

THE CHALLENGES, VISION, AND LEADERSHIP THAT LAUNCHED EPA 50 YEARS AGO

President-Elect Biden's Plan

2020 is on track to be one of the hottest years on record, and that heat has helped fuel unprecedented wildfires and an unrelenting hurricane season. Climate scientists say a dramatic reduction in greenhouse gas emissions is needed soon to avoid even more catastrophic impacts

Biden's climate plan calls for investing \$2 trillion over four years on a wide range of environmental projects with a goal of making the U.S. carbon neutral by 2050 from a Democrat-controlled Congress, which does not appear likely — or is at least not certain, pending the outcome of two runoff Senate races in Georgia in January.

Still, others think Biden will be able to take meaningful executive action and possibly forge some compromise even if the Senate continues to be controlled by coal-friendly Kentucky Republican Mitch McConnell.

The change at the top could not be more dramatic given that President Trump has repeatedly questioned climate science and has
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The Awakening

A half-century ago, our nation was in the grips of an unpopular war in Vietnam, a maze of new social norms and the historic challenges of the Civil Rights Act. No less momentous was the growing awareness that our nation's lands, air and water were in sad condition.

Rachael Carson's epic *Silent Spring* warned that as we poison nature with pesticides she poisons us back. Off the coast of Santa Barbara, CA, a blow-out in Union Oil's well field produced what was at that time the largest release of oil to waters in the nation's history. Color video of oil-coated seabirds streamed into living rooms across the country. In Cleveland, floating oil and woody debris on the Cuyahoga River was ignited by sparks from the nearby railroad. The resulting fire drew attention from Time Magazine which ran a file photo on its cover and cautioned that a person falling in would decay rather than drown.

Exactly ten months later, on April 22, 1970, the first Earth Day was celebrated. An estimated 20 million people—one-tenth of the country's population at the time—took part. National Stormwater Center's founder, John Whitescarver, joined the Earth Day March in Manhattan led by NYC Mayor John Lindsay.

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The Ash Council

Just a week after Earth Day, and in his second year in office, President Richard Nixon submitted to Congress a list of recommendations for organizing environmental and other functions within the executive branch. His authority to do so came from something called the Reorganization Act. Originally known as the Economy

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EPA AT 50 YEARS

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Act (it was created during the Great Depression), the Reorganization Act allowed the President to assess efficiencies and economies within the executive branch and recommend changes for Congressional approval. These changes would automatically take effect in 60 days, barring resolutions of disapproval from both chambers. (That authority expired in 1984.)

To develop his reorganization plans, Nixon appointed a President's Advisory Council on Executive Organization. Commonly known as the Ash Council for its chairman, industrialist Roy Ash, the council also included Texas governor John Connally, who was riding in the car with JFK when the President was assassinated; Frederick Kappel, chairman of AT&T; George Baker, dean of the Harvard Business School; Richard Paget, who helped reorganize the U.S. Navy; and Walter Thayer, a New York lawyer, investment official and president of the International Herald Tribune.

The Council's work product was delivered to the President in 14 installments. The eighth of these, dated April 29, 1970, was titled "Federal Organization for Environmental Protection." Often called the Ash Memo, the document began with this summary:

"The President's Advisory Council on Executive Organization recommends that key anti-pollution programs be merged into an Environmental Protection Administration, a new independent agency of the Executive Branch. In your February 10 Environmental Message, you pledged yourself to '... repair the damage already done, and to establish new criteria to guide us in the future.' The Environmental Protection Administration will be the principal instrument for the fulfillment of that pledge."

Elsewhere, in a paragraph labeled "Inadequacy of Present Organization," the Council offered this blunt assessment.

"Our National Government is neither structured nor oriented to sustain a well-articulated attack on the practices which debase the air we breathe, the water we drink and the land that grows our food. Indeed, the present departmental structure for dealing with environmental protection defies effective and concerted action."

Nixon Recommends EPA

On July 9, 1970, having reviewed the recommendations contained in the Ash Memo, President Nixon transmitted to Congress his final proposal (formalized as "Reorganization Plan Number 3 of 1970") along with a sort of extended cover letter titled "Special Message from the President to the Congress About Reorganization Plans to Establish the Environmental Protection Agency and the National Oceanic and Atmospheric Administration." from the President. (For practical reasons, plans for NOAA were included in the same reorganization document.) In preparing the Special Message, the President followed most of the Council's recommendations, with two exceptions. One was minor: where Ash's group had proposed to create an "Environmental Protection Administration," Nixon chose the term "Agency."

The other difference, far more substantive, had to do with the role of the new EPA relative to the existing Council on Environmental Quality. (The CEQ had been established January 1, 1970, as part of the National Environmental Policy Act.) Ash and his team had proposed that the CEQ be absorbed into the new EPA, but Nixon decided otherwise. While EPA would assist the CEQ "in developing and recommending to the President new policies for the protection of the environment," the two organizations would remain separate.

As the President saw it, "the Council [on Environmental Quality] focuses on what our broad policies in the environmental field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms."

Richard Nixon was not, as a matter of principle, a fan of large federal bureaucracies. So it is all the more remarkable that, after considering the recommendations and rationales of the Ash Council, he felt that environmental quality warranted not just one but two independent agencies.

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EPA AT 50 YEARS

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An Effective First Administrator

Though the recommendations had been finalized, EPA wasn't officially established until December 2, 1970. That was the day the agency's first administrator, William Ruckelshaus, 38, was unanimously confirmed by the Senate following two days of hearings before its Public Works Committee, where he had also been unanimously endorsed.

A mild-mannered Indianapolis attorney with degrees from Princeton and Harvard, Ruckelshaus was a moderate Republican who had served as counsel to the Indiana Stream Pollution Control Board and helped draft the Indiana Air Pollution Control Act of 1961 before joining the U.S. Justice Department in 1969.

His commitment to enforcement had drawn praise from legislators. Public Works chairman Jennings Randolph (D-W.Va.) said the nominee made an "excellent impression," and Sen. Edmund S. Muskie (D-Maine) told him "I hope you become Mr. Clean."

When Ruckelshaus said he would lead an antipollution campaign "as forceful as the laws provide," committee members seemed "particularly impressed," according to the New York Times. "[They] seemed pleased to hear Mr. Ruckelshaus say that he thought the states, which are often reluctant to crack down because they are competing for industry, would enforce the law more aggressively 'if a strong Federal presence was behind them.'"

As the New York Times also noted, Ruckelshaus had a big task before him. He would oversee the consolidation of "some 15 organizations ... with about 5,800 employees and budgets totaling \$81.4 billion." The agency would take over "water pollution responsibilities from the Department of Interior; air pollution and solid waste responsibilities from the Department of Health, Education and Welfare; registration of pesticides from the Department of Agriculture; setting of environmental radiation levels from the Federal Radiation Council, and the enforcement of those levels from the Atomic Energy Commission."

But Ruckelshaus seemed eager for the challenge. As he told a reporter a few days before hearings began, "I am optimistic that man can reverse what his stupidity

has caused." Otherwise, he said, "I wouldn't have taken this job."

And so, with the recommendation of the President, the endorsement of the Senate, the apparent good will of the public and the optimism of a talented and principled director, the new agency was off to a good start.

The roles and functions of EPA as proposed in Nixon's "Special Message" July 9, 1970

- The establishment and enforcement of environmental protection standards consistent with national environmental goals.
- The conducting of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.
- Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.
- Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

The National Stormwater Center honors EPA and the thousands of men and women who have served with that agency over the past 50 years. They, along with countless federal, state and local government partners, have much to be proud of, and we, as citizens, have much to be grateful for.

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PRESIDENT-ELECT BIDEN'S PLAN

(Continued from Page 1)

rolled back dozens of Obama-era climate rules aimed at boosting fossil fuel production. A Biden administration could move to reverse much of that.

Among many other things, Biden has said he would stop leasing any new oil and gas rights on federal land and water. He could also direct agencies to tighten emissions standards for the electricity sector, to push it toward his goal of net zero emissions by 2035. And he could raise fuel economy standards for cars and trucks to speed up a transition to electric vehicles.

Of course — just as Obama and then Trump have seen — executive action is subject to legal challenge, and Biden will face a judiciary stacked with more conservative appointees who may favor deregulation. Even if his policies survive that, they could again be reversed by a future president.

Biden may have more immediate sway using foreign policy to push for climate action. He has already vowed to rejoin the landmark Paris Climate Agreement as soon as he takes office. Trump announced his intention to withdraw from the agreement in 2017; that took effect the day after the U.S. presidential election, after a mandatory waiting period.

Biden could also have the U.S. rejoin the World Health Organization, which can help address public health risks from global warming. And he could use trade deals and other international agreements to pressure countries to reduce their own greenhouse gas emissions, drive clean energy technology or limit deforestation, for example.

Two-thirds of Americans — including a majority of Republicans — say they want the government to do more on climate change. The question is whether Biden can coax a divided Congress to heed that and finally take significant action.

This article written by:

*Laurie Murphy
Vice President
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Stormwater Permit News

RICHMOND, VA – The Virginia Department of Environmental Quality (DEQ) and its consultants, Skeo Solutions, Inc. and Metropolitan Group, have concluded an 18-month process to create a comprehensive Environmental Justice Study. First announced in April 2019, the Study was initiated by DEQ to identify options and recommendations to inform a strategic approach focused on addressing environmental justice issues.

DEQ has summarized the immediate actions the agency will take to deliver on the Study recommendations, as well as the focus areas for the year ahead. To read the full Environmental Justice Study, as well as DEQ's next steps, please visit the agency's website.

Study recommendations cover a number of categories that include authority, leadership, local government coordination, staff capacity, guidance and tools, accessible information, relationship building, community engagement and environmental justice community capacity. While many recommendations will require additional resources, staffing or potentially new legislative authority for the agency, DEQ is moving forward with several significant measures.

DEQ will be creating a new Environmental Justice Director position that will lead the agency's new Office of Environmental Justice. A key deliverable for this position will be to develop, with community input, an action plan that builds on the Study by creating an implementation strategy. The hiring process for the Environmental Justice Director will begin immediately.

LOCK HAVEN, PA — Lock Haven's stormwater management infrastructure has seen better days. City Public Works Director Anthony Stopper emphasized this point while presenting council with information about the benefits of a stormwater management fee.

Within the city, sinking or unsettled curbs, cracking roadways, damaged pipes caused by water runoff are some of the issues the public works department has been dealing with.

“[Runoff] is our biggest problem with flooding and because we're protected by a levee it's our job to get the water out of the city as quickly as possible so we don't internally flood. To do that we need proper water storm infrastructure,” Stopper said.

Currently the city uses liquid fuel funding from its General Fund to pay for projects. The [stormwater] fee would be a real assessment of each parcel to determine the amount of pervious and impervious structures on each property.

FINAL COAL ASH LAW

EPA will allow utilities to store toxic waste from coal in open, unlined pits — a move that may defy a court order requiring the agency to close certain types of so-called coal ash ponds that may be leaking contaminants into water.

Research has found even plastic-lined coal ash ponds are likely to leak, but those risks are even higher when a clay barrier is the only layer used to hold the arsenic-laced sludge.

Environmental groups have already pledged to sue over the rule, which will allow unlined pits to continue operating, so long as companies can demonstrate using groundwater monitoring data that the pond is unlikely to leak. However, that doesn't solve the other problem of allowing unlined ponds no longer operating to address the discharge of heavy metal leachate into groundwater.

"These focused common-sense changes allow owners and operators the opportunity to submit a substantial factual and technical demonstration that there is no reasonable probability of groundwater contamination. This will allow coal ash management to be determined based on site-specific conditions," EPA Administrator Andrew Wheeler said in a release.

There are more than 400 coal ash ponds in the U.S.

A 2018 order from the U.S. Court of Appeals for the D.C. Circuit required the EPA to shut down all coal ash ponds that do not have a plastic liner. The ruling said a 2015 Obama-era coal ash rule violated the Resource Conservation and Recovery Act dealing with hazardous waste "in failing to require the closure of unlined surface impoundments."

The lobby for private utilities, however, called the rule a "critical step" as companies transition away from coal, arguing the rule does not violate the court order because it gives companies a chance to prove they can meet the standards required under the law.

"Some surface impoundments with alternative liner systems can continue operating without posing an unreasonable risk of adverse effects to health or the environment," Jim Rower, executive director of the Utility Solid Waste Activities Group, said in a statement. The group's members include all major utility lobbies.

FEMA GOING GREEN

FEMA has developed a new flood control policy that will provide many environmental benefits, such as expanding wildlife habitats, improved water quality, and a reduction in stormwater point sources of pollution.

Green infrastructure has been a component of discussion for years with regulators. We have been depleting our aquifers for generations. On top of that, flooding has become a nationwide problem that we can no longer ignore. Combining flood control while reusing our natural resources is a better solution.

While FEMA released the new policy without any public notification, it is being hailed by environmental groups.

"We're really excited about the potential," said Sarah Murdock, director of U.S. climate resilience and water policy for the Nature Conservancy. "FEMA has taken pretty clear steps to support and promote the potential of nature-based projects for flood risk reduction."

[Click on this link](#) to read the full article by Thomas Frank of E & E.

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PFAS and EPA

Per- and polyfluoroalkyl substances (PFAS) are a group of man-made chemicals that have been manufactured and used by a variety of industries since 1940. Common applications of PFAS include water and stain repellent materials, as well as firefighting products. While the use of certain PFAS have been discontinued, legacy uses and a lack of commercially viable alternatives to certain public safety products (e.g., fire fighting foams) have resulted in PFAS contamination in certain areas.

As a result of MANY meetings and the approximately 120,000 public comments received by the agency, EPA developed the PFAS Action Plan, which was issued in February 2019. The PFAS Action Plan is the first multi-media, multi-program, national research, management, and risk communication plan to address an emerging contaminant like PFAS. The PFAS Action Plan outlines the tools EPA is developing to, among other things, address PFAS in drinking water, identify and clean up PFAS contamination, expand monitoring of PFAS in manufacturing, increase PFAS scientific research, and exercise effective enforcement tools. The Action Plan outlines EPA's commitment to take a wide variety of actions to address this emerging contaminant in both short-term and long-term timeframes.

In February 2020, EPA announced that it is proposing to regulate both PFOA and PFOS under the SDWA—a critical step as the agency continues its efforts to protect drinking water and public health nationwide. This preliminary determination is a step toward providing state and local communities with key information about PFOA and PFOS in drinking water. In the proposal, EPA is also asking for information and data on other PFAS substances, as well

as seeking comment on potential monitoring requirements and regulatory approaches EPA is considering for PFAS chemicals. If the positive regulatory determination is finalized, the agency would begin the process to establish a national primary drinking water regulation for PFOA and PFOS.

In addition, EPA's PFAS Action Plan is working to determine if there is enough available data and research to support the development of Clean Water Act (CWA) water quality criteria for PFAS. EPA develops criteria for determining when water has become unsafe for people and wildlife using the latest scientific knowledge. These criteria are recommendations, and state and tribal governments may choose to adopt these criteria or use them as guidance in developing their own water quality criteria. Currently, EPA is scoping development of draft human health and aquatic life criteria for PFOA and PFOS. EPA is also actively collaborating with the Department of Defense to develop benchmarks to protect aquatic life and aquatic-dependent wildlife.

EPA is examining available information about PFAS in discharges to surface water to identify industrial sources that may warrant further study for potential regulation. Included in EPA's Preliminary Effluent Guidelines Plan 14 is the initial analyses of industrial sources and discharges of PFAS. This information is part of a multi-industry study to determine which industries are most likely to discharge PFAS into the environment and to determine the specific PFAS compounds currently in use. ♠

Happy 48th Anniversary Clean Water Act!

<https://youtu.be/bFuKg-JlpH8>

Exciting News from National Stormwater Center

Regular subscribers to this newsletter will know that our founder, John Whitescarver, started the Center in 1991 and began publishing *Stormwater Monthly* shortly thereafter. In time this newsletter changed to *Stormwater Quarterly*, and John never missed writing, editing, producing, and distributing any of its issues.

Under John's leadership National Stormwater Center grew to become a—and probably THE—top training organization for municipal Stormwater Inspectors. Focused entirely on Stormwater Inspectors charged with inspecting control measures and permit compliance for stormwater permits, over the past decades the Center has trained 8,000 men and women on their authority to inspect and potentially enforce the regulations of Municipal, Construction, and Industrial permits.

John also started the Whitescarver Foundation



(both pictured here). A private non-profit, the Whitescarver Foundation is dedicated to providing stormwater education to students and to citizens.

John's passion to work collectively to improve the

Nation's water has never waived, and he remains actively involved in organizations such as the EPA Alumni Association.

While retaining his duties and responsibilities as National Stormwater Center's Executive Director and President, and as the Executive Director of Whitescarver Foundation, John is excited and pleased to announce that he has named Laurie Murphy as Vice-President. Laurie's leadership skills and passion for clean water will help guide the Center toward its next goals in clean water, stormwater training, and community outreach.

Laurie has enhanced our training with the addition of our new **Integrated Planning** and **Permit Shield** courses. Additionally Laurie is heading up the development of new Industrial Permit courses scheduled to begin rolling out in 2021.

Laurie has a B.S. in Oceanography and a Master's in Geographical Information Science. Among her many accomplishments Laurie is the co-chair of the City of Pensacola's Climate Mitigation and Adaptation Task Force. Additionally Laurie serves on City of Pensacola's Planning board and is the Executive Director of Emerald Coastkeeper.

A Certified Stormwater Inspector for Municipal, Construction, and Industrial Permits, Laurie also holds certification from the State of Florida as a Stormwater Management Inspector and as an Erosion and Sediment Control Inspector.

Laurie's specialties include design of municipal ordinances, State of Florida TMDL stakeholder for impaired waterbodies, GIS applications in Stormwater Management, and green stormwater management and applications.

Join all of us at National Stormwater Center in welcoming Laurie Murphy to her new role as she guides us into the future and supports the legacy established by John!

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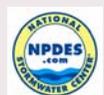
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National Stormwater Center

Laurie Murphy
Vice-President



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2021 Training Schedule

See www.npdes.com for complete listing
All classes delivered via interactive webinar

Feb 1-2	CSI-MS4 Alaska CSI-MS4 Wyoming
Feb 3	CSI-Industrial Paper and Pulp
Feb 4-5	CSI-MS4 New Jersey CSI-MS4 Ohio
Feb 8-9	CSI-MS4 California CSI-MS4 Delaware
Feb 10	CSI-Integrated Planning
Feb 11-12	CSI-MS4 Indiana CSI-MS4 Massachusetts
Feb 17	CSI-Industrial
Feb 18-19	CSI-MS4 South Carolina
Feb 18	CSI-Construction Basics
Feb 19	CSI-Advanced Construction
Feb 22-23	CSI-MS4 Georgia CSI-MS4 Wisconsin
Feb 23	CSI-Permit Shield
Feb 24	CSI-Network Discussion
Feb 25-26	CSI-MS4 Pennsylvania
Mar 1-2	CSI-MS4 Alabama CSI-MS4 Colorado

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