



December 8, 2021

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

RE: Small Business Compliance Advisory Panel Annual Report, 2021

Dear Governor Ricketts,

In accordance with the provisions of the Nebraska Environmental Protection Act (81-1505.03(2)), enclosed is the **Nebraska Small Business Compliance Advisory Panel Annual Report to the Governor for 2021**.

The federal Clean Air Act (CAA) Amendments of 1990 required all states to establish a Small Business Assistance Program and Small Business Compliance Advisory Panel (SBCAP) to assist small businesses in complying with provisions of the Clean Air Act.

After more than 25 years, the Small Business Compliance Advisory Panel is still actively engaged. The group consists of four representatives from small businesses selected by the state legislature; two individuals from the general public selected by the Governor; and one member from the Department, resulting in a panel of seven.

The SBCAP and NDEE partnership is valuable to receive recommendations for best serving the small business and regulated community. Previously we've been focused on growing Nebraska, promoting and increasing compliance activities and services. We've made strides with online permitting, improving our assistance tools, services, education and outreach. While we have accomplished much, the group agreed there is still much to do in these areas.

In fall of 2021, the SBCAP met in-person for the first time since 2019. The meeting included a training presentation on Air regulations and permitting thresholds. Panel members were informed of proposed regulatory changes and continued outreach efforts. SBCAP members provided recommendations for providing the air permitting thresholds training presentation to a larger audience, offered support for reaching target audiences and specific small business sectors in the coming year.

We continue to be appreciative of Nebraska's SBCAP ongoing commitment, and involvement. The work we do is making a difference for our environment, our economy and our future. We look forward to seeing what we can accomplish together in the coming year.

Sincerely,

Jim Macy, Director
Nebraska Department of Environment and Energy

2021
Nebraska Small Business
Compliance Advisory Panel
Annual Report

Submitted to Governor Pete Ricketts
December 8, 2021

Required submission date January 1, 2022

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Message from the Small Business Compliance Advisory Panel

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

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

We believe the SBCAP and NDEE have made continuous progress in breaking down barriers, increasing trust and providing relevant regulatory information to assist business owners and members of the regulated community. We will continue to work on these as primary goals in 2022.

In October 2021, NDEE met with members of the panel for the regularly scheduled annual meeting to accommodate panel member schedules. In spite of COVID-19 operational challenges, NDEE reported an increase in requests for Compliance Assistance Visits (CAVs) this year.

Compliance Assistance Visits demonstrate the ongoing need and value of continued outreach, education, and partnership for small business to engage with NDEE. Small business in Nebraska is always challenging but was especially so in 2021 as the pandemic created labor force and supply chain issues that continue to impact small business.

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

Sincerely,



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

Background

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

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

The agency’s Environmental Assistance Coordinators serve as the link between NDEE, the SBCAP and small business in Nebraska. Since the 2019 merger with the Nebraska Energy Office, and the 2021 absorption of DHHS drinking water programs, compliance assistance and outreach has expanded to include energy and drinking water programs.

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

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

Small Business Compliance Advisory Panel

The federal Clean Air Act (CAA) Amendments of 1990 required all states to establish a Small Business Assistance Program and Small Business Compliance Advisory Panel (SBCAP) to assist small businesses in complying with provisions of the Clean Air Act.

After more than 25 years, Nebraska’s Small Business Compliance Advisory Panel is still actively engaged. The group consists of four representatives from small businesses selected by the state legislature; two individuals from the general public selected by the Governor; and one member from the Department, resulting in a panel of seven. One legislative appointment is pending to fill a vacancy from a 2020 resignation.

The Director of NDEE appoints one voting member as department representative to the Panel. In 2021, the director appointed NDEE’s Division Administrator for Permitting & Engineering to fill the position.

Panel Members

Legislative Appointees

- Jim Hellbusch - Panel Chair/Owner of Duo-Lift Mfg., Columbus
- Rick Bettger - Owner of Omaha Car Care, Omaha
- Vacant - Previous Small Business autobody repair shop owner, Lincoln
- Jack Schreiner – Owner/Representative of Bruckman Rubber, Hastings

Governor Appointees

- Sharon Hueftle - Executive Director, South Central Economic Development District
- Starr Lehl - Economic Development Director, City of Scottsbluff.

NDEE Appointee

- Shelley Schneider P.E. - Division Administrator, Permitting and Engineering Division (Appointed August 2021)

SBCAP and NDEE Engagement

Past reports show that the SBCAP and NDEE have made progress in breaking down barriers, increasing trust and providing relevant regulatory information to assist businesses and communities. This was evident in 2021 as the COVID-19 pandemic continued to require significant flexibility and adaptations on the part of NDEE, small businesses, communities, groups, and individuals continuing to engage in economic development and environmental compliance.

COVID-19 challenges for small business have included supply chain and product distribution interruptions, applications to grants supporting continued employment, increased employee illness and absenteeism, resignations, and changes to manufacturing lines to allow for social distancing along with many others.

Many businesses have closed their doors due to the pandemic, affecting local sales receipts and jobs for rural Nebraskans. Communities and economic development groups are finding new ways to promote and encourage prospective businesses to select their local areas. NDEE partners with outside agencies (DED) and internally supports these efforts through one-stop meetings, zero or low-cost permitting fees, assistance in navigating permit requirements, providing dedicated support staff and teams focused on permitting, compliance, assistance, water infrastructure funding, waste reduction grants and low-cost energy loans.

Small business environmental compliance was directly impacted by the pandemic. NDEE recognized these potential non-compliance issues in March 2020 and continued through 2021 to work with and add flexible options for the regulated community due to the on-going impacts of COVID-19.

As an example, some businesses noted COVID-19 was impacting their ability to find service providers able to conduct necessary sampling or testing within regulatory timeframes, as well as limited staff to engage with inspectors from NDEE during scheduled site visits. The department and businesses adapted and continued the use of virtual inspections in 2021 to be responsive to the regulated communities' concerns. Electronic technologies like video conferencing with mobile devices virtually placed inspectors

inside a permitted facility. Advance notice of inspection and electronic file sharing were strategies employed in support of environmental protection, inspection, and compliance.

Compliance Assistance Services

The following summarizes NDEE's primary compliance assistance services:

Compliance Assistance Visit (CAV): An on-site service (or meeting) offered by NDEE in response to a voluntary request by a business or regulated party to receive support for one or multiple environmental program areas to which they are currently subject or considering under proposed operations.

A CAV focuses on supporting the efforts of an entity to achieve voluntary compliance; however, it does not provide an enforcement shield if egregious violations are found during the visit.

Permit Assistance Visit (PAV): An on-site service (or meeting) offered by NDEE in response to a request by a business or regulated party to receive support under a new, modified or existing permit to address permit related questions.

Scoping Meeting: A meeting within or outside of NDEE to introduce a new or proposed business to involved staff, programs and agencies. The meeting may include interview questions, review of processes or technologies, tools, resources, and strategic partnerships to assist the business in making the appropriate contacts for applicable regulatory requirements or business needs.

One-Stop Meeting: A One-Stop Meeting typically follows a scoping meeting with more detail. A One-Stop meeting allows for a newly proposed or expanding business and their selected representatives to engage with applicable NDEE permitting programs and other regulatory agencies. The goal of each meeting is to provide the permittee an opportunity to ask questions and receive detailed information and direction toward attainment of the necessary permits to achieve environmental regulatory compliance.

Individual Site Assistance/Training: An on-site service offered by NDEE in response to a request or during or after a Compliance Inspection.

Inspections: Small businesses are subject to routine compliance assurance inspections, as well as field, fiscal and equipment audits to determine accounting and regulatory compliance. During these audits and inspections, NDEE takes the opportunity to include elements of training and education. These activities result in some of the most useful compliance assistance NDEE provides.

Assistance Visits and Activities Completed

Staff conducted seven additional multi-program environmental compliance assistance visits in 2021 for requesting facilities, that included the mining, manufacturing, agriculture, education, and hospital sectors. One additional permit assistance visit was performed for an air-related permit.

Assistance Visits and Contacts

- Conducted seven multi-program Compliance Assistance Visits – listed under “SBCAP Engagement and Accomplishments in 2021” above
- Conducted one air program related Permit Assistance Visit to a manufacturer
- Conducted eight Institutional Control Audits at Environmental Covenant brownfield sites
- Solid and Hazardous Waste Compliance Assistance contacts via phone – 449
- Solid and Hazardous Waste Compliance Assistance contacts via email – 382

One-Stop Meetings

Meetings were held with entities involved in:

- Incineration of veterinarian pharmaceuticals
- Nutrient supplement manufacturing
- Agricultural feed production
- Higher education
- Petroleum storage tanks and pipelines
- Biodiesel production
- Industrial wastewater/biosolids/sludge

Pre-application Meetings

- Hazardous waste management
- Concrete manufacturing
- Steel manufacturing

Training, Outreach, and Engagement

NDEE supplies hundreds of website guidance documents, handouts, and brochures. Examples include the petroleum remediation Reasonable Rate Schedule and Reimbursement Guidance Manual, template language for Brownfields Uniform Environmental Covenants Act-Activity and Use Limitations, and program specific guidance documents.

In partnership with Nebraska Department of Economic Development, NDEE developed new business documents to include initial project questions (Figure 1), information an applicant could gather to reduce time to permit issuance, and a timeline and costs document to support new business project planning.

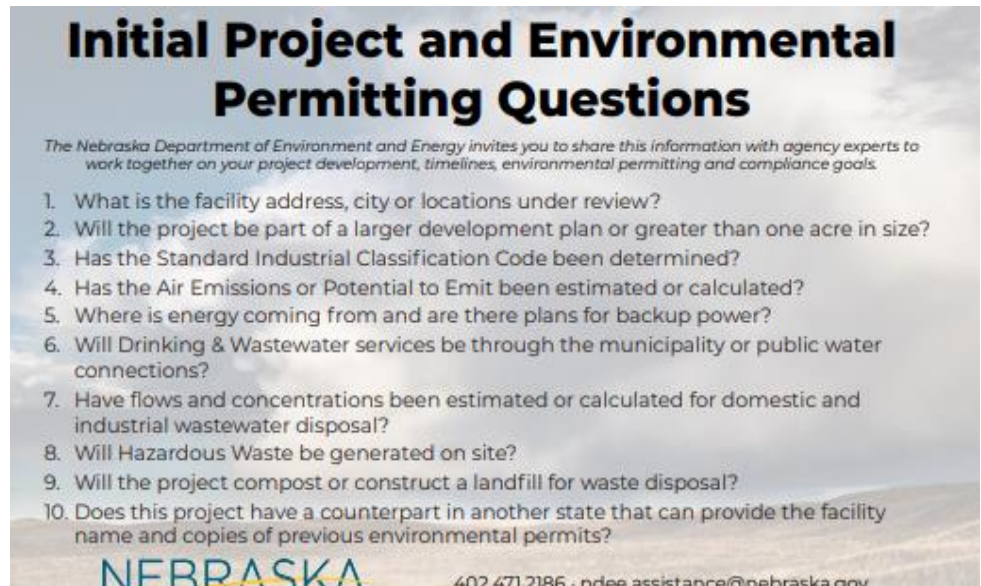


Figure 1. Initial Project and Environmental Permitting Questions for new or expanding business ventures.

Speaking Engagements and Presentations

NDEE staff regularly give presentations to groups in a wide array of fields including:

- SWANA Great Plains Conference – Environmental Update presentation
- Nebraska MEDS meetings on handling medication disposal – NDEE Waste Compliance liaison
- NDEE Webinar – Hazardous Waste Determinations Webinar
- ARMA International – Nebraska Chapter – Records management
- SBCAP – Air Operating Permits vs Air Construction Permits – An Overview
- NDEE Webinar – Online Permitting
- City of Lincoln – Brownfields – 2 live webinars and press conference
- Snowball Conference by League of Nebraska Municipalities – Wastewater Permit Forms 1 and 2A
- Ethanol industry meeting of firms and stakeholders
- Nebraska Household Hazardous Waste Work Group meetings of mostly municipal and county officials – advisor on regulations
- Nebraska Recycling Council meetings – advise on permitting and regulations
- Nebraska Planning and Zoning Association Conference-working with local planning officials for environmental and conditional use permits.

Activities Coordinated with Other Agencies

NDEE staff also regularly coordinate activities with other agencies both in-state and out-of-state including:

- RCRA Information Network monthly conference calls
- Iowa DNR visited to observe and learn about our mail processing system
- Held seventeen meetings with EPA to discuss 104(k) Brownfields Grant funding, brownfield redevelopment resources, technical assistance, and/or environmental concerns
- NDOT/NDEE air annual MOU meeting – Environmental Update on NAAQs and Roadside spill response and coordination
- Of 17 Brownfields meetings with EPA and 17 Brownfields meetings with individuals and community members, 21 were to discuss NDEE Brownfields Assessments Applications, VCP Applications or an EPA 104(k) Brownfields Grant application.

NDEE Training Webinars and Virtual Outreach Events

In 2021, NDEE conducted a total of nine webinars and fifteen “other” virtual outreach events. The other virtual events included remote conference attendance, public hearings, and outreach on proposed regulatory changes. In total, NDEE provided training to approximately 800 online attendees. NDEE tracks retention metrics and customer feedback from a post-webinar survey. For training webinars, retention averaged 81%. For other regulatory and virtual online conferences, retention was slightly lower at approximately 71%. The assumption for lower retention on the other events is due to multiple opportunities for the same topic (i.e. Proposed changes to Title 129-Nebraska Air Quality Regulations).

Table 1. NDEE Webinar Topics, Registration and Retention Metrics.

Event Date	2021 Webinar Titles	Registered	Attended	% Attendance
3/5/2021	T124 Proposed Changes to Onsite Wastewater	176	143	81.25
4/8/2021	T129 Proposed Changes to NE Air Quality Regulations	150	128	85.33
5/5/2021	Source Water Grant	40	44	110.00
5/13/2021	Brownfields Redevelopment NDEE and KSU TAB	84	52	61.90
6/9/2021	Wastewater Lagoon and Maintenance	40	34	85.00
7/8/2021	Enhancement of Nebraska's Voluntary Cleanup Program	49	45	91.84
8/31/2021	Permitting Tools and Resources Webinar	73	58	79.45
9/23/2021	Air General Construction Permit Applications Webinar	52	37	71.15
12/7/2021	Title 119 Outreach	118	94	79.66
	2021 Totals	782	635	82.84

Training Library

As in past years, 2021 webinar recordings are posted to the NDEE Video Events webpage along with the associated slide decks. These and other assistance resources are promoted through SBCAP, the website and through social media channels before and following each event.

Voice of the Customer

In 2021, NDEE reached out the regulated community and conducted a customer satisfaction survey following inspections, asking if the regulated community received the information needed or expected, if the inspector was courteous and professional, and if information received helped them to better achieve compliance. Survey results were favorable and had high scores in these categories.

Additional voice of the customer feedback is received during post-webinar event surveys, requesting information on topics assisting them with compliance and understanding. Feedback received is presented in the graph below.

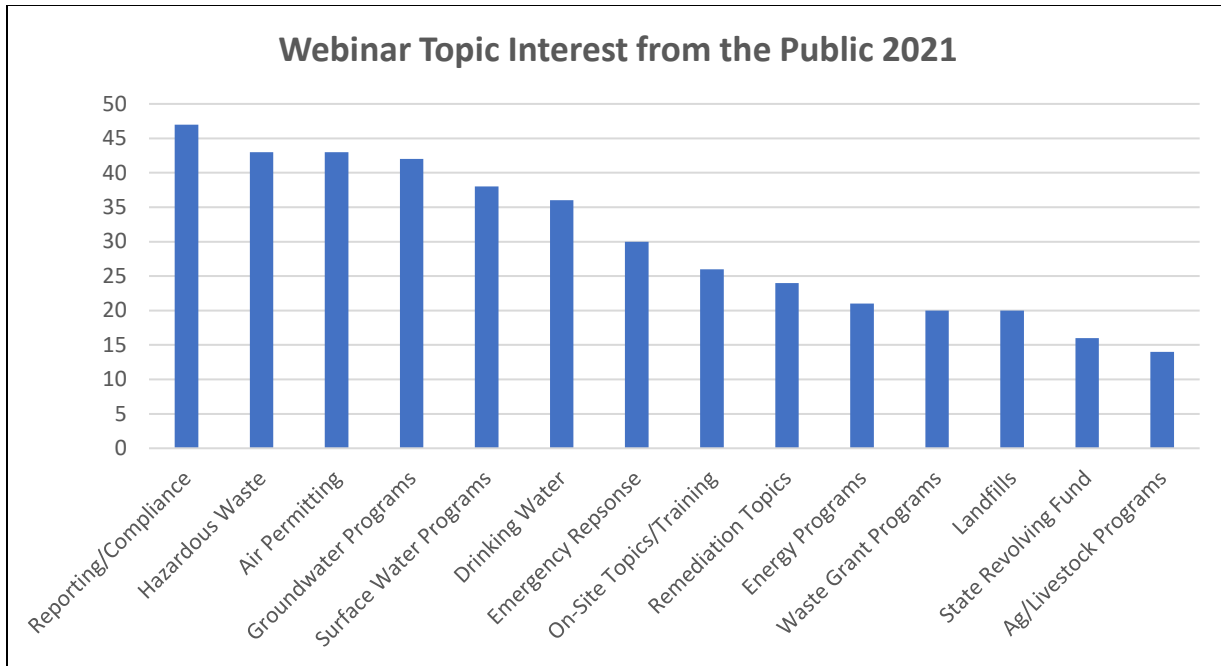


Figure 2. Voice of the Customer, topical focus areas of interest for future NDEE webinars.

SBCAP Annual Meeting Highlights

During the October 2021 meeting, NDEE staff gave presentations and provided updates on the following topics:

- Purposes and outline of the Air Construction Permit, versus that of the Air Operating Permit, and what that means for permittees. This presentation also addressed thresholds for different permits, how Potential To Emit is calculated and the impact of anti-pollution controls on those PTE calculations
- AltEn cleanup
- Ethanol industry and UNL production of hand sanitizer
- Staffing under COVID-19
- Simplifying the Return to Compliance process using a single Letter of Non-Compliance
- NDEE's move to the Fallbrook location, the department's reorganization and visual management for process improvement efforts
- DHHS drinking water programs integration to NDEE
- Proposed Changes to Title 129 – air pollution
- Permit matrix revised and updated
- The addition of two online permitting applications and future plans to expand electronic applications.
- NDEE small business assistance is lined up to be included in the UNL SourceLink website-a component of the Nebraska Small Business Development Center at the University of Nebraska-Omaha.
- Potential that the EPA may tighten the 2.5 micron particulate matter standard from 12ug/m³ to 10 ug/m³.

Panelist Comments and Suggestions for NDEE

Panelists asked about agency staffing and COVID-19 responses, urged NDEE to continue to make compliance easy, be responsive helpful and transparent. The panel expressed appreciation for the explanation about the two categories of air permits saying that it cleared up confusion. They suggested NDEE work with the Chamber of Commerce, the Manufacturing Coalition, the Hastings Manufacturing Partnership, the Central Nebraska Manufacturing Partnership, Nebraska Manufacturing Extension Partnership at UNL and the eight economic development districts. The group revisited options for conducting in-person outreach training or luncheons with these partners across the state in 2022 but recognized concerns related to COVID-19 could still impact attendance.

Panel members appreciate NDEE's continued efforts to work with them, and expand outreach efforts through Compliance Assistance Visits, and other outreach and assistance tools.

The Future

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

Over 99 percent of Nebraska businesses fall into the small category according to the Small Business Administration. The panel and NDEE both will advance protection of the environment and human health while maintaining a balance with small business growth.

We appreciate your support and consideration of our achievements in 2021 and look forward to even more accomplishments in 2022.

Please direct any questions regarding this report to:

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