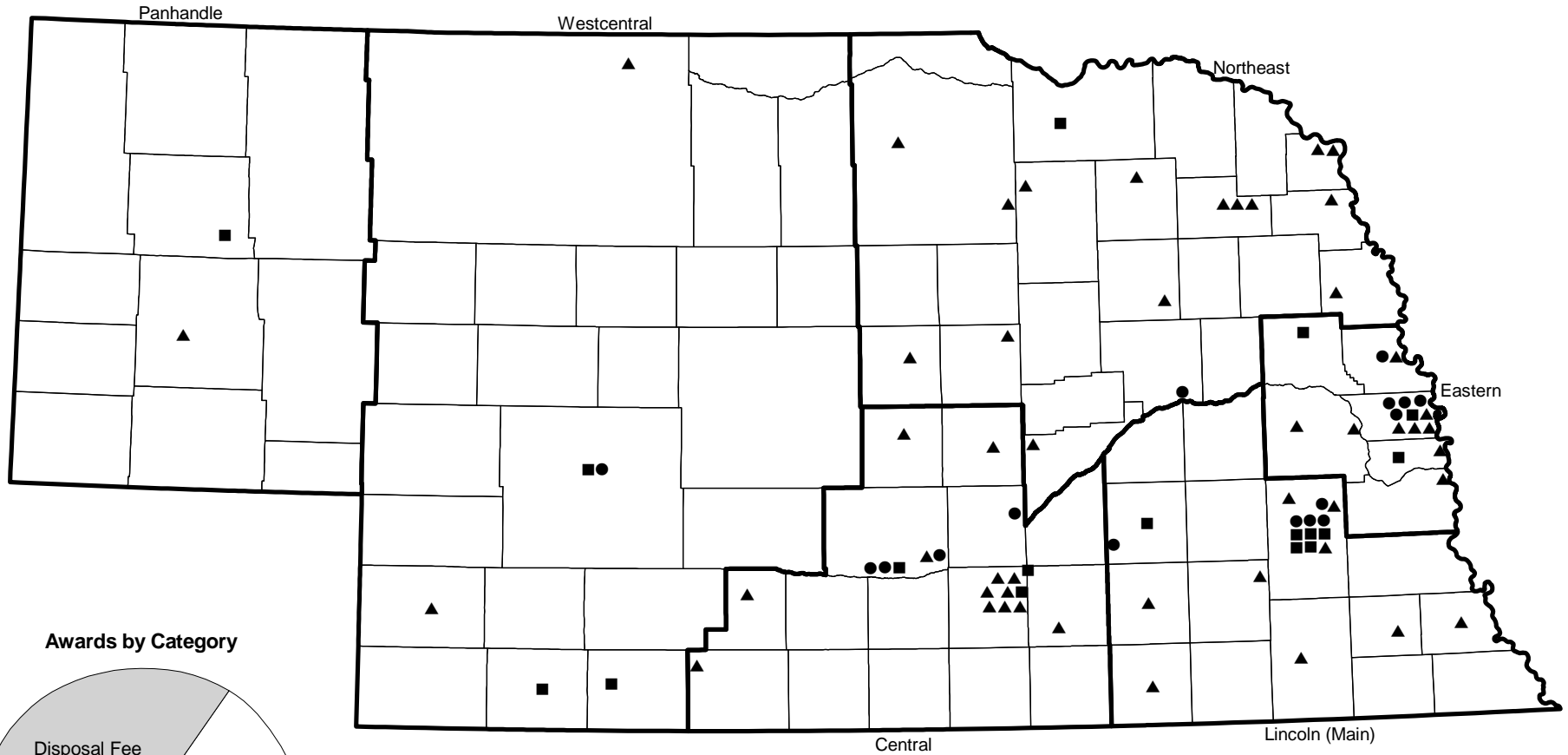
- A business fee on sales of tangible personal property, which generates about \$600,000 annually.
- A \$1 per tire fee on the retail sale of new tires in Nebraska, which generates about \$1.4 million annually;
- Fifty percent of the \$1.25 per ton disposal fee on solid waste disposed of in permitted landfills, which generates approximately \$1 million annually for grant awards.

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

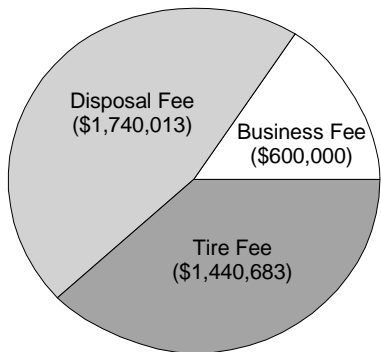
LB 592, passed in 1999, provides for multi-year renewable grants to political subdivisions. Priority for multi-year grants is given to applicants who address the first component of the solid waste hierarchy, which includes toxicity reduction, and to those that indicate regional participation. Multi-year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

Summary of Activities -- For calendar year 2002, the Department awarded \$3,780,697 in the Waste Reduction and Recycling Incentive Grants Program to eighty-two programs. Sixteen of these grants were awarded in the Business Fee category (\$600,000), seventeen were awarded from the Disposal Fee (\$1,740,013) category, and forty-nine received grants from the funds (\$1,440,683.84) set aside from the scrap tire funds. The following map shows the locations across Nebraska that received funds.

Waste Reduction and Recycling Incentive Grants Program 2002 Grant Awards



Awards by Category



■ Disposal Fee	\$1,740,013	17 grants, including 5 regional
● Business Fee	\$600,000	16 grants, including 2 statewide and 1 regional
▲ Tire Fee	\$1,440,683	49 grants, including 4 regional
Total	\$3,780,696	82 grants

Litter Reduction and Recycling Grant Program

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

Funds from this program are provided from an annual fee assessed to manufacturers, wholesalers, and retailers having gross receipts of at least \$100,000, on products that commonly contribute to litter. For manufacturers, the annual litter fee is equal to \$175 for each million dollars of gross products manufactured. The annual litter fee for wholesalers and retailers is equal to \$175 for each million dollars of the sales made in the state. Approximately \$1.1 million is available annually.

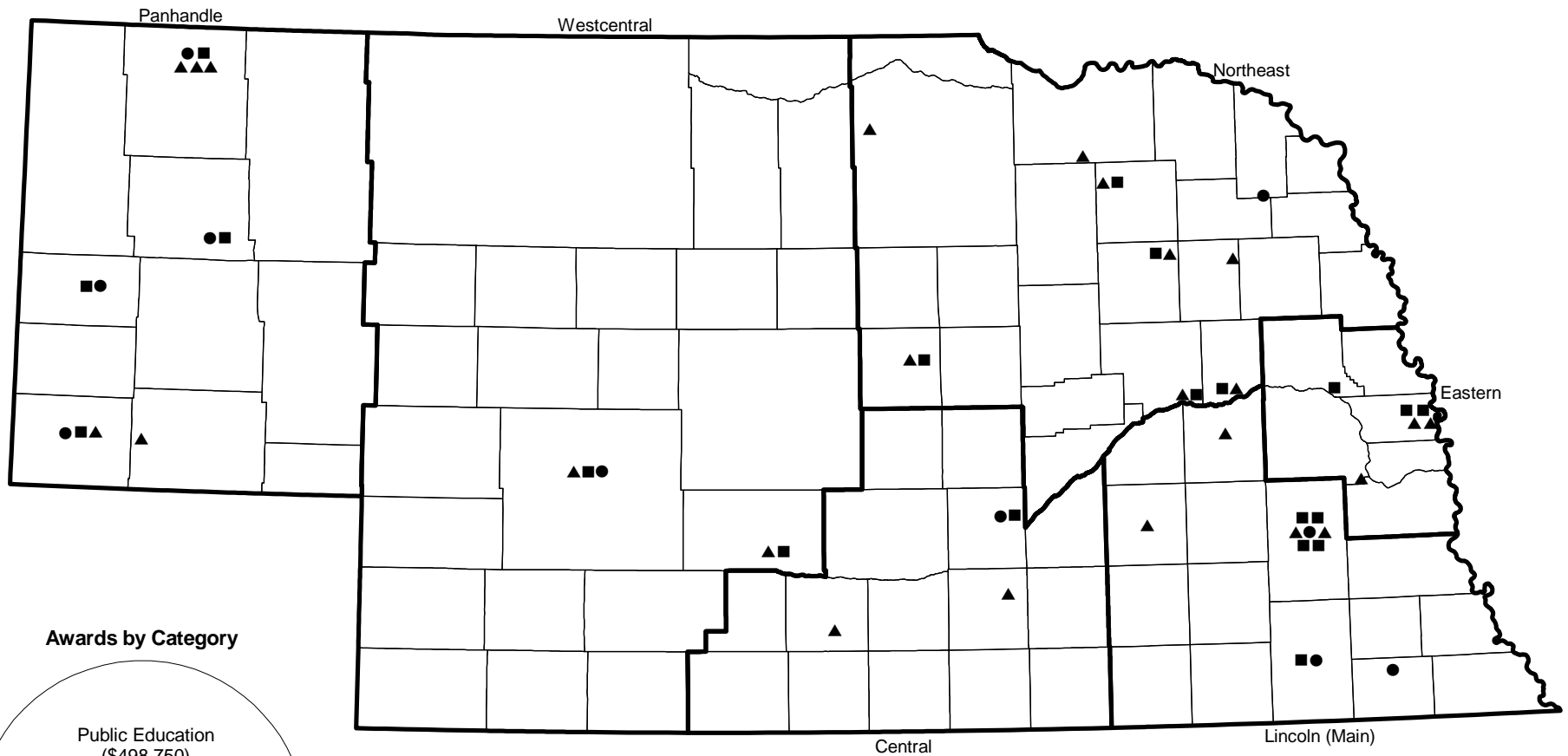
The annual litter fee is imposed on products in the following categories:

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

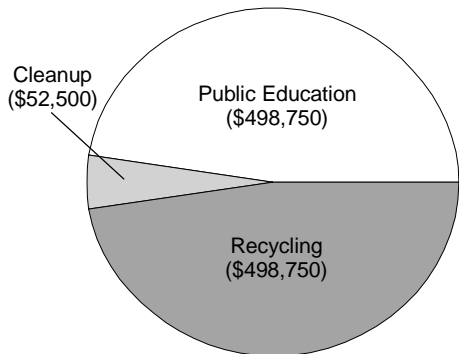
The Litter Reduction and Recycling funds are awarded in three categories listed below. Each year the Environmental Quality Council establishes the percentages for allocation of funds for each category. The chart below shows amounts awarded, number of grantees, and purpose of the grants.

Category	Percentage allocation	Number of grantees	Amount Awarded	Purpose of grants
Public Education	47.5%	20	\$498,750	Programs promoting recycling, the reduction of litter and a desire for a cleaner environment, and securing greater awareness of and compliance with anti-litter laws.
Cleanup	5.0%	10	\$52,500	Litter cleanups of public highways, waterways, recreation lands, urban areas, and public places.
Recycling	47.5%	24	\$498,750	New or improved community recycling and source separation programs. An important key to successful long-term recycling in Nebraska is establishing lasting markets for the recycled commodities that we collect. The Department continues to give priority consideration to recycling proposals contributing to market development.
Total	100.0%	54	\$1,050,000	

Litter Reduction and Recycling Grant Program 2002 Grant Awards



Awards by Category



■ Public Education	\$498,750	20 grants, including 1 statewide and 3 regional
● Cleanup	\$52,500	10 grants, including 1 regional
▲ Recycling	\$498,750	24 grants, including 1 statewide and 3 regional
Total	\$1,050,000	54 grants

Illegal Dumpsite Cleanup Program

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

Funding for this program is limited to five percent of the total revenue from the disposal fee collected from landfills in the preceding fiscal year. Approximately \$100,000 is available annually.

During fiscal year 2001-2002, \$79,210 was reimbursed to political subdivisions for the cleanup of illegal dump sites. A total of seven political subdivisions received funding through the program. This included three counties, three municipalities, and one solid waste agency. The completed cleanups have been responsible for the proper handling of illegally disposed waste and preservation of the beauty of Nebraska's roadsides.

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

Landfill Disposal Fee Rebate Program

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

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

Since its inception, seven communities have participated in the program. \$277,575 in rebates has been awarded through calendar year 2001.

CHAPTER 6:

Water Quality Division

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

Leaking Underground Storage Tanks Program

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

Leaking Underground Storage Tanks/Title 200 Reimbursement Fund

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

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

Since June 1999 and through the end of September 2002, 1,062 Tier 1 field investigations have been initiated. An additional 140 sites with low levels of contamination were closed using RBCA Tier 1 principles to evaluate existing information. Of the 484 Tier 1 field investigations completed thus far, 265 (55%) were closed, and 219 were determined to need a Tier 2 investigation. Of the 484 sites that have completed a Tier 1 or Tier 2 investigation, 73 (15%) have reported finding the contaminant methyl tert-butyl ether (MTBE) in ground water. Since April 2002, 128 Tier 2 investigations have been initiated.

The Leaking Underground Storage Tank Program is also responsible for the Petroleum Release Remedial Action Reimbursement Fund, established to help pay remediation costs for owners/operators of facilities which have leaking petroleum tanks. Costs for both underground and

above ground tank releases are eligible for reimbursement. To assist applicants, the Program developed guidelines entitled "Reasonable Rates Schedule and Reimbursement Guidance Manual" (addendum added in May 2001). The Program's activities in this area include receiving and processing applications for reimbursement from the fund and subsequently initiating reimbursements for eligible costs. Processing of applications involves:

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

The revenue going into the fund is now over \$10 million annually. As of June 30, 2002, a total of \$60,847,305 has been disbursed since the program began. During the past year, DEQ reimbursed \$4,065,288 to 104 active sites and an additional 127 Tier 1 sites.

The following list of 13 sites, all of which are active, have received a total reimbursement of more than \$600,000 each. Once the statutory limit is reached (either \$975,000 or \$985,000, depending on the applicable deductible/co-payment amount), the responsibility of funding the remainder of cleanup necessary will be placed on the responsible person.

Site name	City	Reimbursed amount (as of June 30, 2002)
Bargmann Corner Service	Bancroft	\$773,678
Burlington Northern RR	Alliance	\$732,268
Burlington Northern RR	Alliance	\$972,579
Elkhorn Valley Coop	Snyder	\$925,634
Firth Cooperative	Firth	\$852,202
Gordon Airport Authority	Gordon	\$860,687
Henkel Oil Co.	Norfolk	\$645,217
Klepper Oil	DuBois	\$630,087
Konecky Oil	Mead	\$975,000
Neitzel Oil Co.	Springfield	\$745,882
Peterson Oil Co.	Davenport	\$889,584
Tomahawk Truck Stop	North Platte	\$774,218
Whitehead Oil	Lincoln	\$629,937

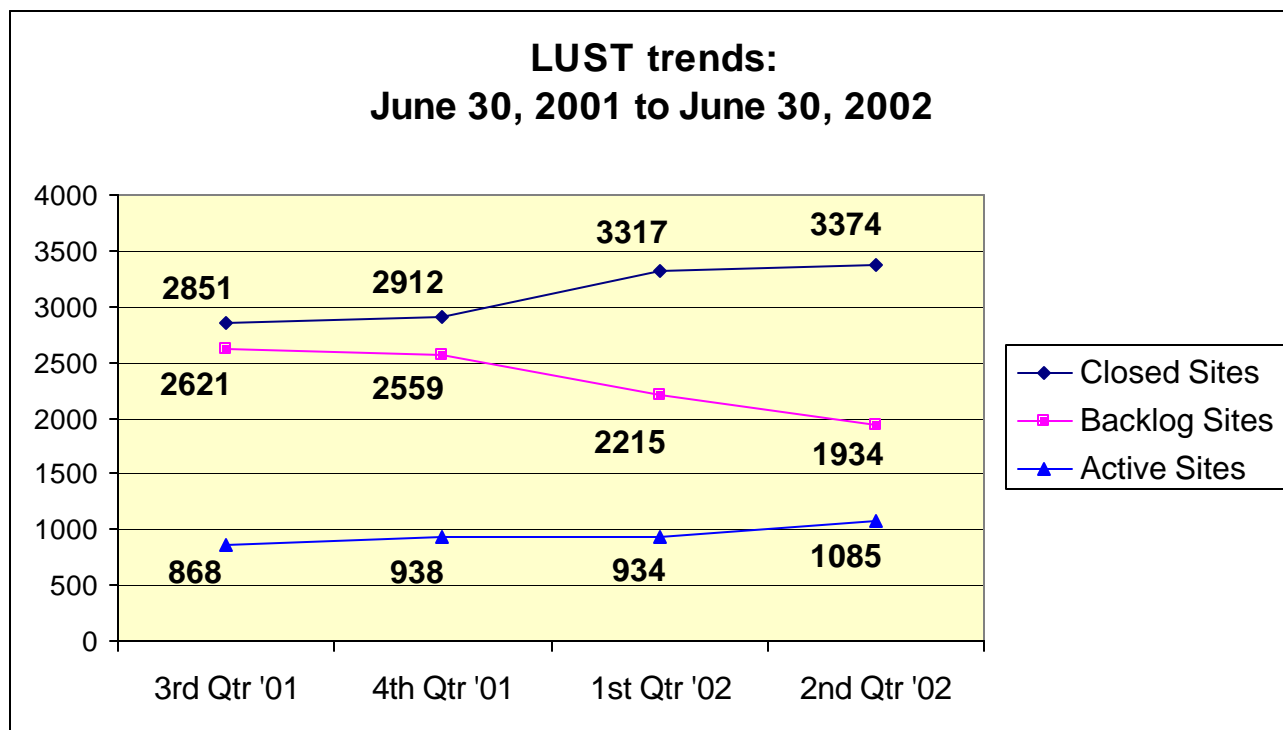
Responsible persons are able to perform voluntary remedial action prior to DEQ's approval of their plans and still be eligible for reimbursement consideration in the future. This allows sites to move forward on their own if the responsible persons do not want to wait for sufficient DEQ resources to be available. Since April 1996 when the law was enacted through September 2002, 92 suspended or backlogged LUST sites have been closed based on voluntary submittals.

As of August 31, 2002, there were 653 "orphan" sites needing some kind of remedial action. DEQ uses federal and state money for this activity. In September 2002, there were 110 orphan sites in some stage of investigation/cleanup.

The following is a chart of quarterly activities for FY2002 relating to Leaking Underground Storage Tank sites in Nebraska. The chart provides information relating to:

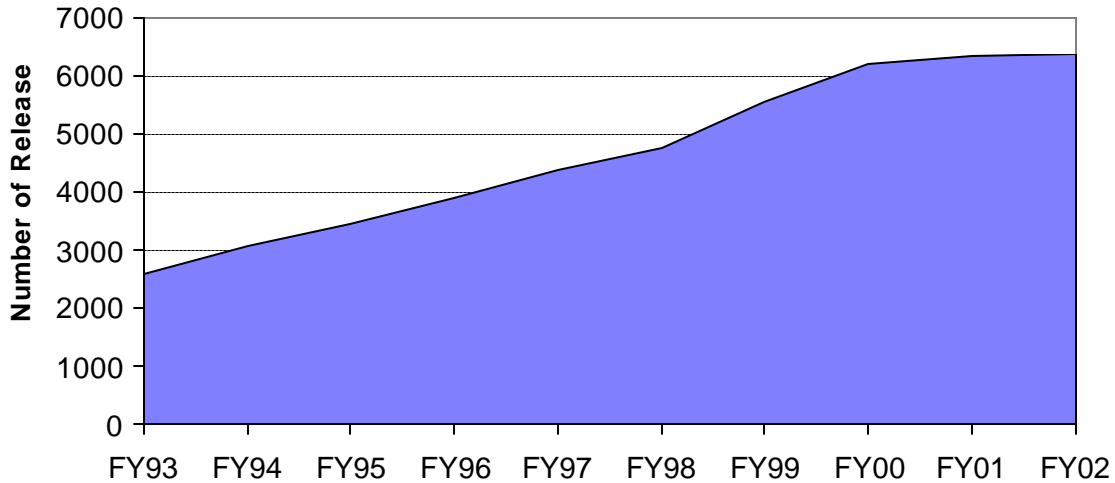
- **Closed Sites:** Sites that have been closed either because they have been cleaned up or it has been determined that no cleanup is necessary
- **Backlogged Sites:** Sites identified as potentially needing cleanup, but are on a waiting list for further investigation
- **Active Sites:** Sites that are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

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

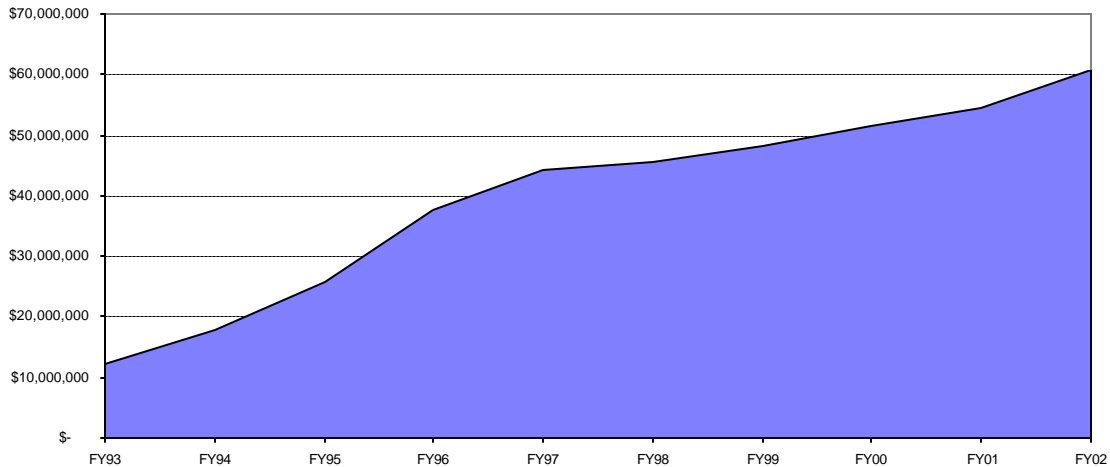


The chart below shows the cumulative number of sites that have had releases in the last several years. The second chart shows the cumulative amount that the Program has spent on investigation and cleanup.

**Cumulative LUST Release Totals
(last 10 years through FY02)**



**Cumulative Title 200 Reimbursements
(last 10 years through FY02)**

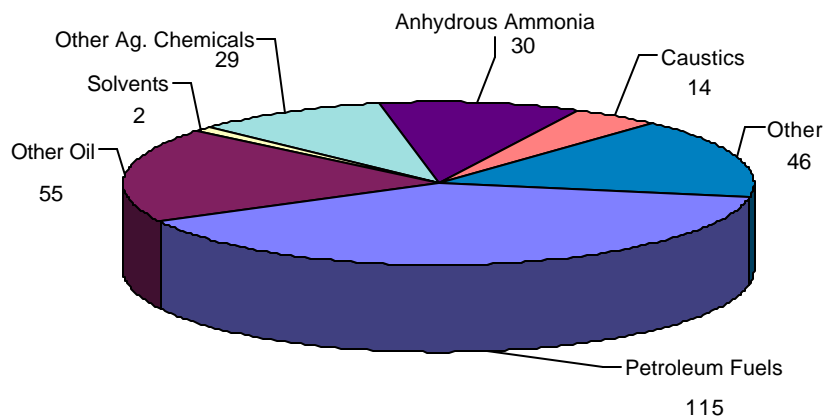


Release Assessment Program

Through the Release Assessment Program, DEQ personnel provide technical assistance for responders dealing with spills, leaks and accidents that pose an immediate hazard to either the environment or public health. An individual is on 24-hour call and works closely with the Nebraska Emergency Management Agency, State Patrol, State Fire Marshal, EPA, and local agencies. Personnel arrange for and coordinate the disposal of harmful and potentially hazardous materials to the extent that resources allow. Much like the Leaking Underground Storage Tank Program, staff also oversee the remedial action requirements when cleanup is necessary.

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

Release Assessment Spills Reported in FY02
(by material type)



291 spills were reported during FY02

Agriculture Programs

In FY2002, the Agriculture Section, which consists of the Livestock Waste Control, Chemigation and Agricultural Chemical Secondary Containment programs, spent a busy year addressing issues concerning federal regulations, a proposed new type of livestock permit, file computerization and responding to agricultural and public concern for Nebraska's water quality.

The Agriculture Section staff developed a proposed new National Pollutant Discharge Elimination System (NPDES) general permit for open-lot livestock operations. During development of the proposed NPDES general permit, meetings were held in four locations around the state to receive input from producers, industry associations, environmental groups and the general public. Based on input from these and other sources, revisions were made to the proposed general permit. The revised permit was placed on public notice, and is currently being re-evaluated in light of the comments received. A public hearing or hearings will be scheduled to accept additional public comment.

Currently, all operations required to have an NPDES permit are issued individual permits, each requiring a public comment period and evaluation of comments received before the permit can be issued. An open-lot livestock operation that qualifies under the proposed NPDES general permit will be issued a permit upon approval of the application with no individual public notice required. Some operations with unique circumstances will not qualify for the general permit and could receive an individual NPDES permit.

The issuance of a general permit is expected to result in significantly more efficient use of Section resources, while still protecting Nebraska's water quality from discharge of livestock waste.

In addition, the Agriculture Section responded to proposed changes to federal regulations concerning Confined Animal Feeding Operations, proposed by the Environmental Protection Agency. Section staff evaluated the EPA proposal, its possible impact on Nebraska's current livestock regulations, and developed formal responses to EPA.

Progress also continued on converting the Section's more than 15,000 paper files to a computerized filing system. The work involves extensive preparation by Section staff for input into the computer system. When the conversion is completed, the Section expects to be able to more easily provide information concerning livestock permits and operations in Nebraska.

Livestock Waste Control Program

The program and the Title 130, "*Rules and Regulations Pertaining to Livestock Waste Control*" regulations apply to livestock operations feeding or holding cattle, swine, sheep, horses, poultry or other livestock in buildings, lots or pens not normally used for growing crops or vegetation. The regulations do not include calving operations holding cattle less than ninety days per year or livestock on pasture, rangeland or stalks. Under most situations, operations with less than 300 animal units also are exempt from Title 130 requirements.

During FY2002, Livestock Waste Control Program staff conducted inspections of, and issued permits for, livestock waste control facilities (LWCF) in Nebraska by administering Title 130. Program staff consists of a total of four engineers and nine program specialists to cover the state. Of the nine specialists, five are assigned to the Agriculture Section full-time and four field office staff are each assigned part-time to work in the Livestock Waste Control Program. The Department oversees the permitting process for construction and operation of livestock waste control facilities. If the operation has discharged, or has the potential to discharge, livestock waste to waters of the State, a permit for a LWCF may be required. Livestock waste control facilities include, but are not limited to, waste holding ponds, liquid manure storage pits, debris basins, diversion terraces, and lagoons.

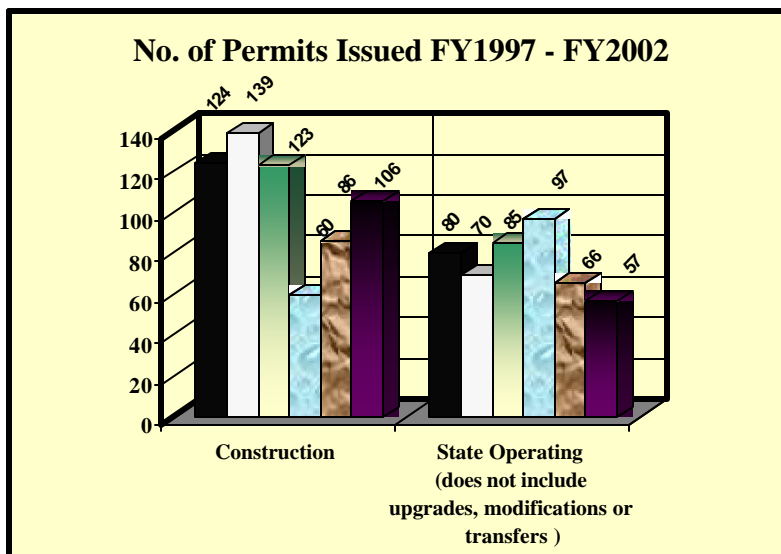
In FY2002, a number of operations that were previously issued a permit for livestock waste control facilities were required to submit additional documentation to verify compliance with requirements of

the revised Title 130, which became effective June 18, 2001. These operations included facilities that were sold or transferred, as well as facilities that experienced some type of compliance problem.

A livestock operation submitting a permit application must include plans and specifications, possibly an application fee, and an Applicant Disclosure & Certification form. To ensure compliance with Title 130 requirements, Program engineers review the applications, as well as provide compliance assistance to applicants. During FY2002, the Section’s four engineers performed 917 reviews or compliance assistance activities, up from 760 such activities the previous fiscal year.

The Department has specific time frames, established by statute, to act on the applications. Actions to be accomplished during the time frames include: determining whether or not the application is complete; issuing a public notice for livestock operations with more than 1,000 animal units for a 30-day public comment period; and issuing a permit or denying the application. After construction of the LWCF is completed, the operation must certify that the LWCF was constructed according to the previously approved plans. Typically, once the certification form is received, a post-construction inspection is performed. A final review then is completed to verify that all requirements of the construction permit are satisfied, and an operating permit is issued.

In FY 2002, the number of construction permits issued showed a significant 22% increase over FY2001 - 106 permits in FY2002 versus 87 construction permits in FY2001 – an increase for the second consecutive year.

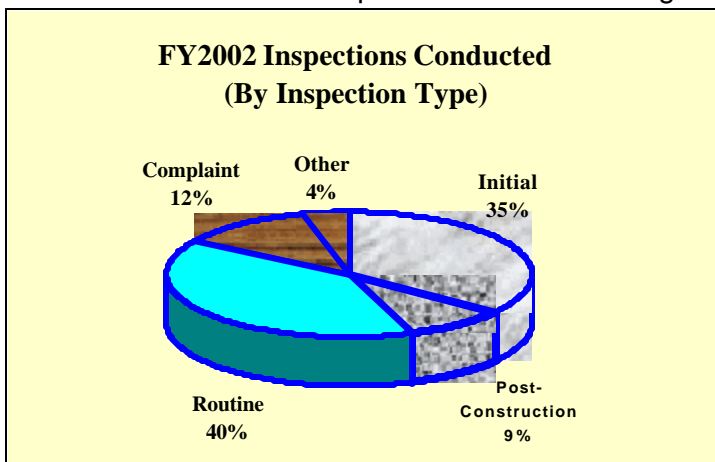


The number of new State Operating Permits issued continued to decline – 57 permits in FY2002, compared to a revised figure of 66 State Operating Permits issued in FY2001. The number of permit modifications, upgrades and transfers issued continued an upward trend, with approval given to 57 modifications, upgrades or transfers of existing State Operating Permits compared to 54 transfers or modifications in FY2001.

The Livestock Waste Control Program also is responsible for issuing National Pollution Discharge Elimination System (NPDES) permits to livestock operations. The NPDES permit prohibits and limits discharges to waters of the State. The NPDES permit requires control of runoff up to the amount of a 25-year, 24-hour storm event. In Nebraska, only open-lot operations are eligible for NPDES permits. Currently, there are 213 livestock operations in Nebraska with NPDES permits. As stated previously, a proposed new NPDES general permit is being developed for open-log livestock operations.

The program received fewer complaints and fewer requests for initial inspections during FY2002 than during the previous year. The decreased numbers allowed staff to continue their focus on reducing the backlog of initial inspection requests received in previous years.

The Agriculture Section received 116 inspection requests from new or expanding livestock operations in FY2002, compared to 161 requests received in FY2001. These figures are significantly less than the numbers of requests received following the enactment of the Livestock Waste



Management Act in 1998 and its amendment in 1999. The amended Act required all existing livestock operations, (except cow-calf operations and operations with less than 300 total animal units) to submit a Request for Inspection to the Department prior to January 1, 2000, unless the Department previously had issued a permit or exempted their operation.

The Department received 1,183 Requests for Inspection in FY2000 and nearly 4,500 requests in FY1999. (Approximately 3,000 of these livestock operations were subsequently exempted for

having less than 300 animal units).

Staff conducted a total of 950 inspections of livestock waste control facilities in FY2002. The table below compares the number of inspections for the last two years.

Inspection Type	FY2001	FY2002
Initial	406	336
Routine & Maintenance	361	372
Post-Construction	81	84
Complaint	157	118
Miscellaneous	7	40

Of the total number of inspections conducted, the largest number was inspections of Class I livestock operations, those with 1,000 animal units or less. In FY2002, Livestock Program staff conducted 439 initial, post-construction, complaint or routine inspections of Class I livestock operations. This number represents nearly half of all inspections conducted.

General information about the Agriculture Section, fact sheets, forms and guidance documents are now available on the Department's web site, www.ndeq.state.ne.us.

Chemigation Program

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

The NRDs are responsible for inspecting and permitting the specific safety equipment that must be installed on the irrigation system. Since permitting began in 1987, the total number of annual permits has followed an upward trend, with 14,431 site permits issued in FY2002.

NDEQ certifies all chemigation applicators. To receive certification, the applicators must complete training and testing, which is provided by the University of Nebraska-Cooperative Extension. Applicators must be re-certified every four years. In FY2002, 720 applicators were trained, tested and certified, and the total number of certified chemigation applicators reached 4,311. Information about chemigation applicator training dates and certified applicators now is also available on the Department's web site, www.ndeq.state.ne.us.

Agricultural Chemical Secondary Containment Program

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

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

In FY2002, the Department investigated 8 complaints involving fertilizer or pesticide storage facilities. The Department has a cooperative agreement with Nebraska Department of Agriculture's Pesticide program, which referred several of these cases to NDEQ. One case is with the Attorney General's office, with either a settlement or court action pending. Most other cases have been investigated and resolved by voluntary compliance or found to be unsubstantiated.

Surface Water Assessment Programs

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

- 2002 — Big Blue, Little Blue and Republican river basins;
- 2003 — Loup, Niobrara, and White River-Hat Creek river basins;
- 2004 — Lower Platte and Nemaha river basins;
- 2005 — Elkhorn and Missouri Tributaries river basins; and
- 2006 — Middle Platte, North Platte, and South Platte river basins.

During 2002, surface water monitoring resources were primarily targeted in the Big Blue, Little Blue, and Republican river basins. Monitoring efforts were coordinated to the extent possible with other Department sections and with other agencies and organizations. These data will be included in a biennial water quality report to Congress and in other water quality reports produced by the Surface Water Unit. A brief description of the surface water monitoring activities conducted during 2002 follows.

Basin Rotation Monitoring Network - Streams and lakes from 60 sites in the Big Blue, Little Blue, and Republican river basins were sampled weekly from April through September for traditional parameters, bacteria and pesticides to document existing water quality conditions and assess the support of beneficial uses. These data were used, in part, to assess suitability of water quality for primary contact recreational activities such as swimming, rafting, tubing, and canoeing. A total of 47 stream sites and 13 lake swimming beaches were sampled weekly for bacteria, and data were reported on the NDEQ web page to provide current information to the public on the suitability of these waters for primary contact recreation. During 2002, a total of 1,900 samples were collected for this network.

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

The Ambient Stream Monitoring Network includes representative mainstem and tributary stream sites in all 13 river basins and incorporates ecoregion and land use considerations. Initially, this network consisted of 42 sites; however, in 2002, the network was expanded to 98 sites. Water samples are collected monthly and analyzed for chemical and physical parameters. In addition, heavy metals are analyzed quarterly and fish communities are sampled once a year in coldwater streams. During 2002, a total of 1,010 water samples and 15 fish community samples were collected.

Ambient Fish Tissue Monitoring Program — Sixty-three fish tissue samples were collected from 31 streams and lakes across Nebraska for analysis of toxic pollutants during 2002. This information is used to assess toxic pollutant trends, identify problem areas, and assess and report on the suitability of fish for human consumption. Based on fish tissue information collected prior to 2002, fish consumption advisories will be issued or reissued for 34 sites in 2002, including 18 stream or canal segments and 16 lakes. A new advisory will be issued this winter for Standing Bear Lake near Omaha based on elevated levels of mercury in largemouth bass.

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

Joint State Atrazine Monitoring Program — The Joint State Atrazine Monitoring Program is an interstate cooperative effort between Nebraska and Kansas in the Big Blue River Basin to address public drinking water concerns about atrazine in Kansas surface waters. About two-thirds of the Big Blue River drainage is located in Nebraska; therefore, interstate cooperation is essential to the success of this program. Atrazine monitoring was initiated in 1997 at 14 stream sites in Nebraska and eight stream sites in Kansas. The network was expanded in 2002 to include the herbicides alachlor, acetochlor, and metolachlor; and two stream sites were added in Nebraska and one stream site was added in Kansas to better identify critical areas of atrazine runoff. Best management practices will be targeted in these critical areas. In 2002, weekly grab samples were collected from April through September and monthly grab samples were collected from October through March at each of the 25 sites. A total of 775 samples (496 samples in Nebraska) were collected in 2002. In addition, runoff samples were collected at eight sites during times of significant precipitation from April through September.

Regional Environmental Monitoring and Assessment Program (R-EMAP) — The R-EMAP Program involves a unique randomized sample design that allows water quality status and trend assessments to be made with a known level of confidence. This program was initiated in 1994 and involves the collection of water, sediment, habitat, fish and macroinvertebrate samples from wadeable streams in conjunction with the rotating basin monitoring strategy. During 2002, no samples were collected for this network so that available resources could be used to assess the data collected during the previous five years and revise the biometrics used in evaluating the health of aquatic life populations. R-EMAP monitoring is expected to resume in 2003.

Lake Monitoring Programs — Several lake water quality monitoring programs were conducted during 2002. A 25-lake ambient network involving the collection of monthly water samples from May through September was initiated in 2002. These data will be used to document existing water quality conditions and long-term trends. Monthly samples were also collected from May through September from 10 lakes in conjunction with the rotating basin monitoring strategy, and from 50 additional lakes for use in establishing a lake classification system specific to Nebraska waters. During 2002, a total of 730 lake samples were collected statewide.

Nonpoint Source Monitoring — Monitoring and assessment of surface water quality for nonpoint source pollution is crucial for effective implementation of the Nebraska Nonpoint Source Management Program. These data are used to identify and prioritize nonpoint source problem areas, develop nonpoint source watershed management plans, and evaluate the effectiveness of measures implemented to control nonpoint source pollution. Most of the surface water monitoring programs described above can be utilized for this purpose. However, the following specific nonpoint source sampling activities were also conducted during 2002: thirteen lake inlet streams were sampled during periods of significant precipitation to provide information on nutrient and sediment loading to lakes during runoff events; Global Positioning System (GPS) sedimentation studies were conducted for 14 reservoirs and sediment basins to provide a measure of the rate at which each lake was filling with sediment; five lakes were sampled to document the effectiveness of past implementation projects; and detailed watershed assessments were initiated in the East Branch of Verdigre Creek and completed in the Ash Creek and Sand/Duck Creek watersheds.

Fish Kill and Citizen Complaint Investigations — Twenty-seven fish kills were reported between July 1, 2001 and June 30, 2002. Most of these (18) were attributed to natural causes including winter and summer kill (low oxygen), low flows, temperature stress and disease/parasite. A total of 30 citizen complaints were also received by the Surface Water Unit from July 1, 2001 to June 30, 2002. On-site investigations were conducted, as needed, to document existing water quality conditions, surface water quality standards violations and identify pollution sources.

Ground Water Assessment Programs

Ground Water Quality Monitoring Report

Legislation passed in 2001 directs NDEQ to issue an annual report to the Legislature concerning the quality of the ground water in Nebraska. The first of these reports was issued December 1, 2001. This report summarized the water quality monitoring efforts of the Natural Resources Districts, NDEQ, and other state, local, and federal agencies. Statistics and maps showing nitrate-nitrogen ground water monitoring results, as well as four of the 42 pesticides sampled for in the state were presented. The report uses data from the Quality-Assessed Agrichemical Contaminant Database for Nebraska Ground Water, developed cooperatively by the Nebraska Department of Agriculture, University of Nebraska-Lincoln, and NDEQ using federal funding. These data are accessible to the public on the Nebraska Department of Natural Resources web site, www.dnr.state.ne.us.

Hydrogeologic Studies and Reviews

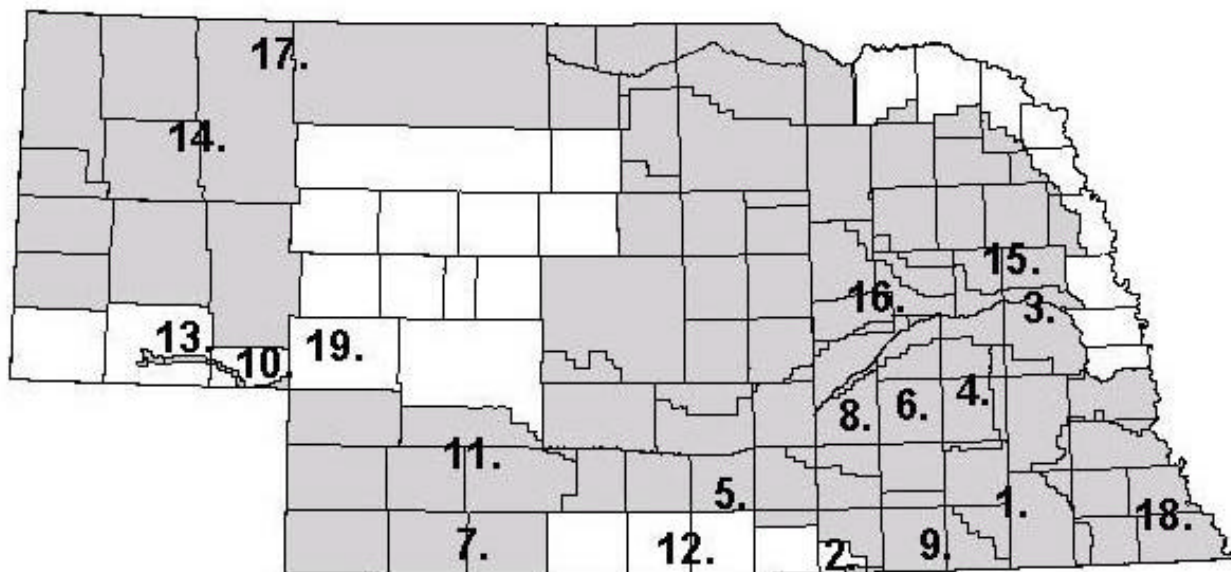
The Ground Water Unit is responsible for hydrogeologic review of various Department projects and programs to determine possible effects on ground water quality and to recommend possible courses of action. Programs for which this review is performed include leaking underground storage tanks and surface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

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

Ground Water Management Areas

The Ground Water Management Area (GWMA) program focuses on assessing areas where ground water problems from nonpoint source contaminants (such as agricultural chemicals) exist or are likely to exist. The Agency carries out detailed field studies to collect ground water 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 problem area as a Ground Water Management Area. The staff works closely with the Natural Resources District(s) (NRDs) within whose boundary the area is located throughout the investigation, designation and implementation stages. The NRDs are responsible for implementation of many aspects of this program. In fact, NRDs can designate Ground Water Management Areas acting on their own authority; in addition to the three NDEQ-designated areas, 19 NRDs have designated or will shortly designate GWMA's within their jurisdiction. However, if an NRD cannot or will not implement a Ground Water Management Area, the Department has the responsibility of implementation. The following map shows NDEQ study areas (numbers) and existing GWMA's (shaded areas).

Progress in the Ground Water Management Area Program



NDEQ GWMA Studies

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

Underground Injection Control (UIC)

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

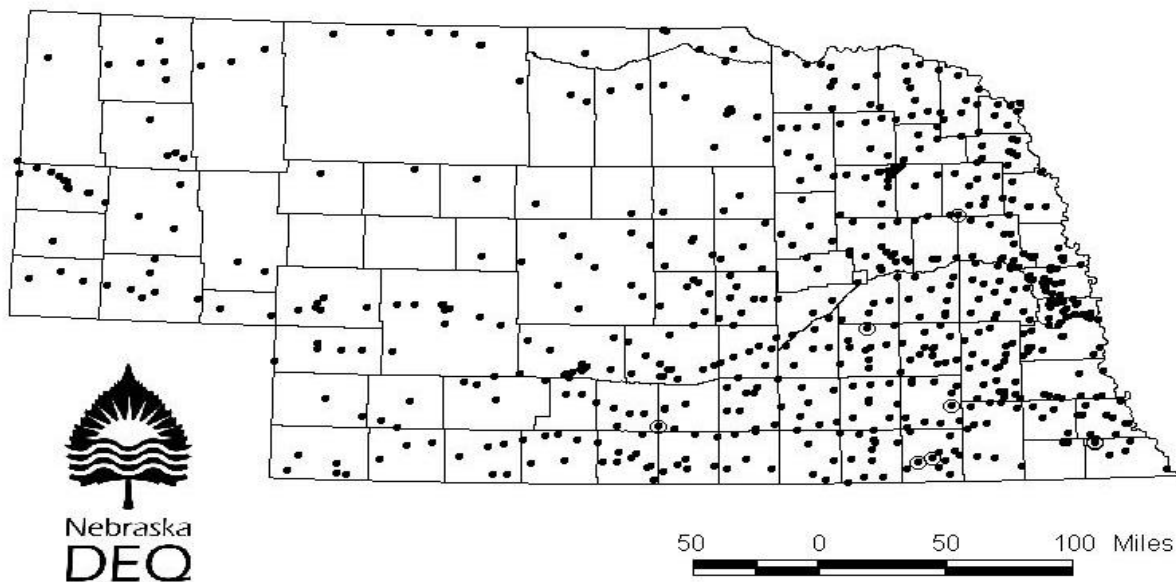
One Class I injection well currently operates within the state. The permit for this well is issued to Crow Butte Resources, Inc. for injection of wastewater below the lowermost underground source of drinking water. Class III wells are used to inject fluids for the purpose of extracting minerals. The only Class III wells in the State are at the Crow Butte Resources uranium facility near Crawford. Crow Butte Resources, Inc. operates 2072 Class III wells as of October 1, 2002.

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

Wellhead Protection

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

**Locations of Wellhead Protection Area Maps,
October 1, 2002**



○ Approved Local WHP Plan

Water Quality Planning

Surface Water Quality Standards

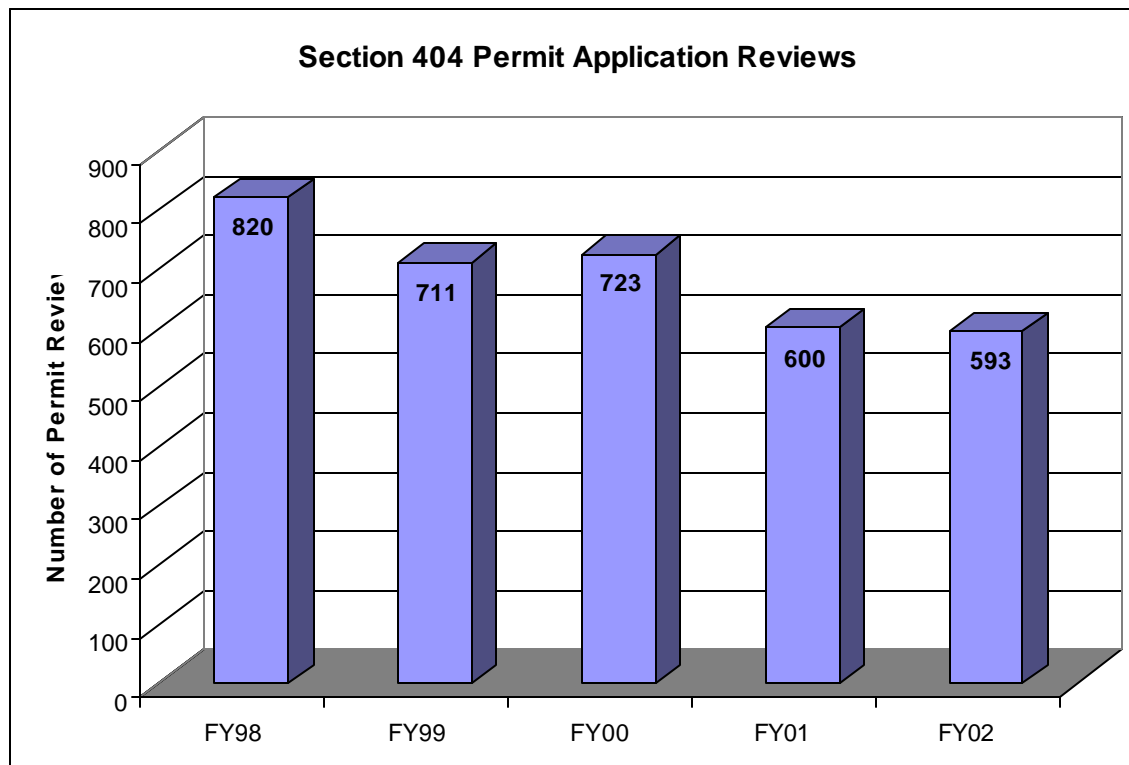
The Department of Environmental Quality (NDEQ) develops water quality standards that designate the beneficial uses to be made of surface waters and the water quality criteria to protect the assigned uses. Title 117 - Nebraska Surface Water Quality Standards form the basis of water quality protection for all surface water quality programs conducted by the department. The current version of Title 117 became effective on August 22, 2000. These standards are available on the department's web page at www.deq.state.ne.us. In addition to developing the standards, the Surface Water Section develops and implements procedures for applying the standards to surface water quality programs.

The August 2000 version of Title 117 was approved for use in Clean Water Act programs by the Environmental Protection Agency (EPA) in May 2001 along with a list of deficiencies which the EPA directed the department to correct. All but two of the issues raised by EPA have been addressed. The department and EPA have been conducting discussions and have made progress on addressing these two issues (how and where the recreational use is assigned to water bodies, and how State Resource Waters – Class B are designated) and expect to resolve them by the next triennial review, which will be completed in fall 2004.

In September 2002, the Environmental Quality Council approved additional revisions to Title 117. The department anticipates that following the Governor's approval, the EPA will approve the revisions, and the most recent changes to Title 117 can be used for Clean Water Act programs early in 2003.

Section 401 Water Quality Certification

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



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

Waters of the state are still under the authority of the Department of Environmental Quality because isolated wetlands are included in Title 117 – Nebraska Surface Water Quality Standards. Although the department has no permitting mechanism to authorize projects in advance of their implementation, procedures have been developed to assist project proponents who wish to avoid violating state water quality standards and potential enforcement actions. These entities are encouraged to contact NDEQ before implementing their project so that the plans can be discussed in light of Title 117 requirements.

Impaired Waters and Total Maximum Daily Loads (TMDLs)

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

In 2001 the department underwent an extensive public participation process in preparing and finalizing the impaired waters listing methodologies under Section 303(d) of the Clean Water Act. The intent of the exercise was to provide information to interested parties on the water quality data

assessment process. Public participation included several meetings, and responding to comments made on the proposed methodologies. The end result was assessment methods that yielded consistent and confident decisions on a water body's impairment status.

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

Along with the 303(d) list, the Department in 2002 prepared and submitted 10 TMDLs to EPA Region 7 for review and approval. TMDLs were developed for pollutants in the following waterbodies: Yankee Hill Lake, Wagon Train Lake, Zorinsky Lake, and Kirkman's Cove Lake. The pollutants addressed include nutrients, siltation/sedimentation, and dissolved oxygen. All of the TMDLs were approved and will be used as a component for managing pollutants in the respective watersheds.

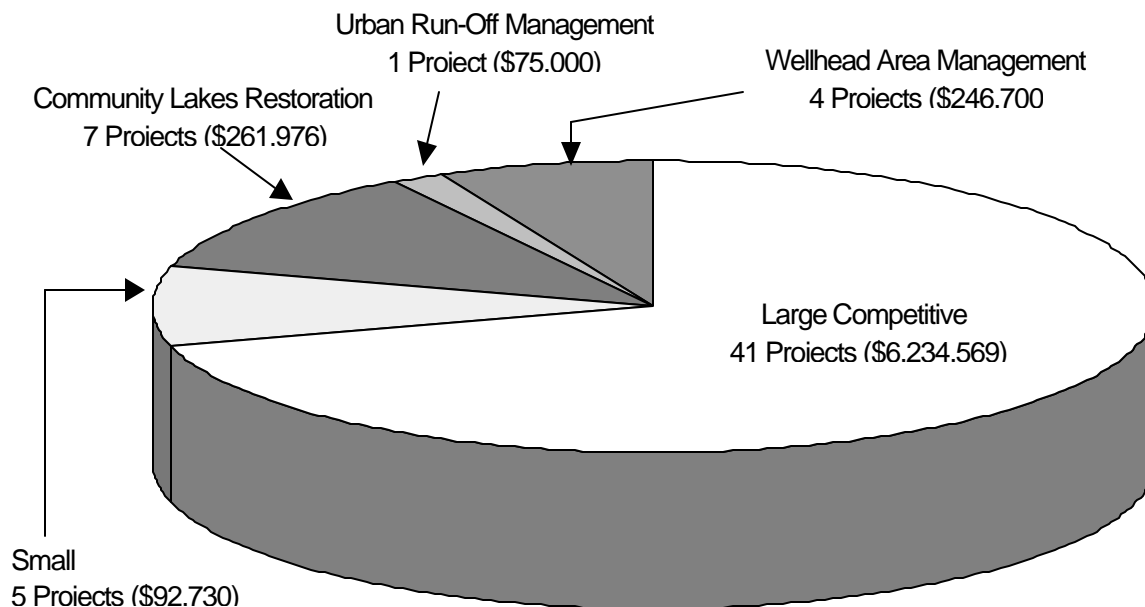
Nonpoint Source Management Program

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

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

Major components of the nonpoint source management program include program administration, nonpoint source monitoring and assessment, and implementation of nonpoint source pollution management projects through Section 319 grant funding. Nonpoint source monitoring and assessment is an integral and crucial element for the successful implementation of the program. Water quality information is needed to identify and prioritize nonpoint source problem areas, develop watershed management plans and TMDLs, and evaluate the effectiveness of measures implemented to abate nonpoint source pollution. Currently identified nonpoint source problems and priorities are defined in the primary guidance document of the Nonpoint Source Management program: "Strategic Plan and Guidance for Implementing the Nebraska Nonpoint Source Management Program – 2000-2015." Nonpoint source monitoring activities conducted during 2002 included investigative water quality evaluations, detailed watershed assessments, and effectiveness evaluations of implemented nonpoint source management measures.

Ongoing 319 Projects by Category



The Nonpoint Source Management program provides Section 319 grants to local sponsors of eligible projects in the following categories: 1) Large Competitive Projects (generally <\$300,000), 2) Small Projects Assistance (<\$15,000), 3) Community Lakes Restoration Assistance (<\$75,000), 4) Urban Run-off Management Assistance (<\$75,000) and 5) Wellhead Area Management Assistance (<\$75,000). During 2002, 58 projects were ongoing among the five grant categories. These included 41 large projects totaling \$6,234,569, 5 small projects (\$92,730), 7 community lakes projects (\$261,976), 1 urban run-off management project (\$75,000) and 4 wellhead area management assistance projects (\$246,700).

New projects funded by the Department during 2002 included 11 large projects totaling \$230,000, 1 small projects (\$9,700), and one wellhead area management assistance project (\$15,600). A total of 93 large projects have been funded through Section 319 grants since the beginning of the program in 1990. Of these 93 projects, 44 have addressed surface water, 34 have addressed ground water and 15 have focused on both surface water and ground water problems.

Source Water Assessment Program

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

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

In 1997, the Department of Environmental Quality was given the authority to develop a Source Water Assessment Program with the passage of LB517. In cooperation with an advisory committee and over 200 citizens (at meetings held in 22 locations statewide), the NDEQ developed a plan based on the components listed above. NDEQ is implementing the program in cooperation with the Nebraska Department of Health and Human Services, Nebraska Rural Water Association, the natural resources districts, and numerous stakeholders. As of June 30, 2002, 398 source water assessments had been distributed to public water supply systems; these assessments account for a total of over 397,000 Nebraskans. This accounts for approximately 30% of the total number of systems statewide and 26% of the state's population. All states must have a source water assessment completed for every public water supply by May 2003.

Continuing Planning Process (CPP)

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

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

Water Quality Data Handling and Storage

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

Early in 2003 the department intends to standardize the electronic transfer of data from the Department of Health and Human Services laboratory to the program for preparation and electronic storage. This process will allow a smoother transition and less time from generation to storage of water quality analysis results. The department also intends to store all of the existing water quality monitoring data in the STORET system, and make it available to the public in 2003. There will be a system in place to update the database on a regular schedule, making the most current information available to the public.

Water Permitting Programs

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

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

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

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

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

The Department is responsible for developing and issuing NPDES permits, and for ensuring that permitted facilities comply with permit requirements. The regulatory basis for this program is through an EPA delegation agreement with the Department and NDEQ Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*. The Nebraska NPDES program encompasses a number of different types of discharges including: municipal, commercial and industrial wastewater discharges; livestock waste control (this responsibility is under the Agriculture Section); industrial discharges to public wastewater treatment systems (a.k.a. the Nebraska Pretreatment Program); municipal combined sanitary and storm sewer overflows; and industrial and municipal storm water discharges. The graph titled "NPDES Discharge Authorizations" depicts the distribution of permits issued to various types of NPDES dischargers, except Livestock. The "General Permits" category includes discharge authorizations issued to ground water remediation sites, storm water discharges, dewatering/hydrostatic testing, and land application of wastewater.

NPDES Permits

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

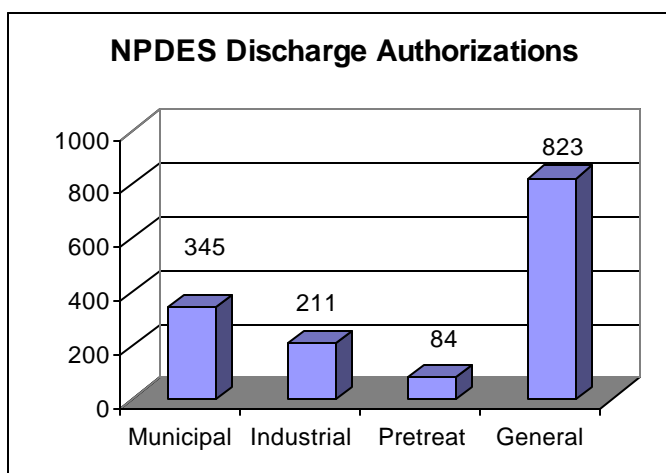
The permit development process involves identifying the pollutants of concern, and then developing permit limits based upon the more stringent of either technology based standards or water quality based standards. Technology based standards reflect effluent quality that can be achieved using treatment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

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

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

Permits may be developed and issued on an individual site-specific basis, or they may be developed and issued to apply to facilities with similar activities or effluent characteristics. These two types of permits are respectively referred to as individual permits and general permits. To date, the department has developed and issued 6 general permits for the following activity categories: hydrostatic testing and dewatering, gasoline contaminated ground water remediation projects, petroleum product contaminated ground water remediation projects, construction site storm water, industrial site storm water and land application of wastewater.

There are approximately 823 active facilities provided discharge authority under general permits and 636 facilities with discharge authorizations under individual permits. The table titled "NPDES Discharge Authorizations" provides a summary of this information. The general permits include 220 construction storm water, 22 dewatering/hydrostatic testing, 527 industrial stormwater, 29 land application and 25 other NPDES facility permits. The number of active facilities with general permit discharge authorizations was estimated because of the short-term nature of construction sites that are permitted for storm water discharges. The Department issued 162 new discharge authorizations in FY02 for construction storm water and the total number of active sites is approximately 220.

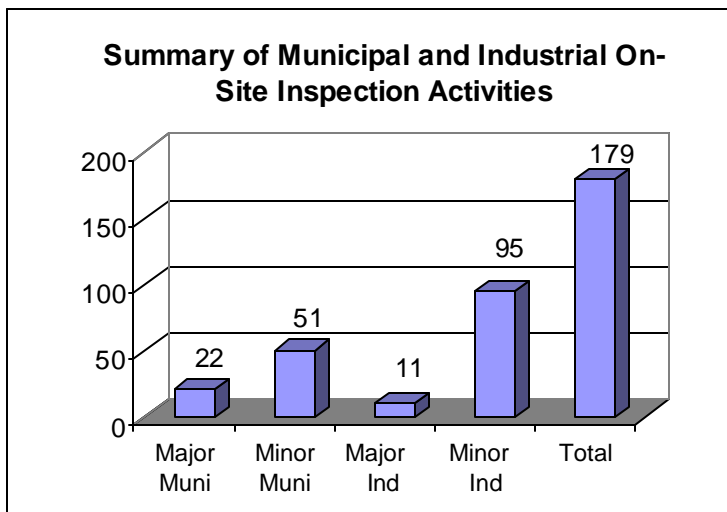
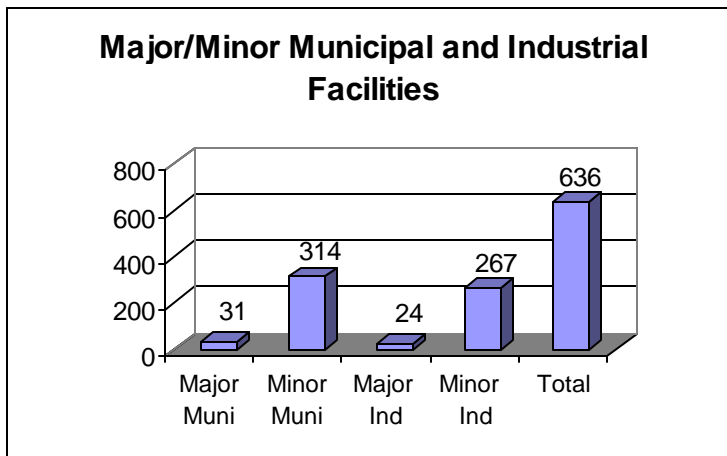


Municipal and Industrial Facilities

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

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

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



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

Storm Water Program

In compliance with federal regulations, the NPDES Storm Water Phase I Program regulates the discharge of pollutants in storm water from certain construction sites, industrial facilities and municipal storm sewer outfalls. 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). Construction sites of 5 acres or more are included in the program. Omaha and Lincoln are subject to the municipal separate storm sewer system program. All the storm water sources subject to the program are required to apply for and obtain NPDES permits that regulate the discharge of pollutants in storm water.

Storm Water Phase II federal regulations, that are to be implemented in 2003, will lower the threshold for coverage of construction sites to 1 acre or more. These regulations will also increase the number of municipalities and urban areas that are subject to the NPDES program for storm water discharges. Included in this expanded municipal storm water program are the urbanized areas in Douglas, Sarpy, Lancaster and Dakota Counties; and the Department must make a decision by Dec 9, 2002 on including the communities of Beatrice, Columbus, Fremont, Grand Island, Hastings, Kearney, Norfolk, North Platte and Scottsbluff. Planning activities needed to implement these additional federal mandates will continue during FY2003. Implementation of Phase II will cause a large increase in the workload.

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

The Department has entered into a Memorandum of Understanding with the City of Omaha to better coordinate the NPDES construction storm water program with the City's Grading Permit Program. The Department also maintains a similar working arrangement with the City of Lincoln and Lower Platte South NRD. As a result, Omaha, Lincoln, the Lower Platte South NRD and the Department share compliance and permit application review responsibilities. This sharing of responsibilities continues to provide mutual benefits from both an environmental and a resource management perspective.

Combined Sewer Overflows

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

We are aware of at least the two cities of Omaha and Plattsmouth and the Nebraska State Fair Park in Lincoln having combined sewers subject to storm induced bypasses. There may be other isolated cases of small sections of combined sewer systems elsewhere in the state. The long term goal is total elimination of combined sewers in these locations, but this is a costly proposition. Federal regulations call for implementation of certain initial control measures and a long term plan to reduce CSO discharge impacts. The Department completed work in FY2002 to develop the Omaha NPDES permit for CSOs to implement these Federal regulatory requirements. The Omaha permit will be issued in FY2003. Work on the other CSOs is a lower priority and will proceed when time is available.

Wastewater Treatment Sludge and Biosolids Disposal

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

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

Nebraska Pretreatment Program Permits

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

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

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

Wastewater Engineering Management

Wastewater Engineering Management activities include review of planning documents and construction documents for municipal, industrial, and commercial wastewater treatment facilities and sanitary sewer lines. These reviews utilize technical sanitary engineering planning and design parameters to evaluate the process design to best ensure protection of sanitation, public health, and environmental requirements. This program must issue construction permits once design and specifications have been submitted and approved. In addition, the section maintains and updates regulations, guidelines, requirements, and technical standards that provide the basis for design of these facilities. Staff also assisted the Nebraska Partnership Program.

For SFY02, a total of 247 construction permits were issued to projects. Of this number, 90% were for sanitary sewers or pump stations, and the remainder were for wastewater treatment facilities. Considerable effort was expended advising and monitoring Ethanol facilities this year.

On-Site Assistance Program

The On-Site Assistance Program has been administered by this Department since 1983. The program is funded by an EPA grant through Sec. 104(g)(1) of the Clean Water Act. The Department received \$33,000 in grants and matched it with \$11,000 of state funds in FY02. The on-site program provides one-on-one training to wastewater treatment facility operators. This training is focused on assisting the operator to improve operation and maintenance of wastewater treatment plants. In addition the Department received \$22,500 in homeland security grants for security assessment training.

The 104(g) federal on-site assistance program for wastewater operators provided diagnostic evaluation, initiated training, closed the project, or continued work at Arlington, Auburn, Bancroft, Cook, Decatur, Eagle Lake, Lakewood, Neligh, Plainview, Ponca, Shubert, Waverly, and Walthill. Extra Assistance visits were made to Holbrook. Bancroft was completed and closed from the program this year. Generally, training is completed at facilities in a two-year period. Presenting the findings and accomplishments of the training to the Village Boards or City Councils or other appropriate body completes training at all facilities. The training program, paired with dedicated efforts from the communities involved, has yielded positive results.

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

A team of four staff members provided training. The team consisted of a trainer, engineer, compliance specialist and a permit writer.

On-Site Wastewater Treatment Facilities

The on-site wastewater treatment facilities program includes those systems, which are typically not connected to a municipal wastewater treatment system. The two primary types of on-site systems are septic tanks and lagoons. The program focuses on protecting surface and ground water in the area of proposed on-site systems through the review of plans and permitting of large systems, systems with non-standard wastes, and subdivision development. Agreements with local

governmental agencies are used to manage the septic tank program in their jurisdiction. The staff continues to provide information to the public on the regulations for new on-site systems through individual telephone calls, meetings, and education seminars. Staff meets with local government officials and developers to discuss waste management alternatives for subdivisions and housing developments located outside a municipal sewer system that must be approved by the Department before construction.

Staff has established studies to examine potential contamination from septic tanks and evaluate improved treatment options for on-site systems. The studies at Willow Point and the I-80 rest areas concluded last year and the reports are in final draft. Willow Point centered on documenting any ground water impact from individual septic tanks. Willow Point is a sandpit lake housing development on the Platte River. The study at a Department of Roads I-80 rest area involves the use of a sawdust layer to denitrify nitrates from the leach field.

The regulations (Title 124) have been revised and became effective October 3, 1999. These regulations eliminate the need for some permits, provide for new technology, combine all on-site systems in one regulation, and focus the Department's resources on subdivision developments, larger systems and education.

Staff are working with the Nebraska Onsite Wastewater Association (NOWWA), to improve installation of on-site wastewater systems. This association has held several conferences since its start on March 2001. The NOWWA may also propose legislation for consideration regarding the licensing of installers, pumpers, site evaluators and designers.

Wastewater Treatment Facility Operator Training and Certification Program

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

This program is responsible for administration of the certification examinations and for recertification of operators who have obtained the necessary continuing education. Staff is required to monitor and ensure compliance on those facilities that are required to have certified operators. The wastewater operator training certification program has 785 certified operators.

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

This program has an established fee system intended to meet program management needs. An increased fee system was implemented on August 29, 2002. This fee increase is expected to meet administrative cost needs through FY2008.

The Department has been working with an industrial operators task force to revise Title 197 to certify industrial wastewater treatment plant operators. This is the third and final phase of the certification program as set forth in statute.

Community Aid Unit

The Community Aid Unit oversees state/federal-funding assistance for municipal wastewater facilities and public water supply systems. These are administered through the Clean Water State Revolving Loan Fund (CWSRF), and the small town grants program, the EPA Hardship Grants Program, and the Drinking Water State Revolving Loan Fund (DWSRF).

Clean Water State Revolving Loan Fund

The 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. The repayment of principal on loans goes into new loans and the interest on loans is used 1) to pay off the state match bond issues and 2) to make new loans.

The CWSRF capitalization grants, which require 20% state match (obtained through NIFA bond issues) and the loan repayments, are used to fund projects constructed by municipalities to alleviate public health and environmental problems. Funds obtained by the CWSRF are allocated to municipalities for construction of wastewater treatment facilities and sanitary sewers. During the first fourteen years of activity, the CWSRF has reached a \$116.5 million capitalization level: \$93.7 million received from federal grants, \$2.5 million in match from state general fund appropriations, and \$17.13 million in match from NIFA/SRF bond issues. There is also \$44.2 million in recycled principal that has been loaned by the program. The program made loans that total \$165.5 million to 96 municipalities for wastewater facility construction.

In FY02, the CWSRF received capitalization grants totaling \$8.226 million from FY02 federal appropriations. The program disbursed \$18.5 million for wastewater treatment project construction, bond costs, and administration. Loan contracts were signed with 17 communities for a total obligation of \$18.8 million. The present fund growth rate (not considering bond costs) is projected at 4.06% based on the return of the long term loan portfolio investment and short term unencumbered cash investments. The program is now reaching the level of participation from small communities that is desired, but, additional marketing efforts are being taken to encourage continued small community participation in the program. The following chart shows the municipalities that received Clean Water State Revolving Fund loans in FY2002.

Municipalities Receiving CWSRF Loans in FY2002

MUNICIPALITY	LOAN DATE	LOAN AMOUNT	SMALL TOWN GRANT AMOUNT
Dannebrog	7/16/01	100,000	100,000
Stromsburg	8/28/01	156,000	
Kearney Amd#1	9/28/01	2,900,000	
Bellwood Amd#1	11/5/01	60,468	
Maywood	11/29/01	274,050	100,000
Holbrook	12/3/01	300,600	100,000
Brule	12/11/01	135,000	100,000
Eagle	12/18/01	1,950,000	
Rushville Amd#1	1/14/02	259,400	
Omaha	1/31/02	4,300,000	
Shelton	2/7/02	1,250,000	
Chambers	3/12/02	88,250	88,250
Omaha NPS	3/21/02	900,000	
West Point	4/17/02	4,000,000	
Kimball	5/7/02	610,000	
McGrew	5/7/02	52,900	52,900
Wahoo Amd#1	6/27/02	1,500,000	

Thirteen SRF wastewater projects completed construction and initiated operation in SFY02: Beatrice, Bellwood, Cedar Rapids, Diller, Gretna Phase 1, Gretna Phase 2, McCook, Omaha NPS, Pickrell, Rushville, SID No. 101 Sarpy Co., Stromsburg, and Wisner.. Fourteen projects are under construction: Ayr, Brule, Chambers, Crab Orchard, Eagle, Fremont, Kearney, Kimball, Maywood, Neligh, Omaha CSO, Shelton, Sutton, and Wahoo..

Small Community Matching Grants

The small community matching grants program, which provides matching grants to municipalities with population of 800 or less, is a subprogram of the CWSRF. This program has provided \$2.217 million in grant funding for 24 projects in conjunction with a CWSRF loan during the twelve years of the program. Many small municipalities find the needed projects are too costly without the additional grant subsidy provided along with the CWSRF loan. During FY2000 legislation was passed which provides up to \$500,000 per year for small town matching grants. It is our intent to provide funding to as many projects as possible who qualify, therefore, we are limiting the amount that any one community can receive to \$100,000.

EPA Hardship Grants Program

The EPA Hardship Grants Program for Rural Communities, authorized by the Congressional Appropriations Act of 1996 was implemented by DEQ in conjunction with the CWSRF in SFY98.

A total of \$496,020 in federal funds and state match was allocated to a project in the Village of Crab Orchard. The funds provided were for planning, design, and construction for a complete

wastewater collection and treatment facility; however, at the completion of the Crab Orchard project some funds may be recovered which could be used for other projects.

Drinking Water State Revolving Loan Fund

In August 1996 the federal Safe Drinking Water Act was amended to include a Drinking Water State Revolving Fund program (DWSRF). In 1997 the Nebraska Legislature passed LB517, which amended the Nebraska Safe Drinking Water Act and established the DWSRF. An agreement between the NDEQ and the Nebraska Department of Health and Human Services Regulation and Licensure (DHHSR&L), effective on October 30, 1997, defined the authority of the two agencies in administering the DWSRF program. In December 1997 Title 131 was amended to incorporate the DWSRF program regulations.

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

DWSRF Source of Funds

	PRIOR CARRYOVER	FFY2002	FFY 2003 ESTIMATE
Capitalization Grant DWSRF		8,052,500	8,000,000
NIFA Series 2002A Match Bonds		1,610,500	
Future NIFA Bonds			1,600,000
Loan Repayments		1,045,000	1,120,000
TOTAL DWSRF		10,708,000	10,720,000
Less Loan Awards and Set-Asides		978,150	975,000
Available for Loans	2,746,742	9,729,850	9,745,000

In FY2002, the DWSRF received capitalization grants totaling \$8.05 million from FY02 federal appropriations. The program disbursed \$9.004 million for drinking water project construction. Loan contracts were signed with 2 communities for a total obligation of \$1.058 million including Loan Forgiveness. The following chart shows the municipalities which received Drinking Water State Revolving Fund loans in FY2002.

Municipalities Receiving DWSRF Loans in FY2002

MUNICIPALITY	LOAN DATE	LOAN AMOUNT	LOAN FORGIVENESS
Paxton Amd#1	12/12/01	493,000	

Duncan	1/8/02	465,000	100,000
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Ten DWSRF projects completed construction and initiated operation in SFY02: Albion, Blair, Blue Hill, Culbertson, Grant, Hebron, Metropolitan Utilities District, North Platte, Oakland, and Plattsmouth. Seventeen projects are under construction, including those who have received loans so far during SFY2003: Bennet, Beatrice, Boyd County RWD#2, Bruning, Cedar-Knox Rural Water Project, Clay Center, Cuming Co. RWD#1, Duncan, Grafton, Hubbard, Kearney, North Platte, Paxton, Sidney, Stamford, Tekamah, and Valentine. .

Detailed capitalization funding uses, including planned set-aside options and anticipated levels of loan forgiveness, are shown in Table 2. Section 1452 of the SDWA authorizes states to set-aside funds to implement provisions of the SDWA. Initially the full amount of several of these set-asides is being reserved because of the short time frame and unknowns associated with implementing these provisions. As requirements are met, it is anticipated that the set-asides may be reduced and any remaining funds can be transferred to the DWSRF. Discussion on the planned utilization of these set-asides follows.

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

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

Under the Source Water Protection Implementation (15%) set-aside NDEQ and HHSR&L will use two-thirds (\$1,282,400) of the funds from the FFY97 grant to delineate and assess source water protection areas as required under Section 1453. The remainder of FFY97 funds, the FFY98, FFY99, FFY2000, FFY2001 and FY2002 funds (\$390,000) will be used to implement any other source water protection programs eligible under Section 1452 (k). Of this amount, \$805,250 is targeted to land acquisition.

The DHHSR&L has determined eligibility for Public Water Supply program management, development and implementation of a capacity development strategy, and a water operator certification program set aside of \$300,000 (4.2%). The state may use up to a total of 10 percent for this set aside but must provide a one-to-one state match by Section 1452(g)(2). DHHSR&L has determined the 4.2% set aside eligibility by using program overmatch dollars for federal fiscal years 1993 to 1997. No additional state dollars will be provided or required for the 4.2% set aside amount. The DWSRF intends to provide loan forgiveness to disadvantaged communities to the extent funds are available as outlined in the table below. Loan forgiveness funds will be targeted to the highest priority projects on the Project Priority List until all designated funds are allocated.

DWSRF FUNDING USES AND STATUTORY LIMITS

	CAPITALIZATION GRANT ALLOCATION PERCENTAGE		
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	LEGAL LIMIT	INTENDED USE LEVEL	FEDERAL	STATE
<u>FY2002</u>				
DWSRF			6,269,100	1,610,500
DWSRF Administration	4%	4%	322,100	
Small System Technical Assistance	2%	2%	161,050	
Source Water Protection Implementation	15%	12.42%	1,000,250	
Public Water System Program Administration	10%	3.73%	300,000	
TOTAL			8,052,500	1,610,500
2002 Loan Forgiveness	30%	6.42%	500,000	
<u>FY2003 Projected Funding</u>				
DWSRF			6,225,000	1,600,000
DWSRF Administration	4%	4%	320,000	
Small System Technical Assistance	2%	2%	160,000	
Source Water Protection Implementation	15%	12.44%	995,000	
Public Water System Program Administration	10%	3.75%	300,000	
TOTAL			8,000,000	1,600,000
2003 Loan Forgiveness	30%	6.25%	500,000	

CHAPTER 7:

Environmental Assistance Division

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

Over the last year, the division has been increasing the effectiveness of the department's assistance programs. The Pollution Prevention and Small Business and Public Assistance coordinators have been working on department-wide efforts related to their programs. Through the efforts of their teams, the department can provide greater assistance and prevention activities.

The division has also been active in coordinating environmental partnership efforts with the Nebraska Public Power District (NPPD). The partnership capitalizes on the strengths of the two organizations that will benefit all Nebraskans. One of the primary projects of the partnership is exploring the potential for recovering methane from livestock waste.

Small Business and Public Assistance Program

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

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

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

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

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

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

Pollution Prevention Program

The Pollution Prevention plan is based on the premise that "an ounce of prevention is worth a pound of cure."

The Pollution Prevention program offers promising solutions to avoid, eliminate or reduce contamination of our air, land and water and represents a proactive approach to environmental protection. The department is committed to assist Nebraskans in attaining and maintaining the outstanding quality of our air, land and water.

The program helps sources minimize their impact on the environment by eliminating or reducing the amount of waste generated or pollutants emitted. The program utilizes a waste management hierarchy that relies on: 1) waste reduction at the source, 2) reuse and recycling, and 3) treatment or proper disposal of any generated waste.

The Pollution Prevention program, in conjunction with a department-wide team comprised of individuals from different areas of the department, has developed a pollution prevention strategy that maximizes the department's efforts of pollution prevention. The team provides both internal and external pollution prevention projects information. They also provide training, pollution prevention messages and tips, articles for the Statehouse Observer and Lincoln Kids magazine, as well as many other activities.

A primary objective of the program is eliminating or reducing waste generation through on-site technical assistance, technology transfer and public education. The assistance offered is proactive and non-regulatory in nature. Those accepting the offer of on-site assistance will be provided with a pollution prevention assessment that can significantly reduce the emission of pollutants and decrease the amount of waste generated.

SARA Title III – Community Right-To-Know

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

The Community Right-To-Know program distributes outreach materials, responds to public requests for information, and receives and stores vast amounts of information required under this act. The information that facilities are required to provide the department, acting on behalf of the State Emergency Response Commission (SERC), 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 may be required to submit a Tier II report if 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. The number of Nebraska facilities reporting Tier II information on regulated chemicals above EPA-established thresholds for calendar year 2001 totaled 2,017. This number is comparable to past years.

Over the last year, Environmental Assistance Division has been working with the department's Data Management section to enable online entry of required information. Facilities will be able to access, view, change and report their chemical information online instead of submitting a paper copy form each year.

Nebraska Environmental Partnerships

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

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

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

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

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

The program is also responsible for coordinating a number of other projects that assist small communities. The program has sponsored training for state agency staff aimed at improving communication. The program is working on its third conference that showcases proven low-cost alternatives for wastewater treatment and water supply systems. The program has sponsored projects for constructing wetland treatment systems and improving the operation of septic systems. The program has, with the Nebraska Environmental Trust and the Department of Natural Resources, funded the closure of abandoned wells. Those funds have all been obligated, but additional funds will be pursued by DEQ's Water Quality Division.

CHAPTER 8:

Low-Level Radioactive Waste Program

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

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

License Decision

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

Litigation

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

On September 30, 2002, after 40 days in trial, a federal judge issued a decision against the State of Nebraska. It was the judge's determination that there was political influence in the decision-making process. The State strongly disagrees with the judgment and has appealed the decision to the 8th Circuit Court of Appeals. It is expected that oral arguments on the appeal will be scheduled for the summer of 2003.

State Membership in Central Interstate Compact Commission

Separately, in August 1999, by action of the State Legislature, the State notified the Central Interstate Compact that it had decided to withdraw its membership from the Central Interstate Compact. Compact rules outline that a state's withdrawal is effective five years after notification. In September 1999, the Commission held a special meeting to discuss the withdrawal. Compact rules describe that its members can invoke sanctions against a withdrawing state that has not fulfilled its obligations. The meeting was continued while the trial was underway, but Commission officials indicate they may revisit the issue at its January, 2003 meeting.

Funds

Since March 8, 1999, the Department has paid LLRW Program expenses from the State's general fund budget and from Cash Fund transfers. On that date, a federal court judge issued an

order in the suit described above restraining the Department from collecting or spending any funds received from the Central Interstate Compact Commission, state generators of low-level radioactive waste, or US Ecology.

Historically, the Program administered the distribution of aid from two cash funds created by the Nebraska Legislature: the Community Improvements Cash Fund and the Local Monitoring Committee Cash Fund.

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

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

CHAPTER 9:

Expenditure and Budget Summary

The following information summarizes department expenditures for fiscal year 2002 and outlines budget projections for fiscal year 2003. 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 FY02 expenditures for each federal grant, including the state match.

Chart B lists actual FY02 expenditures of programs funded by state general funds and/or cash funds. This chart lists expenditures by activity. Activity in this case is not considered a program activity, but is a category of expenditure. Activities listed in this chart are personal services, operating expenses, travel, capital outlay, consulting and distribution of aid.

Chart C is the proposed FY03 budget for each federal grant. Chart C also lists proposed match for each program for which a non-federal match is required. Additionally, match for the 319H grant is provided for by in-kind services in the ground water management area program. As in FY02, a portion of the required match for the air program is provided by local funding.

Chart D lists proposed FY03 budgets for programs funded by state funds. This chart lists proposed expenditures by activity. Please note, activity is not a program activity, but a category of expenditure. Activities listed are personal services, operations, travel, capital outlay, consulting and distribution of aid.

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

Chart A -- Actual Expenditure for Each Federal Grant for State Fiscal Year 2002

Grant/Program Title	Match	Grant	Total
Performance Partnership (1)	1,710,848	3,457,359	5,168,207
06 CW State Revolving Fund Loans	1,095,000	12,227,108	13,322,108
07 CW State Revolving Fund Administration (2)	262,540	-	262,540
12 604 B	-	79,159	79,159
18 Superfund Core	1,318	26,714	28,032
19 Wetlands Protection	392	16,138	16,530
23 Superfund Management Assistance	38,960	73,067	112,027
26 Underground Injection Control	7,970	58,555	66,525
27 Long Pine	-	2,638	2,638
28 Improved Public Access	-	5,778	5,778
42 Leaking Underground Storage Tanks	67,381	654,207	721,588
44 Superfund Core	13,454	654,207	667,661
45 Department of Defense	-	82,845	82,845
46 Hardship Grant	313	8,034	8,347
47 Superfund Management Assistance	17,598	18,791	36,389
48 One Stop Reporting Grant	-	156,982	156,982
49 Operator Training	8,261	70,924	79,185
54 Superfund Core	6,060	55,444	61,504
56 319 H Non-Point Source (3)	139,931	2,476,008	2,615,939
58 PM 2.5 Ambient Air Monitoring Network	-	393,415	393,415
60 Mandates Management Initiative	-	142,865	142,865
70 NDEQ TMDL	-	5,004	5,004
70 MST for TMDL	-	2,255	2,255
70 Joint State/Big Blue Atrazine	-	38,860	38,860
70 GIS Coordination	-	5,145	5,145
70 Buffer Strip Project	-	4,000	4,000
70 TMDL Development	-	246	246
70 Pollution Prevention Incentives	-	151,065	151,065
70 P2 Technical Assistance	-	21,857	21,857
70 Nebraska Reservoir Sediment Study	1,229	31,992	33,221
70 Environmental Partnership	-	1,605	1,605
73 Superfund Pre-Remedial	-	12,016	12,016
75 R E M A P	-	17,389	17,389
79 Water 106 Supplemental Grant	-	216,274	216,274
80 Superfund Pre-Remedial	-	300,357	300,357
82 Pollution Prevention PPG	36,695	63,540	100,235
86 DW State Revolving Fund Loans (2)	1,438,341	7,613,896	9,052,237
87 DW State Revolving Fund Administration	-	311,382	311,382
88 DW State Revolving Fund Set-A-Side	-	376,103	376,103
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Totals	4,846,291	29,833,224	34,679,515

(1) Performance Partnership is made up of Water 106, Air 105, Groundwater, RCRA 3011, and TSCA Grants

(2) Match provided by State General Fund Appropriations and Revenue Bonds issued by NIFA

(3) Match is provided by the state funding for the Ground Water Management Area Program subprogram 35

Chart B -- Actual Expenditure of State Funds for State Programs for Fiscal Year 2002 Including Aid

Program	Subprog	Fund Type	Personal Services	Operating Expenses	Travel	Capital Outlay	Consulting/ Contractual	Total	Distribution of Aid	Total
Integrated Solid Waste Management	04	C	961,217	406,120	40,984	8,021	56,061	1,472,403	2,999,929	4,472,332
Landfill Closure Assistance	10	C	160	119	-	-	1,454	1,733	153,200	154,933
Environmental Trust Fund	11	C	-	8	-	-	36,654	36,662	12,901	49,563
Agriculture - Livestock	16	G/C	1,001,605	43,882	37,256	14,886	50,233	1,147,862	-	1,147,862
Litter Reduction	24	C	68,073	30,407	2,674	1,276	63,214	165,644	985,672	1,151,316
Mineral Exploration	29	C	47,994	8,629	6,964	225	3,613	67,425	-	67,425
Title V	33	C	987,773	438,644	48,781	6,846	459,282	1,941,326	-	1,941,326
Chemigation	34	C	15,807	9,734	77	1,390	172	27,180	-	27,180
Ground Water Management Areas	35	G	126,030	5,702	5,422	1,276	1,500	139,930	-	139,930
Remedial Action Plan Monitoring Act	36	C	69,198	22,132	1,162	73	46,257	138,822	-	138,822
Underground Storage Tanks	39	G/C	-	-	-	-	-	-	-	-
Operator Certification	40	C	31,339	19,358	2,457	1,052	3,113	57,319	-	57,319
SARA Title III	41	G	70,284	7,815	1,651	1,185	8,061	88,996	-	88,996
Petroleum Release Remedial Action Act	51	C	658,995	249,501	12,796	10,808	2,199,213	3,131,313	4,162,668	7,293,981
Emergency Response	57	G	93,356	839	3,950	-	3,197	101,342	-	101,342
Engineering Reviews	61	G	224,698	4,941	431	2,280	323	232,673	-	232,673
Ground Water Monitoring	72	G	-	761	-	-	19,472	20,233	-	20,233
Low Level Radioactive Waste	85	G	205,447	61,953	50,452	3,983	8,001,749	8,323,584	-	8,323,584
Totals			4,561,976	1,310,545	215,057	53,301	10,953,568	17,094,447	8,314,370	25,408,817

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 for State Fiscal Year 2003

Grant/Program Title	Match	Grant	Total
Performance Partnership (1)	1,610,306	3,205,681	4,815,987
06 CW State Revolving Fund Loans	200,000	7,200,000	7,400,000
07 CW State Revolving Fund Administration (2)	-	-	-
12 604 B	-	100,000	100,000
19 Wetlands Protection	-	13,000	13,000
23 Superfund Management Assistance	-	110,000	110,000
26 Underground Injection Control	-	75,413	75,413
28 DP	-	150,000	150,000
42 Leaking Underground Storage Tanks	90,436	722,284	812,720
44 Superfund Core	33,758	303,825	337,583
45 Department of Defense	-	117,921	117,921
46 Hardship Grant	-	362,000	362,000
48 One Stop Reporting Program	-	114,459	114,459
49 Operator Training	11,000	33,000	44,000
54 Superfund Voluntary Cleanup Program	8,843	79,591	88,434
56 319 H Non-Point Source (3)	-	2,295,982	2,295,982
58 PM 2.5 Ambient Air Monitoring Network	-	335,758	335,758
59 Brownfields	-	11,451	11,451
70 EPA Contract Grants	-	500,000	500,000
73 Superfund Pre-Remedial	-	150,000	150,000
79 Water 106 Incremental	-	60,245	60,245
82 Pollution Prevention PPG	59,169	71,024	130,193
86 DW State Revolving Fund Loans (2)	-	7,000,000	7,000,000
87 DW State Revolving Fund Administration	-	417,591	417,591
88 DW State Revolving Fund Set-A-Side	-	1,054,213	1,054,213
Totals	2,013,512	24,483,438	26,496,950

(1) Performance Partnership is made up of Water 106, Air 105, Groundwater, RCRA 3011, and TSCA Grants

(2) Match provided by State General Fund Appropriations and Revenue Bonds issued by NIFA

(3) Match is provided by the state funding for the Ground Water Management Area Program subprogram 35

Chart D -- Proposed Budget of State Funds for State Programs for Fiscal Year 2003 Including Aid

Program	Subprog	Fund Type	Personal Services	Operating Expenses	Travel	Capital Outlay	Consulting/ Contractual	Total	Distribution of Aid	Total
Integrated Solid Waste Management	04	C	890,476	330,632	35,650	8,000	1,093,191	2,357,949	-	2,357,949
Landfill Closure Assistance	10	C	5,761	2,772	-	-	-	8,533	-	8,533
CLEAR	11	C	-	600,000	-	-	-	600,000	-	600,000
Agriculture - Livestock	16	G/C	998,390	62,524	42,050	5,100	-	1,108,064	-	1,108,064
Litter Reduction	24	C	73,086	27,142	1,409	766	40,910	143,313	1,206,687	1,350,000
Mineral Exploration	29	C	52,331	16,567	4,500	140	5,700	79,238	-	79,238
Title V	33	C	1,163,248	441,645	44,449	15,414	320,128	1,984,884	-	1,984,884
Chemigation	34	C	19,146	11,263	46	834	2,161	33,450	-	33,450
Ground Water Management Areas	35	G	92,591	5,150	5,693	2,000	1,550	106,984	-	106,984
Remedial Action Plan Monitoring Act	36	C	88,524	26,991	950	44	114,676	231,185	-	231,185
Operator Certification	40	C	55,210	20,140	2,650	-	3,500	81,500	-	81,500
SARA Title III	41	G	72,170	7,846	2,134	1,888	6,000	90,038	-	90,038
Petroleum Release Remedial Action Act	51	C	808,055	271,151	13,447	9,582	7,154,844	8,257,079	6,000,244	14,257,323
Emergency Response	57	G	86,416	4,036	4,450	-	5,100	100,002	-	100,002
Engineering Reviews	61	G	224,611	3,153	510	4,104	880	233,258	-	233,258
Low Level Radioactive Waste	85	G/C	196,257	1,112,869	29,837	2,069	6,231,833	7,572,865	-	7,572,865
Waste Reduction	91	C	168,947	82,893	5,300	-	-	257,140	2,971,550	3,228,690
Totals			4,995,219	3,026,774	193,075	49,941	14,980,473	23,245,482	10,178,481	33,423,963

FUND TYPE LEGEND:

G - Program Expends General Funds

C - Program Expends Cash Funds

G/C - Program Expends General and Cash Funds

CHAPTER 10:

Distribution of Aid

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

This chapter provides a summary of those aid activities for fiscal year 2002. It also provides information regarding the Litter Reduction and Recycling Grant Program as required by §81-1504.01, passed in the 1993 legislative session.

Waste Management Grants

Following is a summary of funds provided in 2002 through the waste grants programs managed in the Waste Planning and Aid Unit.

The Litter Reduction and Recycling Grant Program provides funds to reduce litter, provide education and promote recycling in Nebraska. It operates on an annual rather than a fiscal year basis. Funding for the program is an annual fee on manufacturers, wholesalers and retailers who have significant sales in categories of products that would generally be considered to produce litter. Approximately \$1.1 million is available annually through this program.

In calendar year 2002, 54 Litter Reduction and Recycling grants were awarded, totaling \$1.05 million. The grants were awarded in three categories: Public Education, \$498,750; Cleanup, \$52,500; and Recycling, \$498,750. These grants were awarded to both public and private entities.

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

In fiscal year 2002, 82 projects totaling \$3,780,696.84 were funded from the Waste Reduction and Recycling Incentive Grants Program.

The Illegal Dumpsite Cleanup Program, established in 1997 by LB 495, receives up to five percent of the total revenue from the disposal fee collected in the preceding fiscal year. This program provides funding for political subdivisions to cleanup solid waste disposed of along public roadways or ditches. During Fiscal Year 2002, \$79,210 was reimbursed to political subdivisions for the cleanup of illegal dump sites.

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

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

Since its inception in 1995, seven communities have participated in the program. Approximately \$277,575 in rebates has been awarded through calendar year 2001.

Water Programs

The Leaking Underground Storage Tank program provides aid through the Petroleum Release Remedial Action Fund to assist in paying the cost of cleanup of sites where petroleum has leaked from tanks, generally service stations. Funding to this program is provided mostly by a fee on petroleum sold in Nebraska. The program provided \$4,065,288 to 231 sites for investigation and cleanup in FY2002.

Funding assistance for construction of wastewater treatment facilities is provided through three separate funding sources. The state has a Small Community Matching Grants program which provides funding to small communities in conjunction with use of the Clean Water State Revolving Loan Fund for construction of municipal wastewater facilities. Communities with populations of less than 800 are eligible for funding under this program. In fiscal year 2002, the program allocated \$541,150 to six communities.

Additionally, the Clean Water State Revolving Loan Fund (SRF) provides low interest loans to municipalities for construction of wastewater treatment facilities and sanitary sewer collection systems. The sources of funding for this program include federal grants, an initial state general fund appropriation and funds from Nebraska Investment Financial Authority (NIFA) through bond issuance. In FY2002, loans totaling \$18.8 million were allocated, and \$18.5 million was disbursed.

The Drinking Water State Revolving Fund provides funding assistance on Drinking Water projects. In FY2002, loans totaling \$1.1 million were allocated, and \$9.0 million was disbursed.

The construction of wastewater and drinking water facilities is a multi-year process. There are projects which have been approved in previous fiscal years which have may received funds in fiscal year 2002. Conversely, projects approved in fiscal year 2002 may receive funds in future fiscal years.

The Nonpoint Source Management program provides pass through funding for the prevention and abatement of nonpoint source water pollution and the restoration of watershed resources under Section 319 of the federal Clean Water Act. This funding is provided to units of government, educational institutions, and non-profit organizations, for projects that facilitate implementation of the state Nonpoint Source Management Plan. Funds provided in FY2002 included: \$6,234,569 for large projects; \$92,730 for small projects; \$261,976 for community lake restoration projects; \$246,700 for wellhead area management projects; and \$75,000 for urban run-off management.

Nebraska Environmental Partnerships

In FY2002 the Nebraska Environmental Partnerships program allocated \$40,000 in grants to 16 communities for Community Assessment funding, and funded Community Assessment grants to 21 communities totaling \$52,500. Partnership grants also provided \$10,000 for a feasibility study for a proposed Rural Water District and allocated \$1,200 for the upgrade of a Community Assessment into a Preliminary Engineering Report for a community's drinking water project. Another \$4,860 was spent on a lead and copper study for a Sanitary Improvement District.

The Nebraska Environmental Partnerships program received a grant from the Nebraska Environmental Trust Fund to assist Natural Resources Districts in decommissioning abandoned wells. In FY2002, the program allocated \$35,210 to 13 communities and one Rural Water District, in six Natural Resources Districts, for the closure of 231 abandoned wells. During FY2002, 217 abandoned wells were closed, and NEP's contribution was \$34,426. All funds have been allocated for this project.

CHAPTER 11:

Staffing Issues

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

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

Recruiting qualified and experienced employees for the more advanced positions that require extensive education and experience remains a concern. Since qualified applicants for these positions can find substantially higher salaried positions with private industry in the Omaha and Lincoln areas, as well as in other states, recruitment remains difficult for certain key technical areas, such as Environmental Engineers.

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

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

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

Employees Assuming Agency Positions (by Discipline)											
<i>These figures include new hires, promotions, transfers and classification upgrades for a one-yea period. Figures for 2002 are from October 1, 2001 through September 30, 2002.</i>											
	92	93	94	95	96	97	98	99	00	01	02
Director/Deputy Director/Assistant Director/ Division Administrator	2	0	0	1	0	0	1	4	0	0	0
Section Supervisor	2	0	0	1	3	0	0	0	3	0	2
Unit Supervisor/Records Manager	2	1	0	0	3	1	3	0	4	3	0
Human Resources	1	0	1	2	0	1	8	7	6	3	0
Federal Aid Administrator, Financial Assurance Coordinator	0	1	0	0	1	0	1	2	0	0	2
Clerical/Accounting	1	5	3	3	4	8	9	7	0	4	5
Information Technology/Public Information/Research Analyst	1	1	0	5	0	3	2	2	3	1	0
Attorney	0	0	0	0	0	0	0	1	0	0	1
Environmental Engineer	2	0	4	7	3	4	9	6	5	3	3
Field Data Specialist	0	0	0	0	0	0	0	0	0	0	0
Compliance Specialist	0	3	1	5	1	1	4	7	0	0	0
Programs Specialist	3	8	4	9	7	9	21	5	12	6	6
Geologist, Groundwater	1	1	4	1	1	0	2	0	0	1	1
TOTALS	15	20	17	36	23	27	60	41	33	21	20

CHAPTER 12:

Financial Assurance Requirements

Section 81-1505(21) provides the statutory authority for the Department to develop, and the Council to adopt as regulations, requirements for all applicants to establish proof of financial responsibility. The requirements pertain to all new or renewal permit applicants regulated under the Nebraska Environmental Protection Act, the Integrated Solid Waste Management Act, or the Low-Level Radioactive Waste Disposal 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	Financial Assurance Mechanism	Guarantor
Municipal Solid Waste Disposal Areas (MSWDA), Sanitary Landfills (LF)							
Alliance Landfill	Alliance	MSWDA	03/17/94	\$ 2,510,923	\$ 896,937	Enterprise Fund	City of Alliance
Beatrice Landfill	Beatrice	Sanitary LF	07/12/00	\$ 127,385	\$ 127,385	Financial Test	City of Beatrice
Beatrice Area SW Agency	Beatrice	MSWDA	07/12/00	\$ 1,890,266	\$ 1,890,266	Financial Test	City of Beatrice
Butler County Landfill	David City	MSWDA	04/09/96	\$ 3,517,152	\$ 844,467	Trust Fund	Cornerstone Bank
Douglas County Landfill	Bennington	MSWDA	03/28/00	\$ 9,852,555	\$ 9,852,555	Surety Bond	Fireman's Fund Ins. Co.
G & P Dev Landfill	Milford	MSWDA	07/01/96	\$ 1,951,492	\$ 836,760	Trust Fund	Cornerstone Bank
Gering Landfill	Gering	MSWDA	02/13/96	\$ 555,060	\$ 279,075	Enterprise Fund	City of Gering
L.P. Gill Landfill	Jackson	MSWDA	04/09/96	\$ 3,737,091	\$ 1,352,324	Trust Fund	Security Natl. Bank
Grand Island Landfill	Grand Is.	MSWDA	03/31/96	\$ 6,023,150	\$ 1,344,391	Enterprise Fund	City of Grand Island
Hastings Area Landfill	Hastings	MSWDA	08/12/96	\$ 3,063,520	\$ 1,053,300	Enterprise Fund	City of Hastings
Hastings Landfill	Hastings	Sanitary LF	10/01/97	\$ 259,200	\$ 20,632	Faith & Credit	City of Hastings
Holdrege Landfill	Holdrege	MSWDA	07/29/96	\$ 2,093,051	\$ 604,384	Enterprise Fund	City of Holdrege
J-Bar-J Landfill	Ogallala	MSWDA	03/28/00	\$ 1,994,857	\$ 1,994,857	Performance Bond	American Guar & Liability Co
Kearney Landfill	Kearney	MSWDA	03/31/94	\$ 2,102,942	\$ 1,017,370	Trust Fund	Wells Fargo Bank
Kimball Landfill	Kimball	MSWDA	05/10/96	\$ 1,106,238	\$ 230,295	Enterprise Fund	City of Kimball
Lexington Landfill	Lexington	Sanitary LF	07/25/96	\$ 1,076,868	\$ 320,365	Faith & Credit	City of Lexington
Lexington Area Agency	Lexington	MSWDA	01/19/97	\$ 1,735,189	\$ 487,329	Enterprise Fund	Lexington Area SW Agency
Lincoln Bluff Road	Lincoln	MSWDA	04/01/96	\$ 14,691,060	\$ 14,691,060	Financial Test	City of Lincoln
Loup Central Landfill	Elba	MSWDA	04/09/96	\$ 1,953,524	\$ 288,298	Trust Fund	Citizens Bank & Tr St. Paul
McCook Landfill	McCook	Sanitary LF	03/04/96	\$ 888,256	\$ 72,755	Faith & Credit	City of McCook
Minden Disposal Area	Minden	Sanitary LF	11/18/96	\$ 375,550	\$ 63,414	Faith & Credit	City of Minden
NE Ecology Landfill	Geneva	MSWDA	07/01/96	\$ 1,394,254	\$ 221,295	Trust Fund	Cornerstone Bank
NNSWC Landfill	Clarkson	MSWDA	04/09/96	\$ 9,368,524	\$ 1,664,216	Enterprise Fund	NNSWC
Pheasant Point Landfill	Bennington	MSWDA	Pending	\$ 16,403,100	Pending		
Sarpy County Landfill	Papillion	MSWDA	03/31/96	\$ 5,611,500	\$ 4,819,125	Enterprise Fund	Sarpy County
Sidney Landfill	Sidney	MSWDA	02/11/97	\$ 2,103,259	\$ 267,406	Enterprise Fund	City of Sidney
SWANN Landfill	Chadron	MSWDA	9/25/97	\$ 870,151	\$ 185,413	Enterprise Fund	SWANN
Valentine Landfill	Valentine	MSWDA	04/09/96	\$ 976,374	\$ 149,695	Enterprise Fund	City of Valentine
York Landfill	York	Sanitary LF	05/14/96	\$ 62,150	\$ 8,795	Faith & Credit	City of York
York Area SW Landfill	York	MSWDA	05/14/96	\$ 2,764,000	\$ 583,000	Enterprise Fund	City of York
Contruction/Demolition sites							
Abe's Trash Service	Blair	Const./Demol.	03/30/98	\$ 89,081	\$ 97,160	Escrow Account	Bank of Bennington
Alliance C & D Landfill	Alliance	Const./Demol.	12/02/99	\$ 113,323	\$ 7,391	Enterprise Fund	City of Alliance
Anderson Excavating	Omaha	Const./Demol.	10/19/98	\$ 178,106	\$ 174,340	Surety Bond	Employers Mutual Cas. Co.
Arnold C & D	Arnold	Const./Demol.	07/24/00	\$ 14,287	\$ 3,007	Enterprise Fund	Village of Arnold
Bud's Sanitary Service	Newman Grove	Const./Demol.	06/01/97	\$ 28,767	\$ 28,767	Letter of Credit	First Natl. Bank Newman Gr
Butler County	David City	Const./Demol.	06/01/97	\$ 169,100	\$ 169,100	Surety Bond	American Guar & Liability Co

NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	Financial Assurance Mechanism	Guarantor
Gage County	Beatrice	Const./Demol.	02/23/98	\$ 172,753	\$ 172,753	Letter of Credit	1st Natl. Bank, Beatrice
Hawkins Construction	Omaha	Const./Demol.	3/9/96	\$ 61,481	\$ 64,123	Surety Bond	Fireman's Fund Ins. Co.
Kimball C & D Landfill	Kimball	Const./Demol.	04/01/01	\$ 33,851	\$ 4,249	Enterprise Fund	City of Kimball
Lexington C & D	Lexington	Const./Demol.	09/30/98	\$ 135,030	\$ 20,843	Enterprise Fund	Lexington Area SW Agency
Limited Fill	Omaha	Const./Demol.	04/30/97	\$ 65,233	\$ 61,211	Trust Agreement	First Natl. Bank, Omaha
Lincoln North 48th St.	Lincoln	Const./Demol.	04/01/96	\$ 1,108,520	\$ 1,108,520	Financial Test	City of Lincoln
Loup Central C & D	Elba	Const./Demol.	04/09/96	\$ 21,044	\$ 2,278	Trust Fund	Citizens Bank & Tr. St. Paul
NPPD Gerald Gentleman	Sutherland	Const./Demol.	04/01/95	\$ 116,230	\$ 116,230	Financial Test	NPPD
O'Neill C & D Landfill	O'Neill	Const./Demol.	06/01/01	\$ 49,671	\$ 3,881	Enterprise Fund	City of O'Neill
PAD LLC	Hastings	Const./Demol.	06/05/02	\$ 129,745	\$ 129,745	Letter of Credit	Five Points Bank
Plainview C & D	Plainview	Const./Demol.	09/26/00	\$ 23,078	\$ 2,278	Enterprise Fund	City of Plainview
Sidney C & D	Sidney	Const./Demol.	11/23/99	\$ 110,690	\$ 10,767	Enterprise Fund	City of Sidney
SW NE Solid Waste Agency	Imperial	Const./Demol.	06/01/01	\$ 35,925	\$ 1,764	Enterprise Fund	City of Imperial
Stewart C & D	Indianola	Const./Demol.	07/25/00	\$ 67,162	\$ 7,766	Trust Agreement	Adams Bank & Trust
Fossil Fuel Combustion Ash (FFCA), Industrial Waste sites, Monofills							
Hastings Utilities	Hastings	FFCA	2/1/01	\$ 561,840	\$ 71,091	Enterprise Fund	City of Hastings
Fremont Utilities	Fremont	FFCA	05/28/96	\$ 219,961	\$ 300,000	Enterprise Fund	City of Fremont
NPPD Gerald Gentleman 4	Sutherland	FFCA	04/01/95	\$ 752,613	\$ 752,613	Financial Test	NPPD
NPPD Sheldon Station 3	Sheldon	FFCA	04/01/95	\$ 411,837	\$ 411,837	Financial Test	NPPD
NPPD Sheldon Station 4	Sheldon	FFCA	07/01/01	\$ 399,764	\$ 399,764	Financial Test	NPPD
OPPD NE City	NE City	FFCA	04/04/95	\$ 3,698,121	\$ 3,698,121	Financial Test	OPPD
OPPD North Omaha	Omaha	FFCA	04/04/95	\$ 1,537,815	\$ 1,537,815	Financial Test	OPPD
Platte Generation	Grand Island	FFCA	08/25/97	\$ 168,100	\$ 110,961	Enterprise Fund	City of Grand Island
OPPD Fort Calhoun (IW)	Ft. Calhoun	Indus. Waste	04/04/95	\$ 279,126	\$ 279,126	Financial Test	OPPD
Clean Harbors Technology	Kimball	Monofill	08/01/95	\$ 2,646,974	\$ 2,591,008	Insurance Policy	Steadfast Insurance Co.
Waste Management	Bennington	Indus. Waste	04/01/02	\$ 2,620,200	Pending	Surety Bond	Evergreen Ntl. Indemnity Co.
Transfer Stations							
Bud's Sanitary Service	Newman Gr.	Transfer Station	07/08/94	\$ 3,223	\$ 3,223	Letter of Credit	First Natl. Bank, NG
Central Sanitation	Central City	Transfer Station	03/08/96	\$ 7,635	\$ 7,635	Surety Bond	American Guar & Liability Co
Custer Transfer Station	Broken Bow	Transfer Station	06/27/94	\$ 6,573	\$ 6,573	Letter of Credit	NE State Bank & Trust
Waste Management of NE	Bridgeport	Transfer Station	04/18/95	\$ 6,732	\$ 6,732	Surety Bond	American Guar & Liability Co
Fremont CRD, Inc.	Fremont	Transfer Station	04/09/96	\$ 6,573	\$ 6,573	Surety Bond	American Guar & Liability Co
King Transfer Station	Walthill	Transfer Station	04/02/96	\$ 552	\$ 552	Escrow Account	First Natl. Bank, Walthill
J & J Sanitation Inc.	Ord	Transfer Station	09/22/00	\$ 6,813	\$ 6,813	Surety Bond	American Guar & Liability Co
Sanitation Systems	Wilber	Transfer Station	04/01/94	\$ 10,955	\$ 10,955	Surety Bond	American Guar & Liability Co
Seneca Sanitation	Dubois	Transfer Station	03/07/96	\$ 5,372	\$ 5,372	Letter of Credit	First Natl. Bank, Centralia
Waste Management of NE	Gering	Transfer Station	02/02/98	\$ 9,455	\$ 10,204	Surety Bond	American Guar & Liability Co
Saunders County San. Inc.	Wahoo	Transfer Station	02/09/95	\$ 5,372	\$ 5,372	Surety Bond	American Guar & Liability Co

NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	Financial Assurance Mechanism	Guarantor
Butler County MRF	David City	Mat. Recovery	11/12/96	\$ 6,274	\$ 6,274	Surety Bond	American Guar & Liability Co
Tracy MRF	York	Mat. Recovery		\$ 2,800	\$ 2,800	Letter of Credit	Cornerstone Bank
Doernamann Const. Co.	Clarkson	Compost	12/15/99	\$ 51,400	\$ 51,400	Letter of Credit	Clarkson Bank
RCRA Closure and RCRA Post-Closure (PC)							
3-D Incorporated	Alda	RCRA Closure	01/25/93	\$ 22,225	\$ 22,225	Trust Fund	Bank of Doniphan
Aaron Ferer & Sons Co.	Omaha	RCRA Closure	08/07/02	\$ 261,740	\$ 261,740	Financial Test	City of Omaha
Behlen Manufacturing Co.	Columbus	RCRA PC	08/30/94	\$ 323,550	\$ 323,550	Financial Test	Behlen Mfg. Co.
Clean Harbors Technology	Kimball	RCRA Closure	05/10/95	\$ 9,602,740	\$ 9,602,740	Insurance Policy	Steadfast Insurance Co.
Curtis Metals	Curtis	RCRA PC	05/07/87	\$ 1,526,305	\$ 1,526,305	Corporate Guarant	Burlington Northern
Douglas County Landfill	Omaha	RCRA PC	03/08/85	\$ 818,439	\$ 818,439	Trust Fund	First Natl Bank of Omaha
Eaton Corporation	Omaha	RCRA PC	03/27/84	\$ 4,463,158	\$ 4,463,158	Letter of Credit	Key Bnk Ntl. Assoc.
Lockwood Corporation	Gering	RCRA PC	09/29/87	\$ 141,256	\$ 141,256	Trust Fund	US Bank
Malnove Corporation	Omaha	RCRA PC	10/05/89	\$ 370,000	\$ 370,000	Letter of Credit	Wells Fargo
Tenneco Automotive Inc.	Cozad	RCRA PC	11/25/85	\$ 1,411,000	\$ 1,411,000	Letter of Credit	Chase Manhattan Bank
Magnus/Farley Inc.	Fremont	RCRA Closure	11/07/01	\$ 9,768	\$ 9,768	Escrow Account	First State Bank
Nashua Corp.- Label Div.	Omaha	RCRA PC	12/11/91	\$ 250,000	\$ 250,000	Surety Bond	US Fire Insurance Co.
Safety Kleen	Gering	RCRA Closure	10/15/01	\$ 95,629	\$ 95,629	Insurance Policy	Indian Harbors Insurance Co.
Safety Kleen	Grand Island	RCRA Closure	10/15/01	\$ 155,818	\$ 155,818	Insurance Policy	Indian Harbors Insurance Co.
Safety Kleen	Omaha	RCRA Closure	10/15/01	\$ 350,223	\$ 350,223	Insurance Policy	Indian Harbors Insurance Co.
Telex Communications	Lincoln	RCRA PC	10/27/88	\$ 236,450	\$ 236,450	Letter of Credit	Chase Manhattan Bank
Valmont Industries	Valley	RCRA PC	10/30/85	\$ 900,000	\$ 900,000	Financial Test	Valmont Industries
Underground Injection Control (UIC)							
Crow Butte Resources, Inc.	Crawford	UIC		\$ 12,816,973	\$ 12,355,260	Letter of Credit	Royal Bank of Canada
Scrap Tire Sites							
Ash Grove Cement Co.	Louisville	Scrap Tire	07/30/97	\$ 32,208	\$ 32,208	Letter of Credit	Bank of America
B & R Wallrock	Weeping Water	Scrap Tire	04/10/00	\$ 2,500	\$ 2,500	Surety Bond	Union Insurance Co.
Bill's Auto Parts	Overton	Scrap Tire	03/15/97	\$ 30,000	\$ 30,000	Letter of Credit	Nebraska State Bank
Butler County Landfill	David City	Scrap Tire	05/16/97	\$ 234,900	\$ 234,900	Surety Bond	American Guar & Liability Co
Central States Tire Rcy.Inc	Wisner	Scrap Tire	07/20/00	\$ 131,228	\$ 131,228	Letter of Credit	The Citizens Nat'l Bank Wisn
Champlin Tire Recycling Inc	Concordia KS	Scrap Tire	10/04/96	\$ 15,000	\$ 15,000	Letter of Credit	Gold Bank
D & S Tires Inc.	West Point	Scrap Tire	03/08/01	\$ 100,000	\$ 100,000	Letter of Credit	Charter West Nat'l Bank
EnTire Recycling Inc	Nebraska City	Scrap Tire	04/21/96	\$ 255,500	\$ 255,500	Surety Bond	Frontier Insurance Co.
Gerdes & Sons	Talmage	Scrap Tire	01/08/97	\$ 2,500	\$ 2,500	Surety Bond	Union Insurance Co.
GreenMan Technologies	Savage MN	ScrapTire	07/01/97	\$ 2,500	\$ 2,500	Surety Bond	BancInsure Inc.
Industrial Services Inc	Lincoln	Scrap Tire	12/20/96	\$ 2,500	\$ 2,500	Surety Bond	Old Republic Surety Co.
J & M Steel	Hastings	Scrap Tire	08/27/98	\$ 2,500	\$ 2,500	Letter of Credit	1st Bank & Trust,Clay Center
James Schulte	Kimball	Scrap Tire	09/16/97	\$ 2,500	\$ 2,500	Letter of Credit	American Nat'l Bank
ABC Tire LLC	Kansas C, KS	Scrap Tire	09/16/98	\$ 2,500	\$ 2,500	Surety Bond	Travelers Casualty & Surety

NDEQ FINANCIAL ASSURANCE

Facility Name	Location	Permit Type	Initial Date	Obligated Amount	Current Amount Demonstrated	Financial Assurance Mechanism	Guarantor
Andrew LaBeau III	Dix	Scrap Tire	01/05/00	\$ 2,500	\$ 2,500	Letter of Credit	American Nat'l Bank
Lee Pester	Lincoln	Scrap Tire	07/01/96	\$ 2,500	\$ 2,500	Guarantee Bond	Old Republic Surety Co.
Leo Porter	Oshkosh	Scrap Tire	06/09/00	\$ 2,500	\$ 2,500	Letter of Credit	Nebraska State Bank
Fleetwood Services	Scottsbluff	Scrap Tire	07/31/01	\$ 2,500	\$ 2,500	Surety Bond	Union Surety Co.
Nebraska Tire Recyclers LLC	Elgin	Scrap Tire	05/03/02	\$ 51,630	\$ 51,630	Letter of Credit	Bank of Elgin
Nebraska Rubber Innovatio	O'Neill	Scrap Tire	02/03/00	\$ 20,000	\$ 20,000	Letter of Credit	Marquette Bank Nebraska
R & C Tire Recycling	Norfolk	Scrap Tire	01/21/02	\$ 2,500	\$ 2,500	Surety Bond	Old Republic Surety Co.
Resource Management Co	Brownell, KS	Scrap Tire	06/08/99	\$ 2,500	\$ 2,500	Letter of Credit	First State Bank, Ness Cy,KS
River City Recycling	Omaha	Scrap Tire	09/07/99	\$ 72,900	\$ 72,900	Letter of Credit	US Bank, Minneapolis, MN
SWANN	Chadron	Scrap Tire	10/01/96	\$ 16,647	\$ 16,647	Letter of Credit	First Nat'l Bank of Chadron
Stan's Recycling	Geneva	Scrap Tire	0215/02	\$ 2,500	\$ 2,500	Letter of Credit	Geneva State Bank
Tire Recycling Centers USA	Lincoln	Scrap Tire	01/09/01	\$ 6,405	\$ 6,405	Escrow Account	First American Bank, IA
Tire Town, Inc.	Leavenworth	Scrap Tire	03/15/96	\$ 2,500	\$ 2,500	Letter of Credit	First Commercial Bank
T & C Service Inc.	Ogallala	Scrap Tire	07/01/96	\$ 2,500	\$ 2,500	Letter of Credit	Pinnacle Bank
UT Tire Recyclers	Des Moines IA	Scrap Tire	03/13/01	\$ 2,500	\$ 2,500	Letter of Credit	First American Bank, IA
William Volkmer	Exeter	Scrap Tire	06/15/99	\$ 2,500	\$ 2,500	Letter of Credit	Farmers & Merchants Bank