

Issue Brief for Congress

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The Environmental Protection Agency's FY2003 Budget

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The Environmental Protection Agency's FY2003 Budget

SUMMARY

For FY2003, the President requested \$7.62 billion in budget authority for the Environmental Protection Agency (EPA), \$458 million less than the total FY2002 appropriation of \$8.08 billion. The Administration did not request nearly \$500 million to continue activities earmarked in the FY2002 appropriation, most of which were for water infrastructure projects.

In the 107th Congress, S. 2797 (S.Rept. 107-222) would have provided \$8.30 billion for EPA in FY2003. H.R. 5605 (H.Rept. 107-740) would have provide \$8.20 billion. Both bills would restore much of the water infrastructure funding but there was no final action by the end of Congress. Continuing resolutions funded at the same level as in FY2002. In the 108th Congress, P.L. 108-7 (H.J.Res. 2) provides EPA with \$8.08 billion for FY2003.

While the EPA request is presented according to 10 goals (clean air, safe food, etc.), EPA's appropriations bill continues to be organized according to traditional accounts. The President's FY2003 request included \$670 million for the Science and Technology account. S. 2797 included \$710 million, H.R. 5605 and P.L. 108-7 \$715 million. For the Environmental Programs and Management account, the request was \$2.05 billion. S. 2797 contained \$2.14 billion, H.R. 5605 \$2.11 billion and P.L. 108-7 \$2.10 billion. To clean

up toxic waste sites under Superfund, S. 2797 would have provided the request of \$1.27 billion, H.R. 5605 \$1.42 billion and P.L. 108-7 \$1.26 billion. balance declines.

The adequacy of federal funding to help meet state and local wastewater and drinking water capital needs has been an ongoing issue, and estimates of funding needs are as high as \$1 trillion over the next 20 years. The FY2003 request for the State and Tribal Assistance Grants (STAG) account to address these and other needs was \$3.46 billion, \$275 million less than in FY2002, assuming a discontinuance of earmarked funding. S. 2797 would have provided \$4.01 billion, adding \$140 million for special needs grants. H.R. 5605 would have provided \$3.79 billion, including \$228 million for targeted projects.

P.L. 108-7 included \$3.83 billion. The STAG request included \$1.21 billion for Clean Water State Revolving Funds (SRF). S. 2797 would have provided \$1.45 billion, H.R. 5605 would have provided \$1.30 billion, and P.L. 108-7 includes \$1.35 billion. The STAG request also included \$850 million for the Drinking Water SRF. H.R. 5605 would provide the requested amount, and S. 2797 would provide \$875 million. P.L. 108-7 provides \$850 million.

MOST RECENT DEVELOPMENTS

As of the beginning of FY2003, Congress had not completed action on the appropriations bill for the Environmental Protection Agency (EPA). Continuing resolutions provided funding at least at the same level as enacted for FY2002. In the 107th Congress, on July 25, 2002, the Senate Committee on Appropriations approved a total of \$8.30 billion for EPA in reporting the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill for FY2003 (S. 2797, S.Rept. 107-222). The House Committee on Appropriations approved a total of \$8.20 billion for EPA on October 10, 2002, in reporting its version of the bill (H.R. 5605, H.Rept. 107-740). Both amounts would have exceeded the Administration's request of \$7.62 billion for FY2003, as well as the FY2002 funding level of \$8.08 billion. Floor action did not occur on either bill by the end of the 107th Congress.

The 108th Congress enacted P.L. 108-7 (H.J.Res. 2), an FY2003 Omnibus Appropriation signed on February 20, 2003 which included \$8.08 billion for EPA.

In addition to appropriations, the House passed the FY2003 budget resolution (H.Con.Res. 353, H.Rept. 107-376) on March 20, 2002, and the Senate Budget Committee reported its version of the resolution (S.Con.Res. 100, S.Rept. 107-141) on April 11, 2002. Both measures contain funding assumptions related to EPA's budget.

BACKGROUND AND ANALYSIS

The FY2003 EPA request of \$7.62 billion is \$458.3 million, or 5.7%, less than the total FY2002 funding level of \$8.08 billion, which included \$175.6 million in supplemental funding for terrorism-related activities provided by P.L. 107-117, Division B. (The amount indicated for EPA's request does not include an additional \$107 million that the Administration has proposed in order to shift the full cost of federal employee pensions and health benefits to the agency's budget. Consequently, variations of this amount can be found in figures used for EPA's total request. The House Committee on Appropriations and the Senate Committee on Appropriations criticized the Administration for including this proposed amount, since providing it would require legislation. Both committees indicated that, for the purposes of budget estimates, future spending proposals should be sent to Congress without assuming the enactment of legislative proposals.) The Administration's request seeks fairly level funding for many EPA programs, but would eliminate about \$500 million for activities that received earmarked funding in the FY2002 conference report (H.Rept. 107-272).

Figure 1 depicts EPA funding by major categories—operating programs, state assistance, and Superfund—since FY1983. Within these broad categories are \$2.05 billion for environmental programs and management, \$670 million for science and technology, and \$1.27 billion for Superfund in the FY2003 proposal. Also under the proposal, funding would decrease by \$275 million in the State and Tribal Assistance Grants (STAG) account, which incorporates Clean Water and Drinking Water State Revolving Funds (SRFs) monies and traditional state program assistance and management grants. The request for this account

includes \$1.21 billion for Clean Water SRFs, \$850 million for Drinking Water SRFs, \$75 million for Mexican Border projects, and \$1.16 billion for traditional grants to states for administering their programs.

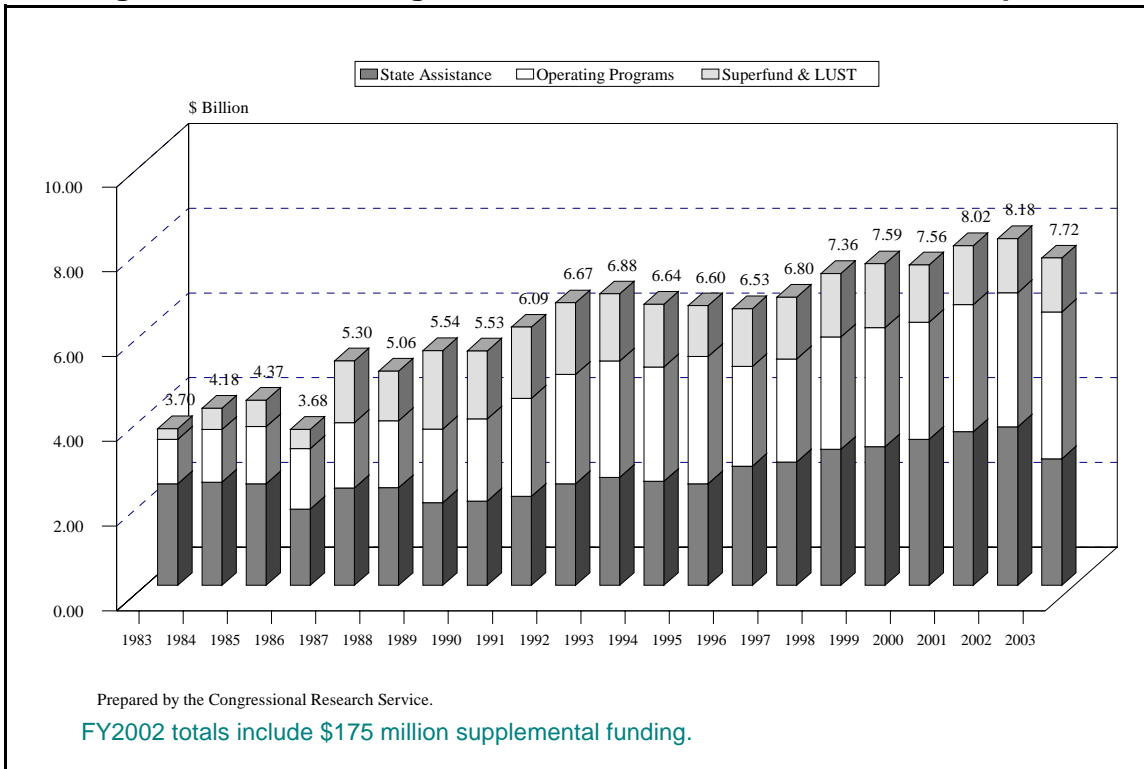
As reported by the Senate Budget Committee, the FY2003 budget resolution, S.Con.Res. 100, assumes that the Clean Water SRF will be fully funded, the Superfund request will be increased by \$113 million, and that a proposed shift in enforcement responsibilities will be denied. It also contains a sense of the Senate that Superfund funding should be adequate to clean up the remaining sites. The House-passed FY2003 budget resolution, H.Con.Res. 353, assumes full funding of EPA's operating programs.

The major issue associated with the request is the discontinuance of funding for a number of activities which received about \$500 million in earmarked funding in FY2002, much of which was allocated to about 300 wastewater infrastructure projects. The Administration's budget document argues, "Congressional earmarks include research projects targeted to specific institutions that bypass the normal competitive process; projects that benefit a limited geographic area with no national significance; and infrastructure projects that bypass the State formula allocation and priority-setting process." It also calculates that the FY2002 appropriation contained 479 earmarks totaling \$494 million. Many Members of Congress disagree with the Administration on the earmarks issue overall and assert Congress' right to decide funding priorities in this way. Given their enormous popularity, reinstatements, or new earmarks, of much of this funding is being pursued during the FY2003 appropriations process.

EPA's FY2003 budget presentation, now referred to as the "2003 Annual Plan," was the fifth presented under provisions of the 1993 Government Performance and Results Act (GPRA), which directs that a performance plan accompany the budget. In 2000, EPA submitted a second GPRA-mandated strategic plan spelling out its mission and 10 major goals and associated objectives. Its FY2003 budget justification is aligned with these 10 goals which are as follows:

1. Clean Air;
2. Clean and Safe Water;
3. Safe Food;
4. Preventing Pollution and Reducing Risk in Communities, Homes, Workplaces and Ecosystems;
5. Better Waste Management, Restoration of Contaminated Waste Sites, and Emergency Response;
6. Reduction of Global and Cross-border Environmental Risks;
7. Quality Environmental Information;
8. Sound Science, Improved Understanding of Environmental Risk, and Greater Innovation to Address Environmental Problems;
9. A Credible Deterrent to Pollution and Greater Compliance with the Law (Enforcement); and
10. Effective Management.

Figure 1. EPA Funding, FY83 to FY02 Enacted and FY03 Request



The 108th Congress approved a new FY2003 measure P.L. 108-7, H.J.Res.2, an Omnibus Appropriation bill which included \$8.04 billion for EPA.

Homeland Security

In the FY2003 budget proposal, the President seeks \$133.4 million for EPA’s homeland security activities. This is 29% less than the total appropriation of \$188.1 million in FY2002. In addition to homeland security funding allocated directly to EPA in FY2002, P.L. 107-206 (H.R. 4775) included another \$16.1 million in supplemental FY2002 funds for the Capitol Police Board to reimburse EPA. This law also would have appropriated \$50 million more in FY2002 funds to EPA for drinking water facility vulnerability assessments if the President had declared these emergency funds by September 1, 2002, which he did not do. EPA has several responsibilities, including protecting its own facilities, determining the vulnerability of the nation’s water infrastructure, responding to contamination of buildings, monitoring of air quality at contaminated sites, and conducting research on better cleanup technologies.

The justification for the 29% reduction is, according to EPA, that the special funds, almost all of which (\$175.6 million) were in the emergency FY2002 terrorism supplemental (P.L. 107-117, Division B), were one-time expenses. Of the \$133.4 million requested, most—\$75 million—would be directed to conducting research on better technologies and assessments to clean up contaminated buildings. The request also includes \$19 million to upgrade EPA security. The next largest allocation would be \$17 million for more vulnerability assessments for smaller water systems along with \$5 million in state grants

relating to homeland security. Other portions of the request include \$5.5 million for the newly created West Coast Environmental Response Team, and an additional \$7.7 million to improve EPA's response capabilities. The issues for EPA's homeland security activities are how adequate the Agency's resources are to protect its own facilities, to promote protection of the nation's infrastructure, and to develop better knowledge about responding to bio- and chemical-terrorism.

EPA's Budget by Appropriations Accounts

Traditionally, EPA's budget has been presented, considered, and enacted according to several major appropriations accounts. These accounts, including environmental programs and management, science and technology, Office of Inspector General, buildings and facilities, and oil spills, representing about 37% of EPA's FY2003 request, are sometimes referred to as the "operating programs" and reflect the heart of the Agency's research, regulatory, and enforcement efforts. Two trust fund-based accounts—about 18% of EPA's FY2003 request—are Superfund and the Leaking Underground Storage Tank (LUST) Trust Fund. All state supporting activities are reflected in the State and Tribal Assistance Grants (STAG) account. About 45% of EPA's FY2003 request is allotted to this account. **Table 1** shows the breakdown of EPA's funding by appropriations accounts.

**Table 1. EPA Major Appropriations Accounts: FY1999-FY2002
Enacted, FY2003 Request, and Legislative Action**
(in millions of dollars)

Account	FY1999 P.L. 105-276	FY2000 P.L. 106-74	FY2001 P.L. 106-377	FY2002 P.L. 107-73; P.L. 107-117	FY2003 Request	P.L. 108-7
Operating Programs						
Science and Technology	640.0	645.0	709.1	788.4	670.0	715.5
Environmental Programs and Management	1,848.0	1,895.3	2,039.2	2,093.5	2,047.7	2,097.7
Buildings & Facilities	57.0	62.5	28.3	25.3	42.9	42.6
Office of Inspector General	31.2	32.4	40.8	34.0	35.3	35.7
Oil Spill Response	15.0	14.9	14.6	15.0	15.6	15.4
Superfund	1,500.0	1,400.0	1,392.4	1,311.3	1,273.0	1,264.6
Leaking Underground Storage Tank Trust Fund	72.5	69.8	70.7	73.0	72.3	71.8

State and Tribal Assistance Grants	3,406.8	3,581.0	3,623.3	3,738.3	3,463.8	3,834.9
EPA Total All Programs	7,590.4	7,591.7	8,018.9	8,078.8	7,620.5	8,078.7

Notes: The total amount indicated for the FY2003 request does not include the Administration's proposal for an additional \$107 million to shift the full costs of federal employee retirement pensions and health benefits to the agency's budget. Funding for this proposal would require legislation that has not been enacted. In FY2000, the conferees elected to fund the National Institutes of Environmental Health Sciences (NIEHS) and the Agency for Toxic Substances and Disease Registry (ATSDR) – a total of \$130 million – independent of the Superfund appropriation. FY2002 figures include \$175.6 million in terrorism supplemental funds included in P.L. 107-117, Division B. P.L. 107-206 (H.R. 4775) included \$16.1 million in supplemental FY2002 funds for the Capitol Police Board to reimburse EPA. The Act would have appropriated \$50 million more for FY2002 for drinking water facility vulnerability assessments if the President had declared these emergency funds by September 1, 2002, which he did not do.

In the 108th Congress, the Senate amended and passed H.J.Res. 2, an FY2003 Omnibus Appropriation bill which was confereed with the House-passed version of H.J.Res. 2 (which is a continuing resolution and does not contain omnibus funding provisions). The Senate version would have funded EPA at a level of \$8.2 billion - - about the same as the Senate-reported amount in the 107th Congress (S. 2797). However, it would have provided for a possible rescission of 2.9% of the \$8.2 billion level. P.L. 108-7 (H.J.Res. 2) provided for a 0.65% rescission of each activity which is reflected in these figures.

Within the many EPA programs, there are numerous issues with respect to implementing and administering the media (air, water, etc.) protection programs, wastewater treatment funding, and Superfund.

Science and Technology

The Science and Technology (S&T) account incorporates elements of the former research and development account (also called extramural research) as well as EPA's in-house research, development, and technology efforts. The FY2003 request of \$670.0 million for the S&T account represents a 15% decrease when compared to the total FY2002 funding level of \$788.4 million. During the 107th Congress, the Senate Committee on Appropriations approved \$710.0 million for the S&T account, reinstated \$9.75 million for the Science to Achieve Results (STAR) program, which the Administration has proposed to move to the National Science Foundation, and added \$10 million to the request for small drinking water system arsenic removal research. The House Committee on Appropriations approved \$714.6 million for the S&T account, and provided \$5.0 million to retain the STAR program at EPA. In the 108th Congress, P.L. 108-7 (H.J.Res. 2) includes \$715 million for the S&T account.

Increasing under the President's budget proposal would have been S&T funds for clean air (3%), clean and safe water, (3%), and quality information (0.5%) goals; safe food, pollution prevention, and enforcement S&T allocations would decline slightly. The main decreases— about 72%, or \$42.3 million—would be for waste management, almost all from contaminated site/emergency response activities related to September 11th, and \$74.9 million from safe water goals reflecting completion of vulnerability assessments. In report language, the Senate Committee on Appropriations directs EPA to provide, by March 31, 2003, a full accounting of how the agency has expended drinking water security funds. While the Administration's decision not to request about \$5.3 million added by Congress in FY2002

funds is a contributing factor, S&T funds allocated for the global/cross border goal would decline 20% due to the Administration's decision to reduce research funds for alternative vehicle technologies. S&T funds for the effective management goal would decline 42% under the proposal, reflecting completion of the Research Triangle Park facility.

EPA's role in climate research and in the Bush Administration's Climate Protection Program (CPP), formerly the Climate Change Technology Initiative (CCTI), has been an issue. EPA requests \$136.9 million for its objective to "reduce Greenhouse Gas Emissions" (research and programmatic activities) in FY2003, a 6%, or \$8.4 million, decrease when compared to the FY2002 funding level of \$145.3 million. About \$38 million, or 28%, of the request is under the S&T account; the rest is under the Environmental Programs and Management request.

There is no funding change planned for the \$21 million research program in climate change. Most categories of the Climate Protection Program would remain at about the same levels. This includes some research and incentive programs related to buildings, carbon removal, international capacity building, and state/local programs. What is driving the overall decrease is the Administration's decision to reduce climate change transportation-related activities from \$30.8 million to \$21.6 million in FY2003, a \$9.3 million or a 30% reduction. This reflects the Administration's decision to discontinue activities on high-efficiency fuel engines and developing an 85 miles per gallon family size prototype vehicle. Neither S. 2797, nor H.R. 5605, proposes specific funding levels for climate change activities. (For a discussion of climate change issues, see the CRS Electronic Briefing Book on Climate Change [<http://www.congress.gov/brbk/html/ebgcc1.html>].)

Environmental Programs and Management

The Environmental Programs and Management (EPM) account—representing about a quarter of the Agency's resources—reflects the heart of the Agency's regulatory, standard-setting, and enforcement efforts for various media programs such as water quality, air quality, and hazardous waste management. The President's FY2003 budget sought \$2.05 billion, \$46.7 million, or 2.2%, less than the FY2002 funding level of \$2.09 billion. In the 107th Congress, the Senate Committee on Appropriations would have provide \$2.14 billion, and the House Committee on Appropriations would have provided \$2.11 billion. The 108th Congress provided \$2.10 billion in P.L. 108-7 (H.J.Res. 2) Many controversial regulatory/standard setting issues can be associated with this account. (CRS Issue Brief IB10067, *Environmental Protection Issues in the 107th Congress*, discusses some of them.)

EPM allocations for clean air, safe food, pollution prevention, global activities, information, enforcement and effective management goals would remain roughly the same as in FY2002. The EPM allocation for clean/safe water would be reduced \$63.2 million, or 13%, under the plan. This reflects the Administration's decision not to request about \$93.6 million in congressional earmarks in the EPM account. For waste management/emergency response, the EPM allocation would increase \$24.8 million or 15%, almost all of which is accounted for by the new Brownfields grant program administration responsibilities, for which the Administration has proposed \$29.5 million. (Another \$170.5 million in Brownfields grants would be funded separately under the State and Tribal Assistance Grants account, for a total Brownfields request of \$200 million.) The Senate Committee on Appropriations approved the total request for the Brownfields program, but the House

Committee on Appropriations would provide \$2.3 million less for Brownfields administrative costs under the EPM account. For sound science activities, the EPM portion would increase 6%, or \$3.6 million. This reflects the elimination of the Common Sense Initiative (\$1.8 million) which the Office of Management and Budget (OMB) has labeled as “ineffective” and the addition of \$9.6 million in EPM funds for an expanded regulatory development process, strengthened economic analyses, and regulatory innovation.

Another program that OMB has labeled as “ineffective” is the environmental education program. The President’s budget plans to end EPA’s activities authorized under the 1990 National Environmental Education Act (\$9.2 million in FY2002) and transfer them to the National Science Foundation (NSF). As discussed earlier, it also would eliminate EPA’s STAR Fellowship Program (\$9.75 million in FY2002), which has been funded under the S&T account, and would transfer those functions to the NSF “as part of a larger effort to increase environmental science education programs” there. (The National Oceanic and Atmospheric Administration’s Sea Grant program’s funding level of \$57 million would also be transferred to NSF under this plan.) According to the NSF’s budget summary, NSF would work in partnership with the relevant agencies to sustain each program’s major objectives while incorporating NSF’s experience with merit-based, competitive processes. The Senate Committee on Appropriations did not approve the Administration’s proposal to transfer EPA’s environmental education and STAR program activities to the NSF, and would provide funding in FY2003 at the same level as enacted for FY2002. The House Committee on Appropriations also rejected the Administration’s transfer proposal, and would continue funding for the environmental education program at the FY2002 enacted level. Although the House Committee on Appropriations would reinstate the STAR program at EPA, it would reduce funding for the program to \$5.0 million in FY2003.

The EPM account funds most of EPA’s enforcement effort. For EPA’s enforcement goal the budget seeks \$402.5 million, \$8.9 million, or 2% more than in FY2002. This reflects \$15.0 million in new funds under the STAG account for proposed enforcement grants to states, while at the same time EPA’s own enforcement resources would be reduced \$10.0 million under the EPM account. This would involve a reduction of 99 full time equivalent positions (or FTEs). Appropriators rejected a similar plan during the consideration of the FY2002 request. The Senate Budget Committee-reported version of the FY2003 budget resolution, S.Con.Res. 100, assumes that this proposal will not be adopted. The Senate Committee on Appropriations also denied this requested change and included extensive report language on enforcement. It directed the agency to stop redirecting civil enforcement resources to criminal enforcement and to restore civil enforcement funding. It also directed the agency to develop a plan to fill vacant positions in the Office of Enforcement and Compliance. The House Committee on Appropriations also denied the requested shift in enforcement responsibilities.

Office of Inspector General

The President’s FY2003 budget sought, and both the Senate Committee on Appropriations and the House Committee on Appropriations approved, \$35.3 million for the Office of Inspector General, \$1.3 million more than in FY2002. P.L. 108-7 (H.J.Res. 2) provided \$35.8 million.

Buildings and Facilities

The Administration requested \$42.9 million for the Buildings and Facilities account for FY2003, which is \$17.6 million, or 69.5%, more than the FY2002 funding level, reflecting new security needs. Both the Senate Committee on Appropriations and the House Committee on Appropriations approved the requested amount. P.L. 108-7 (H.J.Res.2) included \$42.6 million.

Oil Spill Response

For EPA's oil spill response activities, the President's FY2003 budget sought \$15.6 million, \$600,000 more than in FY2002. Both the Senate Committee on Appropriations and the House Committee on Appropriations approved the requested amount. P.L. 108-7 (H.J.Res.2) included \$15.5 billion.

Superfund

In its FY2003 request, EPA sought \$1.27 billion for the Superfund account, about \$38 million less than the FY2002 funding level of \$1.31 billion (which included \$41.3 million in supplemental funding for terrorism-related activities). During the 107th Congress, the Senate Committee on Appropriations approved the requested amount of \$1.27 billion, whereas the House Committee on Appropriations would have provided \$1.42 billion. In the 108th Congress, P.L. 108-7 (H. J. Res 2) provides \$1.26 billion. Taxing authority to support the Superfund Trust Fund expired on December 31, 1995, and since then the fund balance has been declining. It is anticipated that trust monies will only be available in significant amounts through FY2003. (Also part of the President's FY2003 budget is a \$200 million request for cleaning up certain urban sites, called Brownfields, that have development potential. None of this is funded under the Superfund account. Most of this, \$170.5 million for grants, would be funded in the State and Tribal Assistance Grants account, and the remainder of \$29.5 million would be funded as EPA's administrative expenses under the EPM account. P.L. 108-7 funded the Brownfields program at \$167 million) As reported by the Senate Budget Committee, the FY2003 budget resolution, S.Con.Res. 100, includes a Sense of the Senate on Superfund which states:

(a) FINDINGS- The Senate finds the following:

- (1) The most contaminated, toxic sites in the country are cleaned up through the Superfund program;
- (2) The President's budget assumes sharp reductions in the number of Superfund sites to be cleaned up in fiscal year 2003; and
- (3) This resolution provides a significant increase in funding for the Superfund program for fiscal year 2003 compared to the President's budget proposal.

(b) SENSE OF THE SENATE- It is the sense of the Senate that funding for Superfund be at a level sufficient to significantly increase the number of toxic waste sites cleaned up through the Superfund program.

The Senate Budget Committee's resolution also assumes that the \$1.27 billion request for Superfund will be increased by \$133 million. As indicated above, the Senate Committee on Appropriations approved the requested amount, but would not provide an increase in

funding. As passed by the House, the FY2003 budget resolution, H.Con.Res. 353, does not contain any funding assumptions regarding the level of support to provide for Superfund, nor does it include any commentary on the implementation of the program. The House Committee on Appropriations would increase the program's funding to \$1.42 billion.

Two major studies have concluded that the nation's toxics cleanup program has major challenges ahead and requires large funding levels for the next few years. Looking ahead, the General Accounting Office (GAO) has estimated that by 2008, 85% of all non-federal National Priority List sites will be cleaned up (GAO/RCED-00-25, *Superfund: Information on the Program's Funding and Status*). This will entail annual appropriations on the average of at least \$875 million through FY2008, according to GAO. GAO estimates that it will cost between \$8.2 billion and \$11.7 billion for studies, design and remedial work to clean up all remaining sites. On July 10, 2001, Resources for the Future (RFF) released its EPA-funded report requested by the House and Senate appropriations committees. *Superfund's Future: What Will It Cost?* estimates that for fiscal years 2000 through 2009, EPA will have to spend \$14 billion to \$16.4 billion on the Superfund program and that appropriations will have to be maintained at current levels through these years. RFF anticipated in its base case scenario that "EPA's need for Superfund monies will not decrease appreciably below FY1999 expenditures of \$1.54 billion until 2006..."

In FY2003, EPA's budget proposal anticipates 285 removal response actions, down 17, or 6%, when compared to FY2002. It also anticipates 40 construction completions, 7 or 18% fewer than in FY2002. The reduction in these measures of the Superfund program has caused some concern, given the remaining Superfund cleanup challenges.

The President's FY2003 budget does not propose renewing the taxes that support the Superfund Trust Fund. It indicates that the balance of the fund on October 1, 2002, the beginning of FY2003, will be \$427 million. The requested appropriation of nearly \$1.3 billion includes \$593 million, or 46%, derived from the fund and \$700 million from general appropriations. With an estimated balance of \$28 million anticipated at the beginning of FY2004, the fund could only be a very minor contributor for that year although some income sources for the fund - recoveries, interest, offsetting receipts - could increase the amount available. If the Superfund account levels are to be maintained, general revenues would have to fund a significant part of the program for that year.

The President's FY2003 budget represents a significant change in hazardous waste cleanup policy. For the first time in the Superfund program's 22-year history, the taxpayer would be funding the majority—54%—of the program. Some have interpreted this as a departure from a longstanding "polluter pays" policy in which the industry-maintained trust fund supported the majority—roughly 70%—of the Superfund program for many years. On February 25, 2001, in response to questions about the Administration's support of the Superfund program, the President stated: "...we're looking at ways to reform the system to make sure it works, to make sure it actually accomplishes what Congress wants it to accomplish."

The role of general revenues for Superfund cleanup will be a continuing matter for the appropriators to consider. Whether the Superfund tax is reinstated is likely to be a point of contention. Superfund tax issues have generally been addressed by the revenue committees.

Leaking Underground Storage Tanks

The President's FY2003 budget sought \$72.3 million, about the same as in FY2002, for the Leaking Underground Storage Tank (LUST) program, which assists states in addressing substandard underground petroleum storage tanks. In the 107th Congress, both the Senate Committee on Appropriations and the House Committee on Appropriations approved the requested amount. In the 108th Congress, P.L. 108-7 (H.J.Res. 2) included \$71.8 million

The status of state LUST programs is a significant issue. Many states are finding it difficult to finance their programs. At the same time, the fact that the balance of the LUST Trust Fund has passed the \$2.0 billion threshold and the likelihood it will grow even larger, if not drawn upon significantly, has led some to call for allowing greater use of the fund balance by states. (For further discussion, refer to CRS Report RS21201, *Leaking Underground Storage Tanks: Program Status and Issues*.)

State and Tribal Assistance Programs

The FY2003 request for the State and Tribal Assistance Grants (STAG) account was once again particularly controversial in Congress since the President requested \$3.46 billion, \$274.5 million (or 7.3%) less than FY2002 funding level of \$3.74 billion. This reflects the Administration's decision not to request funds for activities and grants earmarked in the FY2002 conference report. In the 107th Congress, the Senate Committee on Appropriations approved \$4.01 billion, adding \$140 million for special needs grants. The House Committee on Appropriations approved \$3.79 billion, adding \$228 million for targeted projects. In the 108th Congress, P.L. 108-7 (H.J.Res. 2) includes \$3.83 billion. The chief elements of the STAG request include:

- \$1.21 billion, as compared to the FY2002 funding level of \$1.35 billion for Clean Water State Revolving Funds; the Senate Committee on Appropriations approved \$1.45 billion; the House Committee on Appropriations approved \$1.30 billion; P.L. 108-7 includes \$1.35 billion.
- \$850.0 million for Drinking Water State Revolving Funds, the same as in FY2002; the Senate Committee approved \$875 million; the House Committee approved the requested amount; P.L. 108-7 includes \$850 million.
- \$75.0 million for Mexican Border infrastructure projects, the same as in FY2002 and as approved by the both the House and Senate Committees; P.L. 108-7 includes \$50 million.
- \$40.0 million for Alaska Native Village water infrastructure projects, the same as in FY2002; the Senate Committee approved \$45.0 million; the House Committee approved \$35.0 million; P.L. 108-7 includes \$43 million.
- \$1.16 billion, \$79 million more than in FY2002, for traditional grants to states for their administration of various environmental programs; the Senate Committee approved the requested increase; the House Committee approved \$1.17 billion; P.L. 108-7 includes \$1.15 billion.
- \$170.5 million for the Brownfields program, including \$50 million for assessment grants and \$120.5 million for capitalizing Brownfields state revolving funds; both the House and Senate Committees approved the requested amounts. P.L. included \$130 million.

The major capital needs that communities face for funding drinking water and wastewater facility construction remain the chief issue associated with the STAG account. The primary federal contribution to help meet these needs has been through the Clean Water Act and Safe Drinking Water Act State Revolving Fund (SDF) programs. Under these programs, EPA makes grants to states to capitalize state funds from which states loan monies to communities.

Despite these programs, the total national needs estimated by EPA and various stakeholders remain great. EPA's 1996 needs survey for Clean Water SDF monies estimated remaining needs at \$139.5 billion through the year 2016, while sewerage agencies estimate funding needs may be as high as \$330 billion. EPA acknowledges that funding needs exceed levels in the 1996 needs survey and is working on more current assessments. The needs of small communities remain a special component of this problem. Since most localities are now financing projects through SDF loans, any remaining direct grants for special projects have become controversial.

EPA's 2001 drinking water needs survey indicated that public water systems need to invest \$151 billion over 20 years. Part of the increase is attributable to new regulations and about half due to installation and rehabilitation of transmission and distribution systems.

One estimate has spotlighted the FY2003 total water SDF request even more. A stakeholder group, the Water Infrastructure Network (WIN), in *Clean and Safe Water for the 21st Century*, estimates total wastewater and drinking water capital needs at around \$1 trillion over the next 20 years, even more if operation and maintenance (O&M) needs are added in. (O&M needs currently are not eligible for federal assistance). WIN estimates that 20-year capital funding needs for wastewater are about \$460 billion and for drinking water are about \$480 billion. WIN foresees a \$23 billion per year funding gap: \$12 billion for wastewater and \$11 billion for drinking water capital needs.

On September 30, 2002, EPA issued its *Clean Water and Drinking Water Infrastructure Gap Analysis*, which estimates that funding needs for wastewater will be \$271 billion and for drinking water will be \$263 billion, over the next 20 years. These estimates include the costs of O&M needs, and are based on the assumption that current spending levels will remain the same. Assuming a spending increase of 3% per year, EPA's estimates are \$31 billion for wastewater needs and \$45 billion for drinking water needs.

As reported by the Senate Budget Committee, the FY2003 budget resolution, S.Con.Res. 100, assumes full funding of the Clean Water SDF. This appears to mean the FY2002 funding level of \$1.35 billion, and would assume that the \$1.21 billion request would be increased by about \$150 million. As indicated above, the Senate Committee on Appropriations approved \$1.45 billion.

For state administrative grants, the President's FY2003 budget sought, and the Senate Committee on Appropriations approved, \$1.16 billion, \$79 million more than the FY2002 funding level of \$1.08 billion. These grants fund state programs, which administer various environmental protection programs. Most state grant programs would be funded at FY2002 levels. Funding for state section 106 water grants would be reduced \$12 million, or 6%, while funding for water quality cooperative agreements would double to a level of \$39 million. Under the President's FY2003 budget, new areas would also be funded: \$15 million

for state enforcement grants and \$170.5 million for Brownfields grants. The latter includes \$50 million for state administration and assessments and \$120.5 million for capitalizing Brownfields revolving funds in the states. The President's FY2003 budget seeks funding of \$20 million for the Targeted Watersheds Project for grants to watershed stakeholders "to implement watershed restoration efforts in a discrete set of priority watersheds."

As discussed earlier, considerable interest has focused on the proposal to shift more enforcement responsibility to the states. The Administration has requested \$15 million in FY2003 for new grants to state enforcement programs, and correspondingly, would reduce the number of FTEs in EPA's enforcement office by some 100 positions. During consideration of the FY2002 request, appropriators rejected a similar proposal, and both the Senate Committee on Appropriations and the House Committee on Appropriations rejected this proposal again for FY2003.

LEGISLATION

107th Congress

H.R. 5605 (Walsh)

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill for FY2003. Reported October 10, 2002, from the House Committee on Appropriations (H.Rept. 107-740).

S. 2797 (Mikulski)

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill for FY2003. Reported July 25, 2002, from the Senate Committee on Appropriations (S.Rept. 107-222).

108th Congress

P.L. 108-7, H.J.Res. 2 (Young)

Making Continuing Appropriations for FY2003/Omnibus Appropriations Bill. Introduced January 7, 2003. Passed House January 8. Passed Senate amended (S.Amdt. 1) January 23. The House-passed version was a simple continuing resolution of all government funding until January 31. Using this legislative vehicle, the Senate adopted substitute language (S.Amdt. 1) which is an omnibus appropriations bill to fund all programs for the rest of the fiscal year. Signed February 20, 2003.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress. House. Committee on Appropriations. Subcommittee on VA-HUD-Independent Agencies. EPA's FY2003 Appropriation. Hearings, 107th Congress, 2nd Session. March 12, 2002. Washington, GPO (to be published)

Senate. Committee on Appropriations. Subcommittee on VA-HUD-Independent Agencies. EPA's FY2003 Appropriation. Hearings, 107th Congress, 2nd Session. March 20, 2002. Washington, GPO (to be published)

U.S. Congress. House. Committee on Transportation and Infrastructure. Subcommittee on Water Resources and the Environment. EPA's FY2003 Budget. Hearings, 107th Congress, 2nd Session. February 14, 2002. Washington, GPO. (to be published)

U.S. Congress. Senate. Committee on Environment and Public Works. EPA's FY2002 Budget Proposal. Hearings, 107th Congress, 2nd Session. February 13, 2002. Washington, GPO. (to be published)

CHRONOLOGY

02-04-02 – President submits FY2003 budget request, including \$7.62 billion for EPA.

07-25-02 – Senate Committee on Appropriations reports S. 2797 (S.Rept. 107-222), which includes \$8.30 billion for EPA.

10-10-02 – House Committee on Appropriations reports H.R. 5605 (H.Rept. 107-740), which includes \$8.20 billion for EPA.

01-23-03 – Senate amends and passes H.J.Res. 2, including \$8.2 billion for EPA, less a potential 2.9% rescission.

02-20-03 – President signs P.L. 108-7 (H.J.Res. 2)