



**Methodologies for Waterbody Assessments and
Development of the 2006 Integrated Report for
Nebraska**

**Nebraska Department of Environmental Quality
Water Quality Division**

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1.0 Introduction

1.1 Requirements Under Section 303(d) and Section 305(b) of the Federal Clean Water Act

Section 303(d) of the federal Clean Water Act (CWA), which Congress enacted in 1972 requires states, territories and authorized tribes to identify and establish a priority ranking for all waterbodies in which technology-based effluent limitations required by section 301 are not stringent enough to attain and maintain applicable water quality standards, establish total maximum daily loads (TMDLs) for the pollutants causing impairment in those waterbodies, and submit, from time to time, the (revised) list of impaired waterbodies and TMDLs to the U.S. Environmental Protection Agency (EPA). The requirements to identify and establish TMDLs apply to all waterbodies - regardless of whether a waterbody is impaired by point sources, nonpoint sources, or a combination of both. *Pronsolino v. Marcus*, 2000 WL 356305 (N.D. Cal. March 30, 2000.)

EPA issued regulations governing identification of impaired waterbodies and establishment of TMDLs at § 130.7 in 1985 and amended in 1992 and 2000. However, on March 19, 2003, a final rule to formally and completely withdraw the 2000 regulations was published in the *Federal Register*. Therefore, the listing of impaired waters will be conducted under the 1985 TMDL regulations, as amended in 1992.

Section 305(b) of the CWA directs states to prepare a report every two (2) years that describes the status and trends of existing water quality, the extent to which designated uses are supported, pollution problems and sources, and the effectiveness of the water pollution control programs.

On July 21, 2003 EPA issued guidance for the 2004 waterbody assessments and reporting requirements for Section 303(d) and Section 305(b) of the Clean Water Act. The final product is referred to as an “Integrated Report” and EPA’s goal for this report is to provide the general public with a comprehensive summary of state and national water quality. The NDEQ has opted to prepare such a report not only for the general public but also for water quality management planning purposes (e.g. future monitoring, TMDL development, best management practice implementation, etc.).

1.2 State of Nebraska Water Quality Standards

Title 117 – Nebraska Surface Water Quality Standards (Title 117) lists designated waterbodies and the assigned beneficial use(s) (e.g. aquatic life, primary contact recreation, water supply and aesthetics) for each waterbody based on monitored or extrapolated chemical, physical and biological attributes. Numeric criteria (concentrations) are set forth in Title 117 to provide a benchmark for protection of an assigned beneficial use and for utilization as a quantitative assessment (maximum or minimum) of the pollutant loadings. Narrative criteria, which tend to be more subjective than numeric values, are also assigned to waterbodies for further protection of beneficial uses.

When making waterbody assessments, the most recently promulgated version of Title 117 will be utilized.

The procedures described herein have been developed for use in comparing Title 117 water quality criteria to monitoring data and information collected from a specific waterbody. Future action taken on a waterbody will depend upon the result of the assessment(s) and can range from no action to additional monitoring or TMDL development.

With the advent of the Integrated Report, the status of all waterbodies must be included. Reference to the term waterbody shall mean those stream segments and lakes/reservoir identified in Title 117 Chapters 5 and 6. On occasion, data may be obtained from a waterbody not identified in Title 117. In keeping with the goal of an all-encompassing report, the data will be assessed using the most appropriate narrative and numeric criteria. Although not identified individually, wetlands are waters of the state and available data will be assessed using these procedures and the status of the beneficial uses will be included.

1.3 Scope and Focus of the Integrated Report

Past waterbody assessments resulted in two products: The Section 303(d) list and the Section 305(b) report. Section 305(b) reporting often allowed for greater flexibility in regards to data age and quantity whereas, the Section 303(d) list only reported known beneficial use impairments based on high quality data of sufficient quantity to make confident assessments and decisions. Although the programs overlapped, interpretations and comparisons between the two assessments may have been misleading and not afforded water quality managers the ability to accurately describe the status of a single waterbody or the State's overall water quality.

For these reasons, EPA has encouraged State's to adopt the integrated reporting process. The use of a single report will create consistency in the beneficial use assessments and determinations of whether a waterbody is "impaired" or "supported" for assigned beneficial uses.

1.4 Format and Components of Nebraska's Integrated Report

In accordance with the July 2005 Guidance, Nebraska's Integrated Report will consist of five (5) assessment categories and 3 sub-categories within category 4. Waterbodies included in a category may reflect the data quantity, quality and confidence associated with the waterbody assessments. Program managers will use the Integrated Report to direct future monitoring and activities.

Previous guidance supported an effort to quantify the level of beneficial use attainment using the terminology: "Full Support", "Partial Support", "Threatened" and "Non-Support". Along with this, all waters deemed to be "Partial" or "Non-Support" fell into the category of impaired and were included on the Section 303(d) list. As well, some "threatened" waters were also included on Section 303(d) lists. Use of these more specific categories was not beneficial and thus for the Integrated Report waters and beneficial uses will simply be defined as Supported or Impaired.

Unlike the 2004 Section 303(d) list, a waterbody will only be placed in one category within the 2006 Integrated Report. Therefore, the Integrated Report format will be as follows:

Category 1 – Waterbodies where all designated uses are met.

Category 2 – Waterbodies where some of the designated uses are met but there is insufficient information to determine if all uses are being met.

Category 3 – Waterbodies where there is insufficient data to determine if any beneficial uses are being met.

Category 4 – Waterbody is impaired, but a TMDL is not needed. Sub-categories 4A-C outline the rationale for the waters not needing a TMDL:

Category 4A – Waterbody assessment indicates the waterbody is impaired, but all of the required TMDLs have been completed.

Category 4B – Waterbody is impaired, but "other pollution control requirements" are expected to address the water quality impairment(s) within a reasonable period of time. Other pollution control requirements include, but are not limited to, National Pollutant Discharge Elimination System (NPDES) permits and best management practices.

Category 4C – Waterbody is impaired but the impairment is not caused by a pollutant. This category also includes waters where natural causes/sources have been determined to be the cause of the impairment. In general, natural causes/sources shall refer to those pollutants that originate from landscape geology and climactic conditions. It should be noted, this definition is not inclusive.

Category 5 – Waterbodies where one or more beneficial uses are determined to be impaired by one or more pollutants and all of the TMDLs have not been developed. **Category 5 waters constitute the Section 303(d) list subject to EPA approval/disapproval.**

1.5 Integrated Report Contents

The following information will accompany each waterbody:

Waterbody Number:	This is the numerical identification assigned to the waterbody in Title 117 - Nebraska Surface Water Quality Standards.
Waterbody Name:	This is the official (Title 117) name of the waterbody.
Beneficial Use Support Status:	This is the status of beneficial use support based on assessment of the readily available data and information. One of the following three beneficial use support categories will be assigned to each waterbody: S = Supported Beneficial Use I = Impaired Beneficial Use NA = Not Assigned
Overall Waterbody Assessment	This is the waterbody assessment category that the waterbody will be placed in.
Comments	Any pertinent information about the waterbody assessment or beneficial use support status will be included here

An example of the Integrated Report format/contents is provided in Appendix A.

2.0 General Assessment Methodology

2.1 Waters Covered in Nebraska's Integrated Report Assessments

All waterbodies identified in Title 117 will be included in the Integrated Report. Also, non-designated waterbodies will be assessed using the numeric and narrative criteria associated with aesthetics and general criteria for the protection of aquatic life, recreation and water supply.

2.2 Sources of Data - Existing and Readily Available Water Quality Data and Information

In preparing the Integrated Report, 40 CFR Part 130.7 requires that "each state assemble and evaluate all existing and readily available water quality related data and information" to make the listing decisions. Data potentially available to the Department may originate from several sources and be of varying quantity, quality and age. Specific monitoring objectives established by the data collectors can often explain these differences in the data. These procedures have been established in order to assess the data and information and make consistent waterbody assessments.

Chemical, physical, microbiological and biological water quality data and information are collected by various agencies to serve that agency's needs. Because of this, data from one agency may be suitable for beneficial use assessments, while data from a different agency may be inappropriate. Also, data generated by a single agency may vary in its utility to assess beneficial uses, depending on that agency's monitoring objectives within its various monitoring programs. The first step in the Integrated Report development process will be to canvas the agencies and organizations that collect water quality data and information. Sought for consideration in preparing the Integrated Report, but not limited to, is data from:

- Waters included on the most recently approved State Section 303(d) list;
- Waters included in the most recent Section 305(b) report as threatened, partially meeting or not meeting a designated beneficial use;
- Waters for which dilution calculations or predictive models indicate non-attainment of applicable water quality standards;
- Waters where effluent toxicity tests indicate a potential or actual exceedance of the applicable water quality criteria;
- Waters where water quality problems have been reported by local, state or federal agencies, members of the public or academic institutions;
- Nonpoint source assessments submitted to EPA under Section 319 of the CWA or any updates of those assessments;
- Waters monitored within non-point source priority watersheds;

- Drinking water source water assessments under Section 1453 of the Safe Drinking Water Act;
- Streams monitored under the NDEQ's Basin Rotation Monitoring Program;
- Waters where repeated fish kills have occurred or where abnormalities (lesions, tumors, etc.) have been observed in fish and other aquatic life;
- Waters monitored under the NDEQ's Ambient Stream Monitoring Program,
- Waters monitored under the Nebraska Fish Tissue Monitoring Program,
- Lakes monitored under the NDEQ's Statewide Lake and Reservoir Monitoring Program, and
- Waters monitored within Nebraska by the United States Geological Survey, Academic Institutions (colleges and universities), U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, Nebraska Game and Parks Commission, Nebraska Department of Health and Human Services System, and Nebraska's 23 Natural Resource Districts.

It should be noted, that any data submitted to the Department for use in preparing Integrated Report will in turn be made available for public viewing and reproduction.

2.3 Data Submittal

To be considered in beneficial use assessments, data from agencies and entities must be received by November 1, of the year prior to the April 1, Integrated Report submittal. It is suggested that entities submitting the data do so well in advance of this date to allow ample time for a review of the data and an opportunity to correct any errors or supply supplemental information that may be needed.

The Department encourages the submittal of additional data and information from the general public during the publicized period. Data and information can be in the form of analytical results, numeric data or narrative/qualitative submittals. When such information is submitted, the observation date, location(s), quality assurance methods and other pertinent information must also be provided, or the Department will not be able to use the data. Other pertinent information may include rationale for the observation being considered outside the normal range of conditions. If not verifiable, narrative and qualitative submittals may not be used in placing a waterbody in category 5; however, the information may be used in category 3 and will be considered when planning future monitoring activities.

To the extent possible, submitted data (analytical results or measurements) will be stored on either an Excel or Access database. Documents submitted that do not contain "data" will be scanned and stored on compact disks. Once the assessments are complete all data will be available to interested parties for review or reproduction of the data, consistent with the Department's records management policies and procedures.

2.4 Data Quality Objectives

2.4.1 What Are Data Quality Objectives?

Data Quality Objectives (DQOs) are quantitative and qualitative statements of the quality of data needed to support specific decisions or actions. When a water quality management decision is made based on compiled or collected data, it is important to define the data quality needed to support the decision. The data quality needed will vary depending on the importance of the decision and the amount of uncertainty that can be tolerated in making the decision. Uncertainty in the decision-making process regarding the assignment of use support decisions (e.g, impaired vs supported) to waterbodies can be addressed through the proper application of statistical procedures to monitoring data. The establishment of DQOs can help insure that data of appropriate quality is compiled and/or collected for statistical assessment. This information can then be used to make decisions with known confidence.

2.4.2 Review of Statistical Methods

2.4.2.a Target and Sample Populations

When applying statistical methods to make inferences about water quality conditions based on sampling data, it is important that the *environmental units* be defined that make up the target population and the sample population. The target population is the set of population units about which inferences will be made. The sample population is the set of population units directly available for measurement. Population units are the

number of objects (environmental units) that make up the target or sample population. These units can be defined in many ways depending on the water quality assessment objectives, the types of measurements to be made, regulatory requirements, costs, and convenience.

The concept of a target population is closely related to that of a representative unit. A representative unit is one selected for measurement from the target population in such a way that it, in combination with other representative units, will give an accurate picture of water quality and beneficial use support. By imposing sampling conditions, one defines the target population. The crucial point is whether the population defined is the one needed to achieve the water quality assessment objectives.

2.4.2.b Sources of Error

The error of estimation is the expression of how close an estimator is to the true population value. It is dependent upon variability in the target population, bias, and random measurement uncertainties. Two factors that influence the size of the error of estimation are sampling and non-sampling error. Sampling error is the name given to natural variability inherent among samples from a population; it is always present when samples are obtained. Sampling error is also referred to as random sampling error. Non-sampling error is the name given to inaccuracies and errors that can and should be avoided by using sound data collection and analysis techniques. Non-sampling error is also referred to as measurement error. Statistical methods can supply an estimate of the amount of the sampling error; it does not imply a mistake on the part of anyone. The accuracy of any estimate depends both on the method used to calculate the estimate from the data (measurement error) and on the sampling plan (sampling error).

2.4.2.c Hypothesis Testing

Decision-making can be approached from the standpoint of hypothesis testing. This approach leads to a very systematic and structured procedure for facilitating the decision-making process. A hypothesis, simply stated, is an assumption or claim. A statistical hypothesis is an assertion about the distribution of one or more random variables.

In hypothesis testing, the formal statement or assertion to be tested is called the null hypothesis (H_0). The null hypothesis is often, but not always, a version of the statement "*Any observed change or difference is due to chance*", and the purpose of the hypothesis test is usually to see whether a change had indeed occurred or a real difference exists. That is why the hypothesis is called a null hypothesis, or hypothesis of no change or difference.

For each null hypothesis to be tested, there is an associated alternative hypothesis (H_a). The alternative hypothesis reflects the change or difference anticipated by the individuals doing the hypothesis test. That is, if the null hypothesis is not true, then what hypothesis is likely to be true? The answer to that question provides the wording used for a specific alternative hypothesis.

There are two types of errors that can be made when hypothesis testing is used. The two types of errors are:

- Type I:* Incorrectly concluding that an effect is real when it is not (rejection of the null hypothesis when it is true), and
- Type II:* Incorrectly concluding that there is no effect when there is (accepting the null hypothesis when it is false).

Either error, if present, distorts the conclusions. The level of significance, denoted by α , is the maximum probability of making a Type I error. The individual doing the hypothesis testing selects the value for α .

2.4.3 DQOs for Waterbody Assessments and Development of the Integrated Report

2.4.3.a *What Information Is Needed, Why Is It Needed, and How Will the Information Be Used?*

The primary information needed is the physical, chemical, and biological data required by the NDEQ to conduct beneficial use assessments for placing waterbodies within one of the 5 categories of the Integrated Report. This information will be used to develop the Integrated Report that will be submitted to EPA pursuant to sections 303(d) and 305(b) of the federal CWA.

2.4.3.b *What Are the Ultimate Products or Actions Anticipated, and What Decisions Will Be Made?*

The ultimate product and action will be development of the State's Section 303(d) list of impaired waterbodies (category 5) and the State's Section 305(b) report; and submittal of this information to EPA. The primary decisions that need to be made is determining the proper category to place each waterbody. The decision to include a waterbody in category 5 carries significant ramifications because TMDLs must be developed and implemented for all category 5 waters. The development of TMDLs can require the expenditure of significant resources and take up to two years to complete. Once completed, TMDLs typically enter a 5-year implementation phase. It is therefore of utmost importance that the State's assessment process correctly identify waters that are impaired. This will allow the state to avoid the expense and effort of developing and implementing a TMDL that is unnecessary.

2.4.3.c *What Is the Role of the Collected and/or Compiled Data in Making the Decisions?*

The collected and compiled chemical, physical, and biological data will serve as the primary basis for making the assessment decisions and categorizing waterbodies.

2.4.3.d *What Criteria Exist for Making Decisions Based on the Collected and/or Compiled Data?*

Water quality data assessments and defined impairments are based on the State's surface water quality standards. Where numeric criteria are defined or narrative criteria can be quantified, the NDEQ utilizes the "percent of samples exceeding criteria" to define whether or not a waterbody is supporting its assigned beneficial uses. In line with past EPA guidance, the NDEQ utilizes a rate of 10% as an indicator of an impaired waterbody. The criteria that will be used to determine whether or not a waterbody is impaired are provided in this report under the section entitled "*Methodologies for Assessing Beneficial Use Support*".

2.4.3.e *What Hypotheses Will Be Tested and/or Estimated?*

The decision on whether or not to list a waterbody as impaired has been reduced to the following null and alternative hypotheses:

H_0 : The waterbody is not impaired for a designated beneficial use.

H_a : The waterbody is impaired for a designated beneficial use.

2.4.3.f *In What Ways Can the Conclusions Based on the Data Be in Error and What is the Acceptable Risk of Making Incorrect or Questionable Decisions Based on the Conclusions?*

Two significant errors could occur regarding the decisions to be made based on the data assessments. One mistake that could be made is identifying a waterbody as impaired when it truly isn't (*Type I Error*). The other mistake that could be made is not identifying a waterbody as impaired when it truly is (*Type II Error*). Although making a Type I or Type II error is bothersome, making a *Type I Error* is considered to be more significant. A *Type I Error* could lead to the scenario of developing a TMDL where it isn't needed. The NDEQ has determined that an acceptable risk of making a *Type I Error* is 10% (i.e., $\alpha = 0.10$). If this risk level is met, at least 9 of 10 waterbodies listed on the State's 303(d) list should actually be impaired.

2.5 Data Quality Considerations

As required and described previously, all “existing and readily available data and information” will be considered when making waterbody assessments. Within the State, several entities collect water quality data and information for various reasons. To that end, the Department will request and encourage the submittal of this data and information for consideration when developing the Integrated Report. The Department desires to only consider the highest quality of data feasible. As data quality increases, the confidence in final assessment decisions increase.

Data collected by the NDEQ, United States Geological Survey and the United States Environmental Protection Agency are done in accordance with an approved quality assurance monitoring project plan and can be used in the development of the Integrated Report. Data not collected under such a plan must be accompanied by documentation of the quality assurance and/or quality control procedures or it will not be used by NDEQ. This documentation should include: the purpose of the data collection, specific sampling location(s) – latitude and longitude preferred, sample type (e.g., grab, composite, depth integrated, waterbody profile, etc.), EPA-approved or Standard Methods analytical technique utilized, the entity or persons conducting the analysis, evaluation of duplicate or split samples, sample handling and custody (if applicable), and other pertinent information.

It is suggested that agencies and entities collecting water quality data work closely with the Department to develop quality assurance/quality control programs prior to initiating data and information collection procedures. Through this process, the availability of scientifically defensible and credible data and information should increase.

The establishment of a statewide surface water database/clearinghouse in Nebraska has been discussed. If developed, it is anticipated that the data and information stored will be accompanied by quality assurance qualifiers. Usage of data from this source will be dependent upon the assigned quality assurance statements.

2.5.1 Temporal Considerations/Data Age

Ambient or other water quality data collected or submitted for use in assessing beneficial use attainment should not be temporally biased. Generally, temporally representative data can be collected using a systematic data collection process, with similar time intervals being scheduled between sampling events (e.g. weekly or monthly samples). Special studies designed at obtaining data during specific conditions (i.e. point source – low flow studies) may be used to define the water quality conditions during the specific event(s) targeted by the study.

Streams, rivers, lakes, reservoirs, and wetlands often exhibit significant changes in water quality. Land use, precipitation, climate, pollution sources and loads, diversions, and impoundments are among the many reasons that water quality conditions change. Although desirable, the application of continuous monitoring stations has not been pursued due to a lack of resources. Aside from a fixed 98-station network, the Department has primarily been using basin rotation monitoring plan to collect surface water data, whereby monitoring activities are focused in two or three river basins each year. A basin rotation cycle, accounting for all of the 13 major river basins, requires 5 years to complete.

Based upon the implications of being identified as “impaired”, the Department will focus assessments on the most recent data that accurately portrays the quality of the waterbody in question. Therefore, only data and information collected during the past 5 year period will be used to categorize a waterbody. That is, after a waterbody has been placed in a category, only new or newly acquired data and or information (i.e. TMDLs developed) can be used to relocate the waterbody to another category. Waterbodies **will not** be shifted from category to category solely based upon the age of the data.

The 5-year rule will be the initial screen for data sets, however; a secondary review will also consider the installation of treatment or controls, hydro-modification, diversion, impoundments or the presence of new or expanded point source discharges. Only data that has been deemed representative should be used in the assessment process.

Exceptions to this requirement include lake/reservoir sedimentation data and continuous data sets. Sedimentation refers to assessment of the overall lake/reservoir volume lost. Once it is determined to be impaired due to sedimentation, no additional measurements are necessary and the data will be accepted - regardless of age. Continuous data sets generally are those where systematic sampling procedures are utilized, for example monthly water quality collections. These data can be used to establish or evaluate trends in water quality. For continuous data sets, the acceptable data age may exceed 10 years.

Data collected more than 5 years ago, but less than 10 years ago, will not be used to identify a waterbody as impaired. If resources allow, the data should be assessed and the waterbody included in Category 3.

2.5.2 Minimum Number of Samples

Since one goal of the Integrated Report is to accurately depict water quality, it is important to recognize that large data sets have a higher probability of revealing water quality problems compared to small data sets. However, resources often restrict sampling efforts to the minimum amount of data necessary to meet the DQOs.

The Department understands the importance of data quantity in the water quality assessment process. However, resource limitations often restrict the amount of data collected from a single waterbody. As well, national directives suggest states achieve the most practical statewide coverage possible; meaning fewer measurements from a greater number of waterbodies. Given these two points, monitoring programs will target a minimum of 10 chemical (i.e. ammonia, pH, metals) and microbiological (fecal coliform, *E. coli*) samples for assessment purposes.

Exceptions to the 10-sample minimum can be made for:

- Biological measurements (i.e. comparison of metric scores to criteria or reference sites),
- Fish consumption advisories,
- Estimates or measurements of reservoir volume loss or sedimentation rate, and
- Aquatic life observations (i.e. fish kills).

While a sample minimum is targeted, various factors can result in data sets with less than 10 data points. In these situations assessments for data sets ranging from 3 to 9 should be assessed as though $n=10$; and waterbodies with data sets limited to 1 or 2 data points should be included in Category 3 – Insufficient Information.

2.5.3 Estimating the Uncertainty Associated with Criteria Violations in Determining Beneficial Use Impairment.

(Note: Much of the following discussion is from: “*A Nonparametric Procedure for Listing and Delisting Impaired Waters Based on Criterion Exceedances*” Lin et.al., 2000; “*Guidance for Assessing Texas Surface and Finished Drinking Water Quality Data, 2002*” TNRCC, 2001; and “*A Modern Approach to Statistics*” Iman and Conover, 1983)

For a given water quality parameter measured in a waterbody, the sample of water quality violations are an estimator of the *true exceedance probability* – “ p ” for the parameter. Since the estimator varies in a random manner from sample to sample, inferences about the true exceedance probability based on the estimator will be subject to uncertainty. The degree of uncertainty depends on the exceedances and the sample size – the smaller the sample size is, the greater the uncertainty will be. Therefore, the number of water quality violations should not be used for the determination of waterbody impairment without considering the sample size. The reliability of the estimated exceedance probability relating to sample size should be addressed.

The *binomial method* is a useful tool for estimating the probability of committing *Type I* and/or *Type II errors* for situations when the analysis is based on a single variable that falls into one of two categories; the measurement is either equal to or less than a criterion, or greater than the criterion. A random variable has the binomial distribution if the following conditions exist:

- There are one or more “samples”. (The number of “samples” is denoted by n , and is a known number.)
- Each “sample” results in one of two outcomes. (i.e., exceed or not exceed criterion.)
- The outcomes from “sample” to “sample” are independent. That is, the probability of an outcome for any particular “sample” is not influenced by the outcome of the other “samples” (i.e., sample independence).
- The probability of “success”, denoted by p , is the same from “sample” to “sample”.
- The random variable equals the number of “successes” in the n “samples”. (Thus the random variable may equal any integer value from 0 to n).

When a random variable satisfies the requirements to be a binomial random variable, it takes one of the possible values: 0, 1, 2, ..., n (the number of trials). The probability associated with each possible value x is denoted by $f(x)$, and is given by the equation:

$$f(x) = \binom{n}{x} p^x q^{n-x} \quad \text{for } x = 0, 1, 2, \dots, n.$$

The term $\binom{n}{x}$, called the *binomial coefficient*, is computed using the formula:

$$\binom{n}{x} = n!/[x!(n-x)!]$$

Where $n! = n(n-1)(n-2) \dots (2)(1)$ for $n \geq 1$ and $n! = 1$ for $n = 0$.

The term p^x in the above equation represents the probability of x successes, in x trials, the term q^{n-x} represents the probability of $(n-x)$ failures in $n-x$ trials, and they are multiplied together because the trials are independent. The binomial coefficient represents the number of different orders in which the n trials can result in x successes and $(n-x)$ failures. The function $f(x)$ is called the *probability function*.

In general, when the binomial method is used, the proportion of the population that belongs to one of the two categories (in this case the proportion of the population that is greater than the criterion) is denoted as p . The proportion of the population that belongs to the second category (in this case the proportion of the population that is equal to or less than the criterion) is denoted as q , which is equal to $1-p$. For example, for a fully supporting waterbody, p is equal to or less than 10 percent (0.1), and q is greater than or equal to 89.9 percent (0.899). In this case, p and q , respectively, represent the probabilities, for a single sample event, of collecting a sample that exceeds or a sample that meets the criterion. If one sample/data point were used to determine whether a waterbody is supporting a beneficial use, the probability of committing a *Type I error* would be simple to determine - in this case, 10 percent. However, the assessment of water quality data involves the collection of multiple samples and, in order to estimate the probability of committing *Type I* and *Type II errors*, cumulative probabilities must be determined.

Suppose, for a particular parameter, 2 out of 10 measurements in a waterbody exceed the criterion threshold. *Is the sample exceedance percentage of 20% (i.e., $\hat{p} = 0.2$) strong evidence to determine the waterbody is impaired using the 10%-exceedance definition of impairment? Or, equivalently, is the sample percentage of 20% significantly larger than an assumed true exceedance percentage of 10% based on only $n = 10$ measurements?* This question can be put in the framework of hypothesis testing. Here, one wishes to test the null hypothesis

$$H_o: p \leq 0.1,$$

that is, the waterbody is not impaired, versus the alternative hypothesis

$$H_a: p > 0.1,$$

that is, the waterbody is impaired. The test can be performed by referring the observed number of exceedances, x , to a binomial probability table (or apply the probability function equation). When $n = 10$ and $p = 0.1$, the probability of observing two or less exceedances is 0.9298 (and the probability of observing three or more exceedances is 0.0702). If the number of exceedances in the 10 measurements is 2

or less, the sample does not provide sufficient evidence to reject the null hypothesis. Thus, the sample 20% is not significantly larger than the assumed 10% exceedance percentage. But, if three or more exceedances are observed, there is sufficient evidence to conclude that, at the 7% significance level, the true exceedance probability p in the waterbody is over 0.1, and the alternative hypothesis $H_a: p > 0.1$ is accepted. That is, a 30% sample exceedance percentage is significantly larger than the assumed 10% exceedance percentage at the 7% level of significance. This is equivalent to saying that a 93% confidence interval would exclude $p \leq 0.1$ when 3 of 10 values exceed criteria.

With “impaired” being defined as an exceedance rate of more than 10 percent, the number of water quality violations or “exceedances” required for any given number of samples from 10 to 100 is presented in Table 1. The number of exceedances was selected to maintain a *Type I error* probability below 10 percent (i.e., $\alpha < 0.1$). For samples with an n greater than 100, the number of exceedances required will be calculated. All waters assessed to have an impaired beneficial use and meeting the 90% confidence interval shall be included in either Category 4 or 5 of the State of Nebraska Integrated Report.

For data sets with <10 samples the assessments will be as follows

- Assume 10 samples were “targeted” and base the assessment on $n=10$
- For data sets $n=3$ to $n=9$; if 3 data points exceed the applicable water quality standard or goal, the waterbody should be assessed as having an impaired beneficial use.
- For data set $n=8$ or $n=9$, if no data points exceed the applicable water quality standard or goal, the waterbody should be assessed as fully supporting the beneficial use.
- For all other situations with data sets $n=3$ to $n=9$, the waterbody should be included on Category 3 insufficient information to determine beneficial use status.

2.5.4 Ancillary Information

In order to compare some parameter measurements to water quality criteria, additional (ancillary) information is often required. For example, applicable ammonia criteria are dependent upon the water’s pH and temperature; many metals require measures of calcium and magnesium to derive water hardness in order to calculate their criteria. When a water quality parameter requires ancillary information, the guidelines for data assessment (minimum number of samples, quality assurance requirements) also apply to this data. Assessments of water quality information will not be made in the absence of simultaneously collected ancillary information.

2.5.5 Flow Conditions

Water quality information, specifically in lotic waters (streams and rivers) can be collected under variable conditions. For example, in the absence of precipitation, streams are subject to extreme low flows (1q10, 7q10 and 30q5), as opposed to high flow events (floods) that occur in response to significant rain or other precipitation events. Along with variations in precipitation, in some watersheds stream flow volume is regulated by impoundments and diversions to accommodate irrigation, industrial cooling water or hydroelectric needs.

During periods of low flow, water quality standards (with the exception of narrative and numeric criteria associated with aesthetics; and general criteria and acute toxicity criteria for the protection of aquatic life) do not apply to:

- Streams assigned a Coldwater Class A or B or Warmwater Class A Aquatic Life Use when the stream flow is less than 0.1 cubic feet per second (cfs) or the 7q10, unless a beneficial use still exists, and
- Streams assigned a Warmwater Class B Aquatic Life Use when the stream flow is less than 1.0 cfs unless an assigned beneficial use still exists (Title 117).

Table 1. Sample Size and Number of Exceedances Required to Determine an Impaired Beneficial Use (10% Exceedance).

Minimum number of exceedances required to maintain a >90% confidence that a designated use is impaired (10% exceedance).					
Sample Size (n)	Number of observations exceeding required to define an impaired use	Confidence Level	Sample Size (n)	Number of observations exceeding required to define an impaired use	Confidence Level
10	3	0.930	56	10	0.951
11	3	0.910	57	10	0.945
12	4	0.974	58	10	0.940
13	4	0.966	59	10	0.933
14	4	0.956	60	10	0.927
15	4	0.944	61	10	0.920
16	4	0.932	62	10	0.913
17	4	0.917	63	10	0.905
18	4	0.911	64	11	0.948
19	5	0.965	65	11	0.943
20	5	0.957	66	11	0.938
21	5	0.948	67	11	0.932
22	5	0.938	68	11	0.926
23	5	0.927	69	11	0.920
24	5	0.915	70	11	0.913
25	5	0.902	71	11	0.906
26	6	0.960	72	12	0.947
27	6	0.953	73	12	0.942
28	6	0.945	74	12	0.937
29	6	0.936	75	12	0.931
30	6	0.927	76	12	0.926
31	6	0.917	77	12	0.920
32	6	0.906	78	12	0.913
33	7	0.958	79	12	0.907
34	7	0.952	80	13	0.946
35	7	0.945	81	13	0.942
36	7	0.937	82	13	0.937
37	7	0.929	83	13	0.931
38	7	0.920	84	13	0.926
39	7	0.911	85	13	0.920
40	7	0.900	86	13	0.914
41	8	0.952	87	13	0.908
42	8	0.946	88	13	0.901
43	8	0.939	89	14	0.941
44	8	0.932	90	14	0.937
45	8	0.924	91	14	0.932
46	8	0.916	92	14	0.927
47	8	0.907	93	14	0.921
48	9	0.954	94	14	0.915
49	9	0.948	95	14	0.910
50	9	0.942	96	14	0.903
51	9	0.936	97	15	0.941
52	9	0.929	98	15	0.937
53	9	0.922	99	15	0.932
54	9	0.914	100	15	0.927
55	9	0.906			

Therefore, in the absence of a verified existing beneficial use, data collected under the above-defined low flows will not be considered when assessing beneficial uses.

More variable and less predictable are the high flow situations that most frequently result from precipitation events. Duration, frequency, magnitude, time of year, land use and applied treatments are all factors that influence the impact of a precipitation event on stream flow volume and water quality. For example, based on the lack of vegetative cover, early spring run-off in a rural setting typically contains larger loads of sediment and organic matter than is observed later in the season.

For nonpoint source pollutants, data collected under extreme high flows can skew the data set and force managers to establish unrealistic reduction goals to account for infrequent and often unpredictable events. When reporting beneficial use assessments, impairments due to data collected during extreme high flow events will be noted in the “Comments” section.

2.5.6 Data Qualifiers

Water quality data and information may be returned with a data qualifier or a “remark code” that denotes a deviation from the acceptable handling, storage or analytical procedures. Common remark codes utilized by the Nebraska Department of Health and Human Service System (HHSS) and the associated definitions include:

- A = Value reported is the mean of two or more determinations;
- J = Estimated Value; Value is not accurate;
- K = Actual value is known to be less than value given;
- L = Actual value is known to be greater than value given;
- Q = Sample held beyond normal holding time;
- U = Indicates material was analyzed for but not detected

Data qualifiers do invoke some question as to the accuracy of the data in representing actual water quality conditions. Therefore, data remarked with a “J”, “K”, “L”, or “Q” should not be used in assessing waterbodies for Categories 1,2,4,5. The exception to this will be bacteria analyses that are solely remarked with a “Q” based on the below explanation. Section 2.5.7 discusses values reported to be “below the detection limit”.

40 CFR Part 136 has established a holding time of 6 hours for fecal coliform and *E. coli* bacteria samples. Guidance and procedures in Standard Methods – For the Examination of Water and Wastewater: 20th Edition, allows for samples to be held up to 8 hours, as long as they are iced or refrigerated, prior to initiating analysis. Remote sampling locations, sample scheduling, and the availability of laboratory facilities occasionally results in bacteria samples exceeding the 6-hour limitation. In order to assess as much water quality sample data as possible, rather than discarding data based upon the failure to meet the 6-hour holding time, the Department will assess all bacteria data that meets the 8 hour holding time recommended in Standard Methods. Bacteria data that exceeds the 8-hour holding time will not be assessed. Past studies conducted by the Department have shown that there is only a median bacteria die-off rate of 14% after 24 hours and it is likely that changes in bacteria densities between 6 and 8 hours is minimal.

The above remark codes are used by the HHSS laboratory, which is the entity currently utilized by the Department for water quality analysis. Data not analyzed by HHSS may be qualified differently. A case-by-case evaluation will be utilized when remarked data is received from another laboratory and those remarks differ significantly from those used by the HHSS. An explanation of the remark code and the decision will accompany the assessment.

2.5.7 Values Below Detection Limits

In the absence of pollutants, or when pollutant concentrations and loadings are minimal, results of water samples may be reported as below the analytical method detection limit (not detected). When a value is reported as not detected (remark code U), it indicates that the value is less than the applied technology can measure and there is no quantifiable way of determining the true value. When making beneficial use assessments, a general rule of thumb is that larger data sets result in a more accurate representation of a waterbody's true water quality. Thus, measurements below detection limits may provide valuable information on situations where pollutants and pollutant loads are not a concern. Finally, elimination of the low-end values may skew a data set. Therefore, rather than eliminating the "non detects" from the assessment data, values measured below detection limits will be calculated as 50% of the method detection limit.

2.5.8 Spatial Considerations

Waterbody monitoring may occur at single or multiple locations within the designated area. Often program managers seek to optimize resources and gain better waterbody coverage by locating fewer sites along a specific stream segment, lake, reservoir or wetland. Major hydrological features, such as tributary confluences, impoundments, diversions, and returns can limit the spatial representativeness of a monitoring location. As well, drastic changes in land use (e.g., agriculture land being converted to an urban landscape) may also limit a single station's spatial coverage. Finally, in large lakes, reservoirs and wetlands, due in part to the slow dose-response time, minimal sample locations may not provide an accurate representation of the true water quality conditions of the entire waterbody.

A listing of the classified waterbodies is maintained in EPA's Assessment Database (ADB). This software contains assessment information – including the type of monitoring conducted at specific waterbodies, causes and sources of water quality impairment, 303(d) listing information, TMDL development timelines and waterbody name, size, location and assigned beneficial uses. All assessment information is updated annually for all State-identified waters and linked to specific reporting cycles (i.e., assessment year 2004, 2005, 2006,...). At this time no wetlands have been included in the ADB but will likely be added in the future. Stream segment sizes are listed and/or measured in miles and lakes/reservoirs are listed and measured in surface acres (acres). As a rule, the waterbody size listed in the Assessment Database will be used to resolve any disputes about the identity of the waterbody sampled.

For streams, a monitoring site can be considered representative of no more than 25 miles. Significant hydrological influences must be considered when determining the spatial extent of the monitoring site. The exception to this would be in the case of a large river where land use is generally homogeneous and no significant influences exist (i.e. Niobrara River). In these cases, with justification, a single station may be considered representative of up to 75 miles. The application of these spatial restrictions for streams is recommended in EPA's *Guidelines for the Preparation of the Comprehensive State Water Quality Assessments and (305(b) Reports and Updates: Supplement*, and have been utilized by several states.

Multiple samples collected on the same day from the same segment under static stream conditions, shall be combined; and the parameter mean will be calculated and used to represent the segment's water quality condition. Exceptions to this will be when monitoring efforts are designed to evaluate diurnal or temporal impacts related to a specific pollutant source.

For lakes and reservoirs, a single sampling station will only be considered representative of 25% of the total lake or reservoir volume. Some lakes/reservoirs (e.g. shallow, few surface acres) can exhibit the potential to mix readily and thoroughly and thus fewer monitoring sites may be needed to characterize water quality. For these waterbodies, with appropriate justification, the 25% rule may be suspended. Similar to stream segments; significant influences (inflows) must be considered when determining the spatial coverage of a monitoring location.

Finally, consistent with Title 117, Chapter 2, samples obtained within any regulatory mixing zone shall not be used for assessing the waterbody. This guideline does not prohibit the assessment of acute water quality criteria within a chronic mixing zone or the assessment of water quality criteria within a mixing zone applied for the protection of public water supplies.

2.5.9 Seasonality Considerations

All data will be initially assessed for seasonal variability in concentration or occurrence. This process will be accomplished by creating charts of time-series plots for each parameter of interest. These charts will be created from data gathered within the most recent 5-year monitoring period, or where continuous datasets exist (i.e., no more than a 2-year gap in data availability) over longer periods of time. If review of these charts reveals that seasonal differences occur, the NDEQ will focus its assessment efforts within the season(s) where parameter concentrations/occurrence are evident. By examining only the timeframe (seasons) where parameters appear in detectable levels, or at or near levels of concern, a waterbody can be more accurately assessed for use support / impairment. In contrast, when seasonal differences are present, but a long-term database is used to assess beneficial use support, the impacts to beneficial uses are underestimated and waters where real seasonal concerns exist may be overlooked.

3.0 Methodologies for Assessing Beneficial Use Support

3.1 Primary Contact Recreation

3.1.1 Fecal Coliform and E. Coli Bacteria

Waters designated for primary contact recreation beneficial use have an existing use or an attainable use for primary contact recreation activities that may include: swimming, water skiing, tubing, canoeing, etc. Fecal coliform and *Escherichia coli* (*E. coli*) bacteria have been accepted as indicators of disease causing pathogens, viruses and bacteria and are included in Title 117 as the water quality criterion for evaluating the recreation beneficial use. Title 117 also designates the recreation season to be May 1– September 30, outside of which the criteria does not apply. Recreation season data will be pooled independently for each stream segment and lake over the most recent 5-year monitoring period. The established criteria and the assessment of fecal coliform and *E. coli* bacteria information are provided in Table 2.

Table 2: Assessment of the Primary Contact Recreation Beneficial Use Using Fecal Coliform and *E. coli* Bacteria Data.

Parameter	Season Geometric Mean	Supported	Impaired
Fecal coliform	≤200/100 ml	Season geometric mean ≤200/100 ml or ≤10% of samples exceed 400/100ml	Season geometric mean >200/100 ml and/or >10% of samples exceed 400/100ml
<i>E. coli</i>	≤126/100 ml	Season geometric mean ≤126/100 ml or ≤10% of samples exceed applicable maximum	Season geometric mean >126/100 ml and/or >10% exceed applicable maximum

3.2 Aquatic Life

3.2.1 Chemical Parameters

Title 117 (Chapter 4) contains the water quality criteria assigned to protect aquatic life. Some parameters apply to all waters regardless of the biota of the receiving stream, while others like ammonia and metals vary according to the aquatic life use designations or where site-specific criteria have been developed. Also, many parameters have both acute and chronic criteria for the protection against short-term and long-term exposures. When making aquatic life beneficial use assessments, the monitoring information should be evaluated using all applicable criteria for the parameters, regardless of reporting units.

The assessment procedures for the aquatic life beneficial use using chemical water quality data and information can be found in Table 3.

Table 3: Assessment of the Aquatic Life Beneficial Use Using Chemical Water Quality Data.

Supported	Impaired
≤10% of samples exceed acute or chronic water quality criteria	>10% of samples exceed acute or chronic water quality criteria

3.2.1.1 Priority Pollutants

All priority pollutants will be assessed against both chronic and acute water quality standards criteria. When a waterbody has even a single sample of a priority pollutant in excess of acute criteria within the 3-year timeframe leading up to data assessment, that waterbody will be listed within Category 5. For all chronic criteria assessments, and when acute violations occur outside of this 3-year timeframe, the 10% violation rule, incorporating the binomial calculation, will be applied.

3.2.2 Fish Kills

Fish kills can be the result of natural phenomena or due to anthropogenic activities where pollutants are introduced at levels that impact a portion of, or the entire aquatic community. The pollutant(s) in question may be delivered to the waterbody as the result of a catastrophic event (e.g., spill) or an ongoing pollution problem. Typically, spills are one-time events that are not likely to be repeated. Thus, spills will not be used as the sole justification to identify the aquatic life beneficial use as impaired. However, repeated fish kills from the same waterbody provide the justification necessary to assess a waterbody as impaired. Table 4 provides the assessment procedures for the aquatic life beneficial use using fish kill information.

Table 4: Assessment of the Aquatic Life Beneficial Use Using Fish Kill Data and Information.

Minimum Events/occurrences	Supported	Impaired
>2	≤2 fish kills occurring in a waterbody within a 5- year period	>2 fish kills occur within a 5- year period at a similar waterbody location. Source is determined to be not natural.

It should be noted, fish kills resulting from the dewatering of streams, lakes and wetlands - or the conditions resulting from such activities (e.g. extreme water temperatures alone or in concert with low dissolved oxygen levels) - will not be considered in identifying an impaired situation.

3.2.3 Fish Consumption Advisories

Title 117 includes parameters that may not be easily measured in the water column or benthic environment. Difficulty in quantifying pollutants may be attributed to natural small quantities, monitoring difficulty, analytical inadequacies (i.e., method detection limitations) and variable source contributions. A surrogate to direct waterbody measurement is to analyze the flesh or tissue of representative aquatic (fish) species and assess the potential for bioaccumulation of a pollutant. Assessment of this data and information can lead to the issuance of fish consumption advisories. The July 21, 2003 *Guidance* states:

“EPA considers a fish consumption advisory...and the supporting data to be existing and readily available data and information that demonstrates non-attainment of (CWA) Section 101(a) “fishable” use”...

Table 5 provides the assessment procedures that should be applied to fish tissue data and information.

Table 5: Assessment of the Aquatic Life Beneficial Use Using Fish Tissue Data and Information.

Minimum Events/occurrences	Supported	Impaired
1 Screening Sample and 3 Follow-up Samples	No fish consumption advisory	Fish consumption advisory issued for a waterbody.

3.2.4 Biological Data and Information

Title 117, Chapter 4, Section 003.01G Biological Criteria states:

“Any human activity causing water pollution which would significantly degrade the biological integrity of a body of water or significantly impact or displace an identified “key species” shall not be allowed except as noted in Chapter 2.”

Biological data most often refers to fish and aquatic macroinvertebrate community information. Assessment of the data is the result of a quantification process and comparison to a “reference” condition. Quantification is based upon selected metrics that can be applied consistently within a grouping of waterbodies. Table 6 provides the assessment procedures that should be applied to biological community data and information.

Table 6. Assessment of the Aquatic Life Beneficial Use Using Biological Data and Information.

Minimum Events/occurrences	Supported	Impaired
1 Fish and/or Macroinvertebrate Sample	Combined metric scores $\geq 25^{\text{th}}$ percentile metric condition evaluation	Combined metric scores $< 25^{\text{th}}$ percentile metric condition evaluation

3.3 Water Supply

3.3.1 Public Drinking Water Supply

Due to the abundance and availability of high quality ground water in Nebraska, the number of public drinking water systems utilizing surface water as the sole potable water source are few compared to other States. Surface waters used by public drinking water systems are treated prior to distribution and the finished water is monitored on a regular basis. Table 7 provides the public water supply beneficial use assessment procedures using chemical water quality data and the criteria found in Title 117 Chapter 4.

Table 7: Assessment of the Public Drinking Supply Water Beneficial Use Using Chemical Water Quality Data.

Supported	Impaired
Running annual average of the finished or source water does not exceed maximum contaminant levels <i>or</i> , $\leq 10\%$ exceedance of source water quality criteria	Running annual average of the finished or source water exceeds applicable maximum contaminant levels <i>or</i> , $> 10\%$ exceedance of source water quality criteria

3.3.2 Agriculture Water Supply

Waters designated with the agriculture water supply beneficial use have been deemed acceptable or exhibit the acceptable characteristics of being suitable for irrigation and livestock watering without treatment. While four specific parameters (conductivity, nitrite and nitrate as nitrogen and selenium) have been promulgated for protecting this use, any substance that degrades the use shall not be allowed. The assessment procedures for the agriculture water supply beneficial use using chemical water quality data can be found in Table 8.

Table 8: Assessment of the Agriculture Water Supply Beneficial Use Using Chemical Water Quality Data.

Supported	Impaired
≤10% exceeding water quality criteria	>10% exceeding water quality criteria

3.4 Aesthetics

The aesthetics beneficial use applies to all surface waters of the state. Title 117 conveys that waters of the State may be deemed “aesthetically acceptable” if they are free from human-induced pollution that causes noxious odors, floating, suspended, colloidal or settleable materials that produce objectionable films, colors, turbidity or deposits, or undesirable or nuisance aquatic life.

These criteria are intended to address water quality impacts where no numeric criteria exist. Generally, the applications are two-fold and include; 1) NPDES permit prohibitions and 2) criteria are applied on a complaint basis and require validation by the Department. Once verified as a human-induced source, the waterbody can be placed in Category 5. If no source can be determined, the waterbody will be placed in Category 3 and further investigations should ensue.

If the cause or source of the problem is natural, the waterbody will be placed within Category 4C.

3.4.1 Lakes and Reservoirs - Sedimentation

Excess sediment delivered to an impoundment can cause several problems including “objectionable colors, turbidity and deposits”. Deposition of sediment can displace or eliminate fish spawning, rearing or other aquatic habitats. Also, the recreation area of a lake or reservoir can be reduced or rendered undesirable. Sedimentation will be assessed using two measurements - impoundment volume loss and sedimentation rate. Table 9 provides the description of how to assess the aesthetics use with sedimentation data.

Table 9: Assessment of Lakes/Reservoirs Using Sedimentation Data and Information.

Minimum Assessment Period	Supported	Impaired
≥5 years	Volume loss <25% and annual sedimentation rate ≤0.75%	Volume loss ≥25% or annual sedimentation rate >0.75% per year

A sample minimum in not needed when assessing lake sedimentation information based on overall volume loss or bathymetric evaluations. Sedimentation rate can be determined using empirical data, the Revised Universal Soil Loss Equation or other methodology.

3.4.2 Lakes and Reservoirs – Nutrients

Excessive nutrient concentrations can promote adverse effects to water quality and biological populations within lakes and other impounded waters. Some of these effects include reductions in dissolved oxygen levels, water clarity, biodiversity, and fish and wildlife habitat; and increases in bacteria concentrations, toxin mobility, ammonia toxicity, and in-lake filling. To assess nutrient impacts, the NDEQ will assess phosphorus, nitrogen and chlorophyll-*a* concentrations by comparing nutrient water quality criteria in Title 117 to the *pooled growing season data set averages*. Only data from the most recent 5-year monitoring period will be assessed unless a continuous data set exists. If the average of any one parameter is in excess of assessment criteria, the waterbody will be impaired and listed accordingly within the Integrated Report.

3.4.3 Blue-Green Algae

Based on sampling conducted in 2004, the NDEQ identified a blue-green algae concern with regard to human recreation in Nebraska lakes and reservoirs. The concern revolves around the production and release of toxic amino acid chains (called microcystins) by various blue-green algae. Microcystins are produced by a number of blue-green algae, the most notable being the blue-green *Microcystis*. Microcystins are liver toxins that consist of a seven-member peptide ring that is made up of five non-protein amino acids and two protein amino acids. The two protein amino acids distinguish the variants of microcystins from one another. The most common and toxic microcystin - LR - contains the amino acids Leucine (L) and Arginine (R). Upon algal die-off, microcystins are released into waters and, in high enough concentrations, can cause adverse health effects and even death to exposed individuals.

The World Health Organization (WHO) has recommended a criterion of 20 parts per billion (ppb) for microcystins in water samples. The Nebraska DEQ will assess water samples collected against 15 ppb for 2004 monitoring and against the recommended 20 ppb criterion for 2005 sampling and beyond. The 15 ppb criterion for 2004 data is being used because the analytical assessment method during 2004 was incapable of measuring values above 15 ppb. Current analytical methods can identify microcystin concentrations above 20 ppb. The binomial (see Table 1) will be utilized to determine the allowable number of measurements that violate the stated criteria, and to place impaired waters on the 303(d) list.

4.0 Reporting Considerations

4.1 Reassigning Waterbodies to Categories Within the Integrated Report

From time to time but prior to the next required submission, the Department may find it advantageous or prudent to reassign waterbodies to another category within the Integrated Report. These modifications may be made for the following reasons:

- Additional, new or expanded water quality data or information
- Errors detected in the original assessment decision
- New or modified water quality criteria
- New assessment procedures
- Approval of a TMDL.

When making a decision to reassign a waterbody, the level (quality, quantity, time consideration, etc.) of data and the required exceedance of the water quality criteria must be consistent with the listing procedures described above.

4.2 Prioritization/TMDL Development Schedule

The CWA and 40 CFR require that the State establish a priority ranking for each waterbody that requires a TMDL (Category 5). Overall, the priority ranking will consider:

- The severity of the impairment in relation to the designated use.
- Waters that are designated as public water supplies or are a source of drinking water and are impaired by a pollutant that is contributing to a violation of a primary drinking water standard.
- Waters where endangered or threatened species exist and the pollutant(s) threaten said species.

- The presence of sensitive aquatic species.
- Any other pertinent factor (economic or aesthetic importance, degree of public interest, etc.).

Overall, waterbodies with complete data sets will be given a higher priority for TMDL completion and TMDL development will be scheduled based upon the complexity of the problem, sources involved, and any other relevant factors. To some extent, TMDL prioritization and scheduling will be coordinated with the basin rotation management/monitoring programs.

TMDLs for waters within the “data lacking” categories will be prioritized based upon:

1. Basin rotation management/monitoring programs,
2. Section 319 priorities and the development of comprehensive watershed management plans, and
3. NPDES permit issuance needs/priorities.

Regardless of the priority assigned, TMDL development will be completed as expeditiously as resources allow.

4.3 Resolution of Disagreements with Other Jurisdictions

On occasion, a waterbody may be subject to more than one jurisdiction or flow into an area controlled by another State or Tribe. As well, waters may also flow from an area controlled by another State or Tribe into the Department’s jurisdiction. For these waters, the Department will forward a copy of the draft Integrated Report and the data used to make the assessment decision(s) to the participating entities and request comments. Comments received will be evaluated, additional discussion possibly will ensue and modifications to the list may or may not occur. Should a conflict remain when the final list is prepared, USEPA Region 7 will be notified as part of the final Integrated Report submittal.

4.4 Public Participation

Public Participation is required by 40 CFR Part 130, and has been a key component of the Section 303(d) listing process in the past. One of the goals of the Integrated Report is to provide the general public with information on the status of waters of the State. With this in mind, public input on the entire Integrated Report will be sought rather than only Category 5 alone. Therefore, in order to ensure the public is made aware of the proposed Report and given ample opportunity to respond, the procedures described below will be utilized. It should be noted, the procedures are based upon an April 1 submittal deadline. All dates will be adjusted accordingly should there be any deviation from the April 1 requirement.

- ♦ During the period between Integrated Report submittals, the Department will correspond with other government and public entities during the course of regularly scheduled or attended meetings, task forces, work groups and discussions regarding the data collection and listing process.
- ♦ On or about September 1 of the year just prior to the submittal deadline, a letter of request will be sent to all state and federal agencies responsible for the collection, receipt or management of surface water (as defined by Title 117) data and/or information (i.e. NE Game and Parks Commission, United States Geological Survey, etc.). The same letter of request will be sent to all parties who had provided comments on previous Section 303(d) lists and those entities that may collect water quality data and information. The letter will explain the Department is in the process of developing the Integrated (Water Quality) Report and offer an opportunity for the entities to submit data or information to be reviewed and considered. The letter will also note the data submittal deadline is November 1.
- ♦ In the event that several parties express an interest in assisting with the Integrated Report development, a work group may be formed. The work group will meet on one to three occasions to address the concerns raised.

- ◆ On or about February 1, the draft report will be completed and notification of the availability of the report and the assessment methodologies will be conducted using newspapers from major cities (i.e. Omaha, Lincoln, Grand Island, Norfolk, North Platte, etc.). A PDF version of the draft Integrated Report will be placed on the NDEQ website, <http://www.deq.state.ne.us>, for public viewing and reproduction. Also, PDF versions of the draft report will be made available for viewing and reproduction at various library facilities across the state, and emailed to all NDEQ field offices where they will be printed and made available to anyone from the public that lacks internet access and wishes to review the document. As well, copies of the draft report will be sent to the appropriate state and federal agencies (including EPA Region 7), and any other interested party for review and comment.
- ◆ In as much as possible, the NDEQ's Internet web site will be used to make notice of the intention to develop the Integrated Report and to publicize the availability of the draft report.
- ◆ A 30 day review period will be established and enforced and **comments received after the deadline will not be considered**. To resolve any potential conflicts, the "date received" will be indicated by a NDEQ date stamp. Comments may be written, sent by FAX or via e-mail to the designated contact. Verbal comments or statements will not be accepted. At the discretion of the Director, the comment period may be extended by 30 days. (Due to the April 1 deadline this will represent the maximum comment period.)
- ◆ If a sufficient number of comments are received, one or more public meetings/hearings may be held to allow stakeholders an opportunity to further justify or propose changes to the Integrated Report.
- ◆ All appropriate comments received on the assessment methodologies or the categorization of waterbodies within the Integrated Report will be considered when making the final assessment decisions. A written response, addressing the applicable comments will be provided to the person, persons, and organization or government agency making such comments. If several comments are received making similar statements, it may be prudent to summarize the comment and respond accordingly. This action will be noted when incorporated into the responses.

4.5 Submittal to EPA Region 7

Prior to the established deadline, the Nebraska Integrated Report will be submitted to EPA Region 7 under the signature of the Director or the authorized designate. If applicable, this deadline may be postponed by mutual agreement by EPA and the Department.

To be considered complete, the submittal package should include:

- Cover letter,
- The final Integrated Report (Section 303(d) list and Section 305(b) report),
- A copy of the current assessment and reporting methodologies,
- Final draft Integrated Report available for public notice,
- Proof of public notification/opportunity for comment,
- Copies of comments received on the draft,
- Copies of the Department's responses to applicable comments, and
- Proposed waters to be delisted and the supporting documentation/information.

Following the submittal, the Department may make annual updates to the Integrated Report. Submittal of these to EPA is not required, but may be conducted as a means of notifying EPA of beneficial use support status changes and monitoring priorities. These updates will be completed using all of the procedures (e.g. data submittal, public participation) that will be used in preparing the 2006 Integrated Report. The information accompanying this update will be consistent with the above procedures.

5.0 References

40 Code of Federal Regulations, Part 130.

Iman, R.L., Conover, W.J. 1983. A Modern Approach to Statistics, New York.

Lin, P., Meeter D., Niu X., 2000. A Nonparametric Procedure for Listing and Delisting Impaired Waters based on Criterion Exceedances, Technical Report, Department of Statistics, Florida State University, Tallahassee, FL

NDEQ, 2002. Title 117 – Nebraska Surface Water Quality Standards, Nebraska Department of Environmental Quality, Lincoln Nebraska, August 2000.

NDEQ, 2002. 2002 Nebraska Water Quality Report, Nebraska Department of Environmental Quality, Lincoln, NE

Texas Natural Resource Conservation Commission, 2001, Guidance for Assessing Texas Surface and Finished Drinking Water Quality Data 2002, TNRCC Office of Compliance and Enforcement, Monitoring Operations Division, Surface Water Quality Monitoring Program, Austin, TX.

Appendix A – Example of Information Provided for the Integrated Report

Waterbody ID	Waterbody Name	Beneficial Uses						Overall Waterbody Assessment	Comments
		Primary Contact Recreation	Aquatic Life	Public Drinking Water Supply	Agriculture Water Supply	Industrial Water Supply	Aesthetics		
BB1-10000	Big Blue River	I	I		S		S	Category 1	Assessment results provided in data summary
BB1-10100	Mission Creek		NA		NA		NA	Category 3	No data available