The Environmental Protection Agency’s FY2002 Budget

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Resources, Science, and Industry Division
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SUMMARY

On April 9, 2001, the President requested $7.3 billion in discretionary budget authority for the Environmental Protection Agency (EPA) for FY2002, $512.0 million (or 7%) less than the FY2001 funding level of $7.8 billion. The request would not have continued funding of about $500 million for activities earmarked for FY2001, and contained provisions shifting more enforcement responsibilities to the states. Popular wastewater infrastructure funding, state roles, and the future of Superfund were some of the predominant topics. On July 17, the House Appropriations Committee recommended $7.545 billion, $229 million more than requested (H.R. 2620, H. Rept. 107-159). The House passed the bill on July 31. The Senate Committee reported its bill S. 1216 (S.Rept. 107-43) on July 19, approving $7.752 billion, the amount approved by the Senate August 2. The conference agreement (H.Rept. 107-272) signed into law as P.L. 107-73 on November 26 provides $7.90 billion. The FY2002 Emergency Supplemental Act, provides $176 million in FY2002 supplemental funding for EPA activities relating to security threats.

The request consisted of $2.69 billion for EPA’s operating programs, $3.3 billion for state and local assistance, and $1.27 billion for Superfund.

EPA’s appropriation request and the appropriation bill are traditionally organized according to different accounts. The $640 million requested for the Science and Technology account reflected a $55 million decrease; the House passed $680.4 million, the Senate $665.7 million; and the conferees approved $698 million. The House action added $42 million to the $2.0 billion requested for the Environmental Programs and Management; the Senate added $89 million; the conferees added $54 million. The $1.27 billion requested, and approved by the House, Senate and conference actions, to clean up toxic waste sites under Superfund was about the same as the FY2001 level. The Superfund request included, and the conferees approved $97 million for the Brownfields program, slightly greater than FY2001 funding.

How to fund state and local wastewater and drinking water capital needs, estimated as high as $300 billion, was a major issue. The request sought $3.3 billion for the State and Tribal Assistance Grants account, $332 million, or 9%, less than FY2001 funding. The request included $850 million for Clean Water State Revolving Funds (SRF), and $450 million in new sewer overflow grants. Funding for drinking water state revolving funds would have been $823 million. For state and tribal administrative grants, the budget sought $1.1 billion, $50 million more than current funding.

The House added $145.2 million to the State and Tribal Assistance Grants account; the Senate added $314.3 million; and the conferees added $444.6 million. The conferees did not fund the new $450 million requested for sewer overflow projects. The House added $350 million to the Clean Water SRF funds, and provided $200 million for targeted grants with no earmarks specified. The Senate added $500 million for Clean Water SRF funds. Conferees added $500 million for the Clean Water SRF and provided $344 million for congressionally-directed water projects. They approved $850 million for the drinking water SRF, and $1.1 billion for state and tribal administrative grants.
Most Recent Developments

On April 9, 2001, the President forwarded to Congress the details of his $7.3 billion FY2002 request for the Environmental Protection Agency. P.L. 107-73, the FY2002 VA-HUD-Independent Agencies Appropriation Act, signed November 26, appropriated $7.9 billion for the agency.

P.L. 107-117 (H.R. 3338, Division B), the FY2002 Emergency Supplemental Act, appropriated $176 million in additional funds to assist EPA in its terrorist-related activities.

Background and Analysis

The FY2002 EPA request of $7.3 billion was about one-half billion less than the FY2001 funding level of $7.8 billion. It sought fairly level funding for many EPA programs and no funding for $500 million in activities earmarked for funding in the FY2001 conference report (H.Rept. 106-988). At the May 9 House Appropriations hearing, EPA Administrator Christine Todd Whitman noted that the budget “provides the necessary funds for the Agency to carry out our mission efficiently and effectively - to protect human health and the environment.”

Figure 1 depicts EPA funding by major categories since FY1983. Chief among them for FY2002 are: $2.0 billion for program management, $641 million for science and technology, and $1.27 billion for Superfund. Also under the proposal, funding would have decreased by about 9% in the State and Tribal Assistance Grants account, which incorporates wastewater/drinking water state revolving funds (SRFs) monies and traditional state program assistance and management grants. The request for this account included $850 million for wastewater SRFs, $823 million for drinking water SRFs, $450 million for new sewer overflow grants, $75 million for Mexican Border projects, $35 million for special project grants, and $1.1 billion for traditional grants to states for administering their programs.

The first major issue associated with the request was the absence of continued funding for a number of FY2001 activities representing about $500 million, most of which was for wastewater projects. Given their enormous popularity, it was likely that reinstatements, or new earmarks, of much of this funding would be pursued during the FY2002 appropriations process.

A recent issue has been funding EPA’s efforts following September 11. The House and Senate have passed different funding levels in H.R. 3338, Division B, the FY2002 Emergency Supplement Act, now in conference. The House passed $161 million; the Senate $126 million. The main difference between these versions is that the House funded drinking water vulnerability assessments at $110 million while the Senate funded these activities at $34 million, the amount requested by the Administration.
The FY2002 budget presentation, currently called the “2002 Annual Plan,” was the fourth presented under provisions of the 1993 Government Performance and Results Act (GPRA), which directs that a performance plan accompany the budget. On September 30, 1997, EPA submitted a GPRA-mandated strategic plan spelling out its mission and 10 major goals and associated objectives. Its FY2002 budget justification is aligned with these 10 goals and objectives. In a January 2001 report (Major Management Challenges and Program Risk. Environmental Protection Agency. GAO01-257), GAO found that major problems continue to confront EPA, especially (1) information management weaknesses, (2) human capital problems, and (3) EPA-state relationships. The budget sought new state grant funds for information technology and proposed shifting more enforcement to the states.

**Figure 1. EPA Enacted Appropriations FY1983 - FY2002**

Prepared by the Congressional Research Service.

**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, usually about two-fifths of EPA’s appropriation, 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 — usually about one-fifth of the Agency’s appropriation — 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 two-fifths or more of the Agency’s appropriation...
is usually allotted to this account. Table 1 shows the breakdown of EPA’s funding by appropriations accounts.

### Table 1. EPA Major Appropriations Accounts:

(in millions of dollars)

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Note: 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. The FY2002 Superfund request does not include funding for these two agencies, now funded separately. This table shows the major accounts, omits minor accounts, but shows the total for all accounts. P.L. 107-117 (H.R. 3338, Div. B) appropriated $176 million in additional FY2002 funds.

Within the many EPA programs, there were 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 FY2002 request of $640.5 million for the S&T account represented an 8% decrease when compared to the FY2001 funding level of $695.5 million. The House approved $680.4 million including five add-ons, among them $30 million for a targeted environmental research grant program. The Senate approved $665.7 million, including funding for 23 congressional directed activities. The conferees approved $698.1 million, including funding for 52 add-ons.

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. There was a proposed decrease in funds for climate change-related research under the S&T account. EPA requested $153.8 million for all of its climate change activities (research and programmatic activities) in FY2002, a 0.9%, or $1.5 million, decrease when compared to FY2001 funding of $155.3 million. In the last several budgets, near doubling of climate change funds was requested and denied by appropriators. About 30%, or $48.9 million, is research-related and falls under the S&T account. (The remaining amount of $104.9 million - abatement in nature - falls under the Environmental Programs and Management account.)

The S&T portion of the climate change request includes two research activities: 1) CPP research related to reducing greenhouse gas emissions from transportation and 2) non-CCP research on climate change. The CPP portion of the request for the S&T account was $32.4 million, which would have been an increase of $3.0 million, or 10%, above the FY2001 funding level. All of this is for CPP research related to transportation activities and greenhouse gases. The non-CPP portion of the climate change research request was $22.0 million, which would have been a decrease of $0.6 million, or 3%. (For a discussion of climate change issues, see the CRS Electronic Briefing Book on Climate Change [http://www.congress.gov/brbk/html/ebgcc1.shtml].)

Environmental Programs and Management

The Environmental Programs and Management account — usually 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 FY2002 budget sought $1.97 billion, which was $114.9 million, or 6%, less than the FY2001 funding level of $2.09 billion. The House Committee recommended $2.01 billion, adding on $42 million for six earmarks. This included $16 million in additional earmarked grant funds related to drinking water and $25 million for a targeted environmental grant program. On July 31, the House passed $2.01 million for this account. The House adopted an amendment increasing funding by $3 million for registering and accessing pesticides. The Senate approved $2,062.0 for the Environmental Programs account, $89 million more than requested. This included 51 congressionally directed activities. On the floor, the Senate adopted the following amendment: Nelson (FL.) Amendment No. 1228 (to Amendment No. 1214), to direct the Administrator of the Environmental Protection Agency to report to Congress on the safety of children’s playground equipment. This bill was approved by the full Senate on August 2. The conferees approved
$2.05 billion for this account, specifying funding for 94 projects. 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.)

Both the House and Senate adopted similar provisions prohibiting funding to delay national primary drinking water regulations for arsenic. In its version, the House provided that EPA may not use funds to delay a January rule or to issue a rule that sets the standard above a certain level. The Senate version directs EPA to immediately promulgate an arsenic standard that protects sensitive subpopulations and that rescinds the postponement of the rule’s effective date for water systems with arsenic below a certain level. The conference version stated that none of the funds appropriated by this Act may be used to delay the national primary drinking water regulation for arsenic. (For a full discussion of the arsenic rule and this issue, see CRS Report RS20672, *Arsenic in Drinking Water: Recent Regulatory Developments and Issues*.)

For FY2002, EPA requested about $153.8 million for all of its climate change activities, roughly 68% of which would have been allocated for activities under the Environmental Programs and Management account.

Congress has previously included climate change language in funding measures for many agencies including EPA. The FY1999 Senate-passed budget resolution (S.Con.Res. 86) included a sense of the Senate that “funding should not be provided to fulfill commitments to limit greenhouse gases under the Kyoto protocol prior to Senate ratification.” The conference agreement on the FY2000 budget resolution (H.Con.Res. 68, H.Rept. 106-91) contains in Section 329 a sense of the Senate assuming that no funds would be provided to put the Kyoto Protocol into effect prior to Senate ratification. FY2000 bill language prohibits EPA from using FY2000 funds “to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol.” The FY2001 Budget Resolution (H.Con.Res. 290, H.Rept. 106-277) did not contain language on the Kyoto Protocol. While making its FY2001 recommendations, Congress extended the Kyoto bill language that was included in the FY2000 appropriations and denied the requested increase for CCTI funds under this account. In approving FY2002 funds, the House Subcommittee extended the Kyoto language. During full committee markup, the Kyoto language was dropped.

**Office of Inspector General**

The President’s FY2002 budget sought, and congressional actions approved, $34.0 million for the Office of Inspector General, the same as FY2001 funding.

**Buildings and Facilities**

The FY2002 request of $25.3 million, the amount approved by Congress, for the Buildings and Facilities account is $1.4 million more than FY2001 funding.

**Oil Spill Response**
For EPA’s oil spill response activities, the President’s FY2002 budget sought, and congressional actions approved, $15.0 million, the same as FY2001 funding.

**Superfund**

The FY2002 request sought $1.270 billion for Superfund, about the same as funded in FY2001. Both the House, Senate and the conferees approved $1.27 billion. While taxing authority to support the Superfund Trust Fund expired on December 31, 1995, it is anticipated that monies will continue to be available into 2002. Also part of the President’s FY2002 budget was a $97 million request for cleaning up certain urban sites, called Brownfields, that have development potential; the conferees approved this amount.

Looking beyond 2001, GAO has estimated that by 2008, 85% of all non-federal National Priority List sites will be cleaned up (*Superfund: Information on the Program’s Funding and Status*). This will entail annual appropriations of $875 million through FY2008. 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 released its report *Superfund’s Future: What Will It Cost?* The report estimates that for fiscal years 2000 through 2009, EPA will have to spend $14 billion to $16.4 billion on the Superfund program.

The President’s FY2002 budget did not propose renewing the taxes that support the Superfund Trust Fund. The available balance of the fund has been declining since the taxing authority expired on December 31, 1995. The balance of the fund on October 1, 2001, the beginning of FY2002, will be $955 million which is expected to accommodate the requested appropriation of $1.2 billion, half of which would come from the fund and half from general appropriations. By October 1, 2002, the beginning of FY2003, the fund level would fall to $539 million. During discussion of this at the May House Subcommittee hearings, the Administrator of EPA stated “that obviously we are going to have to depend more and more on general revenues.”

**Leaking Underground Storage Tanks**

The President’s FY2002 budget sought $71.9 million for the Leaking Underground Storage Tank (LUST) program, which assists states in addressing substandard underground petroleum storage tanks. After adopting an amendment to increase this account by $7.2 million, the House approved $79.2 million. The Senate approved $72 million, the amount funded in FY2001. The conferees approved $73 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 roughly $1.0 billion balance in the Treasury’s LUST Trust Fund, from which the appropriation is actually made, has led some to call for allowing greater use of the fund balance by states. (For further discussion, refer to CRS Report 97-471 ENR, *Leaking Underground Storage Tank Cleanup Issues*.)

**State and Tribal Environmental Programs**

The FY2002 request for the State and Tribal Assistance Grants (STAG) account sparked controversy in Congress since the President requested $3.289 billion, $332 million (or 9%)
less than FY2001 funding level of $3.6 billion. The House approved $3.434 billion; the Senate $3.603 billion; and the conferees $3.734 billion. This account capitalizes popular clean water and drinking water state revolving funds and other state assistance. The elements of the STAG request include:

- $850 million, as compared to the current level of $1.35 billion for State Revolving Funds (Clean Water); however, $450 million for new sewer overflow grants was proposed; the House approved $1.2 billion, the Senate and the conferees $1.35 billion, denying the proposed $450 million for sewer overflow grants.
- $823.2 million for State Revolving Funds (Drinking Water), the same as FY2001 funding; the House, Senate and conferees approved $850.
- $74.8 million, the same as FY2001 and as approved by the House, Senate and conferees, for Mexican Border infrastructure projects;
- $34.9 million for Alaska Native Village water infrastructure projects, the current year funding; the House passed $30 million and the Senate and the conferees $40 million.
- $1.1 billion, $50 million more than the current appropriation, for traditional grants to states for their administration of various environmental programs; the House added $23 million for these grant activities. The conferees approved $1.1 billion.
- In addition, the House added $200 million for targeted infrastructure grants. No specific earmarks were provided. In the Senate, the Committee added $500 million to the Clean Water SRF request and specified funding for 105 specific projects. The President’s budget had requested no funds for earmarked infrastructure grants for which Congress appropriated $357 million in FY2001. The conferees included $344 million for such grants.

The major capital needs that communities face for funding drinking water and wastewater facility construction remain the chief issue associated with the STAG account. By statutory design, the federal contribution to most of these needs has been through capitalizing state funds from which states loan monies to communities. Since most localities are now borrowing their funding, any remaining direct grants listed above for special projects have become controversial. The total national needs remain great as EPA’s 1996 needs survey for clean water SRF monies estimated remaining needs at $139.5 billion to $200 billion 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.

A more recent estimate has further spotlighted the FY2002 water SRF request even more. A stakeholder group, the Water Infrastructure Network (WIN), in *Clean and Safe Water for the 21st Century*, estimates wastewater and drinking water capital needs at around $1 trillion and even more if operation and maintenance needs are added (they 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 about $480 billion. WIN foresees a $23 billion per year funding gap: $12 billion for wastewater and $11 billion for drinking water capital needs.
What was unclear from the request is how new sewer overflow grants could have been funded under the requested funds. The Wet Weather Water Quality Act, (PL. 106-554, Division B, Section 1112) authorizes a $1.5 billion grants program to reduce wet weather flows from municipal sewer systems ($750 million annually in FY2002 and FY2003). It authorizes these grants if the Clean Water SRF grants are funded at a level of $1.35 billion. In response to questions at the House Appropriations Subcommittee’s hearings, the Administrator acknowledged that the agency was “not meeting the language” of PL. 106-554 notably its $1.35 million threshold, and was “asking for flexibility.” The request was for $850 million in SDF funding and $450 for new overflow grants for a total of $1.3 billion. But, if additional funds of $500 million were added during the appropriations process, the $1.35 billion level could presumably be reached. The House did not recommend the $450 million for wet weather projects and funded the Clean Water SRF at $1.2 billion. The Senate and the conferees funded the SRF at the $1.35 billion level but did not recommend the wet weather funding.

For state administrative grants, the President’s FY2002 budget sought $1.1 billion, $50 million more than the FY2001 level of $1.0 billion. These grants fund state programs which administer various environmental protection programs. All state grant programs would be funded at current year levels. Under the budget proposal, three new areas would be funded: $2 million for beach water quality criteria activities, $25 million for information exchange, and $25 million for state enforcement grants. On the floor, the House adopted an amendment increasing funding for beach testing by $3 million. The House added $23 million for state administrative grants. The Senate Committee did not specify in its report the funding levels for state grants.

The beach grants are intended to help the states meet provisions of new Clean Water Act requirements on evaluating the quality of the nation’s beaches authorized in P.L. 106-284. The proposed funding for state information exchange is part of a continuing effort to improve the much criticized deficiencies in EPA’s information management capabilities. The grants “will help the states and EPA create the necessary infrastructure to efficiently exchange information electronically, which will reduce burden, improve accuracy and inform decisionmaking,” noted the Administrator at the House Appropriations Subcommittee hearings. The House funded the beach water quality grants at $10 million; the Senate at $2 million; and the conference agreement at $10 million.

Considerable interest has focused on the proposal to shift more enforcement responsibility to the states. The budget anticipated $25 million in FY2002 for grants to state enforcement programs. On this, Administrator Whitman stated: “This grant program will benefit the national environmental enforcement program by providing states much-needed funds to enhance their enforcement efforts in delegated environmental programs.” These fit into the budget theme of assisting the states and shifting more authority to them. The budget, according to the Administrator, “reflects a commitment to increase partnerships across America to develop innovative environmental programs that ensure stewardship of our land, air, and water for generations to come.” The other part of this, however, is that enforcement resources at EPA headquarters will be reduced. At the House Subcommittee hearing, the ranking minority member questioned the effect that headquarters reductions might have and expressed concern that there were no assurances that the grant funding would continue beyond FY2002.
In approving FY2002 funds, the House Committee approved the Administration’s funding plans, including the state enforcement grants program. The House rejected an amendment to increase EPA enforcement funding by $25 million. The Senate action did not approve the new grant program and specified that EPA enforcement levels were not to be reduced under FY2001 levels. The conference version did not include the enforcement plan.

**LEGISLATION**

**H.R. 2620 (Walsh)**

**S. 1216 (Mikulski)**

**P.L. 107-117 (H.R. 3338, Division B)**

**CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS**


**CHRONOLOGY**

07-19-01 Senate Subcommittee and full Committee recommend $7.8 billion.

07-17-01 House Appropriations Committee recommends $7.5 billion.

07-17-01 House Committee on Appropriations approves $7.5 billion for EPA.

07-10-01 House Appropriations, Subcommittee on HUD-VA-Independent Agencies recommends $7.5 billion.

07-31-01 House passes H.R. 2620

08-02-01 Senate passes H.R. 2620

11-6-01 Conference report (H.Rept 107-272) filed in House

11-8-01 House and Senate approved conference agreement

11-26-01 President signs H.R. 2620 as P.L. 107-73, appropriating $7.9 billion.