

# **The Nebraska Small Business Compliance Advisory Panel's Annual Report to the Governor for 2008**

**1 January, 2009**



**Nebraska Department of  
Environmental Quality**



## **The Small Business Compliance Advisory Panel**

The federal Clean Air Act Amendments of 1990 contain the following language: "...each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation ...plans for a small business stationary source technical and environmental compliance assistance program. ...There shall be created a Compliance Advisory Panel ...on the State level of not less than 7 individuals." Nebraska adopted enabling legislation codified as Neb. Rev. Stat. §81-1505.03 and thus the Small Business Advisory Compliance Panel (SBCAP) came into being. The State legislation charges the panel with responsibility for the Clean Air Act's requirements related to certain aspects associated with assisting small businesses. The Act also requires that the Panel make an annual report to the Governor each year.

Historically the Panel addressed its responsibilities in major part through scrutiny of the Nebraska Department of Environmental Quality's efforts in the areas of technical and compliance assistance. In the past reports have focused on the activities of the Division of Environmental Assistance. This year's report provides a more comprehensive look at the assistance activity provided across the entire Department.

The Panel consists of seven voting members and the Small Business and Public Assistance (SBPA) program coordinator as a non-voting Secretary. Four members are selected by the Legislature and are owners or representatives of small businesses, two members are selected by the Governor to represent the general public and are not small business owners or representatives, and the Director of the Nebraska Department of Environmental Quality (NDEQ) selects one member. There is currently one vacancy on the Panel.

Panel members are kept informed of SBPA program activities through regular reports, meeting at least annually (held this year in Kearney in April 2008), e-mail and telephone. The primary activities the Panel is informed of include: regulations to be presented to the Environmental Quality Council, outreach activities the Department is involved in, and specific assistance activities the Department initiates. The Panel is often asked to review various materials prepared by the Department in an effort to ensure the documents are understandable to the public and the regulated community, particularly small businesses.

Below are the names, addresses and phone numbers of current SBCAP members:

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**SBCAP Goals and results for 2008**

- 1) **Elect the SBCAP Chairperson:** this goal was not accomplished as there was not a quorum at the annual meeting. This has been moved to a 2009 goal.
- 2) **Focus on providing the services of the Panel and the NDEQ Small Business & Public Assistance program in the members' communities:** this goal was partially accomplished through both site visits and outreach efforts by the Small Business Coordinator, and informal discussions of panel members with other small businesses in their communities. More emphasis will be placed on this issue in 2009.
- 3) **Serve as a 'sounding board' and advisor for pollution prevention efforts, including providing recommendations related to the conduct of the UNL P3 Intern program:** goal was partially accomplished (a recent example is one panel member sharing his experience with the Panel concerning successfully shifting from a hazardous solvent to a non-hazardous solvent.) Also, the Panel was fully briefed on the UNL P3 Program and will help in promoting the internship program.
- 4) **Panel members will meet annually with the Director to inform him/her of issues related to the impact Departmental actions have on small businesses:** this goal was accomplished.
- 5) **Render advisory opinions concerning the appropriateness of enforcement penalties against small businesses:** this goal was not addressed by the panel.

- 6) **Continue to advise NDEQ regarding the clarity and readability of documents produced by NDEQ:** this goal was accomplished (a recent example is the Panels review and commenting on new air regulation guidance): this is an ongoing goal.
- 7) **Become better educated regarding environmental issues important to the Department:** this goal was partially accomplished and is an ongoing effort.

### **SBCAP Goals and Objectives for 2009**

- 1) Fill the one panel vacancy, and elect the SBCAP Chairperson;
- 2) Focus on providing the services of the Panel and the NDEQ Small Business & Public Assistance program in the members' communities;
- 3) Panel members present prepared briefings concerning the role of the Panel to various conferences and association meetings as appropriate;
- 4) Serve as a 'sounding board' and advisory role for pollution prevention efforts, including providing recommendations related to the conduct of the UNL P3 Intern program;
- 5) Meet at least annually with the Director to inform him/her of issues related to the impact Departmental actions have on small businesses;
- 6) Continue to advise NDEQ regarding the clarity and readability of documents produced by NDEQ.

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

The SBPA program is a non-regulatory contact within NDEQ for small business, industry and the public. A primary goal of the SPBA program is increasing environmental quality through cooperative means. One of the program's significant services is the One-Stop Permitting Assistance program. The program is available to the business community and is designed to help them meet their regulatory obligations by providing comprehensive guidance regarding all permits or compliance conditions they must meet. The guidance provided by the One-Stop program includes examinations of air, water and waste permitting thresholds, application processes, and timelines for compliance.

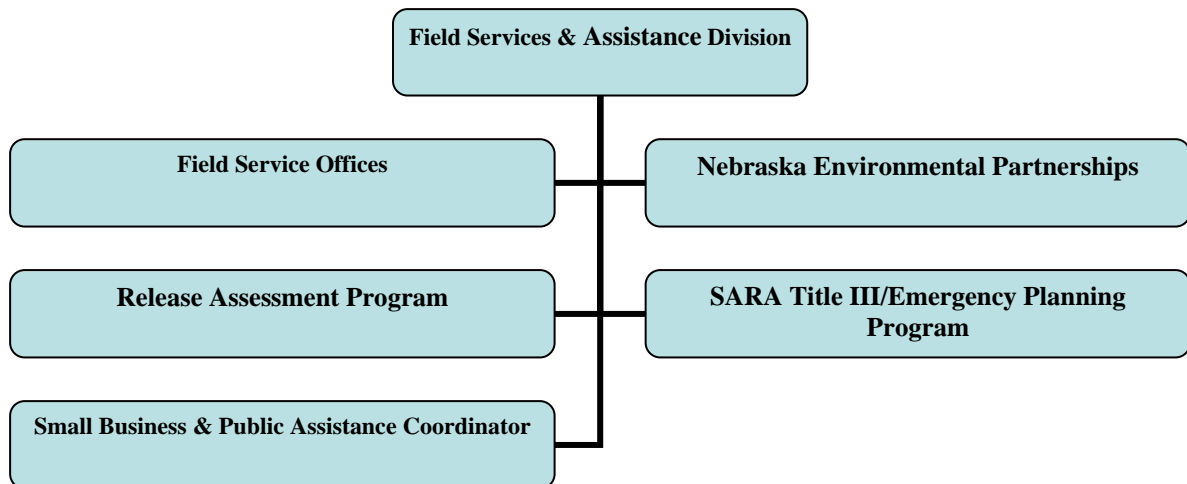
The SBPA program coordinator also serves as the Public Advocate for the NDEQ, providing a means for those wishing to express concerns about Departmental regulations and policies while remaining anonymous.

The program functions are accomplished by:

- Coordination with assistance providers and regulators in the NDEQ Air Quality, Water Quality and Waste Management divisions to ensure timely and effective assistance is provided;

- Providing multi-media regulatory compliance assistance to businesses and industry through onsite visits and outreach programs;
- Staying abreast of emerging environmental issues and regulatory requirements;
- Coordination with other state agencies and the EPA to provide comprehensive assistance to the public and industry; and,
- Ensuring that concerns and complaints by the public are addressed and resolved appropriately and as amicably as possible.

This program is a part of the former Environmental Assistance Division (EAD). The Field Offices and the Environmental Assistance Division were recently combined because the Director felt there would be better utilization of our resources and the regulated community and the public would be better served. Below is an organizational chart of the new Field Services and Assistance Division (FSAD):



The FSAD staff coordinates and works with staff in the Water Quality, Air Quality and Waste Management divisions to ensure the regulated community and the public receives the most current and accurate regulatory information and guidance. In addition to these functions, FSAD also provides information and guidance that address environmental issues not directly related to regulatory compliance, such as Pollution Prevention, waste reduction, Environmental Management Systems (EMS), and EPA’s Performance Track program.

The SBPA program coordinator is the team leader on the Department’s Compliance Assistance Team (CAT). The CAT is a cross-section of staff from within the Department’s programs. Its function is to ensure effective, consistent and meaningful assistance is provided to the regulated community.

The majority of NDEQ staff provides environmental assistance in a wide variety of forms and forums, and much of this assistance occurs during inspections. Facility representatives are often referred to the SBPA program coordinator by program specialists in the Field Service Offices, Air Quality, Waste Management and Water Quality divisions for follow-up compliance assistance or to assist in areas not addressed by that inspector’s program. While this report primarily emphasizes the program

outreach and onsite assistance compliance assistance visits, much of the assistance provided to businesses and the public by NDEQ is through telephone contacts and e-mail correspondence. These contacts often result in researching and providing answers to posed questions, mailing out information, or referring the caller to the NDEQ website, [www.deq.state.ne.us](http://www.deq.state.ne.us).

**2008 Small Business & Public Assistance Program Activities**

Below is a three-year record of assistance program activities. Since the inception of this report only the activities of those directly involved in providing compliance assistance were documented. This manner of reporting clearly was not an accurate reflection of the assistance provided by the Department. Much of the assistance the Department provides to the regulated community is accomplished by inspectors in the Air, Water and Waste Management Divisions. The numbers in the following table reflect the assistance activities of the entire Department.

Activity	2006	2007	2008
Site Visits	38	32	548
Complaints	13	15	709
Speaking Engagements	49	30	216
SBEAP Meetings	1	1	1

**Site Visits**

548 compliance assistance visits were conducted in 2008 by the Department to a wide variety of facilities, and therefore the subjects covered during the visits varied considerably. Many visits addressed multi-media concerns (air, waste and/or water) and others addressed a single media. The types of assistance included permit application completion assistance, regulatory compliance assistance, facility siting guidance and Environmental Management System (EMS) development and implementation.

While the emphasis of assistance visits is compliance with environmental regulations, assistance visits were also used as opportunities to present environmental guidance in addition to that needed to meet minimum regulatory requirements. To that end, assisted parties were often provided information regarding and referrals to other organizations that could provide the requested assistance. Some of the organizations that businesses have been referred to by the Departments assistance programs are: Keep Nebraska Beautiful, Nebraska State Recycling Association, WasteCap and the Nebraska Energy Office, as well as other state and federal agencies such as the Nebraska Health and Human Services System, the Nebraska Department of Agriculture, the Nebraska Department of Economic Development, and the Environmental Protection Agency. Enhanced awareness of these and other types of available environmental resources will

allow businesses to reduce their environmental impact, which often results in a reduction of their regulatory burden.

The following are highlights of the onsite assistance provided to businesses and organizations in 2008:

**Ethanol/Biodiesel Production:** The SBPA program coordinator continues to work with both the ethanol and biodiesel industry. In 2008, the SBPA program coordinator conducted site visits with developers at various locations, and also participated in Ethanol Board meetings. These visits provided a first look at the site, making the developers aware of any obvious environmental issues the site may have, and ensured NDEQ was aware of and had input into the facility development at the earliest possible stage. In addition to these visits, the SBPA program coordinator has worked with facilities either under construction or just starting up, to ensure they have or are meeting all their environmental regulatory permitting and compliance requirements. The non-regulatory program assistance provided by the SBPA program has been effective in ensuring good rapport is established between these facilities and NDEQ.

**Surface Coating:** Emphasis was placed on providing training and assistance to industries utilizing surface coating operations this year. The Department's Air Division worked closely with WasteCap and several community colleges to provide an innovative mobile training center which will result in surface coating operations(e.g. painting) to be conducted in a more efficient manner, saving paint and reducing waste.

**'New Hire' Program:** The SBPA program coordinates a day of training and site visits to newly hired NDEQ employees. This training provides new employees valuable insight concerning the various industries and services in Nebraska. Site visits included the Lincoln wastewater treatment plant, the E-Energy Ethanol facility in Adams, and the Prairie Land Dairy near Firth.

**Other Businesses/Industries:** In addition to the above mentioned businesses, onsite assistance was also provided by NDEQ staff to a variety of companies, including construction equipment manufacturers, gravel pit operations, food processing centers, dry cleaning facilities, biodiesel plants, construction & demolition landfills, and animal-feeding operations. Both compliance and permitting issues were addressed during these visits. Most of the permitting assistance has entailed providing information and guidance regarding what permits apply to the facility, the forms and information they need to submit, and the permitting process. Permit types addressed during these visits included, as appropriate, air quality construction and operating permits, water quality National Pollution Discharge Elimination System (NPDES) permits, NPDES industrial and construction stormwater permits, wastewater systems construction permits, and Nebraska Pretreatment Program permits. Compliance issues included requirements for management of hazardous waste, meeting the requirements of issued permits, and meeting EPA Spill Prevention, Control, and Countermeasure Plan requirements.

## **2008 Speaking Engagements**

The SBPA and the Department conducts outreach activities in a wide variety of sectors and forums. A major and continuous function of the program is to provide information to and enhance communications between NDEQ and the public, the regulated community, government, and non-governmental organizations. In addition to providing information, the SBPA program coordinator also coordinates other speakers from either within the NDEQ or other government organizations that have information pertinent to the audience participating in the forum.

The Department staff gave 216 presentations to a wide variety of audiences in 2008. These events were held in locations throughout Nebraska. The audiences included small businesses, animal feeding operation managers, biofuel facility managers, surface coating operations, colleges and universities, environmental consultants, the Nebraska Industrial Council on the Environment, the Nebraska Safety Council, County and City administrators, state and national safety organizations and the general public. Topics addressed during these presentations ranged from general overviews of the NDEQ structure and function to specific air, waste and/or water regulations relevant to the audience.

## **Complaints received in 2008**

The agency received and responded to 709 complaints. Most complaints were addressed within a week or less, although some difficult and complex complaints have taken somewhat longer to resolve. The Department takes pride in our efforts to be responsive, keep the complainant informed of progress, and address all complaints as quickly as possible

Please direct any questions, comments, or suggestions to Hugh Stirts, Panel Secretary, at 402-471-8697 or [hugh.stirts@nebraska.gov](mailto:hugh.stirts@nebraska.gov)