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Financing Environmental Quality Programs in Nebraska*

This NebGuide describes the role and responsibilities of the Nebraska Department of Environmental Quality. Included are funding sources and environmental issues in Nebraska.

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- [DEQ Programmatic Overview](#)
- [Funding](#)
- [Other Environmental Programs in Nebraska](#)
- [Environmental Issues in Nebraska](#)

The Nebraska Department of Environmental Quality (DEQ) has the primary responsibility for protecting and improving the quality of Nebraska's air, land and water resources. Many of the programs administered by DEQ are mandated and funded--in whole or in part--by the federal government.

In discharging its responsibilities, DEQ receives input from the state Environmental Quality Council, a 16-member panel appointed by the governor. Fifteen of the 16 council members represent a specific industry or interest affected by or concerned with pollution control. The council is responsible for environmental rule-making through a system of review, revision, and approval or disapproval of all regulatory amendments and additions. DEQ also cooperates with other state agencies and the federal Environmental Protection Agency (EPA) on matters of shared interest and responsibility.

Organized as a result of the Nebraska Environmental Protection Act of 1971, DEQ currently is divided into three program areas--air and waste management, water quality and low-level radioactive waste. These program areas are supported by an administrative/management services unit. In this NebGuide no attempt is made to touch on every phase of the department's activity. For more in-depth information refer to the department's annual report to the Nebraska Legislature.

DEQ Programmatic Overview

Air and Waste Management Division. The department's air quality program is responsible for protecting the state's air quality by meeting or exceeding national air quality standards. Compliance with the federal Clean Air Act Amendments of 1990 has been a recent objective. This legislation requires the state to implement an operating permit program for businesses that may otherwise emit excessive

pollutants into the atmosphere. It also mandates that an educational program be established for small businesses in order to enhance understanding and compliance with applicable regulations.

Nebraska's air is continuously monitored for pollution relative to particulates, ozone, carbon monoxide, sulfur dioxide and lead. When an area is found to have an air quality problem, the division is responsible for identifying the cause of the problem and proposing remedies. The remedy may involve the application of emission control devices to industrial or processing plants. Routine inspections are conducted to ensure that existing pollution control equipment is properly operated and maintained. Among the industries monitored are grain elevators, limestone quarries, cement plants, sugar beet factories, power plants, alfalfa dehydrators and asphalt plants.

A portion of the waste management responsibility relates to hazardous waste. DEQ issues permits to facilities which treat, store or dispose of hazardous waste. The department also performs compliance inspections, identifies violations and enforces corrective actions. It's significant to note, however, that DEQ does not have responsibility for hazardous chemicals until they become waste; prior to that time, major responsibility for monitoring the use of hazardous chemicals rests with the EPA.

What is usually referred to simply as the "Superfund" is another federally initiated program relating to hazardous waste. (Nebraska is unique in that it is the only state without a companion program at the state level.) The purpose of the Superfund is to provide financial assistance for the cleanup of chemical spills or improper disposal of hazardous chemicals that occurred sometime in the past. Groundwater contamination is a particular concern. Superfund revenues are generated from special taxes on certain types of chemicals.

The department's solid waste management responsibilities focus on landfills. Cities with populations of 5,000 or more have been required to have licensed landfills since the 1970s. More recently all other landfills have been required by federal and state law to meet the same licensing requirements. LB 163, approved by the Nebraska Legislature in 1990, mandated that a solid waste plan be established for the state.

Two years later the substantive details of the state plan were incorporated in LB 1257. All solid waste must be deposited only in a licensed facility after October 1, 1993. (Proceeds amounting to 24.5 percent of the state lottery, which became operational in September, 1993, are being used to close old landfills.) In addition, each county and city in the state must file an integrated solid waste plan with DEQ by October 1, 1994.

Two solid waste programs administered by DEQ award grants for cleanup, education, recycling and waste reduction projects. They are the Litter Reduction and Recycling Program and the Waste Reduction and Recycling Incentive Grants Program.

The Litter Reduction and Recycling Program assesses an annual "litter fee" on manufacturers, wholesalers and retailers with gross receipts of at least \$100,000 annually. The fee applies to items that could become litter, such as bottles and cans. These funds are then funneled back to public and private organizations throughout the state.

The Waste Reduction and Recycling Incentive Grants Program was a part of LB 163. Originally, it provided funds only to political subdivisions to assist in financing solid waste management programs. However, as a result of a 1993 change in the law, some private groups will now qualify for these grants. Funds for the program come from a business fee (which could be phased out in December 1994 if sufficient funds are generated from a new, higher litter fee), one-half of a landfill disposal fee and a \$1

assessment on all new motor vehicle tires sold in the state.

Water Quality Division. The largest of the divisions within DEQ, the responsibility of this division is to protect and improve the quality of Nebraska's surface water and groundwater. Division staff are assigned to one of five sections: surface water, groundwater, leaking underground storage tanks/emergency response (LUST/ER), wastewater facilities, and permits and compliance.

The surface water section evaluates the quality of Nebraska's surface waters through regular monitoring of streams, lakes and other bodies of water. Evaluations are made relative to certain water quality standards that are established to protect the beneficial uses of surface water. Businesses and other entities which intend to discharge certain wastes into surface water must obtain permits. Sources of unacceptable pollution are identified and remedies proposed, with nonpoint pollution sources receiving special attention in recent years. Responses also are made to citizen complaints about pollution and fish kills.

The groundwater section undertakes programs to maintain groundwater quality at the highest possible level. Many of these programs are supported by appropriate hydrogeologic studies. Preventing groundwater contamination is the highest priority, but correcting contamination after it occurs also is important. As in surface water, certain standards have been established for the beneficial use of groundwater. The Special Protection Area (SPA) program assesses where groundwater problems have occurred or are likely to occur because of nonpoint source contaminants such as agricultural chemicals. Responsibilities for the SPA program are assigned jointly with local natural resources districts (NRDs). Chemigation, which involves the application of fertilizers and pesticides through irrigation water, also is the joint responsibility of DEQ and the appropriate NRD. Septic tanks, underground injections (used primarily in oil and gas production), secondary containment of agricultural chemicals, and public wellhead protection receive attention as well.

LUST/ER currently is the largest section within the water quality division. Moreover, available evidence suggests a heavy workload for some time to come. As of June 30, 1993, more than 2,500 underground petroleum leaks or surface spills had been identified; nearly 800 of these have been backlogged for future attention. Staff in this section not only oversee cleanup operations but, in addition, maintain an emergency response team, manage a database of hazardous chemicals stored and released in local communities, and administer a state remediation assistance fund for those responsible for cleanup costs due to petroleum releases. This section also has responsibility for the administration of community right-to-know provisions of the Emergency Planning and Community Right-To-Know Act. The purpose of this federal law is to increase the public's knowledge of and access to information on hazardous chemicals in their communities, and on releases of toxic chemicals into the environment.

The wastewater facilities section administers a state revolving loan program which provides loans to municipalities for wastewater treatment plant construction and improvement projects. Loans are offered on an 80 percent federal--20 percent state matching basis. A grant of up to 50 percent of the cost may be provided for communities of 800 or less which demonstrate serious financial hardship and participate in the loan program. Staff in this section work with communities to develop plans for local wastewater facilities and ultimately approve all plans for these facilities. Another responsibility is to provide training and certification for operators of local facilities to assure competent and efficient operation.

The permits and compliance section issues permits to any industry, business or municipality that discharges wastewater into Nebraska waters. The section also enforces state and federal regulations on which the permits are based.

Low-Level Radioactive Waste Program. DEQ is responsible for licensing and regulating low-level radioactive waste disposal in Nebraska. Statutory authority exists to impose rigid construction and operational standards on a waste site contractor to protect the health of citizens and the environment. The department has undertaken a lengthy technical review of a license application for a proposed five-state disposal facility near Butte in Boyd County, Nebraska.

Funding

Revenues. DEQ revenues come from a combination of the state General Fund (primarily income and sales taxes), federal grants and contracts, and cash funds (fees). Revenues are used to meet the operational expenses of DEQ, as state aid to local units of government, and for grants to public and private entities. State aid is directed to a number of specific pollution control programs as prescribed by federal and state law.

Revenue growth was significant for DEQ in the five-year period ending on June 30, 1993. Total funds available amounted to only \$7.5 million in fiscal year 1987-88 (hereafter FY 1988), compared to \$42.3 million in FY 1993 (*Table I*). Significantly, however, dependence on the state General Fund actually declined during this period. Meanwhile, funding from cash funds and federal grants and contracts grew by multiples of several hundred percentage points.

Expenditures. Both operations and aid expenditures moved significantly higher between FY 1988 and FY 1993, with the greatest growth in aid (*Table II*). Among the programs where growth in expenditures have been greatest are those dealing with wastewater treatment facility construction, leaking underground storage tanks, integrated solid waste management (includes solid waste landfills) and low level radioactive waste. These areas also had the largest expenditure totals in FY 1993 (*Table III*).

Other Environmental Programs in Nebraska

While the Department of Environmental Quality has the major responsibility for protecting Nebraska's water, land and air, other state and federal agencies also contribute in various ways.

The Nebraska Fire Marshall's office is responsible for inspecting underground fuel storage tanks. Should a leak occur, DEQ supervises the clean up in a manner that keeps contamination of the environment to a minimum. Similarly, if a hazardous chemical is leaked along a Nebraska road or highway as the result of an accident, DEQ responds to requests from the Nebraska State Patrol and other law enforcement agencies for technical assistance. In the event of a natural disaster, DEQ may work in like manner with the Civil Defense Agency.

On request, DEQ may inspect local schools for the presence of hazardous materials. However, funds have not been available for DEQ to become extensively involved in such a program.

Although DEQ has a significant responsibility in monitoring water quality in Nebraska, other agencies also have roles to play. The Nebraska Department of Health, for example, monitors municipal water supplies. The NRDs test water that comes from rural domestic and irrigation wells as well as water that is used by rural water districts. In addition, the Conservation and Survey Division of the University of Nebraska-Lincoln, the Water Center at the University of Nebraska-Lincoln, the Nebraska Natural Resources Commission, the Nebraska Department of Water Resources and the federal Environmental Protection Agency collect water quality data for their own needs and purposes.

The Nebraska Department of Agriculture has the responsibility for monitoring proper use of pesticides

in the state. Directors of a number of state agencies, including DEQ, act as an advisory committee to the Department of Agriculture in this activity.

Passage of LB 138, the state lottery bill, in 1993 provides for a Nebraska Environmental Trust Fund to be established with 25 percent of the lottery proceeds. Money collected is used to pay for wetland preservation and for other environmental uses. The fund is administered by the Nebraska Environmental Trust Board, with members from both the public and private sectors.

Zoning regulations by local units of government have directly responded to some environmental problems. For example, livestock feedlots may be required to be at least a minimum distance away from a city, village or rural residence.

Finally, environmental initiatives at the national level are having an ever-larger impact on Nebraskans. It is impossible to list all such programs and policies, but the Clean Air, Clean Water and Endangered Species Acts are symbolic. More than ever, these initiatives make environmental accountability a necessary first step in any business pursuit.

Environmental Issues in Nebraska

Most thoughtful citizens agree that protection of the environment is at least as important to future generations as it is to our own. In that sense, contemporary public policy issues relating to the environment should be resolved carefully and with as much scientific evidence at hand as possible. Preventing environmental damage likely will continue to be far more desirable than cleaning up the damage caused by earlier neglect or mismanagement.

Beyond this general concern, a number of other issues frequently are raised relative to Nebraska's environment:

1. Is the attention given to various environmental issues in appropriate balance? Stated differently, are resources for specific environmental programs being made available in proportion to the seriousness of actual or potential pollution/contamination problems?
2. With respect to funding for environmental programs, what proportion should come from (federal, state and local) taxes and user fees? What priority should environmental programs have for tax dollars in an era of tight budgets at all levels of government?
3. Are regulations relating to the use of federal funds for environmental programs appropriate? Could more program flexibility be granted to states and local units of governments without sacrificing national environmental quality standards?
4. Would water quality programs be more efficiently managed if some consolidation of responsibilities occurred among the numerous public agencies with programs in this area?
5. Are current programs of local units of government, especially the NRDs, appropriate for meeting the environmental quality needs of the state?
6. Should Nebraska institute a state Superfund for environmental cleanup as every other state already has done?
7. Could market mechanisms be devised to accomplish certain environmental objectives as opposed to greater regulation and taxation by the public sector?

Programs to protect the environment tend to result from specific needs. That's as it should be. However, it also is hoped that broader, more encompassing questions such as those listed above can be a part of the public debate on environmental protection, as well. Assuring high-quality water, air and land in the future may depend on it.

*Assistance from the Nebraska Department of Environmental Quality in the preparation of this NebGuide is gratefully acknowledged.

Table I. Funding Sources for Environmental Quality Programs in Nebraska by Funding Source, Fiscal Year 1988 and Fiscal Year 1993.

	Millions of Dollars	
Funding Source	FY 1988	FY 1993
General funds	3.7	2.5
Cash funds	.7	17.9
Federal funds	3.1	21.9
TOTAL	7.5	42.3
Source: Nebraska Legislature Fiscal Office, <i>Legislator's Guide to Nebraska State Agencies</i> , December, 1992.		

Table II. Expenditures for Environmental Quality Programs in Nebraska by State Expenditure Category, Fiscal Year 1988 and Fiscal Year 1993.

	Millions of Dollars	
Expenditure Category	FY 1988	FY 1993
State government operations	4.2	13.0
Aid to local governments, organizations and individuals	3.3	29.3
TOTAL	7.5	42.3
Source: Appropriations Committee, Nebraska Unicameral, <i>State of Nebraska Biennial Budget</i> , April, 1993.		

Table III. Projected Expenditures for Environmental Quality Programs in Nebraska by Funding Source and Selected Program Areas, Fiscal Year 1993.^a

	Funding Source (Millions of Dollars)			
Program Area	General	Cash	Federal	Total
Wastewater facilities	1.0	.03	15.9	16.9
Surface water	.1		.8	.9
Permits and compliance	.4	.06	.4	.9
LUST/ER	.1	5.2	1.0	6.3
Groundwater	.3	.1	.5	.9
Air quality	.3		.7	1.0
Water recovery	.3	3.5	.05	3.8
Hazardous waste	.1		1.2	1.3
Litter		.9		.9
Low-level radioactive waste		3.3	.07	3.4

Source: Nebraska Department of Environmental Quality, *Annual Report to the Legislature*, December 1, 1992.

^a Does not include administration and management services expenditures.

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