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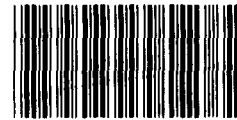
Testimony

Before the Legislation and National Security Subcommittee and  
the Environment, Energy and Natural Resources Subcommittee,  
Committee on Government Operations U.S. House of  
Representatives

For Release on Delivery  
Expected at  
1:00 PM EST  
Monday  
March 29, 1993

Management Issues Facing the  
Environmental Protection  
Agency

Statement of Richard L. Hembra  
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Chairman Conyers, Chairman Synar, and Members of the Subcommittees:

We appreciate the opportunity to appear here today in the first of several hearings that your Subcommittees will be holding on management issues at the Environmental Protection Agency (EPA) and proposals to elevate EPA to a Cabinet-level department. Since the Congress began considering EPA's elevation several years ago, we have been very supportive of the concept. But we have also cautioned that a number of important management problems would have to be addressed whether EPA becomes a Cabinet-level department or remains an agency. As requested, my testimony focuses on the management problems discussed in our December 1992 report on environmental protection issues. The report was part of GAO's series of 28 transition reports, discussing the major policy, management, and program issues facing the Congress and the new administration.<sup>1</sup>

In summary, whether or not EPA becomes a Cabinet-level department, the challenges that await it, as outlined in our report, are formidable. Department or agency, it must, first of all, address the challenge of meeting high public expectations and numerous environmental requirements with limited resources. It must also develop adequate and accurate information to support its regulatory programs and measure environmental results, and it must establish clear accountability for correcting existing program weaknesses. Finally, the U.S. government as a whole, including EPA or a new Cabinet-level department, must devise the means to strengthen global environmental protection efforts.

Let me discuss these issues in turn.

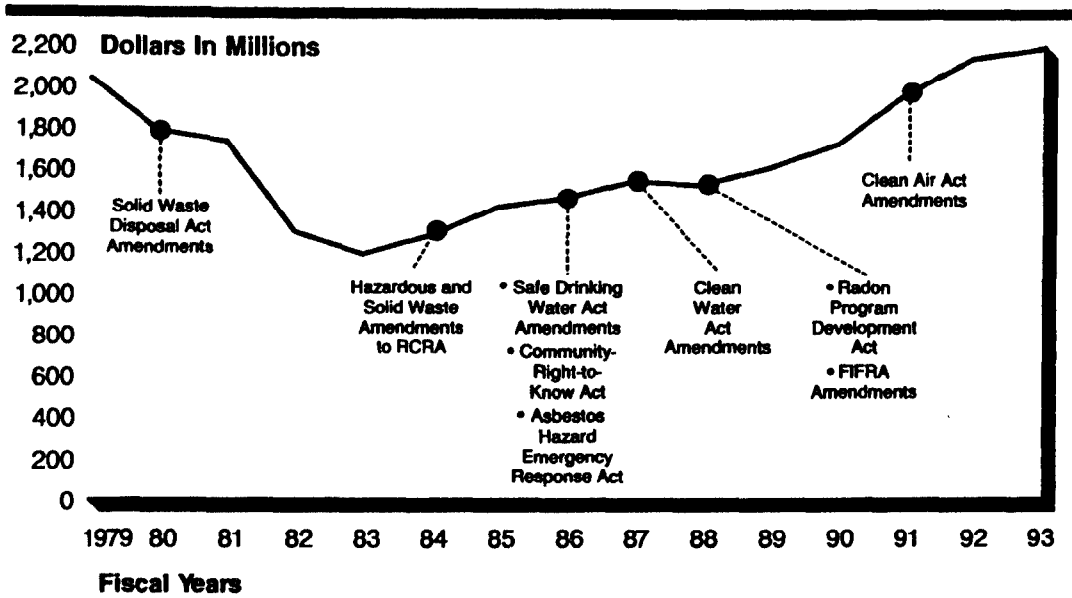
#### MEETING ENVIRONMENTAL REQUIREMENTS WITH LIMITED RESOURCES

One of the most pressing issues the Congress and the new administration will have to contend with is the limited resources available to carry out environmental mandates. As the following graph illustrates, over the last dozen or so years, the Congress has substantially increased EPA's responsibilities for regulating hazardous waste, drinking water, and water and air pollution, among other things. However, the agency's fiscal year 1993 operating budget, in constant dollars, was roughly the same as it was in fiscal year 1979.

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<sup>1</sup>Environmental Protection Issues (GAO/OCG-93-16TR, Dec. 1992).

# GAO EPA's Budget Has Not Kept Up with Program Growth



Abbreviations: RCRA, Resource Conservation and Recovery Act; FIFRA, Federal Insecticide, Fungicide, and Rodenticide Act.

Notes: All figures are in 1987 dollars and cover operating programs only.

Source: GAO's analysis of EPA data.

With the widening gulf between EPA's responsibilities and the resources available to carry them out, EPA has often been unable to meet statutory mandates and to implement plans for addressing pollution. For example, although EPA developed an ambitious plan to deal with nonpoint sources of water pollution--which EPA believes is the source of most the nation's remaining water quality problems--it has hardly acted on key elements of the plan for lack of resources.<sup>2</sup>

While President Clinton's proposed spending plan would fill some of the gaps in the nonpoint source pollution program, this is only one of a number of areas in which funding has not kept pace with program demands. Moreover, the need to reduce the budget deficit makes it unlikely that EPA's resources can be substantially increased. As a result, we believe that the agency has to focus its efforts on broad management improvements that can make its programs more cost-effective. We have recommended a number of such

<sup>2</sup>Water Pollution: Greater EPA Leadership Needed to Reduce Nonpoint Source Pollution (GAO/RCED-91-10, Oct. 15, 1991).

improvements, and EPA has begun to undertake some of them. But ensuring that these improvements, which are inherently long-term in nature, are made will require the sustained attention of both the Congress and the new administration.

Risk-Based Priorities Could Better Allocate Resources

Key among the initiatives that we have recommended is the establishment of priorities among EPA programs on the basis of risk to public health and the environment. Setting priorities in this way will be difficult, however, as long as public policy and, in particular, budget allocations are more reflective of public perceptions of risk rather than scientific and expert judgment.

Many environmental problems that EPA senior managers and technical experts judged to be of relatively low risk, such as contamination from hazardous waste sites, have received extensive public attention and federal resources, while problems judged to be of greater risk, such as global warming and radon and other types of indoor air pollution, have received less attention and fewer resources. In fact, as illustrated by the next chart, EPA experts' views of priority risk areas differed substantially from perceptions of risk reflected in public opinion polls.

## GAO Rankings of Selected Environmental Risks by EPA and the Public

Rankings by EPA	Rankings by the Public
<b>Higher Risk</b>	
Global warming	Chemical waste disposal
Indoor air pollution, including radon (high health risk)	Water pollution
Exposure to chemicals in consumer products (high health risk)	Chemical plant accidents
Surface water pollution (high ecological risk)	
<b>Lower Risk</b>	
Hazardous waste sites-active and inactive	Indoor air pollution
Underground storage tanks	Exposure to chemicals in consumer products
	Global warming

Source: GAO's analysis of EPA data reported in the Unfinished Business report. Rankings by the public are based on a Roper Organization poll and are therefore not directly comparable to rankings by EPA.

Recognizing that risk assessments alone are not sufficient and that public opinion plays a significant part in setting environmental policy, we have pointed out that the public must also be kept better informed about environmental risks. We have therefore recommended that EPA direct some of the agency's educational activities under the National Environmental Education Act specifically toward informing the public about the relative seriousness of the nation's environmental problems. We have also recommended that Congress and EPA work together to find opportunities to shift resources according to the level of risk involved.<sup>3</sup>

This disparity between risk and priorities also stems from EPA's statutory authority, which is derived from a dozen or so environmental statutes, each with its own, and often different, philosophies and standards. As a result, EPA has little flexibility to base agencywide priorities on an assessment of risk across a spectrum of environmental problems, taking into account also the cost and feasibility of various approaches. These numerous legislative mandates have also led to the creation of individual program offices within EPA that have tended to focus solely on reducing pollution within the particular environmental medium for which they have responsibility, such as air or water, rather than on reducing pollution overall.

One possible solution to this might be a single, unified environmental statute that forms an organic act for the agency. In commenting on previous bills aimed at creating a Cabinet-level department, we suggested that it would be particularly worthwhile for the study commission called for in each bill--the Commission on Improving Environmental Protection--to consider whether it would be more effective to have a single, unified environmental statute--one that better reflects the cross-cutting nature of environmental problems and offers greater flexibility in response to changing conditions and knowledge.<sup>4</sup>

Even in the absence of legislative changes, it may be possible to bring about a more integrated approach to environmental management through changes in EPA's organization. In the past, we have suggested that the Commission on Improving Environmental Protection might, among its other responsibilities, consider an

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<sup>3</sup>Environmental Protection: Meeting Public Expectations With Limited Resources (GAO/RCED-91-97, June 18, 1991).

<sup>4</sup>Creation of a Department of Environmental Protection (H.R. 3847) (GAO/T-RCED-90-25, Feb. 7, 1990); Creation of a Department of the Environment (S. 2006) (GAO/T-RCED-90-26, Feb. 8, 1990); Creation of a Department of the Environment (GAO/T-RCED-93-6, Feb. 18, 1993).

appropriate structure for the new department.<sup>5</sup> The commission might, for example, consider whether to reorganize the department entirely by function, so that instead of having program offices dedicated to environmental media, as is now the case, the department might have a single office of regulatory development, an office of enforcement, an office of science and research, and so on. Alternatively, the department might be organized by pollution sectors--industry, transportation, and municipalities, for example--or by geographic regions. The commission could also consider the roles and responsibilities of headquarters and regional offices.

#### DEVELOPING NECESSARY SCIENTIFIC AND MONITORING INFORMATION

A second area to which attention must be directed is the development of the scientific and monitoring information that is fundamental to carrying out EPA's mission. Although EPA's regulatory programs depend heavily on scientific information on the health and environmental effects of chemicals and pollutants, these data often do not exist.

Let me cite an example that this Committee is well aware of. The Toxic Substances Control Act (TSCA) gives EPA specific legislative authority to obtain health and environmental data from chemical manufacturers, but the agency has made very little use of its authority to require these data in the 16 years since TSCA's passage. As a result, EPA has identified for testing less than 1 percent of more than 70,000 chemicals and has complete test data for only 22 chemicals.<sup>6</sup>

Even data that EPA has available are often inadequate and poorly managed. For example, EPA has three data bases for regulating disinfectants, yet EPA officials believe that as much as 60 percent of the data on disinfectant product claims is inaccurate or incomplete.<sup>7</sup>

EPA is also missing the information necessary to judge the success of its programs. While EPA has developed some measures of environmental outcomes--meeting national air quality standards, for example--the agency has generally relied on activity-based indicators, such as numbers of permits issued or enforcement actions taken, to track its progress in cleaning up or preventing unacceptable levels of pollution.

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<sup>5</sup>Environmental Enforcement: Alternative Enforcement Organizations for EPA (GAO/RCED-92-107, Apr. 14, 1992).

<sup>6</sup>Toxic Substances: EPA's Chemical Testing Program Has Made Little Progress (GAO/RCED-90-112, Apr. 25, 1990).

<sup>7</sup>Disinfectants: Concerns Over the Integrity of EPA's Data Bases (GAO/RCED-90-232, Sept. 21, 1990).

Let me give you an example of what can happen when an agency relies on activity-based measures alone. As EPA itself reported several years ago in a case involving Puget Sound, its program was a success story according to activity-based indicators: All water pollution discharge permits had been issued, all applicable waivers of program requirements were being processed, and so on. However, once EPA shifted its attention to environmental accomplishments, it found that shellfish beds were being closed at an increasing rate, contaminated sediment was being found almost wherever researchers looked, and fish tumors and other signs of poor biological health abounded. In another case in the same region, EPA assumed that requiring specific treatment equipment at two pulp mills discharging toxic wastes into Washington State's polluted Grays Harbor would improve the survival rate among young salmon passing through the harbor on their way to sea. The action did not solve the problem, nor was anyone clearly responsible for following up to resolve the issue.<sup>8</sup>

Historically, EPA has relied on activity-based measures because of the inherent technical difficulties of establishing linkages between program activities and environmental improvements and conditions. Although EPA has had a national environmental monitoring program, which is designed to measure the success of the agency's activities, the program has been cut back over the years as a result of leadership changes and decreased funding. Because EPA has traditionally considered itself to be primarily a regulatory agency, it has focused its attention and resources almost exclusively on setting standards and issuing permits rather than on developing the information necessary to measure environmental results.

EPA has made some effort to refocus its management information system on results and has begun to develop environmental indicators to use in this system. However, considerable work remains to be done, which could be enhanced by a central unit for collecting, analyzing, and disseminating environmental data. Again, in our earlier testimony on elevating EPA to a Cabinet-level department, we endorsed the idea of a bureau or center for environmental statistics as a means to strengthen the agency's ability to measure environmental results. We would add, however, that the center would have to be adequately funded if it is to serve its purpose.

#### ENSURING ACCOUNTABILITY FOR CORRECTING PROGRAM WEAKNESSES

In addition to the problems it faces in managing resources and information, we have observed that EPA, historically, has not gone far enough in ensuring accountability for correcting problems that

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<sup>8</sup>Environmental Protection Agency: Protecting Human Health and the Environment Through Improved Management (GAO/RCED-88-101, Aug. 16, 1988).



it can do something about. After reporting for many years on weaknesses that affected the efficiency and effectiveness of virtually all of EPA's programs--very often at the request of the Committee on Government Operations--we have continued to see the same basic problems, despite recommending numerous corrective actions. The result is persistent inefficiency, as programs continue to incur costs without necessarily achieving the anticipated results.

In a 1990 report on EPA's drinking water program to Chairman Synar's Subcommittee, for example, we found that drinking water problems were going undetected, that many of the problems that were detected were not being reported to EPA, and that enforcement was often neither timely nor effective in bringing water systems back into compliance.<sup>9</sup> To correct the problems, we recommended that the agency ensure that regions and states improve compliance with drinking water regulations. EPA responded to our findings and recommendations with written guidance to regions and states. But without substantially improved oversight by headquarters to ensure that this guidance is followed, it is not clear that the problem will be adequately addressed.

Likewise, although problems with Superfund contractor cost control persisted for years, EPA managers did not pay sufficient attention to contract management or follow through on promised reforms. EPA is heavily dependent on contractors, spending more than \$1 billion in fiscal year 1991, most of it in the Superfund program. Because of Superfund's vulnerability to fraud, waste, and abuse, we identified the program as one of our high-risk areas in the federal government.

As we highlighted in our report on the high-risk Superfund program, its largest contractors work under cost-reimbursable contracts that promise to pay all of a contractor's allowable costs.<sup>10</sup> This requires the agency to have in place effective controls to ensure that such costs are proper. We found, however, that EPA does not adequately review contractors' spending plans before approving them, check bills for reasonableness before paying them, or verify charges later by timely audits of contractors' records. While EPA has not addressed all of our concerns, it has begun several initiatives to improve contract oversight, including the development of independent cost estimates against which it can compare contractors' spending proposals.

In other areas as well, EPA has frequently taken the first step toward corrective action but seldom followed through to ensure

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<sup>9</sup>Drinking Water: Compliance Problems Undermine EPA Program as New Challenges Emerge (GAO/RCED-90-127, June 8, 1990).

<sup>10</sup>Superfund Program Management (GAO/HR-93-10, Dec. 1992).

that its directives are carried out. For example, in our 1988 transition report, we reported that EPA was developing an integrated financial management system and recommended that the agency provide sustained leadership and a high priority for its effort. However, 3 years later the EPA Inspector General's Office found that the system had still not been implemented because EPA has not devoted adequate resources or management attention.

A lack of follow-through has also characterized attempts made by EPA to improve its enforcement programs. Following numerous GAO and EPA Inspector General reviews pointing out that EPA's regional offices and the states were not assessing penalties against violators at least as great as the amount by which the companies benefit by not being in compliance, EPA responded in a memorandum reminding its regions to adhere to agency policies and to document the reasons for any penalty reductions. In a subsequent review, however, we found that little had changed; two-thirds of the closed cases we examined did not document penalty calculations, making it difficult to determine whether agency policies were followed.<sup>11</sup>

To their credit, EPA's former Administrator and Deputy Administrator attempted to improve management accountability by using the annual process for assessing and reporting on material weaknesses, which is required by the Federal Managers' Financial Integrity Act (FMFIA). To oversee FMFIA, EPA created a Senior Council on Management Controls to focus high-level management attention on problems and solutions. The Council, in our view, was extremely valuable, and we believe it should become a permanent mechanism for highlighting important management problems. It has to be accompanied, however, by a long-term commitment by senior managers to review the results of their corrective actions to make sure that they have been successful.

#### STRENGTHENING GLOBAL ENVIRONMENTAL PROTECTION EFFORTS

Finally, we believe that EPA or a Department of the Environment, along with the Department of State and other parts of the federal government, will increasingly have to turn their attention to global environmental protection efforts. Today, the United States participates or has a significant interest in roughly 170 international environmental agreements. At the United Nations Conference on Environment and Development held in Rio de Janeiro last June, the United States signed a convention to address climate change, and under the Clinton Administration, the United States may revisit its participation in the convention to protect biological diversity. The United States also participated in the development of Agenda 21, an action program for environmentally sustainable development.

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<sup>11</sup>Environmental Enforcement: Penalties May Not Recover Economic Benefits Gained by Violators (GAO/RCED-91-166, June 17, 1991).

But while these agreements may, in themselves, be noteworthy accomplishments, their effectiveness in correcting problems depends on how well the agreements are implemented. Moreover, because the costs of compliance are high, uneven implementation may place the countries that carry out the agreements at a competitive disadvantage with those that do not. Yet, little is known about how environmental agreements are being implemented. From our work in this area, we know that the reports that parties are supposed to provide on their compliance are often late, incomplete, or not submitted at all, and that the secretariats responsible for overseeing the agreements lack the authority or resources to monitor implementation independently.<sup>12</sup> In addition, many parties, particularly developing countries, lack the technical and financial capability to comply. Strengthening agreements will therefore involve greater efforts to improve the availability of information on implementation and access to it. It will also require that the United States and others provide some help to those countries that are unable to comply with the agreements for lack of resources and know-how.

The environment has also become a critical element in trade agreements and will have to be addressed directly in negotiations, as is now the case with the North American Free Trade Agreement. It has become apparent that as the United States and its trading partners seek to phase out tariffs and traditional barriers to free trade, incompatible environmental standards can themselves be perceived as trade barriers, which, in turn, generates concern about the potential for trade agreements to encourage the adoption of "lowest common denominator" environmental standards. Even when standards are similar, governments may have markedly different enforcement and monitoring capabilities.

As the nation enters this new age in which environmental issues become integrated into foreign policies, the United States has an opportunity to provide leadership and assistance to the rest of the world. While EPA has been to some extent involved in past efforts, as the Department of the Environment, it may assume an even larger and more clearly defined role in those efforts.

## CONCLUSIONS

Chairman Conyers, Chairman Synar, in providing this overview of management issues at EPA, I want to emphasize that none of the problems I've discussed--resource constraints, information gaps, insufficient corrective action, and the need for institutions capable of solving international environmental problems--are ones that have simple or quick fixes. These issues are complex and of long standing. In the past, we might have addressed some of these

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<sup>12</sup>International Environment: International Agreements Are Not Well Monitored (GAO/RCED-92-43, Jan. 27, 1992).

problems simply by increasing resources or creating new programs. Clearly, today that is not an option. EPA or a Cabinet-level department for the environment, like other government agencies, will have to look within itself to realize greater efficiencies and effectiveness with the resources it has. And along with the Congress, EPA must give these issues the sustained effort and attention that are essential to their resolution.

Chairman Conyers, Chairman Synar, this concludes my statement. I would be happy to answer any questions.



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