

**U.S. Environmental Protection Agency  
State Review Framework: Round 1 (Fiscal Years 2003 – 2007)  
Recommendation Status**

**Nebraska Department of Environmental Quality (NDEQ)**

16 Recommendations

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**Clean Air Act Recommendations**

**Recommendation Title:** Inspection Cover letter needed

**Element:** E1 Insp Universe

**Finding:** No documentation that inspection report sent to the facility

**Status:** Completed

**Expected Completion Date:** 12/31/2007

**Responsible Agency:** State Action

**Recommendation Narrative:** An inspection report cover letter back to the facility needs to be sent and be part of the record.

**Recommendation Title:** Enter penalties

**Element:** E8 Penalties Collected

**Finding:** Enter Penalties on the correct action type

**Status:** Completed

**Expected Completion Date:** 12/31/2007

**Responsible Agency:** State Action

**Recommendation Narrative:** Penalties are not being entered when settlements are entered into the IIS.

**Recommendation Title:** Reconcile SM-80 data

**Element:** E11 Data Accurate

**Finding:** Facilities incorrectly coded as SM-80

**Status:** Completed

**Expected Completion Date:** 07/10/2007

**Responsible Agency:** State Action, Regional Action

**Recommendation Narrative:** Both NDEQ and EPA will work together to reconcile the SM-80 data in the AFS and IIS. A high percentage of Synthetic Minor 80% sources are being recoded to accurately define this universe of sources. NDEQ will replace SM codes with B codes. EPA will delete the "S" flag on low emitter sources and enter the true SM sources which have been identified by NDEQ. Data will be reviewed with the next quarter update to determine if discrepancies are fixed.

**Recommendation Title:** Upgrade the UI

**Element:** E11 Data Accurate, E12 Data Complete

**Finding:** Universal Interface does not provide minimum data elements

**Status:** Completed

**Expected Completion Date:** 07/02/2007

**Responsible Agency:** State Action, Regional Action, HQ Action

**Recommendation Narrative:** 1. Results codes for stack test and compliance certifications are not uploaded into AFS due to the outdated version of the Universal Interface. Stack test result codes are reported to EPA for entry. Until the UI is upgraded, EPA will work with NDEQ to upgrade the UI with the newest version.

**Recommendation Title:** Enter data in timely

**Element:** E11 Data Accurate, E12 Data Complete

**Finding:** AFS data accurately and timely

**Status:** Completed

**Expected Completion Date:** 12/31/2007

**Responsible Agency:** State Action

**Recommendation Narrative:** Staff are encouraged to provide coding information which results in data changes at the facility, i.e., operating status, reclassification, etc., to the data manager as soon as practicable so the data will be current and accurate.

## Clean Water Act Recommendations

**Recommendation Title:** Enter data into PCS.

**Element:** E1 Insp Universe

**Finding:** Inspections are being done but records of some of the inspections are not getting into PCS.

**Status:** Completed

**Expected Completion Date:** 12/05/2005

**Responsible Agency:** State Action

**Recommendation Narrative:** NDEQ should enter inspection/enforcement data into PCS.

**Recommendation Title:** Shorten time of violations identified and issuance of enforcement actions

**Element:** E5 Return to Compliance

**Finding:** During the file review, five wastewater enforcement actions issued by the NDEQ were reviewed. Three of the facilities had violations for approximately 3 years prior to a formal enforcement action being issued. Two of the facilities took between 8 and 10 years before the NDEQ issued a formal enforcement order. Each of the formal enforcement orders for these wastewater cases required construction or modification of the treatment facilities. However, the files lacked documentation supporting whether substantive follow-up has been taken by NDEQ. Formal enforcement orders were issued to four CAFO facilities. Although one facility has had violations for approximately 6 years, documentation in the file shows that timely and appropriate enforcement actions have taken place during this time. All four CAFO facilities have remained unpermitted for approx. 3 to 5 years. In addition, formal enforcement actions were issued for two of the storm water cases that were reviewed. One of the facilities had ongoing violations for

approx. 3 years and the other had documentation in the file that shows timely and appropriate enforcement action had been taken. Although most of the cases reviewed had a considerable length of time between the identification of violations and the issuance of a formal enforcement order, it appeared that most of the orders have a reasonable time period for activities to return the facilities to compliance.

**Status:** Completed

**Expected Completion Date:** 12/09/2005

**Responsible Agency:** State Action

**Recommendation Narrative:** The NDEQ should significantly shorten the length of time between identification of serious violations and the issuance of a formal enforcement action.

**Recommendation Title:** EPA needs status reports in format agreed to in MOU.

**Element:** E4 SNC Accuracy

**Finding:** As for pretreatment facilities, NDEQ's PCS printouts do not identify SNC with respect to reporting nor does it show what facilities have achieved SNC through interference or pass through. Violations at storm water & CAFO facilities are not reported to EPA.

**Status:** Long Term Resolution

**Expected Completion Date:** 12/30/2009

**Responsible Agency:** State Action

**Recommendation Narrative:** For Pre-treatment facilities, the NDEQ must provide the compliance status reports in the format agreed in the MOU.

**Recommendation Title:** Evaluate violations for appropriate enforcement response, and respond in timely and appropriate manner.

**Element:** E6 Timely & Appropriate Actions

**Finding:** It takes years, under NDEQ's enforcement process, to return a facility to compliance.

**Status:** Completed

**Expected Completion Date:** 12/05/2005

**Responsible Agency:** State Action

**Recommendation Narrative:** The NDEQ should evaluate all violations for the appropriate enforcement response, and respond to the violations in a timely and appropriate manner in accordance with their Enforcement Manual developed in January 2002.

**Recommendation Title:** Additional documentation for determining penalties.

**Element:** E7 Penalty Calculations

**Finding:** Files failed to state the basis for the gravity portion of the penalty and failed to demonstrate that economic benefit was collected.

**Status:** Completed

**Expected Completion Date:** 12/05/2005

**Responsible Agency:** State Action

**Recommendation Narrative:** Additional documentation regarding the basis for determining the penalties and economic benefit is needed.

**Recommendation Title:** Additional documentation needed for follow-up to final enforcement actions & collection of penalties.

**Element:** E8 Penalties Collected

**Finding:** Although documentation is not available in the files concerning the collection of economic benefit & gravity portion of a penalty, the NDEQ's NPDES Enforcement Manual provides the process for figuring these portions of the penalty. Also, in reviewing past enforcement actions over a three year period, the NDEQ's Enforcement Reports for 2001,2002,&2003, enforcement was sought on NPDES cases & injunctive relief & economic benefit were collected in some cases. Penalties also increased significantly over the three year period.

**Status:** Completed

**Expected Completion Date:** 12/05/2005

**Responsible Agency:** State Action

**Recommendation Narrative:** Additional documentation regarding the follow-up to final enforcement actions as well as collection of assessed penalties should be provided in the files.

**Recommendation Title:** Enter enforcement data into PCS & SSOs need to be tracked.

**Element:** E9 Grant Commitments

**Finding:** No enforcement data being entered into PCS. In addition, NDEQ tracks when SSO reports were submitted, but has no system for tracking the SSOs themselves.

**Status:** Completed

**Expected Completion Date:** 12/05/2005

**Responsible Agency:** State Action

**Recommendation Narrative:** The EPA & the NDEQ need to resolve the data discrepancy concerning the inspections of all major facilities. The NDEQ needs to perform the work they committed to in the PPG. The NDEQ & the EPA should re-evaluate the PPG for FY 06/07 to determine what additional enforcement products need to be included into the work plan.

**Recommendation Title:** Enter required PCS Data elements

**Element:** E10 Data Timely

**Finding:** The NDEQ relies on four databases for program implementation. The first, PCS, is used to provide programmatic information to the EPA. The state's own database, IIS is more comprehensive, user friendly, & powerful & eventually the state would like to use it exclusively for all NPDES activities. Until IIS can be expanded & upgraded, the state is also using two desktop databases to track enforcement actions & permitting activities. The NDEQ focuses its resources on IIS & not PCS. The result is that not all of the required PCS data fields are being put into PCS. The EPA is particularly concerned that there is no enforcement data entered into PCS. This occurs in part because the NDEQ refers all of their enforcement cases to the AG, &, in part because they are focusing their resources on maintaining IIS. It appears that IIS has the data fields that are required by PCS. The NDEQ anticipates IIS to be able to upload into PCS, but does not have a definite time frame for this to occur.

**Status:** Long Term Resolution

**Expected Completion Date:** 12/30/2009

**Responsible Agency:** State Action

**Recommendation Narrative:** The NDEQ must enter the required PCS data elements until data can be transferred into PCS. The Region & NDEQ will continue discussions on the need for the State to continue to enter the required PCS data elements until data can be uploaded into PCS.

## **Resource Conservation and Recovery Act Recommendations**

**Recommendation Title:** application of penalty policy

**Element:** E7 Penalty Calculations

**Finding:** inconsistent application of state penalty policy

**Status:** Completed

**Expected Completion Date:** 12/31/2007

**Responsible Agency:** State Action

**Recommendation Narrative:** develop SOP for application of state penalty policy; include AG in use of policy

**Recommendation Title:** application of penalty policy in case settlement

**Element:** E8 Penalties Collected

**Finding:** settlement penalties are not consistent with state penalty policy

**Status:** Completed

**Expected Completion Date:** 12/31/2007

**Responsible Agency:** State Action

**Recommendation Narrative:** state program and AG offices should develop enforcement procedures to ensure state penalty policies are followed with regard to SEPs, economic benefit and penalty justification.

**Recommendation Title:** penalty info in RCRAInfo

**Element:** E11 Data Accurate

**Finding:** incomplete penalty information recorded in RCRAInfo

**Status:** Completed

**Expected Completion Date:** 12/31/2007

**Responsible Agency:** State Action

**Recommendation Narrative:** obtain information from AG on case settlements and enter penalty info into RCRAInfo

## Definition of Terms

### Round 1 Elements:

**Element 1:** Degree to which state program has completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state, and regional priorities).

**Element 2:** Degree to which inspection reports and compliance reviews documents inspection findings, including accurate description of what was observed to sufficiently identify violations.

**Element 3:** Degree to which Compliance Monitoring Reports are completed in a timely manner, including timely identification of violations.

**Element 4:** Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely manner.

**Element 5:** Degree to which state enforcement actions include required corrective or complying actions (injunctive relief) that will return facilities to compliance in a specific time frame.

**Element 6:** Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

**Element 7:** Degree to which a state includes both gravity and economic benefit calculations for all penalties, appropriate using BEN model of similar state model (where in use and consistent with national policy).

**Element 8:** The degree to which penalties in final enforcement actions include economic benefit and gravity in accordance with applicable penalty policies.

**Element 9:** Degree to which enforcement commitments in the PPA/PPG/categorical grants (SEAs), written agreements to deliver a product/project at a specified time are met and any products or projects are completed.

**Element 10:** Degree to which the Minimum Date Requirements are timely.

**Element 11:** Degree to which the Minimum Date Requirements are accurate.

**Element 12:** Degree to which the Minimum Date Requirements are complete.

**Element 13:** Optional evaluation element could include program areas such as compliance assistance, pollution prevention, innovation, incentive or self-disclosure programs, outcome

measures, environmental indicators, relationships with Attorney General or other legal offices, etc.

**Finding:** An observation of activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight.

**Status:**

**Working:** The recommendation is in progress, it is expected to be completed, and it is on schedule to meet agreed upon completion date

**Completed:** The terms of recommendation have been implemented, the corrections have been agreed upon, and the work attributed to the recommendation was completed

**Being Negotiated:** The region and the state still have to determine the timeline and the procedures for implementing the recommendation, the timeline of recommendation cannot be determined by the completion of the final report

**Long Term Resolution:** The recommendation cannot be completed without legislative fix, policy change, or institutional arrangement that would have to go on to the future

**Responsible Agency:** The agency that administers the program. Mostly States, but is EPA where EPA directly implements the program.

## **List of Acronyms**

### **A**

ACS – Annual Commitment System  
ASHERA – Asbestos Hazard and Emergency Response Act  
AFS – Air Facilities System  
AFS ICR - Air Facilities System – Information Collection Request  
AST – Above Ground Storage Tank  
ASDWA – Association of State Drinking Water Administrators

### **B**

BIA – Bureau of Indian Affairs  
BMP – Best Management Practices  
BoP – Bureau of Prisons

### **C**

CA – Compliance Assistance  
CAA – Clean Air Act  
CAC – Compliance Assistance Coordinator  
CACDS – Compliance Assistance Conclusion Data Sheet  
CAFO – Concentrated Animal Feeding Operations  
CBP – Bureau of Customs and border Protection  
CBI – Confidential Business Information  
CCDS – Case Conclusion Data Sheet  
CEC – Commission for Environmental Cooperation  
CEI – Compliance Evaluation Inspection  
CERCLA – Comprehensive Environmental Response, Compensation and Liability Act  
CESQG – Conditionally-exempt Small Quantity Generator  
CID – Criminal Investigation Division  
CIPs – Compliance Incentive Programs  
CMS - Compliance Monitoring Strategy  
CSOs – Combined Sewer Overflows  
CSS – Combined Sewer Systems  
CWA – Clean Water Act  
CFC – Chlorofluorocarbon

### **D**

DMR – Discharge Monitoring Report

### **E**

EA – Environmental Assessment  
EIS – Environmental Impact Statement  
EJ – Environmental Justice  
EJAC – Environmental Justice Areas of Concern

EJSEAT – Environmental Justice Strategic Enforcement Assessment Tool  
EMP – Environmental Management Practices  
EMR – Environmental Management Reviews  
EMS – Environmental Management System  
EPA – Environmental Protection Agency  
EPCRA – Emergency Planning and Community Right to Know Act  
ERPs – Enforcement Response Policies  
ERP – Environmental Results Program  
ESD – Explanations of Significant Differences

## **F**

FCE – Full Compliance Evaluation  
FEMA – Federal Emergency Management Agency  
FFEO – Federal Facilities Enforcement Office  
FIFRA – Federal Insecticide Fungicide and Rodenticide Act  
FRP – Facility Response Plan  
FTE – Full Time Equivalent

## **G**

GAO – Government Accounting Office  
GME – Groundwater Monitoring Evaluation  
GPRA – Government Performance and Results Act

## **H**

HAP – Hazardous Air Pollutant  
HPV – High Priority Violators  
HQ - Headquarters  
HUD – Housing and Urban Development

## **I**

IAC – Innovative Action Council  
ICDS – Inspection Conclusion Data Sheet  
ICIS – Integrated Compliance Information System  
ICIS – NPDES Integrated Compliance Information System – National Pollutant Discharge Elimination System  
IG – Inspector General  
INECE – International Network for Environmental Compliance and Enforcement  
IU – Industrial users (non-domestic)  
IPOD – ICIS Policy on Demand

## **L**

LBP – Lead-based Paint  
LDAR - Leak Detection and Repair  
LEA – Local Education Authority  
LGEAN – Local Government Environmental Assistance Network  
LQG – Large Quantity Generator

## **M**

MACT – Maximum Achievable Control Technology  
MDR – Minimum Data Requirements  
MOA – Memorandum of Agreement  
MS4 – Municipal Separate Storm Sewer System

## **N**

NAAQS – National Ambient Air Quality Standards  
NEIC – National Enforcement Investigations Center  
NEJAC – National Environmental Justice Advisory Council  
NEPA – National Environmental Policy Act  
NESHAP – National Emissions Standards for hazardous Air Pollutants  
NETI – National Enforcement Training Institute  
NOV – Notice of Violation  
NO<sub>x</sub> – Nitrogen Oxide  
NPDES – National Pollutant Discharge Elimination System  
NPL – National Priorities List  
NPM – National Program Manager  
NRC – National Response Center  
NSPS – New Source Performance Standards  
NSR – New Source Review  
NTP – National Training Plan

## **O**

OAM – Operation and Maintenance  
OAP – Office of Administration and Policy  
OC – Office of Compliance  
OCE – Office of Civil Enforcement  
OCEFT – Office of Criminal Enforcement, Forensics and Training  
OCFO – Office of Chief Financial Officer  
OCIR – Office of Congressional and Intergovernmental Relations  
ODS – Ozone Depleting Substances  
OECA- Office of Compliance and Assurance  
OEJ – Office of Environmental Justice  
OGD – Office of Grants and Disbarment  
OIG – Office of the Inspector General  
OMB – Office of Management and Budget  
OPP – Office of Pesticide Programs  
OPPTS – Office of Prevention, Pesticides, and Toxic Substances  
OSWER – Office of Solid Waste and Emergency Response  
OTIS – Online Tracking Information System

## **P**

PBT – Persistent Bio-accumulative Toxics  
PCB – Polychlorinated Biphenyls

PCE – Partial Compliance Evaluation  
PCS – Permit Compliance System  
PEI – Production Establishment Inspections  
PFA – Preliminary Financial Assessments  
PM10 – Particulate Matter  
POTW – Publically Operated Treatment Works  
PPA – Performance Partnership Agreement  
PPG – Performance Partnership Grants  
PRP – Potentially Responsible Party  
PSD – Prevention of Significant Deterioration  
PWS – Public Water System  
PWSS – Public Water System Supervision

## **R**

RCRA – Resource Conservation Recovery Act  
RCRAInfo – Resource Conservation and Recovery Act Information  
RECAP – Regional Enforcement and Compliance Assurance Program  
RMP – Risk Management Plan  
ROD – Record of Decision  
RR+P – Renovation, Repair and Painting

## **S**

SAAP – Special Appropriations Act Projects  
SAC – Special Agent-in-Charge  
SCAP – Superfund Comprehensive Accomplishment Planning  
SDWA – Safe Drinking Water Act  
SDWIS/ODS – Safe Drinking Water Information System/ Operational Data System  
SEC – Securities and Exchange Commission  
SEE – Senior Environmental Employment  
SEP – Supplemental Environmental Project  
SGTM – State Grant Template Measures  
SITS – Strategy Implementation Teams  
SLPD – Special Litigation and Projects Division  
SNCs – Significant Noncompliance  
SOC – Significant Operational Compliance  
SO2 – Sulfur Dioxide  
SPCC – Spill Prevention Control and Countermeasures  
SQG – Small Quantity Generator  
SRF – State Review Framework  
SSO – Sanitary Sewer Overflows  
STAG - -State and Tribal Assistance Grant  
SWPPP – Stormwater Pollution Prevention Plan

## **T**

TSCA – Toxic Substance Control Act  
TSD - Treatment, Storage and Disposal

TSDf – Treatment, Storage and Disposal Facility  
TSS – Total Suspended Solids  
TVA – Tennessee Valley Authority

**U**

UIC – Underground Injection Control  
UNICOR – trade name of Federal Prison Industries  
UST – Underground Storage Tank

**V**

VOC – Volatile Organic Compounds

**W**

WW – Wet Weather