
Trump Seeks to Create Coordinated Federal Water Policy via Executive Order

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On October 13, President Trump issued an [Executive Order](#) (EO) entitled “Modernizing America’s Water Resource Management and Water Infrastructure.” The EO’s broad goal is to improve federal management of water resources and modernize water infrastructure to provide “[a]bundant, safe, and reliable supplies of water” for all Americans by coordinating water policy and initiatives within the executive branch.

Overview of Executive Order

The EO creates a “Water Subcabinet” chaired by the Secretary of the Interior and the Administrator of the Environmental Protection Agency, and comprised of the Secretaries of Agriculture, Commerce, Energy, and Army. This group is tasked with cataloguing the numerous existing federal water-related programs and authorities and recommending steps to coordinate and consolidate federal water policy. President Trump further directs the newly-created Water Subcabinet to report on recommendations related to a laundry list of water policy, planning, and infrastructure matters. The report will provide recommendations for federal actions related to:

- Increasing water storage, supply reliability, and drought resiliency;
- Improving water quality, with a focus on water quality issues facing minority and low-income communities;
- Improving water infrastructure, including drinking water, wastewater, and flood control systems; and
- Enhancing water data management, research, modeling, and forecasting.

Under each of these categories, the EO lists specific issues that the Water Subcabinet must address, including topics as varied and unconnected as western drought, legacy pollution in the Great Lakes, large scale ecosystem restoration efforts in the Gulf of Mexico and the Everglades, and flood risks. A number of these measures represent a reversal of President Trump’s previous policies; for example, the Administration earlier proposed to diminish or virtually cancel funding for major ecosystem restoration initiatives, including in the Great Lakes and the Everglades.

Notably, while the EO mandates coordination and reporting, it does not set out any new substantive

action items. Rather, the EO largely directs agencies to continue efforts that are already underway, or initiatives previously announced by the Trump Administration or preceding administrations. These ongoing initiatives include coordinating multi-agency reviews for federal permitting, increasing engagement with stakeholders in the Colorado River Basin, implementing the Great Lakes Restoration Initiative that has been underway since 2010, and finalizing a proposed rule revising drinking water standards, among other matters. To the extent the EO articulates new actions, those relate primarily to enhancing the recruitment, training, and retention of water sector professionals and improving the federal government's water research and forecasting efforts.

Previous Attempts to Harmonize Federal Water Policy

The notion of a “whole of government” approach to water management is not new, and this ambitious attempt to create a multi-agency group to oversee water management has appeared before in various forms. For example, during the presidency of Lyndon Johnson in 1965, a Water Resources Council (Council) was established by statute to oversee federal-state regional river basin commissions and continually study and assess water supply issues. The Council was terminated in 1982. Thirty years after creation of the Council, in 1998 President Clinton announced a sweeping “[Clean Water Action Plan](#)” to restore and protect America’s waters through multi-agency coordination and collaboration with states. President Clinton’s plan called for more than 100 new actions to improve water quality, including new federal water quality standards, increased enforcement and assistance to states to address water pollution, and incentives to private parties to reduce pollution.

Despite its breadth, President Clinton’s initiative was narrower than that just announced by President Trump, in that it focused on water quality and did not also seek to tackle drought, flood, water supply, or other issues. President Clinton’s Clean Water Action Plan was also supported by a budget request from Congress of \$568 million, whereas President Trump’s EO is not coupled with an appropriations request. Despite the specificity of President Clinton’s plan and a targeted budget request to accomplish its goals, President Clinton’s initiative arguably did not accomplish most of what was intended. The Clean Water Action Plan foundered in part due to limited congressional interest and, consequently, limited appropriations. Congress allocated far less than the \$568 million President Clinton requested to carry out the plan. The initiative’s longevity also presented a challenge: officials estimated that the plan would take 25 years to implement, and, as is the case with any government-wide initiative, it can be difficult to maintain momentum over such a long period and multiple administrations without significant congressional support and funding.

Potential Benefits of a Coordinated Federal Approach to Water Issues

Despite the challenges inherent in coordinating efforts on such wide-ranging issues, significant benefits could flow from a harmonized federal approach to water-related matters. As noted in President Trump’s EO, there are currently a large number of executive agency task forces, working groups, and inter-agency initiatives focused on water issues. These groups could undoubtedly benefit from increased coordination and information sharing.

Additionally, the EO’s directives regarding water data management, research, modeling, and

forecasting could aid government and private sector efforts to manage water. Among other actions, President Trump directed federal agencies to align water forecasting and monitoring methods, develop state-of-the-art geospatial data tools, and take other actions to improve water availability forecasting. The science and technology in this area is changing rapidly in response to evolving climate and hydrological conditions, so data needs are similarly changing. A federal government commitment to investing in water forecasting research efforts and data sharing could thus benefit water management by federal agencies, states, localities, and the private sector.

Finally, although not spelled out in President Trump's EO, climate change necessitates new approaches to comprehensive water management. The changing climate is impacting water quality and supply in myriad ways, including drought, severe storms and resulting flooding, degraded water quality, and an uptick in invasive species in America's waterways. A thoughtful, interdisciplinary approach to restructuring the way the U.S. government and its state and tribal partners address water management is needed, and such an approach must be supported by Congress to succeed. A good place to start is coordination across the federal government.

Conclusion

Although the EO was issued in the final weeks before the presidential election, we expect federal water issues, including how to best coordinate water policy within the executive branch, to remain a priority no matter which candidate wins. Although the focus may be different – e.g., a focus on climate change versus deregulation – successfully managing federal waters will require engagement with a wide variety of stakeholders.

To discuss how federal water management could impact your organization, please reach out to the authors of this alert or your regular contact at WilmerHale.