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The Clean Water Action Plan: Background and Early Implementation

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Summary

In October 1997, Vice President Gore directed federal agencies to develop a Clean Water Initiative to improve and strengthen water pollution control efforts. The multi-agency plan was released on Feb. 19, 1998, and identifies nearly 100 key actions. Most are existing activities, now labeled as part of the Initiative. The President's FY1999 budget requests \$2.2 billion for five departments and agencies to fund implementation of the Plan. While Congress is considering appropriations bills to fund the Plan, federal agencies are beginning or accelerating activities to carry out the actions under the Plan. This report will be updated as developments warrant.

Introduction and Background

In October 1997, on the 25th anniversary of the Clean Water Act (CWA), Vice President Al Gore announced an initiative intended to build on the environmental successes of that Act and to address the Nation's remaining water quality challenges. While much progress has been made in achieving the ambitious goals of the law to restore and maintain the chemical, physical and biological integrity of rivers, lakes, and coastal waters, problems persist. Based on the limited water quality monitoring that is done by states, it is estimated that about 40% of those waters do not meet applicable water quality standards. The types of remaining water quality problems, especially runoff from farms and ranches, city streets, and other diffuse sources, are more complex than is controlling pollution discharged from the end of pipes at factories and sewage treatment plants.

The Vice President directed the Environmental Protection Agency (EPA) and the U.S. Department of Agriculture (USDA) to coordinate the work of other federal agencies to develop an Action Plan within 120 days to improve and strengthen water pollution control efforts across the country. ("Notice of Vice President Gore's Clean Water Initiatives," 62 *Federal Register* 60447-60449, Nov. 7, 1997). It was to focus on three goals: enhanced protection from public health threats posed by water pollution, more effective control of polluted runoff, and promotion of water quality protection on a watershed basis. The

Departments of Commerce and Interior and the U.S. Army Corps of Engineers also have roles. The purpose of the Action Plan is to coordinate federal efforts to achieve the three goals. Over all, the Initiative seeks primarily to address the wide range of activities that cause nonpoint source pollution (polluted runoff), including agriculture, mining, urban development, and forestry. EPA and states believe polluted runoff causes more than one-half of remaining water quality problems. Agriculture is believed responsible for the largest portion of water quality impairments due to polluted runoff.

The Action Plan

President Clinton and Vice President Gore released the Action Plan on Feb. 19, 1998 (the text is available at [<http://www.epa.gov/cleanwater/>]). The components of the plan, nearly 100 actions, correspond to specific elements identified by the Vice President in October 1997. It consists mainly of existing programs, including some planned regulatory actions that agencies have had underway, now to be enhanced with increased funding or accelerated with performance-specific deadlines.

The President's FY1999 budget, presented on Feb. 2, 1998, identified the Clean Water Action Plan as a high-priority for environmental programs in the budget. It requested a total of \$2.2 billion--a \$568 million, or 35%, increase over 1998--for multi-agency funding of a Clean Water and Watershed Restoration Initiative. As of August 1998, Congress has passed separate versions of the five appropriations bills that would fund the Plan. These bills provide less than 20% of the increased funds requested by the Administration. Final action is anticipated in September. (For additional information, see CRS Report 98-745, *Clean Water Action Plan: Budgetary Initiatives*.)

Components of the Action Plan announced in February 1998 fit into eight categories.

Protecting public health. The Initiative directed EPA and the National Oceanic and Atmospheric Administration (NOAA) to assure that fish and shellfish are safe to eat, including steps to reduce the need for fish consumption advisories. Advisories are a risk management tool used by states and localities to inform the public on the health risks of consuming chemically contaminated fish and shellfish. The Plan seeks increased enforcement and assistance to states to control discharges contaminating fish and shellfish, beaches, and drinking water sources. It calls for a national survey of contaminants in fish and shellfish by the year 2000, and it also calls for new water quality criteria and state standards to ensure that beaches are safe.

Controlling polluted runoff. The Initiative called for EPA to develop and implement water quality criteria for nitrogen and phosphorous, major pollutants associated with runoff, by the year 2000. These criteria would help states set site-specific standards to control nutrient pollution and thus reduce nutrient loadings to rivers and lakes.

The Initiative also directed EPA to update existing CWA regulations for animal feeding operations and to ensure that final regulations for stormwater runoff are in place by Mar. 1, 1999. EPA already plans to revise regulations that limit animal waste discharges from large feeding operations; current rules were issued in 1975. The Plan sets a goal of issuing discharge permits to the largest animal feeding operations by the year 2005 (1% of the 450,000 facilities are subject to permits now). EPA recently proposed

permit rules for small urban stormwater discharges. When these rules are final in 1999, they will complete EPA's program to regulate stormwater discharges from large and small cities. These elements are included in the Action Plan, which also directs increased grant funding to assist states and Indian tribes in managing polluted runoff.

Incentives for private land stewardship. Both the Initiative and the Action Plan call for increased incentives and assistance to help farmers control polluted runoff and encourage conservation of critical private lands. The Initiative called for USDA to work with states to implement the Conservation Reserve Enhancement Program (CREP) to ensure that as many agreements as practicable will address critical water quality, soil erosion, and fish and wildlife habitat needs. The Conservation Reserve Program, established in the 1985 farm bill, assists owners and operators of highly erodible cropland in conserving and improving soil and water resources. CREP, added by the 1996 farm bill, expands on it. USDA will partner with states and localities to provide cost-share and technical assistance for long-term protection of environmentally-sensitive lands. The first CREP partnership, signed by USDA and Maryland in October 1997, focuses on planting vegetative cover on streamside lands to reduce pollutants from reaching Chesapeake Bay waters. The second partnership, announced along with release of the Action Plan, is between USDA and Minnesota.

The Initiative directed USDA to develop a strategy so that agricultural producers in 1,000 critical rural watersheds have the technical and financial assistance needed to abate polluted runoff and comply with applicable standards. In that regard, the Plan and the FY1999 budget target new resources to help farmers. The Plan also calls for creation of 2 million miles of buffer zones, to protect waterways from agricultural runoff, and development of pollution prevention plans covering more than 35 million acres by 2002.

New resources for watershed-based actions. The Plan calls for joint efforts with states, local communities, and tribes to identify watersheds that are not meeting clean water goals and to set restoration priorities. The concept of managing water quality and resources on a watershed basis, as a framework for considering the highest priority water-related problems within geographic areas, has emerged in public and private sector efforts to address water quality impairments. The Plan seeks expanded funding (grants and technical assistance) to support local organizations that promote watershed partnerships and to support implementation of pollution controls on the basis of watershed approaches.

Restoring and protecting wetlands. The Plan calls for a coordinated strategy to achieve a net gain of as many as 100,000 acres of wetlands annually by the year 2005. This is likely to be one of the more difficult elements to implement since it requires reversing current wetlands losses, which are estimated to be 80,000 to 120,000 acres annually. The Plan also calls for a 50% increase in wetlands restored and enhanced by the Corps of Engineers and increased enrollment of acres for wetlands restoration under USDA conservation programs. Data on wetland acreage, especially the rate and pattern of wetland loss, are imperfect and often controversial. The Plan calls for a new interagency system to more accurately track wetland loss, as well as restoration and creation.

Protecting coastal waters. One-half of the U.S. population lives within 50 miles of the coast, an area that comprises only 20% of the nation's total land. The cumulative impact of man's activities in the coastal environment has resulted in water quality

degradation, habitat losses, and declines of living resources. Polluted runoff is a major source of coastal water pollution and one of the primary factors associated with outbreaks of harmful algal blooms such as *Pfiesteria* in coastal waters. The Plan calls for a coordinated response to support state and local efforts during events such as outbreaks of harmful algal blooms. Major federal efforts in this regard have been underway since mid-1997, following a *Pfiesteria* outbreak in Maryland and nearby coastal waters.

In more specific terms, NOAA and EPA were directed to ensure that all state Coastal Nonpoint Pollution Control Programs are in place by mid-1998, and are fully approved by Dec. 31, 1999. The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) directed coastal and Great Lakes states to develop nonpoint pollution plans as part of overall coastal zone management programs. Coastal states and territories were required to submit coastal nonpoint programs to NOAA and EPA for approval in July 1995. When the Action Plan was released in February 1998, 11 of 29 state and territorial programs had been conditionally approved.

Expanding citizens' right to know. The Action Plan calls for several actions to increase citizens' understanding of the health of their waterways. One particular focus is Internet-based systems to provide information on watersheds nationwide and on watershed programs and services. EPA has had such information available on its Internet site for some time, and, along with other agencies, will presumably be working to enhance it (see [<http://www.epa.gov/surf/>]).

In this regard, the Plan calls for point source dischargers (industrial and municipal facilities) to provide standardized reporting and monitoring of pollution discharge information to support watershed planning. It also calls for a national report that will identify gaps in the monitoring and assessment of sources and impacts of polluted runoff.

Enhanced federal stewardship. The concept underlying these elements of the Plan is that the federal government, through its stewardship of public lands, should be as responsible as private landowners in protecting water quality and the health of aquatic ecosystems on federal lands. Federal agencies often are criticized for supporting or authorizing activities on public lands that are environmentally harmful. As part of the Initiative, lands and facilities owned, managed, or controlled by federal agencies will be national models for control of polluted runoff and effective watershed planning

The Plan calls for a number of actions affecting federal lands, including relocation and improved water quality protection for 2,000 miles of roads and trails a year through 2005 and removal or decommissioning of 5,000 miles a year by 2002. These actions in the Plan are consistent with efforts already underway by the Forest Service regarding roads on National Forest System lands. It also calls for accelerated efforts by land management agencies to improve or restore 25,000 miles of stream corridor by 2005.

Early Implementation of the Clean Water Action Plan

Federal officials estimated that the ambitious agenda presented in the Plan would require 25 years for implementation by states and localities, the federal government, and other public and private stakeholders. They also believe that, once started, the Clean Water Action Plan will quickly move from the federal to state and local levels. Even

while Congress is considering appropriations bills to fund the Plan in FY1999, EPA and other federal agencies are beginning or accelerating their activities under the Plan.

EPA Activities. Of the 100 actions in the Plan, many involve core clean water programs for which EPA is primarily responsible.

- A significant aspect of the Plan is a focus on watersheds as the basis of water quality problem identification and decision making. Watershed management has come to encompass a broad approach to pollution control based on the drainage basin of rivers or lakes, rather than areas defined by political or other boundaries. In June 1998, EPA released a Unified Watershed Assessment Framework to assist states, tribes and others with the process called for in the Plan of identifying watersheds that do not meet clean water and other natural resource goals and where prevention action is needed to sustain water quality and aquatic resources. Final assessments and priorities are scheduled to be completed by Oct. 1, 1998.
- Nutrients, in appropriate amounts, are essential to the health and functioning of aquatic ecosystems. In excessive amounts, however, nutrients contribute to excess growth of algae, leading to oxygen declines which harm aquatic species. State water quality reports indicate that over-enrichment of waters by nutrients (nitrogen and phosphorus) is the biggest overall source of impairment of the nation's waters. Under the Plan, EPA is to publish numeric water quality criteria (scientific information concerning harmful levels of a pollutant) for nutrients by the year 2000. In June 1998, EPA released a national strategy for developing criteria and standards for nutrients, which will be used by states to develop nutrient provisions of state water quality standards. The strategy describes the process for developing criteria that will be appropriate for various types of waterbodies and different regions of the country.
- Several actions in the Plan relate to ensuring that beaches are safe for swimming. In spring 1998, EPA conducted a first annual national survey concerning monitoring and public health risks posed by contaminated beach water. EPA is now posting information on local beach quality information on the Internet ([<http://www.epa.gov/ost/beaches>]). In addition, in June 1998, EPA announced a 5-year comprehensive plan for improvements to beach monitoring programs, standards, public access, and research.
- To implement the Plan's goal of having a nationally consistent process for monitoring the health of fish and communicating fish consumption advisories, EPA is consulting with state environmental, public health, and natural resource agencies, plus tribal leaders, asking them to review their existing fish advisory program and compare it to the EPA's National Guidance on Fish Consumption Advisories.

Joint or Other Federal Agency Activities. Many actions in the Plan involve other federal agencies, either alone or jointly with EPA. A key purpose of the Plan is to coordinate the several federal agencies and their state partners that have water quality program responsibilities.

- A key element of the Plan, minimizing public health and environmental impacts of runoff from animal feeding operations (AFOs) into rivers, lakes, and estuaries, was

addressed by a draft strategy released by EPA in March 1998. The draft strategy proposes a number of short-term and long-term steps to improve compliance and strengthen existing clean water regulations, obtain better information through data collection and research on water quality impairments due to AFOs, and together with other federal agencies and states, coordinate activities related to AFOs. The latter part of the strategy is expected to include targeted planning and assistance (technical and financial) in key watersheds with large concentrations of AFOs and development of technical guidance for animal manure management. USDA and EPA are now working jointly to finalize this strategy by November 1998. (For additional information, see CRS Report 98-451, *Animal Waste Management and the Environment: Background for Current Issues*.)

- EPA and NOAA met the June 1998 deadline in the Plan to conditionally approve all 29 of the submitted state Coastal Nonpoint Pollution Control Programs under the Coastal Zone Act Reauthorization Amendments of 1990. Next steps involve working with state coastal zone management and nonpoint pollution agencies to implement their programs for reducing polluted runoff in coastal areas and work towards full program approval.
- The Conservation Reserve Enhancement Program (CREP) is a state-federal conservation partnership program targeted to address specific state and nationally significant water quality, soil erosion, and wildlife habitat issues related to agricultural use. The Farm Service Agency of USDA has released final guidelines on CREP. As of August 1998, USDA has approved programs in six states and is considering two other proposals.
- A prerequisite to achieving the Plan's goal of a net gain of wetlands resources is reliable systems to collect and analyze data on losses and gains in the nation's wetlands inventory. Currently, several such systems exist that have different purposes and yield different results. In May 1998, the interagency White House Wetlands Working Group issued a final plan for developing a single, improved wetlands status and trends report to be issued by 2000.

Congressional Interest

So far, the Clean Water Action Plan has been considered in Congress primarily through the appropriations process, as spending decisions are made about the FY1999 budget requests to fund the Plan (see CRS Report 98-745). When it was presented in February 1998, the Plan was not accompanied by legislative proposals to reauthorize the Clean Water Act or other statutes or enact new laws to carry it out. Beyond the appropriations process, it has attracted limited attention by the Congress. Interest groups and stakeholders involved with water quality programs have generally supported the policy and specific actions in the Plan. However, some of the anticipated actions, such as EPA and USDA implementation of a strategy concerning waste from animal feeding operations, could be controversial and, thus, could draw more congressional attention in the future.