

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
FY 2015-16 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Thursday, November 20, 2014
1:30 pm – 5:00 pm**

1:30-2:05 INTRODUCTIONS AND OPENING COMMENTS

2:05-2:15 QUESTIONS COMMON TO ALL DEPARTMENTS

1. SMART Government Act:

- a. Please describe how the SMART Government Act is being integrated into the department's existing processes (both in terms of service delivery and evaluating performance).
- b. How is the data that is gathered for the performance management system used?

***Response:** Among other priorities, CDPHE continues to elevate Colorado's 10 Winnable Battles to achieve measurable public health and environmental impact in a few targeted areas. Data continues to be tracked for these areas and goals were recently refined/refreshed in order to help accurately evaluate progress made towards public health outcomes.*

Through current Public Health Accreditation efforts, the Department will be integrating SMART Act requirements into an internal performance management system that will enable CDPHE to use performance data to monitor achievement of organizational objectives/operational measures and aid in the identification of quality improvement activities.

- c. Please describe the value of the act in the department.

***Response:** When revisiting the SMART Act's original intent, the Act has added value to CDPHE in the following ways:*

1. *Provided a vehicle for transparency of CDPHE's strategic objectives to the general public*
2. *Supported LEAN principles in aiming towards the elimination of non-value-added processes and/or the reduction of waste within Department processes*
3. *Set the stage for future internal performance management system efforts*

2. Do you have infrastructure needs (roads, real property, and information technology) beyond the current infrastructure request? If so, how do these needs fit in with the department's overall infrastructure priorities that have been submitted to the Capital Construction Committee or Joint Technology Committee? If infrastructure should be a higher priority for

the department, how should the department's list of overall priorities be adjusted to account for it?

Response: *CDPHE does not have any significant unmet infrastructure needs. The Department worked with OIT, during this budget process, on two requests to meet the Department's information technology needs. Those requests are included in OIT's 2015-16 budget submission. If approved, these requests will have a significant positive impact on CDPHE's information technology infrastructure. The majority of the Department's programs are located in leased space. The current Lease agreements meet the Department's space/infrastructure needs. The Department had one capital request for fire system repairs at the State Lab building. That request was approved in 2014-15.*

2:15-2:45 FAMILY PLANNING PROGRAM FUNDING

3. Please explain the rationale for the five year request and annual reduction in funding.

Response: *The rationale for the annual reduction in funding is based on an assumption that fewer women will be in need of subsidized family planning services in subsequent years, due to Colorado Medicaid expansion/health care reform. However, it will take time for the eligible, but not enrolled, population to become covered. Therefore, the Family Planning Program (FPP) is starting its Year 1 request at \$5 million for long-acting, reversible contraceptives (LARC), and then decreasing the request in subsequent years, anticipating that insurance and Medicaid revenue will cover the difference.*

4. Please provide an explanation of how the request for Family Planning Program funding and the Colorado Family Planning Initiative are related. Please include:

- a. The functions that were previously funded through the Colorado Family Planning Initiative will now be funded with General Fund;

Response: *The Colorado Family Planning Initiative (CFPI) funded long-acting reversible contraceptive (LARC) devices, provider training, and clinical costs associated with implementing the program. The CFPI program removed the cost barrier for the most effective methods of contraception (LARC) and, for the first time, allowed clinics to provide these devices to anyone who requested. Since a need for the continuation of these services exists, the additional General Fund support will be used to purchase LARC methods and reimburse clinical costs.*

- b. What mechanisms were used to authorize the expenditure for the Family Planning Program; and

Response: *The statutory authority to accept the funding for the Family Planning Program was given to the Department in Sections 25-1.5-101(1)(m)(I) and 25-6-103, C.R.S. In these statutes, the General Assembly authorized the department to accept gifts, grants and donations that are consistent with the mission and purpose of the department. Furthermore, in each instance that a gift, grant, or donation is accepted and prior to final approval of spending authority, the Office*

of the State Controller verifies the authority to give final authorization to spend the funds. Forming public/private partnerships can be essential to maximizing state funding as well as the public health benefits of the department's programs.

c. What specific population group this request is seeking to serve and why.

Response: *The FPP serves all men and women, regardless of age or income. However, women of reproductive age, with incomes under 150% of FPL, are priority for family planning services. This population is targeted because they demonstrate high fertility rates, high unintended pregnancy rates and experience more high-risk births than more affluent populations. By targeting this group, the FPP saves the state money. Nationally, the services provided (by Title X clinics) in 2010 resulted in \$7.09 saved for every public dollar spent (Guttmacher 2014).*

5. What are the current mandates (both state and federal) on contraception coverage and how have the requests and the Colorado Family Planning Initiative complied with those mandates.

Response:

- **Affordable Care Act Mandate:** *Under the Affordable Care Act, women's preventive health care, such as mammograms, screenings for cervical cancer, prenatal care, contraceptives and other services, generally must be covered by health plans with no cost sharing.*
- **Colorado Medicaid:** *Colorado Medicaid continues to fully fund contraception for Medicaid-enrolled women.*

While the mandate applies to insurance companies and/or Medicaid, the FPP complements this mandate by offering a wide-range of FDA-approved contraceptives and providing many of the contraceptive-related requirements in the Women's Preventive Health Benefit. FPP clinics bill all insurance and Medicaid if clients present with a payer source. Although the mandate dictates that all citizens have access to health coverage, many issues make it challenging for women to access contraceptive health care. They are as follows:

“Churn”: *Churn is typically caused by a change in the insured eligibility status, such as fluctuations in income, loss of a job, or changes in family circumstance, lack of funding for premium, etc. which results in episodic health care coverage. These people often end up seeking family planning services when they have no current source of coverage.*

Medical Management: *Federal regulations implementing the preventive services coverage requirements permit health insurers to use “reasonable medical management techniques” to determine the frequency, method, treatment or setting for any of the required services to the extent not already specified in the guidelines. In some cases, medical management may include requiring that patients try a different (e.g., less expensive) contraceptive method before a LARC method is approved. If insurers require a medical justification for a woman to gain access to LARC, preferences based on factors other than medical contraindications may not be reimbursed.*

Women's Preventive Health Benefit: Federal regulation states that plans may not limit coverage to one type of contraceptive, such as oral contraceptives, but must provide at least one version of each FDA-approved contraceptive method. This means that insurance companies are only required to support one of the three available IUDs on the market. If that one version is not the LARC method that the clinical provider prescribes, the client may turn to a Title X clinic for contraceptive assistance.

Religious Exemption: Allows certain employers to “opt-out” of including/paying for the contraceptive benefit in their employer-sponsored plans.

Cost of insurance for low-income citizens: While there may be access to insurance coverage for all citizens, not all can afford the premiums – even with the subsidies. The health care law does allow for an exemption from the individual mandate for those who cannot find affordable coverage.

6. Please provide an analysis of how public and private coverage for contraception will impact the number of women seeking family planning services.

Response: While public and private coverage for contraceptives will make a large impact on the number of women seeking family planning services, the need is still great.

Based on data gathered by the Family Planning Program, it is estimated that 275,665 women were in need of subsidized contraceptives in 2013. Recently, an Urban Institute Analysis revealed that 67 percent of Colorado's currently uninsured population is eligible for assistance (subsidies or Medicaid). This means approximately 33 percent, or over 90,000 of Colorado's women, will remain without a source of coverage and will need subsidized family planning services.

Source: CDPHE 2013 Women In Need data and The Urban Institute Analysis, ACS-HIPSM 2012, based on pooled American Community Survey 2009, 2010, and 2011 datasets. Who and Where Are the Remaining Uninsured Expected to be Under the ACA: Implications for the Safety Net Urban Institute, Genevieve M. Kenney April 29, 2014, Publicly Funded Family Planning Services in the United States, Guttmacher Institute, http://www.guttmacher.org/pubs/fb_contraceptive_serve.html

7. Please provide the Center for Disease Control teenage pregnancy winnable battle data for Colorado.

Response:

Centers for Disease Control Goal (CDC)

<http://www.cdc.gov/winnablebattles/targets/pdf/teenpregnancy-winnablebattles-progressreport.pdf>

<i>CDC Target</i>	<i>Baseline in 2009</i>	<i>Target for 2015</i>
<i>Teen Birth rate, adolescent females, ages 15 to 19</i>	<i>37.9 births per 1,000 females ages 15-19 (2009)</i>	<i>30.3 births per 1,000 females ages 15-19 (20 percent reduction)</i>

Colorado's Data

<i>Target</i>	<i>Baseline in 2009</i>	<i>Actual in 2013</i>
<i>Teen Birth rate, adolescent females, ages 15 to 19</i>	<i>37.4 births per 1,000 females ages 15-19 (2009)</i>	<i>22.3 births per 1,000 females ages 15-19 (40 percent reduction)</i>

As demonstrated above, Colorado exceeded the CDC's Winnable Battle goal for teen birth rates. While there has been a 40 percent reduction in the teen birth rate in Colorado, there were still 3,807 children born to women aged 15-19 in 2013, which could result in approximately \$6,403,374 (taxpayer funding) annually to care for those children. <https://thenationalcampaign.org/why-it-matters/public-cost>

8. Please provide graphs, similar to those on pages 22 and 23 of the JBC staff briefing document, that include the total births for each population group including data points with the number of those births that are above 150.0 percent of poverty.

Response: (See Appendix A)

9. Please discuss how the request does not violate Section 24-75-1305, C.R.S.

Response: *The Department does not believe that the R-1 family planning request violates Section 24-75-1305, C.R.S. The language of Section 24-75-1305, C.R.S., prohibits state funding for activities that "has not received adequate grant moneys to support the program, service, study, or other function of state government..." The department understands Section 24-75-1305, C.R.S., to relate to programs that rely entirely on grant moneys as the program's funding source. R-1 seeks to augment core activities that existed prior to the program expansion pilot from the privately donated grant funds. The Department has sufficient funds to provide its core program*

services. Over the past 7 years, the Family Planning Program supplemented its core activities by accepting private funds to pilot a temporary expansion of the core program with the goal of reducing unintended pregnancy in Colorado. The results of this pilot have demonstrated that the practice of making long acting reversible contraception available to low income women has a substantial positive impact on decreasing unintended pregnancy. In light of the clear evidence that provision of these services is a best practice, R-1 seeks funding to expand program services to implement the findings of this approach.

10. Please discuss the value of developing and implementing a statewide public awareness and education campaign about the Family Planning Program.

Response: *A statewide, public awareness and education campaign related to the FPP would present an opportunity to raise awareness about the services our clinics provide, encourage people to learn more and highlight the benefit of the work.*

There is already in place an independent, multimillion dollar, statewide campaign that was launched in 2012 with private funding (that did not flow through the health department) to help people locate family planning services, become educated on reproductive health topics and encourage healthy, informed conversations about sexual health. This campaign included billboards, television and radio ads, posters, fliers, and collateral materials. The campaign website, available in English and Spanish, attracts more than 60,000 online visitors every month. Any additional work to develop or implement a statewide public awareness and education campaign about the Family Planning Program should be built on this successful existing platform.

The FPP does require each contractor to conduct outreach and education activities in order to make their services known to their communities. These local campaigns have been successful in recruiting new clients, and could be bolstered by additional support.

2:45-3:00 AIR POLLUTION CONTROL DIVISION STAFFING

11. Please discuss the merits of adding staff to analyze the collective data sets from the FRAPPE and DISCOVER-AQ studies. Please discuss the merits of term-limited FTE vs. contracting out the analysis.

Response: *The FRAPPE and DISCOVER-AQ studies will provide valuable information regarding how emissions from various sources interact with meteorological conditions in the Front Range to impact summertime air quality, particularly for ozone. The data will help to inform future strategies to maintain and improve Colorado's air quality.*

The Department agrees that there is merit in a holistic, impartial and timely review of the collective data sets, and that adding resources would facilitate this effort. While the National Center for Atmospheric Research (NCAR), the National Aeronautics and Space Administration

(NASA) and all the university groups that provided instrumentation and participated in both missions will be performing analyses and publishing their findings, it will take time due to the volume of data collected. Each group will be focused on their specific measurements, which will not necessarily provide a detailed compilation analysis. Also, each university group will be more focused on the pure science aspects of the data and atmospheric chemical processes, and not be looking at regulatory requirements, including potential source sectors to focus on for further ozone reduction strategies.

The U.S. Environmental Protection Agency will be proposing a new ozone standard by December 1, 2014, to be finalized by October 1, 2015. It is expected, based on scientific reviews, that the ozone standard will be lowered. This will result in Colorado needing to look at new ozone reduction strategies for the current North Front Range non-attainment area, as well as possibly other areas of the state. Even if the standard is not lowered, the Front Range is not meeting EPA's current ozone standard, and thus we must continue to analyze cost effective ozone reduction strategies.

The Air Pollution Control Division does not have sufficient staffing resources to complete a comprehensive detailed analysis, including modeling, of the FRAPPE and DISCOVER-AQ data in a timeframe to adequately meet Federal requirements for making decisions related to ozone reduction strategies that would be incorporated in a State Implementation Plan for a new ozone standard. As noted by JBC staff, the amount of data will be massive because each equipment reading was recorded at a unique data point each minute or quicker. Adding term-limited staff or contracting the data compilation, analysis and modeling work would be a solution to the problem. Additional staff would be focused exclusively on this work instead of being diverted from other projects, which would result in a more comprehensive, detailed and thoughtful analysis. As a result, more appropriate ozone reduction strategies can be recommended and timely decisions can be made, including stakeholder input, to meet Federal timelines.

The Division would prefer to contract the work out, versus hiring term-limited staff. Based on past experience, term-limited staff often leaves for permanent positions, and does not remain for the full term. Staff turnover would likely compromise the timing and substance of the analysis. Contracting the work would be more efficient and allow the Division to oversee the work while permanent staff would remain on existing and designated projects.

The Division estimates that the cost of contracting out the work would be approximately \$190,000. This would enable the Division to contract with an outside agency or consulting firm over two fiscal years to: Compile data from both the FRAPPE study and the DISCOVER-AQ mission; Perform detailed analyses and modeling relating to ozone, ozone precursors and the atmospheric chemistry leading to ozone formation; Develop a list of source types and emissions that contribute significantly to ozone formation; and Develop a final report, including a list of possible recommendations for ozone reduction options.

Please note that such a report would not be a health study that assesses potential health impacts associated with emissions and ambient air quality in the Front Range. Such a study is beyond the intended scope of the FRAPPE and DISCOVER-AQ missions, and also beyond the scope of

the Committee's question. Nonetheless, the Department provides the following information for additional background and context on recent air quality studies in Colorado.

The State contributed \$2,000,000 towards the FRAPPE study, with \$1.5m coming from the Division's stationary sources fund, and \$0.5m from the general fund. The remainder of monies for the FRAPPE study came from the National Science Foundation (\$1.3m) and in-kind support from the National Center for Atmospheric Research (valued at approximately \$2.5m) and National Oceanic and Atmospheric Administration (valued at approximately \$1.0m). The existence of the FRAPPE study prompted the National Aeronautics and Space Administration to bring its DISCOVER-AQ mission to the Front Range at the same time, which leveraged an additional \$7.5m in federal monies of research. Separately, the Division has contracted with Colorado State University, who is currently conducting a study in the Front Range that measures emissions specific to oil and gas operations. Data collection for the Front Range oil and gas study will be completed by December 2015. The Front Range study complements a similar study that CSU is conducting on the Western Slope. Garfield County and industry are funding the West Slope study. The state contributed \$1.3m for the CSU Front Range oil and gas study, with monies coming via a transfer from the Oil and Gas Conservation and Environmental Response Fund. At the time that monies were appropriated for the Front Range oil and gas study, it was noted that the data from Front Range and West Slope studies could be used to support a health based analysis, if and when such funding were available. The Department anticipates that some of the FRAPPE and DISCOVER-AQ data could also be utilized in such a health based analysis.

12. Please discuss how oil and gas inspections modify their inspections based on whether they are inspecting in an attainment area vs. a nonattainment area.

Response: *In practice, infrared (IR) camera and traditional inspections conducted throughout the state in both attainment and non-attainment areas are performed in a similar manner. Traditional inspections for industrial facilities such as power plants, sand and gravel operations, and oil and gas activities are spread throughout the state in proportion to the location of these facilities. Given that the majority of the state's regulated oil and gas facilities are located in the North Front Range non-attainment area, the primary focus of the IR camera program and, to a lesser extent, the traditional inspection program for oil and gas sources, has been in the non-attainment area.*

During the first year of the IR camera program, the current term-limited IR inspectors only inspected facilities in the non-attainment area. During the second year, those inspectors have begun to inspect some facilities in the state that are outside of the non-attainment area, though the number of inspections is still heavily weighted to the non-attainment area based on the much larger number of facilities and level of activity. The Division anticipates that this geographical pattern of IR camera and traditional inspections will continue for at least the next several years.

13. Please discuss how the Division will utilize information collected by private industry in their inspections and rule making related to air quality standards.

Response: *The adoption of the state's new regulatory requirements for leak detection along with federal standards for the oil and gas industry will require oil and gas operators to conduct inspections/evaluations of their own facilities using IR camera and other similar technologies. The Division will review the information collected as a part of our inspection program. During the first year and a half of the Division's IR camera program, the Division's findings have been provided to oil and gas operators and have been used to identify and repair leaks at their facilities. In addition, the Division coordinates with oil and gas industry trade associations and individual operators to review IR data and trends and to discuss "lessons learned" to further minimize leaks and their associated emissions. Under the new regulations, operators will also be required to submit annual reports to the Division that identify such information as the number of leaks identified and repaired, and types of equipment or components with leaks. The Division proposes to continue these interactions and utilize both Division-generated and operator-generated IR camera data to identify leaks, initiate repairs and determine compliance status with the state and federal leak detection requirements.*

2:45-3:00 COLORADO HEALTH SERVICE CORPS PROGRAM

14. Please discuss who the private foundation is that provide the funds, and what will happen to the federal funds if the request is not funded.

Response: *Federal funds require a 1:1 nonfederal match, which may be derived from either state or private sources. Since 7/1/09, The Colorado Health Foundation, Colorado Trust, and CompreCare foundation have funded a portion of nonfederal program costs. The state has also funded a portion of nonfederal costs since that time.*

The current four year grant agreement with HRSA began in August 2014 and is fully matched without this budget request for years one through three. Year four is only 25 percent matched with current funds. If the department fails to identify a source of nonfederal match in year four, then only a portion of that year's funds will be awarded. The four year award does not create an "obligation" to the state.

15. Please discuss how the request does not violate Section 24-75-1305, C.R.S.

Response: *The Department does not believe the R-3 Primary Care Workforce and Data Development request violates Section 24-75-1305, C.R.S. There are two pieces to this request: a data-related request, which includes \$117,617, 1.0 FTE and a database, and 2.0 FTE and \$1,648,980 for an expansion of the existing Primary Care Office programs and functions beyond their current scope. With the data request, the Department seeks to create a centralized health workforce data program that will assist numerous state business functions and improve assessment, planning and policy regarding health care staffing. As creation and maintenance of the Primary Care Office database is a new function not previously performed by the state, Section*

24-75-1301 et seq, C.R.S., does not apply. With respect to the expansion of the Primary Care Office programs, the Department notes that Section 24-75-1303, C.R.S., concerns programs that rely entirely on grant moneys as the program's funding source. The Colorado Health Service Corps Fund, established in Section 25-1.5-506, C.R.S., currently receives Tobacco Master Settlement funds, in addition to federal funding and private donations. Additionally, after several years of administering this fund, the Department has seen significant benefits to community health and economic activity. While the current funding is adequate to maintain core service levels, the Department seeks to expand the program to provide more loan repayment in order to increase primary health care services to low income Coloradans in underserved areas.

3:00-3:15 BREAK

3:15-3:25 FOOD SAFETY PROGRAMS

16. Please discuss the metrics used to measure the success rate by the other states that have state directed wholesale food manufacturing inspection programs.

Response: *The ultimate measure of success for a wholesale food manufacturing inspection program is the prevention of food-borne illness (FBI) outbreaks. The direct measurement of prevention is not possible, but statistical techniques allow metric evaluation. The only data available was published in the American Journal of Public Health for Maryland, examining the relationship between the occurrence of food-borne illness and a food safety program's inspection capacity. This study showed:*

- *food safety programs with an appropriate number of FTE demonstrated a reduction in FBI of 49.6%;*
- *food safety programs with appropriately trained FTE demonstrated a reduction in FBI of 49.5%; and,*
- *food safety programs with appropriate food inspection budgets demonstrated a reduction in FBI of 50.5%.*

Sources: The Impact of Local Environmental Health Capacity on Foodborne Illness Morbidity in Maryland, American Journal of Public Health. 2011; 101: 1495–1500. doi:10.2105/AJPH.2011.300137

17. Please discuss the metrics the state will use to measure the success of a state directed wholesale food manufacturing inspection program.

Response: *The state-directed wholesale food manufacturing inspection program will use the following metrics to facilitate success evaluation:*

- *number of high risk facilities inspected each year (target 100%, i.e. inspected once per year);*

- *number of medium risk facilities inspected each year (target 50%, i.e. inspected once per two years)*
- *number of low risk facilities inspected each year (target 33%, i.e. inspected once per three years)*
- *number of critical violations cited per inspection; and,*
- *number of critical violations returned to compliance.*

These metrics align with inspection-based risk analysis approaches encouraged by the Centers for Disease Control and Prevention (CDC) and World Health Organization (WHO), because they provide and stimulate a preventative approach. The ability to conduct direct correlative analysis will depend on the quantity and quality of food-borne illness data reported to the department.

3:50-4:10 ASSISTED LIVING FACILITIES

18. Please discuss how the growth of assisted living residences has impacted the Division's ability to survey facilities.

Response: *The industry is adding an average of ten additional facilities in Colorado each year. CDPHE staff evaluates critical aspects of care such as: medication administration; cleanliness and personal safety of the environment; protective oversight/personal services; and compliance with food safety regulations.*

The Division's goal is to visit new facilities each year for the first three years to ensure that the facilities have the capacity and capability to operate according to regulations designed to protect the health and well being of the residents. In FY 2013-14 the division received approximately twenty applications for new facilities.

While the average inspection takes 23.73 hours to complete, the initial inspections for new facilities takes longer than other inspection types, such as complaints, which take fewer hours. The division works to provide the initial inspections in timely fashion so that the opening of the business is not delayed.

Because the initial inspections are one of the lengthiest inspection types, the need for staff increases as more industry growth occurs. Furthermore, the necessity to inspect new facilities every year also adds to the annual workload required by program staff.

19. Please discuss the Health Facilities Division ability to map where the need is for assisted living facilities. Please include, if available the map. Also please discuss what would be required to do a map if one does not exist.

Response: No current map is available. In order to produce this map, the Health Facilities Division would work with our Center for Health and Environmental Information (CHEIS) division to overlay the state's demographics for the aging population with the existing assisted living residence locations with their licensed bed capacity.

This level of data would show the location of aging population without assisted living residences. What it would not show, however, is the capacity within those facilities to take on more residents. The division does not have data on the daily or average occupancy rate of facilities. While a given area may show that there are very few facilities based on the number of aging individuals, the facilities there may (or may not) have large vacancy rates. Also, this data will not show the desirability of the individual assisted living facilities. For example, there may be several large facilities in the area, but perhaps the population in that area prefers smaller more homelike facilities.

The division estimates that it would take several days time and would cost approximately \$1,908 to evaluate the existing data on the facilities; analyze the format of that data and to work with the CHEIS division in order to create a GIS map of the data. This may include manually entering (or reformatting) the division data to the format needed by the CHEIS division for mapping.

4:10-4:30 AMENDMENT 35 REVENUE

20. Please discuss what is causing the decline in Amendment 35 revenue.

Response: The decline in tobacco use is driving the decline in Amendment 35 revenues. Fewer Colorado adults are smoking or using tobacco products and Coloradans who continue to smoke are smoking less. Effective tobacco control strategies such as state and local smoke-free policies, increased availability of proven cessation services, mass media campaigns, and the tobacco excise tax passed in 2004 have worked together to reduce smoking prevalence in Colorado. Tobacco consumption has dropped from 92.0 packs per person per year in 1990 to a projected 35.4 packs per person per year in 2014. A CDPHE survey showed that daily smoking decreased from 74.7% in 2008 to 69.8% in 2012, and cigarettes per day decreased from 15.4 to 13.7 in the same time period. The result is an overall decline in revenue related to the sale of tobacco.

Table: Amount of Revenue Raised by Amendment 35, in Millions of Dollars

Fiscal Year	Total A-35 Revenue (Cigarettes + Tobacco Products)
2004-05*	\$66.4
2005-06	\$169.6
2006-07	\$168.0
2007-08	\$162.9
2008-09	\$161.0
2009-10	\$150.3
2010-11	\$150.8
2011-12	\$145.9
2012-13	\$148.8
2013-14	\$138.8
<i>*Represents 6-months of revenue</i>	

Source: Amendment 35 Forecast - September 2014, Colorado Legislative Council Staff
(Table abridged for this response)

21. Regarding electronic cigarettes please discuss the following:
- a. The uses of electronic cigarettes, including the possible beneficial uses of electronic cigarettes; and

Response to a:

E-cigarettes are battery-operated products designed to deliver nicotine, flavor, or other chemicals through an aerosol inhaled by the user. Use of electronic cigarettes in Colorado is on the increase among adults and youth. A 2012 study found that more than one-fourth (29.4%) of Colorado current adult smokers had tried e-cigarettes (as did 2.2% of non/former smokers). Among Colorado young adults aged 18-24, more than half of current smokers (53.7%) and 15.6% overall had tried e-cigarettes. A 2013 study found 15.1% of Colorado high school students report that they have tried e-cigarettes.

There are no known beneficial uses of electronic cigarettes. The FDA Center for Drug Evaluation and Research has not approved electronic nicotine delivery devices for smoking cessation. Studies indicate the secondhand aerosol from electronic smoking devices contains nicotine, ultra-fine particles and low levels of toxins that are known to cause cancer. One study showed that non-smokers who were exposed to aerosol from electronic smoking devices absorbed similar levels of nicotine as non-smokers exposed to conventional cigarette

smoke. The long-term effects—benefits or detriments—of e-cigarettes and continued exposure to nicotine, toxicants, carcinogens, and ultrafine particles, in unregulated and often unspecified amounts, remains unknown. Cigarette smokers may be more willing to use e-cigarettes than nicotine inhalers (the only form of FDA-approved inhaled Nicotine Replacement Therapy) in quit attempts; however, evidence does not support the promotion of e-cigarettes as a primary cessation aid.

b. The pros and cons of taxing electronic cigarettes

Response:

Background:

There is currently no tobacco tax levied on e-cigarette products. Minnesota was the first state in the country to issue clarification that electronic smoking and nicotine devices are included in the definition of “tobacco products”, thereby becoming the first state to tax electronic cigarette products.

Colorado statutes include divergent definitions of tobacco products, one of which encompasses e-cigarettes (Section 18-13-121, C.R.S.) and one which does not (Section 39-28.5-101, C.R.S.). The Colorado Constitution does not define tobacco products.

For the purposes of taxing tobacco products, the Department of Revenue has relied on the following definition:

Colorado Revised Statutes TITLE 39 TAXATION, ARTICLE 28.5. TAX ON TOBACCO PRODUCTS (Section 39-28.5-101(5),C.R.S.) defines tobacco products thus: “Tobacco products’ means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking, but does not include cigarettes which are taxed separately pursuant to article 28 of this title.”

Pros:

Increasing tobacco prices has been found to reduce use among current smokers, decrease youth smoking initiation, and increase tobacco cessation. Studies demonstrate that every ten-percent increase in cigarette prices reduces smoking by approximately seven percent among youth and approximately four percent for the general public. Additionally, decreased tobacco use lowers the burden of tobacco-related illnesses and associated health care costs, generating millions of dollars in cost savings for states.

Cons:

There are no negative health-related consequences associated with applying a tobacco tax to

nicotine delivery vehicles such as e-cigarettes. Applying the state tobacco excise tax would require a more consistent legislative definition of tobacco products and the application of the definition provided in Section 18-13-121 (5) (a), C.R.S., above. Electronic devices and their components are sold in many different forms, so a taxation rate for those products will need to be determined.

4:30-4:50 WATER QUALITY CONTROL DIVISION STAKEHOLDER PROCESS

22. Provide an update on the Water Quality Control Division stakeholder process. Please include:
- a. Department's proposed fee increases and how those break down by category;

Response: *See Appendix B.*

- b. Stakeholder feedback the Department has received.

Response: *The goal of the stakeholder process was to engage with stakeholders in a meaningful and transparent way that provided an opportunity for both department staff and stakeholders to collaborate on potential improvements to the fee structure and fees. The stakeholder process consisted of three different phases; outreach (phase one), sector based workshops (phase two), and stakeholder feedback/recommendations on sector specific fee proposals (phase three). The division is currently in phase three and has not received final stakeholder feedback. Please reference Appendix B that identifies the problem statement, proposed sectors, fee concepts, and fee structures and associated fees. These concepts were provided to all stakeholders at each of the final meetings.*

Clean Water Program Fees

- What are Water Quality Fees?
 - Identified in C.R.S. 25-8-502(b). Examples:
 - Wastewater treatment facilities
 - Power plants, mining, food manufacturing, etc.
 - Construction stormwater and remediation
 - Funding for a reasonable share of staff services
 - Where do fees go?
 - Compliance assistance
 - Permit issuance
 - Site applications/Design reviews
 - Facility inspections and enforcement
 - Stream monitoring and assessment activities

Clean Water Program Fees

- Why are Water Quality Fees important?
 - Portion of program costs
 - Strives for fiscal alignment and transparency
 - Allows for state delegation authority

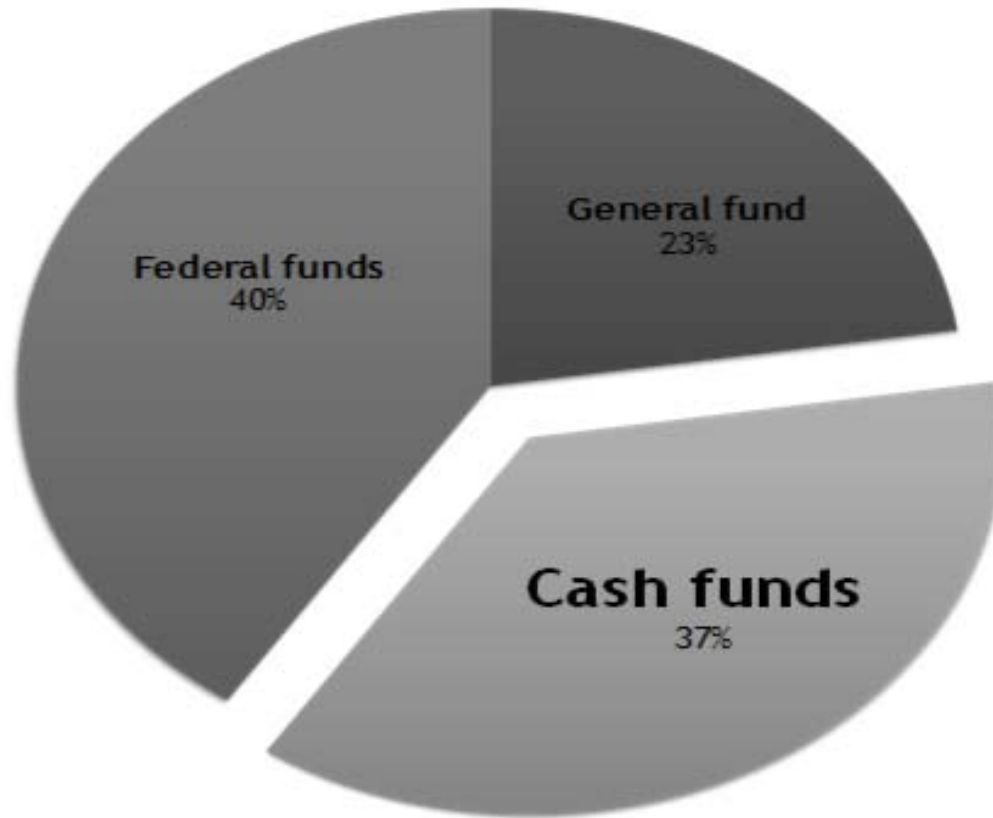
What is the Problem?

- The Clean Water program fee statutory structure has not been significantly updated since passage in 1983.
- Five fee adjustments in over 30 years.
- Today's permitting program costs more than what is brought in annually therefore draining the fund balance.
- For SFY 14-15 the cash fund reserve will expend approximately \$800K to fund daily operations.
- Entities are being subsidized by the fees of other sectors.

What are we trying to do?

- This is NOT intended to grow the program unless stakeholders ask for increased services.
- This IS intended to make us whole.
- We continue to pay for daily operations, such as FTE, out of our fund balance.
- Figure out a sustainable funding source for daily operations that is not the fund balance.

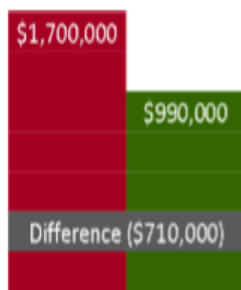
Clean Water Program Funding Sources - SFY 2015



Clean Water Permitting Program Fees and Expenditures by Sector

CASH FUNDED SERVICES

Commerce & Industry



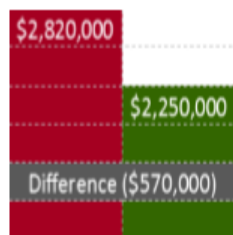
FTE = 13.7

Construction



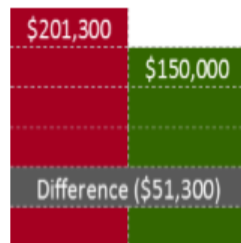
FTE = 7.8

Public/Private Utilities & Biosolids



FTE = 22.0

MS4

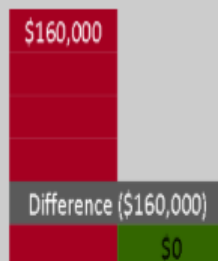


FTE = 1.6

NON-CASH FUNDED SERVICES

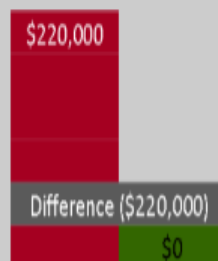
Pesticides

FTE = 1.1



Water Quality Certification

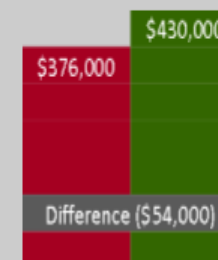
FTE = 1.5



SERVICES FUNDED THROUGH Div. of Environmental Health and Sustainability

Animal Feeding Operations (AFO)

FTE = 4.25



Revenue



Expenditure



Clean Water Fee Stakeholder Process

- The JBC bill SB 14-134 was PI'd with a letter signed by stakeholders committing to a stakeholder process with the department.
- Since May, there have been 32 facilitated meetings for a total of **56 meeting hours** with stakeholders.
- Over 9,500 emails on our distribution list.
- All meeting materials can be found here: <https://www.colorado.gov/pacific/cdphe/clean-water-fee-structure-discussion>.

Clean Water Fee Stakeholder Process

- As of November 20th, four of the groups have had an online feedback form open and close. Stakeholders agreed that the form would be open for 21 days.
- The remaining online feedback forms will close on Nov 27th.
- **Currently 219 categories and subcategories** in statute (C.R.S. 25-8-502) making it very complex and confusing.
- Modernized proposal has 59 categories and subcategories **simplifying the structure.**

Clean Water Fee Stakeholder Process

- Six small workgroups:
 - Pesticides.
 - 401 Water Quality Certification.
 - Commerce and Industry.
 - Construction.
 - MS4.
 - Public and Private Utilities.

Pesticides

- This is a NEW fee. Currently, this program is 100% general funded.
- EPA lost a law suit and now pesticide applicators have to be permitted under the federal Clean Water Act.
 - As EPA's delegated authority, CDPHE administers this permit.

Pesticides

- Small working group recommendations include:
 - The program should continue to exist and the current level of 1 FTE is appropriate.
 - Don't bill the for-hire applicator.
 - Any fee assessed should be effective no earlier than January 2016 and aligned with annual reporting timelines.
 - Only assess a fee on decision makers who are reporting entities.
 - Come back to the table in three years or after the EPA issues their new permit, whichever comes first. In the meantime the division can implement a fee of \$275 for reporting entities which is reflective of approximately 13% of the total program costs.

401 Water Quality Certification

- For large water projects, often there is a potential that water quality will be impacted. Examples of 401 Water Quality Certification
 - Large water diversions and new or expanded reservoirs
 - Snowmaking diversions
 - Hydropower relicensing
- New fee. Currently being paid for by other funding sources.

401 Water Quality Certification

Tier	Pre-application	Certification	Certification conditions monitoring	Possible range of fees based on number of hours and life of project
1	no fee	\$1,100 submitted with certification application	no fee	\$1,100
2	no fee	\$3,800 submitted with certification application	no fee	\$3,800
3	\$600 submitted with pre-application	\$76/hour for division staff \$152/hour for contractors	\$76/hour for division staff	\$41,600 to \$69,000
4	\$600 submitted with pre-application	\$76/hour for division staff \$152/hour for contractors	\$90/hour for division staff	\$276,000 to \$735,000

Commerce and Industry

- Currently no methodology for fee amounts
- Proposed fees be scaled by complexity of the permit and compliance activities per stakeholder feedback.

Commerce and Industry

- The updated fee structure reduces 12 categories to 1 and 59 subcategories to 7.
- There are 2,090 permitted entities in this sector:
 - 113 individual permits. These are specific and tailored to a unique facility.
 - 1,977 general permits. These are standard terms and conditions for a variety of facility types.

Commerce and Industry

- 4 tiers for *individual permits*:
 - Low complexity (32 entities)
 - Medium complexity (22 entities)
 - High complexity (48 entities)
 - Very high complexity (11 entities)
- 3 tiers for *general permits*:
 - Low complexity (1,767 entities)
 - Medium complexity (175 entities)
 - High complexity (35 entities)

Commerce and Industry

- Determining Complexity:
 - Scale and nature of the industrial operation.
 - Level of technical and regulatory analysis.
 - Public involvement in the permitting process.
 - Number of outflows.

Construction

- Currently, construction is the only sector paying their way.
- The updated fee structure replaces three categories and eight subcategories with one category and six subcategories.
- There are 3,966 permitted entities in this sector
 - 3,488 construction stormwater permits
 - 475 general permits
 - 3 individual permits

Construction

- Currently fees scaled by acreage disturbed and will continue:
 - Less than 1 acre stormwater permit (136 entities)
 - 1-30 acres stormwater permit (2,725 entities)
 - 30+ acres stormwater permit (627 entities)
 - Low Complexity General Permit-hydrostatic and dewatering (422 entities)
 - High Complexity General Permit-remediation (53 entities)
 - Individual permit for construction activity (3 entities)

Construction

- Construction sector asked for NEW services:
 - Increased compliance oversight: review and response to the inspected entity's written response to the division inspection. Follow up inspections and additional inspections for owners and operators with systematic violations. Increased overall inspection frequency.
 - Expedited general permits

Municipal Separate Storm Sewer System (MS4)

- The updated fee structure includes five categories to replace current seven categories and 23 associated subcategories.
- There are 116 permitted entities in this sector
 - Individual permit (5 entities)
 - General permits (111 entities)

Municipal Separate Storm Sewer System (MS4)

- Currently fees for *general permits* are scaled by population and will continue:
 - Less than 10,000 population (46 entities)
 - 10,000-50,000 population (44 entities)
 - 50,000-100,000 population (14 entities)
 - 100,000+ population (8 entities)

Public and Private Utilities (PPU)

- The updated structure replaces 149 categories and subcategories with 59 categories and subcategories.
- There are 1,604 entities in this sector:
 - Domestic Wastewater Treatment Works (532 entities)
 - Water Treatment Plants (104 entities)
 - Biosolids (625 entities)
 - Pretreatment (319 entities)
 - Reclaimed Water (24 entities)

Public and Private Utilities

- Currently fees are scaled by flow and this will continue but modified. Currently there is a tiered structure. The proposal uses a linear equation instead.
- No longer distinguish between treatment technology (lagoon v. mechanical)
- Biosolids moves out of the Solid Waste Act into the Clean Water Act. Fees are scaled by dry tons.

Clean Water Fee Next Steps

- Report out findings of online feedback form
 - December 10 @ CDPHE:
 - 401 water quality certification
 - PPU
 - MS4
 - December 16 @ CDPHE:
 - Pesticides
 - Commerce and Industry
 - Construction
 - Large group/cross cutting policy issues.

4:50-5:00 GENERAL DEPARTMENT QUESTIONS

23. Please discuss the radiation counting functions of the State Laboratory.

Response: *The state lab measures radioactive material in environmental samples and individuals. The program uses a whole body counter to detect gamma radiation contamination in people and objects.*

Customers include:

Public Water supplies, (testing both drinking water and waste products)

The State of Washington,

The CDPHE Hazardous Materials and Waste Management Division, and

Private parties.

Customers for the in vivo services (Whole Body Counting) include:

Military personnel and other persons involved in radioactive clean up,

Medical device company employees using radionuclides (both in state and out of state),

The United States Geological Survey,

The Colorado School of Mines, and

Various commercial entities who hold licenses for radioactive materials.

24. Please discuss how the Department is ensuring inter-operability of the Department's component of the Health Information Exchange with the other components of the Exchange.

Response: *Health Information Exchange (HIE) systems enable providers, hospitals, laboratories and other health care organizations to use approved standards to securely submit clinical information to various state public health systems and programs. Public health programs require standardized electronic reporting and CDPHE has identified HIE as the gateway for this electronic data exchange. CDPHE is currently improving and upgrading existing infrastructure that will support the increased volume of health care provider data entered into specific registries within CDPHE via HIE. In addition, CDPHE and HIE have weekly ongoing meetings in order to best coordinate efforts and ensure interoperability between the two organizations.*

25. Please discuss the Department's intentions related to the regulation and/or monitoring of naturally flowing hot springs.

The Department is working on water quality permits for some commercial hot springs swimming pools and bathing areas that discharge pollutants like chlorine to state waters. The permits are required by the Clean Water Act to control pollutants like chlorine added to the pools and other cleaning agents that can kill fish. Last spring, the Department developed a draft general permit that could be customized in application and monitoring to the variety of such operations including naturally flowing springs. The Department received many good comments on the draft permit, and is working on its response and determining next steps. The Department has also

worked to increase outreach to commercial hot springs operators to increase understanding about discharge permits and address any misunderstandings about conditions that were included in the draft general permit.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implement or has partially implemented the legislation on this list.

Response: *The Department has implemented, or is in the process of implementing, all applicable legislation.*

2. What is the turnover rate for staff in the department? Please provide a breakdown by office and/or division, and program.

	July	August	September	October	November	December	January	February	March	April	May	June	FY14
EE Count	1302	1277	1278	1286	1297	1306	1313	1315	1311	1298	1305	1304	1299
Separations	39	16	12	11	5	11	12	14	10	18	18	12	178
Turnover Rate	3%	1%	1%	1%	0%	1%	1%	1%	1%	1%	1%	1%	14%
ADM													
EE Count	95	94	93	93	93	93	92	94	96	95	95	96	94
Separations	3	3	1	1	1	1	1	0	1	3	2	2	19
Turnover Rate	3%	3%	1%	1%	1%	1%	1%	0%	1%	3%	2%	2%	20%
APCD													
EE Count	177	178	181	179	181	181	182	180	179	181	180	178	180
Separations	1	1	2	2	1	0	3	2	0	2	2	1	17
Turnover Rate	1%	1%	1%	1%	1%	0%	2%	1%	0%	1%	1%	1%	9%
CHEIS													
EE Count	101	98	99	99	100	101	101	103	105	102	102	98	101
Separations	1	1	0	0	0	1	0	0	2	0	5	2	12
Turnover Rate	1%	1%	0%	0%	0%	1%	0%	0%	2%	0%	5%	2%	12%
DCEED													
EE Count	168	165	163	163	165	168	171	171	166	156	162	162	165
Separations	3	1	0	0	1	1	1	5	2	1	2	3	20
Turnover Rate	2%	1%	0%	0%	1%	1%	1%	3%	1%	1%	1%	2%	12%
DEHS													
EE Count	37	38	38	40	40	40	40	41	41	41	41	41	40
Separations	1	0	0	0	0	0	0	0	0	0	0	0	1
Turnover Rate	3%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	3%
HFEM													
EE Count	156	144	143	144	144	145	146	143	143	143	147	149	145
Separations	14	3	2	2	1	3	1	2	1	1	2	2	34
Turnover Rate	9%	2%	1%	1%	1%	2%	1%	1%	1%	1%	1%	1%	23%
HMWM													
EE Count	111	111	112	111	110	111	110	110	110	110	107	109	110
Separations	1	0	0	1	0	1	0	0	1	3	2	2	11
Turnover Rate	1%	0%	0%	1%	0%	1%	0%	0%	1%	3%	2%	2%	10%
LSD													
EE Count	77	74	72	73	72	73	72	70	71	72	73	73	73
Separations	4	2	2	1	0	1	2	1	0	0	0	0	13
Turnover Rate	5%	3%	3%	1%	0%	1%	3%	1%	0%	0%	0%	0%	18%
OEPR													
EE Count	35	34	34	35	35	35	35	36	35	34	34	32	34.5
Separations	1	0	0	0	0	0	0	1	0	0	0	0	2
Turnover Rate	3%	0%	0%	0%	0%	0%	0%	3%	0%	0%	0%	0%	6%
PSD													
EE Count	188	184	185	187	189	189	191	191	188	189	190	190	188
Separations	9	4	4	2	1	2	2	3	1	6	1	0	35
Turnover Rate	5%	2%	2%	1%	1%	1%	1%	2%	1%	3%	1%	0%	19%
WQCD													
EE Count	157	157	158	162	168	170	173	176	177	175	174	176	169
Separations	1	1	1	2	0	1	2	0	2	2	2	0	14
Turnover Rate	1%	1%	1%	1%	0%	1%	1%	0%	1%	1%	1%	0%	8%

3. Please identify the following:
- a. The department's most effective program;

Response: *The Department has a number of very effective programs including:*

- *School Based Health Centers Program that served 31,056 patients in 2013;*
- *Primary Care Office that provided 252 additional clinicians who delivered 840,000 care visits to the uninsured or those on Medicaid or Medicare over the past 5 years;*
- *Survey Research Unit that conducted 13,649 surveys in 2013, providing data for all regions in the state;*
- *Cancer, Cardiovascular Disease and Pulmonary Disease (CCPD) Competitive Grants Program that funded 25 grantee agencies that served 38,081 Coloradoans;*
- *Emergency Medical and Trauma Services Program that distributes \$6.7 million dollars annually to approximately 130 Colorado emergency medical and trauma providers (EMT) to purchase capital medical equipment, and ambulances; offset costs of tuition, books and fees for EMTS provider education; and support EMS/Trauma system development;*
- *Drinking Water Program with 96% of Colorado's residents on public drinking water supply systems that have drinking water that meet all health-based standards;*
- *Oil and Gas Permitting Program that improved customer service by reducing backlogs through development of 6 different "general permits" which allow industry to immediately commence operations upon filing.*

Given the tremendous success of the Family Planning Initiative in reducing unintended pregnancy, and the national attention the initiative has received in the last year, the Department believes that program deserves special recognition for its effectiveness.

- b. The department's least effective program (in the context of management and budget);

Response: *Statute requires the Department and the Board of Health to monitor and prepare an annual Tobacco Master Settlement Agreement (MSA) report. This mandate duplicates the efforts of the six state agencies that provide MSA funded services, and neither the Department nor the Board of Health has authority to compel performance. As funding levels are established in statute and several of the programs receiving funding are not under the jurisdiction of the Board of Health, the Board has little opportunity to use the information in the report in a meaningful way. Further, the annual report is a duplication of other state agencies' performance management and reporting efforts, as well as potentially duplicative of any monitoring efforts of this \$90M funding stream undertaken by the JBC, State Treasurer and State Auditor.*

- c. Please provide recommendations on what will make this program (2.b.) more effective based on the department's performance measures.

Response: *The Department recommends that the Section 25-1-108.7, C.R.S. be repealed and Title 24, Article 75, Part 11 be reviewed to align statute with current appropriations and streamline MSA program oversight and reporting to hold executive agencies responsible for program performance and related reporting. Though the Department does not anticipate an impact, it is recommended that this revision occur in consultation with the Office of the Attorney General to ensure this change does not impact Tobacco MSA litigation.*

4. How much capital outlay was expended using either operating funds or capital funds in FY 2013-14? Please break it down between the amount expended from operating and the amount expended from capital.

Response: *In FY 2013-14, the Department recorded a total of \$2,514,840 in capitalized expenditures. Of this amount, \$2,008,148 was from the operating budget and \$506,692 was from the capital construction budget. Examples of operating budget capitalized expenditures include the purchase of laboratory equipment and IT hardware, while the capital construction expenditures solely encompass the purchase of infrared cameras for the “Two-Year Air Fugitives Inventory and Compliance Study”.*

5. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office on June 30, 2014? What is the department doing to resolve the outstanding high priority recommendations?

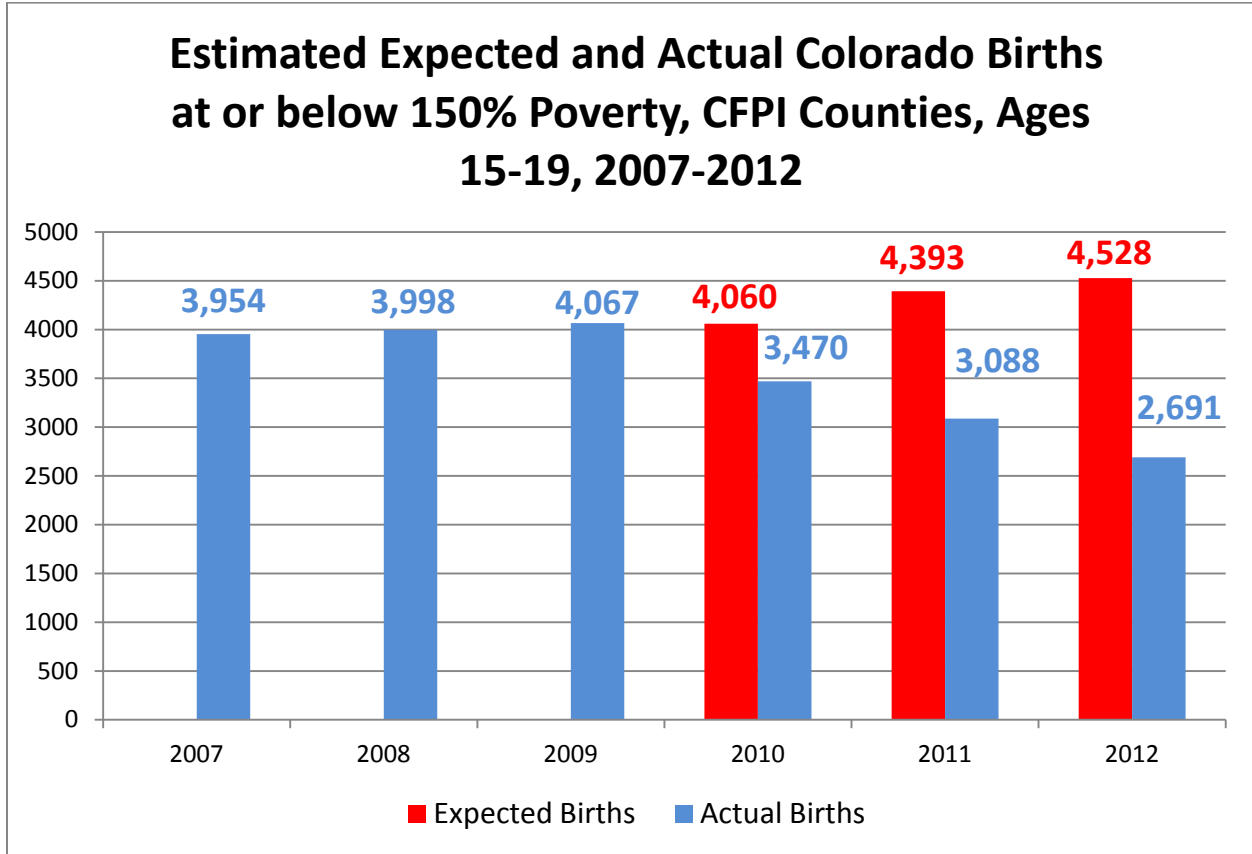
[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1FE335CE3162803F87257D7E00550568/\\$FILE/1422S%20-%20ANNUAL%20REPORT%20OF%20AUDIT%20RECOMMENDATIONS%20NOT%20FULLY%20IMPLEMENTED%20AS%20OF%20JUNE%2030,%202014.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1FE335CE3162803F87257D7E00550568/$FILE/1422S%20-%20ANNUAL%20REPORT%20OF%20AUDIT%20RECOMMENDATIONS%20NOT%20FULLY%20IMPLEMENTED%20AS%20OF%20JUNE%2030,%202014.pdf)

Response: *The Department has only one outstanding audit finding that the State Auditor determined to be a high priority. That finding is associated with Excess Uncommitted Cash Fund Reserves. The Department is working to reduce the remaining outstanding Cash Funds Uncommitted Reserve balances that are out of compliance as follows:*

- *Newborn Genetics Fund - The Department is working with the Office of the State Auditor subcommittee to request an alternative reserve balance for the Newborn Genetics fund. The department feels that a larger balance is needed in this fund in order to cover the costs of adding new tests to the newborn screening panel as needed over time.*
- *Medical Marijuana Registry Fund – The Department has initiated a variety of measures to reduce excess uncommitted reserves in the Medical Marijuana Fund. Through these efforts, the Department anticipates that the fund will be in compliance by the end of FY 2016-17. Efforts to date are as follows:*

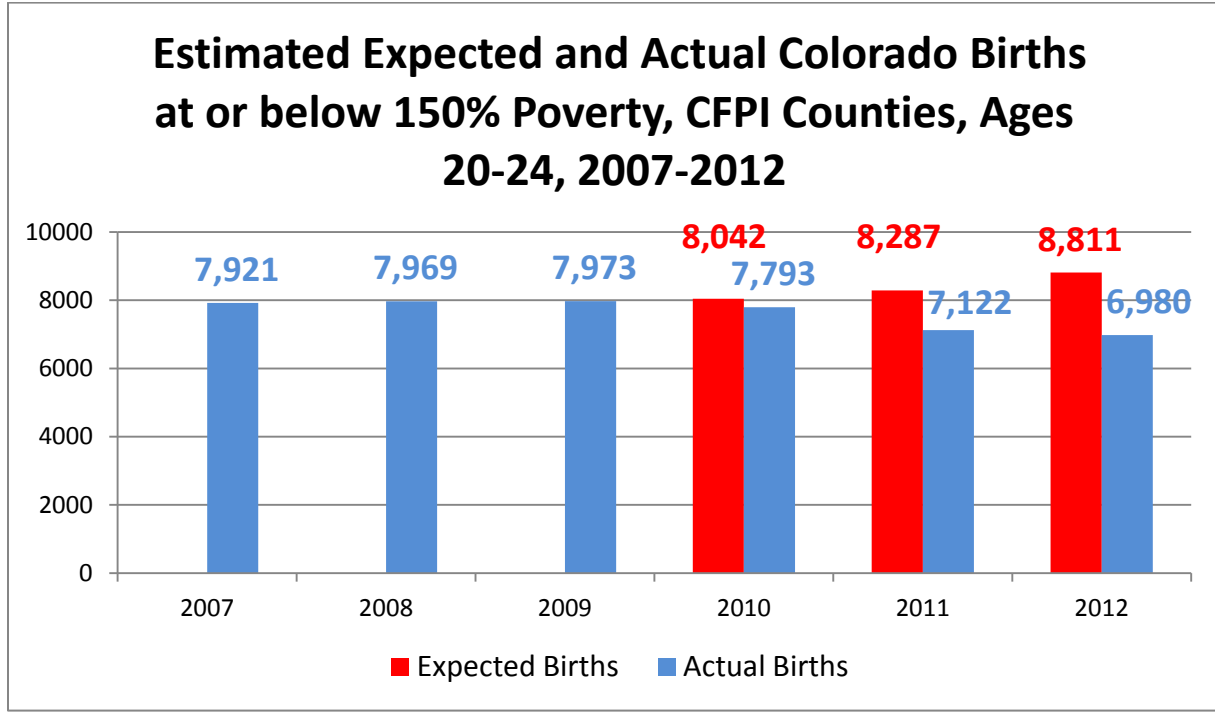
1. *Fee reduction - The Colorado Board of Health (BOH) has reduced the application fee twice; in January 2012 from \$90 to \$35, and in February 2014 from \$35 to \$15. (Note: Revenue reduction efforts have been offset by revenue increases resulting from a greater number of program registrants since the introduction and sale of adult-use marijuana in January, 2014. This increase in applicants has resulted in increased cash revenues and contributing to delayed compliance).*
 2. *Budget Requests – CDPHE and the Governor’s Office submitted budget requests in FY 2014-15 to use fund resources to support initiatives related to medical marijuana research and data management. The following requests were approved by the General Assembly:*
 - *\$10 million for marijuana research studies (which is exempt from the 16.5% reserve requirement through FY 2018-19 per SB14-155); and*
 - *\$1,117,284 for the Medical Marijuana Registration System (Capital Construction appropriation per HB 14-1336).*
- *Assisted Living Residence Fund - CDPHE implemented two changes to address the excess uncommitted reserves in this fund. On January 1, 2011 the licensure fees to the program were reduced to draw down the excess over a three-year period. In November 2013, CDPHE transferred \$188,463 to the Dept of Public Safety with the transfer of Life Safety Code staff. The fund is projected to be in compliance by the end of FY 2014-15*
 - *Laboratory Cash Fund - The reduction in revenues from declining laboratory test volumes and lingering costs associated with the closure of the Toxicology Lab are projected to bring the fund into compliance by the end of FY 2014-15.*
 - *Fixed & Rotary-Wing Ambulances Fund - At the October 2014 Board of Health meeting, the Department requested a temporary suspension of fees from January 2015 through June 2016 in order to decrease revenues to the fund. The fund is projected to be in compliance by the end of FY 2015-16.*
 - *Health Facilities General Licensure Fund – The Department is pursuing various options to bring this fund into compliance including a potential rebate program that will distribute a proportionate rebate to all facilities that paid into the fund. The program has also begun the process of reducing fees, which requires Board of Health approval. If these actions are approved, this fund is projected to be in compliance by the end of FY 2014-15.*

APPENDIX A: FAMILY PLANNING



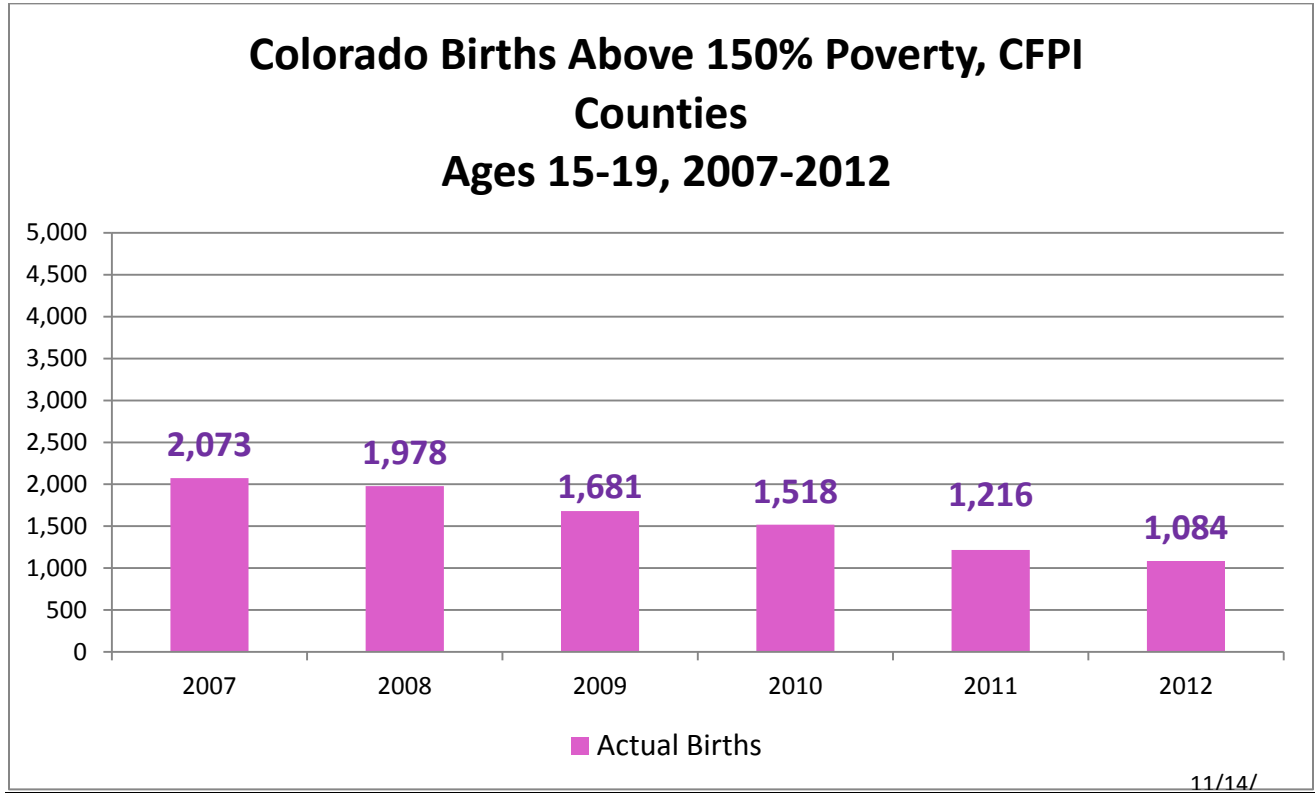
CFPI counties: Adams, Arapahoe, Archuleta, Boulder, Broomfield, Cheyenne, Denver, Delta, Douglas, Eagle, El Paso, Gunnison, Huerfano, Jefferson, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Moffat, Montrose, Morgan, Phillips, Pitkin, Pueblo, Rio Blanco, Routt, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, and Yuma. CFPI counties contain 95% of the state's population.

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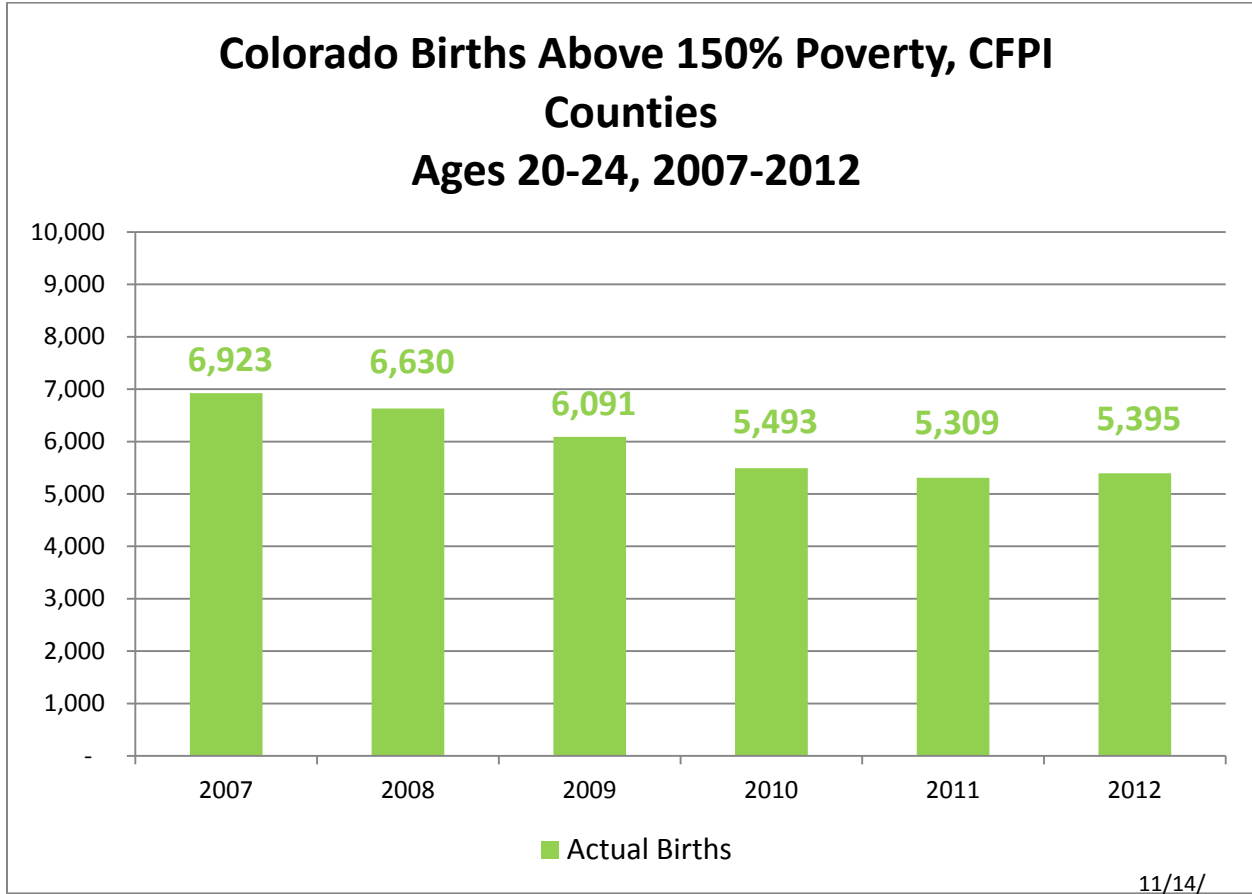
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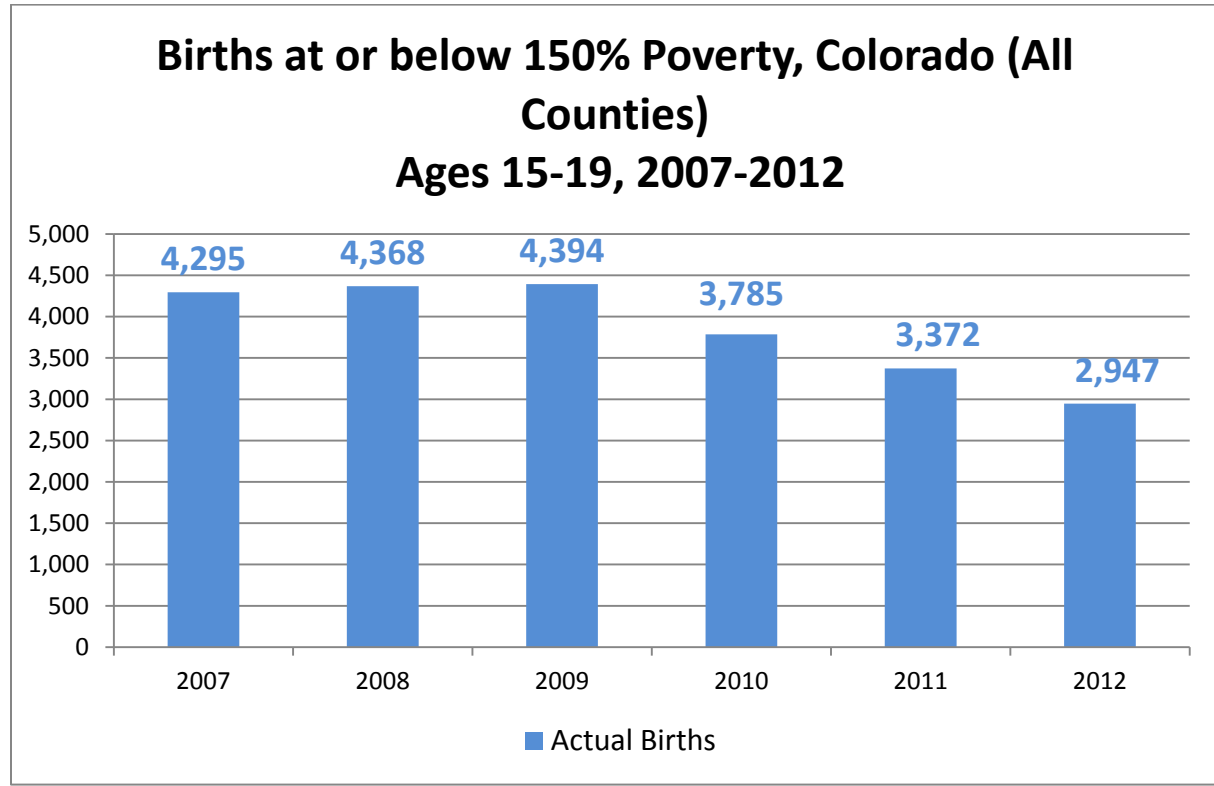
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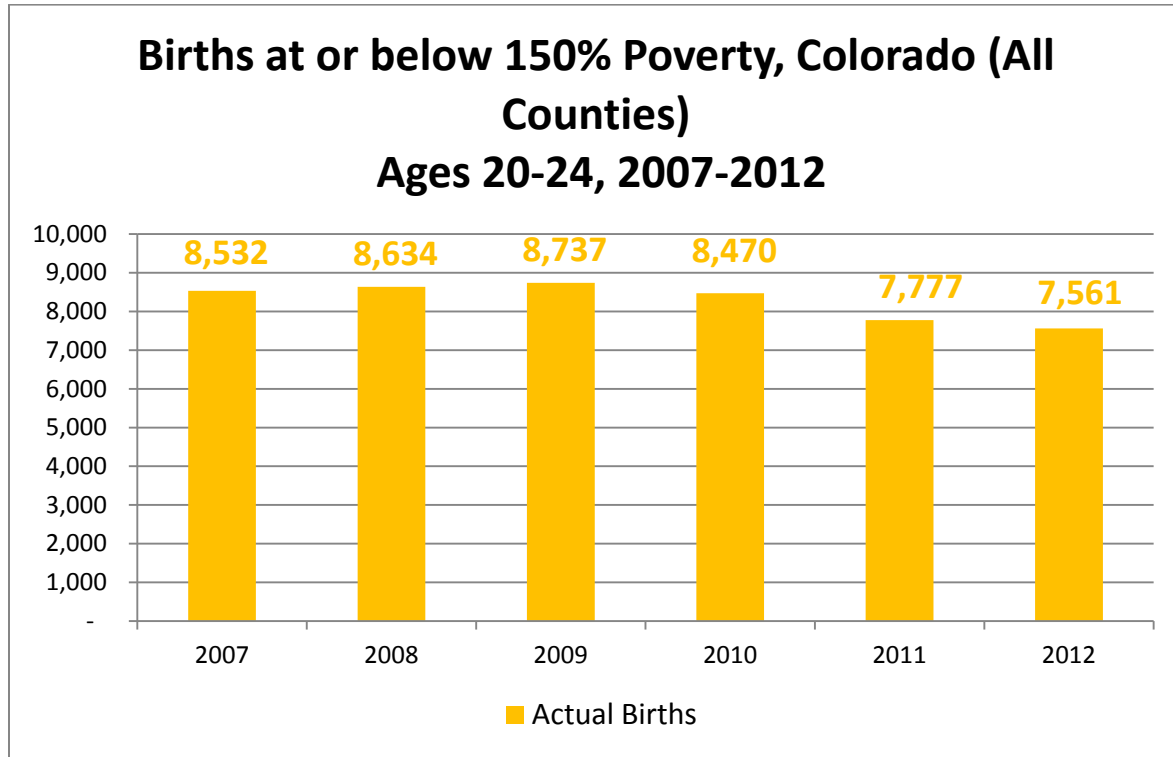


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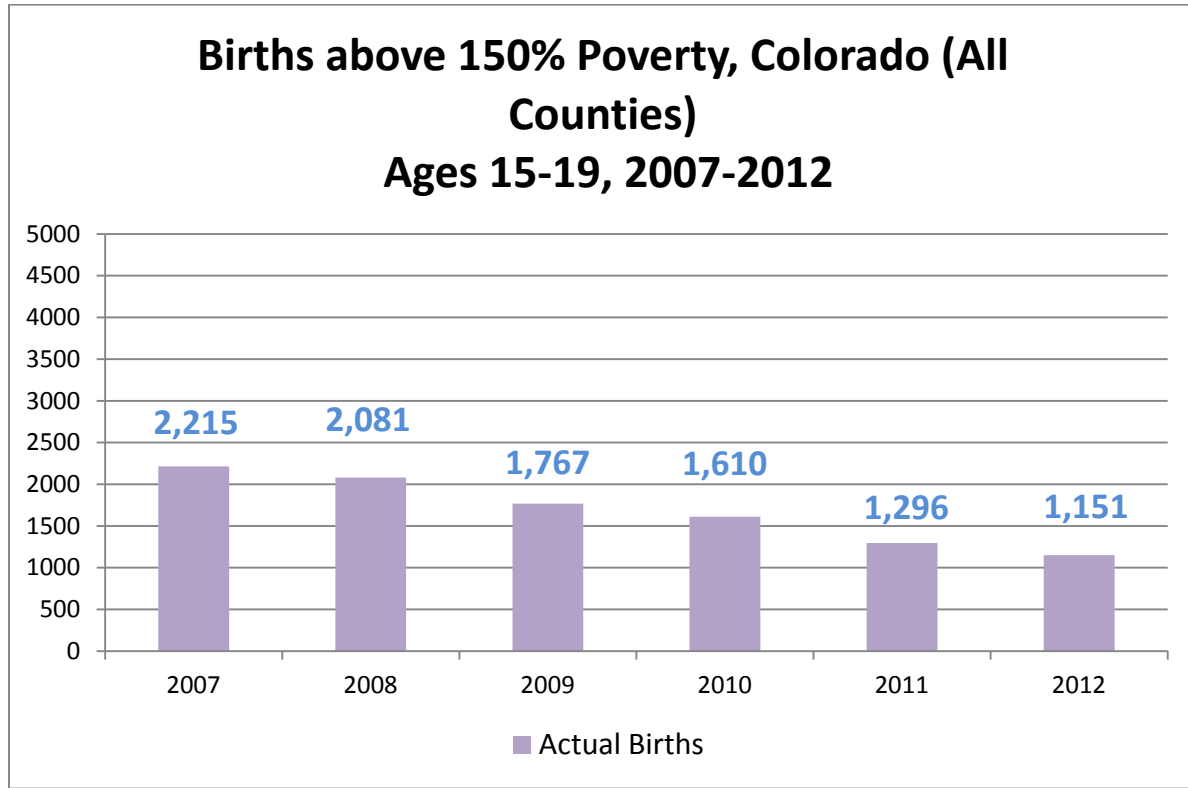
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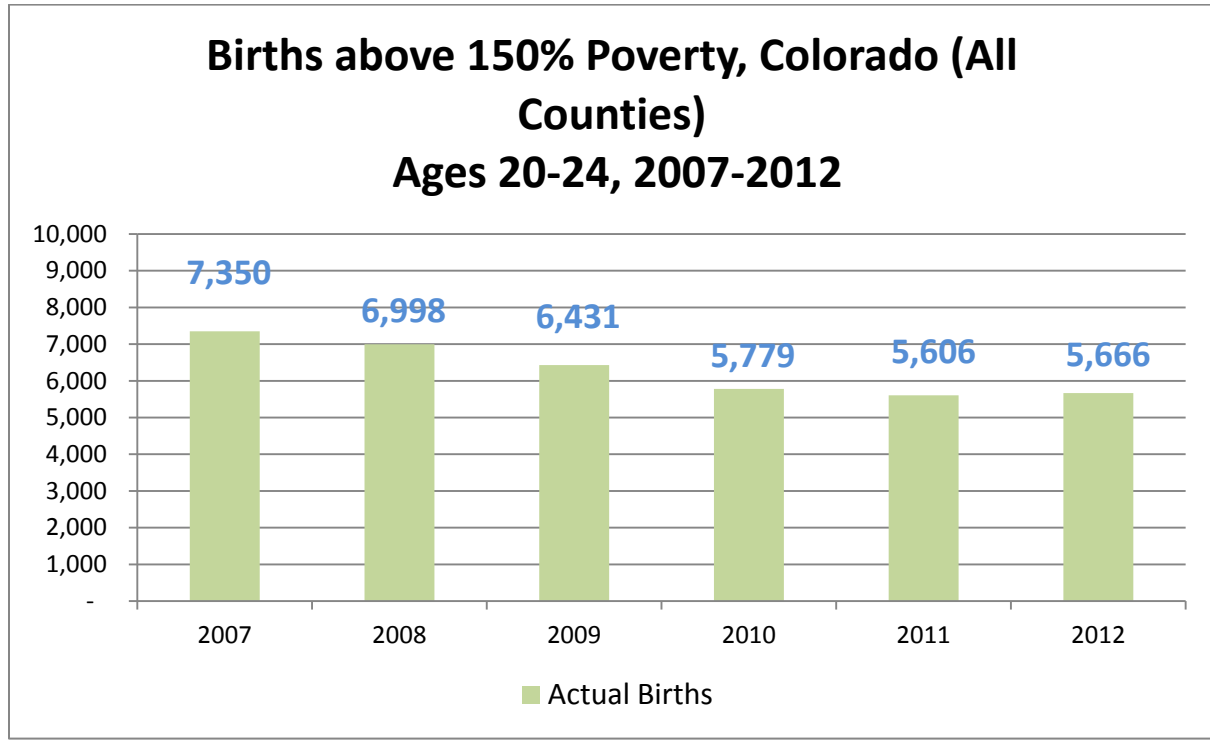
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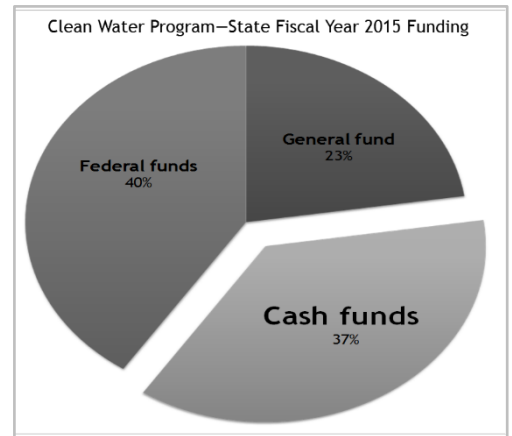




WQCD Clean Water Fee Structure

Problem statement

The current fee structure does not accurately reflect the nature of the program and services provided today because services have evolved since 1983. The ability to make changes to the fee structure has been very limited with only five fee adjustments in over 30 years. Today's clean water program costs more than what is brought in annually and therefore is draining the program's fund balance at a rate of approximately \$800K for state fiscal year 14-15. This amount is expected to increase in future years. Additionally, some entities are being subsidized by the fees from other sectors. This imbalance is making the overall program unsustainable; some measure of change is required.



State fiscal year 2014-2015: sector based revenue shortfalls

Sector	Cost of Services	Cash Fund Revenue	Difference	Full Time Equivalent Staff
Commerce & Industry	\$1,700,000	\$990,000	(\$710,000)	13.7
Construction	\$990,000	\$1,200,000	\$210,000	7.8
MS4	\$201,300	\$150,000	(\$51,300)	1.6
Public & Private Utilities including Biosolids	\$3,000,000	\$2,400,000	(\$600,000)	23.6
Pesticides	\$160,000	\$0	(\$160,000)	1.1
Water Quality (401) Certification	\$220,000	\$0	(\$220,000)	1.5

Consequences of not moving forward (aka doing nothing)

The program will run out of money to operate and tough choices will need to be made including cutting services. Sectors will continue to be subsidized by other industry fees. Obsolete categories will not be removed and the statute will continue to be complex and lengthy. Additionally, the current cumbersome structure causes confusion for stakeholders.

Stakeholder process summary

Per the direction of the legislature via SB 14-134, the department created an in-depth stakeholder process to create two way dialogue regarding the best path forward to address the need for changes to the clean water program fee structure. The group agreed to break into the following sector based workgroups for more detailed discussion applicable to the sector: commerce and industry, construction, MS4, public and private utilities which also includes biosolids, pesticides and water quality certification. In addition to small workgroup meetings, large all stakeholders meetings were held to check in on progress and discuss cross cutting issues.

Total stakeholder meetings* (May 15 - October 30) *does not include internal coordination meetings	Approximate total hours in discussion* *does not include internal coordination meetings
32	56 hours

Fee proposal scenarios



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1. Across the board fee increase of 32.2% for all sectors to make the program whole. Individual fees will vary based on the update to the structure for each specific sector. Thus the 32.2% increase is applied across the entire modernized sector NOT to individual fees. This increase means the division is NOT dipping into fund reserves however, it also means there is no active replenishment of the fund balance.
2. Address cash fund subsidies for all sectors. Fee increases or decreases vary per sector based on the recommended methodology (e.g. time and effort, flow, acreage, etc.) per stakeholder feedback for equity between large and small facilities and everyone pays their own way.
3. Long term goal is to balance the general and cash funds evenly. Federal funding is not incorporated due to lack of control over annual amounts and allocations. Any adjustment in fees is a result of modernizing the structure. This is a stakeholder proposal with a focus on general fund increase and static cash funds.
4. Do nothing.
5. Across the board fee increase of 39% for all sectors to make the program whole. Individual fees will vary based on the update to the structure. The increase is applied across the entire modernized sector NOT to individual fees meaning the structure is updated prior to the 39% increase. This increase means the division is NOT dipping into fund reserves and is actively replenishing the fund balance to 16.5%.

Because the program is currently unsustainable, scenario four, the do nothing alternative is off the table. Because scenario five represents a large fee increase for multiple sectors, the division is taking this scenario off the table since other scenarios represent a more modest and reasonable change.

Assumptions

- Based on a three year forecast (SFY 15-16 through SFY 17-18).
- Modernization or update to the fee structure applies to all scenarios.
- Built in three year fiscal review similar to a sunset review.
- Fees are presented with no new services AND new services side by side as requested by each sector.
- Federal funds remain static.

Type of Charge	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Source of additional funds (CF, GF)	CF	CF	GF	N/A	CF
Subsidy removed?	N	Y	Y	N	N
Increase in fees	32% for all	Varies per sector	Varies per sector	None	39% for all
Updated fee structure?	Y	Y	Y	N	Y



Commerce & Industry - Fee Proposal Fee Structure Proposal

Fee proposal below is structured with two options → current services OR increased services. Increased services means compliance oversight levels needed to prevent direct oversight by EPA.

For individual permits: Compliance monitoring costs are incorporated into the fee and are the same for all types of individual permits.

For general permits: Compliance monitoring costs are incorporated into the fee and vary by permit type for general permit to reflect differences in current monitoring levels (current services) or to reflect differences in monitoring goals established by EPA (increased services). For low and medium complexity general permits, additional oversight inspections to meet EPA compliance goals places increased emphasis on follow-up activities to obtain a return to compliance.

The update to the fee structure reduces twelve categories to one and 59 subcategories to seven. Categories replaced include 1-4, 7-10, 11, 12, 24, and 26 and the 59 associated subcategories.

Cat - Subcat	Category description	No. of Entities	Scenario 1 with increased services	Scenario 1 without increased services	Scenario 2 with increased services	Scenario 2 without increased services	Scenario 3 with increased services	Scenario 3 without increased services
07-01	Individual Permits Low Complexity	32	\$3,650	\$3,480	\$4,800	\$4,650	\$3,000	\$2,760
07-02	Individual Permits Medium Complexity	22	\$5,900	\$5,630	\$7,800	\$7,560	\$4,800	\$4,420
07-03	Individual Permits High Complexity	48	\$8,100	\$7,730	\$10,750	\$10,430	\$6,700	\$6,160
07-04	Individual Permits Very High Complexity	11	\$11,100	\$10,600	\$14,700	\$14,260	\$9,100	\$8,365
07-05	General Permits Low Complexity	1,767	\$360	\$160	\$480	\$280	\$300	\$100
07-06	General Permits Medium Complexity	175	\$900	\$700	\$1,200	\$1,000	\$750	\$550
07-07	General Permits High Complexity	35	\$3,500	\$3,430	\$4,650	\$4,500	\$2,900	\$2,630

- Annual fees.
- The new structure for industrial permits consists of tiers based on the complexity of the permit - four tiers for individual permits and three tiers for general permits.
- Rationale to determine permit complexity: tiers for both individual and general permits were developed by grouping permits based on the scale and nature of the industrial operations, level of technical and regulatory analysis associated with permit development and extent of permittee and public involvement in the permitting process. An additional consideration for general permits includes the number of facilities authorized by the general permit (number of certifications).

- Proposed fees for individual and general permits meet current staff and resource needs for permitting (i.e., there are no new permitting services that were evaluated for industrial permits).

Compliance oversight - current and increased services

Number of permits	Master General Permit Name	Current monitoring level	Monitoring goal - with increased services
109	Subterranean dewatering or well development:	0%	10%
104	Commercial washing of outdoor structures:	0%	10%
964	Non-extractive industries stormwater:	2%	10%
92	Metal mining industry stormwater:	2%	10%
498	Sand & gravel mining and processing stormwater only:	2%	10%
162	Sand & gravel mining wastewater and stormwater combined:	2%	20%
13	Aquatic animal production:	3%	20%
11	Coal mining process water and stormwater combined:	20%	20%
14	Non-contact cooling water:	8%	20%
10	Produced water treatment facilities:	20%	20%

Compliance oversight goals are incorporated from Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy, (EPA 2014).

- Compliance oversight goals are the minimum frequencies for a comprehensive inspection recommended by EPA. Goals are expressed as a percentage of the permitted universe to be inspected annually, which if followed would result in meeting the minimum inspection frequency for all permitted facilities over the recommended time period (i.e., a 10% goal means that each facility should receive a comprehensive inspection once every 10 years).
- Note that 10% (not 20%) was used for subterranean dewatering or well development permits and the commercial washing of outdoor structures. These are reported as traditional non-major sources in EPA's database and for the purpose of reporting on measures such as backlog, a lower oversight rate was presumed to be approvable by EPA given the nature of the discharges.
- The proposed new compliance goals are dependent on a strategy that relies on increased assistance and follow-up to obtain an overall increase in sector compliance instead of an increased reliance on enforcement. The proposed service levels do not include any additional resources to provide for formal enforcement and penalties. Enforcement under this revised strategy would be targeted towards operators who show chronic violations or recalcitrant response actions. Components of the strategy could include streamlined site visits, providing initial consultations and increased assistance resources (e.g., guidance documents, presentations, and online resources).

Discharge permit applications, application supplements and permit modifications.

- Applications and supplementals: fee is 50 percent of the annual fee. The fee will be received at the time of application. The fee covers costs for developing a permit and compliance oversight until July 1 of the next state fiscal year when the first annual permit fee would be paid.
- Permit modifications: fee of 25 percent for minor amendments and 50 percent for major amendments. Receipt of payment is due at the time of application.



A la carte services

- Administrative action fee of \$80 received at the time of application. The fee applies to permit transfers and no exposure certifications (NOX). The division does not intend to assess any fee for administrative actions that are contact updates or permit terminations.
- Fees are scaled by complexity from low to high.
- Hourly rates are based on the average expected level of staff expertise needed to provide the service.
 - \$76/hour for environmental/physical scientist.
 - \$90/hour for senior environmental/physical scientist.

Service Type	Application Fee	Example Actions
Compliance assistance	no fee	<ul style="list-style-type: none"> • Compliance assistance inspection or audit, upon request.
Administrative action	\$80	<ul style="list-style-type: none"> • Permit transfer. • NOX. • Minor permit modification (removal of an outfall).
Low complexity	\$600	<ul style="list-style-type: none"> • Permitting exemption, determination that an activity conforms with the division's low risk discharge policy.
Low/Medium complexity	\$1,100	<ul style="list-style-type: none"> • Regulatory exemption, determination that a land application activity meets complete evapotranspiration.
Medium complexity	\$3,800	<ul style="list-style-type: none"> • Determination of the types of permit coverage required for a proposed new type of discharge.
High to very high complexity	\$3,800 submitted with application, additional fees may apply, see hourly rates above	<ul style="list-style-type: none"> • PELs. • Regulatory exemption, involving complex technical or legal analysis.



Construction - Fee Proposal

Fee Structure Proposal

The below fee proposal is structured with two options → current services OR increased services. For all permits except individual (increased service already provided for individual permittees), increased service means additional oversight inspections to meet EPA compliance goals and a revised compliance strategy framework with emphasis on follow up activities to obtain a return to compliance.

This proposed structure replaces three categories (7, 12, 26) and eight associated sub-categories with one category and six sub-categories.

Cat	Subcat	Category description	No. of Permits	Scenario 1 with increased services	Scenario 1 without increased services	Scenario 2 with increased services	Scenario 2 without increased services	Scenario 3 with increased services	Scenario 3 without increased services
08-01		Construction Stormwater < 1 acre	136	\$190	\$120	\$150	\$80	\$160	\$90
08-02		Construction Stormwater >= 1 acre to 30 acres	2,725	\$380	\$240	\$300	\$160	\$320	\$180
08-03		Construction Stormwater > 30 acres	627	\$570	\$240	\$450	\$160	\$480	\$180
08-04		Low Complexity General Permit (Hydrostatic and Dewatering)	422	\$1,040	\$900	\$740	\$600	\$830	\$690
08-05		High Complexity General Permit (Remediation)	53	\$2,440	\$2,300	\$1,800	\$1,660	\$1,930	\$1,790
08-06		Individual Permit For Construction Activity	3	\$6,000	\$6,000	\$4,000	\$4,000	\$4,600	\$4,600

- Annual fees. A la carte services are not included in the annual fee. A la carte services include expedited permitting, groundwater contamination analysis (preliminary effluent limits) and compliance assistance inspections which are detailed on the last page.
- This structure scales fees for construction stormwater based on land disturbance (acreage) as recommended by stakeholders.
 - The division is proposing three acreage based tiers which incorporate differences in compliance monitoring costs based on the relative size of the construction project.
 - For fees without new services, the fees for one to 30 acre sites and for 30+ acre sites are set to be the same amount due to the lower overall fee and the lower percentage of the fee associated with the 2 percent oversight level.
 - Permitting costs are equally distributed across all three tiers i.e., there is no difference in the cost of permitting small versus large construction projects.
 - The new structure does not include a separate fee for construction stormwater permits issued to CDOT.
- A distinct category is proposed for individual permits.
 - The division currently has three individual permits associated with construction dewatering or remediation activities.
 - Proposed fees for individual permits meet current staff and resource needs for both permitting and compliance monitoring i.e., there are no new services that were evaluated for individual permits.
- The structure for general permits consists of two tiers based on the complexity of the permit.



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- Proposed fees for general permits meet current staff and resource needs for permitting i.e., there are no new permitting services that were evaluated for general permits.
- This does not include a la carte because a la carte services are optional and are not built into the fees for the standard permitting process.
- Compliance monitoring costs are incorporated into the fee and vary by permit type to reflect differences in current monitoring levels (current services) and to reflect differences in national monitoring goals established by EPA (increased services) as detailed below.

Compliance oversight - current and increased services

Number of Permits	Permit Type/ Master General Permit Name	Current monitoring level	Monitoring goal - increased services
136	Construction Stormwater < 1 acre	2%	10%
2,725	Construction Stormwater >= 1 acre to 30 acres	2%	10%
627	Construction Stormwater > 30 acres	2%	10%
362	Construction dewatering	<2%	10%
53	Groundwater Remediation	<2%	10%
60	Hydrostatic Testing	<2%	10%
3	Individual Permits	20%	20%

Monitoring goals are incorporated from Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy, (EPA 2014).

- Compliance monitoring goals presented are minimum frequencies for a comprehensive inspection recommended by EPA. The goals are expressed as a percentage of the permitted universe to be inspected annually.
- The proposed new goals are dependent on a compliance strategy that relies on increased assistance and follow up to obtain an overall increase in compliance instead of increased reliance on enforcement.
- The proposed service levels do not include any additional resources to provide for formal enforcement and penalties, thus necessitating a revised strategy.
 - Enforcement under this revised strategy would be targeted towards operators that show chronic violations or recalcitrant response actions.
- The division would target additional compliance assistance towards general permittees under the scenario to seek increased compliance without the reliance on enforcement.
- Components of the strategy include streamlined site-visits providing initial assistance consultations and increased assistance resources e.g., guidance documents, presentations, and online resources.
- The strategy would also include the following recommendations from the HB1119 report
 - Review and response to the inspected entity's written response to the division inspection.
 - Follow up inspections and additional inspections for owners and operators with systemic violations.
 - Increased overall inspection frequency.
- Current and increased service levels maintain division administration and oversight for the Stormwater Administrator Program (CSEP).

Note that 10 percent (not 20 percent) was used for the hydrostatic, dewatering and remediation general permit oversight goals. These are reported as traditional non-major sources in EPA's database and for the



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purpose of reporting on measures such as backlog, a lower oversight rate was presumed to be approvable by EPA, given the nature of the discharges.

Discharge permit applications, application supplements and permit modifications.

- Applications and supplemental: fee is either 50 percent of the annual fee or \$80 (whichever is greater) and is received at time of application.
 - This fee would apply to new discharges only (i.e., the application fee does not apply to applications for renewals).
 - The fee covers costs for developing a permit and compliance oversight until July 1 of the next state fiscal year when the first annual permit fee would be paid.
 - Supplemental fees would be assessed when significant new information requested following development of draft permit documents. The supplemental fee would not be assessed when supplemental information is submitted in advance of draft permit documents being developed, or when the extent of supplemental information provided is insignificant.
- Permit modifications: fee of 25 percent for minor amendments and 50 percent for major amendments. Payment is due at time of application.
- Expedited general permit certification application fee of three times the annual fee are due at time of application. This replaces the standard 50 percent application fee for non-expedited permit certifications.

A la carte services

- Administrative action fee of \$80 due at the time of application. The fee applies to permit transfers and erosivity waivers (R factor waivers). The division does not intend to assess any fee for administrative actions that are contact updates or permit terminations.
- Fees for remaining a la carte services are scaled by complexity from low to high.
- Hourly rates are based on the average expected level of staff expertise needed to provide the service.
 - \$76/hour for environmental/physical scientist.
 - \$90/hour for senior environmental/physical scientist.

Service Type	Application Fee	Example Actions
Compliance assistance	no fee	<ul style="list-style-type: none"> • Compliance assistance inspection or audit, upon request.
Administrative action	\$80	<ul style="list-style-type: none"> • Permit transfer. • R-factor waiver. • Minor permit modification (removal of an outfall).
Low complexity	\$600	<ul style="list-style-type: none"> • Permitting exemption, determination that an activity conforms with the division's low risk discharge policy. • Groundwater contamination analysis with non-dilution based effluent limits, one discharge location. • Groundwater contamination analysis without a determination that facility specific effluent limitations need to be applied (i.e., determination that coverage under the dewatering permit is appropriate).
Low/medium complexity	\$1,100	<ul style="list-style-type: none"> • Regulatory exemption, Determination that a land application activity meets complete evapotranspiration.



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		<ul style="list-style-type: none">• Groundwater contamination analysis with non-dilution based effluent limits, 2-5 discharge locations.
Medium complexity	\$3,800	<ul style="list-style-type: none">• Groundwater contamination analysis with non-dilution based effluent limits, six or more discharge locations.
High to very high complexity	\$3,800 submitted with application, additional fees may apply, see hourly rates above.	<ul style="list-style-type: none">• PELs for an individual permit.• Regulatory exemption, involving complex technical or legal analysis.



MS4 - Fee Proposal Fee Structure Proposal

- Based on current services **without** compliance oversight needed to prevent direct oversight by EPA.
- Based on increased services **with** compliance oversight needed to prevent direct oversight by EPA.

The proposed MS4 structure includes five categories to replace current categories 7 and 23 and associated subcategories. In the proposed structure, the MS4 group will be grouped with the public and private utilities sector. Fees listed below are annual fees. Because the MS4 group will be placed with public and private utilities in the proposed structure, the department was able to create a significant cost savings for the MS4 group.

Cat/ Sub Cat	Cat/ Sub-Cat Description	No. of Entities	<i>Scenario 1 incl. new services</i>	Scenario 1 no new services	<i>Scenario 2 incl. new services</i>	Scenario 2 no new services	<i>Scenario 3 incl. new services</i>	Scenario 3 no new services	Current cat/subcat	Current fee
06-01	Individual permits	5	\$19,106	\$14,083	\$19,000	\$14,000	\$13,750	\$8,500	23	\$4,360- \$10,580
06-02	General permit <10,000 population	46	\$704	\$503	\$700	\$500	\$530	\$355	07-23	\$355
06-03	General permit >= 10,000 and <50,000 population	44	\$1,508	\$1,106	\$1,500	\$1,100	\$1,160	\$810	07-22	\$810
06-04	General permit >= 50,000 and <100,000 population	14	\$3,620	\$2,716	\$3,600	\$2,700	\$2,800	\$2,020	07-21	\$2,020
06-05	General permit >= 100,000 population	8	\$7,341	\$5,432	\$7,300	\$5,400	\$5,700	\$4,050	07-20	\$4,050

General Permits

- The new structure for general permits is the same as the current structure as recommended by stakeholders.
- The structure for general permits consists of four tiers based on population. Population has been and will continue to be determined using the following methods:
 - For incorporated cities, population is based on the most recent published U.S. Census information.
 - For counties where a portion of the county is within the permit boundary, population is based on the most recent information reported to and/or verified by the division.
 - For non-standard MS4s, population is based on the most recent information reported to and/or verified by the division.

Individual Permits

- The new structure for individual permits consolidates three subcategories into one subcategory on the basis that the complexity of permit development is not directly related to the population or type of MS4 (standard versus non-standard), and resource needs for compliance is set consistent with general permits at the same level for populations over 100,000.



- The portion of the fees to address new services was established based on the following assumptions:
 - Annual inspection/audit rate = 20 percent.
 - Average hours for one inspection/audit = 92 hours.
- Based on stakeholder feedback, the division reduced its projection of resources from 138 hours to 92 direct hours for an average inspection/audit. The average hours used is considerably less than the resource demands for previous division MS4 program audits for the following reasons:
 - The division will develop an oversight process based on this resource projection through an alternative compliance strategy that relies on some audits not including full review of all elements based on observations of compliant conditions and on an elimination of program descriptions in future permits.
 - However, if lower compliance rates are identified or future permits contain less clear limitations, it is possible that this lower resource projection may not allow for the needed resources to meet the goal of preventing EPA oversight of MS4 permittees.

Discharge permit applications, application supplements and permit modifications.

- Applications and supplementals: Fee is 50 percent of the annual fee. New fee is received at the time of application. This fee covers costs for developing a permit and compliance oversight until July 1 of the next state fiscal year when the first annual permit fee would be paid.
- Permit modifications: Fee of 25 percent for minor amendments and 50 percent for major amendments. Receipt of payment is due at the time of application.

A la carte services

- Administrative action fee of \$80 received at the time of application. The fee applies to permit transfers. The division does not intend to assess any fee for administrative actions that are contact updates or permit terminations.
- Fees are scaled by complexity from low to high.
- Hourly rates are based on the average expected level of staff expertise needed to provide the service.
 - \$76/hour for environmental/physical scientist.
 - \$90/hour for senior environmental/physical scientist.

Service Type	Application Fee	Example Actions
Compliance assistance	no fee	<ul style="list-style-type: none"> • Compliance assistance inspection or audit, upon request
Administrative action	\$80	<ul style="list-style-type: none"> • Permit transfer
Low complexity service	\$600	<ul style="list-style-type: none"> • Not anticipated at this time for MS4.
Medium/low complexity service	\$1,100	<ul style="list-style-type: none"> • Not anticipated at this time for MS4.
Medium complexity service	\$3,800	<ul style="list-style-type: none"> • Not anticipated at this time for MS4.
High to very high complexity service	\$3,800 submitted with application, additional - see hourly rates above	<ul style="list-style-type: none"> • Not anticipated at this time for MS4.



Public & Private Utilities - Fee Proposal

Fee Structure Proposal

Public & Private Utilities sector - fee structure overview (current and proposed)

- Domestic Wastewater Treatment Works (DWWTW)
- Water Treatment Plants (WTPs)
- Biosolids
- Pretreatment
- Reclaimed Water

This sector includes current statutory categories: 6, 7, 20, 21, 22, 30, 31, 32, 33, 34, 35, 40, 41, 42, 44, 45, 46 and all associated subcategories. This is a total of 223 categories and subcategories. To simplify, the new proposal has only 59 categories and subcategories. For example, instead of having specific sub-categories for how the water is treated (lagoon or mechanical), the department simplified the categories based on flow.

Domestic Wastewater Treatment Works (DWWTWs):

Cat./ Sub-cat.	Cat/Sub-Cat Description	No. of Entities	Fee methodology	Scenario 1	Scenario 2	Scenario 3
			Equation:	\$804 + \$4,525 * Flow (MGD)	\$800 + \$4,500 * Flow (MGD)	\$670 + \$3,500 * Flow (MGD)
01-01	0 to <1 MGD	439	Range	\$804 to \$5,284	\$800 to \$5,255	\$670 to \$4,135
01-02	>= 1 MGD to 2.5 MGD	41	Set amount	\$8,228	\$8,191	\$6,638
01-03	>= 2.5 MGD to 10 MGD	39	Set amount	\$15,415	\$15,346	\$12,437
01-04	>= 10 MGD to 50 MGD	10	Set amount	\$26,723	\$26,604	\$21,560
01-05	>= 50 MGD to 100 MGD	2	Set amount	\$30,830	\$30,693	\$24,874
01-06	>= 100 MGD	1	Set amount	\$33,910	\$33,760	\$27,359

- Proposed fees meet current staff and resource needs.
- Annual fees.
- This replaces categories 20, 21, 22, and the 20 associated subcategories.
- New structure is based on design flow as recommended by stakeholders.
- Flows up to 1 MGD: new structure based on a linear equation. The old structure for up to 1 MGD was based on flows, but in tiers instead of an equation. The equation equalizes/normalizes the cost distribution (i.e. eliminates major difference of cost per tier- 0.99 versus 1 MGD). The equation was established to reflect the current distribution of costs in this sector.
- Flows greater than 1MGD: It was not possible to fit these facilities into an equation because there is not currently a mathematical equation. The division proposes fee increases that mirror the average increase for discharges less than 1 MGD.
- New structure eliminates the distinction between lagoon and mechanical systems.



Water Treatment Plants

Cat./Sub-cat.	Cat/Sub-Cat Description	No. of Entities	Fee methodology	Scenario 1	Scenario 2	Scenario 3
02-01	Individual permits	10	Set amount	\$6,313	\$6,246	\$3,400
02-02	General permits	94	Set amount	\$1,006	\$1,000	\$750

- The proposed fees meet current staff and resources needs.
- This replaces current categories 6 and 7 and the seven associated subcategories.
- New structure is based on the workload to the division.
- A distinct and new category is proposed for individual permits. The division currently has 10 individual permits authorizing discharges associated with WTPs. All of which are for discharges of brine generated from treatment of raw water using reverse osmosis (RO) which is much more complex than the process for other forms of WTP wastewater.

Biosolids

- Based on current services (without delegation)
- New services (with delegation). The delegation option does not include septage or incineration, so it assumes a request for partial delegation from EPA.

Cat./Sub-cat.	Cat/Sub-Cat Description	No. of Entities	Fee method	Scenario 1 <i>incl. new services</i>	Scenario 1 no new services	Scenario 2 <i>incl. new services</i>	Scenario 2 no new services	Scenario 3 <i>incl. new services</i>	Scenario 3 no new services
			Equation:	\$3.82 per dry ton	\$2.51 per dry ton	\$3.80 per dry ton	\$2.50 per dry ton	\$2.70 per dry ton	\$2.05 per dry ton
03-01	Beneficial Reuse	92	Range	\$80 to \$90,057	\$80 to \$59,173	\$80 to \$89,585	\$80 to \$58,938	\$80 to \$63,653	\$80 to \$48,329
03-02	DWWTWs (generators) <30 dry tons	441	Set amount	\$121	\$35	\$120	\$35	\$78	\$35
03-03	DWWTWs (generators) >= 30 dry tons	92	Set amount	\$804	\$35	\$800	\$35	\$420	\$35

- Beneficial reuse maintains the current structure: fees based on the amount of dry tons beneficially reused in the previous calendar year.
- New structure determines the dry ton cost based on workload to the division.
- New fee for DWWTWs (generators) to cover the cost of compliance oversight work, for both a non-delegated and delegated state program.
 - The non-delegated costs assume continuation of the streamlined inspection.
 - The delegated costs assume that an additional comprehensive inspection/audit would be conducted for entities that generate more than 30 dry tons in a year every five years, and that inspection/audit will not necessarily be concurrent with the facility compliance inspection.
- Beneficial reuse fee and the DWWTW biosolids fee (generators): fee cap in statute with the Water Quality Control Commission (WQCC) authority to adjust fees as needed up to the cap amount. The



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cap could be set at a level to allow fees to be raised to the level needed to implement a delegated program so that statute would not need to be changed for delegation. Until a delegation package is prepared and submitted with the support of the stakeholders, and approved by EPA, the division recommends the WQCC set the fee in regulation at the level needed to fund a non-delegated program.

- Fee cap moved to the Water Quality Control Act and removed from the Solid Wastes Disposal Act.

Pretreatment

Cat./Sub-cat.	Cat/Sub-Cat Description	No. of Entities	Fee methodology	Scenario 1	Scenario 2	Scenario 3
04-01	Division-approved POTW	2	Set amount added to permit annual fee	\$2,413	\$2,400	\$2,400
04-02	EPA approved and unapproved POTW <1 MGD	213	Set amount added to permit annual fee	\$151	\$150	\$130
04-03	EPA approved and unapproved POTW >= 1 MGD	94	Set amount added to permit annual fee	\$503	\$500	\$400
04-04	Division-authorized Significant Industrial User	10	Set amount	\$1,006	\$1,000	\$700

- No new services for this subsector.
- Fees meet current staff and resources needs.
- This replaces current categories 30, 31, 32, 33, 34, and 35 and the 29 associated subcategories.
- New structure eliminates fees to significant industrial users (SIUs) discharging to POTWs with an approved pretreatment program. These SIUs are permitted by the POTW, and not by WQCD.
- New structure streamlines fees to POTWs into 2 categories (less than 1 MGD and greater than or equal to 1 MGD).
- Fees to POTWs increased to cover the loss of revenue from fees to SIUs discharging to POTWs.
- New fee for division-approved POTWs to cover costs for program review, approval, and compliance oversight. This same fee could be used to fund oversight of POTWs currently approved by EPA if state delegation were ever pursued. State delegation is not currently recommended by stakeholders so anticipated revenue is based on current two division-approved POTWs.
- The non-delegated state program costs were developed based on maintaining a very small state only program.



Reclaimed Water options:

- Based on current services (without new uses).
- New services (with new uses).

Cat./Sub-cat.	Cat/Sub-Cat Description	No. of Entities	Fee methodology	Scenario 1 (incl. new uses)	Scenario 1 (no new uses)	Scenario 2 (incl. new uses)	Scenario 2 (no new uses)	Scenario 3 (incl. new services)	Scenario 3 (no new uses)
			Equation:	\$855 + \$4,022 * Flow (MGD)	\$704 + \$3,018 * Flow (MGD)	\$850 + \$4,000 * Flow (MGD)	\$700 + \$3,000 * Flow (MGD)	\$550 + \$2,200 * Flow (MGD)	\$450 + \$1,900 * Flow (MGD)
05-01	0 to <1 MGD	8	Range	\$855 to \$4,837	\$704 to \$3,692	\$850 to \$4,810	\$700 to \$3,670	\$550 to \$2,728	\$450 to \$2,331
			Equation:	\$4,525 + \$377 * Flow (MGD)	\$3,621 + \$251 * Flow (MGD)	\$4,500 + \$375 * Flow (MGD)	\$3,600 + \$250 * Flow (MGD)	\$3,100 + \$200 * Flow (MGD)	\$2,500 + \$140 * Flow (MGD)
05-02	>= 1 MGD	16	Range	\$4,902 to \$15,835	\$3,872 to \$11,151	\$4,875 to \$15,750	\$3,850 to \$11,100	\$3,300 to \$9,100	\$2,640 to \$6,700

- For new fees for this subsector are set to provide funding for approximately 300 additional hours of staff time annually to support development, evaluation, rulemaking and implementation of new uses.
- New structure assumes costs based on facility size as measured by facility design flow.
- New structure based on two equations for flows: Up to 1 MGD and one >= 1 MGD. The old structure was based on flows, but in tiers instead of via an equation. Equations were established to fit overall cost distribution reflected in the current structure. Equations equalize/normalize the cost distribution (i.e., eliminates scatter or eliminates major changes at the beginning/end of a flow tier e.g., 0.99 versus 1 MGD). This results in some fees adjusted up and some down.

Site applications and design review. The overall fee structure will not change. Fees will be adjusted based on each scenario to cover costs associated with these services.

	Scenario 1	Scenario 2	Scenario 3
Site applications and design review: percent change	35.1%	34.5%	9%

Discharge permit applications, application supplements and permit modifications.

- Applications and supplementals: fee is 50% of the annual fee. New fee will be received at the time of application. This fee covers costs for developing a permit and compliance oversight until July 1 of the next state fiscal year when the first annual permit fee would be paid.
- Permit modifications: fee of 25% for minor amendments and 50% for major amendments. Fee is receipt of payment at the time of application.



Preliminary Effluent Limitations (PELs):

Service Type	Application Fee	Anticipated Actions
Low complexity	\$600 (application)	<ul style="list-style-type: none"> Groundwater PELs
Medium/low complexity	\$1,100 (application)	<ul style="list-style-type: none"> Groundwater PELs with analysis of ambient groundwater levels.
Medium complexity	\$3,800 (application)	<ul style="list-style-type: none"> Surface water PELs, DWWTWs minors.
High to very high complexity	\$3,800 with application, additional - refer to hourly rate below.	<ul style="list-style-type: none"> Surface water PELs, DWWTW majors. Surface water PELs, water treatment plant reverse osmosis discharge.

- No new services.
- Hourly rates are based on the average expected level of staff expertise needed to provide the service.
 - \$76/hour for environmental/physical scientist.
 - \$90/hour for senior environmental/physical scientist.
- Proposed fees meet current staff and resources needs.
- This replaces categories 40, 41, and 42 and the nine associated subcategories.
- Fee for service structure.
- The new structure, like the current structure, is based on receipt of payment at the time of application.

A la carte services

- Administrative action fee of \$80 received at the time of application. The fee applies to permit transfers, no-exposure certifications and minor permit modifications limited in scope to removal of an outfall. The division does not intend to assess any fee for administrative actions that are contact updates or permit terminations.
- Fees are scaled by complexity from low to high. This will recover costs for formalized regulatory exemption determinations (e.g. permit transfer, review and approval of liner seepage studies, or land application management plans demonstrating that no groundwater discharge permit is needed).
- Hourly rates are based on the average expected level of staff expertise needed to provide the service.
 - \$76/hour for environmental/physical scientist.
 - \$90/hour for senior environmental/physical scientist.

Service Type	Application Fee	Example Actions
Compliance assistance	no fee	<ul style="list-style-type: none"> Compliance assistance inspection or audit, upon request
Administrative action	\$80	<ul style="list-style-type: none"> Permit transfer NOX Minor permit modification (removal of an outfall)
Low complexity service	\$600	<ul style="list-style-type: none"> Regulatory exemption, confirmation of



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		lagoon seepage rate
Medium/low complexity service	\$1,100	<ul style="list-style-type: none">• Not anticipated at this time for PPU.
Medium complexity service	\$3,800	<ul style="list-style-type: none">• Not anticipated at this time for PPU.
High to very high complexity service	\$3,800 submitted with application, additional - see hourly rates above	<ul style="list-style-type: none">• Not anticipated at this time for PPU.



Pesticides Fee Structure Proposal

This document is intended to be a DRAFT structure that combines ideas from stakeholders and the department into one document for discussion. This is a working document and does not include all options to address the issues. This is a DRAFT to start from.

Packaged Services Fee Structure

	Factor A - Permitting Services	Factor B - Compliance Services	Total Fee
General Permits - Annual Reporting Entities Fee Note-fee charged only to those entities required to submit an annual report.	Option 1: Fee amount based on an equation that spreads hourly cost over a 5 year period. Option 2: Fee amount based on a projection of need for a 5 year period.	Fee based on review of report and associated assistance.	<u>Annual Fee TBD =</u> permit fee A + compliance fee B
General Permits -Permittee Fee (No mechanism currently, but could be implemented if permitting framework changed)	Option 1: Fee amount based on an equation that spreads hourly cost over a 5 year period. Option 2: Fee amount based on a projection of need for a 5 year period.	Fee scaled based on compliance needs and complexity -low, medium, high.	<u>Annual Fee TBD =</u> permit fee A + compliance fee B

* Grey row likely not applicable to current permitting process for pesticides.

Fee Calculation Example - Annual Reporting Entity Fee

Factor A = $P * (a \div (x * 5 \text{ years}))$; where:

P = percentage of overall permitting costs for which annual reporting entities are determined to be responsible for

a = hours for renewal of the master general permit

x = number of reporting entities

Factor A example, $A = 50\% * [(500) \div (100 * 5 \text{ years})] = 0.5 \text{ hours}$

Factor B = $a + b \div x$; where:

a = average hours for report review, response, and follow up

b = annual hours for education and outreach targeted at reporting entities

x = number of reporting entities

Factor B example, $B = 1.5 + 100 \div 100 = 2.5 \text{ hours}$

Fee Calculation Example - Permittee Fee

Factor A = $(a + b) \div (x * 5 \text{ years})$; where:

a = hours for development/renewal of the master general permit

b = hours for renewal of all certifications, if certifications used

x = number of registered permittees or certifications under the general permit

Factor A example (w/o certifications), $A = [(500 + 0) \div (400 * 5 \text{ years})] = 0.25 \text{ hours}$

Factor B = $[(a + b) \div (x * 5 \text{ years})] * S + R$; where:

a = hours for compliance oversight

b = hours for compliance assistance

x = number of certifications under the general permit

S = scaling factor (e.g. Low = 50%, Medium = 100%, High = 200%)



R = Annual Report review time from above (e.g., 2.5 hours) - only for reporting entities

Factor B example, $A = [(400 + 900) \div (400 * 5 \text{ years})] * S + R = 0.65 \text{ hours} * S + R$

Low Complexity Scaling (50%) = **0.33 hours**

Medium Complexity Scaling (100%) and R is 2.5 hours = **3.15 hours**

High Complexity Scaling (200%) and R is 2.5 hours = **3.8 hours**

Notes:

1. General permit costs would be reset following renewal of the master general and would remain in effect for the 5 year permit term
 - a. hours for issuance of a new certification would be what is expected for the new permit term
 - b. hours for development of the master general would be based on time tracking for the just completed renewal
 - c. hours for renewal of the certification would be based on time tracking for the just completed renewal
 - d. number of certifications would be based on the number renewed

Scaling Example for Discussion

Category	Annual Report Required	Annual Report and PDMP Required	No Annual Report Required
For hire Applicator	MEDIUM	MEDIUM	LOW
Decision maker (Large entity)	N/A	HIGH	N/A
Decision maker (Small entity)	MEDIUM	N/A	N/A

A la carte services

	Option 1(hourly)	Option 2 (flat)	Application Fee
High complexity permitting service, 300-500 hours*	application fee A + x*# at time of issuance	application fee B	TBD
Medium/high complexity permitting service, 100-300 hours*	application fee A + x*# at time of issuance	application fee C	TBD
Medium complexity permitting service, 21-100 hours*	application fee A + x*# at time of issuance	application fee D	TBD
Medium/low complexity permitting service, 11-20 hours*	application fee A	application fee E	TBD
Low complexity permitting service, 4-10 hours	application fee A	application fee F	TBD
Administrative Action, 1 hour*	n/a	application fee G	TBD
Compliance Consultation, 8 hours without travel, up to 26 hours with travel	application fee A + x*# at time of issuance	A application fee + x*travel miles	TBD

x = hourly rate

= number of hours

* Grey rows likely not applicable to current permitting process for pesticides.

Size and Complexity Examples

Low complexity permitting service (4 to 10 hours)

- Straightforward regulatory or permitting exemption determination



Water Quality (401) Certification Fee Structure Proposal

Tier	Pre-application	Certification	Certification conditions monitoring	Possible range of fees based on number of hours and life of project
1	no fee	\$1,100 submitted with certification application	no fee	\$1,100
2	no fee	\$3,800 submitted with certification application	no fee	\$3,800
3	\$600 submitted with pre-application	\$76/hour for division staff \$152/hour for contractors	\$76/hour for division staff	\$41,600 to \$69,000
4	\$600 submitted with pre-application	\$76/hour for division staff \$152/hour for contractors	\$90/hour for division staff	\$276,000 to \$735,000

- **Tier 1:** applies to those projects that incur minimal program costs and impacts to water quality. Currently the division certifies between 35 to 40 of these projects per year. This tier would include certifications of channel stabilization projects and drainage improvement projects. Typical characteristics may include all or some of the following:
 - Potential for minimal impacts to water quality.
 - Low level of public participation.
 - No more than standard coordination with federal state or local agencies required.
 - Limited technical assistance needed.

- **Tier 2:** applies to those projects that incur higher program costs due to greater potential impacts on water quality. Currently the division certifies between one to five of these projects per year. This tier would include certifications of projects impacting multiple drainages such as the construction of an eight mile rail transit corridor. Typical characteristics may include all or some of the following:
 - Potential for minimal impacts to water quality.
 - Basic to high level of public participation required with potential for participation in public meetings or hearings held by outside parties.
 - More than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings or pre-application site visits.
 - Moderate and ongoing level of technical assistance needed.



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- Compensatory mitigation review required.
 - Review of a full evaluation and findings report if needed.
 - Addressing appeal of division's water quality certification to the Water Quality Control Commission.
- **Tier 3:** applies to those projects that incur very high program costs because a large watershed area is affected, a high degree of complexity is involved or greater potential water quality impacts may result. The division has certified one to two of these projects in the past decade. This tier would include certifications of FERC relicensing projects and projects involving more permanent impacts such as snow making using water from impaired streams. Typical characteristics may include all or some of the following:
 - Potential for greater and permanent water quality impacts if the waterbody is identified as not attaining water quality standards or is covered by a total maximum daily load, or multiple waters of the state are affected.
 - High level of public participation required with extensive public comments and the potential for one or more public meetings or hearings conducted by the division or outside parties.
 - Substantially more than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings.
 - High level or iterative technical assistance required or substantive project revisions received.
 - Large or complex compensatory mitigation review required.
 - Site visit(s) needed to understand impacts and advise on potential alternatives.
 - Review of a full evaluation and findings report if needed.
 - Addressing appeal of division's water quality certification to the Water Quality Control Commission.
- **Tier 4:** applies to those projects that incur the highest program costs because a very large watershed area is affected, an extremely high degree of complexity is involved, or a very high level of public participation is expected. The division is participating in two to three projects right now that would be classified as Tier 4. This tier would include transmountain water supply projects. Typical characteristics may include all or some of the following:
 - Potential for greater water quality impacts if the waterbody is identified as not attaining water quality standards or is covered by a total maximum daily load, or multiple waters of the state are affected.
 - High level of public participation required with extensive public comments and the potential for one or more public meetings or hearings conducted by the division or outside parties.
 - Substantially more than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings.
 - High level or iterative technical assistance required or substantive project revisions received.
 - Large or complex compensatory mitigation review required.
 - Site visit(s) needed to understand impacts and advise on potential alternatives.
 - Coordination with the Governor's office in conjunction with other state agencies, tribal nations and the federal government.
 - Review of additional documents such as National Environmental Policy Act Resource Reports, Environmental Assessments and Environmental Impact Statements.
 - Review of a full evaluation and findings report if needed.
 - Addressing appeal of division's water quality certification to the Water Quality Control Commission.

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
FY 2015-16 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Thursday, November 20, 2014
1:30 pm – 5:00 pm**

1:30-2:05 INTRODUCTIONS AND OPENING COMMENTS

2:05-2:15 QUESTIONS COMMON TO ALL DEPARTMENTS

1. SMART Government Act:
 - a. Please describe how the SMART Government Act is being integrated into the department's existing processes (both in terms of service delivery and evaluating performance).
 - b. How is the data that is gathered for the performance management system used?
 - c. Please describe the value of the act in the department.
2. Do you have infrastructure needs (roads, real property, information technology) beyond the current infrastructure request? If so, how do these needs fit in with the department's overall infrastructure priorities that have been submitted to the Capital Construction Committee or Joint Technology Committee? If infrastructure should be a higher priority for the department, how should the department's list of overall priorities be adjusted to account for it?

2:15-2:45 FAMILY PLANNING PROGRAM FUNDING

3. Please explain the rationale for the five year request and annual reduction in funding.
4. Please provide an explanation of how the request for Family Planning Program funding and the Colorado Family Planning Initiative are related. Please include:
 - a. The functions that were previously funded through the Colorado Family Planning Initiative will now be funded with General Fund;
 - b. What mechanisms were used to authorize the expenditure for the Family Planning Program; and
 - c. What specific population group this request is seeking to serve and why.
5. What are the current mandates (both state and federal) on contraception coverage and how the request and the Colorado Family Planning Initiative complied with those mandates.
6. Please provide an analysis of how public and private coverage for contraception will impact the number of women seeking family planning services.
7. Please provide the Center for Disease Control teenage pregnancy winnable battle data for Colorado.

8. Please provide graphs, similar to those on pages 22 and 23 of the JBC staff briefing document, that include the total births for each population group including data points with the number of those births that are above 150.0 percent of poverty.
9. Please discuss how the request does not violate Section 24-75-1305, C.R.S.
10. Please discuss the value of developing and implementing a statewide public awareness and education campaign about the Family Planning Program.

2:45-3:00 AIR POLLUTION CONTROL DIVISION STAFFING

11. Please discuss the merits of adding staff to analyze the collective data sets from the FRAPPE and DISCOVER-AQ studies. Please discuss the merits of term-limited FTE vs. contracting out the analysis.
12. Please discuss how oil and gas inspections modify their inspections based on whether they are inspecting in an attainment area vs. a nonattainment area.
13. Please discuss how the Division will utilize information collected by private industry in their inspections and rule making related to air quality standards.

2:45-3:00 COLORADO HEALTH SERVICE CORPS PROGRAM

14. Please discuss who the private foundation is that provide the funds, and what will happen to the federal funds if the request is not funded.
15. Please discuss how the request does not violate Section 24-75-1305, C.R.S.

3:00-3:15 BREAK

3:15-3:25 FOOD SAFETY PROGRAMS

16. Please discuss the metrics used to measure the success rate by the other states that have state directed wholesale food manufacturing inspection programs.
17. Please discuss the metrics the state will use to measure the success of a state directed wholesale food manufacturing inspection program.

3:50-4:10 ASSISTED LIVING FACILITIES

18. Please discuss how the growth of assisted living residences has impacted the Division's ability to survey facilities.

19. Please discuss the Health Facilities Division ability to map where the need is for assisted living facilities. Please include, if available the map. Also please discuss what would be required to do a map if one does not exist.

4:10-4:30 AMENDMENT 35 REVENUE

20. Please discuss what is causing the decline in Amendment 35 revenue.

21. Regarding electronic cigarettes please discuss the following:

- a. The uses of electronic cigarettes, including the possible beneficial uses of electronic cigarettes; and
- b. The pros and cons of taxing electronic cigarettes

4:30-4:50 WATER QUALITY CONTROL DIVISION STAKEHOLDER PROCESS

22. Provide an update on the Water Quality Control Division stakeholder process. Please include:

- a. Department's proposed fee increases and how those break down by category; and
- b. Stakeholder feedback the Department has received.

4:50-5:00 GENERAL DEPARTMENT QUESTIONS

23. Please discuss the radiation counting functions of the State Laboratory.

24. Please discuss how the Department is ensuring inter-operability of the Department's component of the Health Information Exchange with the other components of the Exchange.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implement or has partially implemented the legislation on this list.

2. What is the turnover rate for staff in the department? Please provide a breakdown by office and/or division, and program.

3. Please identify the following:

- a. The department's most effective program;
- b. The department's least effective program (in the context of management and budget);
- c. Please provide recommendations on what will make this program (2.b.) more effective based on the department's performance measures.

4. How much capital outlay was expended using either operating funds or capital funds in FY 2013-14? Please break it down between the amount expended from operating and the amount expended from capital.

5. Does Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office on June 30, 2014? What is the department doing to resolve the outstanding high priority recommendations?
[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1FE335CE3162803F87257D7E00550568/\\$FILE/1422S%20-%20ANNUAL%20REPORT%20OF%20AUDIT%20RECOMMENDATIONS%20NOT%20FULLY%20IMPLEMENTED%20AS%20OF%20JUNE%2030,%202014.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1FE335CE3162803F87257D7E00550568/$FILE/1422S%20-%20ANNUAL%20REPORT%20OF%20AUDIT%20RECOMMENDATIONS%20NOT%20FULLY%20IMPLEMENTED%20AS%20OF%20JUNE%2030,%202014.pdf)