

EPN “All Hands” Call, Friday, February 21, 2020

This month's all-hands call discussed harmful algal blooms and the president's proposed FY2021 EPA budget.

Harmful Algal Blooms

Howard A. Learner and Jim Giattina led a conversation on the effects of harmful algal blooms and how states and the federal government are combating them.

Harmful algal blooms have had deleterious effects on the Great Lake region. Western Lake Erie is the poster-child for the problem, but harmful algal blooms are also becoming a problem in other shallow water bays in Lake Michigan and Lake Superior. The increased amount of phosphorus pollution from agricultural runoff of fertilizers and manure from Concentrated Animal Feeding Operations (CAFOs) has resulted in recurring severe toxic algae blooms in seven of the past nine summers. During harmful algal bloom events, local economies bear the costs, as fisheries are impaired, and there is a chilling effect on outdoor sports and recreational activities. Harmful algal blooms cannot be curtailed without tackling the runoff coming from CAFOs and crop fields, which are responsible for 90% of the phosphorus loading in Lake Erie. The state of Ohio had committed to achieving a 40% reduction in phosphorus loading by 2025 in the Great Lakes Water Quality Agreement, Annex 4, but that is unlikely to be achieved through voluntary measures and incentives alone. The Environmental Law & Policy Center's litigation success in an enforcement action brought against US EPA has now led to the Ohio EPA announcing that it will adopt Total Maximum Daily Loads (TMDLs) over the next 2-3 years as part of its Domestic Action Plan for water quality.

Harmful algal blooms have increased in national frequency. On the Gulf Coast, toxic red tide events have become more frequent. The federal government knows that agricultural runoff is driving the increase in harmful algal blooms but has a limited ability to regulate nonpoint sources such as farms and CAFOs. EPA regulation of CAFOs starts with 10,000 animal units. Many operators simply keep their number a bit under that level. Revising the Clean Water Act (CWA) might be an option, but it is not likely given current political leadership. What has worked in the past is state regs with lower cut-off levels for CAFOs, better utilization of TMDL's; increased financial support for on-farm conservation practices; and interagency programs that target specific watersheds. The impacts of harmful algal blooms are local and resonate with people as an issue that demands urgent action.

President Trump's Proposed FY2021 EPA Budget

David Coursen provided an overview of the president's proposed FY2021 EPA budget and the next steps in the Congressional process.

The FY2021 proposed budget is not dissimilar from Trump's first three presidential budgets. Each year has requested a roughly 30% cut to EPA's budget, with this version seeking a 27% reduction of \$2.4 billion. The particulars include defunding climate programs, a 46% reduction in air quality protection, 30% cuts to water quality programs, and an 85% drop in support for transparency measures. States, which rely on federal funding for 25% of their environmental program operating costs, would also see a reduction of nearly half a billion dollars in support for state programs. Cuts to state programs are counterintuitive as the administration seeks to shift more responsibility and discretion to the states in regulating the environment.

The president's proposed budget is an aspirational document that provides the public with a sense of the administration's goals and its belief that EPA, and government more generally, should have a limited role in protecting the environment. It is widely believed, as has been the case with previous Trump proposed budgets, that it will be dead on arrival in Congress. In the coming months, we should expect the House and Senate to pass separate budgets and then attempt to iron out the differences in a budget conference. If Congress fails to finalize a budget the president will sign, history tells us they will compromise with a continuing resolution or other short-term solution, which extends the current funding levels, either until a final budget can be codified or through the year. This creates the risk of a stagnant EPA budget putting undue stress on programs that are overextended and have growing needs.

Presenters

Howard A. Learner is an experienced public-interest environmental and energy litigation attorney and policy expert, serving as Executive Director of the Environmental Law & Policy Center—the Midwest's leader, and among the nation's leaders, in environmental legal advocacy and eco-business innovation organization.

Jim Giattina is the former Director of Region 4's Water Protection Division. Jim retired in December 2016 after 32 years with EPA. Prior to joining Region 4 in 2002, he had served as the Director of the Gulf of Mexico Program and Deputy Director of the Great Lakes National Program Office.

David Coursen is an expert in the Clean Air Act, environmental justice, and constitutional and administrative law. He formerly served in the EPA Office of General Counsel. David serves as the lead on the Environmental Protection Network's Budget and Appropriations Team.