

# CHAPTER 1:

## Agency Overview

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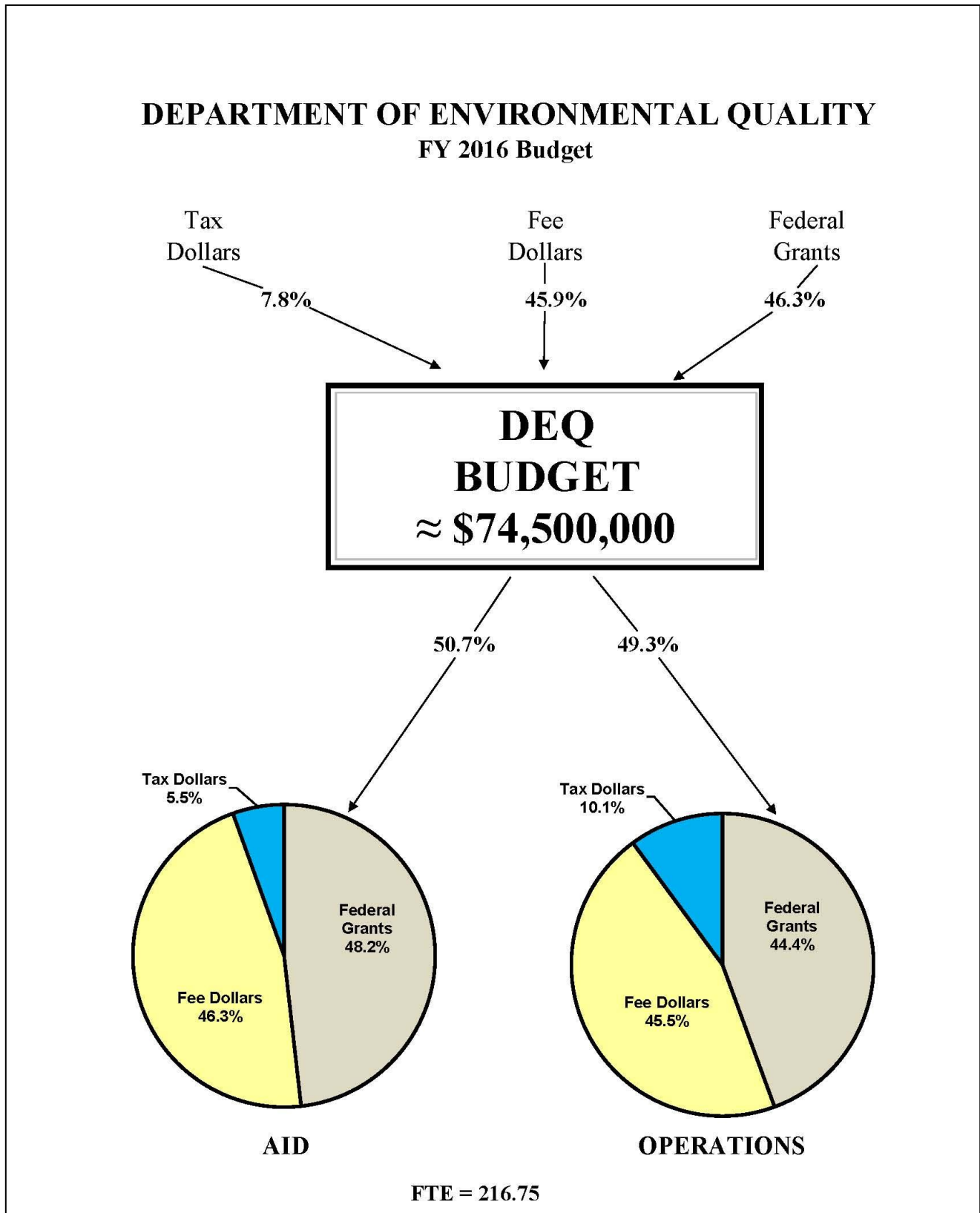
The Nebraska Department of Environmental Quality (NDEQ) was created with passage of the Nebraska Environmental Protection Act in 1971. The Department has grown and been given additional responsibilities over the years, but its mission has remained the same — the protection of Nebraska's air, land and water resources. Presently, the Agency is authorized for a staffing level of 216.75 full-time employees.

The NDEQ has an FY16 total annual budget of approximately \$74.5 million. This includes money from federal grants, state taxes and fees. Of that amount, \$37.8 million is redistributed to other agencies, organizations and individuals in the form of aid (grants and loans).

The table below breaks down NDEQ funding by fund type. The columns listed as aid represent the agency's budget redistributed to other entities as grants and loans. The columns listed as operations represent amounts used for agency operation and contracts for such things as investigations and cleanups.

<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)	\$16.3 million	44.4%	\$18.2 million	48.2%
<b>State General Funds</b> (Tax \$)	\$3.7 million	10.1%	\$2.1 million	5.5%
<b>Cash Funds</b> (Fees)	\$16.7 million	45.5%	\$17.5 million	46.3%
<b>Total</b>	\$36.7 million		\$37.8 million	

The following graphic depicts NDEQ's FY16 budget by funding source and percent anticipated to be expended by fund type and activity (aid or operations).



## I. Significant Topics in 2015

The following are some of the significant topics, challenges and accomplishments that NDEQ addressed in 2015:

### **New Agency Director Appointed**

On March 2, 2015, Governor Pete Ricketts announced that Jim Macy of Jefferson City, Missouri would serve as the next Director of the Nebraska Department of Environmental Quality. After an interview process, the Environmental Quality Council forwarded finalists to Governor Ricketts who selected Macy as the department's new director.



From 2012 to 2014, Macy served as the Director for the Missouri Department of Natural Resources' Financial Assistance Center, which provides funding for drinking water and wastewater infrastructure projects.

Previously, Macy has served in a variety of capacities throughout the Missouri Department of Natural Resources, including roles as the Environmental Compliance Section Chief, the Division Director of Field Services and the Regional Director of the Kansas City Regional Office.

Macy holds a Bachelor of Science in Agriculture with an emphasis in Animal Science and a Master's in Education with a focus on Vocational/Technical Education from the University of Missouri-Columbia. In 2001, Macy received the EPA National Notable Achievement Award for Outstanding RCRA Stakeholder Involvement Team of the Year.

Macy has set three initial goals for the department.

- Providing exceptional service,
- Focusing on compliance assistance, and
- Demonstrating accountability through performance measures

Since his appointment, Macy has been engaging Nebraska leadership in all sectors to open a dialogue with the department.

### **New Federal Air Rule, Nebraska's Carbon Mitigation Efforts**

On Aug. 3, 2015, the U.S. Environmental Protection Agency (EPA) released its final rule on carbon mitigation, called the Clean Power Plan. The EPA Plan is a set of standards designed to reduce carbon emissions from power plants, and would directly affect some Nebraska facilities. The plan requires states to submit state plans by September 6, 2016. States may request extensions that, if granted, would extend the date for submission of final state plans to September 6, 2018.

As of November 1, 2015, Nebraska is in the process of analyzing the 1,600-page rule and meeting on a regular basis with affected industry to develop a framework for addressing carbon emissions in Nebraska. NDEQ will also be seeking additional input from the interested public, and will coordinate review efforts with the Nebraska Department of Energy, in the development of a carbon mitigation strategy. For more information about NDEQ's Air Quality Programs, see page 19.

## Petroleum Remediation Equipment Re-use Program

NDEQ's Petroleum Remediation Program oversees investigation and cleanup of petroleum contamination sites. The program administers financial assistance to responsible parties for conducting these cleanup efforts.

As sites are undergoing cleanup, NDEQ pays for the purchase of remedial equipment. When sites are cleaned up and closed, NDEQ seeks to reuse that equipment at other sites. Over the last ten years, NDEQ has reused hundreds of pieces of equipment, thus greatly reducing the need to buy new equipment. This reuse program has saved Nebraska taxpayers nearly \$4 million in new equipment costs and allowed that money to be used for cleanup of additional sites. For more information about the Petroleum Remediation Program, see page 51.



*Through the Equipment Reuse Program, NDEQ reduces cleanup costs by reusing equipment from one project to another.*

## Monthly Performance Metrics

In July 2015, NDEQ initiated a monthly metrics report. NDEQ established the report to measure agency accomplishments, to set annual and longer-term goals, and to evaluate these goals against accomplishments to ensure continuous process improvements. The primary focus in the first reports has been on permits issued, compliance inspections and response to complaints. The monthly report also contains a description of issues and accomplishments that occurred in the previous month.

NDEQ provides the report to the Governor's Office as part of the Governor's ongoing analysis of agencies' performance and to develop goals for greater efficiency. In addition, NDEQ provides this information to staff in the agency for internal review and posts the monthly data on our web site, <http://deq.ne.gov>, under the heading "Monthly Metrics."

## Development of Air Quality General Permits, Process Improvements

NDEQ's Air Quality Division has been taking steps to reduce permit backlogs in both the construction and operating permit programs. NDEQ is examining options to address the operating permit backlog, including: retaining private consultants to review permits, staff hiring and retention strategies, and examining internal processes. The Division is considering regulatory revisions – specifically, extending the length of permit terms.

Recent regulatory revisions will help reduce the backlog in air construction permits. These revisions provide facilities with an option to apply for general permits. The Air Quality Division began evaluating potential groups that might be suitable for general construction permits. The groups chosen include: concrete batch plants, hot mix asphalt plants, aggregate crushing and sorting operations, diesel-fired emergency engines and incinerators. Applicants will be able to complete an online application and, if eligible, obtain expedited coverage under a general permit. This expedited

process will create time savings for staff, which will allow more time to review more complicated or site-specific permitting and compliance issues. For more information about NDEQ's Air Quality Programs, see page 19.

### Online Environmental Quality Permitting

In November 2015, NDEQ announced the launch of online applications for storm water construction permits. The online application can be found at <http://deg.ne.gov> by clicking on "Permits and Authorizations." The time savings gained by streamlining the application process for these storm water permits not only shortens the turnaround time, but also will allow agency staff to focus on expediting review of more complicated or site-specific permitting and compliance issues."

### Coordinated Response on Avian Influenza

Through the summer months of 2015, poultry operations in Nebraska and other Midwestern states were impacted by outbreaks of Avian Influenza. To prevent spread of the influenza, six sites in Nebraska depopulated over four million chickens. NDEQ participated in a coordinated response with the Nebraska Department of Agriculture. NDEQ focused on environmental issues, including the proper handling and disposal of animal carcasses. Disposal involved onsite composting of the carcasses.

NDEQ and the Nebraska Department of Agriculture coordinated a "Heartland Avian Influenza Workshop" on August 11-12, 2015. Fifty-five staff from the environmental and agriculture agencies in Iowa, Kansas, Missouri, Minnesota and Wisconsin participated. The purpose of the workshop was to exchange best management practices used in addressing Avian Influenza and to identify areas of concern.



## Voluntary Cleanup Program – Beatrice

On August 25, 2015, the City of Beatrice and Centel jointly applied to participate in NDEQ's Voluntary Cleanup Program to clean up environmental contamination from a former manufactured gas plant. The application followed extensive discussions between NDEQ and Beatrice to determine the best approach to address the contamination at the site. NDEQ is pursuing cleanup at several sites across the state where historic operations of manufactured gas plants have resulted in hydrocarbon contamination of groundwater. Many years ago, these plants used coal as a feedstock to produce coal gas used in homes and businesses for light and power.

Many Nebraska businesses have turned to the state's Voluntary Cleanup Program as a more efficient and streamlined alternative than participating in the federal cleanup program known as Superfund. Under the Voluntary Cleanup Program, applicants have the responsibility, under close state oversight, to complete the investigation, determine the best cleanup option and conduct the cleanup actions. The state program has resulted in shorter timeframes to complete the cleanup and lower state oversight costs.



Currently, there are 22 sites in the VCP Program

Currently, there are 22 sites in the program. Under state oversight, 17 sites have been cleaned up and completion letters have been issued. For more information about the VCP program, see page 35.

## II. 2015 Legislative Summary

The Nebraska Legislature enacted three pieces of legislation passed in 2015 had an impact on NDEQ:

**LB 207** – This legislation amends the Nebraska Chemigation Act to increase the civil penalty for the following: 1) chemigating without first obtaining a chemigation permit from the NRD; 2) chemigating with a suspended or revoked chemigation permit; 3) willfully tampering with or otherwise willfully damaging any chemigation equipment; 4) a permitholder failing to notify the NRD and NDEQ of any actual or suspected accident resulting from the use of chemigation; or 5) for any other violation of the Chemigation Act for which a penalty is not provided. The penalty for the first offense is \$1,000 per site; for subsequent violations, the penalty range is between \$1,000 to \$5,000 each day and at each site where a violation occurs.

**LB 413** – National Pollutant Discharge Elimination System (NPDES) permits issued or reissued to political subdivisions is the focus of this legislation. This legislation authorizes NDEQ to exercise all possible discretion allowed by the EPA to enable political subdivisions requesting an NPDES permit to maintain environmental infrastructure in a way that is both sustainable and within the financial capability of the political subdivision. NDEQ, at the request of a political subdivision, may conduct an evaluation to determine the extent to which a political subdivision must comply with the permit. The NDEQ determination may affect the level of treatment or pollution control, the length of time

necessary for compliance, or both. Political subdivisions requesting the evaluation are required to submit an application fee. NDEQ is authorized to create a tiered fee schedule in cases of financial hardship. LB 413 also amends the Wastewater Treatment Facilities Construction Assistance Act to give NDEQ authority to provide grants or an additional interest subsidy on loans for municipalities if the project contains a sustainable community feature, measurable energy use reductions, low impact development, or special assistance needs as identified through the department's evaluation.

**LB 469** –EPA recently adopted new federal Clean Air Act rules, commonly referred to as the Clean Power Plan, to regulate carbon dioxide emissions from covered electric generating units. LB 469 requires NDEQ to submit the state plan it develops to address the new federal requirements to the Nebraska State Energy Office prior to submitting it to the EPA. If the EPA extends the submission deadline, the department must provide the plan to the State Energy Office at least 120 days prior to the extended deadline. The State Energy Office is required to prepare a report that assesses the plan's effects and submit it to the Legislature within 30 days of receipt of the NDEQ plan. If the Legislature is in session when they receive the State Energy Office report, the Legislature may vote on a nonbinding resolution regarding its findings. The bill clarifies that nothing in the law should prevent NDEQ from complying with the federal submission deadlines. NDEQ is also required to submit a copy of the state plan to the Legislature after the plan is submitted to EPA.

LB 469 also incorporates provisions of LB 583 and LB 205. LB 583 amends laws regarding the State Energy Office to add new duties. Among those new duties is the requirement to develop a strategic state energy plan. LB 205 amends aeronautics laws to add requirements for meteorological evaluation towers.

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

The following is a breakdown of legislation over the past 10 years that has affected NDEQ staffing requirements. 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).

#### **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
- Waste Reduction and Recycling Incentive Fund
- Waste Reduction and Recycling Incentive Fund

**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 Solid Waste Management Act
- LB156 Clean Air Act

**2012** (216 FTE)

**State Legislation/Not Federally Mandated**

- Deficit Funding Bill 1 FTE

**2013** (216 FTE)

**State Legislation/Not Federally Mandated**

- LB203 Integrated Solid Waste Management Act
- LB242 Administrative Procedures Act
- LB549 Waste Reduction and Recycling Act

**2014** (216.75 FTE)

**State Legislation/Not Federally Mandated**

- LB514 Clean Water State Revolving Fund