

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 852

Introduced by Crawford, 45.

Read first time January 13, 2014

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to asbestos regulation; to amend sections 71-6301
2 and 71-6311, Reissue Revised Statutes of Nebraska, and
3 section 81-1505, Revised Statutes Cumulative Supplement,
4 2012; to redefine the term asbestos project to exclude
5 residential property of four units or less; to change a
6 provision relating to contracts; to adopt a federal
7 definition of facility; and to repeal the original
8 sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-6301, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6301 For purposes of the Asbestos Control Act, unless
4 the context otherwise requires:

5 (1) Asbestos means asbestiform varieties of chrysotile,
6 crocidolite, amosite, anthophyllite, tremolite, and actinolite;

7 (2) Asbestos encapsulation project means activities which
8 include the coating of asbestos-containing surface material with a
9 bridging or penetrating type of sealing material for the intended
10 purpose of preventing the continued release of asbestos fibers from
11 the material into the air. Such project does not include the
12 repainting of a previously painted nonfriable asbestos-containing
13 surface which is not damaged primarily for improving the appearance
14 of such surface;

15 (3) Asbestos enclosure project means activities which
16 physically isolate friable asbestos and which control and contain
17 fibers released from asbestos-containing material by constructing a
18 permanent airtight barrier between the asbestos-containing material
19 and the occupied building space;

20 (4) Asbestos occupation means an inspector, management
21 planner, project designer, project monitor, supervisor, or worker;

22 (5) Asbestos project means an asbestos enclosure project,
23 an asbestos encapsulation project, an asbestos removal project, an
24 asbestos-related demolition project, or an asbestos-related
25 dismantling project but does not include (a) any activities which

1 affect three square feet or less or three linear feet or less of
2 asbestos-containing material on or in a structure or equipment or any
3 appurtenances thereto or (b) any activities ~~physically performed by a~~
4 ~~homeowner, a member of the homeowner's family, or an unpaid volunteer~~
5 on or in ~~the homeowner's~~ a single residential property of four units
6 or less;

7 (6) Asbestos removal project means activities which
8 include the physical removal of friable asbestos-containing material
9 from the surface of a structure or from equipment which is intended
10 to remain in place after the removal. Such project also includes the
11 physical removal of asbestos from a structure or equipment after such
12 structure or equipment has been removed as part of an asbestos-
13 related dismantling project;

14 (7) Asbestos-related demolition project means activities
15 which include the razing of all or a portion of a structure which
16 contains friable asbestos-containing materials or other asbestos-
17 containing materials which may become friable when such materials are
18 cut, crushed, ground, abraded, or pulverized;

19 (8) Asbestos-related dismantling project means activities
20 which include the disassembly, handling, and moving of the components
21 of any structure or equipment which has been coated with asbestos-
22 containing material without first removing such material from the
23 structure or from the equipment;

24 (9) Business entity means a partnership, limited
25 liability company, firm, association, corporation, sole

1 proprietorship, public entity, or other public or private business
2 concern involved in an asbestos project except an entity solely
3 involved as a management planner or project designer;

4 (10) Demolition means the wrecking, razing, or removal of
5 any structure or load-supporting structural item of any structure,
6 including any related material handling operations, and includes the
7 intentional burning of any structure;

8 (11) Department means the Department of Health and Human
9 Services;

10 (12) Enclosure means the construction of an airtight,
11 impermeable, permanent barrier around asbestos-containing material to
12 control the release of asbestos fibers into the air;

13 (13) Friable asbestos means asbestos in a form which can
14 be crumbled, pulverized, or reduced to powder by hand pressure;

15 (14) Inspector means an individual who is licensed by the
16 department to identify and assess the condition of asbestos-
17 containing material;

18 (15) Instructor means an individual who is approved by
19 the department to teach an asbestos-related training course;

20 (16) License means an authorization issued by the
21 department to an individual to engage in a profession or to a
22 business to provide services which would otherwise be unlawful in
23 this state in the absence of such authorization;

24 (17) Management planner means an individual who is
25 licensed by the department to assess the hazard of materials

1 containing asbestos, to determine the appropriate response actions,
2 and to write management plans;

3 (18) Project designer means an individual who is licensed
4 by the department to formulate plans and write specifications for
5 conducting asbestos projects;

6 (19) Project monitor means an individual who is licensed
7 by the department to observe abatement activities performed by
8 contractors, to represent the building owner to ensure work is
9 completed according to specifications and in compliance with statutes
10 and regulations, and to perform air monitoring to determine final
11 clearance;

12 (20) Project review means review of a licensed business
13 entity's proposed asbestos project;

14 (21) Renovation means the altering of a structure, one or
15 more structural items, or one or more equipment items in any way,
16 including any asbestos project performed on a structure, structural
17 item, or equipment item;

18 (22) Supervisor means an individual who is licensed by
19 the department to supervise and direct an asbestos project in
20 accordance with the Asbestos Control Act and the rules and
21 regulations adopted and promulgated pursuant to such act; and

22 (23) Worker means an individual who is licensed by the
23 department to clean, handle, repair, remove, encapsulate, haul,
24 dispose of, or otherwise work with asbestos material in a
25 nonsupervisory capacity.

1 Sec. 2. Section 71-6311, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6311 No state agency, county, city, village, school
4 district, or other political subdivision shall accept a bid in
5 connection with any asbestos project which is two hundred sixty or
6 more linear feet or one hundred sixty or more square feet and linear
7 feet in any combination from a business entity which does not hold a
8 license from the department at the time the bid is submitted. This
9 section only applies if a license is required for the asbestos
10 control project.

11 Sec. 3. Section 81-1505, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 81-1505 (1) In order to carry out the purposes of the
14 Environmental Protection Act, the Integrated Solid Waste Management
15 Act, and the Livestock Waste Management Act, the council shall adopt
16 and promulgate rules and regulations which shall set standards of
17 air, water, and land quality to be applicable to the air, waters, and
18 land of this state or portions thereof. Such standards of quality
19 shall be such as to protect the public health and welfare. The
20 council shall classify air, water, and land contaminant sources
21 according to levels and types of discharges, emissions, and other
22 characteristics which relate to air, water, and land pollution and
23 may require reporting for any such class or classes. Such
24 classifications and standards made pursuant to this section may be
25 made for application to the state as a whole or to any designated

1 area of the state and shall be made with special reference to effects
2 on health, economic and social factors, and physical effects on
3 property. Such standards and classifications may be amended as
4 determined necessary by the council.

5 (2) In adopting the classifications of waters and water
6 quality standards, the primary purpose for such classifications and
7 standards shall be to protect the public health and welfare and the
8 council shall give consideration to:

9 (a) The size, depth, surface area, or underground area
10 covered, the volume, direction, and rate of flow, stream gradient,
11 and temperature of the water;

12 (b) The character of the area affected by such
13 classification or standards, its peculiar suitability for particular
14 purposes, conserving the value of the area, and encouraging the most
15 appropriate use of lands within such area for domestic, agricultural,
16 industrial, recreational, and aquatic life purposes;

17 (c) The uses which have been made, are being made, or are
18 likely to be made, of such waters for agricultural, transportation,
19 domestic, and industrial consumption, for fishing and aquatic
20 culture, for the disposal of sewage, industrial waste, and other
21 wastes, or other uses within this state and, at the discretion of the
22 council, any such uses in another state on interstate waters flowing
23 through or originating in this state;

24 (d) The extent of present pollution or contamination of
25 such waters which has already occurred or resulted from past

1 discharges therein; and

2 (e) Procedures pursuant to section 401 of the Clean Water
3 Act, as amended, 33 U.S.C. 1251 et seq., for certification by the
4 department of activities requiring a federal license or permit which
5 may result in a discharge.

6 (3) In adopting effluent limitations or prohibitions, the
7 council shall give consideration to the type, class, or category of
8 discharges and the quantities, rates, and concentrations of chemical,
9 physical, biological, and other constituents which are discharged
10 from point sources into navigable or other waters of the state,
11 including schedules of compliance, best practicable control
12 technology, and best available control technology.

13 (4) In adopting standards of performance, the council
14 shall give consideration to the discharge of pollutants which reflect
15 the greatest degree of effluent reduction which the council
16 determines to be achievable through application of the best available
17 demonstrated control technology, processes, operating methods, or
18 other alternatives, including, when practicable, a standard
19 permitting no discharge of pollutants.

20 (5) In adopting toxic pollutant standards and
21 limitations, the council shall give consideration to the combinations
22 of pollutants, the toxicity of the pollutant, its persistence,
23 degradability, the usual or potential presence of the affected
24 organisms in any waters, the importance of the affected organisms,
25 and the nature and extent of the effect of the toxic pollutant on

1 such organisms.

2 (6) In adopting pretreatment standards, the council shall
3 give consideration to the prohibitions or limitations to
4 noncompatible pollutants, prohibitions against the passage through a
5 publicly owned treatment works of pollutants which would cause
6 interference with or obstruction to the operation of publicly owned
7 treatment works, damage to such works, and the prevention of the
8 discharge of pollutants therefrom which are inadequately treated.

9 (7) In adopting treatment standards, the council shall
10 give consideration to providing for processes to which wastewater
11 shall be subjected in a publicly owned wastewater treatment works in
12 order to make such wastewater suitable for subsequent use.

13 (8) In adopting regulations pertaining to the disposal of
14 domestic and industrial liquid wastes, the council shall give
15 consideration to the minimum amount of biochemical oxygen demand,
16 suspended solids, or equivalent in the case of industrial
17 wastewaters, which must be removed from the wastewaters and the
18 degree of disinfection necessary to meet water quality standards with
19 respect to construction, installation, change of, alterations in, or
20 additions to any wastewater treatment works or disposal systems,
21 including issuance of permits and proper abandonment, and
22 requirements necessary for proper operation and maintenance thereof.

23 (9)(a) The council shall adopt and promulgate rules and
24 regulations for controlling mineral exploration holes and mineral
25 production and injection wells. The rules and regulations shall

1 include standards for the construction, operation, and abandonment of
2 such holes and wells. The standards shall protect the public health
3 and welfare and air, land, water, and subsurface resources so as to
4 control, minimize, and eliminate hazards to humans, animals, and the
5 environment. Consideration shall be given to:

6 (i) Area conditions such as suitability of location,
7 geologic formations, topography, industry, agriculture, population
8 density, wildlife, fish and other aquatic life, sites of
9 archeological and historical importance, mineral, land, and water
10 resources, and the existing economic activities of the area
11 including, but not limited to, agriculture, recreation, tourism, and
12 industry;

13 (ii) A site-specific evaluation of the geologic and
14 hydrologic suitability of the site and the injection, disposal, and
15 production zones;

16 (iii) The quality of the existing ground water, the
17 effects of exemption of the aquifer from any existing water quality
18 standards, and requirements for restoration of the aquifer;

19 (iv) Standards for design and use of production
20 facilities, which shall include, but not be limited to, all wells,
21 pumping equipment, surface structures, and associated land required
22 for operation of injection or production wells; and

23 (v) Conditions required for closure, abandonment, or
24 restoration of mineral exploration holes, injection and production
25 wells, and production facilities in order to protect the public

1 health and welfare and air, land, water, and subsurface resources.

2 (b) The council shall establish fees for regulated
3 activities and facilities and for permits for such activities and
4 facilities. The fees shall be sufficient but shall not exceed the
5 amount necessary to pay the department for the direct and indirect
6 costs of evaluating, processing, and monitoring during and after
7 operation of regulated facilities or performance of regulated
8 activities.

9 (c) With respect to mineral production wells, the council
10 shall adopt and promulgate rules and regulations which require
11 restoration of air, land, water, and subsurface resources and require
12 mineral production well permit applications to include a restoration
13 plan for the air, land, water, and subsurface resources affected.
14 Such rules and regulations may provide for issuance of a research and
15 development permit which authorizes construction and operation of a
16 pilot plant by the permittee for the purpose of demonstrating the
17 permittee's ability to inject and restore in a manner which meets the
18 standards required by this subsection and the rules and regulations.

19 The rules and regulations adopted and promulgated may
20 also provide for issuance of a commercial permit after a finding by
21 the department that the injection and restoration procedures
22 authorized by the research and development permit have been
23 successful in demonstrating the applicant's ability to inject and
24 restore in a manner which meets the standards required by this
25 subsection and the rules and regulations.

1 (d) For the purpose of this subsection, unless the
2 context otherwise requires, restoration shall mean the employment,
3 during and after an activity, of procedures reasonably designed to
4 control, minimize, and eliminate hazards to humans, animals, and the
5 environment, to protect the public health and welfare and air, land,
6 water, and subsurface resources, and to return each resource to a
7 quality of use consistent with the uses for which the resource was
8 suitable prior to the activity.

9 (10) In adopting livestock waste control regulations, the
10 council shall consider the discharge of livestock wastes into the
11 waters of the state or onto land not owned by the livestock operator,
12 conditions under which permits for such operations may be issued,
13 including design, location, and proper management of such facilities,
14 protection of ground water from such operations, and revocation,
15 modification, or suspension of such permits for cause and all
16 requirements of the Livestock Waste Management Act.

17 (11) In adopting regulations for the issuance of permits
18 under the National Pollutant Discharge Elimination System created by
19 the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the council
20 shall consider when such permits shall be required and exemptions,
21 application and filing requirements, terms and conditions affecting
22 such permits, notice and public participation, duration and review of
23 such permits, and monitoring, recording, and reporting under the
24 system.

25 (12) The council shall adopt and promulgate rules and

1 regulations for air pollution control which shall include:

2 (a) A construction permit program which requires the
3 owner or operator of an air contaminant source to obtain a permit
4 prior to construction. Application fees shall be according to section
5 81-1505.06;

6 (b) An operating permit program consistent with
7 requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et
8 seq., and an operating permit program for minor sources of air
9 pollution, which programs shall require permits for both new and
10 existing sources;

11 (c) Provisions for operating permits to be issued after
12 public notice, to be terminated, modified, or revoked for cause, and
13 to be modified to incorporate new requirements;

14 (d) Provisions for applications to be on forms provided
15 by the department and to contain information necessary to make a
16 determination on the appropriateness of issuance or denial. The
17 department shall make a completeness determination in a timely
18 fashion and after such determination shall act on the application
19 within time limits set by the council. Applications for operating
20 permits shall include provisions for certification of compliance by
21 the applicant;

22 (e) Requirements for operating permits which may include
23 such conditions as necessary to protect public health and welfare,
24 including, but not limited to (i) monitoring and reporting
25 requirements on all sources subject to the permit, (ii) payment of

1 annual fees sufficient to pay the reasonable direct and indirect
2 costs of developing and administering the air quality permit program,
3 (iii) retention of records, (iv) compliance with all air quality
4 standards, (v) a permit term of no more than five years from date of
5 issuance, (vi) any applicable schedule of compliance leading to
6 compliance with air quality regulations, (vii) site access to the
7 department for inspection of the facility and records, (viii)
8 emission limits or control technology requirements, (ix) periodic
9 compliance certification, and (x) other conditions necessary to carry
10 out the purposes of the Environmental Protection Act. For purposes of
11 this subsection, control technology shall mean a design, equipment, a
12 work practice, an operational standard which may include a
13 requirement for operator training or certification, or any
14 combination thereof;

15 (f) Classification of air quality control regions;

16 (g) Standards for air quality that may be established
17 based upon protection of public health and welfare, emission
18 limitations established by the United States Environmental Protection
19 Agency, and maximum achievable control technology standards for
20 sources of toxic air pollutants. For purposes of this subdivision,
21 maximum achievable control technology standards shall mean an
22 emission limit or control technology standard which requires the
23 maximum degree of emission reduction that the council, taking into
24 consideration the cost of achieving such emission reduction, any
25 health and environmental impacts not related to air quality, and

1 energy requirements, determines is achievable for new or existing
2 sources in the category or subcategory to which the standard applies
3 through application of measures, processes, methods, systems, or
4 techniques, including, but not limited to, measures which accomplish
5 one or a combination of the following:

6 (i) Reduce the volume of or eliminate emissions of the
7 pollutants through process changes, substitution of materials, or
8 other modifications;

9 (ii) Enclose systems or processes to eliminate emissions;
10 or

11 (iii) Collect, capture, or treat the pollutants when
12 released from a process, stack, storage, or fugitive emission point;

13 For purposes of asbestos control, the department shall
14 adopt the definition of facility as provided in 40 C.F.R. 61.141, as
15 such section existed on January 1, 2014, and as interpreted by the
16 United States Environmental Protection Agency on such date.

17 (h) Restrictions on open burning and fugitive emissions;

18 (i) Provisions for issuance of general operating permits,
19 after public notice, for sources with similar operating conditions
20 and for revoking such general authority to specific permittees;

21 (j) Provisions for implementation of any emissions
22 trading programs as defined by the department. Such programs shall be
23 consistent with the Clean Air Act, as amended, 42 U.S.C. 7401 et
24 seq., and administered through the operating permit program;

25 (k) A provision that operating permits will not be issued

1 if the Environmental Protection Agency objects in a timely manner;

2 (l) Provisions for periodic reporting of emissions;

3 (m) Limitations on emissions from process operations,
4 fuel-burning equipment, and incinerator emissions and such other
5 restrictions on emissions as are necessary to protect the public
6 health and welfare;

7 (n) Time schedules for compliance;

8 (o) Requirements for owner or operator testing and
9 monitoring of emissions;

10 (p) Control technology requirements when it is not
11 feasible to prescribe or enforce an emission standard; and

12 (q) Procedures and definitions necessary to carry out
13 payment of the annual emission fee set in section 81-1505.04.

14 (13)(a) In adopting regulations for hazardous waste
15 management, the council shall give consideration to generation of
16 hazardous wastes, labeling practices, containers used, treatment,
17 storage, collection, transportation including a manifest system,
18 processing, resource recovery, and disposal of hazardous wastes. It
19 shall consider the permitting, licensing, design and construction,
20 and development and operational plans for hazardous waste treatment,
21 storage, and disposal facilities, and conditions for licensing or
22 permitting of hazardous waste treatment, storage, and disposal areas.
23 It shall consider modification, suspension, or revocation of such
24 licenses and permits, including requirements for waste analysis, site
25 improvements, fire prevention, safety, security, restricted access,

1 and covering and handling of hazardous liquids and materials.
2 Licenses and permits for hazardous waste, treatment, storage, and
3 disposal facilities shall not be issued until certification by the
4 State Fire Marshal as to fire prevention and fire safety has been
5 received by the department. The council shall further consider the
6 need at treatment, storage, or disposal facilities for required
7 equipment, communications and alarms, personnel training, and
8 contingency plans for any emergencies that might arise and for a
9 coordinator during such emergencies.

10 In addition the council shall give consideration to (i)
11 ground water monitoring, (ii) use and management of containers and
12 tanks, (iii) surface impoundments, (iv) waste piles, (v) land
13 treatment, (vi) incinerators, (vii) chemical or biological treatment,
14 (viii) landfills including the surveying thereof, and (ix) special
15 requirements for ignitable, reactive, or incompatible wastes.

16 In considering closure and postclosure of hazardous waste
17 treatment, storage, or disposal facilities, the council shall
18 consider regulations that would result in the owner or operator
19 closing his or her facility so as to minimize the need for future
20 maintenance, and to control, minimize, or eliminate, to the extent
21 necessary to protect humans, animals, and the environment,
22 postclosure escape of hazardous waste, hazardous waste constituents,
23 and leachate to the ground water or surface waters, and to control,
24 minimize, or eliminate, to the extent necessary to protect humans,
25 animals, and the environment, waste decomposition to the atmosphere.

1 In considering corrective action for hazardous waste treatment,
2 storage, or disposal facilities, the council shall consider
3 regulations that would require the owner or operator, or any previous
4 owner or operator with actual knowledge of the presence of hazardous
5 waste at the facility, to undertake corrective action or such other
6 response measures necessary to protect human health or the
7 environment for all releases of hazardous waste or hazardous
8 constituents from any treatment, storage, or disposal facility or any
9 solid waste management unit at such facility regardless of the time
10 at which waste was placed in such unit.

11 Such regulations adopted pursuant to this subsection
12 shall in all respects comply with the Environmental Protection Act
13 and the Resource Conservation and Recovery Act, as amended, 42 U.S.C.
14 6901 et seq.

15 (b) In adopting regulations for hazardous waste
16 management, the council shall consider, in addition to criteria in
17 subdivision (a) of this subsection, establishing criteria for (i)
18 identifying hazardous waste including extraction procedures,
19 toxicity, persistence, and degradability in nature, potential for
20 accumulation in tissue, flammability or ignitability, corrosiveness,
21 reactivity, and generation of pressure through decomposition, heat,
22 or other means, and other hazardous characteristics, (ii) listing all
23 materials it deems hazardous and which should be subject to
24 regulation, and (iii) locating treatment, storage, or disposal
25 facilities for such wastes. In adopting criteria for flammability and

1 ignitability of wastes pursuant to subdivision (b)(i) of this
2 subsection, no regulation shall be adopted without the approval of
3 the State Fire Marshal.

4 (c) In adopting regulations for hazardous waste
5 management, the council shall establish a schedule of fees to be paid
6 to the director by licensees or permittees operating hazardous waste
7 processing facilities or disposal areas on the basis of a monetary
8 value per cubic foot or per pound of the hazardous wastes, sufficient
9 but not exceeding the amount necessary to reimburse the department
10 for the costs of monitoring such facilities or areas during and after
11 operation of such facilities or areas. The licensees may assess a
12 cost against persons using the facilities or areas. The director
13 shall remit any money collected from fees paid to him or her to the
14 State Treasurer who shall credit the entire amount thereof to the
15 General Fund.

16 (d) In adopting regulations for solid waste disposal, the
17 council shall consider storage, collection, transportation,
18 processing, resource recovery, and disposal of solid waste,
19 developmental and operational plans for solid waste disposal areas,
20 conditions for permitting of solid waste disposal areas,
21 modification, suspension, or revocation of such permits, regulations
22 of operations of disposal areas, including site improvements, fire
23 prevention, ground water protection, safety and restricted access,
24 handling of liquid and hazardous materials, insect and rodent
25 control, salvage operations, and the methods of disposing of

1 accumulations of junk outside of solid waste disposal areas. Such
2 regulations shall in all respects comply with the Environmental
3 Protection Act, the Integrated Solid Waste Management Act, and the
4 Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et
5 seq.

6 (14) In adopting regulations governing discharges or
7 emissions of oil and other hazardous materials into the waters, in
8 the air, or upon the land of the state, the council shall consider
9 the requirements of the Integrated Solid Waste Management Act,
10 methods for prevention of such discharges or emissions, and the
11 responsibility of the discharger or emitter for cleanup, toxicity,
12 degradability, and dispersal characteristics of the substance.

13 (15) In adopting regulations governing composting and
14 composting sites, the council shall give consideration to:

15 (a) Approval of a proposed site by the local governing
16 body, including the zoning authority, if any, prior to issuance of a
17 permit by the department;

18 (b) Issuance of permits by the department for such
19 composting operations, with conditions if necessary;

20 (c) Submission of construction and operational plans by
21 the applicant for a permit to the department, with approval of such
22 plans before issuance of such permit;

23 (d) A term of up to ten years for such permits;

24 (e) Renewal of permits if the operation has been in
25 substantial compliance with composting regulations adopted pursuant

1 to this subsection, permit conditions, and operational plans;

2 (f) Review by the department of materials to be
3 composted, including chemical analysis when found by the department
4 to be necessary;

5 (g) Inspections of such compost sites by the department.
6 Operations out of compliance with composting regulations, permit
7 conditions, or operational plans shall be given a reasonable time for
8 voluntary compliance, and failure to do so within the specified time
9 shall result in a hearing after notice is given, at which time the
10 owner or operator shall appear and show cause why his or her permit
11 should not be revoked;

12 (h) Special permits of the department for demonstration
13 projects not to exceed six months;

14 (i) Exemptions from permits of the department; and

15 (j) The Integrated Solid Waste Management Act.

16 (16) Any person operating or responsible for the
17 operation of air, water, or land contaminant sources of any class for
18 which the rules and regulations of the council require reporting
19 shall make reports containing information as may be required by the
20 department concerning quality and quantity of discharges and
21 emissions, location, size, and height of contaminant outlets,
22 processes employed, fuels used, and the nature and time periods or
23 duration of discharges and emissions, and such other information as
24 is relevant to air, water, or land pollution and is available.

25 (17) Prior to adopting, amending, or repealing standards

1 and classifications of air, water, and land quality and rules and
2 regulations under the Integrated Solid Waste Management Act or the
3 Livestock Waste Management Act, the council shall, after due notice,
4 conduct public hearings thereon. Notice of public hearings shall
5 specify the waters or the area of the state for which standards of
6 air, water, or land are sought to be adopted, amended, or repealed
7 and the time, date, and place of such hearing. Such hearing shall be
8 held in the general area to be affected by such standards. Such
9 notice shall be given in accordance with the Administrative Procedure
10 Act.

11 (18) Standards of quality of the air, water, or land of
12 the state and rules and regulations adopted under the Integrated
13 Solid Waste Management Act or the Livestock Waste Management Act or
14 any amendment or repeal of such standards or rules and regulations
15 shall become effective upon adoption by the council and filing in the
16 office of the Secretary of State. In adopting standards of air,
17 water, and land quality or making any amendment thereof, the council
18 shall specify a reasonable time for persons discharging wastes into
19 the air, water, or land of the state to comply with such standards
20 and upon the expiration of any such period of time may revoke or
21 modify any permit previously issued which authorizes the discharge of
22 wastes into the air, water, or land of this state which results in
23 reducing the quality of such air, water, or land below the standards
24 established therefor by the council.

25 (19) All standards of quality of air, water, or land and

1 all rules and regulations adopted pursuant to law by the council
2 prior to May 29, 1981, and applicable to specified air, water, or
3 land are hereby approved and adopted as standards of quality of and
4 rules and regulations for such air, water, or land.

5 (20) In addition to such standards as are heretofore
6 authorized, the council shall adopt and promulgate rules and
7 regulations to set standards of performance, effluent standards,
8 pretreatment standards, treatment standards, toxic pollutant
9 standards and limitations, effluent limitations, effluent
10 prohibitions, and quantitative limitations or concentrations which
11 shall in all respects conform with and meet the requirements of the
12 National Pollutant Discharge Elimination System in the Clean Water
13 Act, as amended, 33 U.S.C. 1251 et seq.

14 (21)(a) The council shall adopt and promulgate rules and
15 regulations requiring all new or renewal permit or license applicants
16 regulated under the Environmental Protection Act, the Integrated
17 Solid Waste Management Act, or the Livestock Waste Management Act to
18 establish proof of financial responsibility by providing funds in the
19 event of abandonment, default, or other inability of the permittee or
20 licensee to meet the requirements of its permit or license or other
21 conditions imposed by the department pursuant to the acts. The
22 council may exempt classes of permittees or licensees from the
23 requirements of this subdivision when a finding is made that such
24 exemption will not result in a significant risk to the public health
25 and welfare.

1 (b) Proof of financial responsibility shall include any
2 of the following made payable to or held in trust for the benefit of
3 the state and approved by the department:

4 (i) A surety bond executed by the applicant and a
5 corporate surety licensed to do business in this state;

6 (ii) A deposit of cash, negotiable bonds of the United
7 States or the state, negotiable certificates of deposit, or an
8 irrevocable letter of credit of any bank or other savings institution
9 organized or transacting business in the United States in an amount
10 or which has a market value equal to or greater than the amount of
11 the bonds required for the bonded area under the same terms and
12 conditions upon which surety bonds are deposited;

13 (iii) An established escrow account; or

14 (iv) A bond of the applicant without separate surety upon
15 a satisfactory demonstration to the director that such applicant has
16 the financial means sufficient to self-bond pursuant to bonding
17 requirements adopted by the council consistent with the purposes of
18 this subdivision.

19 (c) The director shall determine the amount of the bond,
20 deposit, or escrow account which shall be reasonable and sufficient
21 so the department may, if the permittee or licensee is unable or
22 unwilling to do so and in the event of forfeiture of the bond or
23 other financial responsibility methods, arrange to rectify any
24 improper management technique committed during the term of the permit
25 or license and assure the performance of duties and responsibilities

1 required by the permit or license pursuant to law, rules, and
2 regulations.

3 (d) In determining the amount of the bond or other method
4 of financial responsibility, the director shall consider the
5 requirements of the permit or license or any conditions specified by
6 the department, the probable difficulty of completing the
7 requirements of such permit, license, or conditions due to such
8 factors as topography, geology of the site, and hydrology, and the
9 prior history of environmental activities of the applicant.

10 This subsection shall apply to hazardous waste treatment,
11 storage, or disposal facilities which have received interim status.

12 (22) The council shall adopt and promulgate rules and
13 regulations no more stringent than the provisions of section 1453 et
14 seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C.
15 300j-13 et seq., for public water system source water assessment
16 programs.

17 The council may adopt and promulgate rules and
18 regulations to implement a source water petition program no more
19 stringent than section 1454 et seq. of the federal Safe Drinking
20 Water Act, as amended, 42 U.S.C. 300j-14 et seq.

21 Sec. 4. Original sections 71-6301 and 71-6311, Reissue
22 Revised Statutes of Nebraska, and section 81-1505, Revised Statutes
23 Cumulative Supplement, 2012, are repealed.