

Environmental Protection Agency (EPA): Appropriations for FY2011

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Summary

Enacted April 15, 2011, the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10, H.R. 1473), provided funding for the remainder of FY2011 for those agencies typically funded under 12 regular appropriations bills. Including applicable rescissions, Title VII of Division B under P.L. 112-10 provided \$8.68 billion for the Environmental Protection Agency (EPA) for FY2011. The final EPA FY2011 appropriations were \$1.61 billion (16%) less than the FY2010 appropriation of \$10.29 billion, and \$1.34 billion (13%) less than the \$10.02 billion included in the President's FY2011 budget request.

The overall decrease for EPA for FY2011, including rescissions, compared to the FY2010 enacted appropriations and FY2011 President's request was reflected in reductions across the eight EPA regular appropriations accounts. Most of the overall FY2011 decrease resulted from a reduction in EPA's State and Tribal Assistance Grants (STAG) account for grants to aid states to capitalize their Clean Water and Drinking Water State Revolving Funds (SRFs). The FY2011 combined total for the Clean Water and the Drinking Water SRFs was \$2.49 billion, compared to \$3.49 billion for FY2010 and the President's FY2011 budget request of \$3.29 billion.

None of the 12 regular appropriations bills for FY2011, including the Interior, Environment, and Related Agencies bill that funds EPA, were enacted before the start of the fiscal year on October 1, 2010. Initially, a series of temporary continuing resolutions (CRs) was enacted that sequentially extended funding from October 1, 2010, through April 15, 2011 (the last of the FY2011 interim CRs was P.L. 112-8, enacted April 9, 2011). Also during the 112th Congress, Title VII of Division B in H.R. 1, a full-year continuing resolution passed by the House on February 19, 2011, included specified funding levels for certain EPA accounts below the FY2011 requested and FY2010 enacted levels. House-passed H.R. 1 contained more than 20 provisions that would have restricted and prohibited the use of appropriated funds to implement various regulatory activities under EPA's jurisdiction. On March 9, 2011, the Senate did not pass the House version of H.R. 1 and did not agree to a subsequent Senate substitute amendment (S.Amdt. 149) containing different funding levels and omitting the EPA provisions included in the House-passed H.R. 1.

In addition to the Clean Water and the Drinking Water SRFs, other prominent issues that received attention within the context of the EPA FY2011 appropriations debate included the level of funding for greenhouse gas emission regulations, climate change research and related activities, cleanup of hazardous waste sites under the Superfund program, cleanup of less hazardous sites referred to as brownfields, and grants to assist states in implementing certain air pollution control requirements. Funding for the Great Lakes Restoration Initiative established in the FY2010 appropriations, and funding for the protection and restoration of the Chesapeake Bay and other geographic-specific water programs, also received attention.

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Introduction

EPA was established in 1970 to consolidate federal pollution control responsibilities that had been divided among several federal agencies. EPA's responsibilities grew significantly as Congress enacted an increasing number of environmental laws as well as major amendments to these statutes. Among the agency's primary responsibilities are the regulation of air quality, water quality, pesticides, and toxic substances; the management and disposal of solid and hazardous wastes; and the cleanup of environmental contamination. EPA also awards grants to assist states and local governments in complying with federal requirements to control pollution.

On April 15, 2011, the President signed the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10, H.R. 1473). Division B of P.L. 112-10 provided funding for the remainder of FY2011 for those agencies typically funded under 11 of the 12 regular appropriations bills,¹ including the Interior, Environment and Related Agencies bills which has provided funding for the Environmental Protection Agency (EPA) since FY2006. Title VII of Division B under P.L. 112-10 provided \$8.68 billion for EPA for FY2011, including an across-the-board rescission of 0.2%,² and a \$140.0 million rescission of unobligated balances.³ The final EPA FY2011 appropriations was \$1.61 billion (16%) less than the FY2010 appropriation of \$10.29 billion, and \$1.34 billion (13%) less than the \$10.02 billion included in the President's FY2011 budget request submitted to Congress on February 1, 2010.

Congress and the President did not complete action on any of the 12 regular appropriations bills for FY2011 prior to the end of FY2010. Beginning October 1, 2010 (the start of FY2011), EPA and other federal departments and agencies were funded under a series of seven interim CRs, generally at or below FY2010 funding levels.⁴ Although no stand-alone bill to fund the Interior, Environment, and Related Agencies for FY2011 was introduced, House and Senate appropriations committees⁵ and various authorizing committees held hearings in the 111th Congress to consider the President's FY2011 budget request for EPA, and Congress continued to debate a variety of EPA funding and policy issues during consideration of the FY2011 Interior appropriations⁶ through the end of the 111th Congress and the beginning of the 112th.

¹ The Department of Defense regular appropriations bill, including separate amounts for each account, was included in Division A of P.L. 112-10.

² P.L. 112-10, Section 1119, Title I, Div. B.

³ P.L. 112-10, Section 1740, Title VII, Div. B, "Of the unobligated balances available for "Environmental Protection Agency, State and Tribal Assistance Grants", \$140,000,000 is rescinded...."

⁴ Prior to the enactment of P.L. 112-10 on April 15, 2011, the Continuing Appropriations Act, 2011 (P.L. 111-242), continued funding generally at FY2010 levels through December 3, 2010. A second continuing resolution (P.L. 111-290) extended funding through December 18, 2010; a third (P.L. 111-317) extended funding through December 21, 2010; a fourth (P.L. 111-322) extended funding through March 4, 2011; a fifth, the Further Continuing Appropriations Amendments, 2011 (P.L. 112-4), extended funding through March 18, 2011; a sixth, the Additional Continuing Appropriations Amendments, 2011 (P.L. 112-6), extended funding through April 8, 2011; and a seventh, the Further Additional Continuing Appropriations Amendments, 2011 (P.L. 112-8), continued funding through April 15, 2011. For more detailed discussion and information on the history, nature, scope, and duration of continuing resolutions, see CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by (name redacted).

⁵ The House Appropriations Subcommittee on Interior, Environment, and Related Agencies held a hearing on the FY2011 budget for EPA on February 24, 2010; the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies held a hearing on the FY2011 budget for EPA on March 3, 2010.

⁶ For an overview of FY2011 Interior appropriations, including analysis of key funding issues for the major agencies under these appropriations, see CRS Report R41258, *Interior, Environment, and Related Agencies: FY2011* (continued...)

Early during the first session of the 112th Congress, the House passed H.R. 1, the Full-Year Continuing Appropriations Act, 2011, on February 19, 2011. As amended and passed, Division B of H.R. 1 would have provided adjusted funding levels through the end of FY2011 for 11 of the 12 regular appropriations bills,⁷ including the Interior, Environment, and Related Agencies appropriations bill which funds EPA. Additionally, House-passed H.R. 1 included more than 20 provisions that would have restricted and prohibited the use of appropriated funds to implement various regulatory activities under EPA's jurisdiction.⁸ On March 9, 2011, the Senate did not pass the House-passed version of H.R. 1 and did not agree to a subsequent substitute amendment to the bill (S.Amdt. 149) that omitted the House-passed provisions related to EPA regulatory activities.⁹

Two other bills enacted during the second session of the 111th Congress included provisions related to EPA appropriations. Title II of the Supplemental Appropriations Act, 2010 (P.L. 111-212, H.R. 4899) enacted July 29, 2010,¹⁰ provided \$2.0 million in supplemental funding for EPA within the Science and Technology (S&T) appropriations account for research of the potential long-term human health and environmental risks and impacts from the releases of crude oil, and the application of chemical dispersants, washing agents, and other measures¹¹ to mitigate these releases. Sections 311-313 of Title III of P.L. 111-226,¹² as enacted August 10, 2010, rescinded FY2009 funds made available to EPA under Title VII of Division A of the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5): \$2.6 million from Hazardous Substance Superfund; \$9.2 million from the Leaking Underground Storage Tank Trust Fund Program; and \$10.0 million from Environmental Programs and Management.

EPA Appropriations and Budget Process

Since FY2006, Congress has funded EPA programs and activities within the Interior, Environment, and Related Agencies appropriations bill.¹³ Within the framework of an annual

(...continued)

Appropriations, coordinated by (name redacted).

⁷ The Department of Defense regular appropriations bill, including separate amounts for each account, was included in Division A of H.R. 1.

⁸ For an overview of funding levels and provisions contained in House-passed H.R. 1 and S.Amdt. 149, and a comparison with the FY2011 requested and FY2010 enacted funding levels, see CRS Report R41698, *H.R. 1 Full-Year FY2011 Continuing Resolution: Overview of Environmental Protection Agency (EPA) Provisions*, by (name redacted).

⁹ Pursuant to the March 8, 2011, order preceding the vote, H.R. 1 was returned to the Senate Calendar, Senate *Congressional Record* S1362, March 8, 2011.

¹⁰ Title II of P.L. 111-212 (H.R. 4899) provided supplemental FY2010 appropriations for oil spill response and recovery efforts in the Gulf of Mexico associated with the *Deepwater Horizon* incident; see CRS Report R41232, *FY2010 Supplemental for Wars, Disaster Assistance, Haiti Relief, and Other Programs*, coordinated by (name redacted).

¹¹ P.L. 111-212 stipulated mitigation measures as those listed in the National Contingency Plan Product List, and directed EPA to use the \$2.0 million in supplemental funding to carry out this research in coordination with the Department of the Interior and the Department of Commerce; see 40 C.F.R. Part 300 Subpart J.

¹² P.L. 111-226, as enacted August 10, 2010, authorized and appropriated funding for education jobs and Medicaid. As offsets, Title III of P.L. 111-226 included rescissions of prior-year appropriated amounts from several specified federal agencies, programs, and accounts, including EPA accounts.

¹³ During the 109th Congress, EPA's funding was moved from the jurisdiction of the House and Senate Appropriations Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies to the Interior, Environment, and Related Agencies Appropriations Subcommittees beginning with the FY2006 appropriations. This change resulted from the abolition of the House and Senate Appropriations Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies.

congressional budget resolution, the Natural Resources and Environment Function (Budget Function 300) outlines funding for several federal land management agencies and EPA. The budget resolution sets forth total levels of spending and revenues for at least five fiscal years, and basically sets a cap on discretionary spending provided in the annual appropriations bills for the upcoming fiscal year. The programmatic assumptions underlying such totals, such as how much Congress intends to provide for EPA and other related agencies for the upcoming fiscal year, however, are not binding. Rather, funding levels for individual agencies and their programs and activities are set through the appropriations process.¹⁴ Congress did not complete action on a budget resolution for FY2011.¹⁵

EPA's funding over the long-term generally has reflected an increase in overall appropriations to fulfill a rising number of statutory responsibilities to carry out the agency's primary mission of protecting human health and the environment. Without adjusting for inflation, appropriations enacted for EPA have risen from about \$1.0 billion when the agency was established in FY1970 to a peak level of \$14.86 billion in FY2009. This peak funding level included both the \$7.64 billion in "regular" fiscal year appropriations provided in the Omnibus Appropriations Act for FY2009 (P.L. 111-8), and the \$7.22 billion in emergency supplemental appropriations provided in the ARRA of 2009 (P.L. 111-5). **Appendix B** provides a five-year funding history by EPA appropriations account and **Figure B-1** depicts historical funding trends for the agency based on information readily available from OMB back to FY1976.

In general, the term *appropriations* used in this report refers to total discretionary funds made available to EPA for obligation, including regular fiscal year and emergency supplemental appropriations, as well as any rescissions, transfers, and deferrals in a particular fiscal year, but excludes permanent or mandatory appropriations that are not subject to the annual appropriations process. This latter category of funding constitutes a very small portion of EPA's funding. The vast majority of the agency's funding consists of discretionary appropriations. Since FY1996, EPA's appropriations have been requested by the Administration and appropriated by Congress within eight statutory appropriations accounts.¹⁶ **Appendix A** briefly describes the scope and purpose of the activities funded within each of EPA's eight statutory appropriations accounts.

FY2011 enacted appropriations amounts as presented in this report are based on information provided by the House Appropriations Committee reflecting the across-the-board 0.2% rescission included in P.L. 112-10.¹⁷ The amounts presented for the President's FY2011 budget request are as reported in EPA's *FY2011 Annual Performance Plan and Congressional Justification* (referred to throughout this report as the EPA FY2011 budget justification),¹⁸ and the President's *Budget of the United States Government, Fiscal Year 2011*, issued by the Office of Management and Budget (OMB).¹⁹ FY2010 appropriations are as reported in the conference report (H.Rept. 111-316)

¹⁴ For a brief over of the congressional budget process, see CRS Report RS20095, *The Congressional Budget Process: A Brief Overview*, by (name redacted).

¹⁵ For information on the FY2011 budget resolution and related issues, see CRS Report R41097, *The FY2011 Federal Budget*, by (name redacted), and CRS Report R41685, *The Federal Budget: Issues for FY2011, FY2012, and Beyond*, by (name redacted).

¹⁶ Prior to FY1996, Congress appropriated funding for EPA under a different account structure, making it difficult to equitably compare past funding levels by account over the history of the agency.

¹⁷ Section 1119, Title I, Div. B.

¹⁸ EPA's *FY2011 Annual Performance Plan and Congressional Justification*, and other related agency budget documents are available at <http://www.epa.gov/ocfo/budget>.

¹⁹ The multi-volume set of the President's *Budget of the United States Government, Fiscal Year 2011*, is available at (continued...)

accompanying the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (P.L. 111-88; H.R. 2996).

Funding increases and decreases noted in this report generally are calculated based on comparisons between the enacted FY2011 appropriations, the FY2010 appropriations provided in P.L. 111-88 (and any supplemental appropriations or other adjustments; see discussion under “Congressional Action on FY2011 Appropriations,” which follows), and funding levels requested by the President for FY2011. This report also includes information on funding levels enacted for FY2009 for certain EPA programs and activities, including both the regular fiscal year appropriations provided in P.L. 111-8 and the emergency supplemental appropriations provided in P.L. 111-5, the latter of which is referred to throughout this report as ARRA or Recovery Act funding. Comparisons with the funding levels proposed in House-passed H.R. 1 and S.Amdt. 149 are not included in this report but are presented in see CRS Report R41698, *H.R. 1 Full-Year FY2011 Continuing Resolution: Overview of Environmental Protection Agency (EPA) Provisions*, by (name redacted).

With the exception of the historical funding presented in **Figure B-1** in **Appendix B**, the enacted appropriations for prior fiscal years presented throughout this report have not been adjusted for inflation. In some cases, small increases above the prior-year funding level may reflect a decrease in real dollar values when adjusted for inflation.

The following sections of this report provide a brief overview of the FY2011 appropriations, and examination of funding levels and relevant issues for selected EPA programs and activities that have received more prominent attention. Appropriations are complex, and accordingly not all issues are summarized in this report. OMB’s budget documentation and EPA’s budget justification number more than 1,000 pages and present an array of funding, programmatic, and legislative proposals for congressional consideration. Further, the appropriations bills and accompanying committee reports identify funding levels for numerous programs, activities, and sub-activities that are beyond the scope of this report, and the committee reports may provide specific direction to the agency in terms of how the funds are to be spent to implement a certain activity. There was no committee report accompanying P.L. 112-10.

EPA’s FY2011 Appropriations by Account

Table 1 presents a comparison of EPA’s FY2011 enacted appropriations included in P.L. 112-10 with the FY2011 President’s budget request, and FY2010 enacted amounts by each of the Agency’s eight accounts (see detailed descriptions of the appropriations accounts in **Appendix A**). **Figure 1** following the Table presents the percentage allocation of the total FY2011 appropriations for EPA among the agency’s eight appropriations accounts. The FY2011 enacted amounts in the table reflect the 0.2% across the board rescission included in P.L. 112-10,²⁰ FY2010 enacted levels include \$2.0 million in supplemental appropriations are provided under P.L. 111-212 within the Science and Technology account as noted earlier.

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<http://www.whitehouse.gov/omb/budget/Overview/>.

²⁰ Section 1119, Title I, Div. B.

**Table I. Appropriations for the Environmental Protection Agency:
FY2011 and FY2010 Enacted, and the President's FY2011 Budget Request**
(millions of dollars)

| EPA Appropriation Accounts | FY2010 Enacted P.L. 111-88^a | FY2011 Request | FY2011 Enacted P.L. 112-10 |
|---|---|---------------------------|---|
| Science and Technology | | | |
| —Base Appropriations | \$848.1 | \$846.7 | \$813.5 |
| —Transfer in from Superfund | +\$26.8 | +\$24.5 | +\$26.8 |
| Science and Technology Total | \$874.9 | \$871.2 | \$840.3 |
| Environmental Programs and Management | \$2,993.8 | \$2,891.0 | \$2,756.5 |
| Office of Inspector General | | | |
| —Base Appropriations | \$44.8 | \$45.6 | \$44.7 |
| —Transfer in from Superfund | +\$10.0 | +\$10.2 | +\$10.0 |
| Office of Inspector General Total | \$54.8 | \$55.8 | \$54.8 |
| Buildings & Facilities | \$37.0 | \$40.0 | \$36.4 |
| Hazardous Substance Superfund (before transfers) | \$1,306.5 | \$1,293.1 | \$1,280.9 |
| —Transfer out to Office of Inspector General | -\$10.0 | -\$10.2 | -\$10.0 |
| —Transfer out to Science and Technology | -\$26.8 | -\$24.5 | -\$26.8 |
| Hazardous Substance Superfund (after transfers) | \$1,269.7 | \$1,258.4 | \$1,244.2 |
| Leaking Underground Storage Tank Trust Fund Program | \$113.1 | \$113.2 | \$112.9 |
| Oil Spill Response | \$18.4 | \$18.5 | \$18.3 |
| State and Tribal Assistance Grants (STAG) | | | |
| —Clean Water State Revolving Fund | \$2,100.0 | \$2,000.0 | \$1,522.0 |
| —Drinking Water State Revolving Fund | \$1,387.0 | \$1,287.0 | \$963.1 |
| —Special Project Grants | \$156.8 | \$0.0 | \$0.0 |
| —Categorical Grants | \$1,116.4 | \$1,276.6 | \$1,104.2 |
| —Brownfields Section 104(k) Grants | \$100.0 | \$138.3 | \$99.8 |
| —Diesel Emission Reduction Grants | \$60.0 | \$60.0 | \$49.9 |
| —Other State and Tribal Assistance Grants | \$50.0 | \$20.0 | \$19.9 |
| State and Tribal Assistance Grants Total | \$4,970.2 | \$4,781.9 | \$3,758.9 |
| Rescissions of Unobligated Balances ^b | -\$40.0 | -\$10.0 | -\$140.0 |
| Total EPA Accounts | \$10,291.9 | \$10,020.0 | \$8,682.1 |

Source: Prepared by the Congressional Research Service: FY2010 enacted appropriations are from the conference report to accompany the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, pp. 240–244). The President's FY2011 requested amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, <http://www.epa.gov/ocfo/budget>, FY2011 enacted amounts are as presented in information provided to CRS by the House Committee on Appropriations which reflects the across-the-board 0.2% rescission included in P.L. 112-10.

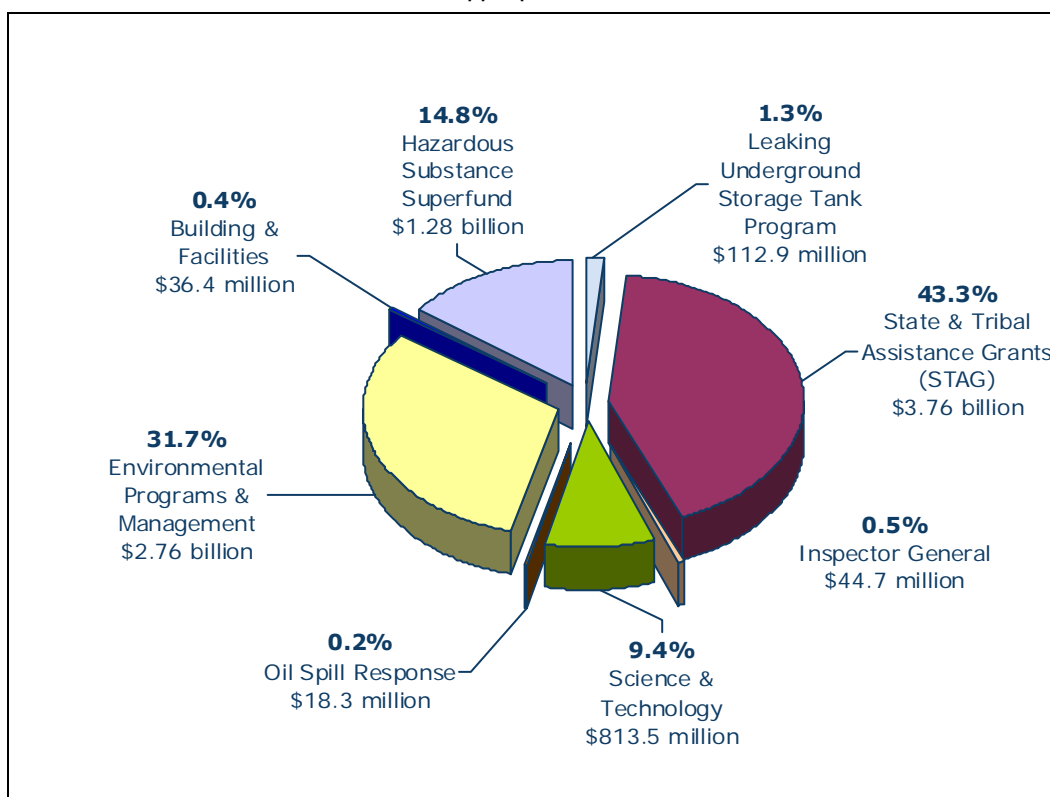
- a. The amounts presented for the base appropriations for the S&T account and the EPA total include \$2.0 million in supplemental appropriations for research of the potential long-term human health and

environmental risks and impacts from the releases of crude oil, and the application of chemical dispersants and other mitigation measures under P.L. 111-212, Title II.

- b. The FY2010 enacted and FY2011 requested rescissions were from unobligated balances from funds appropriated in prior years across the eight accounts, and made available for expenditure in a later year. In effect, these “rescissions” increase the availability of funds for expenditure by the agency in the years in which they are applied, functioning as an offset to new appropriations by Congress. With regard to the FY2011 enacted rescissions, Sec. 1740 in Title IV of Div. B under P.L. 112-10 refers only to “unobligated balances available for “Environmental Protection Agency, State and Tribal Assistance Grants”[not across all accounts], and does not specify that these funds are to be rescinded from prior years. The EPA Administrator was to submit a proposed allocation of such rescinded amounts to the Committees on Appropriations of the House and the Senate.

Figure 1. EPA FY2011 Enacted Appropriations in Division B Title VII of P.L. 112-10 by Account (Before Transfers Between Accounts)

Total FY2011 Appropriation = \$8.68 billion



Source: Prepared by the Congressional Research Service with data from the House Committee on Appropriations. Amounts reflect the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

Congressional Priorities (Earmarks)

P.L. 112-10 did not include funding for individual projects, locations, or institutions (often referred to as “earmarked funding”) that Congress designated within appropriations for FY2010,

including those for EPA.²¹ While there is no consensus on a single earmark definition among all practitioners and observers of the appropriations process, the Senate and House both in 2007 adopted a definition for purposes of implementing new earmark transparency requirements in their respective chambers.²² In the House rule, such a funding item is referred to as a *congressional earmark* (or *earmark*), while, in the Senate rule, it is referred to as a *congressionally directed spending item* (or *spending item*).²³ Leadership in both chambers has indicated that they would adhere to an earmark moratorium during the 112th Congress,²⁴ generally precluding earmarks in the appropriations bills for FY2011 and FY2012.

In contrast, in the FY2010 appropriations (P.L. 111-88), Congress provided \$179.4 million in such designated funding for EPA, and \$167.9 million in FY2009.²⁵

Key Funding Issues

Much of the attention on EPA's appropriations for FY2011 focused on federal financial assistance for wastewater and drinking water infrastructure projects,²⁶ environmental cleanup, grants to assist states in implementing air pollution control requirements, and climate change research and related activities. There also was interest in funding for several geographic-specific initiatives, including the Great Lakes Restoration Initiative introduced in the FY2010 Interior Appropriations (P.L. 111-88), efforts to restore the Chesapeake Bay, and for the Mississippi River Basin.

Several recent and pending EPA regulatory actions²⁷ also were the focus of considerable attention during committee hearings and floor debate on EPA FY2011 appropriations, and were reflected in several provisions and amendments included in House-passed H.R. 1.²⁸ Although not retained in P.L. 112-10, more than 20 provisions that would have restricted and prohibited the use of appropriated funds to implement various regulatory activities under EPA's jurisdiction were

²¹ The President's FY2011 request also did not include prior year earmarked funding, consistent with past administrations' budget requests, which typically do not reflect such congressional priorities.

²² See Senate Rule XLIV and House Rule XXI, clause 9. CRS Report RL34462, *House and Senate Procedural Rules Concerning Earmark Disclosure*, by (name redacted), describes and compares the procedures and requirements in House and Senate rules. See also CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan Suzanne Lynch, and CRS Report RS22867, *Earmark Disclosure Rules in the Senate: Member and Committee Requirements*, by Megan Suzanne Lynch.

²³ In both cases, this refers to "a provision [in a measure or conference report] or report language included primarily at the request of a [Representative or] Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific state, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process." Senate Rule XLIV and House Rule XXI, clause 9.

²⁴ *Rules of the House Republican Conference for the 112th Congress, Standing Orders*, December 8, 2010, p. 43, <http://www.gop.gov/about/rules?standing-orders-for-the-112th>; Senate Committee on Appropriations, *Committee Announces Earmark Moratorium*, February 1, 2011 Press Release, <http://appropriations.senate.gov/news.cfm?method=news.view&id=188dc791-4b0d-459e-b8d9-4ede5ca299e7>.

²⁵ For discussion of congressionally designated funding in FY2010, see CRS Report R40685, *Interior, Environment, and Related Agencies: FY2010 Appropriations*, coordinated by (name redacted)

²⁶ See CRS Report 96-647, *Water Infrastructure Financing: History of EPA Appropriations*, by (name redacted).

²⁷ For a discussion of EPA selected regulatory actions, see CRS Report R41561, *EPA Regulations: Too Much, Too Little, or On Track?*, by (name redacted) and (name redacted).

²⁸ House *Congressional Record* beginning H830, February 15, 2011, ending H1355, February 19, 2011.

included in House-passed H.R. 1.²⁹ These regulatory actions cut across a range of EPA programs and initiatives under the various environmental pollution control statutes, such as those that address greenhouse gas emissions, hazardous air pollutants (including mercury), environmental impacts of mountaintop mining, management of coal ash, particulate matter emissions, and water quality management including geographical ecosystems (e.g., Chesapeake Bay). Title VII of Division B in the Senate substitute amendment (S.Amdt. 149), which would have provided FY2011 funding levels for EPA different from those in the House-passed bill, also omitted the House provisions related to EPA regulatory activities.

The following sections discuss prominent funding issues of debate, including comparisons of the FY2011 enacted appropriations with FY2010 enacted appropriations and the President's FY2011 Budget Request.

Wastewater and Drinking Water Infrastructure³⁰

Most of the overall FY2011 decrease relative to the FY2010 appropriations for EPA resulted from a reduction in EPA's State and Tribal Assistance Grants (STAG) account for grants to aid states to capitalize their Clean Water and Drinking Water State Revolving Funds (SRFs). The combined total for the Clean Water and the Drinking Water SRFs included in P.L. 112-10 for FY2011 was \$2.49 billion, compared to \$3.49 billion for FY2010 and the President's request of \$3.29 billion. These monies constitute the majority of EPA grant funds within the STAG account, but numerous other grants also are funded within this account.³¹ The SRF funding specifically supports local wastewater and drinking water infrastructure projects, such as construction of and modifications to municipal sewage treatment plants and drinking water treatment plants, to facilitate compliance with the Clean Water Act and the Safe Drinking Water Act, respectively.³²

P.L. 112-10 provided \$1.52 billion for the Clean Water SRF capitalization grants and \$963.1 million for the Drinking Water SRF capitalization grants. As shown in **Table 2**, these FY2011 appropriations were below the FY2010 enacted appropriations.³³ Some Members objected to the reductions, while others maintained that the reductions were offset by unspent FY2009 supplemental funding provided under the American Reinvestment and Recovery Act of 2009 (P.L. 111-5). The FY2011 appropriations for these grants were larger than the regular appropriations

²⁹ For an overview of funding levels and provisions contained in House-passed H.R. 1 and S.Amdt. 149, and a comparison with the FY2011 requested and FY2010 enacted funding levels, see CRS Report R41698, *H.R. 1 Full-Year FY2011 Continuing Resolution: Overview of Environmental Protection Agency (EPA) Provisions*, by (name redacted).

³⁰ This section was written by (name redacted), Specialist in Resources and Environmental Policy, CRS Resources, Science, and Industry Division.

³¹ The STAG account also includes funds to support state and tribal "categorical" grant programs. States and tribes use these grants to support the day-to-day implementation of environmental laws, such as monitoring, permitting and standard setting, training, and other pollution control and prevention activities. Categorical grants also assist multimedia projects such as pollution prevention incentive grants, and pesticides and toxic substances enforcement. P.L. 112-10 provided \$1.11 billion for these grants for FY2011, below the FY2010 appropriation of \$1.12 billion and President's FY2011 budget request of \$1.28 billion.

³² See CRS Report 96-647, *Water Infrastructure Financing: History of EPA Appropriations*, by (name redacted), and CRS Report RS22037, *Drinking Water State Revolving Fund (DWSRF): Program Overview and Issues*, by (name redacted).

³³ The FY2011 enacted level for both SRFs was larger than the level provided in recent past fiscal years. By comparison, the average annual total funding for the two SRF programs during the 12-year period prior to FY2009 was \$2.0 billion.

for FY2009 in P.L. 111-8, but much smaller than total FY2009 appropriations when including the additional \$4.0 billion for the Clean Water SRF capitalization grants and \$2.0 billion for the Drinking Water SRF capitalization grants in P.L. 111-5 (see **Table B-1** in **Appendix B**).

The extent of federal assistance still needed to help states maintain sufficient capital in their SRFs to finance projects has been an ongoing issue. Some have cited estimates of hundreds of billions of dollars in long-term needs among communities, and the tightening of federal water quality requirements over time, as reasons for maintaining or increasing the level of federal assistance.

Table 2. Appropriations for Clean Water and Drinking Water State Revolving Fund (SRF) Capitalization Grants: FY2011 and FY2010 Enacted, and President's FY2011 Request
(millions of dollars)

| SRF | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Enacted P.L. 112-10 |
|---------------------------------|----------------------------------|-------------------|----------------------------------|
| Clean Water | \$2,100.0 | \$2,000.0 | \$1,522.0 |
| Drinking Water | \$1,387.0 | \$1,287.0 | \$963.1 |
| Total SRF Appropriations | \$3,487.0 | \$3,287.0 | \$2,485.1 |

Source: Prepared by the Congressional Research Service. FY2010 Enacted appropriations are from the conference report to accompany the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, pp. 243–244). The President's FY2011 requested amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, <http://www.epa.gov/ocfo/budget>, FY2011 enacted amounts are as presented in information provided by the House Committee on Appropriations which reflects the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

The adequacy of federal funding levels for both SRFs has been contentious. Capital needs for water infrastructure, as demonstrated in EPA-state surveys, remain high. For the Clean Water SRF, prior to FY2010, Congress had appropriated significantly more funding than the Administration requested. There has been less disagreement between Congress and the Administration about the appropriate funding level for the Drinking Water SRF. Some Members advocated substantial increases for both SRFs in response to local water infrastructure needs generally, and more specifically, to help communities comply with new water quality requirements and new standards for drinking water contaminants (e.g., arsenic and radium). Others contended that the reductions were in keeping with the need to address the overall federal deficit and federal spending concerns.

Infrastructure Grants/Congressional Priorities (Earmarks)

Although the SRF grants represent the bulk of EPA funding for water infrastructure, Congress also has supported these needs through congressionally directed funding for “special project grants” (“earmarks”) in the STAG account. The FY2010 Interior, Environment appropriations included \$156.8 million for 317 special project grants distributed to individual communities across the United States.³⁴ The President's FY2011 budget did not include funding for congressionally directed special projects, which is consistent with past administrations' budgets.

³⁴ H.Rept. 111-316 on H.R. 2996, pp. 118–127.

While the FY2011 enacted appropriations (and the President's FY2011 budget request) did not include funds for congressionally designated special projects, funding was included for water infrastructure grants in two geographic-specific areas that reflect Administration priorities were included for FY2011:

- \$9.98 million for the construction of wastewater and drinking water facilities in Alaska Native Villages, compared to \$10.0 million in the FY2011 request, and \$13.0 million for FY2010; and
- \$9.98 million for wastewater infrastructure projects along the U.S./Mexico border, compared to \$10.0 million in the FY2011 request, and \$17.0 million for FY2010.

Cleanup of Superfund Sites³⁵

The Hazardous Substance Superfund (Superfund) account supports the assessment and cleanup of contaminated sites administered under EPA's Superfund program, established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).³⁶ P.L. 112-10 provided \$1.28 billion for the Superfund account for FY2011 (prior to transfers to other EPA accounts). The FY2011 appropriation was \$25.6 million less than the enacted FY2010 appropriation of \$1.31 billion, and \$12.2 million less than the President's FY2011 request of \$1.29 billion. Funding levels for the Superfund account have remained fairly similar to these amounts over the past decade (not accounting for inflation).³⁷ Although there had been concern among some states and communities that budgetary constraints could have jeopardized the availability of funding for ongoing cleanup activities at many sites, the FY2011 enacted amounts within the Superfund account that fund physical site cleanup activities were similar to the President's request. The reductions for the overall account were mainly attributed to enforcement and other supporting activities.

As amended, CERCLA established EPA's Superfund program to clean up the nation's most threatening sites and to enforce the liability of parties who are responsible for the cleanup costs under the statute.³⁸ If the parties cannot be found or cannot pay, the Superfund program may pay for the cleanup of a site under a cost-share agreement with the state in which the site is located. Sites at which there are no viable parties to assume responsibility for the cleanup are referred to as "orphan" sites. EPA's Hazardous Substance Superfund account funds the cleanup of contaminated sites under the Superfund program, except for the cleanup of the federal government's own facilities, which are funded directly by the agencies that administer them.

³⁵ This section was written by (name redacted), Specialist in Environmental Policy, CRS Resources, Science, and Industry Division.

³⁶ 42 U.S.C. § 9601 et seq.

³⁷ FY2009 was an exception to this trend with \$600.0 million in supplemental funds provided in ARRA (P.L. 111-5).

³⁸ For more information on EPA's cleanup and enforcement authorities under CERCLA, see CRS Report R41039, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, by (name redacted).

Most of the funding within the Superfund account is allocated to the cleanup of sites that EPA has placed on the National Priorities List (NPL).³⁹ Funding for “remedial” and “removal” actions pays for the physical cleanup of contamination.⁴⁰ The remainder is used for enforcement against the responsible parties, oversight of the cleanup of federal facilities by other agencies, research of cleanup methods, EPA’s operational expenses, and other support activities. Funding is transferred from the Superfund account to EPA’s Science and Technology account to carry out the agency’s research activities related to cleanup, and to EPA’s Office of Inspector General account for independent auditing, investigation, and evaluation of the Superfund program. Some funding also is provided for related homeland security activities of EPA. **Table 3** compares the FY2011 enacted amounts for these activities to the President’s FY2011 request and appropriations enacted for FY2010.

Table 3. Appropriations for the Hazardous Substance Superfund Account: FY2011 and FY2010 Enacted, and the President’s FY2011 Request
(millions of dollars)

| Program Area and Transfers to Other EPA Accounts | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Enacted P.L. 112-10 |
|--|-------------------------------|------------------|-------------------------------|
| Remedial | \$605.4 | \$605.4 | \$605.4 |
| Emergency Response and Removal | \$202.3 | \$202.8 | \$200.5 |
| Federal Facilities (Oversight) | \$32.1 | \$31.5 | \$31.1 |
| Enforcement | \$195.4 | \$198.9 | \$191.6 |
| Operations and Administration | \$139.2 | \$138.3 | \$136.6 |
| Homeland Security | \$56.5 | \$43.5 | \$41.7 |
| Other Program Areas | \$75.5 | \$72.7 | \$74.0 |
| Total Superfund Account | \$1,306.5 | \$1,293.1 | \$1,280.9 |
| Transfer to Science and Technology | -\$26.8 | -\$24.5 | -\$26.8 |
| Transfer to Office of Inspector General | -\$10.0 | -\$10.2 | -\$10.0 |
| Superfund Account After Transfers | \$1,269.7 | \$1,258.4 | \$1,244.2 |

Source: Prepared by the Congressional Research Service. FY2010 enacted appropriations are from the conference report to accompany the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, p. 242). The President’s FY2011 requested amounts are from EPA’s FY2011 Annual Performance Plan and Congressional Justification, p. 6 and pp. 942–945, <http://www.epa.gov/ocfo/budget>; FY2011 enacted amounts are as presented in information provided by the House Committee on Appropriations, which reflects the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

³⁹ For information on the number of sites that EPA has placed on the NPL over time and their listing status, see the Superfund Program website: <http://www.epa.gov/superfund/sites/npl/index.htm>.

⁴⁰ CERCLA authorizes two types of response actions: “remedial” actions that are intended to provide a more permanent solution to prevent potentially harmful exposure to contamination, and “removal” actions that are intended to respond to more immediate risks and address emergency situations.

Cleanup Progress

Debate over the sufficiency of funding for the Superfund program has centered primarily on the pace and adequacy of cleanup at NPL sites. EPA mainly has used the measure of “construction completion” to track cleanup progress over the life of the program. This measure generally indicates that all cleanup remedies are in place and operating as intended, after which point long-term operation and maintenance may continue for years or even decades in some instances. The annual number of construction completions has been declining for more than a decade, from a high of 88 in FY1997 to 18 in FY2010.⁴¹ This overall downward trend has raised questions as to whether funding levels for the Superfund program have been adequate to maintain consistent cleanup progress to ensure protection of human health and the environment. In conjunction with this trend, some have observed that the relatively steady funding levels over the past decade have resulted in fewer resources over time because of inflation. However, funding alone is not the sole factor that determines the pace of cleanup. The scope and complexity of cleanup challenges at individual sites, and technological capabilities, can be significant factors as well.

Superfund Taxes

Interest in greater resources to enhance cleanup progress has raised the issue of whether the dedicated industry taxes that once helped to finance the Superfund program should be reinstated. Excise taxes on the sale of petroleum and chemical feedstocks, and a special environmental tax on corporate income historically provided the majority of funding for the Hazardous Substance Superfund Trust Fund. This fund finances discretionary appropriations to the Superfund account to carry out the Superfund program. The authority to collect these taxes expired on December 31, 1995. As the remaining revenues were expended over time, Congress has increased the contribution of tax revenues from the General Fund of the U.S. Treasury to the Superfund Trust Fund, in an effort to make up for the shortfall in revenues from the expired industry taxes.⁴²

Whether to reinstate Superfund taxes has been a long-standing controversy for over 15 years. The debate has involved numerous issues regarding whether the taxes ensure that polluters pay for the cleanup of contamination, or whether the taxes may place an unfair burden of the costs on certain parties who did not cause or contribute to contamination.⁴³ Reinstatement of the taxes would be subject to the enactment of reauthorizing legislation. The President’s FY2011 budget request included a legislative proposal to reinstate Superfund taxes through FY2020.⁴⁴ Legislation to reauthorize the taxes was introduced, but not enacted in the 111th Congress. At least three bills have been introduced again in the 112th Congress to date (H.R. 1596, H.R. 1634, and S. 461).

⁴¹ The number of construction completions from FY1994 through FY2010, and so far in FY2011, is available on the Superfund program website: <http://www.epa.gov/superfund/sites/query/queryhtm/nplfy.htm>.

⁴² Congress now finances the Superfund Trust Fund mostly with general Treasury revenues, but other sources continue to contribute some revenue, including interest on the balance of the trust fund, fines and penalties collected for violations of cleanup requirements, and recovery of cleanup costs from the potentially responsible parties. Although the dedicated industry taxes have expired, it should be noted that industry has continued to help finance the Superfund Trust Fund through corporate income taxes that contribute to general Treasury revenues, along with individual income taxes and other miscellaneous receipts and collections deposited into the General Fund of the U.S. Treasury.

⁴³ For more information, see the “Hazardous Substance Superfund Trust Fund” section in CRS Report R41039, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, by (name redacted).

⁴⁴ OMB, *Budget of the U.S. Government for FY2011*, “Analytical Perspectives,” p. 175 and p. 185.

Brownfields⁴⁵

EPA also administers a Brownfields program to provide financial assistance to state, local, and tribal governments⁴⁶ for the cleanup of less hazardous sites that are not addressed under the Superfund program or other cleanup authorities, but at which the known or suspected presence of contamination may present an impediment to economic redevelopment. Consistent with liability under CERCLA, potentially responsible parties at these sites are not eligible for this financial assistance, as they are to be held accountable for the cleanup costs. In effect, the Brownfields program generally is intended to provide financial assistance for “orphan” sites not listed on the NPL, at which the threat of contamination may be an obstacle to redevelopment.⁴⁷ P.L. 112-10 included a total of \$172.9 for EPA’s Brownfields program, nearly the same as the FY2010 enacted appropriation of \$173.6 million. These amounts are similar to enacted appropriations over the past few years,⁴⁸ but the FY2011 enacted appropriation is \$42.2 million less than the President’s FY2011 request of \$215.1 million. **Table 4** compares the FY2011 enacted appropriations to the President’s FY2011 request and the appropriations enacted for FY2010 by EPA account for the two types of grants awarded under EPA’s Brownfields program, and presents a breakout of the expenses of EPA to administer the grant awards.

⁴⁵ This section was written by (name redacted), Specialist in Environmental Policy, CRS Resources, Science, and Industry Division.

⁴⁶ Non-profit organizations also may be eligible for site-specific remediation grants, subject to determination by EPA based on certain statutory criteria.

⁴⁷ For more information on the scope and purpose of this program, see the “Brownfields Properties” section in CRS Report R41039, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, by (name redacted).

⁴⁸ FY2009 was an exception to this trend with \$100.0 million in supplemental funds provided in ARRA (P.L. 111-5).

**Table 4. Appropriations for EPA's Brownfields Program:
FY2011 and FY2010 Enacted, and the President's FY2011 Budget Request**
(millions of dollars)

| Account/Program Area | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Enacted P.L. 112-10 |
|--|----------------------------------|-------------------|----------------------------------|
| State and Tribal Assistance Grants Account | | | |
| Section 104(k) Competitive Project Grants ^a | \$100.0 | \$138.3 | \$99.8 |
| Section 128 Categorical Grants to States and Tribes ^b | \$49.5 | \$49.5 | \$49.4 |
| Brownfields Grants Total | \$149.5 | \$187.7 | \$149.2 |
| Environmental Programs and Management Account | | | |
| EPA Administrative Expenses | \$24.2 | \$27.4 | \$23.7 |
| Brownfields Program Total | \$173.6 | \$215.1 | \$172.9 |

Source: Prepared by the Congressional Research Service. FY2010 Enacted appropriations are from the conference report to accompany the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, p. 241 and p. 243). The President's FY2011 requested amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, p. 920, <http://www.epa.gov/ocfo/budget>; FY2011 enacted amounts are as presented in information provided to CRS by the House Committee on Appropriations, which reflects the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

- a. Under Section 104(k) of CERCLA, EPA may award competitive grants to eligible entities for the assessment or remediation of brownfields to prepare them for redevelopment.
- b. Under Section 128 of CERCLA, EPA may award grants to states and tribes to establish or enhance their own cleanup programs, which in turn may assist in the assessment or remediation of brownfields.

Leaking Underground Storage Tank (LUST) Program⁴⁹

As indicated in **Table 5** below, the FY2011 appropriations act approved the transfer to EPA from the Leaking Underground Storage Tank (LUST) Trust Fund of \$112.9 million, slightly less than the FY2010 appropriations and the President's FY2011 request. These Trust Fund monies are used by states and EPA to implement the LUST corrective action and the UST leak prevention programs. Another \$2.5 million was included within the STAG account for categorical grants to support state enforcement and implementation of certain other UST leak prevention and detection regulations, roughly the same as the FY2010 level and the President's FY2011 request.

Congress established the LUST Trust Fund to provide a source of funds to address leaks from petroleum USTs.⁵⁰ The trust fund is supported by a 0.1 cent-per-gallon motor fuels tax and had a balance of \$3.2 billion at the beginning of FY2011. EPA and the states (through state cooperative agreement grants) use the LUST funds primarily to oversee and enforce LUST cleanup activities conducted by responsible parties. Funds also are used to take emergency actions, clean up

⁴⁹ This section was written by (name redacted), Specialist in Environmental Policy, CRS Resources, Science, and Industry Division.

⁵⁰ The Superfund Amendments and Reauthorization Act of 1986 (SARA; P.L. 99-499), Title V, amended the Solid Waste Disposal Act, Subtitle I, 42 U.S.C. § 6991-6991i).

abandoned tank sites, and pursue cost recovery actions.⁵¹ The Energy Policy Act of 2005 (EPA, P.L. 109-58) expanded the leak prevention provisions in the UST regulatory program, imposed new responsibilities on the states and EPA, and broadened the authorized uses of the LUST Trust Fund to support state implementation of the leak prevention requirements, in addition to supporting the LUST cleanup program. Congress now appropriates funds from the trust fund to support both the LUST cleanup program and the UST leak prevention and detection program. Before EPA, the UST program had been supported entirely from general revenues.

An emerging issue is whether the effect of alternative fuels on storage tank infrastructure has caused more leaks and may increase the need for cleanup funds in the future. The renewable fuel mandates in EPA and the Energy Independence and Security Act of 2007 (EISA; P.L. 110-140) present new technical issues for USTs and for fuel storage and delivery infrastructure, generally. Storage tanks are not designed for higher blends of ethanol. EPA estimates that half the tanks in the ground are 20 years old and have never been tested for compatibility with higher ethanol blends. Tank owners, EPA, states, and industry are concerned that a new wave of leaks could occur as the amount of ethanol blended in gasoline increases to meet EISA renewable fuel requirements. Under this scenario, EPA expects that more leaks will occur, potentially contaminating groundwater and placing more demands on the LUST Trust Fund. Currently, a key area of work for EPA is assessing the compatibility of USTs with alternative fuel and evaluating the transport and degradation characteristics of ethanol and biodiesel blends.⁵²

Table 5. Appropriations for the Leaking Underground Storage Tank Trust Fund Program Account: FY2011 and FY2010 Enacted, and the FY2011 President's Budget Request

(millions of dollars)

| Account/Program Area | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Request |
|------------------------|----------------------------------|-------------------|-------------------|
| LUST Account | \$113.1 | \$113.2 | \$112.9 |
| EPA Act Provisions | \$34.4 | \$34.4 | \$34.4 |
| STAG Account | | | |
| Categorical Grant: UST | \$2.5 | \$2.5 | \$2.5 |

Source: Prepared by the Congressional Research Service. FY2010 enacted appropriations are from the conference report accompanying the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, pp. 242–243). The President's FY2011 requested amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, <http://www.epa.gov/ocfo/budget>; FY2011 enacted amounts are as presented in information provided by the House Committee on Appropriations which reflects the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

⁵¹ For further discussion, CRS Report RS21201, *Leaking Underground Storage Tanks (USTs): Prevention and Cleanup*, by (name redacted).

⁵² For further discussion of biofuels issues, see CRS Report R40155, *Renewable Fuel Standard (RFS): Overview and Issues*, by (name redacted) and (name redacted).

Air Quality⁵³

Congressional interest in EPA's implementation of several provisions of the Clean Air Act (CAA), and proposed changes to this law and its regulations,⁵⁴ was a major area of concern in hearings and during floor debate with respect to FY2011 funding for the agency's air quality programs. Most of this funding is allocated among EPA's accounts: grants to states and tribes in the STAG, EPM, and Science and Technology (S&T) accounts.⁵⁵ Funding within these accounts supports the implementation of regulatory and grants programs, scientific research, and monitoring activities related to air quality. Additional funding is provided within the Superfund account to support EPA technical assistance for addressing potential radiation risks found at some Superfund sites.

P.L. 112-10 specified no funding be provided in the STAG account for the Targeted Airshed Grants Program and for Climate Change Grants to Local Governments, a categorical grant within the STAG account, the same as in the House and Senate proposals, and President's FY2011 request. The FY2010 enacted amounts for these grants were \$20.0 million and \$10.0 million respectively. Also, P.L. 112-10 specified \$49.9 million within the STAG account for the Diesel Emission Reduction Grants Program for FY2011, a reduction from the \$60.0 million provided in FY2010 and included in the FY2011 request.

House-passed H.R. 1 included seven provisions that would have restricted or prohibited use of funds appropriated for activities related to specific EPA actions under the CAA.⁵⁶ These provisions were not included in P.L. 112-10 or S.Amdt. 149. H.R. 1 and S.Amdt. 149 had proposed no FY2011 funding for the Diesel Emission Reductions Grant Program.⁵⁷

Table 6 below presents a comparison of FY2011 enacted appropriations, FY2010 enacted appropriations, and the President's FY2011 request for selected air quality activities within various EPA appropriations accounts.

⁵³ This section was written by (name redacted), Specialist in Environmental Policy, CRS Resources, Science, and Industry Division.

⁵⁴ See CRS Report R41563, *Clean Air Issues in the 112th Congress*, by (name redacted).

⁵⁵ The Superfund account also includes a small amount of funding, relative to the above accounts.

⁵⁶ For a more detailed summary of these provisions contained in House-passed H.R. 1, see Table 2 in CRS Report R41698, *H.R. 1 Full-Year FY2011 Continuing Resolution: Overview of Environmental Protection Agency (EPA) Provisions*, by (name redacted).

⁵⁷ For more background regarding these provisions and the related funding contained in House-passed H.R. 1 and S.Amdt. 149, see Table 1 and Table 2 in CRS Report R41698, *H.R. 1 Full-Year FY2011 Continuing Resolution: Overview of Environmental Protection Agency (EPA) Provisions*, by (name redacted).

Table 6. Appropriations for Selected EPA Air Quality Research and Implementation Activities by Account: FY2010 and FY2010 Enacted, and the President's FY2011 Budget Request

(millions of dollars)

| Account/Program Area | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Enacted P.L. 112-10 |
|--|----------------------------------|-------------------|----------------------------------|
| Science and Technology Account | | | |
| Air Toxics and Quality | \$121.9 | 124.8 | 120.5 |
| Indoor Air | \$1.2 | \$1.2 | \$1.3 |
| Research: Clean Air (Incl. Global Change) | \$102.7 | \$107.3 | \$102.4 |
| Environmental Programs and Management Account | | | |
| Air Toxics and Quality | \$202.2 | \$220.9 | \$207.3 |
| Indoor Air | \$26.6 | \$27.8 | \$25.9 |
| Hazardous Substances Superfund | | | |
| Air Toxics and Quality | \$2.5 | \$2.6 | \$2.5 |
| State and Tribal Assistance Grants Account | | | |
| Diesel Emission Grants (Energy Pol. Act) | \$60.0 | \$60.0 | \$49.9 |
| Targeted Airshed Grants | \$20.0 | \$0.0 | \$0.0 |
| Radon | \$8.1 | \$8.1 | \$8.1 |
| State & Local Air Quality Management Grants | \$226.6 | \$309.1 | \$236.1 |
| Tribal Air Quality Management Grants | \$13.3 | \$13.6 | \$13.3 |

Source: Prepared by the Congressional Research Service. FY2010 enacted amounts are based on information provided by the conference report to accompany the Interior, Environment, and Related Agencies House Committee on Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, pp. 240–243). The President's FY2011 requested amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, <http://www.epa.gov/ocfo/budget>; FY2011 enacted amounts are as presented in information provided by the House Committee on Appropriations which reflects the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

Much of the day-to-day operations of the nation's air pollution control programs (i.e., monitoring, permitting, enforcement, and developing site-specific regulations) is done by the states, not EPA. The Clean Air Act authorizes federal grants to the states for up to 60% of the cost of running these programs; for the last decade, however, the grant amounts have stagnated, with the federal contribution falling to as little as 23% of the total cost of state air pollution programs. In the current recession, state revenues have declined, and air programs, like other state spending, have been under severe budgetary pressures. In response, the \$236.1 million FY2011 enacted appropriations for grants to the states for implementation of Clean Air Act programs was an increase above the FY2010 enacted appropriations of \$226.6 million in FY2010, but below the \$309.1 million included in the President's request for FY2011. The requested increase was in response to an anticipated rise in state workloads. EPA is in the process of reviewing air quality standards for the six most widespread ("criteria") air pollutants, and has either promulgated or proposed strengthening five of the six.⁵⁸ As these standards are finalized, the states will face a

⁵⁸ For a further discussion, see CRS Report R41563, *Clean Air Issues in the 112th Congress*, by (name redacted).

need to expand their monitoring networks, identify nonattainment areas, and develop and implement plans for bringing nonattainment areas into attainment.

EPA's diesel emission reduction grants program also generated interest during debate of EPA's FY2011 appropriations. The FY2011 appropriation of \$49.9 million was below the \$60.0 million FY2010 appropriation and the same amount in the President's FY2011 request. The ARRA (P.L. 111-5) provided an additional \$300.0 million in supplemental funds for these grants in FY2009 for a total of \$360.0 million in FY2009, much of which was awarded in FY2010 (see **Table B-1** in **Appendix B**). The Energy Policy Act of 2005⁵⁹ authorized \$200.0 million annually for these grants from FY2007 through FY2011. EPA was authorized to award grants on a competitive basis to assist regional, state, and local governments, tribes, and non-profit organizations in funding projects that would reduce emissions from diesel-powered vehicles, engines, and equipment. Port authorities and school districts have been among the major grant recipients. EPA has reported that every dollar spent on diesel emission reductions generates up to \$13.00 in health benefits.

Climate Change/Greenhouse Gas Reduction⁶⁰

A prominent issue of debate related to air quality had relatively little budgetary impact, but received a great deal of attention as EPA proceeds with its response to a 2007 Supreme Court decision. The decision, *Massachusetts v. EPA*,⁶¹ found greenhouse gases (GHGs) to be "air pollutants" within the Clean Air Act's definition of that term, and required EPA to consider whether GHGs endanger public health or welfare, the first step in promulgating emission standards. In December 2009, EPA formally responded to the Court decision by promulgating a finding that greenhouse gases endanger both public health and welfare.⁶² The agency also found that emissions of four specific GHGs from new motor vehicles contribute to that air pollution and must be controlled. Pursuant to these findings, EPA promulgated standards for light-duty motor vehicles, including cars and SUVs, in May 2010.⁶³ The implementation of these standards, in turn, triggered permitting and Best Available Control Technology requirements for new major stationary sources of GHGs on January 2, 2011.

The motor vehicle standards promulgated in May 2010 have not been particularly controversial, as they were negotiated with the automobile manufacturers and other interested parties. Besides setting emission standards, the negotiated agreement requires California and 13 other states that had been proceeding to implement motor vehicle GHG standards of their own to instead adopt standards that are essentially identical to the federal standards.

⁵⁹ In Subtitle G of Title VII of the act, P.L. 109-58.

⁶⁰ This section was written by (name redacted), Specialist in Energy and Environmental Policy, CRS Resources, Science, and Industry Division.

⁶¹ 549 U.S. 497 (2007).

⁶² Environmental Protection Agency, "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 *Federal Register* 66496, December 15, 2009. The effective date of the finding was January 14, 2010.

⁶³ Environmental Protection Agency and Department of Transportation, "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule," 75 *Federal Register* 25324, May 7, 2010. The effective date of the standards was July 6, 2010. Under this joint rule, EPA promulgated the vehicle emission standards, and the Department of Transportation promulgated the vehicle fuel economy standards.

It is the triggering of standards for stationary sources (power plants, manufacturing facilities, and others) that has raised the most concern, resulting in efforts by many in Congress to prevent EPA from implementing stationary source GHG emission requirements. These efforts have taken several forms, including the introduction of resolutions of disapproval under the Congressional Review Act in both the House and Senate, and stand-alone legislation in both bodies that would forestall EPA action. The path to enactment of either of these forms of legislation is a steep one. The Obama Administration has made the reduction of GHG emissions an important goal; as a result, many believe that legislation restricting EPA's regulatory authority, if enacted by Congress, would encounter a presidential veto.

In its FY2011 budget submission, EPA requested \$43.0 million for "additional regulatory efforts aimed at taking action on climate change," \$25.0 million "for state grants focused on developing technical capacity to address greenhouse gas emissions under the Clean Air Act," and \$13.5 million "for implementing new emission standards that will reduce Greenhouse Gas (GHG) emissions from mobile sources" including "developing potential standards for large transportation sources such as locomotives and aircraft engines, and analyzing the potential need for standards under petitions relating to major stationary sources."⁶⁴ Whether to modify these amounts or to prevent EPA from developing or implementing GHG emission standards for stationary sources were among the prominent areas of debate and amendments considered during the debate of the FY2011 appropriations.

EPA is one of 17 federal agencies that received appropriations for climate change activities in recent fiscal years. Issues that have emerged within the context of appropriations by Congress include (1) how different agency programs may be complementary or duplicative, (2) how these programs may together constitute an effective strategy to achieve U.S. objectives, and (3) whether there are gaps or opportunities for efficiencies that may be addressed. Most U.S. funding is aimed at energy technology development, and at Earth observations to support the science enterprise.

Within the S&T account, the \$20.5 million in FY2011 appropriated funding for climate change research was less than the FY2010 appropriation of \$20.8 million and the President's request of \$22.0 million. EPA reported that the FY2011 request would support investigation of potential health or ecosystem impacts of climate change, and options for adaptation. According to EPA the research funding was to be used to assess whether modifications to EPA's air and water pollution control programs or regulations may be warranted as part of U.S. strategies to adapt or respond to the anticipated impacts of climate change. An additional \$16.8 million was provided for FY2011 within the S&T account for the development of advanced vehicle technologies under the Climate Protection Program, less than the FY2010 enacted appropriation of \$19.8 million and \$16.9 million requested for FY2011. This aspect of the program funds technologies that would reduce greenhouse gas emissions and conserve energy in the transportation sector.

⁶⁴ Testimony of Lisa P. Jackson, Administrator, U.S. Environmental Protection Agency, "Hearing on the President's Proposed EPA Budget for FY2011," Senate Environment and Public Works Committee, February 23, 2010, pp. 2-3.

In addition to the adequacy of funding for specific climate change activities, a larger issue has been the overall role of EPA as interagency discussion continues over whether to establish a National Climate Service, the scope of which may include but be potentially broader than the climate services being established by the National Oceanic and Atmospheric Administration (NOAA). Appropriations to fund EPA's role may be affected by views on whether and how EPA should engage in providing climate services, including observations (e.g., monitoring); development of forecasts and decision tools; the providing of information to states, localities, and sources; and other similar services. As discussed in the "Air Quality" section of this report, EPA's role in regulating greenhouse gas emissions under the Clean Air Act also has been an issue.

The FY2011 enacted appropriations included \$107.5 million for the Climate Protection Program activity, less than the \$113.0 million FY2010 appropriations and the \$123.1 million included in the President's request for FY2011. A more detailed breakout of the allocation of the FY2011 enacted appropriations is not readily available. According to the EPA FY2011 Justification \$20.8 million of the funding as requested was to be use to carry out the Mandatory Reporting of GHG Rule, \$4.1 million more than the FY2010 enacted appropriation of \$16.7 million.⁶⁵ EPA action to establish mandatory GHG reporting was required by Congress in the FY2008 Consolidated Appropriations Act (P.L. 110-161). Reliable GHG data would be critical to informing the development of efficient policies. Experience in the European Union has demonstrated the adverse consequences of inadequate emissions data as a baseline for setting regulatory requirements in allocating allowances in its Emissions Trading System.⁶⁶ FY2011 enacted funding levels for climate change protection implementation and research activities comparable to each of those activities as requested for FY2011 are not readily available. **Table 7** presents a comparison of FY2011 enacted and FY2010 appropriations and the President's FY2011 request where comparable data available for informational purposes only.

⁶⁵ <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.

⁶⁶ See, for example, <http://www.climnet.org/component/content/article/55>.

Table 7. Appropriations for EPA Climate Change Protection and Research: FY2011 and FY2010 Enacted, and the President's FY2011 Budget Request
(millions of dollars)

| EPA Accounts/Climate Change Activities | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Enacted |
|---|----------------------------------|-------------------|-------------------|
| Science and Technology Account | | | |
| Climate Protection Program (clean automotive technology) | \$19.8 | \$16.9 | \$16.8 |
| Research Global Change (mostly impacts) | \$20.8 | \$22.0 | \$20.5 |
| Environmental Programs and Management Account | | | |
| Climate Protection Program | \$113.0 | \$123.1 | \$107.5 |
| <i>Energy Star</i> | \$52.6 | \$55.5 | NA |
| <i>Methane-to-Markets</i> | \$4.6 | \$4.6 | NA |
| <i>Greenhouse gas reporting</i> | \$16.7 | \$20.8 | NA |
| <i>Other activities</i> | \$39.1 | \$42.2 | NA |
| Air Toxics and Quality | | | |
| <i>Federal Vehicle & Fuel Standards & Certification</i> | NA | \$6.0 | NA |
| <i>Federal Stationary Source Regulations</i> | NA | \$7.6 | NA |
| <i>Federal Support for Air Quality Management</i> | NA | \$4.9 | NA |
| State and Tribal Assistance Grants Account | | | |
| Local government climate change grants | \$10.0 | \$0.0 | \$0.0 |
| State & Local Air Quality Management | NA | \$25.0 | NA |

Source: Prepared by the Congressional Research Service. NA indicates comparable funding amounts are not readily available. FY2010 enacted appropriations are from the conference report to accompany the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, pp. 240–243). The President's FY2011 requested amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, <http://www.epa.gov/ocfo/budget>; FY2011 enacted amounts are as presented in information provided by the House Committee on Appropriations which reflects the across-the-board 0.2% rescission included in P.L. 112-10, supplemented with data included in EPA's FY2011 Enacted Operating Plan as provided to CRS by EPA's Office of Congressional and Intergovernmental Relations (OCIR) on June 10, 2011. Numbers may not add due to rounding.

As indicated in **Table 7**, the President's FY2011 request included an increase above the FY2010 enacted levels for voluntary climate protection programs. These programs include Energy Star and Methane-to-Markets, as well as other analytical (e.g., economic analysis) and other efforts that encourage and assist the private sector, schools, hospitals, and other enterprises to inventory and reduce their GHG emissions at a profit. Comparable FY2011 enacted amounts for these programs are not readily available.

For FY2011, Congress did not specify and the Administration did not submit a request for funding specifically for international efforts to address climate change. For several years, previous requests proposed funding for international capacity building and for the Asia-Pacific Partnership, though funding for the latter was never appropriated for EPA. Congress may consider whether and at what level EPA has resources to engage in assisting governments in other countries to establish effective GHG monitoring and control programs in the context of international cooperation to address climate change. U.S. policy has emphasized the responsibilities of other major emitters also to reduce their GHG emissions, and EPA has been engaged historically in building institutional infrastructure and expertise that may help to realize reductions and to establish peer-to-peer networks that may assist in verifying results.

Geographic-Specific/Ecosystem Programs⁶⁷

The Environmental Programs and Management (EPM) account includes funding for several geographic-specific/ecosystem programs to address certain environmental and human health risks in a number of identified areas of the United States. These programs often involve collaboration among EPA, state and local governments, communities, and nonprofit organizations. **Table 8** presents a comparison of the FY2011 enacted appropriations with the FY2010 enacted appropriations and the President's FY2011 request for selected geographic-specific/ecosystem program areas.

⁶⁷ This section was written by (name redacted), Specialist in Resources and Environmental Policy, CRS Resources, Science, and Industry Division.

Table 8. Appropriations for Selected Geographic-Specific/Ecosystem Programs: FY2011 and FY2010 Enacted, and the President's FY2011 Budget Request

(millions of dollars)

| Geographic/Ecosystem Program | FY2010 Enacted P.L. 111-88 | FY2011 Request | FY2011 Enacted P.L. 112-10 |
|---|---|---------------------------|---|
| Water: Ecosystems | \$58.5 | \$55.5 | \$53.3 |
| <i>National Estuary Program</i> | \$32.6 | \$27.3 | \$26.7 |
| <i>Great Lakes Legacy Act^a</i> | \$0.0 | \$0.0 | \$0.0 |
| <i>Wetlands</i> | \$25.9 | \$28.2 | \$26.5 |
| Geographic Programs | \$608.4 | \$416.1 | \$416.0 |
| <i>Great Lakes Restoration Initiative</i> | \$475.0 | \$300.0 | \$299.4 |
| <i>Great Lakes Program^a</i> | \$0.0 | \$0.0 | \$0.0 |
| <i>Chesapeake Bay Program</i> | \$50.0 | \$63.0 | \$54.4 |
| <i>Mississippi River Basin^b</i> | \$0.0 | \$12.4 | \$0.0 |
| <i>San Francisco Bay</i> | \$7.0 | \$5.0 | \$5.3 |
| <i>South Florida</i> | \$2.2 | \$2.1 | \$1.7 |
| <i>Puget Sound</i> | \$50.0 | \$20.0 | \$38.1 |
| <i>Long Island Sound Program</i> | \$7.0 | \$3.0 | \$5.3 |
| <i>Gulf of Mexico Program</i> | \$6.0 | \$4.5 | \$4.6 |
| <i>Lake Champlain Basin Program</i> | \$4.0 | \$1.4 | \$3.0 |
| <i>Lake Pontchartrain</i> | \$1.5 | \$1.0 | \$1.1 |
| <i>Community Action for Renewed Environment (CARE)</i> | \$2.4 | \$2.4 | \$1.9 |
| <i>Other Geographic Programs and Regional Initiatives</i> | \$3.3 | \$1.3 | \$1.2 |
| Total Ecosystem/Geographic Programs | \$666.9 | \$471.6 | \$469.3 |

Source: Prepared by the Congressional Research Service. FY2010 enacted appropriations are from the conference report to accompany the Interior, Environment, and Related Agencies Appropriations Act for FY2010 (H.R. 2996, H.Rept. 111-316, p. 241). The President's FY2011 request amounts are from EPA's FY2011 Annual Performance Plan and Congressional Justification, pp. 267–317, and pp. 494–503, <http://www.epa.gov/ocfo/budget>; FY2011 enacted amounts are as presented in information provided by the House Committee on Appropriations which reflect the across-the-board 0.2% rescission included in P.L. 112-10. Numbers may not add due to rounding.

- a. Funding for the Great Lakes Legacy Act and for EPA's Great Lakes Program was moved to the Great Lakes Restoration Initiative in FY2010.
- b. An additional \$4.6 million was included in the President's FY2011 request within other sub-appropriation account areas for activities related to the Mississippi Basin Program.

Great Lakes Restoration Initiative

In 2004 President Bush established a Great Lakes Interagency Task Force, chaired by EPA,⁶⁸ to develop a strategy (released in 2005) that will guide federal Great Lakes protection and restoration efforts. To better coordinate these efforts, the FY2010 budget requested, and Congress endorsed in P.L. 111-88, a Great Lakes Restoration Initiative involving EPA and eight other federal agencies, plus a commitment of new federal resources. The purpose of the initiative is to target the most significant problems in the ecosystem, such as aquatic invasive species, nonpoint source pollution, and toxics and contaminated sediment.⁶⁹ Projects and programs are to be implemented through the grants and agreements with states, tribes, municipalities, universities, and other organizations. The initiative consolidates funding for a number of existing federal Great Lakes programs, including EPA's Great Lakes National Program Office (GLNPO), its implementation of the Great Lakes Legacy Act to clean up contaminated sediments, and other agencies' Great Lakes programs.

The FY2011 enacted appropriation of \$299.4 million within EPA's EPM account continues the Great Lakes Restoration Initiative, \$175.6 million below the FY2010 enacted appropriations, but roughly the same as the President's FY2011 request. Some Members and stakeholders expressed concern about the reduced funding level proposed for FY2011. EPA officials noted that most of the FY2010 enacted appropriations had not yet been obligated, and that two years' of investment totaling nearly \$775.0 million represented a significant advance in the federal government's commitment to Great Lakes protection.

Chesapeake Bay and Mississippi River Basin

In May 2009, President Obama issued *Executive Order 13508: Chesapeake Bay Protection and Restoration*, which directed the federal government to exercise greater leadership and actions to restore the Bay. Despite restoration efforts of the past 25 years, which have resulted in some successes in specific parts of the ecosystem, the overall health of the Bay remains degraded by excessive levels of nutrients and sediment. The FY2011 enacted appropriation of \$54.4 million for EPA to implement the executive order and related activities to accelerate pollution reduction and aquatic habitat restoration efforts in the Bay was an increase compared to the FY2010 enacted appropriation of \$50.0 million, but was below the President's FY2011 budget request of \$63.0 million (see **Table 8**).

The President's FY2011 budget request had included nearly \$17.0 million within the Geographic-Specific/Ecosystem Program area to address certain environmental issues in the Mississippi River Basin. Of the total, \$12.4 million was to be for grants to address pollution runoff from farms.⁷⁰ Controlling such "non-point" source pollution was intended to reduce the introduction of nutrients into the basin, which are thought to be a contributing cause of the severely oxygen-depleted "dead zone" in the Gulf of Mexico.⁷¹ However, as shown in **Table 8**, Congress provided no FY2011 appropriations for the Mississippi River Basin Initiative in P.L. 112-10.

⁶⁸ The Great Lakes Interagency Task Force was established by Executive Order in 2004; for information see <http://www.epa.gov/glnpo/iatf/index.html>.

⁶⁹ For information, see the Great Lakes Restoration Initiative website, <http://greatlakesrestoration.us/>.

⁷⁰ The EPA *FY2011 Annual Performance Plan Congressional Justification* identifies an additional \$600,000 for the compliance monitoring program (see p. 246), and \$3.8 million to support applicable nonpoint source recommendations of the Nutrients Innovations Task Group and Gulf of Mexico Hypoxia Action Plan (see p. 534) in the Upper (continued...)

Appendix A. Descriptions of EPA's Eight Appropriations Accounts

Since FY1996, EPA's funding has been requested by the Administration and appropriated by Congress under eight statutory accounts. **Table A-1** describes the scope of the programs and activities funded within each of these accounts. Prior to FY1996, Congress appropriated funding for EPA under a different account structure, making it difficult to compare funding for the agency historically over time by the individual accounts.

Table A-1. EPA's Eight Appropriations Accounts

Science and Technology (S&T): The S&T account incorporates elements of the former Research and Development account that was in place until FY1996. The S&T account funds the development of the scientific knowledge and tools necessary to inform EPA's formulation of pollution control regulations, standards, and agency guidance. EPA carries out research activities not only at its own laboratories and facilities, but also through contracts, grants, and cooperative agreements with other federal agencies, state and local governments, nonprofit organizations, universities, and private businesses. Congress appropriates funds directly to the S&T account and transfers additional funds from the Hazardous Substances Superfund account to the S&T account specifically to support research related to the cleanup of hazardous substances.

Environmental Programs and Management (EPM): The EPM account funds a broad range of activities involved in EPA's development of pollution control regulations and standards, and enforcement of these requirements across multiple environmental media, such as air quality and water quality. The EPM account also funds technical assistance to pollution control agencies and organizations, and technical assistance on how regulated entities can assure compliance with environmental requirements to avoid violations. Much of EPA's administrative and operational expenses are funded within this account as well.

Office of Inspector General (OIG): As amended, the Inspector General Act of 1978 established Offices of Inspector General in numerous federal agencies, including EPA. These offices are intended to conduct independent auditing, evaluation, and investigation of an agency's programs and activities to identify potential management and administrative deficiencies, which may create conditions for instances of fraud, waste, and mismanagement of funds, and to recommend actions to correct these deficiencies. Congress appropriates funds directly to EPA's OIG account and transfers additional funds from the Hazardous Substances Superfund account to the OIG account specifically to support the office's auditing, evaluation, and investigation of the Superfund program.

Buildings and Facilities: This account funds the construction, repair, improvement, extension, alteration, and purchase of fixed equipment and facilities owned or used by EPA.

Hazardous Substance Superfund: This account is funded by discretionary appropriations from a dedicated trust fund of the same name, the Hazardous Substance Superfund Trust Fund. As amended, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) established the Superfund program to clean up the nation's most threatening sites and created the Superfund Trust Fund to finance the program. Dedicated taxes on industry originally provided most of the revenues to the Superfund Trust Fund, but the taxing authority expired at the end of 1995. Congress now finances this trust fund mostly with revenues from the General Fund of the U.S. Treasury. EPA may use appropriations from the Superfund Trust Fund to enforce the liability of "potentially responsible parties" for the cleanup of contaminated sites, and if the parties cannot be found or cannot pay at a site, EPA may pay for the cleanup under a cost-share agreement with the state in which the site is located. Although the Superfund account also funds EPA's oversight of the cleanup of federal facilities by other agencies, these agencies fund the actual cleanup with separate funds appropriated directly to them, not with Superfund monies.

(...continued)

Mississippi River Basin, <http://www.epa.gov/ocfo/budget>.

⁷¹ See the Mississippi River Basin 2008 Action Plan, available at <http://www.epa.gov/msbasin/actionplan.htm>.

Oil Spill Response: As authorized by the Oil Pollution Act of 1990, this account funds EPA's activities to prepare for and prevent releases of oil into the inland zone of the United States within the agency's jurisdiction. The U.S. Coast Guard has jurisdiction over oil spills in the coastal zone of the United States. EPA is reimbursed for its expenses to respond to oil spills at inland sites from the Oil Spill Liability Trust Fund, which is administered by the U.S. Coast Guard.

The Leaking Underground Storage Tank (LUST) Trust Fund Program: Like the Superfund account, this account is funded by discretionary appropriations from a dedicated trust fund of the same name, the LUST Trust Fund. The Superfund Amendments and Reauthorization Act of 1986 established this trust fund. The LUST Trust Fund is financed primarily by a 0.1 cent per gallon tax on motor fuels, which is set to expire after September 30, 2011. EPA may use appropriations from the LUST Trust Fund to pay for the prevention of, and response to, releases from underground storage tanks that contain petroleum, which is not covered under Superfund. EPA and the states (through cooperative agreements) may use the funds to oversee corrective actions (i.e., cleanup) performed by the responsible parties, to conduct cleanups where a responsible party fails to do so or in case of an emergency, and to recover LUST monies spent on cleanup from the responsible parties. In addition to these activities, the Energy Policy Act of 2005 expanded the authorized uses of appropriated LUST monies to include implementation and enforcement of EPA's Underground Storage Tank leak prevention and detection program.

State and Tribal Assistance Grants (STAG): The majority of the funding within the STAG account is for capitalization grants for the Clean Water and Drinking Water State Revolving Funds (SRFs). SRF funding is used for local wastewater and drinking water infrastructure projects, such as construction of and modifications to municipal sewage treatment plants and drinking water treatment plants, to facilitate compliance with Clean Water Act and Safe Drinking Water Act requirements, respectively. The remainder of the STAG account funds other water infrastructure grants, categorical grants to states and tribes for numerous pollution control activities, grants for the cleanup of brownfields, and diesel emission reduction grants. Although the majority of funding for grants awarded by EPA is funded within the STAG account, other agency accounts also fund various types of grants, such as the S&T and EPM accounts.

Appendix B. Historical Funding Trends

The Nixon Administration established EPA in 1970 in response to growing public concern about environmental pollution, consolidating federal pollution control responsibilities that had been divided among several federal agencies. Congress has enacted an increasing number of environmental laws, as well as major amendments to these statutes, over three decades following EPA's creation.⁷² Annual appropriations provide the funds necessary for EPA to carry out its responsibilities under these laws, such as the regulation of air and water quality, use of pesticides and toxic substances, management and disposal of solid and hazardous wastes, and cleanup of environmental contamination. EPA also awards grants to assist state, tribal, and local governments in controlling pollution in order to comply with federal environmental requirements.

Table B-1 presents FY2007-FY2011 enacted appropriations for EPA by each of the eight accounts. **Figure B-1** presents a history of total discretionary budget authority for EPA from FY1976 through FY2010, and the President's FY2011 budget request, as reported by the Office of Management and Budget (OMB) in the "Historical Tables" accompanying the President's *Budget of the U.S. Government, Fiscal Year 2011*. Levels of agency budget authority prior to FY1976 were not reported by OMB in the Historical Tables. In **Figure B-1**, the levels of discretionary budget authority are presented in nominal dollars as reported by OMB, and are adjusted for inflation by CRS to reflect the trend in real dollar values over time. EPA's historical funding trends generally reflects the evolution of the agency's responsibilities over time, as Congress has enacted legislation to authorize the agency's programs and activities in response to a range of environmental issues and concerns. In terms of the overall federal budget, EPA's annual appropriations have represented a relatively small portion of the total discretionary federal budget (just under 1% in recent years).

Without adjusting for inflation, EPA's funding has grown from \$1.0 billion when EPA was established in FY1970 to a peak funding level of \$14.86 billion in FY2009. This peak includes regular fiscal year appropriations of \$7.64 billion provided for FY2009 in P.L. 111-8 and the emergency supplemental appropriations of \$7.22 billion provided for FY2009 in P.L. 111-5. However, in real dollar values (adjusted for inflation), EPA's funding in FY1978 was slighter more than the level in FY2009, as presented in **Figure B-1**.

⁷² For a discussion of these laws, see CRS Report RL30798, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency*.

Table B-1. Appropriations for the Environmental Protection Agency: FY2007-FY2011 Enacted

(millions of dollars not adjusted for inflation)

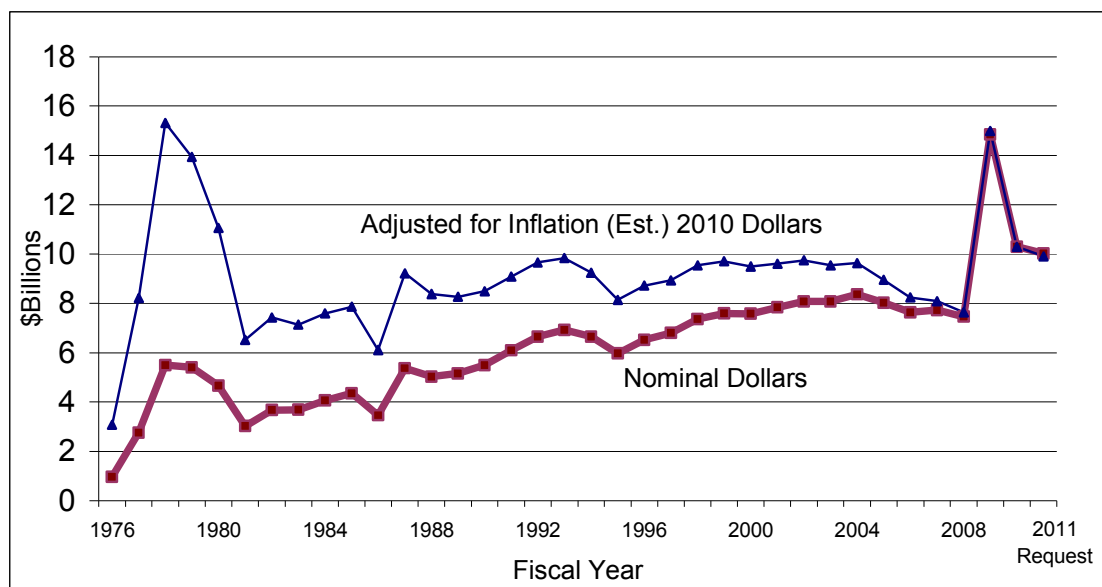
| | FY2007 P.L. 110-5 | FY2008 P.L. 110-161 | FY2009 Omnibus P.L. 111-8 | FY2009 ARRA P.L. 111-5 | FY2009 Total | FY2010 P.L. 111-88 | FY2011 P.L. 112-10 |
|--|------------------------------|--------------------------------|--|---------------------------------------|-------------------------|-------------------------------|-------------------------------|
| Science and Technology | | | | | | | |
| —Base Appropriations | \$733.4 | \$760.1 | \$790.1 | \$0.0 | \$790.1 | \$848.1 ^a | \$813.5 |
| —Transfer in from Superfund | \$ 30.2 | +\$25.7 | +\$26.4 | \$0.0 | +\$26.4 | +\$26.8 | +\$26.8 |
| Science and Technology Total | \$763.6 | \$785.8 | \$816.5 | \$0.0 | \$816.5 | \$874.9 | \$840.3 |
| Environmental Programs and Management | \$2,358.4 | \$2,328.0 | \$2,392.1 | \$0.0 | \$2,392.1 | \$2,993.8 | \$2,756.5 |
| Office of Inspector General | | | | | | | |
| —Base Appropriations | \$37.2 | \$41.1 | \$44.8 | \$20.0 | \$64.8 | \$44.8 | \$44.7 |
| —Transfer in from Superfund | \$13.3 | +\$11.5 | +\$10.0 | \$0.0 | +\$10.0 | +\$10.0 | +\$10.0 |
| Office of Inspector General Total | \$50.5 | \$52.6 | \$54.8 | \$20.0 | \$74.8 | \$54.8 | \$54.7 |
| Buildings & Facilities | \$39.6 | \$34.3 | \$35.0 | \$0.0 | \$35.0 | \$37.0 | \$36.4 |
| Hazardous Substance Superfund (before transfers) | \$1,255.1 | \$1,254.0 | \$1,285.0 | \$600.0 | \$1,885.0 | \$1,306.5 | \$1,280.9 |
| —Transfer out to Office of Inspector General | \$13.3 | -\$11.5 | -\$10.0 | \$0.0 | -\$10.0 | -\$10.0 | -\$10.0 |
| —Transfer out to Science and Technology | \$30.2 | -\$25.7 | -\$26.4 | \$0.0 | -\$26.4 | -\$26.8 | -\$26.8 |
| Hazardous Substance Superfund (after transfers) | \$1,211.6 | \$1,216.8 | \$1,248.6 | \$600.0 | \$1,848.6 | \$1,269.7 | \$1,244.2 |
| Leaking Underground Storage Tank Trust Fund Program | \$100.3 | \$105.8 | \$112.6 | \$200.0 | \$312.6 | \$113.1 | \$112.9 |
| Oil Spill Response | \$15.7 | \$17.1 | \$17.7 | \$0.0 | \$17.7 | \$18.4 | \$18.3 |
| State and Tribal Assistance Grants (STAG) | | | | | | | |
| —Clean Water State Revolving Fund | \$1,083.8 | \$689.1 | \$689.1 | \$4,000.0 | \$4,689.1 | \$2,100.0 | \$1,522.0 |
| —Drinking Water State Revolving Fund | \$837.5 | \$829.0 | \$829.0 | \$2,000.0 | \$2,829.0 | \$1,387.0 | \$963.1 |
| —Special (Congressional) Project Grants | \$0.0 | \$132.9 | \$145.0 | \$0.0 | \$145.0 | \$156.8 | \$0.0 |
| —Categorical Grants | \$1,113.1 | \$1,078.3 | \$1,094.9 | \$0.0 | \$1,094.9 | \$1,116.4 | \$1,104.2 |

| | FY2007 P.L. 110-5 | FY2008 P.L. 110-161 | FY2009 Omnibus P.L. 111-8 | FY2009 ARRA P.L. 111-5 | FY2009 Total | FY2010 P.L. 111-88 | FY2011 P.L. 112-10 |
|--|------------------------------|--------------------------------|--|---------------------------------------|-------------------------|-------------------------------|-------------------------------|
| —Brownfields Section 104(k) Grants | \$88.7 | \$93.5 | \$97.0 | \$100.0 | \$197.0 | \$100.0 | \$99.8 |
| —Diesel Emission Reduction Grants | <i>n/a</i> | \$49.2 | \$60.0 | \$300.0 | \$360.0 | \$60.0 | \$49.9 |
| —Other State and Tribal Assistance Grants | \$90.6 | \$54.2 | \$53.5 | \$0.0 | \$53.5 | \$50.0 | \$19.9 |
| State and Tribal Assistance Grants Total | \$3,133.7 | \$2,926.2 | \$2,968.5 | \$6,400.0 | \$9,368.5 | \$4,970.2 | \$3,758.9 |
| Rescissions of Unobligated Balances ^b | -\$80.0 | -\$5.0 | -\$10.0 | \$0.0 | -\$10.0 | -\$40.0 | -\$140.0 |
| Total EPA Accounts | \$7,617.4 | \$7,461.5 | \$7,635.7 | \$7,220.0 | \$14,855.7 | \$10,291.9^a | \$8,682.1 |

Source: Prepared by CRS using the most recent information available from House, Senate, or conference committee reports accompanying the annual appropriations bills that fund EPA and Administration budget documents, including the President’s annual budget requests as presented by OMB, and EPA’s accompanying annual congressional budget justifications. “ARRA” refers to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). The ARRA amounts do not reflect rescission of unobligated balances as per P.L. 111-226. Numbers may not add due to rounding.

- a. The amounts presented for the base appropriations for the S&T account and the EPA total include \$2.0 million in supplemental appropriations for research of the potential long-term human health and environmental risks and impacts from the releases of crude oil, and the application of chemical dispersants and other mitigation measures under P.L. 111-212, Title II.
- b. The FY2007-FY2010 rescissions are from unobligated balances from funds appropriated in prior years within the eight accounts, and made available for expenditure in a later year. In effect, these “rescissions” increase the availability of funds for expenditure by the agency in the years in which they are applied, functioning as an offset to new appropriations by Congress. With regard to the FY2011 enacted rescissions, Sec. 1740 in Title IV of Div. B under P.L. 112-10 refers only to “unobligated balances available for “Environmental Protection Agency, State and Tribal Assistance Grants”[not across all accounts], and does not specify that these funds are to be rescinded from prior years. The EPA Administrator was to submit a proposed allocation of such rescinded amounts to the Committees on Appropriations of the House and the Senate.

Figure B-1. EPA Discretionary Budget Authority, FY1976-FY2010, and FY2011 President's Request: Adjusted and Not Adjusted for Inflation
(\$ in billions)



Source: Prepared by CRS with information from the Office of Management and Budget, *Budget of the United States Government Fiscal Year 2011*, Historical Table: Table 5-4. CRS converted nominal dollars to 2010 dollars using the GDP Chained Price Index from Table 10.1 *Gross Domestic Product and Deflators Used in the Historical Tables -1940-2015*.

Note: FY1976 was the earliest fiscal year for which historical funding information on budget authority was readily available from the Office of Management and Budget.

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