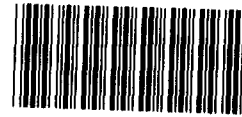




Testimony



144044

*For Release  
on Delivery  
Expected at  
9:30 a.m. EDT  
Wednesday  
June 5, 1991*

**Need for Greater EPA Leadership in  
Controlling Nonpoint Source Pollution**

*Statement of*  
Peter F. Guerrero, Associate Director  
Environmental Protection Issues  
Resources, Community, and Economic  
Development Division

*Before the*  
Subcommittee on Natural Resources, Agriculture  
Research and Environment, Committee on  
Science, Space, and Technology  
U.S. House of Representatives



Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to be here today to discuss our report on problems inhibiting state and local efforts to control nonpoint source pollution--pollution from diffuse sources rather than from a single, specific point source.<sup>1</sup> The report examined (1) the barriers that may be inhibiting state and local nonpoint control efforts, particularly federal programs contributing to the problem and (2) actions the Environmental Protection Agency (EPA) can take to better focus federal efforts on reducing nonpoint source pollution. We will also provide observations about the likely impacts of the agency's fiscal year 1992 budget proposal on its efforts to control nonpoint source pollution.

In summary, Mr. Chairman, we found that the major barriers impeding state and local government efforts to deal with nonpoint source pollution include (1) insufficient monitoring data on the scope and impact of the problem and on the effectiveness of potential solutions, (2) insufficient technical information available to the states to set state water quality standards for nonpoint source pollution, (3) inherent conflicts between some federal agencies' policies and states' water quality goals, (4) limited resources available to state and local governments in comparison with the magnitude of the problem, and (5) the political

---

<sup>1</sup>Water Pollution: Greater EPA Leadership Needed to Reduce Nonpoint Source Pollution (GAO/RCED-91-10, Oct. 15, 1990).

sensitivities involved in controlling local land uses that indirectly cause water pollution.

To deal with these issues, EPA developed an ambitious 5-year agenda covering fiscal years 1989 through 1993. However, midway through that 5-year period, it is clear that the agenda will remain largely unfulfilled if the agency stays on its present course. Resource constraints are an underlying problem, as they are in many other EPA programs. In this case, however, we believe that the limited resources allocated to EPA's nonpoint source control activities reflect an inappropriate emphasis on the agency's point source pollution control programs at the expense of its nonpoint source programs. We base our belief on EPA's own findings, which suggest that risks posed by nonpoint source pollution are generally more serious than those from point source pollution. In its fiscal year 1992 budget request, EPA has increased the imbalance between point and nonpoint control activities by requesting reductions in funding for nonpoint source management grants to the states.

Before I discuss our findings in more detail, I would like briefly to provide some background about our nation's nonpoint source problem and EPA's role in controlling it under the Clean Water Act.

## BACKGROUND

Although significant efforts have been made to restore the quality of the nation's waters since the Clean Water Act's passage in 1972, many of these waters are still heavily polluted. Moreover, the toxicity and potential health effects of many of the contaminants being detected in these waters have generated increased concern in recent years. According to EPA, the nation's remaining water quality problems are largely attributable to pollution from nonpoint sources.

Nonpoint source pollution is the by-product of a variety of land use practices, including farming, timber harvesting, mining, and construction. It also results when rain washes pollutants in urban areas into storm drains, creating what is known as urban runoff. Agriculture accounts for the largest share of the nation's nonpoint source pollution problem, affecting about 50 to 70 percent of assessed waters through soil erosion from croplands and overgrazed rangelands and from runoff of pesticides and fertilizers.

Land use can substantially affect the volume of nonpoint source pollution runoff. For example, even though some soil naturally erodes from undisturbed land, erosion can increase significantly if trees are cut or land is farmed.

Because land use issues are politically sensitive and authority for resolving them is usually decentralized, the Congress has historically been reluctant to allow the federal government to deal directly with nonpoint source pollution. The 1972 Clean Water Act, for example, required state and local governments to identify both their nonpoint source problems and ways to control them. However, the act did not provide either funds for implementing controls or direct authority for EPA to regulate nonpoint sources. The Water Quality Act of 1987 expanded EPA's role somewhat but still leaves primary responsibility for nonpoint source pollution with the states. The 1987 act requires states to (1) assess the extent to which nonpoint sources cause water quality problems and (2) develop management program plans for addressing these problems. EPA is charged with reviewing and approving these assessments and plans.

BARRIERS IMPEDING STATE EFFORTS TO CONTROL  
NONPOINT SOURCE POLLUTION

From our work in six states and our discussions with federal officials and representatives of environmental organizations, we identified the following key barriers that impede state and local efforts to control nonpoint source pollution:

- Vital monitoring data are missing on both the scope and impact of the nonpoint source pollution problem and on the

effectiveness of potential solutions. Without information on the scope and impact of the problem, public officials have had difficulty reallocating resources towards the most serious problems and convincing landowners of the need for action. For example, only 12 percent of Washington state's 40,000 river miles have been assessed. A Washington official told us that even among those few river miles that have been assessed, the monitoring was designed primarily to identify and evaluate point source pollution problems. They noted specifically that their data base contains little information on small streams where silvicultural activity might be causing significant pollution problems; and that as a consequence, their ability to identify the extent of this nonpoint source pollution problem is limited. Similarly, federal and state officials told us that basic monitoring data, which are needed to identify the cause of the problem and to evaluate the effectiveness of alternative actions to control it, are generally not being developed.

-- States need technical information from EPA to help them set state water quality standards. These standards are essential to identify the concentration at which a pollutant becomes a problem and to measure the effectiveness of actions taken to control it. In particular, states require information to develop adequate

standards for protecting groundwater because no federal program currently provides this information.

-- Federal agencies sometimes pursue their primary missions in ways that inadvertently conflict with the Clean Water Act's objective to protect and restore the quality of the nation's waters. In particular, many U.S. Department of Agriculture (USDA) programs and policies involve--and even promote--increased nonpoint source pollution by encouraging specialization in program crops and farm practices that may increase the need for agrichemicals. Other agencies whose activities significantly affect nonpoint source pollution control efforts include the Department of the Interior, which regulates mining activities, and the Department of Transportation, which funds highway construction projects.

-- The cost of controlling nonpoint source pollution far exceeds available resources. Although some states have allocated millions of dollars to address the problem, they maintain that billions are required to correct it. For example, Pennsylvania, with 1,701 stream miles polluted by acid mine drainage from abandoned coal mines, has estimated the cost to address only the drainage from these mines at between \$3 billion and \$5 billion.

-- Land use practices and patterns of millions of property owners and others are often at the root of nonpoint source pollution problems. These problems can be controlled by preventing certain land uses or ensuring that land is used in an environmentally acceptable way. We found that political sensitivity over land use regulations has been one of the most difficult barriers for states to overcome in dealing with nonpoint source pollution. This sensitive issue requires reorienting basic value systems that have often placed private property rights above other considerations--such as the impact of land use on water quality.

#### LOW FUNDING LEAVES EPA'S

#### GOALS UNFULFILLED

As the federal agency primarily responsible for implementing the Clean Water Act, EPA is uniquely situated to help control nonpoint source pollution. EPA acknowledges this responsibility in its Nonpoint Sources: Agenda for the Future, published in January 1989. This document presents an ambitious plan for EPA to deal with nonpoint source pollution for fiscal years 1989 through 1993. EPA declared that its goals are to provide strong leadership for the national nonpoint pollution control program and to help states and local governments overcome barriers to successful implementation of nonpoint source measures.



Nevertheless, we believe EPA's agenda has been and will continue to be unfulfilled if the agency remains on its present course. Resource constraints are an underlying problem, as they are in many environmental programs. For example, EPA acknowledges the importance of developing better information both on the extent of the nonpoint source problem and on the effectiveness of actions taken to control it. To obtain this information, EPA's agenda says the agency needs to develop better monitoring techniques for evaluating the impacts of nonpoint source pollution on the environment. To date, however, most of the monitoring data have been developed on point source impacts. An EPA official told us that limited resources are preventing EPA from fully developing nonpoint source monitoring techniques.

Similarly, EPA's agenda acknowledges the agency's responsibility to provide the states with sound technical information or criteria that will allow them to develop water quality standards for nonpoint source pollution. However, we were told that because the Clean Water Act emphasizes controlling chemical pollutants from point sources and toxic pollutants, the development of this type of information for nonpoint source pollution had been given a lower priority.

EPA's agenda also emphasizes the agency's role in developing a stronger partnership with other federal agencies and in ensuring

that federal regulatory requirements are implemented so as to help states manage their nonpoint source control programs. While EPA has made at least some progress in working with USDA, it has done little coordinating with respect to the numerous other agencies whose activities affect water quality. EPA does chair an intergovernmental nonpoint pollution task force that is supposed to bring together numerous agency officials to discuss nonpoint source conflicts and opportunities for interagency cooperation. However, the task force has not met since October 1988. According to the Chief of EPA's Nonpoint Source Control Branch, resource constraints have prevented the agency from developing interagency partnerships beyond the limited efforts under way to deal with agriculture-related nonpoint source pollution problems. He noted that the limited EPA nonpoint staff has had to devote most of its resources to developing program guidance and reviewing state assessments, management plans, and grant proposals.

LOW FUNDING PRIORITY INCONSISTENT  
WITH ENVIRONMENTAL RISK

Because budgetary resources are limited, it is important that the environmental risks posed by alternative pollution problems be considered in funding decisions. However, despite the emergence of nonpoint source pollution as the nation's primary water pollution problem, EPA has consistently and overwhelmingly given higher priority in its budget to point source problems.

In an August 1989 report assessing the comparative risks posed by alternative pollution problems, three EPA regions analyzed a list of 18 to 24 of the most important environmental problems facing their region.<sup>2</sup> Each region then ranked each problem in terms of its relative health and ecological risk. EPA found that ecological risks posed by nonpoint source pollution are substantially more serious than those posed by point source pollution. The study also concluded that point sources and nonpoint sources of water pollution appear to pose roughly comparable health risks. Among the key health risks associated with nonpoint source pollution was bacteriological contamination of shellfish.

In a similar analysis, EPA's Science Advisory Board noted that states found that nonpoint sources contributed to impairment of beneficial uses in many more miles of streams than did point sources. The Board noted in its September 1990 report that EPA needed to reflect risk-based priorities more effectively in its planning and budget processes.<sup>3</sup>

---

<sup>2</sup>Environmental Protection Agency, Comparing Risks and Setting Environmental Priorities (Washington, D.C.: Aug. 1989).

<sup>3</sup>EPA's Science Advisory Board, Reducing Risk: Setting Priorities and Strategies for Environmental Protection, (Washington, D.C.: Sept. 1990)

Historically, however, EPA has consistently and overwhelmingly given priority in water pollution control to funding for point source pollution problems. For example, less than 6 percent of fiscal year 1990 funding for the agency's point source- and nonpoint source-related water pollution control activities was devoted to nonpoint-related activities. Moreover, EPA had requested only \$22 million out of the \$400 million authorized in section 319 of the Clean Water Act for the funding of state nonpoint source management grants for the period of fiscal years 1988 through 1991. (See attachment I.)

EPA officials have explained the limited funding requested for state management grants by noting that funds were available to the states to fulfill section 319's requirements under other sections of the act, such as the new State Revolving Loan Fund (SRF) program. While SRF funds are nominally available to implement nonpoint source management plans, information from both EPA and the states we visited indicates that these funds will largely be needed for the construction or modification of waste treatment plants-- that is, for the control of point sources. In fact, in its recent nonpoint source annual report to the Congress, EPA itself noted that states were unlikely to use SRF funds for nonpoint source management programs "largely because of the high priority accorded to construction of publicly owned treatment works."

FISCAL YEAR 1992 BUDGET REQUEST CONTINUES

EPA'S LOW PRIORITY FOR NONPOINT SOURCE POLLUTION

To help correct this funding imbalance, we recommended in our October 1990 report that EPA identify appropriate funding levels that better reflect the risks posed by nonpoint source pollution and that will allow the agency to pursue key elements of an effective nonpoint source agenda. Importantly, we emphasized that we were not seeking a wholesale revision in the agency's water quality budget strictly in line with perceived environmental risk. We noted, however, that some shift in priorities could go a long way toward allowing EPA to implement its nonpoint source agenda and thereby assist state and local nonpoint source pollution control programs.

Nevertheless, in its budget request for fiscal year 1992, EPA proposes to increase the funding imbalance between its point and nonpoint source programs. Despite compelling arguments for increasing support for nonpoint source pollution control, EPA is proposing a cut of about 50% in the section 319 grant funds for the states from the fiscal year 1991 level. In its budget justification, EPA said "the decrease is based on the fact that local government land use decisions and agricultural practices cause most [nonpoint source pollution]" and that "it is inappropriate for the Federal government to involve itself too heavily in these local responsibilities". However, state and local

governments have emphasized that although they do not want EPA to become involved in local land use decisions, they still need EPA to help them control nonpoint source pollution.

Not only does EPA's budget request inadequately support state programs, but it also severely limits the agency's ability to meet its own responsibilities under its nonpoint source agenda, such as developing monitoring techniques and information the states need to develop water quality standards. In fact, a December 21, 1990, memorandum by the Director of EPA's Assessment and Watershed Protection Division indicated that significant vulnerabilities, as defined under the Federal Managers' Financial Integrity Act, presently exist in the Section 319 grant program. Specifically, the memorandum notes that there are not enough EPA staff to oversee the \$51 million in nonpoint source grants provided to the states for fiscal year 1991. It notes that the program's vulnerability to fraud, waste, and abuse will increase under the fiscal year 1992 budget proposal because nonpoint source responsibilities have been added under the 1990 amendments to the Coastal Zone Management Act while staffing has remained at essentially the same level.

- - - - -

In summary, Mr. Chairman, progress in attaining the nation's water quality goals will be difficult until nonpoint source

pollution is effectively addressed. We believe that as the organization primarily responsible for implementing the Clean Water Act, EPA should be taking a leading role in helping state and local governments deal with this problem. Accordingly, we believe, as we recommended in our report, that EPA should accelerate its efforts to

- develop monitoring techniques to help states determine the extent of their nonpoint source pollution problems and the effectiveness of corrective actions,
- develop nonpoint source pollution criteria so the states can develop and implement nonpoint source water quality standards,
- resolve problems arising out of conflicts between the policies of federal agencies and water quality goals, and
- develop its program to educate the public about the health and environmental impacts of nonpoint source pollution.

The 5-year agenda that EPA adopted in January 1989 would accomplish many of these goals. For example, it calls on EPA to develop better monitoring techniques and to provide information to the states that will help them develop nonpoint source water quality standards. However, the agenda stands little chance of

being fulfilled because of staffing and budgetary constraints. While such constraints affect many environmental programs, they have been exacerbated in this particular case by funding priorities that overemphasize point source pollution control at the expense of nonpoint source pollution.

We believe that the President's fiscal year 1992 budget request afforded EPA a key opportunity to align its activities more closely with relative risks to health and the environment. However, in light of the imbalance that EPA continues to propose in its water quality programs, it will be up to the Congress, through the fiscal year 1992 budget process, to ensure that limited funds are used more effectively to clean up the nation's polluted waterways.

Mr. Chairman, this completes my prepared statement. I would be pleased to respond to any questions you or other Members of the Subcommittee may have.



FUNDING UNDER SECTION 319 OF THE WATER QUALITY ACT

Dollars in millions

<u>Fiscal year</u>	<u>Authorized</u>	<u>Requested</u>	<u>Appropriated</u>
1988	\$ 70	\$ 0	\$ 0
1989	100	0	0
1990	100	7a	38.9
1991	<u>130</u>	<u>15</u>	<u>51</u>
Total	\$ <u>400</u>	\$ <u>22</u>	\$ <u>89.9</u>

aIn fiscal year 1990, the President's budget requested \$7 million under another section of the act for the states to implement their management plans under section 319.