

# 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 215.25 full-time employees.

The Department has a total annual budget for FY12 of approximately \$68.2 million. This includes money collected from state taxes, fees and federal grants. Of that amount, \$33.5 million is redistributed to other agencies, organizations and individuals in the form of aid (grants and loans).

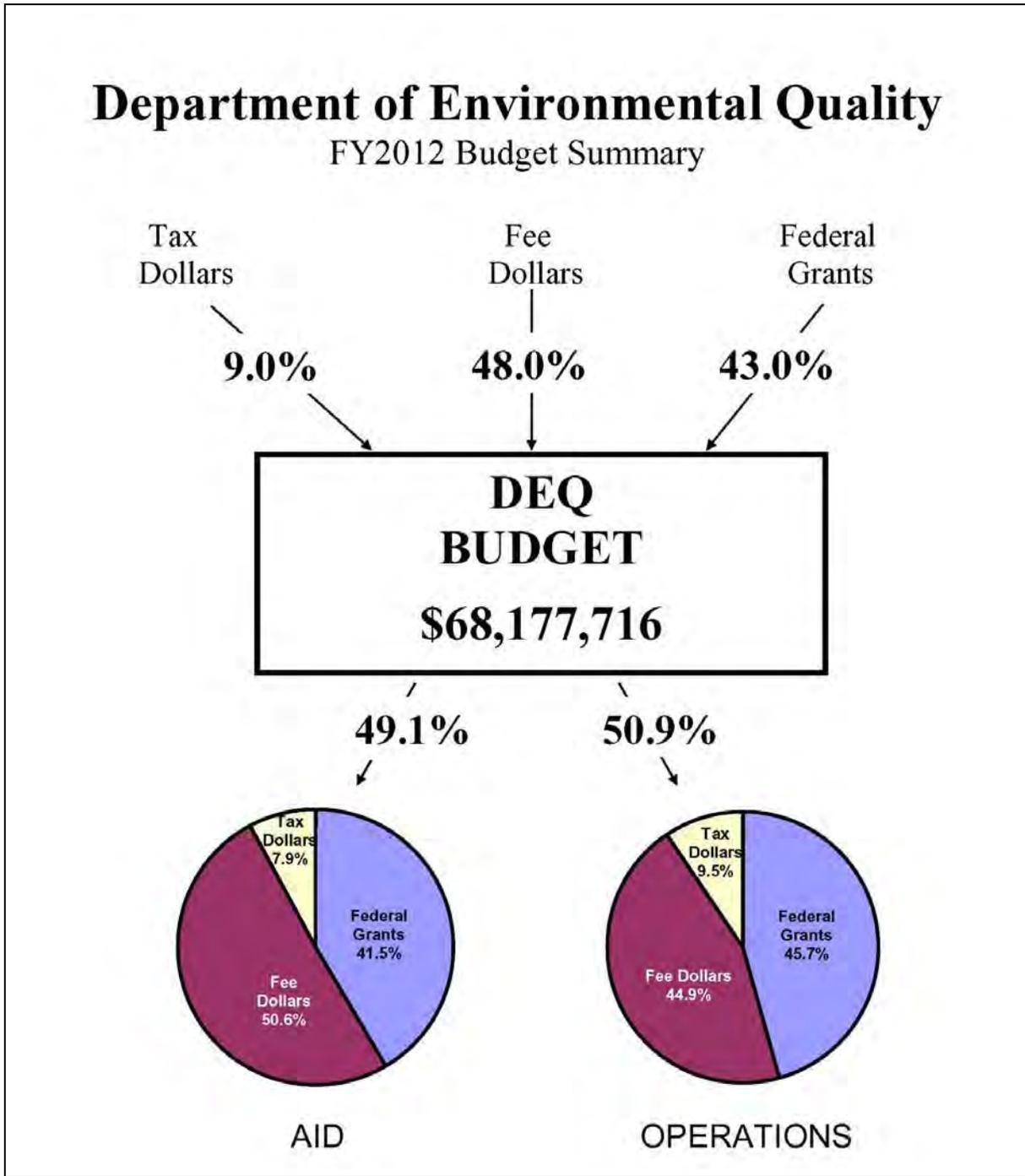
On the table below, the columns listed as aid represent the amount of the agency's budget that is redistributed to other entities as grants and loans. The operations columns represent the amounts used for the operation of the agency. However, the operations categories also include contracts where money 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)	\$15.8 million	45.7%	\$13.9 million	41.5%
<b>State General Funds</b> (Tax \$)	\$3.3 million	9.5%	\$2.6 million	7.9%
<b>Cash Funds</b> (Fees)	\$15.6 million	44.9%	\$17.0 million	50.6%
<b>Total</b>	\$34.7 million		\$33.5 million	

Note: This table does not include ARRA grants.

The following graphic depicts the department's FY12 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 FY11.

This chapter provides: 1) a brief description of agency goals and related activities; 2) an overview of ARRA funding activities; 3) significant legislation of 2011 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. During the

fall of 2011, agency management is meeting with all of DEQ's programs to discuss priorities and highlight issues impacting the programs.

## II. ARRA Funding and Expenditures

In fiscal years 2009 and 2010, NDEQ received significant supplemental funding from the American Recovery and Reinvestment Act of 2009.

These are funds provided to Nebraska through the U.S. Environmental Protection Agency, and have been distributed by the state to local efforts that protect the environment and stimulate the economy. This is just one segment of a much larger package of Recovery Act funds that was provided to the state of Nebraska and local communities. More information about state programs receiving ARRA support can be found at the state web site: [www.Recovery.Nebraska.gov](http://www.Recovery.Nebraska.gov) . More information about the national program can be found on the federal web site: [www.Recovery.gov](http://www.Recovery.gov) . More information about the NDEQ programs receiving ARRA support can be found at the agency web site, [www.deq.state.ne.us](http://www.deq.state.ne.us) , by selecting NDEQ Recovery Fund Information. Or, the direct URL to the site is: <http://www.deq.state.ne.us/Recover.nsf/Pages/Recovery>.

Five programs administered by NDEQ have been allocated Recovery Act funds by the U.S. EPA. They are:

- **Clean Water State Revolving Fund** — \$20 million in Recovery Act funds have been allocated to Nebraska for wastewater treatment facility improvements. These funds have been distributed to 19 projects. Nearly all funds have been expended.
- **Drinking Water State Revolving Fund** — This program is administered jointly by NDEQ and the Nebraska Department of Health and Human Services – Health Division. \$19.5 million in Recovery Act funds have been allocated to Nebraska to support improvements in communities' drinking water systems. These funds have been distributed to 26 projects for either infrastructure improvements or water meters. More than 95% of funds received have been expended.
- **Leaking Underground Storage Tank Program** — About \$2.3 million has been allocated to Nebraska for the cleanup and investigation of leaking underground storage tanks. The department has or will complete initial investigation at 65 sites. In addition, funds are being used at seven sites for cleanup activities. All funds have been expended.
- **Diesel Emission Reduction Act** — \$1.73 million has been allocated to Nebraska for projects to reduce emissions from diesel engines. DERA funds have been passed through to 60 recipients for various types of activities shown to reduce diesel emissions. All funds have been expended.
- **604 (B) Water Quality Planning** — EPA awarded NDEQ \$202,500 for Water Quality Planning. NDEQ is providing these funds to the Nebraska Department of Natural Resources to continue ground and surface water quality and quantity planning for the Platte River Conjunctive Management Project. The project will help to optimize activities to best protect water quality and quantity for all uses on the Platte River, including endangered species, irrigation, and public recreation and drinking water. Work has been completed and the grant has been closed.

The table below provides an overview ARRA funds that were awarded to the agency, and the expenditures through June 30, 2011. These funds are considered to be a one-time provision designed to stimulate local economic growth and protect the environment, and are not expected to be renewed in future federal allocations.

### Awards Status as of June 30, 2011

Program	Amount Awarded	Funds Received	Number of Recipients	Expenditures as of June 30, 2011
Clean Water SRF	\$20 million	April 10, 2009	16 projects	\$19,991,803
Drinking Water SRF	\$19.5 million	April 10, 2009	22 projects	\$18,779,489
Leaking Underground Storage Tanks	\$2.3 million	July 6, 2009	72 sites	\$2,233,399
Diesel Emission Reduction Act	\$1.73 million	April 10, 2009	60 recipients	\$1,730,000
604B Water Quality Planning	\$202,500	May 6, 2009		\$202,470

### III. 2011 Legislative Summary

Five pieces of legislation passed in 2011 had an impact on the agency. They include:

**LB 28** – The Nebraska Chemigation Act was amended to eliminate a number of annual reporting requirements that Natural Resource Districts (NRDs) provide to the Department of Environmental Quality. The bill eliminates the requirement that NRDs forward a copy of each approved chemigation application to NDEQ; instead, NRDs will preserve the information and provide to NDEQ upon request. Additionally, information NRDs prepare for annual reporting purposes no longer needs to list the individual permit holders and the location of each chemigation system. The NRD's annual report to the agency will report summary totals of applications received, applications approved, and inspections, and a list of all chemicals used in the chemigation systems within the district during the previous year.

**LB29** – This bill modified the funding source for three department programs. Emergency Response program activities as it relates to petroleum spills will now be funded out of the Petroleum Release Remedial Action Cash Fund. Reimbursement of political subdivisions expenditures for the cleanup of illegal roadside dumps will be taken from the Waste Reduction and Recycling Incentive Cash Fund. And statutory authority was removed for the Department to pay for cleanup activities at livestock waste management facilities. All three programs previously had the authority to access the Integrated Solid Waste Cash Fund to pay for those expenses.

**LB30** – This bill amended provisions of the Nebraska Environmental Protection Act regulating compost sites. First, the bill eliminated the requirement that compost sites be inspected semi-annually. Compost site operations are typically a low environmental risk and do not need as high a level of regulatory oversight. Second, the bill enables the department to issue permits for compost sites for up to 10 years, making the permit terms consistent with other permit terms specified in the Integrated Solid Waste Management Act. And finally, compost site permits can be transferred to new owners.

**LB156** – Air Pollution Emission Fee provisions were amended to maintain a cap on emission fees for certain municipalities with mid-sized electric generation facilities. The change allows a mid-sized electric generation facility owned by a municipality to still be considered ‘mid-sized’ even if it gets permitted with a larger unit (more than 115 mw) under separate ownership. These types of facilities would not have to pay beyond the current emission fee based on a cap of 400 tons per year for a regulated pollutant.

**LB 617** – This bill addresses a number of provisions relating to state agencies’ promulgation of regulations. A public hearing must be held on a rule or regulation that is being adopted, amended or repealed pursuant to a bill within 12 months after the effective or operative date of the bill. The Governor can extend the 12-month period for up to an additional six months upon a written showing of good cause. The entire regulation process has to be completed within one year after the public hearing. If the agency does not adopt and promulgate the rules and regulations within one year of the public hearing, a written explanation must be provided to the Executive Board and the standing committee with jurisdiction over the issue. Each state agency is also required to annually (on or by July 1) provide a report to the Legislative Performance Audit Committee on the status of any pending rules or regulations.

#### 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).

**2002** (209 FTE)

**State Legislation/Not Federally Mandated**

- Cash fund transfer legislation

**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)