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ENVIRONMENTAL PROTECTION

Observations on Elevating the Environmental Protection Agency to Cabinet Status

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to appear before you today in the Subcommittee's hearing on legislation to elevate the Environmental Protection Agency (EPA) to Cabinet status. As requested, my testimony discusses (1) our views on providing EPA with Cabinet status and (2) the major management challenges that the agency faces in meeting its mission, regardless of whether it becomes a Cabinet department or remains an agency.

My testimony today is based on a body of our reports on EPA's organizational structure, human capital activities, information requirements, and relationships with its state partners. We also have testified on elevating EPA before—as early as 1988, when we discussed EPA's increasing environmental policy role in shaping other domestic and foreign policies.

While the decision to alter EPA's organizational status is a policy matter for the Congress and the President to decide, we believe that there is merit to considering elevating EPA to a Cabinet department. Since EPA was created in 1970, its responsibilities have grown enormously, along with greater understanding of the environmental problems facing the nation. Today, EPA's mission, size, and scope of responsibilities place it on a par with many Cabinet departments. As a result, it is important to consider that (1) environmental policy be given appropriate weight as it cuts across the domestic and foreign policies that other Cabinet departments implement and enforce and (2) the head of the agency is able to deal as an equal with his or her counterparts within the federal government and within the international community as well. Providing Cabinet status would also clarify the organization's direct access to the President on environmental matters.

Regardless of its status as a department or agency, EPA must respond more effectively to the fundamental performance and accountability management challenges it faces if it is to achieve its mission. These challenges include (1) placing the right people with the appropriate skills where they are needed and (2) gaining access to high-quality environmental, natural, and social data on which to base environmental decisions. Also, EPA must have the flexibility to use innovative approaches to address the most complex and intractable environmental problems. Meeting these challenges will require the sustained attention of the agency's senior leaders.

Issues to Weigh in Considering Cabinet Status for EPA

Organizational changes are common within the federal government, occurring when federal missions change, when certain activities are to be emphasized or de-emphasized, and when a new organizational structure is needed to improve the effectiveness of federal programs. In effect, the types of federal organizations and their activities reflect shifting perceptions of national problems and how the government can best deal with them.

Conferring Cabinet status on EPA would not in itself change the federal environmental role or policies, but it would clearly have an important symbolic effect. The United States is the only major industrial power without a Cabinet-level environmental organization. The additional visibility and prestige that comes with Cabinet status would send the symbolic, but important, message to other federal departments and foreign nations that the United States is fully committed to solving the most serious and complex domestic and global environmental problems.

Determining which federal activities should receive emphasis at the highest levels of government is not a straightforward task. That is, the criteria are not clear-cut for determining the type of organizational structure that would be most suitable for establishing and carrying out federal policy and programs for the activities.

Several factors, however, should be considered when deliberating the structure and role of federal organizations. For example, budgetary and staffing levels provide some measure of whether an organization's programs warrant Cabinet-level emphasis. With an annual budget exceeding $7 billion and a staffing level of 18,000 employees, EPA is larger than several existing Cabinet-level departments.

Other factors, although less quantifiable than budgetary and staffing levels, should also be considered in determining the most appropriate organizational structure for formulating and implementing federal polices and objectives. They include the (1) significance of the problems to be addressed, (2) the extent and level of interaction and coordination necessary with other federal departments, and (3) the need for international cooperation in formulating long-term policies. Such factors are clearly applicable to EPA's role and responsibilities in managing the nation's response to domestic and foreign environmental problems. In this regard:

- Environmental problems are often long-term, complex, and enormously expensive, and pose significant threats to human health

and natural ecosystems. As one measure of economic impact, in 1990, EPA estimated that total pollution control expenditures in the United States by industry, government, and households in the late 1980s were between $100 billion and $120 billion annually in 1990 dollars. These estimated expenditures were for air and radiation, water, solid waste, hazardous waste, leaking underground storage tanks, Superfund sites, and pesticides and toxic substances. The agency projected that total expenditures would rise from 1.9 percent of the U.S. Gross Domestic Product (GDP) in 1987 to between 2.6 and 2.8 percent of the GDP by the year 2000. Even as our government tries to solve old environmental problems, new ones, such as global warming and the depletion of stratospheric ozone, demand increasing attention. It is likely that these issues will be even more difficult and expensive to solve.

- As the agency responsible for establishing environmental policy, EPA must interact regularly with the departments of Agriculture, Defense, Energy, the Interior, State, Transportation, and others. These agencies spend billions of dollars annually to comply with environmental laws and clean up past contamination. However, years of experience have demonstrated that these agencies do not always provide the support and cooperation necessary to further environmental goals. In this regard, environmental consequences were largely ignored at sites of the Department of Defense (e.g., in testing mustard gas at Spring Valley in Washington, D.C.); Department of Energy, (e.g., in using nuclear materials at Rocky Flats, Colorado); and Department of the Interior (e.g., in dealing with thousands of abandoned mines on federal lands). Such sites now are likely to cost the nation hundreds of billions of dollars to correct polluted conditions. Furthermore, jurisdictional conflicts have created roadblocks that are not conducive to cooperating with EPA and that have sometimes resulted in placing a low priority on environmental protection. Such conflicts could be addressed more effectively in the future by placing the head of the federal environmental organization on an equal footing with the heads of other federal departments. This would enable environmental issues to better compete with other national issues in policy, budgetary, and programmatic decisions as they are being made.

- International environmental problems involving climate change, stratospheric ozone depletion, and acid rain will require greater attention in the 21st century. On these and other issues, EPA's key international functions include providing technical expertise to the State Department in integrating environmental policies into environmental treaties and foreign trade agreements. For example,

under the Clean Air Act, EPA played a major role in implementing the Montreal Protocol by issuing administrative changes to the final rule to phase out ozone-depleting substances in 1995, and provides data and funding that support the protocol. Cabinet status for EPA could enhance the ability of the United States to provide leadership and assistance to the rest of the world by conveying that the nation recognizes the seriousness of domestic and global environmental problems, and that the problems are receiving adequate attention.

EPA Faces Major Management Challenges That Hinder Its Efforts to Meet Its Mission

Whether or not EPA becomes a Cabinet-level department, the challenges that await it are formidable. Department or agency, it must, first of all, pay greater attention to strategic human capital management to improve its performance and accountability in accomplishing its mission of protecting human health and the environment. It must also develop high-quality information to support its regulatory programs and measure environmental results. Finally, it must find alternatives to traditional regulatory approaches in order to streamline environmental requirements while encouraging more effective risk-based means of protecting the environment.

Implementing an Effective Workforce Strategy Would Help EPA to Achieve Its Mission

In the past, EPA, like most federal agencies, has not made strategic human capital management an integral part of its strategic and programmatic approaches to accomplishing its mission. To emphasize our concern about and the importance of this area, in January 2001, we included human capital management as a newly designated governmentwide high-risk area.[1] In addition, at the beginning of this

month, we released to federal agencies our "Model of Strategic Human Capital Management",[2] to help agency leaders effectively lead and manage their people and integrate human capital considerations into daily decision-making and the program results they seek to achieve.

We also note that the administration is giving increased attention to strategic human capital management. The President has placed human capital at the top of his management agenda and the Office of Management

[1]U.S. General Accounting Office, *High Risk Series: An Update*, GAO-01-263 (Washington, D.C.: January 2001).

[2] U.S. General Accounting Office, A *Model of Strategic Human Capital Management Exposure Draft*, GAO-02-373SP (Washington, D.C.: March 2002.)

and Budget has assessed agencies' progress in addressing their individual human capital challenges as part of its management scorecard. Agencies have also prepared workforce analyses as an initial phase of implementing the President's initiative to have agencies restructure their workforces to streamline organizations

To its credit, EPA is one of the agencies that recently has recognized the importance of human capital and made substantial progress in developing a strategy to more effectively manage its workforce. The agency is now in a good position to move forward during the next few years toward implementing the human capital activities that are associated with high-performing organizations. Nonetheless, several key actions will be necessary to ensure that EPA's efforts to better manage its workforce become an integral part of the way it does business, and not just another paper exercise. In this regard, EPA must improve its strategic planning process to specifically address how human capital activities will help the agency achieve its goals, identify the specific milestones for completing actions to implement its human capital objectives, and establish results-oriented performance measures.

In addition, EPA must more aggressively manage its workforce to obtain the economies, efficiencies, and effectiveness associated with determining the appropriate size of its workforce, the deployment of its staff geographically and organizationally, and the skills needed to support its mission. For example, in October 2001, we reported that without workforce planning and analysis, EPA was not able to determine the (1) appropriate workforce size, (2) balance between staff carrying out enforcement functions and staff providing technical and compliance assistance, and (3) location of regional staff needed to ensure that regulated industries receive consistent, fair, and equitable treatment throughout the nation. We also noted that the number of enforcement staff available to oversee state enforcement programs varied significantly among EPA's 10 regions, raising questions about some regions' ability to provide consistent levels of oversight to the states.

As a result of our work, we recommended that the EPA Administrator collect and review complete and reliable information on regional workforce requirements and capabilities before transferring $25 million of EPA's fiscal year 2002 budget for a new state enforcement grant program and eliminating 270 of EPA's enforcement staff positions. (Citing our report, the Congress did not provide EPA with authority to carry out this transfer.) We also recommended that the EPA Administrator take agencywide actions to (1) develop a system for allocating and deploying

EPA's workforce, (2) target recruitment and hiring practices to fill critical needs for skills such as those for environmental engineering, toxicology, and ecology, and (3) implement training practices that provide a link between developmental opportunities and the competencies needed to accomplish EPA's mission. EPA concurred with these recommendations and is in the process of implementing them.

EPA Needs Better Environmental and Scientific Information to Manage Risks and Measure Results

To ensure that it is meeting its mission effectively, EPA needs high-quality scientific and environmental information to establish priorities that reflect risks to human health and the environment, and that compare risk reduction strategies across programs and pollution problems. Such information is also needed to identify and respond to emerging problems before significant damage is done to the environment. While EPA has collected a vast amount of scientific and environmental data, much of the data is not complete and accurate enough to credibly assess risks and establish corresponding risk reduction strategies.

Likewise, primarily because of inadequacies in its scientific and environmental data, EPA has not been successful in identifying, developing, and reaching agreement with its stakeholders on a comprehensive set of measures to link EPA's activities to changes in human health and the environment. Spurred by the Government Performance and Results Act of 1993, (GPRA), EPA has made some progress in measuring the results (outcomes) of its programs but doing so has proved to be a difficult task for the agency, and relatively few outcome measures have been developed to date.

We note that the Subcommittee is considering a bill that would, among other things, create a Bureau of Environmental Statistics with broad authority to collect, compile, analyze, and publish a comprehensive set of environmental quality and related measures of public health. As a focal point for information collection within a new department, such a bureau, if managed properly, could not only inform the department and the public about the state of the environment, but it could also provide measures that can be linked to actions to protect the environment.

More Complete and Accurate Data Are Needed to Characterize Risk

Establishing risk-based priorities for EPA's programs requires high-quality data on the use and disposal of chemicals. To assess human exposure to a chemical, the agency needs to know how many people are exposed; how the exposure occurs; and the amount and duration of the exposure. To assess environmental exposure, EPA needs to know whether the chemical

is released to the air, water, or land; how much is being released; and how wide an area is being affected.

Historically, EPA's ability to assess risks and establish risk-based priorities has been hampered by data quality problems, including critical data gaps, databases that are not compatible with one another, and persistent concerns about the accuracy of the data in many of EPA's data systems. Thus, while EPA's priorities should reflect an understanding of the relative risk that a chemical poses to the environment and human health and values, good data often do not exist to fully characterize risk. For example:

- Substantial gaps exist in EPA's Integrated Risk Information System, a database of the agency's consensus on the potential health effects of chronic exposure to various substances found in the environment. This database lacks basic data on the toxicity of about two-thirds of the known hazardous air pollutants.

- EPA developed many program-specific databases over the years that contain enormous amounts of data that cannot be integrated with one another because they were developed and maintained to support specific programs and activities and lack common data standards (definitions and formats).

- EPA extensively relies on data provided by the states, but much of the data have not been verified, and EPA does not know the quality of the data.

We have made numerous recommendations over the years to help EPA improve its data, including a recommendation that EPA develop a comprehensive information management strategy to ensure the completeness, compatibility, and accuracy of its data. While concurring with the thrust of our recommendations, EPA has made slow and uncertain progress in addressing its long-standing information challenges and will require a much more focused approach and top management attention to meet its information needs.

Success in Developing Environmental Measures Will Depend on Data Improvements

Better data are also needed to measure the results of EPA's efforts and determine its effectiveness in meeting its mission. Well-chosen environmental measures inform policymakers, the public, and EPA managers about the condition of the environment and provide for assessing the potential danger posed by pollution and contamination. They are also indispensable to sound decisions on EPA's future priority-setting and budgeting.

GPRA requires EPA and other federal agencies to prepare performance plans containing annual performance goals and measures to help move them toward managing for results. Performance measures are the yardsticks to determine success in meeting a level of performance expressed as a tangible, measurable objective against which actual achievement can be compared. Although EPA has made progress under the act, our analysis of its fiscal year 2000 performance plan showed that over 80 percent of the agency's performance measures were program outputs, such as the number of regulations issued, rather than reductions in pollutants or their adverse effects on the ecology or human health.[3]

The EPA Administrator recently announced a major initiative aimed at developing measures of future environmental performance. The new "Environmental Indicators Initiative" is intended to collect measures of environmental quality and integrate them into a single agencywide information system for reporting measures of both activities and outcomes that reflect EPA's ability to show environmental progress. Significantly, the effort also involves an advisory group led by the Council on Environmental Quality (CEQ) that will collect environmental indicators tracked by federal agencies. This effort should help EPA to report health and environmental conditions beyond the agency's purview.

While this step is in the right direction, EPA will face an enormous challenge in getting the scientific and environmental data that it needs to develop outcome-oriented performance measures. Such data on exposure to pollution and its effects is often difficult and costly to obtain because of the monitoring equipment and staff resources required. Consequently, EPA estimates the types and amounts of exposure on the basis of a chemical's physical properties, how it is used, the industrial processes for producing and processing it, production volumes, and the type and amount of releases to the environment. However, much of the basic data that EPA needs to develop its estimates are not available, and the agency must rely on models or other analytical techniques. Moreover, EPA rarely has sufficient data to permit full analysis of a chemical, and the agency has little assurance that its exposure assessments are accurate and complete.

[3] U.S. General Accounting Office, *Managing for Results: EPA Faces Challenges in Developing Results-Oriented Performance Goals and Measure*: GAO/RCED-00-77 (Washington, D. C., April 28, 2000)

Creating a Bureau of Environmental Statistics would place an emphasis on obtaining high-quality data and could considerably strengthen the agency's ability to manage its programs to obtain environmental improvements, provided that the bureau is given sufficient authority, resources, and staff expertise to accomplish its complex job. Aggressive actions to find out more about what aspects of the environment are most improved or most degraded should enable EPA to better link its knowledge of these conditions with its programs and activities. EPA could then determine which activities are successful in correcting problems and which are not.

The creation of a Bureau of Environmental Statistics could be particularly helpful with regard to obtaining the environmental, health, and economic impact information collected by other federal agencies but not currently integrated with EPA's data. The agency's Science Advisory Board has recommended that EPA do more to link the agency's databases with federal and other external databases, noting, "answering many health-related questions frequently requires linking environmental data to census, cancer or birth registry data, or other data systems (such as water distribution maps) to determine whether there is a relationship between the environmental measures and health." While EPA officials recognize the importance of linking EPA's databases with those of other agencies, neither EPA nor the other agencies have made significant progress because data linkage is not specifically required and the agencies have higher priority funding demands.

Obstacles to Innovative Regulatory Programs

In the current federal approach to environmental protection, EPA, under various environmental statutes, prescribes regulations with which states, localities, and private companies must comply. This approach, commonly referred to as command and control, has achieved some important benefits, but the additional improvements to address some of the nation's most pressing environmental problems warrant new and more cost-effective approaches. EPA responded during the 1990s with a variety of initiatives intended to encourage its state partners and others to propose innovative regulatory strategies that could streamline environmental requirements while encouraging more effective means of protecting the environment.

As we and other organizations have reported in past years, however, EPA's effectiveness in promoting regulatory innovation has been limited. Most recently, we evaluated the particular problems facing states in their own efforts to pursue innovative regulatory programs. We found their most significant obstacles to be the detailed requirements of prescriptive federal

environmental regulations, along with a cultural resistance among many EPA staff toward alternative approaches—often manifested in lengthy and costly reviews of state proposals.[4] In some cases, the cultural resistance was traced back to the belief of EPA staff that strict interpretations must be applied to detailed regulations if they are to be legally defensible. This belief, in turn, has significantly hindered the efforts of states in their efforts to test innovative proposals to determine whether they could achieve greater environmental benefits at lower costs.

Acting on a recommendation of the EPA Task Force on Improving EPA Regulations, the agency plans to involve states early in the process used to develop regulations in order to help ensure that the regulations will be developed in a manner that encourages, rather than inhibits, innovation. This approach, however, is a limited response because it will not address prescriptive regulations that already exist. To overcome the constraints on innovation imposed by a strict interpretation of the existing prescriptive regulations, EPA would need legislative changes providing the agency with broad statutory authority, or a "safe legal harbor," for allowing states and others to use innovative approaches in carrying out federal environmental statutes. In the absence of such authority, the effectiveness of future innovative efforts will require close monitoring by EPA and its stakeholders and the continued attention of the Congress. In addition, EPA needs to make a strong commitment to improving its performance measures to ensure that the new approaches are more effective than the traditional approaches they replace.

We recently initiated a comprehensive management review of EPA that will include many of the areas being considered by the Subcommittee as it deliberates the legislation before it to elevate EPA to Cabinet status. Our review will assess the agency's management, analyze problems, determine their underlying causes, and recommend actions to improve the management of environmental programs. As we complete our work over the coming months, we would be pleased to share our results with the Subcommittee.

[4] U. S. General Accounting Office, *Environmental Protection*: *Overcoming Obstacles to Innovative State Regulatory Programs*, GAO-02-268 (Washington, D.C.:March 4, 2002.)

Mr. Chairman, this concludes my prepared testimony. I would be pleased to respond to any questions that you or other Members of the Subcommittee might have.

Contacts and Acknowledgments

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