

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2010-11 STAFF BUDGET BRIEFING

**DEPARTMENT OF PUBLIC HEALTH
AND ENVIRONMENT**

(Environmental Divisions Only)

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
Craig Harper, JBC Staff
December 1, 2009**

For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
TDD: (303) 866-3472

**FY 2010-11 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

(Environmental Divisions Only)

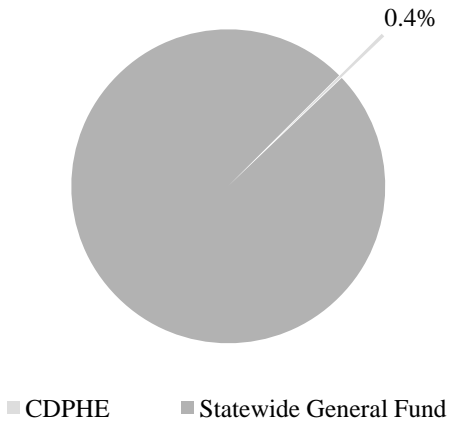
Table of Contents

Graphic Overview.	1
Department Overview	4
Decision Items.	9
Overview of Numbers Pages	11
Issues:	
Options for General Fund Savings in the Environmental Divisions.	13
Hazardous Substance Response Fund Status and Legislative Proposal..	18
Decision Item #2 - North Front Range Emissions Technical Center..	22
Oil and Gas Permitting Consultation Workload is Lower than Anticipated.	26
Appendices:	
A - Numbers Pages.	29
B - Summary of Major Legislation from 2009 Legislative Session..	53
C - Update on Long Bill Footnotes and Requests for Information.	56
D - Impact of Department's Proposed Reorganization on Environmental Divisions.. ...	59
E - Hazardous Substance Response Fund: Projected Balances.	61

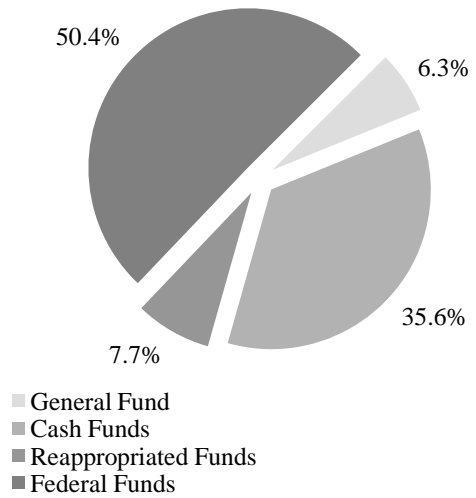
**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment**

GRAPHIC OVERVIEW

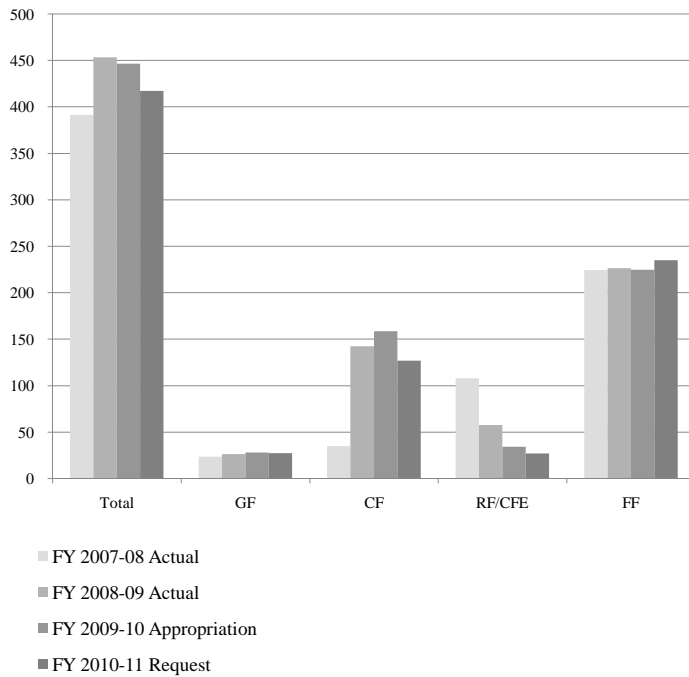
Share of Statewide General Fund



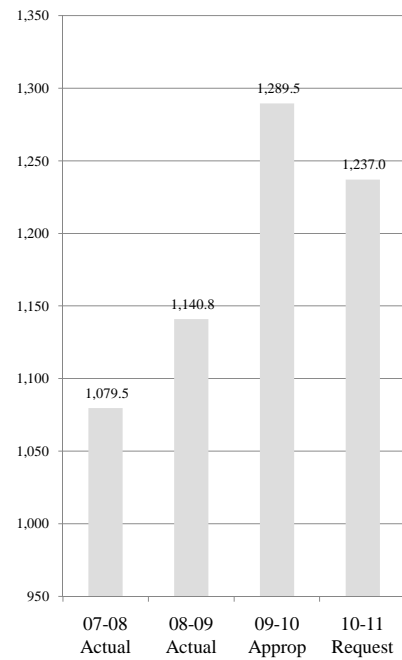
Funding Sources



Budget History
(Millions of Dollars)

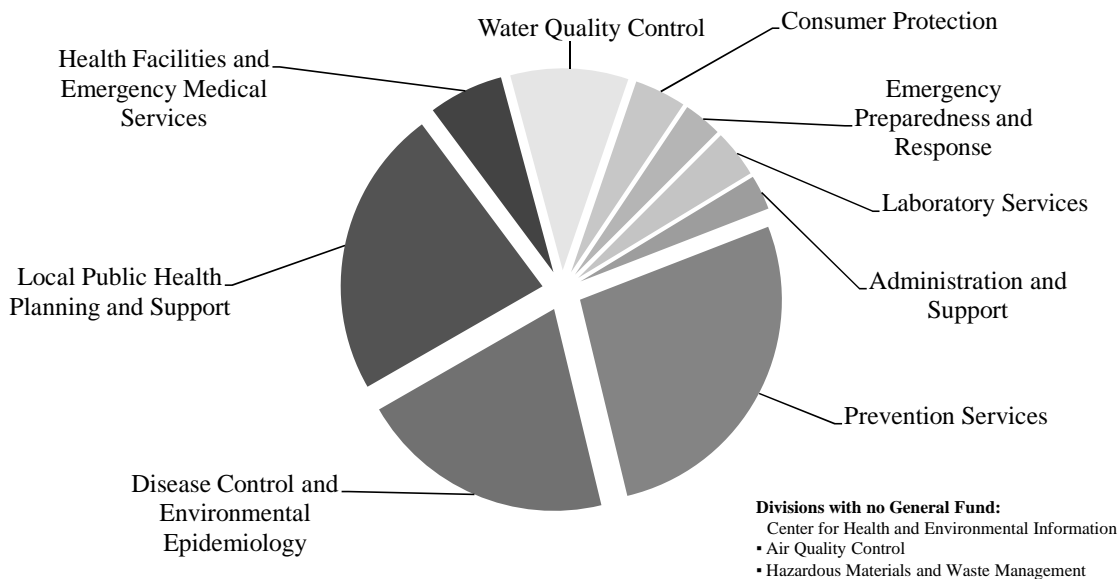


FTE History

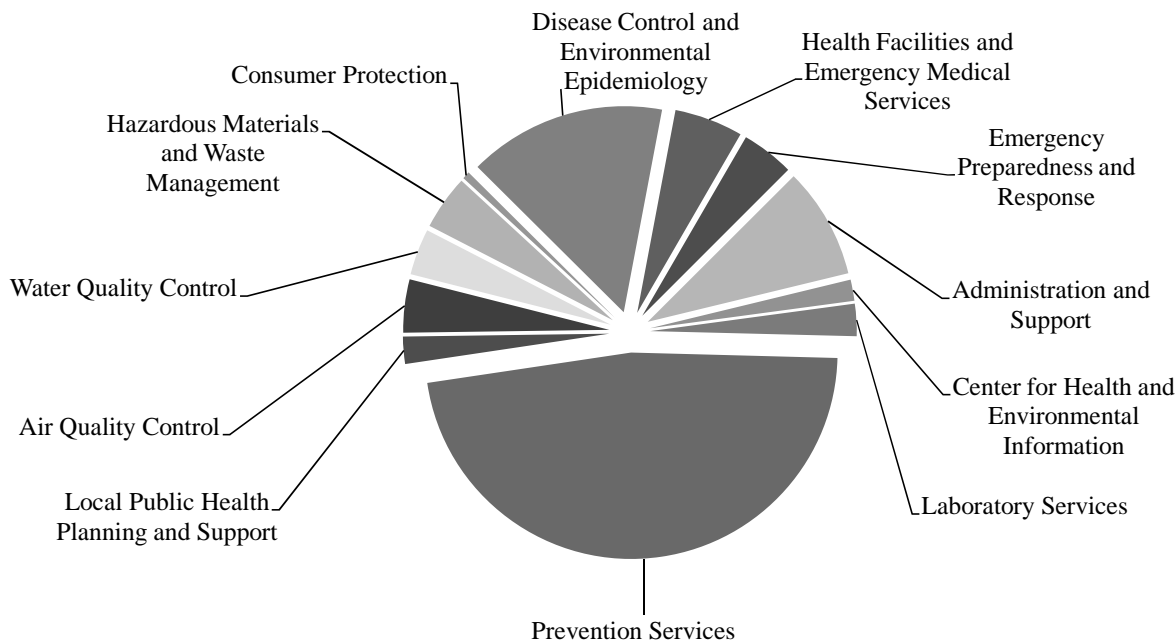


Unless otherwise noted, all charts are based on the FY 2009-10 appropriation.

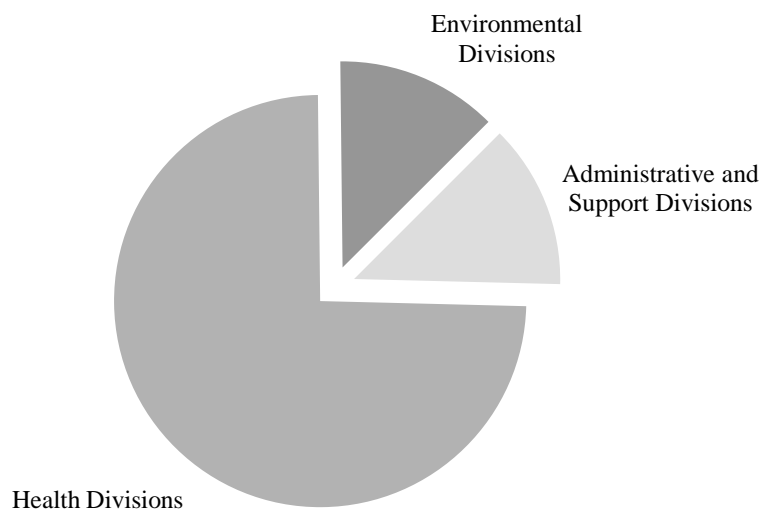
Distribution of General Fund by Division



Distribution of Total Funds by Division



**Distribution of Total Funds Among Administration,
Health and Environmental Divisions**



**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

DEPARTMENT OVERVIEW

JBC Staff Assignments

In the Long Bill, the Department of Public Health and Environment is comprised of eleven divisions that are grouped, for JBC staff briefing and figure setting purposes, as follows:

Administrative and Health Divisions

- Administration and Support, except for the Special Environmental Programs Subdivision
- Center for Health and Environmental Information
- Laboratory Services
- Local Public Health and Planning Support
- Disease Control and Environmental Epidemiology Division
- Prevention Services Division
- Health Facilities and Emergency Medical Services Division
- Emergency Preparedness and Response

Environmental Divisions

- Administration and Support Division, Special Environmental Programs Subdivision
- Air Quality Control Division
- Water Quality Control Division
- Hazardous Materials and Waste Management Division
- Consumer Protection

This briefing focuses on the Environmental Divisions. The Administrative and Health Divisions will be presented separately by another analyst.

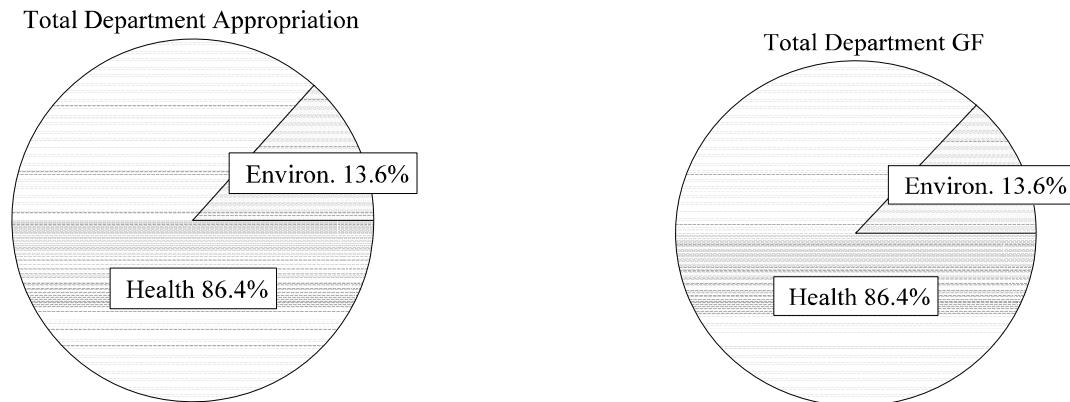
Key Responsibilities

- ▶ Monitors the state's air and water quality to ensure compliance with applicable state and federal regulations, such as the Federal Clean Air Act and the Safe Drinking Water Act.
- ▶ Evaluates and investigates strategies aimed at reducing or controlling air and water pollution by issuing discharge permits, collecting and analyzing emissions data, monitoring the success of state implementation plans and attainment redesignation requests, and enforcing rules and regulations adopted by the environmental oversight commissions.
- ▶ Provides technical assistance and statewide coordination for water treatment facilities.
- ▶ Regulates the treatment, storage, and disposal of solid and hazardous wastes, including the implementation of the Federal Superfund Program and oversight of the Rocky Flats Legacy Management Agreement implementation.

- ▶ Enforces sanitation standards designed to prevent and control diseases transmitted by food, insects, or rodents.

Factors Driving the Budget

For FY 2009-10, funding for these divisions consists of 6.3 percent General Fund, 59.6 percent cash funds, 0.6 percent reappropriated funds, and 33.4 percent federal funds. Funding for the environmental divisions comprises 13.6 percent of the Department's total FY 2009-10 budget and of the Department's General Fund. Among the environmental divisions, only the Water Quality Control Division and the Consumer Protection Division receive General Fund appropriations.



Oil and Gas Development: The Air Quality Control Division

Growth in oil and gas development in Colorado in the past decade has had significant consequences for the state's air quality and the workload of the Air Quality Control Division. Since 2002, when the industry's rapid growth was beginning and resulting emissions were unregulated, the oil and gas industry has surpassed both mobile sources (vehicles) and area sources (such as lawn and garden equipment, architectural coatings, and pesticide applications) to become the greatest source of volatile organic compound (VOC) emissions on the Front Range.

VOC is a precursor to ground-level ozone, a pollutant known to cause health problems and which is regulated by the federal Environmental Protection Agency (EPA). EPA declared the Denver Metropolitan Area and North Front Range an ozone non-attainment area in 2007 because of high ozone levels in the region from 2005 to 2007. In response, the Department submitted a State Implementation Plan to the EPA in June 2009. In order to meet current federal ozone standards, much less anticipated standards that will be more rigorous, the State will have to continue to reduce emission from available sources.

The Air Quality Control Division regulates emissions from active wells and other oil and gas facilities. Therefore, every time the oil and gas industry activates a well or upgrades equipment and facilities, those actions require permits from the Division. As a result, the Division has experienced

a rapid growth in permitting and compliance workload in recent years. While the State has seen a decline in applications for permits to drill in the past year, the Division's permitting and regulatory workload continues to increase in large part because the industry continues to build facilities that will serve future development such as compressor stations.

Evolving Needs and Emerging Regulations: The Air Quality Control Division

In addition to workload increases that are being driven by economic and population growth, the Air Quality Control Division is facing a need to adapt to changing conditions and new regulations that may require additional resources. For example, the stricter federal ozone standards likely to be finalized in the near future may create additional ozone non-attainment areas beyond the current Denver Metro/North Front Range non-attainment area and will certainly require additional reductions in ozone levels in the metro area; the Governor's office has identified the reduction of greenhouse gas emissions as a state priority; the auto emissions "high-emitter" pilot program is still underway and the Air Quality Control Commission must determine whether and at what level it will continue; federal and state climate-change and wildfire reduction initiatives may be developed; and the Division faces a variety of potential changes in federal regulations that could drive additional work. The Division anticipates a need for 12.0 additional FTE to meet these demands in the next three years.

Fee Changes & General Fund Support: The Water Quality Control Division

Prior to FY 2003-04, Water Quality Control Division (WQCD) programs were funded through a mix of approximately 20 percent General Fund, 20 percent fee revenue, and 60 percent federal dollars. In response to the previous state budget crisis, the Legislature eliminated the Division's General Fund support beginning in FY 2003-04 (approximately \$2.0 million). The WQCD was given a short time to consult with the stakeholder community and develop a legislative proposal to replace the lost General Fund monies with fees. The resulting statutory fee changes included a 66 percent increase in wastewater permit fees, and, for the first time, the establishment of a fee system for drinking water purveyors.

By December 2004, the WQCD had identified concerns about the ability of some of the new fees to adequately support the associated programs without subsidization from other permittees. During the 2005 legislative session, the Department proposed legislation to adjust the fees, taking into consideration the amount of resources the Division provides to different parties for various services. However, no legislation was introduced and the new fees and fee changes set in 2003 sunset on July 1, 2005. As a result, the FY 2005-06 Long Bill appropriation for the Water Quality Control Division included an increase in General Fund to replace the lost fee revenue.

In FY 2006-07, in response to concerns about the Division's ability to fulfill its statutory responsibilities, its General Fund appropriation was increased by approximately \$500,000, and it received 10.0 additional FTE. In FY 2007-08, the Division received another 8.2 cash-funded FTE in the Long Bill, and H.B. 07-1329 adjusted and created a variety of wastewater and drinking water fees to boost cash fund revenues and appropriated an additional 4.0 FTE. The Division's FTE count remained unchanged in FY 2008-09 and FY 2009-10.

Evolving Needs and Emerging Regulations: The Water Quality Control Division

In addition to workload increases that are being driven by economic and population growth, the Water Quality Control Division is facing many evolving needs and emerging regulations in the next several years that may require additional resources to adequately address. For example, the EPA has finalized a policy that will increase the need for inspections of "wet weather" (spills/stormwater) sources and response to field-discovered violations in federal fiscal year 2011. The new policies will drive the need for additional compliance assistance and will require audits of the 121 municipal separate stormwater sewer systems. In February 2009, the United States Court of Appeals for the 6th Circuit overturned an EPA rule that exempted the application of pesticides in or near waters from the requirement to obtain a discharge permit. While the Court stayed the ruling until April 9, 2011, as of that date, application of pesticides in Colorado will require a permit issued by the Division, increasing the Division's permitting, inspection, and compliance workload. Changes to the ammonia and temperature standards adopted by the Water Quality Control Commission in FY 2006-07 require new permits and technical assistance provided by staff. The Division, working with stakeholders, has also developed and must now implement a policy to protect irrigated agriculture from discharges that may have high total dissolved solids (which affect plants). Finally, the Division is exploring whether to seek delegation of the federal pretreatment and biosolids programs from EPA.

Despite the influx of resources in FY 2006-07 and FY 2007-08 (discussed in previous section), the Division anticipates a need for 71.3 additional FTE in the next three years (through FY 2012-13) to meet its statutory responsibilities with the anticipated increase in workload.

Contaminated Sites Cleanup: The Hazardous Materials and Waste Management Division

With a total budget of \$19.1 million, the Hazardous Materials and Waste Management Division accounts for 31.6 percent of the entire appropriation for the environmental divisions in FY 2009-10. The largest share of the Division's appropriation, \$7.3 million, is for the Contaminated Sites Cleanup program. This program has three major responsibilities: (1) federal facilities oversight (to ensure protective cleanup and compliance with state and federal hazardous waste laws, regulations, and Superfund requirements at federal facilities); (2) the Superfund program (to minimize human exposure and environmental damage from hazardous sites by performing investigations, determining and designing appropriate remedies, overseeing implementation of those remedies, and ensuring on-going maintenance and monitoring when necessary); and (3) the Voluntary Cleanup and Redevelopment Program (to facilitate the cleanup and redevelopment of contaminated properties with expedited review of clean-up plans submitted by property owners).

Colorado has 24 Superfund sites, for which the state has varying degrees of financial responsibility for clean-up and on-going maintenance. Funding for the state's Superfund-related expenses is paid for out of the Hazardous Substance Response Fund (HSRF). Revenue for the HSRF comes from a portion of solid waste tipping fees. Beginning in 2002, there were concerns about the fund's long-term solvency after the Legislature transferred \$30.0 million of its fund balance to the General Fund. That transfer was repaid in January 2006.

Facing another budget crisis, the Legislature transferred a total of \$32.5 million from the HSRF to

the General Fund in FY 2008-09 and FY 2009-10 through legislation enacted in 2009. At present, assuming the continuation of the solid waste tipping fees currently scheduled to sunset in 2010, the Department estimates that the fund will become insolvent in FY 2015-16, although statutory limitations on the share of the fund balance used to administer the program may constrain operations as early as FY 2011-12. The identification of additional Superfund sites, changes in anticipated costs at current sites, changes in federal policies, and changes in the ability of responsible parties to fund cleanup measures could all affect the Division's need for resources. Similarly, changes in state policy, such as adjustments to the tipping fees that fund the program, could affect the outlook and solvency of the HSRF. For a more thorough discussion of the status of the HSRF and potential options to address the pending insolvency, see the issue paper beginning on page 18.

Federal Funds

In FY 2009-10, federal funds make up approximately 33.4 percent of the total appropriation for the environmental divisions. Some of the federal funding requires a state matching contribution or maintenance of effort. The environmental divisions currently manage approximately 100 different grants, including the EPA's Performance Partnership Grant: a two-year, multi-programmatic grant providing approximately \$17.0 million in federal dollars over two years. The table below shows the actual federal funding received for FY 2004-05 through FY 2008-09, as well as the FY 2009-10 appropriation and FY 2010-11 request.

Environmental Division Federal Dollars FY 2004-05 through FY 2010-11
(in millions)

Environmental Divisions	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Approp.	FY 10-11 Request
Total Federal Funds	\$20.2	\$22.4	\$23.6	\$22.7	\$25.0	\$20.3	\$19.0
Total Federal Funds as a Percent of Environ. Divisions' Budget	45.3%	47.4%	48.8%	42.0%	42.5%	33.5%	31.5%

The \$4.7 million decrease from FY 2008-09 actual funding to the FY 2009-10 appropriation is largely the result of the receipt of additional federal funds above the appropriated level in FY 2008-09, in addition to a \$1.0 million reduction in federal funding in FY 2009-10 because of the transfer of responsibility for operating and maintenance costs for the Argo Tunnel Water Treatment Plant from the U.S. EPA to the Department in FY 2009-10.

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
1	0	199,032	0	0	199,032	0.0
<p>Water Quality Control Division Water Quality Control Fund</p> <p>Water Quality Control Division. The Department requests \$199,032 cash funds spending authority from the Water Quality Control Fund to fill 3.0 authorized but unfilled FTE in the Water Quality Control Division's permitting program. The additional spending authority would be necessary for the Department to hire the authorized FTE because the Department has hired staff above the anticipated salaries and promoted staff within existing appropriations. The Department argues that the additional staff are necessary to restrain growth in the Division's permit backlog. <i>Statutory authority: Sections 25-8-302, C.R.S.</i></p>						
2	0	130,478	0	0	130,478	1.0
<p>North Front Range Emissions Technical Center</p> <p>Air Quality Control Division. The Department requests \$130,478 cash funds from the Automobile Inspection and Readjustment (AIR) Account of the Highway Users Tax Fund and 1.0 FTE to staff and operate an Emissions Technical Center for the North Front Range. The Air Quality Control Commission mandated expansion of the AIR program to portions of Weld and Larimer counties effective July 1, 2010. Senate Bill 09-003 further expanded the program area boundaries to include more of Weld and Larimer counties and provided funding and 1.0 FTE to support a Technical Center for the areas affected by the bill. The request would provide funding and 1.0 additional FTE to support staff reflecting the portions of the counties affected by the Commission's regulation. For more information on this decision item, see the issue paper beginning on page 22 of this document. <i>Statutory authority: Sections 42-4-306 (1) and (9)(a)(II), C.R.S. and Section 42-4-307 (3), C.R.S.</i></p>						
3	0	0	0	0	0	0.0
<p>Long Bill Realignment</p> <p>Multiple Divisions. The Department requests to consolidate or rename multiple Long Bill line items. Requested changes affect Administration and Support, Local Public Health Planning and Support, the Air Quality Control Division, the Water Quality Control Division, the Disease Control and Environmental Epidemiology Division, and the Prevention Services Division. Appendix D shows how the requested realignment would impact the environmental divisions.</p>						
4	0	(21,200,983)	(4,490,435)	0	(25,691,418)	0.0
<p>Amendment 35 Funding Reduction</p>						
NP-11	(27,738)	(72,694)	(198,448)	(320,395)	(619,275)	(65.8)
<p>Statewide Information Technology Staff Consolidation</p>						

Decision Item	GF	CF	RF	FF	Total	FTE
<p>Multiple Divisions. This statewide common policy request would transfer a total of 65.8 FTE (including environmental and health divisions) and associated funding from the Department to the Governor's Office of Information Technology.</p>						
Total	(27,738)	(20,944,167)	(4,688,883)	(320,395)	(25,981,183)	(64.8)

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2009-10 appropriation and its FY 2010-11 request. The table includes the appropriation and request for the entire department and is not limited to the environmental divisions.

Total Requested Change, FY 2009-10 to FY 2010-11 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
FY 2009-10 Appropriation	\$28.2	\$158.9	\$34.5	\$224.9	\$446.5	1,289.5
FY 2010-11 Request	27.7	127.1	27.2	235.3	417.2	1,237.0
Increase / (Decrease)	(\$0.6)	(\$31.8)	(\$7.3)	\$10.4	(\$29.3)	(52.5)
Percentage Change	-2.0%	-20.0%	-21.0%	4.6%	-6.6%	-4.1%

The following table highlights the individual changes contained in the Department's FY 2010-11 budget request, as compared with the FY 2009-10 appropriation, for the environmental divisions. For additional detail, see the numbers pages in Appendix A.

Requested Changes, FY 2009-10 to FY 2010-11

Category	GF	CF	RF	FF	Total	FTE
Special Environmental Programs*	\$0	\$0	\$0	\$0	\$0	0.0
Air Quality Control Division*						
Annualize 2009 Session Legislation	0	55,611	0	0	55,611	1.0
Restore FY 2009-10 Personal Services Reduction	0	172,712	0	0	172,712	0.0
DI #2 - North Front Range Emissions Technical Center	0	89,678	0	0	89,678	1.0
DI NP-11 - Statewide Information Technology Staff Consolidation	0	(206,490)	0	(265,328)	(471,818)	(6.0)
Subtotal	\$0	\$111,511	\$0	(\$265,328)	(\$153,817)	(4.0)
Water Quality Control Division*						
Restore FY 2009-10 Personal Services Reduction	25,853	68,066	708	0	94,627	0.0

Category	GF	CF	RF	FF	Total	FTE
DI #1 - Water Quality Control Division Water Quality Control Fund	0	199,032	0	0	199,032	0.0
DI NP-11 - Statewide Information Technology Staff Consolidation	0	0	0	(479,953)	(479,953)	(5.9)
Subtotal	\$25,853	\$267,098	\$708	(\$479,953)	(\$186,294)	(5.9)
Hazardous Materials and Waste Management Division						
Annualize 2009 Session Legislation	0	(28,643)	0	0	(28,643)	(0.4)
Annualize Prior Year Decision Items	0	449,144	0	(459,600)	(10,456)	0.0
Restore FY 2009-10 Personal Services Reduction	0	91,931	0	0	91,931	0.0
Fund Split Correction	0	(40,000)	40,000	0	0	0.0
DI NP-11 - Statewide Information Technology Staff Consolidation	0	(71,318)	(2,455)	(54,738)	(128,511)	(2.0)
Subtotal	\$0	\$401,114	\$37,545	(\$514,338)	(\$75,679)	(2.4)
Consumer Protection Division						
Annualize 2009 Session Legislation	0	55,465	0	0	55,465	0.9
Restore FY 2009-10 Personal Services Reduction	21,062	12,838	1,479	0	35,379	0.0
Subtotal	\$21,062	\$68,303	\$1,479	\$0	\$90,844	0.9
Total Change	\$46,915	\$848,026	\$39,732	(\$1,259,619)	(\$324,946)	(11.4)

* Special Environmental Programs, the Air Quality Control Division, and the Water Quality Control Division are affected by a requested Long Bill reorganization (DI #4) that is not reflected in the summary or the numbers pages but is outlined in Appendix D.

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

BRIEFING ISSUE

ISSUE: Options for General Fund Savings in the Environmental Divisions

Of the environmental divisions, only Water Quality Control and Consumer Protection receive General Fund appropriations and therefore provide opportunities for General Fund reductions.

SUMMARY:

- ❑ Of the environmental divisions, only the Water Quality Control Division (WQCD) and the Consumer Protection Division (CPD) receive General Fund appropriations. In FY 2009-10, the WQCD received \$2.7 million General Fund and the CPD received \$1.2 million General Fund.
- ❑ The General Assembly completely cash funded the WQCD through S.B. 03-276 during the last economic downturn. Doing so in FY 2010-11 would save approximately \$2.7 million General Fund and would require an increase of approximately 50 percent in cash fund collections Division-wide, although the impact would vary by program. Given the WQCD's permit backlog and staffing needs, staff would not recommend significant reductions that were not offset by increases in cash funds.
- ❑ The CPD provides limited options for General Fund refinancing or reductions. The Dairy Program receives the largest share of the CPD's General Fund appropriations. Legislation enacted in 2009 (H.B. 09-1320) increased fees on dairy processing plants and those fees could be adjusted to offset General Fund reductions within the Dairy Program.

RECOMMENDATION:

Staff recommends that the Committee consider carrying legislation to increase cash fund revenues for the WQCD and/or the CPD to offset General Fund reductions. If the Committee is interested in pursuing legislation to increase cash funding for these divisions, staff further recommends that the Committee indicate as much to the Department at the upcoming hearing to allow the Department time to develop proposals.

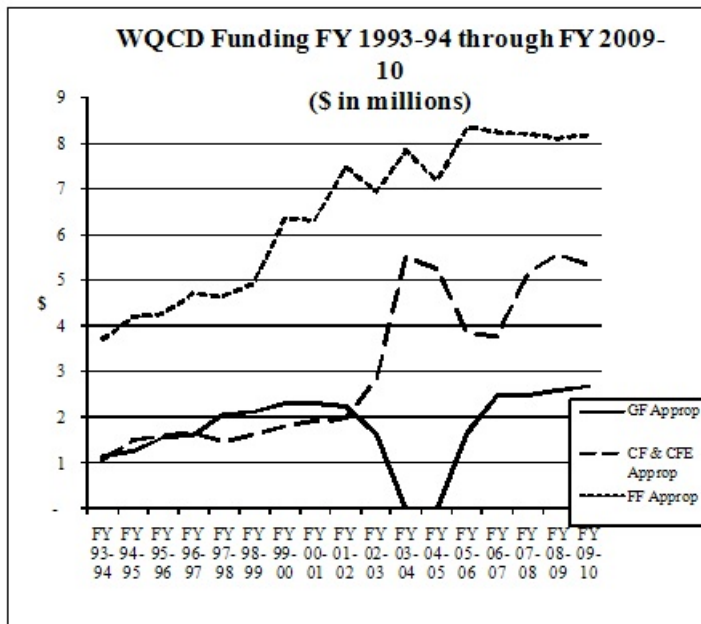
DISCUSSION:

Of the environmental divisions, only the WQCD and the CPD receive General Fund appropriations and provide opportunities for General Fund reductions. Options for refinancing General Fund in each division are discussed below.

Water Quality Control Division

In FY 2009-10, the WQCD received \$2.7 million General Fund, approximately 16.5 percent of the Division's total appropriation. Based on reports submitted to the Committee with the annual budget request, the WQCD is facing significant enough staffing shortages (the November 1, 2009 report discusses a need for 71.3 additional FTE over the next three years) and backlogs in permit processing and inspections that staff does not recommend significant cuts to the Division's General Fund without corresponding increases from other fund sources. **However, there is precedent for reducing or eliminating the Division's General Fund with reductions offset by increases in fee revenue, and staff recommends that the Committee consider doing so for FY 2010-11.**

The Division's General Fund appropriation, and the significance of General Fund relative to other fund sources, has fluctuated over time, as shown in the graph below. Facing the last economic downturn in 2003, the General Assembly eliminated the Division's General Fund for FY 2003-04 and



FY 2004-05 with the enactment of S.B. 03-276 and offset the reduction by increasing existing fees and creating new fees. Those changes sunset June 30, 2005, and the General Assembly began providing General Fund again in FY 2005-06.

Within the WQCD, the proportion of General Fund appropriations varies considerably by program, from 10.4 percent for Permitting and Compliance Assurance in FY 2009-10 to 27.5 percent for the Drinking Water Program, (see table below).

Water Quality Control Division FY 2009-10 Funding by Program

Program	Total Funds	GF	CF	RF	FF	%GF	GF as % of CF
Administration	\$2,890,725	\$549,533	\$1,198,463	\$0	\$1,142,729	19.0%	45.9%
Watershed Assessment, Outreach, and Assistance	5,694,909	725,236	559,423	39,924	4,370,326	12.7%	129.6%
Permitting and Compliance Assurance	4,068,917	423,326	3,181,451	0	464,140	10.4%	13.3%
Drinking Water	<u>3,507,778</u>	<u>966,318</u>	<u>343,693</u>	<u>0</u>	<u>2,197,767</u>	<u>27.5%</u>	<u>281.2%</u>
Total	\$16,162,329	\$2,664,413	\$5,283,030	\$39,924	\$8,174,962	16.5%	50.4%

As shown in the table (far right column), the relative proportions of General Fund and cash funds also vary by program and are probably more relevant for considerations of cash funding a given program. For Permitting and Compliance Assurance, the General Fund appropriation constitutes 13.3 percent of the FY 2009-10 cash funds appropriation, so fully cash funding the program would require a 13.3 percent increase in cash fund revenues. In contrast, the Drinking Water Program's General Fund appropriation is nearly triple the cash funds appropriation, and fully cash funding the program would require a 281.2 percent increase in fee revenues. As a result, while fully cash funding the Division would require an increase of 50.4 percent in the Division's total cash funds appropriation, the necessary increase in fee revenues would vary widely by program.

S.B. 03-276

Senate Bill 03-276 increased the existing water quality fees by 66.2 percent and created a new set of fees on drinking water suppliers based on the size and nature of the suppliers' water systems. In doing so, the bill allowed the General Assembly to fully offset the elimination of the Division's General Fund for the two affected fiscal years.

The bill required the Division to study the implementation of the new fee structure and report back to the General Assembly in 2004. The Division found some issues with the fees, including that discharge permit fee revenues from specific source types were not adequate to support the expenditures associated with those programs and required subsidization from stormwater permit fees. The Department proposed legislation to correct those issues and continue cash funding the program beyond FY 2004-05 but the legislation was never introduced and the new fee structure sunset June 30, 2005. The General Assembly reinstated drinking water fees (at a lower level) and adjusted other fees with the enactment of H.B. 07-1329, and the Department has indicated that the 2007 bill eliminated cross-subsidization issues between programs.

According to the Department, the short turnaround time in which the Department had to develop the fee structure for S.B. 03-276 did not allow for adequate analysis to develop a better fee structure. As a result, the Department decided to increase existing fees across the board by 66.2 percent rather than specifically targeting increases to anticipated workload. Thus, if the Committee is interested in pursuing legislation to offset the Division's General Fund, staff recommends informing the Department at the upcoming hearing to allow Department staff adequate time to develop a more equitable fee structure.

Departmental Concerns

The Department has raised several points in support of sustaining General Fund support for the WQCD.

- First, the General Assembly has recognized the public benefit from the WQCD's programs. Staff notes that Sec. 25-8-502 (c), C.R.S. says that "it is the intent of the general assembly that a portion of the expenses of the discharge permit system be funded from the general fund, reflecting the benefit derived by the general public; *except that the general assembly may determine, in any given fiscal year, that general fund revenues are inadequate to meet general fund demands and that, as a consequence, it shall be*

necessary to forego, subject to future reconsideration, all or some portion of such general fund contribution to the discharge permit program..." [emphasis added].

- Second, in comparison to the Air Quality Control Division, which staff sees as analogous to the WQCD and which receives no General Fund, the Department points out that many of the WQCD's fee paying entities are municipalities. The Department notes that municipalities are facing budget shortfalls as well and that the fees would then be passed on to the general public anyway.
- Third, the Department is particularly concerned with "keeping the Division whole" under any hypothetical cash funding scenario. As discussed above, the Division forecasts a need for an additional 71.3 FTE over the next three years to meet its statutory responsibilities. The Department is beginning to explore options for a fee bill that would allow for *additional* revenue above the current appropriation to begin to allow the Division to meet its needs. The Department is concerned about the impact of a budget balancing bill on the Division's ability to pursue such legislation.

Staff recommends that the Committee consider sponsoring legislation to cash fund the WQCD in FY 2010-11, that the Committee discuss the issue with the Department at the upcoming hearing, and that the Committee give the Department as much notice as possible if the Committee intends to pursue such legislation in order to allow the Department to develop a legislative proposal.

Consumer Protection Division

The CPD received \$1.2 million General Fund in FY 2009-10, 43.7 percent of the Division's total appropriation. The distribution of General Fund among the CPD's programs in FY 2009-10 is shown in the following table.

Distribution of General Fund to Consumer Protection Division Programs in FY 2009-10*

Program	General Fund Amount*	GF Percent of Program Budget
Program Administration	\$222,205	34%
Child Care	98,538	100%
Milk and Dairy**	452,964	94%
Health Fraud	2,958	100%
Retail Food	303,417	28%
Vector	87,409	100%
Tanning	0	0%
Wholesale Food	0	0%
Total General Fund	\$1,167,491	44%

*Amounts do not include centrally appropriated "POTS" appropriations.

**Milk and Dairy amount does not include \$178,130 General Fund in Laboratory Services Division funding attributable

to the Dairy Program. The Laboratory Services Division portion of dairy expenditures is 100 percent General Fund.

As shown in the table, of the eight CPD programs, six received at least some General Fund appropriations in FY 2009-10. The Child Care, Health Fraud, and Vector programs are entirely supported with General Fund, totaling approximately \$189,000 General Fund in FY 2009-10. Of the three programs, only the Child Care program (which inspects child care centers) serves entities that could logically pay fees. The Committee could also consider supporting legislation to raise fees within the Retail Food program to refinance additional General Fund in that program.

Prior to FY 2009-10, the Milk and Dairy Program was entirely supported with General Fund. With the enactment of H.B. 09-1320 (a Joint Budget Committee bill), the General Assembly increased fee revenues paid by the dairy industry from a total of approximately \$1,300 per year (which was credited to the General Fund) to approximately \$38,000 in FY 2009-10, credited to the Dairy Protection Cash Fund created by the bill. The fees created by H.B. 09-1320 are shown in the following table.

Dairy Fees and Fee Revenues Pursuant to H.B. 09-1320
(Data from final Legislative Council Staff Fiscal Note dated June 10, 2009)

Type of Fee	Annual Fee	Number Affected	Total Annual Fee Impact
Product Testing License	\$50	250	\$12,500
Transfer or Receiving Stations	300	2	600
Plant Under 1,000 lbs. per day	300	11	3,300
Plant 1,000 to 19,999 lbs. per day	600	9	5,400
Plant 20,000 to 449,999 lbs. per day	1,000	11	11,000
Plant over 450,000 lbs. per day	1,600	3	<u>4,800</u>
Total			\$37,600

Given that the current fee structure raises less than 10 percent of the Dairy Program's direct expenditures, not including associated laboratory costs, adjusting the fees to fully support program activities would require significant increases. However, the Dairy Program directly serves an easily identifiable industry and is necessary for the industry to function in Colorado (and export dairy products out of the State). Thus, staff believes that refinancing some or all of the Dairy Program's budget with fees from the industry would be appropriate.

Staff recognizes that many dairy farms in the State are struggling in the current economic climate. **If the Committee is interested in pursuing legislation to cash fund the program, then staff recommends that the Committee discuss the potential implications of such legislation at the Department's upcoming hearing.**

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

BRIEFING ISSUE

ISSUE: Hazardous Substance Response Fund Status and Legislative Proposal

As a result of cash fund transfers from the Hazardous Substance Response Fund (HSRF) to the General Fund in FY 2008-09 and FY 2009-10 and declining revenues from tipping fees, the Department estimates that the HSRF will become insolvent in FY 2015-16 and may become functionally inoperable in FY 2011-12.

SUMMARY:

- ❑ The HSRF, funded through tipping fees at landfills, supports the State's Superfund program through the Hazardous Materials and Waste Management Division (HMWMD). During the 2009 Legislative Session, the General Assembly transferred \$32.5 million from the HSRF to the General Fund to balance the budget, leaving a projected balance of \$9.1 million in the fund at the end of FY 2009-10.
- ❑ Based on projected revenues and expenditures, the Department estimates that the HSRF will become insolvent in FY 2015-16, although a statutory limit on the percentage of the fund balance that may be used for administration costs may render the program inoperable in FY 2011-12.
- ❑ Under current statute, the tipping fees that support the HSRF and other programs within the Division and through county governments statewide will sunset July 1, 2010 and will require legislative action to renew. Without renewal and adjustment of the fees, the Superfund and Solid Waste programs will face funding shortfalls.
- ❑ The Department intends to seek legislation that would delegate fee-setting authority to the Solid and Hazardous Waste Commission and allow the Department to fundamentally change the funding model for the HSRF. While the Division has historically sought to accumulate large fund balances in preparation for long-term expenses, the Department is considering shifting to a "pay-as-you-go" model that would avoid the accumulation of large fund balances and likely require more frequent adjustment of tipping fees.

RECOMMENDATION:

Staff recommends that the Committee discuss this issue with the Department at the upcoming hearing, including the solvency of the HSRF and the potential proposal to delegate fee-setting authority to Solid and Hazardous Waste Commission and change the funding model for the HSRF.

DISCUSSION:

Background

The HSRF supports the State's Superfund Program through the HMWMD, providing the State's share of costs for the clean up, remediation, operations, and maintenance of the State's 24 Superfund sites. The HSRF is funded through tipping fees charged at landfills. Landfill tipping fees are set in statute at Sec. 25-16-104.5, C.R.S. and are shown in the following table. Under Sec. 25-16-104.5 (6), C.R.S., all of the tipping fees are scheduled to sunset July 1, 2010 and will require some form of renewal during the 2010 Session if fees are to continue.

Statute	Fee Amounts	Destination Fund
Sec. 25-16-104.5 (1), C.R.S.	\$0.06/noncommercial car \$0.11/noncommercial truck \$0.17/cubic yard in commercial vehicles	70 percent to HSRF 30 percent to Solid Waste Management Fund
Sec. 25-16-104.5 (3), C.R.S. - only applies to facilities in counties collecting local fees to support Superfund site cleanup, currently Denver and Pitkin counties	\$0.07/noncommercial car \$0.13/noncommercial truck \$0.20/cubic yard in commercial vehicles	75 percent to county with Superfund site (Denver and Pitkin) 25 percent to Solid Waste Management Fund
Sec. 25-16-104.5 (3.7) (b), C.R.S.	\$0.01/noncommercial car \$0.02/noncommercial truck \$0.03/cubic yard in commercial vehicles	100 percent to Solid Waste Management Fund
Sec. 25-16-104.5 (3.9), C.R.S.	\$0.02/noncommercial car \$0.04/noncommercial truck \$0.07/cubic yard in commercial vehicles	100 percent to Recycling Resources Economic Opportunity Fund

The State's share of Superfund costs increases over time because the State is responsible for the long term operations and maintenance of sites for which there is not a viable responsible party. Because several of the State's Superfund sites require the construction of water treatment facilities that will have long-term operating expenses for which the State is responsible, the Division anticipates increasing expenses from the HSRF in future years, increasing from approximately \$3.2 million in FY 2009-10 to \$11.8 million by FY 2029-30.

During the past two economic downturns, the General Assembly has transferred fund balances from the HSRF to the General Fund to balance the budget, transferring \$30.0 million in 2002 (which was repaid in 2006) and \$32.5 million in 2009. There is currently no provision to repay the \$32.5 million transferred during the 2009 Session.

Solvency of the HSRF

The combination of transfers to the General Fund and current declines in tipping fee revenues as a result of the economic downturn has worsened the outlook for the solvency of the HSRF. Based on

anticipated expenditures and assuming continuation of tipping fees at current levels, the Department's models indicate that the HSRF will become insolvent (develop a negative fund balance) in FY 2015-16 (see Appendix E for the Department's model of revenues, expenditures, and fund balance).

In addition, as a result of declining fund balances, a statutory cap on administration costs (Sec. 25-16-104.6 (2), C.R.S. limits appropriations for fee administration to no more than 2.5 percent of the fund balance) could render the program inoperable in FY 2011-12. The Division spends approximately \$100,000 per year on administration costs covered by the statutory cap. As a result, if the fund balance drops below roughly \$4 million (anticipated in FY 2011-12), the statutory cap will prevent the Division from paying staff for administration costs, effectively rendering the program inoperable.

Departmental Concerns and Legislative Proposal

The Department has expressed concerns about the HSRF that relate to the 2010 Legislative Session in addition to the potential insolvency and the impact of the administrative cost cap.

- First, the Department is concerned about the political implications of the upcoming sunset date for the tipping fees that support the HSRF, the Solid Waste Management Fund, the Recycling Resources Economic Opportunity Fund, and funding for counties with Superfund sites (currently providing funds to Denver and Pitkin counties). The Department is concerned that reauthorization of the fees may be complicated by the \$32.5 million transferred from the HSRF to the General Fund during the 2009 Session because entities paying fees may have concerns about the use of the fees for other purposes. A delay in reauthorization would be particularly problematic for the Solid Waste Control Program, which is funded by the Solid Waste Management Fund. Without an extension of the solid waste fees, the Solid Waste Program would be insolvent immediately. Without an *increase* in the fee, the Solid Waste Management Fund will become insolvent by FY 2013-14.
- Second, the Department is concerned about the continued precedent for large transfers from the HSRF. The program has historically built large fund balances because of the growing future costs of the program, and transfers that are not repaid directly impact the HSRF's ability to support future expenditures.

The Department has indicated an intent to pursue a legislative proposal to address these concerns. The Department is proposing to:

- Reauthorize the State's tipping fees and transfer fee-setting authority to the Solid and Hazardous Waste Commission. The Department believes that giving the authority to the Commission will allow the Division to better respond to changing needs, and the Department argues that fee increases will be necessary soon to preserve existing programs, particularly the Solid Waste Program.
- Change the funding model for the HSRF to a "pay-as-you-go" system in which the fund would not accumulate large balances for future expenditures but would instead respond to increasing

costs with increased fees. Doing so would require fluctuations in tipping fees but would prevent the accumulation of large fund balances that could be transferred to the General Fund.

Staff recommends that the Committee discuss the Department's anticipated legislative proposal at the Department's upcoming hearing.

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

BRIEFING ISSUE

INFORMATIONAL ISSUE: Decision Item #2 - North Front Range Emissions Technical Center

The Department is requesting a total of \$130,478 cash funds and 1.0 FTE to support a new Emissions Technical Center for the North Front Range as a result of the expansion of the boundaries of the Automobile Inspection and Readjustment (AIR) program area.

SUMMARY:

- The Department is requesting \$130,478 cash funds from the Automobile Inspection and Reinvestment (AIR) Account of the Highway Users Tax Fund and 1.0 FTE to support a new Emissions Technical Center for the North Front Range.
- In December 2008, in response to the EPA's designation of the Denver Metro Area and North Front Range as an ozone non-attainment area in 2007, the Air Quality Control Commission used its regulatory authority to expand the AIR vehicle inspection program to include portions of the North Front Range (parts of Larimer and Weld Counties). Statutory limits tied to the State's original (1980's) carbon monoxide non-attainment area only allowed the Commission to expand the testing area into certain portions of Larimer and Weld counties via regulation.
- Senate Bill 09-3 further expanded the vehicle inspection area in Larimer and Weld Counties and included 1.0 FTE to operate an emissions technical center in support of the area *directly affected by the bill*.
- Pursuant to fiscal note policy, the appropriation in S.B. 09-3 did not include resources necessitated by the December 2008 regulatory expansion, and the Department is making the current request to support the area affected by the regulatory expansion.

DISCUSSION:

Background

The AIR program, initiated in the early 1980's, conducts vehicle emission inspections. The program is currently operating in the Denver Metropolitan area and requires vehicles registered in the area to be periodically tested and to meet established standards for emissions of carbon monoxide, nitrogen oxides, and hydrocarbons. Vehicles that fail tests must be repaired and pass a retest before the registration can be renewed.

The State initiated mandatory testing under the AIR program in 1981 to reduce carbon monoxide

emissions in the Denver Metro Area and the North Front Range, including Larimer and Weld Counties. The program is currently focused on reducing emission of ground level ozone precursors and is only operating in the Denver Metropolitan Area. The following is a time line for the AIR Program in Colorado.

- *1981*: Department initiates AIR Program in Denver Metropolitan Area and North Front Range (including Larimer and Weld Counties) to combat carbon monoxide emissions.
- *January 1, 2007*: Air Quality Control Commission terminates program in Larimer and Weld counties as a result of successful reductions in carbon monoxide emissions. The program continues operations in Denver Metropolitan Area to combat emissions of ground level ozone precursors.
- *Summer 2007*: U.S. EPA designates Denver Metropolitan Area and North Front Range as an ozone non-attainment area, requiring the State to explore options to further reduce emissions to achieve attainment with federal ozone standards.
- *December 2008*: Air Quality Control Commission uses regulatory authority to expand AIR Program area to include portions of Larimer and Weld counties, effective July 1, 2010. Statute (Section 42-4-304 (20) (a) (IV) and (V), C.R.S. and Section 42-4-306 (9) (a) (II), C.R.S.) only allowed the Commission to incorporate specific portions of Larimer and Weld Counties via regulation. Statutory limits were tied to the original (1980's) carbon monoxide non-attainment area, which was smaller than the ozone non-attainment area designated in 2007.
- *2009 Session*: General Assembly enacts S.B. 09-3, further expanding the AIR Program area to include remaining portions of Larimer and Weld Counties affected by EPA non-attainment designation. The bill includes an appropriation to support technical services for areas specifically impacted by the bill *but does not include resources associated with the regulatory expansion*. The bill appropriates 1.0 FTE and related expenses for emissions technical services for the affected areas.
- *FY 2010-11 Budget Submission*: Department submits decision item requesting resources associated with regulatory expansion to fully support a new North Front Range Emissions Technical Center, adding 1.0 FTE and necessary operating expenses to the appropriation from S.B. 09-3. The request is meant to include resources necessary to serve area affected by regulatory expansion that were not included in S.B. 09-3.
- *July 1, 2010*: Mandatory testing begins in the North Front Range.

Emissions Technical Centers

Section 42-4-307 (3), C.R.S., directs the Department to "*establish and operate such technical or administrative centers as may be necessary for the proper administration and ongoing support of the automobile inspection and readjustment program...*" The emissions technical centers: 1) provide training to area mechanics on the repair of emissions-related problems and 2) directly serve motorists whose vehicles have failed inspection by diagnosing emissions-related problems.

The Department currently operates three technical centers, one each in Denver, Broomfield, and Aurora, to serve the Denver Metropolitan Area. Until the AIR program was eliminated in the North

Front Range area, the Department had operated an additional center in Fort Collins. However, that center was eliminated when the Air Quality Control Commission discontinued the AIR program in Larimer and Weld counties in 2007.

FY 2010-11 Request

The Department's request of \$130,478 cash funds and 1.0 FTE includes personal services and operating expenses to establish and operate the new technical center in Fort Collins, including leased space, utilities, personal services, and the necessary tools and supplies to operate the center. The Department had requested these resources through the fiscal note process for S.B. 09-3. However, as stated in the Legislative Council Staff Fiscal Note dated June 9, 2009, the appropriation clause in the bill only includes resources directly associated with the legislation. Because the Department's regulatory expansion of the testing area was independent of the bill, the relevant resources were not included in the legislation's appropriation.

The components of the request are shown in the following table.

Summary of FY 2010-11 Request

Line Item	FY 2010-11 Cash Funds	FTE
(1) Administration and Support; (A) Administration, Leased Space	\$30,000	
(1) Administration and Support; (A) Administration, Utilities	10,800	
(5) Air Quality Control Division; (C) Mobile Sources, Personal Services	58,563	1.0
(5) Air Quality Control Division; (C) Mobile Sources, Operating Expenses	<u>31,115</u>	
Total	\$130,478	1.0

The request annualizes to a total of \$107,663 cash funds and 1.0 FTE in FY 2011-12, with the reduction resulting from the elimination of one-time expenditures for office equipment and diagnostic repair tools.

According to the Department, the additional FTE is necessary to serve the anticipated number of vehicles affected by the regulatory expansion of the AIR Program area. The Department estimates that the regulatory expansion will add 290,000 vehicles to the testing program, 230,000 of which will require biannual testing with current exemptions for newer vehicles, thus requiring 115,000 tests per year. Using the 2008 vehicle failure rate from the current program area (8.6 percent), the Department assumes that the regulatory expansion will result in 9,890 failed vehicles per year. The following table reflects the Department's estimate of the number of test failures in the North Front Range program area.

	Resulting Vehicles Tested per Year	Projected Number of Failed Tests (using 2008 failure rate)
Regulatory Expansion	115,000	9,890

	Resulting Vehicles Tested per Year	Projected Number of Failed Tests (using 2008 failure rate)
Statutory Expansion (S.B. 09-3)	<u>70,930</u>	<u>6,100</u>
Total	185,930	15,990

The Department currently staffs technical centers with approximately 1.0 FTE per 7,000 test failures in a given area, thus requiring approximately 2.0 FTE to staff the new center to sustain that level. With 1.0 FTE appropriated in S.B. 09-3, the Department is requesting the remaining FTE.

Consequences if Not Funded

The appropriation in S.B. 09-3 provided 1.0 FTE and associated expenses for the new technical center but did *not* provide resources for the lease of the new building and some of the necessary tools. According to the Department, if the decision item is not approved, the Division will face two scenarios.

- If the Division is unable to open the new technical center in Fort Collins, drivers in need of technical center assistance (and mechanics in need of training) will have to travel to Denver for assistance and training, resulting in significant inconvenience to the public.
- If the Division does manage to open a new center in Fort Collins with only 1.0 FTE, the Division expects the workload to prevent rapid response from the technical center. According to the Division, vehicles that fail a test and are repaired *within 10 days* receive a free re-test. The Division is concerned that the workload would prevent drivers from being able to get into the technical center in that time frame, resulting in both increased inconvenience and increased cost for the new test.

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

BRIEFING ISSUE

ISSUE: Oil and Gas Permitting Consultation Workload is Lower than Anticipated

The Department's consultation workload on oil and gas applications for permits to drill (APDs) has not kept pace with expectations.

SUMMARY:

- For FY 2009-10, the General Assembly appropriated a total of \$194,741 cash funds from the Oil and Gas Conservation and Environmental Response Fund and 2.0 FTE to the Department for consultation work associated with new oil and gas regulations promulgated by the Oil and Gas Conservation Commission (COGCC). To date, the Department has hired 1.0 dedicated FTE and is using partial FTE to fill the other appropriated FTE.
- The Department originally anticipated a need to conduct 700 consultations in FY 2009-10. However, the actual workload since July 1, 2009 has consisted of nine consultations under the new rules.
- If the workload continues at the current pace, the Department should not need the dedicated FTE and funds that were appropriated for FY 2009-10 and requested on a continuation basis for FY 2010-11.

RECOMMENDATION

Staff recommends that the Committee discuss the consultation workload with the Department at the upcoming hearing and consider reducing the consultation-related appropriation going forward.

DISCUSSION

For FY 2009-10, the General Assembly provided the Department with \$194,741 cash funds and 2.0 FTE to support the Department's consultation role under the COGCC regulations promulgated last December. The rules became effective on non-federal lands on April 1, 2009 and on federal lands on June 1, 2009. The rules limit CDPHE's consultation role to four potential situations: 1) an operator seeks a variance from rules designed to protect public health or the environment; 2) a local government requests consultation by the Department; 3) the industry develops an area-wide comprehensive drilling plan (CPD) for development of oil and gas in a given area; and 4) an operator seeks COGCC approval of an increase in well density.

For the FY 2009-10 appropriation, the Department had estimated that approximately 10 percent of the permits the COGCC receives would require consultation with the Department, and the Department forecast a need for 700 consultations (10 percent of an estimated 7,000 permits received by the COGCC). However, as a result of declines in drilling activity and the submission of APDs, the COGCC is currently estimating that they will receive a total of 4,000 APDs in FY 2009-10 and again in FY 2010-11. For FY 2009-10, many of the APD's are in the northeast quadrant of the State (the Denver-Julesburg Basin) where elevated oil prices are driving development. Permits in that area do not drive Departmental consultations. As a result, the pool of applications requiring consultation is far lower than expected.

In terms of actual consultations, the Department consulted on 85 wells for which permits were submitted under the COGCC's interim rules in place from January 1, 2009 through April 1, 2009 on non-federal lands and through June 1, 2009 on federal lands. This represents 3.5 percent of the permits the COGCC received during that time, although the interim rules only required consultation for wells proposed within drinking water source areas and so did not accurately represent the variety of scenarios that would require consultation under the final rules.

Since the COGCC's final rules took effect, the Department has begun preliminary consultations on seven comprehensive drilling plans enabled by the final rules. The Department has also completed consultations on two requests for variances from the final rules. Thus, through October 30, 2009, the Department had only received requests for a total of nine consultations under the final rules.

The Department reports that their estimates of the work required per permit (seven hours per simple permit and 27 hours per complex permit) appear to be relatively accurate based on the preliminary information available to date. However, the number of consultations has been far lower than projected.

Department Actions

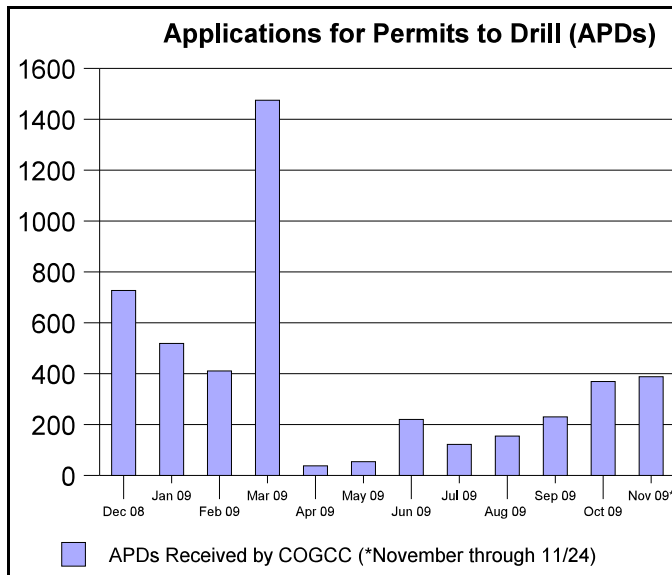
To date, the Department has hired 1.0 dedicated FTE for the consultation process. For the latter part of FY 2008-09 and early FY 2009-10, the Department filled the other 1.0 authorized FTE with partial FTE from other programs rather than hiring permanent staff. According to the Department, the consultation staff spent significant time preparing materials in anticipation of future workload (e.g., drafting frequently asked questions, developing tracking systems, etc.) but that work is tapering down.

The 1.0 permanent FTE is currently training at the COGCC to assist with the COGCC's workload and backlog reduction while gaining experience with the COGCC's permit process. The Department has also indicated that of the two partial FTE, one will continue to work part time on oil and gas issues but that the Department currently expects to stop paying the second partial position from the Oil and Gas Conservation and Environmental Response Fund in December 2009.

Uncertainty Going Forward

Staff does not have adequate information to predict the future workload for the consultation staff.

The COGCC staff point out that this is a particularly difficult year to make such estimates because the drop in drilling activity was so sudden over the past six months, the industry is sitting on an



inventory of 3,000 permits, many of which have not been drilled and will require refile for development to begin, and future prices are uncertain. The number of APD submissions plummeted in the wake of the implementation of the new rules (in part because the industry submitted so many permits immediately prior to the new rules) but appears to be climbing again (see graph at left).

The COGCC does not anticipate significant increases in the CDPHE's consultation workload in FY 2009-10 but the outlook for FY 2010-11 would depend on the following factors:

- Drilling activity is closely linked to natural gas prices and the economy. A rise in natural gas prices would encourage development on the Western Slope and could result in a large number consultations. Conversely, sustained low prices would not encourage development.
- The COGCC is currently in the process of a rulemaking that would make APDs viable for two years rather than the current one year period. The revision could be approved as early as Monday, November 30, 2009 and could be retroactive to earlier in the year. However, it would certainly not cover permits that were issued prior to the implementation of the new rules. The two-year expiration date may encourage the industry to refile permits sooner, although it would decrease the annual workload in the long-term.
- Finally, the number of permit applications since the rules were implemented has been low enough that staff still cannot evaluate the Department's original assumption that 10 percent of the COGCC permits would require consultation. To the extent that drilling remains focused on the D-J Basin, the percentage requiring consultation is likely to be far lower than anticipated. If that assumption were wrong in either direction, it would impact the Department's workload if drilling activity increases again. Thus far, the number of variance requests has been low, possibly because the industry is unfamiliar with and concerned about the Department's new consultation role. Increased comfort with the consultation process could also increase the number of variance requests and consultations.

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
 Department of Public Health and Environment
 (Environmental Divisions Only)**

APPENDIX A: NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
Interim Executive Director: Ned Calonge					
(1) ADMINISTRATION AND SUPPORT					
(C) Special Environmental Programs					
This subdivision houses the appropriations for environmental programs involving multiple divisions.					
Environmental Leadership and Pollution Prevention	978,837	1,300,067	879,035	879,035	DI #3
FTE	<u>7.2</u>	<u>8.2</u>	<u>7.0</u>	<u>7.0</u>	
Cash Funds	82,003	87,729	174,176	174,176	
FTE	0.7	0.9	0.0	0.0	
RF/CFE	37,177	0	0	0	
Federal Funds	859,657	1,212,338	704,859	704,859	
FTE	6.5	7.3	7.0	7.0	
Housed Commercial Swine Feeding Operations (HCSFO) Program - CF	58,220	53,880	59,378	59,378	DI #3
FTE	0.5	0.5	0.5	0.5	
Recycling Resources Economic Opportunity Program - CF	326,589	2,047,005	2,629,361	2,629,361	
FTE	0.6	1.6	1.6	1.6	
Advanced Technology Research Grants	<u>77,393</u>	<u>551,515</u>	<u>495,000</u>	<u>495,000</u>	
Cash Funds	0	551,515	495,000	495,000	
RF/CFE	77,393	0	0	0	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
SUBTOTAL - Special Environmental					Req. vs. App.
Programs	1,441,039	3,952,467	4,062,774	4,062,774	0.0%
FTE	<u>8.3</u>	<u>10.3</u>	<u>9.1</u>	<u>9.1</u>	0.0%
Cash Funds	466,812	2,740,129	3,357,915	3,357,915	0.0%
FTE	1.8	3.0	2.1	2.1	0.0%
RF/CFE	114,570	0	0	0	n/a
Federal Funds	859,657	1,212,338	704,859	704,859	0.0%
FTE	6.5	7.3	7.0	7.0	0.0%

(5) AIR QUALITY CONTROL DIVISION

The Division enforces air quality regulations adopted by the Air Quality Control Commission and is responsible for providing air quality management services that contribute to the protection and improvement of public health, ecosystem integrity, and aesthetic values for odor and visibility. The sources of cash funds are the Stationary Sources Control Fund, the Automobile Inspection and Readjustment (AIR) Account of the Highway Users Tax Fund, the Lead Hazard Reduction Fund, the Oil and Gas Conservation and Environmental Response Fund, and some fee and tuition revenue.

(A) Administration

Personal Services	346,735	358,644	385,113	385,113
FTE	<u>4.5</u>	<u>4.3</u>	<u>4.5</u>	<u>4.5</u>
Cash Funds	125,249	271,746	294,704	294,704
FTE	1.6	3.1	3.1	3.1
RF/CFE	131,090	0	0	0
FTE	1.5	0.0	0.0	0.0
Federal Funds	90,396	86,898	90,409	90,409
FTE	1.4	1.2	1.4	1.4
Operating Expenses - FF	3,487	9,187	9,187	9,187
Capital Outlay - CF	150,351	0	0	0

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Indirect Cost Assessment	<u>2,199,239</u>	<u>2,062,754</u>	<u>2,574,743</u>	<u>2,574,743</u>	
Cash Funds	1,067,781	1,589,216	2,213,464	2,213,464	
RF/CFE	668,914	0	0	0	
Federal Funds	462,544	473,538	361,279	361,279	
					Req. vs. App.
SUBTOTAL - Administration	2,699,812	2,430,585	2,969,043	2,969,043	0.0%
FTE	<u>4.5</u>	<u>4.3</u>	<u>4.5</u>	<u>4.5</u>	0.0%
Cash Funds	1,343,381	1,860,962	2,508,168	2,508,168	0.0%
FTE	1.6	3.1	3.1	3.1	0.0%
RF/CFE	800,004	0	0	0	n/a
FTE	1.5	0.0	0.0	0.0	n/a
Federal Funds	556,427	569,623	460,875	460,875	0.0%
FTE	1.4	1.2	1.4	1.4	0.0%
(B) Technical Services					
Personal Services	0	2,672,898	2,835,032	2,778,419	DI NP-11
FTE	<u>0.0</u>	<u>30.7</u>	<u>35.1</u>	<u>34.1</u>	
Cash Funds	0	1,762,617	1,850,378	1,874,800	
FTE	0.0	20.5	21.8	21.8	
Federal Funds	0	910,281	984,654	903,619	
FTE	0.0	10.2	13.3	12.3	
Operating Expenses	<u>0</u>	<u>376,892</u>	<u>400,327</u>	<u>400,802</u>	
Cash Funds	0	303,502	315,766	316,241	
Federal Funds	0	73,390	84,561	84,561	
Local Contracts	<u>0</u>	<u>557,865</u>	<u>730,368</u>	<u>730,368</u>	
Cash Funds	0	447,705	636,121	636,121	
Federal Funds	0	110,160	94,247	94,247	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(1) Air Quality Monitoring					
Personal Services	1,299,849	0	0	0	
FTE	<u>16.5</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	58,797	0	0	0	
FTE	1.6	0.0	0.0	0.0	
RF/CFE	1,010,883	0	0	0	
FTE	12.3	0.0	0.0	0.0	
Federal Funds	230,169	0	0	0	
FTE	2.6	0.0	0.0	0.0	
Operating Expenses	<u>108,211</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
RF/CFE	91,854	0	0	0	
Federal Funds	16,357	0	0	0	
Local Contracts	<u>627,120</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	430,676	0	0	0	
RF/CFE	84,270	0	0	0	
Federal Funds	112,174	0	0	0	
					Req. vs. App.
Subtotal - Air Quality Monitoring	2,035,180	0	0	0	n/a
FTE	<u>16.5</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	n/a
Cash Funds	489,473	0	0	0	n/a
FTE	1.6	0.0	0.0	0.0	n/a
RF/CFE	1,187,007	0	0	0	n/a
FTE	12.3	0.0	0.0	0.0	n/a
Federal Funds	358,700	0	0	0	n/a
FTE	2.6	0.0	0.0	0.0	n/a

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(2) Modeling and Analysis					
Personal Services	765,959	0	0	0	
FTE	8.6	0.0	0.0	0.0	
Cash Funds	81,039	0	0	0	
FTE	1.3	0.0	0.0	0.0	
RF/CFE	182,471	0	0	0	
FTE	2.2	0.0	0.0	0.0	
Federal Funds	502,449	0	0	0	
FTE	5.1	0.0	0.0	0.0	
Operating Expenses	216,494	0	0	0	
Cash Funds	15,005	0	0	0	
RF/CFE	112,307	0	0	0	
Federal Funds	89,182	0	0	0	
Ozone Modeling Contracts	199,079	0	0	0	
RF/CFE	99,837	0	0	0	
Federal Funds	99,242	0	0	0	
					Req. vs. App.
Subtotal - Modeling and Analysis	1,181,532	0	0	0	n/a
FTE	8.6	0.0	0.0	0.0	n/a
Cash Funds	96,044	0	0	0	n/a
FTE	1.3	0.0	0.0	0.0	n/a
RF/CFE	394,615	0	0	0	n/a
FTE	2.2	0.0	0.0	0.0	n/a
Federal Funds	690,873	0	0	0	n/a
FTE	5.1	0.0	0.0	0.0	n/a

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(3) Visibility and Risk Assessment					
Personal Services	377,448	0	0	0	
FTE	<u>4.1</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	254,895	0	0	0	
FTE	2.4	0.0	0.0	0.0	
RF/CFE	64,144	0	0	0	
FTE	0.8	0.0	0.0	0.0	
Federal Funds	58,409	0	0	0	
FTE	0.9	0.0	0.0	0.0	
Operating Expenses - FF	835	0	0	0	
					Req. vs. App.
Subtotal - Visibility and Risk Assessmt	378,283	0	0	0	n/a
FTE	<u>4.1</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	n/a
Cash Funds	254,895	0	0	0	n/a
FTE	2.4	0.0	0.0	0.0	n/a
RF/CFE	64,144	0	0	0	n/a
FTE	0.8	0.0	0.0	0.0	n/a
Federal Funds	59,244	0	0	0	n/a
FTE	0.9	0.0	0.0	0.0	n/a
					Req. vs. App.
SUBTOTAL - Technical Services	3,594,995	3,607,655	3,965,727	3,909,589	-1.4%
FTE	<u>29.2</u>	<u>30.7</u>	<u>35.1</u>	<u>34.1</u>	-2.8%
Cash Funds	840,412	2,513,824	2,802,265	2,827,162	0.9%
FTE	5.3	20.5	21.8	21.8	0.0%
RF/CFE	1,645,766	0	0	0	n/a
FTE	15.3	0.0	0.0	0.0	n/a
Federal Funds	1,108,817	1,093,831	1,163,462	1,082,427	-7.0%
FTE	8.6	10.2	13.3	12.3	-7.5%

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(C) Mobile Sources					
Personal Services	0	2,326,826	2,508,302	2,555,044	DI #2, NP-11
FTE	<u>0.0</u>	<u>27.5</u>	<u>31.7</u>	<u>32.1</u>	
Cash Funds	0	2,161,952	2,311,328 a/	2,391,193	
FTE	0.0	25.6	28.8	29.6	
Federal Funds	0	164,874	196,974	163,851	
FTE	0.0	1.9	2.9	2.5	
Operating Expenses	<u>0</u>	<u>141,905</u>	<u>344,594</u>	<u>368,392</u>	DI #2
Cash Funds	0	119,513	326,344 b/	350,142	
Federal Funds	0	22,392	18,250	18,250	
Diesel Inspection/Maintenance Program - CF	0	647,742	651,569	651,569	
FTE	0.0	6.6	6.6	6.6	
Mechanic Certification Program - CF	0	5,180	7,000	7,000	
Local Grants - CF	0	97,669	45,299	45,299	
(1) Research and Support					
Personal Services	1,522,501	0	0	0	
FTE	<u>16.7</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
RF/CFE	1,356,103	0	0	0	
FTE	16.3	0.0	0.0	0.0	
Federal Funds	166,398	0	0	0	
FTE	0.4	0.0	0.0	0.0	
Operating Expenses	<u>306,377</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
RF/CFE	288,127	0	0	0	
Federal Funds	18,250	0	0	0	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	Req. vs. App.
Subtotal - Research and Support	1,828,878	0	0	0	n/a
FTE	<u>16.7</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	n/a
Cash Funds	0	0	0	0	n/a
FTE	0.0	0.0	0.0	0.0	n/a
RF/CFE	1,644,230	0	0	0	n/a
FTE	16.3	0.0	0.0	0.0	n/a
Federal Funds	184,648	0	0	0	n/a
FTE	0.4	0.0	0.0	0.0	n/a
(2) Inspection and Maintenance					
Personal Services	677,917	0	0	0	
FTE	<u>8.4</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
RF/CFE	677,917	0	0	0	
FTE	8.4	0.0	0.0	0.0	
Operating Expenses	<u>27,189</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
RF/CFE	27,189	0	0	0	
Diesel Inspection/Maintenance Program	624,135	0	0	0	
FTE	<u>5.5</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	162,752	0	0	0	
FTE	1.3	0.0	0.0	0.0	
RF/CFE	461,383	0	0	0	
FTE	4.2	0.0	0.0	0.0	
Clean Screen and High Emitter Programs - RF/CFE	156,700	0	0	0	
FTE	1.4	0.0	0.0	0.0	
Mechanic Certification Program - CF	2,355	0	0	0	
FTE	0.0	0.0	0.0	0.0	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Local Grants	<u>45,299</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
RF/CFE	45,299	0	0	0	
					Req. vs. App.
Subtotal - Inspection and Maintenance	1,533,595	0	0	0	n/a
FTE	<u>15.3</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	n/a
Cash Funds	165,107	0	0	0	n/a
FTE	1.3	0.0	0.0	0.0	n/a
RF/CFE	1,368,488	0	0	0	n/a
FTE	14.0	0.0	0.0	0.0	n/a
SUBTOTAL - Mobile Sources	3,362,473	3,219,322	3,556,764	3,627,304	2.0%
FTE	<u>32.0</u>	<u>34.1</u>	<u>38.3</u>	<u>38.7</u>	1.0%
Cash Funds	165,107	3,032,056	3,341,540	3,445,203	3.1%
FTE	1.3	32.2	35.4	36.2	2.3%
RF/CFE	3,012,718	0	0	0	n/a
FTE	30.3	0.0	0.0	0.0	n/a
Federal Funds	184,648	187,266	215,224	182,101	-15.4%
FTE	0.4	1.9	2.9	2.5	-13.8%

a/ For FY 2009-10, includes an increase of \$87,845 and 1.5 FTE pursuant to S.B. 09-003.

b/ For FY 2009-10, includes an increase of \$9,267,955 pursuant to S.B. 09-003.

(D) Stationary Sources

Personal Services	0	6,462,004	6,612,992	6,444,773	DI #3, NP-11
FTE	<u>0.0</u>	<u>80.8</u>	<u>87.2</u>	<u>83.8</u>	
Cash Funds	0	5,238,053	5,250,411	5,233,362	
FTE	0.0	66.7	67.5	66.0	
Federal Funds	0	1,223,951	1,362,581	1,211,411	
FTE	0.0	14.1	19.7	17.8	
Operating Expenses	<u>0</u>	<u>404,140</u>	<u>409,054</u>	<u>409,054</u>	DI #3
Cash Funds	0	401,412	407,724	407,724	
Federal Funds	0	2,728	1,330	1,330	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Local Contracts	0	764,140	837,147	837,147	
Cash Funds	0	662,523	722,067	722,067	
Federal Funds	0	101,617	115,080	115,080	
Preservation of the Ozone Layer - CF	0	213,155	231,305	231,305	
FTE	0.0	2.0	2.0	2.0	
(1) Inventory and Support Services					
Personal Services	1,630,208	0	0	0	
FTE	20.2	0.0	0.0	0.0	
Cash Funds	1,098,932	0	0	0	
FTE	14.0	0.0	0.0	0.0	
Federal Funds	531,276	0	0	0	
FTE	6.2	0.0	0.0	0.0	
Operating Expenses - CF	256,551	0	0	0	
					Req. vs. App.
Subtotal - Inventory and Support Services	1,886,759	0	0	0	n/a
FTE	20.2	0.0	0.0	0.0	n/a
Cash Funds	1,355,483	0	0	0	n/a
FTE	14.0	0.0	0.0	0.0	n/a
Federal Funds	531,276	0	0	0	n/a
FTE	6.2	0.0	0.0	0.0	n/a
(2) Permits and Compliance Assurance					
Personal Services	3,490,740	0	0	0	
FTE	44.4	0.0	0.0	0.0	
Cash Funds	2,826,073	0	0	0	
FTE	37.1	0.0	0.0	0.0	
RF/CFE	83,726	0	0	0	
Federal Funds	580,941	0	0	0	
FTE	7.3	0.0	0.0	0.0	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Operating Expenses	<u>99,815</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	45,942	0	0	0	
Federal Funds	53,873	0	0	0	
Local Contracts	<u>674,096</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	557,710	0	0	0	
Federal Funds	116,386	0	0	0	
					Req. vs. App.
Subtotal - Permits and Compliance					
Assurance	4,264,651	0	0	0	n/a
FTE	<u>44.4</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	n/a
Cash Funds	3,429,725	0	0	0	n/a
FTE	37.1	0.0	0.0	0.0	n/a
RF/CFE	83,726	0	0	0	n/a
Federal Funds	751,200	0	0	0	n/a
FTE	7.3	0.0	0.0	0.0	n/a
(3) Hazardous and Toxic Control					
Personal Services	869,468	0	0	0	
FTE	<u>11.2</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	684,147	0	0	0	
FTE	9.0	0.0	0.0	0.0	
Federal Funds	185,321	0	0	0	
FTE	2.2	0.0	0.0	0.0	
Operating Expenses - CF	58,845	0	0	0	
Preservation of the Ozone Layer	199,206	0	0	0	
FTE	<u>2.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds	144,553	0	0	0	
FTE	2.0	0.0	0.0	0.0	
RF/CFE	54,653	0	0	0	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	Req. vs. App.
Subtotal - Hazardous and Toxic Control	1,127,519	0	0	0	n/a
FTE	<u>13.2</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	n/a
Cash Funds	887,545	0	0	0	n/a
FTE	11.0	0.0	0.0	0.0	n/a
RF/CFE	54,653	0	0	0	n/a
Federal Funds	185,321	0	0	0	n/a
FTE	2.2	0.0	0.0	0.0	n/a
(4) Housed Commercial Swine Feeding Operation (HCSFO) Program					
Program Costs - CF	58,220	0	0	0	Req. vs. App. n/a
FTE	0.5	0.0	0.0	0.0	n/a
SUBTOTAL - Stationary Sources	7,337,149	7,843,439	8,090,498	7,922,279	Req. vs. App. -2.1%
FTE	<u>78.3</u>	<u>82.8</u>	<u>89.2</u>	<u>85.8</u>	-3.8%
Cash Funds	5,730,973	6,515,143	6,611,507	6,594,458	-0.3%
FTE	62.6	68.7	69.5	68.0	-2.2%
RF/CFE	138,379	0	0	0	n/a
Federal Funds	1,467,797	1,328,296	1,478,991	1,327,821	-10.2%
FTE	15.7	14.1	19.7	17.8	-9.6%

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	Req. vs. App.
TOTAL - (5) AIR QUALITY CONTROL DIVISION					
DIVISION	16,994,429	17,101,001	18,582,032	18,428,215	-0.8%
FTE	<u>144.0</u>	<u>151.9</u>	<u>167.1</u>	<u>163.1</u>	-2.4%
Cash Funds	8,079,873	13,921,985	15,263,480	15,374,991	0.7%
FTE	70.8	124.5	129.8	129.1	-0.5%
RF/CFE	5,596,867	0	0	0	n/a
FTE	47.1	0.0	0.0	0.0	n/a
Federal Funds	3,317,689	3,179,016	3,318,552	3,053,224	-8.0%
FTE	26.1	27.4	37.3	34.0	-8.8%

(6) WATER QUALITY CONTROL DIVISION

The Division enforces water quality regulations adopted by the Water Quality Control Commission and the State Board of Health through stream classifications and standards, discharge permits, site application reviews, technical assistance, and drinking water surveillance. Cash fund sources include the Water Quality Control Fund, the Sludge Management Program Fund, the Industrial Pretreatment Fund, and the Drinking Water Fund. Reappropriated funds come from transfers from the Department of Agriculture and the Department of Local Affairs.

(A) Administration

Personal Services	853,149	940,349	938,029	740,710	DI #3, NP-11
FTE	<u>13.8</u>	<u>10.1</u>	<u>13.8</u>	<u>11.2</u>	
General Fund	467,328	506,837	530,699	530,699	
FTE	7.8	7.5	7.8	7.8	
Cash Funds	173,844	183,346	194,824	194,824	
FTE	2.7	2.6	2.7	2.7	
Federal Funds	211,977	250,166	212,506	15,187	
FTE	3.3	0.0	3.3	0.7	
Operating Expenses	<u>50,709</u>	<u>47,831</u>	<u>52,356</u>	<u>52,356</u>	DI #3
General Fund	18,834	18,834	18,834	18,834	
Cash Funds	3,459	3,459	3,459	3,459	
Federal Funds	28,416	25,538	30,063	30,063	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Capital Outlay	<u>44,970</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	33,525	0	0	0	
RF/CFE	11,445	0	0	0	
Indirect Cost Assessment	<u>1,861,796</u>	<u>2,041,517</u>	<u>1,900,340</u>	<u>1,900,340</u>	DI #3
Cash Funds	607,778	672,027	1,000,180	1,000,180	
RF/CFE	22,231	0	0	0	
Federal Funds	1,231,787	1,369,490	900,160	900,160	
					Req. vs. App.
SUBTOTAL - Administration	2,810,624	3,029,697	2,890,725	2,693,406	-6.8%
FTE	<u>13.8</u>	<u>10.1</u>	<u>13.8</u>	<u>11.2</u>	-18.8%
General Fund	486,162	525,671	549,533	549,533	0.0%
FTE	7.8	7.5	7.8	7.8	0.0%
Cash Funds	818,606	858,832	1,198,463	1,198,463	0.0%
FTE	2.7	2.6	2.7	2.7	0.0%
RF/CFE	33,676	0	0	0	n/a
Federal Funds	1,472,180	1,645,194	1,142,729	945,410	-17.3%
FTE	3.3	0.0	3.3	0.7	-78.8%
(B) Watershed Assessment, Outreach, and Assistance					
Personal Services	2,539,193	2,719,489	2,915,489	2,846,355	DI #3, NP-11
FTE	<u>26.5</u>	<u>32.3</u>	<u>39.6</u>	<u>38.6</u>	
General Fund	293,047	313,857	349,029	355,395	
FTE	5.4	5.4	5.4	5.4	
Cash Funds	298,087	432,941	441,227	449,394	
FTE	3.3	5.4	5.4	5.4	
RF/CFE	149,831	38,957	38,249	38,957	
FTE	2.6	0.5	0.5	0.5	
Federal Funds	1,798,228	1,933,734	2,086,984	2,002,609	
FTE	15.2	21.0	28.3	27.3	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Operating Expenses	663,275	671,647	525,768	525,768	DI #3
General Fund	376,207	358,384	376,207	376,207	
Cash Funds	0	1,000	1,000	1,000	
RF/CFE	1,625	1,675	1,675	1,675	
Federal Funds	285,443	310,588	146,886	146,886	
Local Grants and Contracts - FF	1,821,460	1,755,721	2,136,456	2,136,456	DI #3
Water Quality Improvement - CF	54,348	102,332	117,196	117,196	DI #3
					Req. vs. App.
SUBTOTAL - Watershed Assessment, Outreach, and Assistance	5,078,276	5,249,189	5,694,909	5,625,775	-1.2%
FTE	<u>26.5</u>	<u>32.3</u>	<u>39.6</u>	<u>38.6</u>	-2.5%
General Fund	669,254	672,241	725,236	731,602	0.9%
FTE	5.4	5.4	5.4	5.4	0.0%
Cash Funds	352,435	536,273	559,423	567,590	1.5%
FTE	3.3	5.4	5.4	5.4	0.0%
RF/CFE	151,456	40,632	39,924	40,632	1.8%
FTE	2.6	0.5	0.5	0.5	0.0%
Federal Funds	3,905,131	4,000,043	4,370,326	4,285,951	-1.9%
FTE	15.2	21.0	28.3	27.3	-3.5%
(C) Permitting and Compliance Assurance					
Personal Services	3,877,809	4,132,113	3,685,051	3,930,425	DI #1, 3, NP-11
FTE	<u>44.2</u>	<u>46.6</u>	<u>44.5</u>	<u>44.4</u>	
General Fund	174,917	170,398	195,620	199,073	
FTE	3.0	3.0	3.0	3.0	
Cash Funds	2,689,178	2,869,855	3,056,455 c/	3,309,449	
FTE	34.3	33.5	37.8	37.8	
RF/CFE	232,687	0	0	0	
FTE	3.0	0.0	0.0	0.0	
Federal Funds	781,027	1,091,860	432,976	421,903	
FTE	3.9	10.1	3.7	3.6	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Operating Expenses	423,818	339,137	383,866	383,866	DI #3
General Fund	227,706	199,343	227,706	227,706	
Cash Funds	113,769	124,996	124,996	124,996	
RF/CFE	11,227	0	0	0	
Federal Funds	71,116	14,798	31,164	31,164	
					Req. vs. App.
SUBTOTAL - Permitting and Compliance					
Assurance	4,301,627	4,471,250	4,068,917	4,314,291	6.0%
FTE	44.2	46.6	44.5	44.4	-0.2%
General Fund	402,623	369,741	423,326	426,779	0.8%
FTE	3.0	3.0	3.0	3.0	0.0%
Cash Funds	2,802,947	2,994,851	3,181,451	3,434,445	8.0%
FTE	34.3	33.5	37.8	37.8	0.0%
RF/CFE	243,914	0	0	0	n/a
FTE	3.0	0.0	0.0	0.0	n/a
Federal Funds	852,143	1,106,658	464,140	453,067	-2.4%
FTE	3.9	10.1	3.7	3.6	-2.7%

c/ For FY 2009-10, includes an increase of \$29,853 cash funds pursuant to H.B. 09-1330.

(D) Drinking Water Program

Personal Services	4,787,416	5,419,954	3,294,195	3,128,980	DI NP-11
FTE	53.4	55.9	44.9	42.7	
General Fund	838,531	853,748	871,431	887,465	
FTE	15.1	12.7	15.1	15.1	
Cash Funds	337,867	313,281	341,943	347,880	
FTE	3.5	3.5	3.5	3.5	
Federal Funds	3,611,018	4,252,925	2,080,821	1,893,635	
FTE	34.8	39.7	26.3	24.1	
Operating Expenses	275,809	1,131,378	213,583	213,583	
General Fund	94,887	75,873	94,887	94,887	
Cash Funds	1,750	1,750	1,750	1,750	
Federal Funds	179,172	1,053,755	116,946	116,946	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	Req. vs. App.
SUBTOTAL - Drinking Water Program	5,063,225	6,551,332	3,507,778	3,342,563	-4.7%
FTE	<u>53.4</u>	<u>55.9</u>	<u>44.9</u>	<u>42.7</u>	-4.9%
General Fund	933,418	929,621	966,318	982,352	1.7%
FTE	15.1	12.7	15.1	15.1	0.0%
Cash Funds	339,617	315,031	343,693	349,630	1.7%
FTE	3.5	3.5	3.5	3.5	0.0%
Federal Funds	3,790,190	5,306,680	2,197,767	2,010,581	-8.5%
FTE	34.8	39.7	26.3	24.1	-8.4%
TOTAL - (6) WATER QUALITY CONTROL					Req. vs. App.
DIVISION	17,253,752	19,301,468	16,162,329	15,976,035	-1.2%
FTE	<u>137.9</u>	<u>144.9</u>	<u>142.8</u>	<u>136.9</u>	-4.1%
General Fund	2,491,457	2,497,274	2,664,413	2,690,266	1.0%
FTE	31.3	28.6	31.3	31.3	0.0%
Cash Funds	4,313,605	4,704,987	5,283,030	5,550,128	5.1%
FTE	43.8	45.0	49.4	49.4	0.0%
RF/CFE	429,046	40,632	39,924	40,632	1.8%
FTE	5.6	0.5	0.5	0.5	0.0%
Federal Funds	10,019,644	12,058,575	8,174,962	7,695,009	-5.9%
FTE	57.2	70.8	61.6	55.7	-9.6%

(7) HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION

The Division enforces the solid and hazardous waste regulations adopted by the Hazardous Waste Commission, providing for cradle-to-grave management of hazardous waste in Colorado to ensure that it does not contaminate the environment or endanger public health. The primary sources of cash funds are the Hazardous Waste Service Fund, the Hazardous Waste Commission Fund, the Hazardous Substance Response Fund, the Radiation Control Fund, the Solid Waste Management Fund, and the Waste Tire Recycling Development Cash Fund. Reappropriated funds come from transfers from the Department of Transportation and the Department of Local Affairs.

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(A) Administration					
Program Costs	179,093	160,910	321,186	321,186	
FTE	<u>1.2</u>	<u>1.4</u>	<u>3.4</u>	<u>3.4</u>	
Cash Funds	179,093	160,910	298,720	258,720	
FTE	1.2	1.4	3.1	3.1	
RF/CFE	0	0	0	40,000	
Federal Funds	0	0	22,466	22,466	
FTE	0.0	0.0	0.3	0.3	
Legal Services	1,230,439	405,597	463,210	463,210	
hours	<u>17,082</u>	<u>5,401</u>	<u>6,145</u>	<u>6,145</u>	
Cash Funds	1,074,410	269,310	296,934	296,934	
RF/CFE	65	354	525	525	
Federal Funds	155,964	135,933	165,751	165,751	
Capital Outlay - CF	0	0	0	0	
Indirect Cost Assessment	<u>1,747,412</u>	<u>1,722,847</u>	<u>1,886,576</u>	<u>1,886,576</u>	
Cash Funds	826,141	808,835	1,200,576	1,210,376	
RF/CFE	34,890	30,234	36,000	36,000	
Federal Funds	886,381	883,778	650,000	640,200	
					Req. vs. App.
SUBTOTAL - Administration	3,156,944	2,289,354	2,670,972	2,670,972	0.0%
FTE	<u>1.2</u>	<u>1.4</u>	<u>3.4</u>	<u>3.4</u>	0.0%
Cash Funds	2,079,644	1,239,055	1,796,230	1,766,030	-1.7%
FTE	1.2	1.4	3.1	3.1	0.0%
RF/CFE	34,955	30,588	36,525	76,525	109.5%
Federal Funds	1,042,345	1,019,711	838,217	828,417	-1.2%
FTE	0.0	0.0	0.3	0.3	0.0%

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(B) Hazardous Waste Control Program					
Personal Services	3,258,539	3,542,618	3,810,598	3,808,118	DI NP-11
FTE	<u>34.6</u>	<u>34.7</u>	<u>42.7</u>	<u>42.0</u>	
Cash Funds	1,238,637	1,716,790	2,174,137	2,192,401	
FTE	15.3	17.6	22.1	21.8	
Federal Funds	2,019,902	1,825,828	1,636,461	1,615,717	
FTE	19.3	17.1	20.6	20.2	
Operating Expenses	<u>144,703</u>	<u>204,573</u>	<u>229,006</u>	<u>229,006</u>	
Cash Funds	45,663	78,132	78,948	78,948	
Federal Funds	99,040	126,441	150,058	150,058	
					Req. vs. App.
SUBTOTAL - Hazardous Waste Control	3,403,242	3,747,191	4,039,604	4,037,124	-0.1%
FTE	<u>34.6</u>	<u>34.7</u>	<u>42.7</u>	<u>42.0</u>	-1.6%
Cash Funds	1,284,300	1,794,922	2,253,085	2,271,349	0.8%
FTE	15.3	17.6	22.1	21.8	-1.4%
Federal Funds	2,118,942	1,952,269	1,786,519	1,765,775	-1.2%
FTE	19.3	17.1	20.6	20.2	-1.9%
(C) Solid Waste Control Program					
Program Costs - CF	1,351,494	1,555,260	2,414,304 d/	2,367,290	DI NP-11
FTE	12.5	15.8	20.8	20.1	
d/ For FY 2009-10, includes \$28,643 and 0.4 FTE pursuant to H.B. 09-1282.					
(D) Uranium Mill Tailings Remedial Action Program					
Program Costs	210,008	207,500	240,594	237,869	DI NP-11
FTE	<u>2.7</u>	<u>2.5</u>	<u>3.1</u>	<u>3.1</u>	
RF/CFE	185,224	184,492	195,323	192,868	
FTE	2.5	2.3	2.6	2.6	
Federal Funds	24,784	23,008	45,271	45,001	
FTE	0.2	0.2	0.5	0.5	

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(E) Contaminated Site Cleanups					
Personal Services	3,916,566	3,598,275	4,542,462	4,525,505	DI NP-11
FTE	<u>30.5</u>	<u>29.1</u>	<u>38.4</u>	<u>37.8</u>	
Cash Funds	679,816	715,358	1,167,347	1,193,963	
FTE	8.0	6.7	13.5	13.4	
RF/CFE	27,127	0	0	0	
Federal Funds	3,209,623	2,882,917	3,375,115	3,331,542	
FTE	22.5	22.4	24.9	24.4	
Operating Expenses	<u>298,789</u>	<u>637,847</u>	<u>222,991</u>	<u>222,991</u>	
Cash Funds	32,202	28,048	52,082	53,382	
RF/CFE	930	0	0	0	
Federal Funds	265,657	609,799	170,909	169,609	
Contaminated Sites Operation & Maintenance	<u>1,058,219</u>	<u>1,285,107</u>	<u>2,088,864</u>	<u>2,088,864</u>	
Cash Funds	117,516	152,984	1,191,186	1,625,186	
Federal Funds	940,703	1,132,123	897,678	463,678	
Legal Services for CERCLA Contract Oversight-Related Costs - CF	425,000	425,000	425,000	425,000	
Hours	N/A	N/A	N/A	N/A	
					Req. vs. App.
SUBTOTAL - Contaminated Site Cleanups	5,698,574	5,946,229	7,279,317	7,262,360	-0.2%
FTE	<u>30.5</u>	<u>29.1</u>	<u>38.4</u>	<u>37.8</u>	-1.6%
Cash Funds	1,254,534	1,321,390	2,835,615	3,297,531	16.3%
FTE	8.0	6.7	13.5	13.4	-0.7%
RF/CFE	28,057.0	0.0	0	0	n/a
Federal Funds	4,415,983	4,624,839	4,443,702	3,964,829	-10.8%
FTE	22.5	22.4	24.9	24.4	-2.0%

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
(F) Rocky Flats Agreement					
Program Costs - FF	129,087	181,687	244,781	243,152	DI NP-11
FTE	1.0	1.2	2.3	2.3	
Legal Services - FF	10,012	18,771	10,478	10,478	
Hours	139	0	139	139.0	
					Req. vs. App.
SUBTOTAL - Rocky Flats Agreement - FF	139,099	200,458	255,259	253,630	-0.6%
FTE	1.0	1.2	2.3	2.3	0.0%
(G) Radiation Management					
Personal Services	1,760,669	1,878,940	1,975,755	1,981,337	DI NP-11
FTE	<u>21.5</u>	<u>21.5</u>	<u>23.5</u>	<u>23.1</u>	
Cash Funds	1,553,580	1,625,527	1,794,683	1,803,287	
FTE	19.0	18.7	21.2	20.9	
RF/CFE	0	0	0	0	
Federal Funds	207,089	253,413	181,072	178,050	
FTE	2.5	2.8	2.3	2.2	
Operating Expenses	<u>267,965</u>	<u>260,032</u>	<u>265,981</u>	<u>255,525</u>	
Cash Funds	71,766	69,360	108,495	98,039	
Federal Funds	196,199	190,672	157,486	157,486	
					Req. vs. App.
SUBTOTAL - Radiation Management	2,028,634	2,138,972	2,241,736	2,236,862	-0.2%
FTE	<u>21.5</u>	<u>21.5</u>	<u>23.5</u>	<u>23.1</u>	-1.7%
Cash Funds	1,625,346	1,694,887	1,903,178	1,901,326	-0.1%
FTE	19.0	18.7	21.2	20.9	-1.4%
RF/CFE	0	0	0	0	n/a
Federal Funds	403,288	444,085	338,558	335,536	-0.9%
FTE	2.5	2.8	2.3	2.2	-4.3%

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	Req. vs. App.
SUBTOTAL - (7) HAZARDOUS MATERIALS					
WASTE MANAGEMENT DIVISION	15,987,995	16,084,964	19,141,786	19,066,107	-0.4%
FTE	<u>104.0</u>	<u>106.2</u>	<u>134.2</u>	<u>131.8</u>	-1.8%
Cash Funds	7,595,318	7,605,514	11,202,412	11,603,526	3.6%
FTE	56.0	60.2	80.7	79.3	-1.7%
RF/CFE	248,236	215,080	231,848	269,393	16.2%
FTE	2.5	2.3	2.6	2.6	0.0%
Federal Funds	8,144,441	8,264,370	7,707,526	7,193,188	-6.7%
FTE	45.5	43.7	50.9	49.9	-2.0%

(8) CONSUMER PROTECTION

The Consumer Protection Division is responsible for programs designed to protect the public from disease and injury through identification and control of environmental factors in food, drugs, medical devices, institutions, consumer products, and insect and rodent vectors affecting public health. The primary sources of cash funds are the Food Protection Cash Fund, the Wholesale Food Manufacturing and Storage Protection Fund, and the Artificial Tanning Device Education Fund. Reappropriated funds come from transfers from the Department of Corrections and the Department of Human Services.

Personal Services	2,006,460	1,983,959	2,269,785	2,373,525
FTE	<u>21.2</u>	<u>23.5</u>	<u>29.6</u>	<u>30.5</u>
General Fund	1,087,037	1,104,549	1,137,854	1,158,916
FTE	13.0	12.7	16.2	16.2
Cash Funds	575,701	587,633	776,832 e/	858,031
FTE	5.0	7.1	9.0	9.9
RF/CFE	64,360	78,751	79,894	81,373
FTE	1.2	1.1	2.0	2.0
Federal Funds	279,362	213,026	275,205	275,205
FTE	2.0	2.6	2.4	2.4

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	
Operating Expenses	<u>130,939</u>	<u>132,402</u>	<u>178,951</u>	<u>166,055</u>	
General Fund	29,637	29,637	29,637	29,637	
Cash Funds	50,278	56,459	111,054 f/	98,158	
RF/CFE	7,415	8,903	9,708	9,708	
Federal Funds	43,609	37,403	28,552	28,552	
Capital Outlay - GF	0	0	0	0	
Indirect Cost Assessment	<u>152,835</u>	<u>137,145</u>	<u>222,281</u>	<u>222,281</u>	
Cash Funds	102,221	91,379	164,458	164,458	
RF/CFE	0	45,766	7,000	7,000	
Federal Funds	50,614	0	50,823	50,823	
					Req. vs. App.
TOTAL - (8) CONSUMER PROTECTION					
DIVISION	2,290,234	2,253,506	2,671,017	2,761,861	3.4%
FTE	<u>21.2</u>	<u>23.5</u>	<u>29.6</u>	<u>30.5</u>	3.0%
General Fund	1,116,674	1,134,186	1,167,491	1,188,553	1.8%
FTE	13.0	12.7	16.2	16.2	0.0%
Cash Funds	728,200	735,471	1,052,344	1,120,647	6.5%
FTE	5.0	7.1	9.0	9.9	10.0%
RF/CFE	71,775	133,420	96,602	98,081	1.5%
FTE	1.2	1.1	2.0	2.0	0.0%
Federal Funds	373,585	250,429	354,580	354,580	0.0%
FTE	2.0	2.6	2.4	2.4	0.0%

e/ For FY 2009-10, includes increases of \$63,361 and 0.9 FTE pursuant to S.B. 09-223 and \$19,903 and 0.3 FTE pursuant to H.B. 09-1320.

f/ For FY 2009-10, includes increases of \$51,796 pursuant to S.B. 09-223 and \$5,248 pursuant to H.B. 09-1320.

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change Requests
	Actual	Actual	Approp.	Request	Req. vs. App.
TOTAL -					
ENVIRONMENTAL DIVISIONS	53,967,449	58,693,406	60,619,938	60,294,992	-0.5%
FTE	<u>415.4</u>	<u>436.8</u>	<u>482.8</u>	<u>471.4</u>	-2.4%
General Fund	3,608,131	3,631,460	3,831,904	3,878,819	1.2%
FTE	44.3	41.3	47.5	47.5	0.0%
Cash Funds	21,183,808	29,708,086	36,159,181	37,007,207	2.3%
FTE	177.4	239.8	271.0	269.8	-0.4%
RF/CFE	6,460,494	389,132	368,374	408,106	10.8%
FTE	56.4	3.9	5.1	5.1	0.0%
Federal Funds	22,715,016	24,964,728	20,260,479	19,000,860	-6.2%
FTE	137.3	151.8	159.2	149.0	-6.4%

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- ❑ **S.B. 09-003 (Bacon/Fischer):** Removes Weld and Larimer counties from the basic motor vehicle emissions program, and expands the enhanced emissions program to include most of Weld and Larimer counties, effective January 1, 2010. Requires the Air Quality Control Commission to review the boundaries of the program area by December 31, 2010. Specifies that vehicles registered in Larimer and Weld counties are not required to pass emission testing for license registration until July 1, 2010 and clarifies that the diesel inspection program area remains unaltered. Requires the Department of Public Health and Environment to cooperate with the Legislative Audit Committee's review of the Department's remote sensing program and to delay deployment of the program until validity and viability of the program is determined. Changes the definition of collector's item for the purposes of motor vehicle registration and emission testing to a model year 1975 or earlier, or a vehicle that was registered as a collector's item prior to September 1, 2009. For FY 2009-10 appropriates \$97,112 cash funds to the Department of Public Health and Environment Subaccount of the Automobile Inspection and Readjustment Account of the Highway Users Tax Fund. Also appropriates 1.5 FTE to the Department of Public Health and Environment.

- ❑ **S.B. 09-197 (Keller/Pommer):** Supplemental appropriation to the Department of Public Health and Environment to modify FY 2008-09 appropriations.

- ❑ **S.B. 09-208 (Tapia/Pommer):** Transfers the following amounts to the General Fund in FY 2008-09:

Source	Amount
Hazardous Substance Response Fund	\$17,468,517
Short-term Innovative Health Program Grant Fund	4,352,319
Recycling Resources Economic Opportunity Fund	1,500,000
Water Quality Improvement Fund	700,000
Medical Marijuana Program Cash Fund	258,735
Tobacco Program Cash Fund	240,619
Youth Mentoring Services Cash Fund	11,842
Student Dropout Prevention and Intervention Cash Fund	11,152
Stroke Prevention and Treatment Cash Fund	4,045
Cathode Ray Tube Recycling Fund	2,333
Streptococcus Cash Fund	9

Source	Amount
Total	\$24,549,571

- ❑ **S.B. 09-223 (Boyd/Kerr A. and Gardner B.):** Establishes new fees for establishments offering food to workers at temporary living quarters in the oil and gas development industry (oil and gas camps) and increases fees paid by other retail food establishments. Makes the following changes to the Food Protection Act: provides for the uniform statewide administration of food safety; requires follow-up activities by the Department of Public Health and Environment or county or district board of health if critical violations are found during an inspection; and establishes a grievance process for retail food establishments that believe that a county or district public health agency is taking inappropriate action. Specifies that no General Fund moneys shall be used to match increased fee revenues in FY 2009-10 and FY 2010-11. Directs the Department to request General Fund through the FY 2011-12 budget process to support the program. Appropriates \$115,157 cash funds and 0.9 FTE to the Department of Public Health and Environment for FY 2009-10.

- ❑ **S.B. 09-259 (Keller/Pommer):** General appropriations act for FY 2009-10.

- ❑ **S.B. 09-279 (Tapia/Pommer):** Transfers \$12.5 million in FY 2008-09 and \$2.5 million in FY 2009-10 from the Hazardous Substance Response Fund to the General Fund. Authorizes a one-day transfer on June 30, 2009 of up to \$84.6 million from the Tobacco Litigation Settlement Cash Fund to the General Fund to increase the FY 2008-09 ending General Fund balance, if necessary. Any transfer is to be repaid to the Tobacco Litigation Settlement Cash Fund on July 1, 2009.

- ❑ **H.B. 09-1199 (Scanlan/Gibbs):** Directs the Air Quality Control Division to collaborate with state and federal land management agencies and other entities to: (1) evaluate the Department's existing prescribed fire permitting process and means of increasing the use of prescribed fire, as appropriate; (2) consider the balance between the benefits of increased use of prescribed fire and impacts on air quality; and (3) provide a report to the Air Quality Control Commission by June 30, 2010 with findings and recommendations. The Department's duties under the bill are contingent on the receipt of sufficient cash funds from the Healthy Forests and Vibrant Communities Fund, which is created in the bill. The bill does not include an appropriation for the Department because resources in the Healthy Forests and Vibrant Communities Fund are continuously appropriated.

- ❑ **H.B. 09-1282 (Fischer/Schwartz):** Creates a task force to make recommendations regarding the implementation of an electronic device recycling program. Appropriates \$28,643 cash funds from the Electronic Device Recycling Cash Fund and 0.4 FTE to the Department of Public Health and Environment for FY 2009-10.

- ❑ **H.B. 09-1320 (Marostica/White):** Changes annual fees for dairy licenses and permits as

follows: increases the fee from \$3 to \$50 for a license to sample or test dairy products; increases the fee from \$10 to up to \$1,600, based on the daily amount of production, for an annual permit to operate a dairy plant; and establishes a \$300 fee for transfer or receiving stations. Uses resulting revenues to support the Consumer Protection Division's Dairy Program. Appropriates \$25,151 cash funds from the Dairy Protection Cash Fund and 0.3 FTE to the Department of Public Health and Environment for FY 2009-10.

- **H.B. 09-1330 (Curry/Isgar):** Increases fees for concentrated animal feeding operations (CAFOs) and housed commercial swine feeding operations (HCSFOs) collected by the Department of Public Health and Environment, Water Quality Division for the period from July 1, 2009, to July 1, 2012 and deposits funds into the Animal Feeding Operations Fund created by the bill. Uses resulting revenues for permitting and oversight of such operations and requires the division to report program information to the General Assembly on an annual basis. For FY 2009-10 appropriates to the Department of Public Health and Environment \$325,613 cash funds from the Animal Feeding Operations Fund and 0.3 FTE while reducing the Department's FY 2009-10 Long Bill cash funds appropriation from the Water Quality Control Fund by \$285,760 cash funds and 0.3 FTE. The 0.3 FTE that were reduced were supported by federal funds.

**FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Public Health and Environment
(Environmental Divisions Only)**

**APPENDIX C: UPDATE OF FY 2009-10
LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION**

Long Bill Footnotes

- 42 Department of Public Health and Environment, Administration and Support, Special Environmental Programs, Recycling Resources Economic Opportunity Program** -- It is the intent of the General Assembly that the Pollution Prevention Advisory Board prioritize the use of these funds in awarding grants pursuant to Section 25-16.5-106.7 (4) (j), C.R.S., for the reduction of waste tire stockpiles in Colorado.

Comment: The Department indicates that it is complying with the footnote and is prioritizing the use of funds for the reduction of waste tire stockpiles but is not limiting the use of funds to such activities.

- 43 Department of Public Health and Environment, Administration and Support, Special Environmental Programs, Advanced Technology Research Grants** -- It is the intent of the General Assembly that the Pollution Prevention Advisory Board prioritize the use of these funds in awarding grants pursuant to Section 25-16.5-105 (2) (b), C.R.S., for the reduction of waste tire stockpiles in Colorado.

Comment: The Department indicates that it is complying with the footnote and is prioritizing the use of funds for the reduction of waste tire stockpiles but is not limiting the use of funds to such activities.

Requests for Information

- 52 Department of Public Health and Environment, Air Quality Control Division** -- The Department is requested to submit a report on the Air Quality Control Division. This report is requested to include a summary of the Division's current and anticipated workload, including the impact of existing and proposed federal and state program requirements, as well as the associated funding and staffing needs. This report is requested to include information on the upcoming fiscal year and out-years. The Department is requested to submit this report to the Joint Budget Committee by November 1, 2009.

Comment: The Department has complied with this request. The report indicates that the Department anticipates a need for 12.0 additional FTE over the next three years. The table below shows the distribution of identified FTE needs.

Summary of Resource Needs for the Air Quality Control Division

Program Area	FY 10-11		FY 11-12		FY 12-13		Total	
	FTE	\$	FTE	\$	FTE	\$	FTE	\$
Mobile Sources	1.0	162,576	0.0	0	0.0	0	1.0	162,576
Technical Services	1.0	99,165	3.0	491,732	0.0	0	4.0	590,897
Stationary Sources	0.0	0	3.0	325,298	4.0	409,518	7.0	734,816
Total	2.0	261,741	6.0	817,030	4.0	409,518	12.0	1,488,289

53 Department of Public Health and Environment, Water Quality Control Division -- The Department is requested to submit a report on the Water Quality Control Division. This report is requested to include a summary of the Division's current and anticipated workload, including the impact of existing and proposed federal and state program requirements, as well as the associated funding and staffing needs. This report is requested to include information on the upcoming fiscal year and out-years. The Department is requested to submit this report to the Joint Budget Committee by November 1, 2009.

Comment: The Department complied with this request. As shown in the following table, the report indicates that the Water Quality Control Division needs an additional 71.3 FTE over the next three years, with particularly high needs in the Drinking Water (20.0 FTE) and Water Pollution Control (29.0 FTE) programs. The increased needs are driven by current workload as well as anticipated increases in workload associated with new standards and regulations, population growth, and growth in the number of sources requiring permitting and inspection activities.

Summary of Resource Needs for the Water Quality Control Division

Program Area	FY 10-11		FY 11-12		FY 12-13		Total	
	FTE	\$	FTE	\$	FTE	\$	FTE	\$
Drinking Water	6.0	404,381	7.0	530,444	7.0	530,444	20.0	1,465,269
Water Pollution Control (formerly Clean Water Facilities)	12.0	807,094	10.0	723,010	7.0	541,375	29.0	2,071,479
Watersheds	6.0	488,132	3.0	249,299	2.0	198,044	11.0	935,475
Administration	6.0	287,068	4.5	202,801	0.8	144,942	11.3	634,811
Total	30.0	1,986,675	24.5	1,705,554	16.8	1,414,805	71.3	5,107,034

Notes:

- a. FTE costs are based upon FY 2009-10 Department of Personnel compensation plan. Costs also include \$6,178 in FTE associated operating and capital outlay expenses, which are not ongoing.

- b. The data for this table is from the Department's November 1, 2009 request for information 53 report and has not been independently evaluated by staff.

54 Department of Public Health and Environment, Hazardous Materials and Waste Management Division, Contaminated Site Cleanups -- The Department is requested to submit a report on its CERCLA program. This report is requested to include detailed expenditures for the program, including out-year estimates by project and associated project financing. The report should also include an analysis of long-term funding needs of the State in responding to, litigating, and cleaning up CERCLA sites, including estimated long-term maintenance costs for these sites. The report should also provide information on the Hazardous Substance Response Fund balance and out-year fiscal estimates. The Department is requested to submit this report to the Joint Budget Committee by November 1, 2009.

Comment: The Department complied with this request for information. As discussed under *Factors Driving the Budget* on page 7 and in the issue paper beginning on page 18, beginning in 2002, there were concerns about the fund's long-term solvency after the Legislature transferred \$30.0 million of the fund balance to the General Fund. However, that transfer was repaid in January 2006. The General Assembly transferred a total of \$32.5 million of the fund balance to the General Fund during the 2009 Session, with no repayment provision. Following the transfer to the General Fund and current declines in tipping fee revenues as a result of the economic downturn, the Department estimates that the fund will remain solvent through FY 2014-15, although statutory constraints on the share of fund balance available for program administration may make the fund inoperable in FY 2011-12 without a change in tipping fee levels or expenditures.

Appendix D: Impact of Department's Proposed Reorganization on Environmental Divisions

FY 2009-10 Long Bill Format	Requested FY 2010-11 Long Bill Format	Comments
(1) ADMINISTRATION AND SUPPORT	(1) ADMINISTRATION AND SUPPORT	
(C) Special Environmental Programs	(C) Special Environmental Programs	
Environmental Leadership and Pollution Prevention	Program Costs	Rename Environmental Leadership and Pollution Prevention line as Special Environmental Programs, Program Costs, and increase appropriation by \$85,303 cash funds and 0.8 FTE to be moved from Administration and Support, Administration, Personal Services to reflect that staff actually works in Environmental Leadership and Pollution Prevention program.
Housed Commercial Swine Feeding Operations Program	Animal Feeding Operations	Combine swine feeding operations work with confined feeding operations permitting. Also transfers funds and 3.0 FTE from (6) Water Quality Control Division, (C) Permitting and Compliance Assurance, Personal Services and Operating Expenses to reflect the combination of programs focused on animal feeding operations.

New Long Bill Group	Oil and Gas Consultation Personal Services Operating Expenses	Creates a new Long Bill Group under Special Environmental Programs for oil and gas consultation work pursuant to H.B. 07-1341 and COGCC regulation. Moves \$194,741 cash funds and 2.0 FTE dedicated to oil and gas permit consultation from the Air Quality Control Division to the new group to reflect the interdisciplinary nature of the consultation work.
(5) AIR QUALITY CONTROL DIVISION	(5) AIR POLLUTION CONTROL DIVISION	Renames Air Quality Control Division as Air <i>Pollution</i> Control Division.
(6) WATER QUALITY CONTROL DIVISION (A) Administration Personal Services Operating Expenses Indirect Cost Assessment (B) Watershed Assessment, Outreach, and Assistance Personal Services Operating Expenses Local Grants and Contracts Water Quality Improvement (C) Permitting and Compliance Assurance Personal Services Operating Expenses (D) Drinking Water Program Personal Services Operating Expenses	(6) WATER QUALITY CONTROL DIVISION (A) Clean Water Program Personal Services Operating Expenses Grants and Contracts (B) Drinking Water Program Personal Services Operating Expenses (C) Indirect Cost Assessment	Combines Administration; Watershed Assessment, Outreach, and Assistance; and Permitting and Compliance Assurance groups into a newly named, "Clean Water Program" with separate line items for personal services, operating expenses, and grants and contracts. Moves indirect cost assessment line item from Administration to its own Long Bill group.

**APPENDIX E:
HAZARDOUS SUBSTANCE RESPONSE FUND: PROJECTED BALANCES**

SFY	Begin Balance	Estimated Revenue	Estimated Interest Earned	Estimated Expenditures	Funds (Diverted)/ Repaid	Ending Balance
2008-09	\$40,635,482	\$3,152,316	\$1,155,860	\$2,473,802	(\$29,968,517)	\$12,501,339
2009-10	\$12,501,339	\$2,069,723	\$258,271	\$3,238,313	(\$2,500,000)	\$9,091,020
2010-11	\$9,091,020	\$1,841,342	\$185,120	\$4,596,747	\$0	\$6,520,735
2011-12	\$6,520,735	\$1,877,000	\$132,752	\$3,855,813	\$0	\$4,674,674
2012-13	\$4,674,674	\$1,815,531	\$93,693	\$3,357,113	\$0	\$3,226,785
2013-14	\$3,226,785	\$1,897,862	\$58,992	\$3,435,414	\$0	\$1,748,225
2014-15	\$1,748,225	\$1,985,023	\$24,540	\$3,436,504	\$0	\$321,284
2015-16	\$321,284	\$2,077,187	\$0	\$3,708,998	\$0	(\$1,310,527)
2016-17	(\$1,310,527)	\$2,174,537	\$0	\$3,565,961	\$0	(\$2,701,951)
2017-18	(\$2,701,951)	\$2,277,275	\$0	\$3,574,568	\$0	(\$3,999,244)
2018-19	(\$3,999,244)	\$2,385,620	\$0	\$3,584,791	\$0	(\$5,198,415)
2019-20	(\$5,198,415)	\$2,499,803	\$0	\$4,703,362	\$0	(\$7,401,974)
2020-21	(\$7,401,974)	\$2,620,075	\$0	\$4,740,083	\$0	(\$9,521,982)
2021-22	(\$9,521,982)	\$2,746,703	\$0	\$4,778,919	\$0	(\$11,554,199)
2022-23	(\$11,554,199)	\$2,879,970	\$0	\$4,819,875	\$0	(\$13,494,104)
2023-24	(\$13,494,104)	\$3,020,177	\$0	\$6,562,959	\$0	(\$17,036,886)
2024-25	(\$17,036,886)	\$3,167,643	\$0	\$8,668,198	\$0	(\$22,537,441)
2025-26	(\$22,537,441)	\$3,322,707	\$0	\$11,025,660	\$0	(\$30,240,394)
2026-27	(\$30,240,394)	\$3,485,726	\$0	\$11,200,359	\$0	(\$37,955,026)
2027-28	(\$37,955,026)	\$3,657,078	\$0	\$11,379,867	\$0	(\$45,677,815)
2028-29	(\$45,677,815)	\$3,837,160	\$0	\$11,564,264	\$0	(\$53,404,919)
2029-30	(\$53,404,919)	\$4,026,394	\$0	\$11,753,635	\$0	(\$61,132,161)

List of Assumptions:

2.4% interest is earned on all fund balances.

Non-interest revenue is from the tipping fee of 11.9 cents per cubic yard. Volume is assumed to be approximately 20 million cubic yards per year.

Expenditures are based on forecasted need for operating, construction and operating and maintenance costs.

Information represents the fund balance as of June 30th of the listed year.