Clean Water Act – some history

- Deteriorating water conditions until nadir during early 20\textsuperscript{th} century and World War II
  - Viewed as a public health concern (chorination)
  - State regulation by 1930s, but weak
  - Dramatic water pollution problems in urban rivers and lakes
- 1965 – federal Water Quality Act
  - Reliance on states for water quality standards and enforcement
  - Failed on both counts (less than 1/3 of industrial facilities treated wastes before discharges)
Legislative Response

- Rivers & Harbors Act of 1899
  - Originally targeted impediments to navigation
  - Criminalized “any refuse matter of any kind or description whatever” over than street flow
    - Required permit from U.S. Army
    - Qui tam provision
Federal Clean Water Act

• Passed in 1972, and amended in 1977

• Key concepts:
  
  – Set an ambitious national goal: elimination of pollutant discharges into navigable waters by 1985

  – Primary tools:
    
    • Water Quality Standards
    • Wastewater Treatment Standards + Permits for Discharges
    • Wastewater Treatment Financing

  – Water quality, not supply.
Sources of Pollution

• Direct – discharge from pipe, outfall or ditch at facility

• Indirect – routed to a centralized wastewater treatment facility

• Storm water and sewer discharges

• Non-point source pollution
Federal Clean Water Act – Key concepts

• **NPDES permit system** (sections 301, 402)
  - Required for any discharge of a pollutant from a point source into navigable waters

• **Indirect discharges** – pretreatment orders

• **Discharge standards** set by technology limits provided for entire industry sector (sections 301, 306, 307) (NSPS, toxics)

• **Total Maximum Daily Load** standards for water quality attainment (section 303d)

• **Dredge and Fill** (section 404) (**wetlands**)
Federal Clean Water Act - implementation

- State delegation for implementation and enforcement, with EPA oversight
- Citizen suits (section 505)
- Nonpoint source pollution planning requirements
Federal Clean Water Act – other laws

• Other federal laws:
  – Oil Pollution Act of 1990
  – Ocean Dumping Act
  – Coastal Zone Management Act

• State laws – extremely important additional source of pollution control obligations
Federal Clean Water Act - results

- Much cleaner waterways in the United States
  - Discharge of organic wastes from POTWs reduced by almost half
  - Industry discharges of organic wastes down 98 percent
  - Rate of wetlands loss declined by 90 percent since 1970s
- But many water quality issues remain
Federal Clean Water Act – remaining challenges

- Data shortage
  - Only 28% of US rivers and streams assessed, and 53% impaired

- TMDL process for water quality attainment

- Nonpoint source regulation (including air deposition)

- Interplay of water supply and water quality
Federal Clean Water Act - Jurisdiction

The term “navigable waters” means the waters of the United States, including the territorial seas.

(CWA section 502(7))
- Katy Prairie
- 1,000 sq miles
- Major migratory bird flyway
- “Prairie Potholes”
Thoughts or reactions?

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