

# CHAPTER 1:

## Agency Overview

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The Nebraska Department of Environmental Quality was created pursuant to passage of the Nebraska Environmental Protection Act in 1971. Although the Department has grown and been given additional responsibilities over the years, its ongoing mission has remained the same — the protection of Nebraska's air, land and water resources. Presently, the Agency is authorized a staffing level of 216 full-time employees.

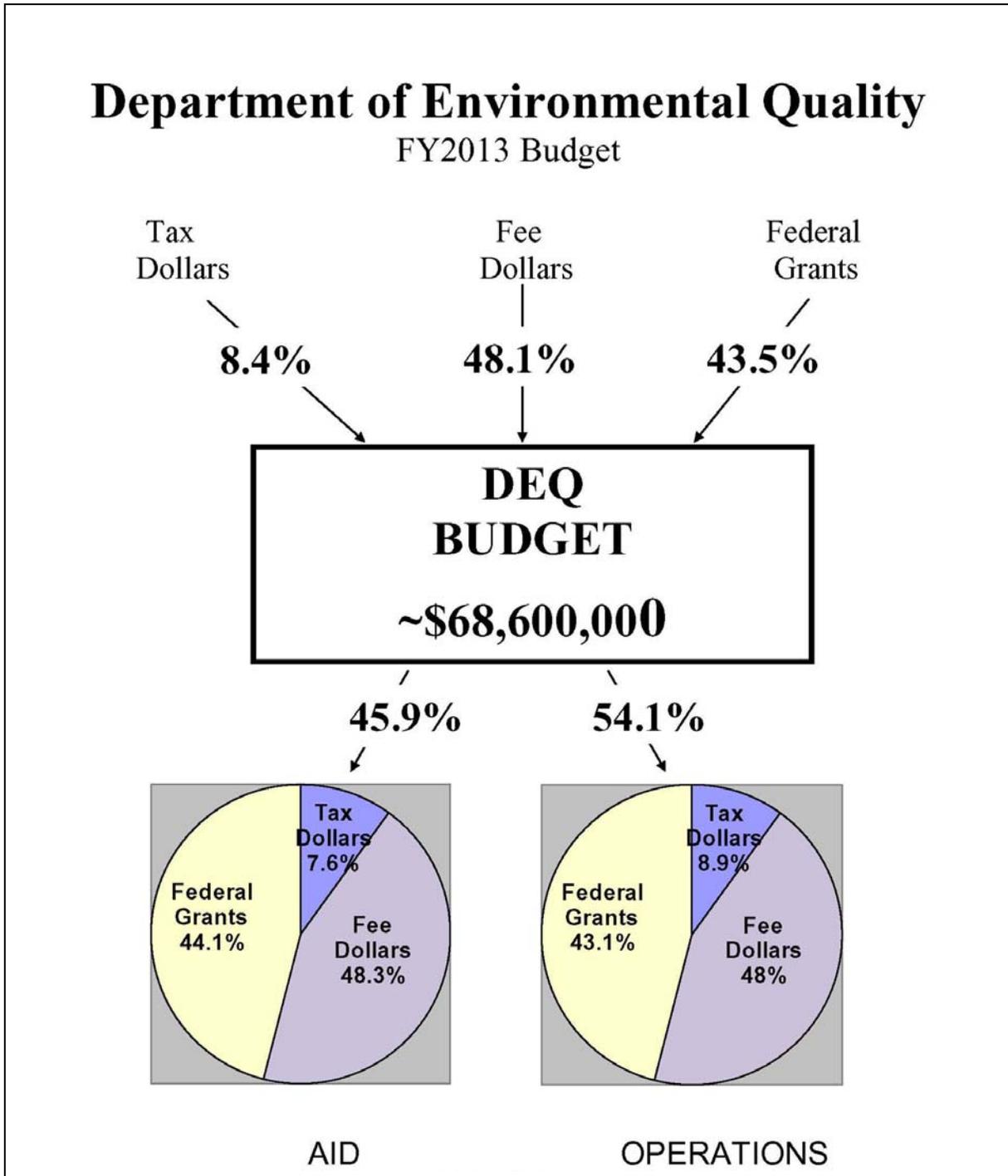
The Department has a total annual budget for FY13 of approximately \$68.6 million. This includes money collected from state taxes, fees and federal grants. Of that amount, \$31.5 million is redistributed to other agencies, organizations and individuals in the form of aid (grants and loans).

On the table below, the columns listed as aid represent the amount of the agency's budget that is redistributed to other entities as grants and loans. The operations columns represent the amounts used for the operation of the agency. However, the operations categories also include contracts where money is used on behalf of others, such as when the agency assigns a private contractor to investigate and clean up a petroleum remediation site.

This funding is derived from several sources. A major source of funding is the federal government. The state also contributes significant funding for Department activities, and certain programs are funded partially or totally by fees. A breakdown of funding by fund type is shown on the following table:

<b>Funding Type</b>	<b>Operations: \$ Amount</b>	<b>Percent of Operations Budget</b>	<b>Aid: \$ Amount</b>	<b>Percent of Aid Budget</b>
<b>Federal Funds</b> (Grants)	\$16 million	43.1%	\$13.9 million	44.1%
<b>State General Funds</b> (Tax \$)	\$3.3 million	8.9%	\$2.4 million	7.6%
<b>Cash Funds</b> (Fees)	\$17.8 million	48%	\$15.2 million	48%
<b>Total</b>	\$37.1 million		\$31.5 million	

The following graphic depicts the department's FY13 budget by funding source and percent anticipated to be expended by fund type and activity (aid or operations).



Several chapters of this report give the reader a more in-depth look at Department responsibilities. Other chapters address financial issues, staffing issues, aid programs, and financial responsibility requirements. Additionally, Chapter 3 lists actions of the Environmental Quality Council during FY12.

This chapter provides: 1) a brief description of agency goals; 2) significant issues in 2012;

3) significant legislation of 2012 and 4) a table that identifies initiatives over the past ten years that have impacted Agency resources.

## I. Agency Goals and Related Activities

In recent years, NDEQ Administration has established a list of agency goals. Staff from all programs were asked to identify goals consistent with the agency goals. Through a series of staff meetings, goals were discussed and specific program goals and activities to be reached and reported were identified. These goals meetings have been conducted periodically since the goals were established, to evaluate our progress and develop strategies for the future. These efforts provide greater accountability regarding work that is being accomplished and help programs and management monitor whether we are achieving the identified goals.

The main goals established by the Agency are:

- 1) **Effective work force.** The agency needs to structure and train its employees to be as effective as possible to offset declining resources.
- 2) **Timely permitting process.** Permit review and issuance needs to be streamlined and simplified to meet the needs of both the agency (effective work force) and those in need of a permit.
- 3) **Balanced enforcement.** Enforcement means compliance with the law and a balanced approach between compliance assistance and traditional enforcement tools needs to be reached.
- 4) **Simplify regulations.** Persons and entities affected or protected by our regulations need to be able to understand the requirements with as little difficulty as possible.
- 5) **Community presence and relations.** NDEQ needs to be present in the community that it serves - Nebraska. The agency also needs to open communications and relationships with citizens, those we regulate, and other governmental entities.
- 6) **"Back to the Basics."** We must excel at the fundamental things that the Legislature intends for us to do -- issue permits, inspect, assure compliance, and require remediation where necessary.
- 7) **Assistance.** We need to assist those that we regulate so they can meet or exceed minimum standards. We must make such concepts as pollution prevention and compliance assistance a natural way of doing our job.
- 8) **Measure Environmental Quality.** We need to collect information that enables us to do our job and to measure Nebraska's environmental quality. Information collected by NDEQ must measure any changes in the quality of Nebraska's environment over time and provide the information we need to make sound regulatory decisions.
- 9) **Meaningful Reporting.** NDEQ has a responsibility to the citizens of Nebraska to report our findings in an understandable and useful way.
- 10) **Assess Needs.** Meaningful information about the environment should be used by NDEQ to assess the needs of the citizens and environment of the State. That information, when shared with the public, will provide input opportunities on priority issues.

Through activity tracking and followup meetings with program staff, the agency continually evaluates whether goals are being achieved, and whether they need to be modified.

## II. Significant Issues in 2012: Proposed Keystone XL Pipeline

In late 2011 and in 2012, NDEQ has been involved in the evaluation of the proposed Keystone XL Pipeline. TransCanada Keystone Pipeline, LP (Keystone) proposes to construct, operate and maintain the Keystone XL pipeline, which is an 875 mile long, 36-inch diameter crude oil pipeline from the U.S.-Canadian border to Steele City, Nebraska.

Legislative bills passed in the Special Session of 2011 and in the 2012 Legislative Session provided NDEQ the authority to evaluate proposed oil pipeline routes in Nebraska. In late 2011, NDEQ formed a team of agency staff and hired HDR Engineering, Inc. of Omaha as its consultant in the review of the proposed Keystone XL project. The review was halted in January 2012 when the permit was denied at the federal level.

The state evaluation resumed in April 2012, after LB 1161 was enacted and TransCanada submitted a revised route corridor report to the State of Nebraska. NDEQ conducted four information sessions in May in O'Neill, Neligh, Albion and Central City to discuss Keystone's proposed route corridor and seek public input. In July, NDEQ provided a Feedback Report to Keystone that identified public concerns and agency observations.

Keystone submitted a Supplemental Environmental Report to NDEQ on Sept. 5, 2012, which provided detailed route information and served as the basis for the state's evaluation. On Oct. 30, 2012, NDEQ released its Draft Evaluation Report and announced that a public hearing will be held in Albion on Dec. 4, 2012. In addition, the agency announced that the public comment period will conclude on Dec. 4, 2012.

NDEQ will consider all public comment and testimony as it develops the Final Evaluation Report. (See LB 1161 summary on the following page for more information on related legislation.)

## III. 2012 Legislative Summary

Six pieces of legislation passed in 2012 had an impact on the agency. They include:

**LB 498** – This bill creates an exception in the Industrial Ground Water Regulatory Act for a permit issued by the Department of Natural Resources, when the permit holder needs additional water beyond what is allowed under the original permit. The bill allows the exception for any permitted facility requesting an increase in the maximum daily volumetric flow rate or annual volume levels to those authorized under a permit issued by the Department of Environmental Quality pursuant to the Environmental Protection Act for in-situ mining activities.

**LB 760** – Changes provisions relating to Environmental Quality Council meetings to allow at least two regular meetings each year, rather than four. The bill also amends language that all grants to political subdivision under the control of the department shall be made by the director in accordance with priorities established by the EQC unless otherwise directed by statute.

**LB 782** – This bill requires all reports to the Legislature, to be submitted electronically to save State money and time resources. The Department of Environmental Quality submits eight reports to the Legislature annually.

**LB 845** – Amends the Oil Pipeline Reclamation Act to ensure proper reclamation is accomplished as part of an oil pipeline construction process, including restoration of areas through which a pipeline is constructed.

**LB 873** – Extends the date for reporting releases to be eligible for reimbursement from the Petroleum Remedial Action Fund, and for the Department to fund remedial action addressing such releases, to June 30, 2016.

**LB 1161** – This bill amended LBs 1 and 4 from the 2011 Special Session regarding State of Nebraska authorities as it relates to evaluation of proposed oil pipeline routes “in, through and across Nebraska”. Specifically, amendments to LB 4 language authorizes the Department of Environmental Quality to evaluate any route for an oil pipeline in Nebraska submitted by a pipeline carrier for the “stated purpose of being included in a federal agency's National Environmental Policy Act (NEPA) review process” or to collaborate and make an agreement with a federal agency for the effective and timely evaluation of a proposed route in a NEPA review involving the preparation of a Supplemental Environmental Impact Statement (SEIS). It requires the department to analyze environmental, economic, social and other impacts that are associated with a pipeline route and route alternatives and it outlines minimum public participation requirements. The process requires the Department to submit its evaluation of a proposed route to the Governor. Within 30 days the Governor is required to provide written notice to the federal agency whether the Governor approves any of the state routes reviewed in the SEIS. If the Governor does not approve the route, the pipeline carrier may file an application with the Public Service Commission pursuant to the process outlined in the Major Oil Pipeline Siting Act to seek approval. Finally, the amended language to LB 4 provides that a pipeline carrier is to reimburse the department for the cost of the evaluation

#### IV. State and Federal Actions Affecting Agency Staffing

The following is a breakdown of legislation over the past ten years that has affected staffing requirements at the Nebraska Department of Environmental Quality. The required programs are broken into three categories: 1) programs required by the federal government which did not require additional state legislation to adopt (Federally Mandated); 2) state legislation in response to federal requirements (State Legislation/Federally Mandated); and 3) state legislation which was not federally mandated (State Legislation/ Not Federally Mandated).

##### 2003 (212 FTE)

###### **State Legislation/Not Federally Mandated**

- On-site Wastewater Treatment Act (septic systems)

##### 2004 (217 FTE)

###### **State Legislation/Federally Mandated**

- Livestock Waste Management Act

###### **State Legislation/Not Federally Mandated**

- Air Quality Permit Fees

##### 2005 (217 FTE)

###### **State Legislation/Not Federally Mandated**

- Air Emission Fees
- Petroleum Release Remedial Action Act

##### 2006 (217 FTE)

###### **State Legislation/Federally Mandated**

- Livestock Waste Management Act
- Stormwater Grants

- Emission Trading

**2007** (218 FTE)**State Legislation/Not Federally Mandated**

- Drinking Water State Revolving Fund
- Livestock Waste Management Act
- Wastewater Treatment Operator Certification
- Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act

**2008** (218 FTE)**State Legislation/Not Federally Mandated**

- Remedial Action Plan Monitoring Act
- Wastewater Treatment Facilities Construction Act
- Petroleum Release Remedial Action Act

**2009** (218 FTE)**State Legislation/Not Federally Mandated**

- Livestock Waste Management Act
- Integrated Solid Waste Management Act (rebate fee schedule)
- Waste Reduction and Recycling Incentive Fund (deconstruction grants)
- Waste Reduction and Recycling Incentive Fund (scrap tire projects)

**2010** (215.25 FTE)**State Legislation/Not Federally Mandated**

- LB1 Special Session

**2011** (215.25 FTE)**State Legislation/Not Federally Mandated**

- LB28 Nebraska Chemigation Act
- LB29 Emergency Response
- LB30 Integrated Waste Management (Compost)
- LB156 Clean Air Act (Emission Fee)

**2012** (216 FTE)**State Legislation/Not Federally Mandated**

- Deficit Funding Bill 1 FTE