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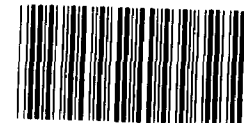
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General Accounting Office

Potential Impacts Of Reducing The Environmental Protection Agency's Budget

EPA proposed to reduce its fiscal year 1983 operating budget by 12 percent to \$961 million (excludes funds for Construction Grants and the Hazardous Waste Response Trust Fund). This represents a reduction of \$125 million from fiscal year 1982. Passage of EPA's fiscal year 1983 appropriation on September 30, 1982, at only a 4-percent decrease (for operating programs) from the 1982 appropriation reduced many of the anticipated impacts of the proposed 1983 budget reductions. However, information on these predicted impacts is presented in the report so that analogies can be drawn if budget cuts are proposed in future years. This report also addresses issues which transcend the fiscal year 1983 proposed budget, including

- the long-range implications of reductions to State grant assistance,
- the evolving Federal/State partnership and its role in achieving environmental goals, and
- the use of permit fees/user charges to replace Federal funding.



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GAO/RCED-83-75
DECEMBER 30, 1982

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UNITED STATES GENERAL ACCOUNTING OFFICE
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RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

B-209872

The Honorable John D. Dingell
Chairman, Subcommittee on
Oversight and Investigations
Committee on Energy and Commerce
House of Representatives

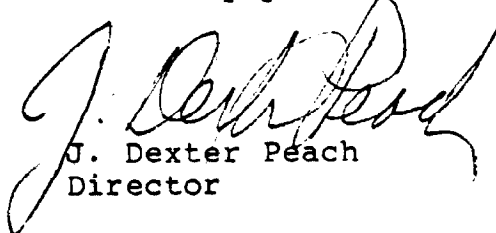
Dear Mr. Chairman:

As requested in your October 14 and November 23, 1981, letters and subsequent discussions with your office, this report discusses the potential impact of budget reductions on selected Environmental Protection Agency programs and activities. We examined the possible impact of the fiscal year 1982 and proposed 1983 budgets on the air and hazardous waste programs in 15 States and 3 localities, the implications of the eventual phaseout of State grant assistance, the evolving Federal/State partnership, and the effects of budget reductions on the Agency's personnel and contracting activities.

At your request, we did not obtain written agency comments. However, the matters covered in this report were discussed with Agency officials, and their comments are incorporated where appropriate.

As arranged with your office, unless you publicly release its contents earlier, we will make this report available to other interested parties 30 days after the issue date. At that time copies of the report will be sent to appropriate congressional committees; the Administrator, Environmental Protection Agency; and the Director, Office of Management and Budget.

Sincerely yours,


J. Dexter Peach
Director



D I G E S T

The Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, asked GAO to assess the impact of fiscal years 1982 and 1983 budget proposals on the Environmental Protection Agency's (EPA's) programs. EPA's operating budget (excludes funding for Construction Grants and Hazardous Waste Response Trust Fund) for fiscal year 1982 represented a 15-percent reduction from the fiscal year 1981 budget, and for fiscal year 1983, EPA proposed a 12-percent reduction to its operating program from its 1982 level. Specifically, the chairman requested GAO to determine

- the impact of fiscal years 1982 and 1983 budget proposals on the air and hazardous waste programs;
- the practical applicability of the new accountability system being developed by EPA;
- the effect of budget proposals on personnel levels and the appropriateness of EPA's personnel actions;
- EPA's compliance with contracting and procurement policies and regulations, including whether EPA contracted out work essential to its mission which should be performed by Federal workers.

We attempted to assess the impact of the 15-percent budget reduction to EPA's operating programs in fiscal year 1982. However, for the air pollution and hazardous waste programs, the State grants were not reduced in 1982. For the air pollution program, the grants stayed at their 1981 level; thus, the inflationary reduction was the only decrease in the program. In the hazardous waste grant program, the grants were increased \$15.2 million in 1982. Therefore, this report concentrates on the potential impacts projected for the air pollution and hazardous waste programs under the proposed 1983 budget.

Passage of EPA's fiscal year 1983 appropriation on September 30, 1982, at only a 4-percent decrease (for operating programs) from the 1982 appropriation reduced many of the anticipated impacts of the proposed 1983 budget reductions. Information on these predicted impacts is presented in the report so that analogies can be drawn if budget cuts are proposed in future years. This is particularly true in the State grants area since the Administrator has testified that she plans to eventually phase out all State grants.

Issues focused on by GAO which transcend the fiscal year 1983 proposed budget reductions, include

- EPA's changing partnership with the States resulting from budget reductions in the air and hazardous waste areas;
- changes in EPA's oversight of its own and the States' performance;
- possibilities of developing permit fees/user charges with the States to replace Federal grant reductions; and
- effects of the budget on the personnel and contracting areas.

CHANGING ENVIRONMENTAL PARTNERSHIP ROLES

The proposed fiscal year 1983 reductions motivated EPA and the States to consider what their future roles would be in managing environmental programs with less Federal financial assistance. Some States predicted that if the budget had been approved at proposed levels, States' environmental activities would have decreased. Some States indicated that they would consider returning to EPA some of the air and hazardous waste programs which have been delegated to them or not seek authorization for those programs not yet delegated.

While the originally proposed 1983 budget reductions were not approved, the EPA Administrator has announced that EPA plans to eventually phase out State environmental grants. EPA headquarters and regional officials, States, and others have expressed concern that without Federal financial assistance, national inequity

and inconsistency in achieving environmental goals may result and those States with relatively strong economies would have problems maintaining an effective environmental program. (See pp. 8 to 14.)

EPA has prepared one study addressing how States could absorb budget reductions in their programs. This study was criticized by some EPA headquarters officials and regional offices, States, and State organizations as containing unrealistic options, overstatements of savings, and errors in calculations; failing to consider actions the States had already taken; and discounting the extent of environmental harm which may result. (See pp. 14 to 17.)

EPA IS CHANGING ITS OVERSIGHT POLICIES

EPA is moving from a detailed project-by-project review of States' performance to a more results-oriented oversight focus. This is an evolving effort which is part of an overall Agency objective to develop an oversight system to measure EPA's performance. The system is dependent on the successful development of environmental results criteria which will correlate the effect of EPA's activities on the overall quality of the environment. Developing such criteria is an ambitious undertaking because of (1) a lack in both quality and quantity of baseline environmental data, (2) technical limitations inherent in measuring change and identifying trends in environmental improvement, and (3) difficulties in established cause and effect relationships between EPA's activities and the quality of the environment. Also, in order to have effective oversight, EPA must assess the impact of budget reductions on its ability to provide oversight and determine its capability for taking corrective action when States fail to perform as expected. (See ch. 3.)

STATE PERMIT FEES/USER CHARGES HAVE REVENUE POTENTIAL

Because of decreasing or uncertain funding, several States are considering adopting new fee systems or raising existing fees. However, in implementing and developing these systems,

States face obstacles such as political and industrial opposition, administrative costs, implementation time, and the possibility of creating compliance disincentives or other unintended effects. States, however, differ in their view of how strong a role the Federal Government should have in influencing what revenue systems the States adopt. (See ch. 4.)

EPA's PERSONNEL AND CONTRACTING ACTIVITIES
MAY BE EFFECTED BY BUDGET REDUCTIONS

EPA's 1983 personnel ceiling of 9,063 permanent full-time employees can be met given the current attrition rate and the continuation of the hiring freeze implemented in April 1982. However, top EPA officials expressed concerns that the present policy of relying on voluntary separations without replacement hiring can cause skill mix problems. GAO's review of reduction-in-force actions occurring in fiscal year 1981 disclosed that they were conducted in accordance with Office of Personnel Management procedures. (See pp. 34 to 37.)

In fiscal year 1982 EPA obligated \$359 million in contract actions. Under the appropriated 1983 budget, EPA projects \$342 million will be obligated. Prior GAO reviews found problems with EPA's contracting activities, such as extensive use of cost-plus-fixed-fee, level-of-effort and sole-source contracts, possible use of contractor employees to perform basic management functions, potential contractor organizational conflict-of-interest, and lack of contractor monitoring.

GAO's current review of two contracts specified by the chairman did not identify any of the previously noted problems; however, the review was too limited to determine whether EPA's overall contracting procedures have improved. As also noted in GAO's prior reports, budget reductions often translate into less personnel, which could either result in EPA's having to contract out work previously done in-house or performing less monitoring of current contracts. (See ch. 6.)

As requested by the chairman, GAO did not obtain written comments on this report. However, GAO did discuss the matters in the report with Agency officials and, where appropriate, included their views. (See p. 7.)

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ABBREVIATIONS

EPA	Environmental Protection Agency
GAO	General Accounting Office
IPA	Intergovernmental Personnel Act
NAAQS	National Ambient Air Quality Standards
NESHAP	National Emission Standard for Hazardous Air Pollutants
NGA	National Governors' Association
NSPS	New Source Performance Standards
OMB	Office of Management and Budget
PFT	permanent full-time
PSD	prevention of significant deterioration
RCRA	Resource Conservation and Recovery Act
RIF	reduction-in-force
SBA	Small Business Administration
SIP	State Implementation Plan

CHAPTER 1

INTRODUCTION

Public concern over potential public health hazards and ecological damage played a major role in the emergence of environmental legislation in the 1970's. Between 1971 and 1981, the Environmental Protection Agency's (EPA's) operating budget (excludes funds for Construction Grants and Hazardous Waste Response Trust Fund) steadily grew to develop and implement programs under major environmental legislation, reaching \$1.3 billion in fiscal year 1980. However, subsequent budgets and budget proposals have reversed this funding trend resulting in changes to EPA's partnership with the States in implementing environmental programs.

REVERSING THE GROWTH OF ENVIRONMENTAL SPENDING

In 1981 President Reagan proposed two 12-percent cuts (one in March, the second in September) in fiscal year 1982 spending for environmental programs. After some deliberation over the proposed cuts, the President and the Congress approved EPA's fiscal year 1982 operating budget in December 1981 at \$1.086 billion. This budget represented a 15-percent reduction from EPA's fiscal year 1981 budget.

In February 1982 the President submitted to the Congress his proposed budget for fiscal year 1983, a proposal that continued the budget-cutting priorities of recent years. EPA's proposed budget for fiscal year 1983 was \$961 million. However, on September 30, 1982, the President signed the fiscal year 1983 appropriation for EPA at the congressionally approved level of \$1.04 billion, a \$78.3 million increase over the proposed level but a \$46.3 million decrease from the 1982 budget. Appendix I compares the 1981 and 1982 budgets and the 1983 proposed and appropriated budgets.

If the fiscal year 1983 operating budget had been approved as proposed, it would have represented a 17-percent decrease in constant 1981 dollars from 1982 appropriation levels. According to EPA's Administrator, the proposed spending package for 1983 was leaner because

"* * *the reductions are designed for effectiveness and efficiency in fulfilling our responsibilities.* * *
What this budget represents, more than efficiency, more than thorough scrutiny, is a rededication of resources away from government for the sake of government and toward environmental results. * * * Those results--a better environment through better use of resources--are and will continue as our principal objectives."

STATE GRANTS ARE ALSO REVERSED

The legislation for most environmental programs provides for State implementation of the programs within the bounds established by EPA. The extent of State program involvement is dependent on the legislation, EPA eligibility requirements, and the State's willingness to commit the necessary resources. To assist States with program implementation, EPA awards grants directly to State agencies.

Since 1971 EPA grants, which are part of the overall operating budget for each program, increased gradually from \$41.8 million to their high in fiscal year 1979 of \$328.7 million which funded 12 different types of grants. The subsequent budgets have gradually reduced the funding for grants as well as eliminated various grant programs. In 1982 three grant programs (Water Quality Management Planning Grants, Solid Waste Management Grants, and Resource Recovery Grants) totaling \$45.6 million were eliminated while the remaining nine grants were increased by \$13.7 million, totaling \$236.7 million for the grant program. In the proposed fiscal year 1983 budget, EPA planned to continue its reversal in providing financial assistance by eliminating three more grant programs (Clean Lakes Water Quality Grants, Drinking Water Special Projects Grants, and Toxics Enforcement Grants) totaling \$11.3 million and reducing the remaining six grant programs by \$43.4 million to \$182 million.

The proposed fiscal year 1983 budget for all financial assistance to States was 23 percent, or \$54.7 million, below its 1982 level, and the 1982 budget was 12 percent, or \$31.9 million, below the 1981 levels. Subsequently, the Administrator testified that EPA's financial assistance to States could be further reduced in future years to the point of elimination. The Administrator stated that, in a successful regulatory program, once knowledge is acquired it does not have to be continuously "refunded and reacquired at the same levels every year."

However, the fiscal year 1983 appropriated budget did not contain as severe cuts to the State grants program as originally proposed. For 1983 the remaining six grant programs will receive \$226.2 million, a \$44.2 million increase above the proposal levels but a \$10.5 million decrease from the 1982 levels. (See app. II for the 1981, 1982, and 1983 funding of grant programs.)

Magnitude of proposed cuts on State grants in the air pollution and hazardous waste programs

In making our review we wanted to determine what impacts the proposed budget reductions could have had on the grants in the air pollution and hazardous waste programs. The Clean Air Act, as amended in 1970 and 1977, provides the basic authority for the Nation's air pollution control programs. The fundamental objective

of these programs is to protect public health and welfare from the harmful effects of air pollution. Major provisions of the act require:

- National Ambient Air Quality Standards (NAAQS) for specific air pollutants to protect public health and welfare. Standards have been set for sulfur dioxide, particulates, nitrogen dioxide, carbon monoxide, hydrocarbons, ozone, and lead.
- State Implementation Plans (SIP) stipulating steps that will be taken to achieve satisfactory air quality. EPA must review the plans and, if necessary, require revisions or substitute its own plan.
- New Source Performance Standards (NSPS) for new, or modified, stationary sources of air pollution. Emission limitations are established for specific types of sources.
- National Emissions Standards for Hazardous Air Pollutants (NESHAP) limit emissions of hazardous substances from both new and old stationary sources.
- Prevention of Significant Deterioration (PSD) of air quality in areas which have pristine or good to moderate air quality.

Permit and enforcement activities to achieve the latter three provisions can be delegated from EPA to the States. States can receive financial and technical assistance to develop and implement their air pollution programs.

The Resource Conservation and Recovery Act of 1976, among other things, provides for environmentally safe methods of managing and disposing of hazardous wastes during production. The act requires EPA to develop a manifest system for tracking wastes; a list of hazardous substances; and standards of performance for generating, transporting, treating, storing, and disposing of hazardous wastes. As in the air pollution program, certain hazardous waste activities, such as permit and enforcement, can be delegated to the States. States can receive financial and technical assistance to develop hazardous waste programs which meet EPA's requirements. EPA is delegating its hazardous waste program on a phased schedule. Phase I covers the standards, tracking system, and enforcement aspects discussed above; Phase II covers permit activities.

The 1983 budget proposal would have reduced grants funds for both the air pollution and hazardous waste programs in fiscal year 1983 from \$87.7 to \$70 million for air pollution grants, and from \$41.7 to \$35.1 million for hazardous waste grants. However, the air pollution and hazardous waste grants appropriated in 1983 were \$84.7 million and \$44.1 million, respectively--a decrease of 9 percent for the air pollution grants and 1 percent for the hazardous waste grants in terms of constant 1981 dollars from the 1982 level.

THE BUDGET PROPOSAL WOULD ALSO
AFFECT PERSONNEL AND CONTRACTING

EPA had increased its personnel ceiling to a high of 11,063 permanent full-time employees in 1981 and then gradually reduced the ceiling to a level, proposed in the 1983 budget, of 8,645 permanent full-time employees. However, the 1983 appropriation contained \$10.5 million to maintain the ceiling at 418 employees above the proposed level, a 758 employee decrease from the 1982 ceiling.

In 1981 EPA obligated \$356 million in contract actions and \$359 million in fiscal year 1982. Under the appropriated 1983 budget, EPA projects that it will obligate \$342 million in contract actions.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, asked us to assess the impact of the fiscal years 1982 and 1983 budget proposals on EPA's programs. The chairman requested that our review address several issues, some of which were to be addressed on an agencywide basis (contracting, personnel, enforcement), whereas others were to be confined to specific EPA programs (air quality and hazardous waste). Specifically, as defined through the request letter and subsequent briefings, we were asked to determine

- the impact of fiscal years 1982 and 1983 budget proposals on the air pollution and hazardous waste programs;
- the practical applicability of the new accountability system EPA is developing, including its costs and the role of contractors in developing the system;
- the effect of budget proposals on personnel levels and reductions-in-force and whether personnel furnished by EPA to the States under the Intergovernmental Personnel Act have stayed within the historic levels;
- whether EPA had contracted out work essential to its mission which should have been performed by Federal workers and whether contracts with the A. T. Kearney Company and Maxima Corporation conformed to Government contracting and procurement regulations;
- the philosophical changes in enforcing environmental laws and regulation; and
- specific legal issues, including the reasonableness of EPA's withdrawal of 43 enforcement cases referred to the Department of Justice.

Regarding the last two areas, specific information on EPA's enforcement activities was provided in a report 1/ to the chairman. The report discussed enforcement philosophy, organizational structure, and guidance, as well as funding for Subtitle D of the Resource Conservation and Recovery Act. Also, in an April 9, 1982, letter we provided the chairman an analysis of EPA's decisions to withdraw 43 enforcement cases from the Department of Justice. Thus, this report focuses on (1) EPA's changing partnership with the States resulting from the budget reductions, particularly as the reductions affect the air pollution and hazardous waste programs, (2) changes in EPA's oversight of its own and the States' performance, (3) the possibilities of developing permit fees/user charges within the States to replace Federal grant reductions, and (4) the potential effects of the proposed budget on the personnel and contracting areas.

We conducted our work at EPA headquarters in Washington, D.C.; Research Triangle Park and in Durham, North Carolina; as well as at five EPA regional offices; 15 States; and three local air pollution control agencies. Our work was completed between January and September 1982. The regions, States, and localities included in our review were:

Region III (Philadelphia, Pa.) Delaware, Maryland,
Pennsylvania, and Virginia
Region IV (Atlanta, Ga.) Kentucky, Mississippi, North Carolina
(Winston-Salem), and Tennessee (Knoxville and Memphis)
Region V (Chicago, Ill.) Indiana, Michigan, and Ohio
Region VI (Dallas, Tex.) Arkansas and Texas
Region X (Seattle, Wash.) Oregon and Washington

The five EPA regions were chosen to provide both a cross section of regional activity as well as a broad geographic distribution. Other factors we considered in selecting the regions included the amount of delegation (some regions had delegated much more responsibility to States than others) and the differing regional oversight policies and practices of State performance under delegation. We performed more detailed analysis at EPA Region IV because it was identified by EPA headquarters as one of the "clear front runner" in delegating environmental programs.

We did not use statistical sampling to select the 15 States and three localities. They were selected based on a number of factors, including the nature of environmental problems facing the State or locality (rural farming States versus heavily industrialized ones), State or local financial resources (some draw on taxes generated by the use of natural resource, such as oil, while others are in relatively economically depressed areas), and the

1/"Information on the Environmental Protection Agency's Enforcement Activities" (CED-82-62, Apr. 1, 1982).

number of existing delegations (some had relatively few, while others had many). Appendix III shows the delegation status for the air pollution and hazardous waste programs in the States and localities we visited.

To determine the potential impact of current and proposed budget reductions in the air pollution and hazardous waste areas, we:

- Interviewed air pollution and hazardous waste officials in EPA headquarters and in five EPA regions to determine the current implementation status of the programs and the anticipated effect of the proposed reductions on program and regulatory development.
- Reviewed EPA budget documents.
- Discussed the potential impact of grant reductions in the air pollution and hazardous waste areas with State and local (air only) environmental program managers as well as with representatives from various Governors' offices and State legislatures. We also discussed the feasibility of States' developing alternative funding mechanisms to replace cuts in Federal funding.
- Met with representatives of several groups, such as the National Governors' Association, the State and Territorial Air Pollution Program Administrators, the Association of State and Territorial Solid Waste Management Officials, and SAVE EPA, to obtain their views on the budget cuts and problems which may result.

As requested by the chairman, we attempted to assess the impact of the 15 percent budget reduction to EPA's operating programs in fiscal year 1982. However, for the air pollution and hazardous waste programs, the State grants were not reduced in 1982. For the air pollution program, the grants stayed at their 1981 level; thus, the inflationary reduction was the only decrease in the program. In the hazardous waste grant program, the grants were increased \$15.2 million in 1982. Therefore, this report concentrates on the potential impacts projected for the air pollution and hazardous waste programs under the proposed 1983 budget.

Passage of EPA's fiscal year 1983 appropriation on September 30, 1982, at only a 4-percent decrease (for operating programs) from the 1982 appropriation reduced many of the anticipated impacts of the proposed budget reductions. Information on these predicted impacts is presented in the report so that analogies can be drawn if future budget cuts are proposed. However, efforts to draw analogies with future cuts must be tempered with the knowledge that the programs will be further along in their implementation and the States will have had more time to develop alternative funding for their environmental programs.

To obtain information on EPA's management accountability system, we talked with officials developing the system about its concept, goals, and status. We obtained internal reports evaluating previous systems and we reviewed available budget information and system outputs. Since portions of the system are still being developed, we could not assess its full practical applicability.

To determine the impact of the budget proposals on personnel levels and activities, we reviewed EPA's system for projecting personnel ceilings, the logic of assumptions used, and applicable records and data. We also talked with officials in the budget and personnel areas. We reviewed the Office of Personnel Management's and EPA's regulations and policies on reduction-in-force to determine whether EPA complied with these requirements at two of its organizations--the Health Effects Research Laboratory, Research Triangle Park, North Carolina, and the Noise Enforcement Facility, Sandusky, Ohio. We examined EPA's planning documents, retention registers, competitive levels, and other relevant documents, including position descriptions. We interviewed EPA management and personnel officials to discuss these actions. We also reviewed the notices sent to affected employees and determined the assistance given to displaced employees to find other jobs.

Information on EPA's contracting activities was developed using our prior report entitled "EPA's Use of Management Support Services" (CED-82-36, Mar. 9, 1982) which presented information on the extent of EPA's reliance on management support service contractors, EPA's contractors methods and procedures, and contractors' performance. We evaluated the contracting files and records on EPA's contracts with Maxima Corporation and A.T. Kearney Company and talked to the project officer for each contract. We obtained reports and talked with headquarters and laboratory officials in Research Triangle Park, North Carolina, to project the potential impact of proposed budget reductions on contracting activity.

Our review was performed in accordance with generally accepted government audit standards. As requested, we did not obtain written agency comments on the draft report. We did, however, discuss the matters contained in the report with State and EPA regional and headquarters officials responsible for air pollution and hazardous waste programs and other applicable management activities. Their comments have been incorporated, where appropriate, in this final report.

CHAPTER 2

THE FEDERAL/STATE ENVIRONMENTAL

PARTNERSHIP IS CHANGING

While the proposed reductions to the 1983 budget were, in many cases, substantially reversed by congressional adbacks, many States are concerned about their future environmental partnership with EPA, given the Administrator's plans to eventually phase out environmental grants to the States. State officials have predicted that reduced Federal assistance will result in decreased environmental activities and may result in negative impacts on the environment. Even EPA officials have expressed concern that the changing Federal/State partnership may result in national inconsistency and inequity in achieving environmental goals. Effective planning by EPA for State grant reductions is essential if EPA is to meet its goal of a reduced Federal role in State programs, without affecting the achievement of the objectives of environmental legislation.

STATES FEARED ADVERSE IMPACTS FROM PROPOSALS TO REDUCE FINANCIAL ASSISTANCE IN 1983

While the fiscal year 1983 proposed funding reductions did not occur at the levels suggested by EPA due to congressional adbacks, many States fear adverse impacts from EPA's plans to reduce future grants and technical assistance activities. For example, we contacted air pollution and hazardous waste program officials in 15 States and 3 localities (air pollution officials only) prior to the congressional adbacks to determine how they would handle the proposed reductions in fiscal year 1983. The table below summarizes those activities which State officials predicted they would have to curtail to accommodate the proposed reductions. The numbers in parentheses indicate the number of States and localities (total of 18 for air pollution and 15 for hazardous waste) which predicted that particular kind of impact.

Predicted Impacts Resulting
From Fiscal Year 1983 Proposed Reduction

Air pollution programs
(note a)

Hazardous waste programs
(note b)

Reduced capability to monitor for existing ambient air pollutants, to monitor for known suspected hazardous air pollutants, to maintain existing monitoring devices in good working order, and to sample for new pollutants, such as inhalable particulates, in the future (15 out of 18).

Reduced capability to perform verification of air quality modeling data and slower permitting of new or expanding sources (14 out of 18).

Reduced compliance inspections of known emitting sources, reduced verification of compliance with permits, and fewer follow-up inspections (16 out of 18).

Reduced technical assistance activities, including assistance to those having problems remaining in compliance (7 out of 18).

Further postponement of acceptance of air pollution program delegations, and possibly return to EPA of some previously accepted ones (10 out of 18).

Extended permit time for treatment, storage, and disposal facilities in delegated States (9 out of 15).

Fewer inspections of hazardous waste handlers to assure compliance with hazardous waste permit standards and, potentially reduced enforcement activities (12 out of 15).

Cutbacks in technical support to hazardous waste handlers that need assistance in understanding and implementing complex regulations for the first time (7 out of 15).

Less analysis of potentially hazardous waste samples to determine the proper handling and disposal methods (7 out of 15).

Slower program development in States without delegation authority and increased consideration of returning existing delegations back to EPA in States with delegation authority (8 out of 15).

a/proposed reduction of 20 percent from 1982 level.

b/proposed reduction of 16 percent from 1982 level.

Several examples State programs officials gave which predicted adverse impacts for fiscal year 1983 and future years if the grants are reduced follow:

--In the areas of compliance and enforcement, Mississippi's air pollution program would cut compliance inspections by 26 percent, from 300 in 1982 to 221 in 1983; reduce observations of industry performed stack emissions tests by 33 percent, from 45 to 30; and reduce its field activities, such as technical assistance by 22 percent, from 4.5 to 3.5 work-years in 1983. The State would reduce ambient monitoring activities by 60 percent, from operating 45 monitors in 1982 to 18 in 1983. For permit activities, the State did not predict a significant change in the time it required to process permits, but it would cancel its contracts for computer modeling and meteorological services with a local university. The State officials said that this would mean a substantial reduction in the State's ability to verify the accuracy of data supplied by industry for permit issuance. Mississippi's budget was to be reduced 20 percent, or \$133,000, as a result of the 1983 Federal grant reduction.

--Tennessee predicted that the proposed reductions would cause its permit schedule to take 20 percent longer than planned. Tennessee objected to any cuts in Federal assistance to the hazardous waste program and noted that a "massive new effort will be necessary in the permitting of hazardous waste* * * facilities." As of July 1982 the State had (1) inspected only 457, or 11 percent, of its almost 4,300 notifiers (generators, transporters, treaters, storers, and disposers of hazardous waste), (2) estimated that permitting of all facilities would take 8 years, and (3) requested an additional 26 staff to perform facility permitting. Due to the combined effects of a proposed 16 percent, or \$168,700, Federal grant reduction and a 45 percent, or \$315,500, shortfall in predicted State fee collections, none of these 26 staff were hired as of September 1982. In the area of compliance monitoring, the State would have to reduce its inspection frequency by 27 percent, from 165 inspections annually to 120; reduce its analyses of collected samples from 11 per sample to 2 or 3; and reduce the intensity of its inspection activities by 25 percent, from an average of 4 days to 3 days per facility. Also, technical assistance to hazardous waste handlers would be reduced, but State officials could not determine the degree of curtailment.

We discussed the reasonableness of the impacts predicted by the States with EPA officials in region IV. EPA headquarters officials identified region IV in March 1982 as one of the clear front runners in delegating programs to the States (with 50 percent of its programs fully delegated). EPA Region IV officials, including the regional administrator, indicated these predictions were probably reasonable given the magnitude of the proposed reductions and the extent to which Federal funds comprise a major portion of most State programs in region IV. According to the regional Air and Waste Management Division Director, in a few cases, States may have overstated the extent of reduction they will actually make, but the

reported reductions for the four States we sampled in region IV (Kentucky, Mississippi, North Carolina, and Tennessee) were about right.

EPA, STATES, AND OTHERS ARE CONCERNED
ABOUT ADDITIONAL REDUCTIONS IN GRANTS
BEYOND FISCAL YEAR 1983

States are concerned about continuing environmental grant reductions beyond fiscal year 1983, leading to an ultimate phase out of all Federal assistance. At issue is whether States will continue to support federally mandated environmental programs and enforce Federal standards without Federal assistance. If not, the implications of national consistency and equity--important objectives of most Federal environmental legislation--and ultimately, the implications for the environment itself, have been seriously questioned by EPA, States, and others.

In House committee hearings in July 1982, the EPA Administrator indicated that it was her intention to eventually eliminate State management assistance grants. EPA, however, has made no public statements about a timetable regarding this objective.

Some EPA officials have recognized that States are concerned about future Federal assistance for environmental programs. For example, EPA's Region IV administrator, in commenting on his States' views concerning the reductions, wrote:

"Some states are apprehensive that FY-84 will bring another round of cuts, leading eventually to the end of Federal assistance. They would like to know EPA's thinkings on FY-84 cuts now so they can better plan for the future. They have little expectation that Federal cuts will be replaced by State funds."

However, this apprehensive view of State environmental program managers differs substantially from that of EPA's Administrator. In testimony on the fiscal year 1983 budget proposals, she said that:

"* * *I think that there has been a change in the States' perception of competing needs against their budgets, as indeed there has been at the Federal level. * * *I believe that there will be an increase in demand on State representatives to adequately fund environmental programs."

Although there is no way to determine how the States' legislatures would react to severe environmental Federal budget reductions, State officials we talked with at various levels of State government (executive office of the governors, legislatures, and environmental agencies) voiced doubt as to the possibility of State legislatures continually increasing State supplied funds to offset

declining Federal grants. For example, Michigan's Department of Natural Resources has lost nearly \$1 million in State general fund cuts since 1980. The department's Deputy Director, Bureau of Environmental Protection, said that the State will not replace the proposed reductions in Federal funds with State funds. Instead, the bureau is considering which programs it could return to EPA if Federal funds are reduced or eliminated. Delaware's Chairman of the State legislature's Joint Finance Committee said that Delaware will not make up for lost Federal environmental grants.

States have indicated that if State funds are not substituted for declining Federal grants, their State environmental activities may be reduced or delegated portions of those programs may be returned to EPA, or both. If this happens, the quality and consistency of environmental programs may differ significantly depending on differing State economic conditions, perceptions of industry needs and influence, environmental commitment, and other factors.

Even States that have relatively strong economies are concerned about continuing grant reductions beyond 1983. For example, Texas hazardous waste officials saw few problems funding their fiscal year 1983 programs even with the proposed grant reductions, but they did foresee problems in fiscal year 1984 and beyond with continuing grant reductions. The Director of the Texas Department of Health said that if future cuts are too severe, the State would consider returning the hazardous waste program to EPA.

A February 1982 report by the Congressional Research Service to the Senate Committee on Environment and Public Works ^{1/} raised similar concerns about environmental grant reductions. The report questioned whether decreased Federal involvement will result in some States obtaining

"* * *distinct competitive advantages over others, while industry faces the administrative inefficiency resulting from a proliferation of varying State and local requirements? Increased Federal interest in environmental protection was due as much to pressure from industry for consistent regulatory requirements, as it was to State and local government pressures concerning interstate problems. * * *The prospect of reduced funding (especially reduced Federal assistance) suggests one other serious consequence: a breakdown in State and regional economic equity that is now provided by uniform national pollution control requirements. States that once lagged in their commitment to national environmental programs--and were persuaded by the incentive of Federal aid--may find ample reason to relax

^{1/}"Federal-State Relations in Transition: Implications for Environmental Policy" (Feb. 1982).

environmental controls, thereby attracting industry and placing States with stronger environmental programs at a disadvantage economically. The result of individual States' decision of that type could be a recurrence of a major problem which first prompted the larger Federal role in the environment: interstate inconsistencies."

EPA officials recognize inequity and inconsistency as one of the major barriers inhibiting agency progress in delegating programs to the States. Specifically, EPA is concerned that individual States do not relax national environmental standards to compete for industrial development. In a September 20, 1982, discussion paper for a conference with 27 State environmental program directors, EPA stated that

"* * *comparable new sources must meet comparable standards of protection for citizens across state lines. We reject the creation of pollution havens in your states and believe that you--as responsible environmental official--do too. Nevertheless, should we develop some kind of program to further guard against this possibility?"

One argument EPA has made defending the State grant reductions is that in spite of the proposed reductions, States have continued to seek new delegations in fiscal year 1982. While EPA statistics appear to bear this point out, it does not mean that the States will keep the programs if Federal assistance is completely phased out, nor is it a measure of any given State's program quality under those conditions. For example, Mississippi and North Carolina officials said that they continued to take delegation of air pollution programs primarily because of internal State pressures to have full permitting authority even though funding has not been sufficient. With such authority, industries wishing to locate or expand their operations can deal solely and directly with the State without also having to go to EPA for final approval.

According to EPA's Deputy Director, Air and Waste Management Division, Region IV, most southern States have actively pursued delegation so that their industries will not have to go to EPA for permits. He noted that even with the impending reduction in fiscal year 1983, most States would keep their delegated programs but do less work in other program areas, such as monitoring, compliance, and enforcement. Several State officials agreed, noting that new source permitting is the most economically consequential (i.e., important for State industrial growth) program they have. The quality of such permitting activities may eventually become less thorough given further budget reductions.

Whether further reductions in Federal financial assistance will ultimately impact the quality of the environment is still unresolved. It is widely recognized that most States disagree with

EPA's recent statements that they can either absorb the cuts or replace them with funds from other State sources, without deteriorating existing environmental programs. Whether the predicted curtailments in fiscal year 1983 activities would have actually impacted on source compliance or an agency's enforcement efforts, and whether factors can be directly related to measurable environmental impact, are still issues for speculation and debate since the proposed reductions were not enacted by the Congress. However, most State legislative, executive, or environmental agency officials we contacted believed that

- previous cutbacks or delays in hiring and equipment purchases due to inflationary reductions and/or actual fiscal year 1982 reductions have already pared program resources, in most cases, to minimum levels needed to maintain adequate pollution control programs;
- State legislatures do not have the funds, and in some cases the inclination, to replace Federal funding with State revenues;
- State budget cycles hamper, or in some cases prevent, States from effectively budgeting and planning for environmental program needs since long-term Federal financial assistance is not projected in anything, such as a 5-year plan; and
- reductions in existing Federal financial assistance may result in less compliance and enforcement efforts which ultimately impacts on the environment.

For example, Mississippi air pollution program officials said that less compliance inspections in their State would mean less enforcement. They believed that they were not doing enough compliance inspections currently and would do even less with the impending budget cuts. Tennessee air pollution program officials similarly said that there is a direct relationship between inspections and compliance, and that with less inspections they fully expect less compliance. Tennessee hazardous waste officials believed that, as a result of diminished activities, compliance would become more sporadic, with potential for increases in improperly managed hazardous wastes.

EPA BELIEVES THAT STATES CAN COPE
WITH REDUCED FEDERAL ASSISTANCE

EPA prepared only one detailed study ^{1/} in February 1982 which attempted to quantify how States could absorb the proposed fiscal year 1983 budget reductions in their programs. However, comments made by EPA headquarters and regional offices, States, and State

^{1/}"Coping With the FY 1983 Budget Reduction in EPA's Categorical Grants" (Feb. 1982).

organizations indicated that there was wide disagreement and a lack of consensus concerning the (1) viability of the options, (2) projected savings, and (3) effects on the environment and public health. In addition, EPA did not develop accurate, updated information on the States' capabilities and needs before proposing the reductions in State grants.

In its fiscal year 1983 budget proposal, EPA stated that:

"The 1983 reduction in grant programs do not represent a decrease in EPA's commitment to the States as partners. Rather, the decreases will occur because of elimination of duplication in grant processes, simplification of administrative requirements, and reduction in regulatory demand."

Quantifying the exact amount of resources that can be saved through these proposals has proven difficult for both EPA and the States, with each taking opposing views as to what the actual affect on the environment might be. EPA never officially adopted the study because of internal as well as external concerns about the proposals.

The fiscal year 1983 budget proposal would have reduced air pollution grants by \$17.7 million or 20 percent. To meet these reductions, the study suggested six State actions, including (1) eliminating the use of State grant moneys to fund inspection and maintenance programs, (2) reducing the use of State grant funds for special activities such as monitoring and air quality studies, (3) eliminating all but priority ambient air monitors, (4) reducing funds for State air program development, (5) reducing State inspections for stationary sources of air pollution, and (6) reducing State reporting requirements.

The study's options in the hazardous waste area included (1) increasing States' flexibility to plan and conduct needed work, eliminating marginal activities, (2) authorizing States to use general versus site-specific hazardous waste facility permits, (3) awarding State grants on a priority basis rather than funding formula, and (4) authorizing States to consolidate hazardous waste programs with other environmental programs. The reduction proposed for the hazardous waste program in fiscal year 1983 was \$6.6 million or 16 percent.

The study stated that if these options were implemented, no measurable negative impacts on either the environment or the public health would result. However, our review of comments made on the report by various EPA headquarters and regional offices, States, and State organizations indicated that there is wide disagreement and lack of consensus concerning the viability of the options presented, the projected savings, and the effects on the environment and public health.

The following are examples of critical comments made:

--The Acting Director, Program Management Operations, Office of Assistant Administrator for Air, Noise, and Radiation, EPA, stated:

"In most work areas evaluated, the report overestimates the level of activity or the grant support provided in fiscal year 1982. Because of inflation and stagnant grant budgets, the actual FY 1982 program in many States usually is significantly below the level specified in our guidance and used as the FY 1982 baseline in the analysis. Often the actual FY 1982 effort is close to the postulated FY 1983 effort. Therefore, the program reductions often are already in place and the savings are not real."

--EPA Acting Assistant Administrator, Solid Waste and Emergency Response--responding to the option to eliminate funds for marginal activities which contains a high percentage of the projected savings in the hazardous waste related options, stated:

"Hazardous waste grant funds support implementation of the hazardous waste program, which is a high priority Agency program. Funding for low priority solid waste programs has already been eliminated."

--Chief, Air Division, Oregon's Department of Environmental Quality, stated:

"The report is a reasonably good piece of work but I disagree with its conclusion that the proposed reductions can be accomplished with no measurable negative impact on the environment and public health of the nation."

Most of the criticism centered around the viability of the options; errors in calculations; overstated savings projections; failure to consider the actions the States had already taken, or new requirements States must meet; and disagreement over the extent of potential environmental harm. An example of the overstated savings cited by EPA's Office of Mobile Source Air Pollution was the study's contention that collectively States could save from 3 to 5 percent of their grant money. Nationally this would be a savings from \$2.6 to \$4.4 million, by eliminating grant funds for inspection and maintenance programs. However, in fiscal year 1982 only 11 States and the District of Columbia had active inspection and maintenance programs and had spent a total of \$594,000 of fiscal

year 1982 Federal moneys on these programs as of June 9, 1982. While there was a maximum of \$1.2 million nationally in carryover funds available for fiscal year 1983, the maximum amount of possible savings from fiscal year 1982 to 1983, assuming the complete elimination of grant funding for inspection and maintenance programs, is \$1.8 million, or about 2 percent of the fiscal year 1982 grant amount for air pollution programs. Thus, the potential savings are overstated by at least \$800,000.

Not all the comments were critical of the study. The Director of Ohio's Environmental Protection Agency, for example, said that significant savings are possible and the overall impact of many of the proposed savings will be small. Detailed comments made by Ohio environmental program directors, however, appear to contradict the Director's comments. For example, the Chief, Air Pollution Control, stated that:

"There is an assumption that all activities are adequately funded (and staffed) during FY 82. That is clearly not the case. The elimination of certain activities may not result in an actual cost savings because it would merely free resources for assignment to higher priority activities."

As shown above, various EPA officials stated that the coping study was not adequate for the States to plan for the fiscal year 1983 budget reductions. In a September 20, 1982, meeting with State environmental officials, EPA officials stated in a discussion paper that they must do a better job of planning so that States will continue to be willing to accept new responsibility or to continue operating Federal programs even while the grants are reduced. These discussions are still evolving; however, EPA's past planning for the proposed reductions to States was not

- based on feasibility studies, or where studies of State needs and capabilities were done, this information was not used in proposing budget reductions;
- made with complete cooperation and partnership of the States affected and an express agreement as to program activity levels was not reached prior to budget reductions; and
- planned with enough leadtime so that alternative funding sources could be established (see ch. 4) or other State actions taken to ensure that the Federal reductions would not affect the continued progress toward achieving the objectives of environmental legislation.

An example where EPA did not use its knowledge of State needs and capabilities when proposing grant reductions occurred in the proposed reduction to North Carolina's hazardous waste program. In 1980 EPA estimated North Carolina needed 74 workyears to receive

permit authorization for hazardous waste. In 1982 North Carolina had 31 persons in its hazardous waste program, and according to the program director, believed that it needed 8 to 10 more people, to adequately run its program. In 1982, even without the 74 work-years that EPA projected the State needed, EPA granted North Carolina permit authority for hazardous waste. While the North Carolina hazardous waste director did not believe the program needed 74 workyears, he still disagreed with EPA's 1983 budget proposal to reduce the program by 16 percent. Because the hazardous waste program was still new and evolving, according to the State's hazardous waste director, any cuts in Federal funds would affect the State's program, including its ability to hire the 8 to 10 additional staff needed for an adequate hazardous waste permit program.

CONCLUSIONS

EPA has proposed a reduced Federal role in State environmental programs, eventually eliminating Federal grants to States. However, many States, even those with strong economies, have predicted reduced environmental expenditures in permitting, monitoring, and enforcement, and some States have already implemented reductions in their environmental activities to absorb inflationary cuts. Whether the anticipated curtailments in fiscal year 1983 activities would have affected source compliance or enforcement efforts and whether these factors can be directly related to measurable environmental impacts are still issues for speculation and debate since the Congress did not enact the proposed reductions. However, certain issues stimulated by the proposed cuts in Federal financial assistance transcend the immediate fiscal year, including:

- Whether consistency and equity can or will be maintained among State environmental programs as these programs are increasingly delegated to the States, and the environmental and economic implications of potentially inconsistent State programs.
- Whether (1) previous cutbacks due to inflationary reductions have already pared program resources, in most cases to minimum levels needed to maintain adequate pollution control programs, (2) State legislatures will replace Federal funds with State revenues, (3) States can effectively budget and plan for environmental program needs given the State budget cycles and inability of the Federal Government to project State financial assistance more than 1 year in advance, and (4) eventual deterioration of compliance and enforcement efforts as well as the environment itself may result from reductions in existing Federal financial assistance.
- Whether EPA can effectively plan for reductions in Federal assistance to the States while States are assuming new responsibilities, and whether this can be done without affecting the continued progress toward achieving the objectives of environmental legislation.

We believe that effective State planning for the proposed budget reductions would involve the following management determinations, whether

- accurate, up-to-date information on State capabilities and needs, including staffing, is available;
- complete cooperation and partnership exists with the States affected, for example, agreeing on the level of environmental activity expected before enactment; and
- reductions are planned with enough leadtime to allow States to take actions to assure that the continued progress toward achieving the objectives of environmental legislation would not be affected.

CHAPTER 3

EPA's CHANGING OVERSIGHT POLICIES

EPA plans to make major changes in its oversight of State environmental programs. EPA headquarters and regional offices in the air pollution and hazardous waste areas are in various stages of developing or implementing new oversight policies and procedures. Common to EPA's efforts to change its oversight policies are (1) EPA's desire to reduce the oversight/reporting burdens placed on States, (2) EPA's recognition that better oversight is needed but fewer EPA resources should be used to do the job, and (3) EPA's desire to move away from detailed project-by-project or individual permit reviews to a more overall results oriented oversight focus.

EPA's efforts to change its oversight policies are part of an overall Agency effort to better oversee and manage EPA's as well as the States' performance, through a more effective and efficient system. Since EPA's efforts to develop an oversight system are still evolving, it is too early to tell how successful EPA will be in its efforts. However, EPA has identified at least one issue which needs to be addressed if such efforts are to be successful, that is, specific performance measures need to be defined. In addition, it is unclear whether EPA will be able to provide poor performing States with needed training and technical assistance, or whether EPA will be able to take over State environmental programs, if States fail to fulfill their mandated environmental responsibilities.

CHANGES IN EPA's OVERSIGHT OF STATE PROGRAMS

States' criticisms of EPA oversight have generally revolved around such issues as EPA's adversarial attitude, widely varying EPA regional oversight practices and expectations, excessive duplication in EPA reviews of State actions, a focus on individual project or permit problem cases rather than an evaluation of overall State program effectiveness, and long delays in reporting the results of their reviews to the States. For example, the following problem areas were identified by the States in region III in a June 22, 1982, report by EPA on oversight practices.

- While States support systematic EPA oversight of performance, they do not know what EPA expects in terms of satisfactory performance.
- Air pollution program managers in Delaware complained of a lack of a programwide system of evaluation which considered the total input of their efforts.

--Hazardous waste managers in Pennsylvania believed that EPA required too much paperwork and that there seemed to be a feeling of "total distrust" of the State's ability to take appropriate enforcement actions.

States are not alone in identifying problems with EPA's oversight. Similar problems were identified in a July 1981 internal EPA headquarters evaluation of how EPA regions oversee State permitting of new air pollution sources. The report stated that

"* * * existing oversight of new source review varies tremendously from Region to Region, ranging from a minimal program based on informal contacts to a detailed system of program audits, and from extensive review of draft permits to no routine reviews. The reasons for this include [1] continuously changing program regulation, [2] the inability of some Regions to delegate parts of the program, [3] the lack of effective oversight guidance from headquarters, and [4] uncertain organizational roles in the Regions."

EPA recognizes that there have been problems related to its past oversight and plans to make improvements, while at the same time lessening the oversight burden it places on States. For example, EPA plans to focus its future oversight program on emphasizing State capability and providing general oversight of the State's programs, rather than reviewing each permit and second guessing State decisions in specific situations. New oversight policies and practices are being developed or implemented in both the air pollution and hazardous waste areas. In addition, each of the five EPA regions we visited are in some stage of planning or developing new State oversight procedures. At the time of our review, region IV was the front runner in implementing procedures and has issued a policy statement on the overview of State programs. The new policy dated in March 1982, and accompanying guidelines, purport to

"* * * provide for a strong program overview role, while limiting EPA's involvement in individual State decisions affecting the natural environment. Individual project reviews are substantially reduced and are conducted for the purpose of evaluating overall program strength."

Different regions are taking different approaches in developing oversight policies. Without EPA headquarters guidance each region may develop different systems. EPA's air pollution overview program, for example, has traditionally taken the form of an inspection program where State-reported compliance information was independently verified by EPA (or its contractor). In the past, EPA, to verify States' compliance, would inspect from 5 to 10 percent of the facilities reported by the States as being in compliance. EPA's policy statement said that while this program

generally accomplished its objective, the program was very resource intensive, occasionally caused disagreements with the States, and often provided insufficient feedback to the States on their performance.

EPA now believes that a better way of accomplishing the same result, and more in the spirit of establishing a better partnership with the States, is to perform a "qualitative audit." Such an audit would look at all elements of a State's air pollution compliance monitoring program, including such factors as

- the level of skill and training of the inspectors,
- how air pollution sources are selected to be inspected or tested,
- how inspections are carried out, and
- the procedures used to address air pollution sources not in compliance.

The new approach may entail some joint inspections with the States, as well as selected independent inspections, as EPA regions and the States saw fit; however, these inspections would not be required. According to EPA's June 30, 1982, guidance, regions would be allowed to design an overview program to fit their own needs. As noted in this guidance from the Office of Air, Noise, and Radiation:

"Since the States have the primary role, the Federal government must rely largely on State activities and data to assess whether the job is getting done. To enable the EPA to fulfill its responsibilities, EPA established and has maintained an overview program with the goal of assuring the quality of State-reported information."

EPA's oversight of State activities is also changing regarding its review of permit decisions. For example, EPA Region IV previously reviewed all permit decisions for a select category of 100 to 120 air pollution sources (those sources generally believed to have the greatest potential, if inadequately controlled, for health hazards) in all eight States in the region and for 10 percent of the remaining air pollution sources. Under the proposed system, only 5 percent of all permit actions would be reviewed.

Changes in oversight are part of a larger effort

EPA's intention to change its programs for overseeing of State and local effectiveness is part of an overall agency effort toward more results-oriented management. At the Administrator's direction, and in response to the perceived need for an agency accountability system, EPA instituted the Management Accountability System in 1981.

As requested by the Chairman, we reviewed the system's purpose, its practical applicability, development and operational costs, and the role of contractors in developing and implementing the system. The details of our review are included in appendix IV.

The system employs a top-down, centralized management philosophy by (1) targeting goals and responsibilities, (2) making responsible parties accountable, and (3) tracking and measuring results. Broad goals for fiscal year 1983 include

- delegating programs to States,
- developing and reviewing regulations EPA designated as critical,
- meeting program commitments,
- improving the quality of EPA science,
- conducting an effective enforcement program, and
- incorporating environmental results indicators into measurements showing EPA's progress in meeting its overall environmental goals.

These goals have been translated into approximately 70 objectives which will be tracked and measured by outputs, such as management improvements, milestones, and environmental results. The system will track only regional and assistant administrators' accomplishments. Any objectives below the regional or assistant administrator level will be left to the EPA program offices to include and track in more detailed operating plans.

Until the system's environmental results (see below) portion is completed and incorporated, it is not possible to fully assess the practical application and usefulness of the system.

EPA's ACTIONS TO IMPLEMENT
THE NEW OVERSIGHT SYSTEM

Since EPA's efforts to develop an oversight system and policies are still new or evolving, it is difficult to tell how effective EPA will be in measuring the States' or its own performance. However, numerous problems must be addressed in order to have effective oversight. These include

- development of adequate results indicators which would provide a timely and accurate picture of the effect of EPA's policies on the environment, using existing data;
- the impact of future budget reductions on EPA's ability to provide oversight; and

--EPA's capability for taking corrective action when States fail to perform as expected.

Environmental results criteria
are being developed

The Administrator plans to measure EPA's and the States' performance through environmental results criteria. However, how EPA will measure these results and the role these results will play in overseeing State programs is unclear. For example, the current system measures numerical goals such as number of States accepting delegation, but without the environmental results criteria EPA cannot tell what effect this numerical goal, that is, delegation, has had on the quality of the environment. However, EPA may have problems developing such criteria as it may be quite difficult to quantify the correlation between environmental results and the objectives that the results are designed to measure.

The Environmental Results Branch, Management Systems Division, is currently developing environmental results criteria. Such indicators could include chemical analysis of stream segments, changes in air quality, and other measures. This project has a goal of incorporating some indicators into the first quarter of the fiscal year 1983 system report, due in January 1984. The fiscal year 1983 workplan prepared by the division director is ambitious and discusses how to change the Agency's focus to manage for environmental results. The workplan states that preliminary work done by EPA in fiscal year 1982 concludes that EPA needs to

- assess its effectiveness in bringing about environmental improvements;
- share information about how regions or program offices are measuring results;
- perform long-range strategic planning (3 to 5 years) that emphasizes environmental status and results information; and
- develop a common, agreed-upon set of indicators to measure environmental progress.

EPA hopes to develop improved indicators and add them to the report on an ongoing basis. In addition, the Environmental Results Branch intends to develop guidelines on preparing regional environmental management reports. These reports will describe (1) environmental status and trends, (2) significant environmental problems the regions and States face, and (3) how best to address the problems.

Because the projects are not yet complete, it is difficult to tell how successful EPA will be in developing and using environmental results indicators. Measuring environmental results and managing programs based on the results is an ambitious undertaking. Also, there are many potential problems associated with this undertaking, including the lack of quality and quantity of baseline environmental data, the technical limitations inherent in measuring change and identifying trends, and the difficulty in establishing cause and effect relationships.

One specific concern is an apparent conflict with other agency actions. For example, air pollution monitoring is one area where present policy changes may further impede EPA's ability to fully measure for environmental results even after measurement criteria are established. In response to Federal cuts in the air quality State grant program, EPA has proposed that States eliminate monitors in areas where monitors have not shown previous violations. EPA states in its study "Coping With the FY 1983 Budget Reductions In EPA's Categorical Grants," that the proposed reduction should have "no measurable negative impact on the environment and public health of the Nation." However, such a reduction in monitoring may lead to a lessening of EPA's capability to determine environmental degradation. Our report on air quality monitoring, ^{1/} raised questions about the reliability of air quality data available to EPA from its incomplete air monitoring network. Thus, the current air monitoring data available may limit EPA's ability to determine whether the environmental results sought are actually achieved.

Impact of budget proposals on oversight

Future budget reductions may also affect EPA's ability to conduct in-depth oversight. One example of changes in the way EPA oversees States and localities is the compliance program. The region IV administrator said that his region will increase its tracking of State and local compliance actions. While stressing voluntary compliance first and foremost, he said that the region must track State-identified violations, be cognizant of the plan of action laid out by the State or local program, assure that the plan is adequate, and be ready to step in should the facility or the State fail to comply with the actions outlined in the plan. In August 1982 the region went from quarterly statistical reports from State programs to monthly air pollution source specific violation reports. The regional administrator told us that he prefers this reporting system because it enables him to monitor proper progress on compliance actions.

^{1/}"Problems in Air Quality Monitoring System Affect Data Reliability" (GAO/CED-82-101, Sept. 22, 1982).

Much of the work associated with tracking these actions will be the responsibility of region IV's enforcement counsel. However, according to an August 13, 1982, Office of Legal and Enforcement Counsel proposed allocation, region IV counsel would be cut in fiscal year 1983 from 33.5 to 18.4 staff years. According to the regional administrator, about 30 legal staff would be needed to minimally track, oversee, and assure progress on State compliance. The regional administrator appealed the proposed allocation in an August 30, 1982, letter, but under the proposed fiscal year 1983 allocation, region IV was only one of seven regions facing legal staff reductions. Two regions would have remained at current levels, and one, region V, would have received an 8.3 staff year increase. No action was taken on the appeal but the legal staff reductions may have been alleviated since the appropriated 1983 budget for EPA contained \$10.5 million for 400 additional persons above the proposed levels. However, as of October 28, 1982, region IV had not been notified of any increased staff allocations. If future budgets reduce EPA personnel available to monitor the State's programs, obviously the depth of EPA's oversight will also be decreased.

EPA's ability to take corrective action when States fail to perform as expected

Another area of concern to EPA regional officials involves EPA's ability to take corrective actions when States fail to perform as expected. Corrective actions to problems identified during EPA's past oversight of State performance have sometimes called for additional training of State personnel to inspect certain sources of air pollution, some of which emit pollutants considered to be very hazardous. Because of anticipated budget reductions, EPA's ability to continue to provide such needed technical assistance and training in the future may be impaired. For example, the Chief, Air Program Branch, Region V, indicated that EPA's ability to provide technical assistance and training will be diminished because of past and anticipated reductions in personnel. The Air Management Division, Region V, lost 48 positions in fiscal years 1981 and 1982. In fiscal year 1983 the regional air staff was projected to lose another 43 positions. This amounted to a loss of about 22 percent of its allocated staff years between fiscal years 1980 and 1983.

A June 1982 Congressional Research Service report ^{1/} on EPA's overall support of State and local programs concluded that selected secondary support activities, such as financial, technical, and informational support to States and localities, have declined \$104.5 million, or 23 percent, between fiscal year 1981 and EPA's proposed fiscal year 1983 budget.

^{1/}"The Environmental Protection Agency's Support of State and Local Programs, FY81-FY83" (June 18, 1982).

Similarly, EPA Region IV officials said that past and anticipated budget reductions may mean that they would no longer have the staff to provide the degree of technical assistance to State programs that they may need. For example, Mississippi contracts for meteorological services from a nearby university which provides an analysis of ambient air pollution data submitted by facilities seeking permits. If Mississippi should cancel this contract because of budget reductions, the region would not be able to provide the needed technical assistance to the State unless other work was suspended, since region IV currently has only one meteorologist to assist the eight States in the region. Therefore, the State would no longer be able to thoroughly evaluate the impact of the proposed new facilities' emissions on the State's overall air quality.

According to Region IV's Air and Waste Management Division Director, EPA regions could probably perform or contract for the corrective actions which need to be taken should States either fail to take the necessary actions, or return their delegated authority back to EPA for some air programs. However, these EPA officials generally agreed that

--it would cost more, and thus, in some cases, less work would be done and

--other needed activities, such as the development of operation and maintenance programs for problem air pollution facilities and technical assistance to nonattainment areas, would be suspended or eliminated.

Of the five EPA regions we contacted before the 1983 budget was approved all said that they would depend on State and local programs to continue their environmental commitments to the extent possible even with the proposed cuts and inflationary reductions.

CONCLUSIONS

EPA is changing the way it oversees States' performance of environmental functions from reviewing individual State actions to measuring the overall results of the States' environmental programs. This change is part of an overall Agency effort to more efficiently and effectively manage EPA's own performance by developing and implementing a Management Accountability System. Since the efforts are still evolving, it is too early to judge how effective EPA will be in developing and implementing an oversight system and policies. However, the development of environmental results criteria, further budget reductions, and EPA's ability to effectively deal with problems that States do not handle are concerns which may affect EPA's efforts to develop effective oversight of the States' and its own performance.

CHAPTER 4

STATE PERMIT FEES/USER CHARGES HAVE REVENUE

POTENTIAL BUT FACE OBSTACLES

EPA has suggested that States turn to permit fees/user charges as one way of replacing proposed reductions in Federal grants. Several States collect air, hazardous waste, and other environmentally related permit fees or user charges. Existing fee systems vary widely in form and amount collected, and a few States currently collect substantial revenues this way. Some States are planning to raise existing fees and others plan to adopt new fee systems, but there are a number of political, timing, and other constraints. Also, States differ in their view of how active a role EPA should have in this area.

EXISTING FEE SYSTEMS VARY WIDELY IN FORM AND COLLECTIONS

Of the 15 States we visited 6 collect air pollution related fees and 8 collect hazardous waste related fees. Nationwide, according to a June 1982 National Governors' Association (NGA) survey, 39 States indicated that they have authority to charge fees related to the issuance of air pollution permits, and 20 States actually collect such fees. In the hazardous waste area, 29 States indicated that they have the necessary authority and 17 actually charge fees. According to an NGA Associate Staff Director, one reason some States have authority to charge fees, but do not charge fees, is because of industry or political opposition. Another reason is the time it takes to develop and implement fee systems after the basic authority is obtained.

Fee systems in use vary in form, amount of revenue generated, and whether or not the environmental agency or the State's general fund receives the revenues collected. The types of fees in use in the air pollution area can vary from simple permit filing fees, with fixed charges, to more elaborate variable fee systems based on new construction, annual renewals, annual emissions, or charges to a facility's operating condition. For example, Ohio charges between \$65 and \$1,000 for construction or modifications of new facilities emitting air pollutants; \$225 to \$975 for waiver or time extensions for meeting requirements; \$50 to \$500 for operating permits, renewable every 3 years; and a \$15 initial application fee. Ohio's collections from these fees are estimated to total \$1,300,000 in fiscal year 1982 or about 38 percent of the State's total air pollution program funding of \$3.4 million in fiscal year 1982.

In the hazardous waste area the basis for fixed or variable fees can include activities related to State permit reviews; required monitoring and surveillance; and the volume or type of waste generated, transported, or disposed. For example, Michigan charges

\$7,300 and up for construction of disposal facilities based on the type and size of the facility, the volume of waste treated, and other factors. In addition, a \$500 operating fee is charged for each operating license renewal. Finally, hazardous waste haulers are annually charged up to \$500, along with \$200 for each vehicle in use. Michigan's collections from these fees are estimated to total \$365,000 in fiscal year 1982 or about 15 percent of the States total hazardous waste program funding of \$2.5 million in fiscal year 1982.

According to NGA, fees collected in the air pollution area range from under 1 percent, as a percentage of a State environmental agencies operating budget, to a high of 47 percent for those States reporting this information. For hazardous waste the comparable figures range from 6 to 59 percent. NGA does not explain the variation in the percentage of program costs recovered by fees; however, a recent EPA contractor's report ^{1/} on State hazardous waste fee systems does address factors that may support States' decisions to collect fees or to fully or partially recover program costs. Those factors include

- extent of State experience with other environmental fees;
- State philosophy on whether the violator should pay and be assessed fees to recover the cost of State regulation, or whether the public benefits as a whole and therefore should pay the costs out of general fund revenues; and
- whether or not a State wants to influence waste management practices through financial incentives or disincentives.

Regardless of the types of fees or amounts collected, an important issue according to NGA is the disposition of the fees collected. According to NGA's survey, only nine States make collections directly available to the environmental agency in the air pollution area and only eight States do so in the hazardous waste area.

The NGA concludes that given the budget limitations in most States, even where fees are collected, collections may not go to the environmental agency. Instead, fees are often deposited in the States' general fund and are available for other State programs.

^{1/}"A Study of State Fee Systems for Hazardous Waste Management Programs," Fred C. Hart Associates, Inc., July 1982.

SOME STATES PLAN TO ADOPT FEES OR INCREASE
EXISTING ONES, BUT THEY MAY FACE OBSTACLES

There are several political, timing, and other constraints that may play a role in a State's willingness to adopt or raise fees. The lack of State legislative authority to collect fees is a major roadblock in some cases. NGA's survey report lists 10 States in the air pollution area and 17 States in the hazardous waste area which do not have authority to charge fees. This situation is changing, however, as more and more States are considering fees as a possible solution to the problem of declining State and Federal revenues. Of the 15 States we visited, 7 are considering adopting the necessary authority to start charging air pollution related fees where none now exist or to raise existing fees. In the hazardous waste area four States are in this category.

The costs involved in administering fee systems is another issue. One complaint is that income generated through fees tends to equal the additional administrative costs involved. This is especially true in States that charge relatively low fixed or one time fees. States with more sophisticated fee systems, however, can generate substantial revenues which support a high percentage of their operating costs. For example, according to an EPA contractor report discussed earlier, Louisiana's fiscal year 1982 hazardous waste budget totaled about \$2 million, with the the Federal Government supplying \$1,040,000 and the State \$960,000. Of the total State share, about \$900,000 is expected to be generated through fees which equals 45 percent of the total program costs and 94 percent of the State's share.

The time required to implement fee systems is important, particularly if, as EPA has suggested, States are to turn to fees to make up for reduced Federal grant funds. According to a staff director at the National Conference of State Legislatures, State legislatures had little time to adopt fee legislation after EPA's fiscal year 1983 budget was made public in February 1982. Early 1983 will be the first time many States will be able to consider adopting or raising fee systems. After that, the necessary rules and regulations and fee schedules will have to be developed. Even then, more time may be required to resolve unforeseen problems or possible legal challenges. For example, Tennessee had hoped to finance a large portion of its hazardous waste program through fees collected. It initially estimated receipts of \$700,000 in fiscal year 1982 and \$1.125 million in fiscal year 1983 through this system. However, as of April 23, 1982 (the last day for paying fees without penalty), the director of Tennessee's hazardous waste program said that fee collections were less than 50 percent of their fiscal year 1982 estimate, and he believed that the revenue estimates were overstated. As of September 27, 1982, less than \$385,000 had been collected, or 55 percent of the fiscal year 1982 estimate. Among others, the director cited the following reasons for the diminished fee collections:

- Although substantial effort went into writing the hazardous waste fee system regulations, several loopholes were identified by hazardous waste generators, transporters, and storage facilities, allowing them to pay no fees or substantially less. Most significant were the parts of the legislation describing the amount of waste handled, the size of the facility, the type of facility, and whether a facility was classified as onsite or offsite storage, treatment, and/or disposal facility for waste.
- A law suit has been filed against the State by offsite facilities, alleging illegal discrimination since the fees for offsite facilities are higher than those for onsite facilities.
- The rate structure for small facilities, some of which have not paid their fees, has been challenged as economically infeasible since it would put these facilities out of business if they had to pay the fees. These groups have appealed to the Tennessee legislature for relief from this rate structure, but a decision has not yet been reached.
- Changes in EPA regulations as to the definition of a hazardous waste handler resulted in several large volume waste handlers being delisted and therefore are no longer under the purview of the law.
- A total of 216 treatment, storage, and disposal facilities did not respond to the original fee notification letter. Follow-up letters have been made and inspections will follow.

The director said that he still believed a fee system could support a substantial portion of the State's hazardous waste program, but it would take several years longer to implement than was initially envisioned.

The threat of lost industry and jobs is another possible concern. This could happen, for example, if one State adopts heavy fee requirements when neighboring or other States do not. It is unclear, however, how large a role environmental fees would have in an individual company's decision to relocate. General economic conditions and industry pressure, however, has played an important role in at least one State. In fiscal year 1982 Michigan expected to collect over \$2.6 million in air program related fees or 62 percent of its total State air program share. According to EPA's Michigan coordinator in region V, however, the Michigan Chamber of Commerce and a coalition of large industries were successful in persuading the Michigan State legislature to phase out the air pollution fee system by 1985. While the State legislature intends to make up for lost fee revenues with general fund appropriations, a budget analyst with the State told us that because of very poor

economic conditions and a tight budget it is unlikely that the lost fees will be totally replaced with appropriated funds.

Finally, the threat of creating compliance discentives or other unintended effects is a potential concern to some States. For example, an EPA contractor report on State hazardous waste fee systems noted that Texas expressed concern that use of a fee might work counter to a program's enforcement goals by encouraging generators to find ways to be exempted from regulation or avoid paying the fees. One way to avoid fees according to the report is by illegally dumping hazardous wastes. In addition, the report noted that Indiana has withdrawn a proposed hazardous waste fee from consideration because of the possible disruptive effects on the State's commercial hazardous waste industry caused by wastes being shipped to a nonfee neighboring State.

EPA's role regarding State fee systems

It is unclear how large a role States want EPA to have. Our review indicates that some States consider their taxing and other revenue systems to be within their domain and could resent Federal attempts to influence State decisions regarding these matters. For example, the Director of the Ohio Environmental Protection Agency's Air Pollution Control Division told us that EPA should have no role in encouraging the States to adopt fee systems or increase existing fee schedules. On the other hand, the Chief of Michigan's Air Quality Division told us that EPA should enforce the requirement that States adopt air pollution fee systems, and this may help convince the State's legislature to adopt fees.

In any event EPA may have recently provided a very strong incentive, even stronger than legal mandates, by proposing to reduce State environmental grants and threatening more reductions in the future. We found that this incentive, at least in part, is behind some States current interest in adopting or raising fees.

CONCLUSIONS

One way EPA has suggested that States compensate for proposed reductions in environmental grants is through permit fees/user charges. Some States already collect such fees (generating substantial revenues in a few cases) and others are considering adopting them.

In attempting to adopt new fee systems, or raise existing fee schedules, however, States may face several obstacles. For example, lack of State legislative authority, concern about administrative cost, threat of lost industries/jobs, and the possibility of creating additional compliance problems are all potential issues. Also, States indicated that it takes time to adopt the necessary legislative authority, promulgate related regulations and fee schedules, and then resolve any implementation problems. The timing problem was a particular concern for States attempting

to quickly respond to EPA's proposed fiscal year 1983 grant reductions. This concern may now be lessened, however, because the Congress did not approve all of EPA's proposed reductions.

States differ in their view of how strong a role the Federal Government should have in influencing what revenue systems the States adopt. EPA's proposed fiscal year 1983 grant reductions and the threat of additional future reductions, however, have resulted in increased State interest in fee systems and the potential revenue that they offer.

CHAPTER 5

EPA's PERSONNEL ACTIVITIES

Since fiscal year 1981 EPA's personnel ceiling has steadily decreased. While staff reductions involve difficult decisions and choices by the agency and can have adverse effects on the personnel involved, EPA administered its personnel actions in fiscal year 1981 in accordance with Office of Personnel Management procedures. In addition, EPA met its fiscal year 1982 personnel ceilings without conducting any reductions-in-force (RIF's). EPA should also be able to meet its personnel ceilings in fiscal year 1983 because the Congress provided funds in EPA's appropriations to support an additional 418 workyears above the administration's request. However, EPA is still concerned that relying on attrition to meet the fiscal year 1983 personnel ceilings may cause personnel skill mix problems.

As requested, we reviewed the number of Intergovernmental Personnel Assignments (IPA's) to the States. IPA authorized a program of temporary assignment of employees so that different government agencies can share resources. Historically, between 1977 and 1981 EPA hosted between 89 and 118 employees from other government agencies and between 71 and 102 EPA employees were hosted in other agencies. In 1982 EPA hosted 61 employees and 106 EPA employees were hosted by other agencies, which appears to follow the historical trend.

EPA's ABILITY TO MEET PERSONNEL CEILINGS

Since fiscal year 1981 EPA's authorized ceiling level has decreased. The following table shows EPA's historical ceiling since fiscal year 1979.

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>		
			(original)	(modified)	(proposed)	(actual)	
Permanent full-time (PFT) employees	10,698	11,015	11,063	10,621	9,821	8,645	9,063
Change in PFT positions from prior year	-	+317	+48	-442	-800	-1,176	-758

As shown in the table, until fiscal year 1981, EPA's ceiling had been gradually increasing; however, the Office of Management and Budget (OMB) modified EPA's personnel ceiling in the middle of fiscal year 1981, after the change in administrations, and EPA's ceiling was decreased by 442 positions. To accommodate this decrease, EPA used RIF procedures to abolish 330 positions (the

remainder was absorbed by attrition) which resulted in 382 personnel actions as shown in the table below. The majority of the RIF's administered in fiscal year 1981 resulted from attempts by EPA organizational units to be at or near the new ceiling by October 1, 1981.

Number of Actions

<u>Personnel actions</u>	<u>Headquarters</u>	<u>Regional offices</u>	<u>Total</u>
Reassignments		104	104
Downgrading		52	52
Conversions to part time		30	30
Conversions to temporary		14	14
Resignations		26	26
Separations	28	72	100
Involuntary retirements		18	18
Early-out retirements	13	24	37
Optional retirements	—	1	1
 Total	 <u>41</u>	 <u>341</u>	 <u>382</u>

EPA met its fiscal year 1982 PFT ceiling of 9,821. In fact, at the end of the fiscal year, EPA had only 9,375 PFT employees, which was 446 PFT employees below the ceiling. Although the administration requested a PFT ceiling of 8,645 for fiscal year 1983, the Congress provided an additional \$10.5 million in personnel compensation and benefits above the administration's request in EPA's appropriation. The Congress believed that this amount would provide sufficient funding to preclude any reductions in positions during fiscal year 1983. Specifically, this additional funding was intended to support an additional 418 PFT above the administration's request of 8,645, bringing EPA's PFT level up to 9,063 for fiscal year 1983.

Based on a current attrition rate of 60 PFT's per month through the end of fiscal year 1983, EPA should meet its fiscal year 1983 ceiling of 9,063 as long as it continues the freeze imposed April 13, 1982, on "outside hiring." However, top EPA management officials, such as the personnel director and deputy comptroller, expressed concerns that the present policy of relying on voluntary separations without replacement hiring can cause skill mix problems, such as shortages in key professional positions, since such separations are generally random in nature. The personnel director added that reorganizations which are planned at the assistant administrator level will attempt to better align individual employee skills with resource needs. If qualified personnel are available within the agency, reorganizations may be able to alleviate skill mix problems. However, since the reorganizations are still in the planning phase, it is too early to evaluate their impact on skill mix.

EPA's personnel director said that a by-product of any reorganization will most likely be downgrades and possibly RIF's in fiscal year 1983. A member of his staff added that reorganizations usually increase attrition when employees, who are unhappy about downgrades or transfers, "voluntarily" separate.

At the request of Congressman Albert Gore, Chairman, Subcommittee on Investigation and Oversight, House Committee on Science and Technology, 1/ we reviewed personnel data at three Federal agencies, including EPA, in 1982 to determine whether the budget during fiscal years 1980 to 1982 had led to RIF's, difficulties in hiring, increased rates of voluntary separation among Federal scientists and engineers, and if as a result, there had been a serious drain of the knowledge and expertise required for effective development and enforcement of regulations. We reported that the amount of attrition among Federal scientists and engineers was not significant, only 1 percent of the scientists were RIFed at EPA during this period. Also, EPA experienced general expansion among scientists and engineers from October 1979 to December 1980, followed by a period of declining numbers during calendar year 1981. But we were not able to determine the impact of the changes on the agency's regulatory functions.

RIF PROCEDURES

As shown above, EPA's ceiling levels have continually decreased since fiscal year 1981. To accommodate these decreases, EPA used RIF procedures to abolish 330 positions from January 1 through November 20, 1981, in headquarters, laboratories, and regional offices. We reviewed RIF's affecting two EPA organizations--the Health Effects Research Laboratory, Research Triangle Park, North Carolina; and the Noise Enforcement Facility, Sandusky, Ohio--to determine whether EPA complied with RIF legal and regulatory requirements. These two installations abolished 40 positions from January through November 20, 1981, in connection with the fiscal year 1981 ceiling reductions. Twenty-three positions (15 incumbered and 8 vacant) were abolished in the Health Effects Research Laboratory as a result of an EPA reorganization plan. The Noise Enforcement Facility was closed as a result of budget and ceiling constraints, abolishing all 17 positions.

1/"Attrition of Scientists at Three Regulatory Agencies"
(GAO/PAD-83-16, Dec. 1982).

The following personnel actions occurred during these RIF's:

<u>Health Effects Research Laboratory</u>		<u>Noise Enforcement Facility</u>	
Downgrades	5	Separations	11
Reassignments	5	Transfers	<u>a/4</u>
Resignations	4	Resignations	1
Conversions to temporary	2	Retirements	<u>1</u>
Transfers	<u>2</u>	Total	<u>17</u>
Total	<u>18</u>	a/Two transferred before receiving specific notices.	

In making our review at these two facilities we examined the Office of Personnel Management's and EPA's regulations and policies on RIF's. We also reviewed pertinent documents to determine if EPA was complying with these regulations and requirements. The Office of Personnel Management requirements and procedures for conducting a RIF must be followed by Federal agencies when separating certain employees because of a lack of funds, decrease in work, reorganization, reclassification due to change of duties, or the need to place a returning person with reemployment rights. However, these regulations allow management wide discretion in deciding which positions will be eliminated when it determines a RIF is necessary.

Our examination of the RIF actions in the two offices we reviewed disclosed no violation of any laws or regulations. As noted above, EPA has not conducted any RIF's related to its fiscal years 1982 or 1983 ceiling reductions.

IPA ASSIGNMENTS

The Intergovernmental Personnel Act of 1970 authorized a program of temporary assignment of employees so that different government agencies can share resources. Under IPA's mobility provisions, employees may be assigned between Federal agencies and States, local governments, Indian tribal governments, institutions of higher education, and other eligible organizations for periods of up to 2 years.

The Chairman asked us to determine the extent to which EPA has provided staff to the States under IPA and whether current IPA levels are consistent with historical levels. EPA began participating in IPA's mobility program in July 1971 and, according to EPA's Director of Personnel and Organization, this program is the only intergovernmental exchange program in which EPA participates. We evaluated historical program data that dates from fiscal year 1977 and found that IPA assignees have remained at an overall fairly consistent level.

<u>Fiscal year</u>	<u>EPA hosted</u>	<u>Outside hosted</u>	<u>Total</u>
1977	112	71	183
1978	89	76	165
1979	103	78	181
1980	118	102	220
1981	99	93	192
1982 (As of Sept.)	61	106	167

Both Federal and non-Federal employees who participate in the program may be assigned either on detail or on a leave-without-pay basis, and Federal employees remain employees of their agencies. Federal employees on detail to non-Federal organizations do not count against personnel ceilings if the organization to which they are assigned reimburses the agency for at least 50 percent of the employee's salary. Federal employees on leave-without-pay do not count against personnel ceilings if their assignments are for more than 30 days. Non-Federal employees on detail to IPA mobility assignments with Federal agencies also do not count against Federal personnel ceilings. However, if a non-Federal employee has received a Federal appointment which lasts for more than 30 days, he does count against the personnel ceiling.

As of September 13, 1982, there were 167 people participating in the IPA program at EPA during fiscal year 1982. Sixty-one of these people were EPA hosted and 106 were outside hosted--84 at State and local agencies, 18 at universities, 1 at a nonproject organization, and 3 with Indian Nations. Of the 167 people participating, 24 counted against EPA's ceiling.

Some examples of current assignments are:

- An EPA environmental protection specialist is working for the Minnesota Pollution Control Agency as a pollution control specialist.
- A lecturer in biostatistics at the Harvard School of Public Health is working at EPA headquarters in the Office of Pesticides and Toxic Substances as a senior science advisor.
- An environmental engineer from EPA's Region III is working as a project engineer for New Jersey's Department of Environmental Protection.

CONCLUSIONS

EPA's 1983 personnel ceiling of 9,063 PFT employees can be met given the current attrition rate and the continuation of the hiring freeze implemented in April 1982. However, top EPA management officials are concerned that the policy of relying on voluntary separations without replacement hiring can cause skill mix problems.

Our review of RIF actions occurring in fiscal year 1981 disclosed that they were conducted in accordance with Office of Personnel Management procedures.

CHAPTER 6

EPA's CONTRACTING ACTIVITIES

As noted in our past reviews, EPA has had numerous contracting problems, including extensive use of cost-plus-fixed-fee, level-of-effort (contractor must devote a specified level-of-effort for a stated period of time for a fixed dollar amount) and sole-source contracts; failure to subject contracts to a required, independent internal review; possible contractor performance of work which should have been performed by EPA employees; extensive contract modifications; and potential contractor organizational conflicts-of-interest. However, our current review of these problems in relation to two specific contracts, as requested by the Chairman, disclosed no indications of any legal deficiencies. In addition, EPA has taken steps to alleviate contracting problems noted in earlier reviews; however, our review was too limited to determine whether EPA's contracting procedures have actually improved.

According to EPA contracting officials, during fiscal years 1979, 1980, 1981, and 1982 EPA incurred numerous contract actions involving millions of dollars in obligations, as shown below.

<u>Fiscal year</u>	<u>Contract actions</u>	<u>Obligations</u> (millions)
1979	2,846	\$308.7
1980	2,984	358.0
1981	2,538	356.0
1982	2,521	359.0

EPA estimates that it will obligate \$342 million during fiscal year 1983 under its appropriated budget.

EPA's CONTRACTING PROBLEMS

On March 9, 1982, we issued a report to Senator Max Baucus on 444 EPA consulting and management support contracts. 1/ We found that

--92 percent of the contracts appeared to have been at least partially for the performance of government functions that OMB Circulars A-120 and A-76 require be performed by Federal employees;

1/"EPA's Use Of Management Support Services" (CED-82-36, Mar. 9, 1982).

--88 percent of the contracts were cost-plus-fixed-fee contracts that provide minimal incentive for contractors to effectively manage costs; and

--60 percent of the contracts were modified to increase costs, expand the scope of work, and/or extend the periods of performance. These modifications increased the costs of the contracts to about 2-1/2 times the original amounts, from \$126.8 million to \$317.8 million.

Of 30 EPA management support service contracts which we reviewed in detail, work products provided under 10 contracts appeared to be of questionable value to EPA. No work product was received under one contract. In addition, we found 84 contracts where potential organizational conflicts-of-interest could diminish the contractor's ability to give EPA impartial, objective advice. For example, EPA contracted with a chemical company to provide pollution control data to support EPA's enforcement action against another chemical company. Prospective EPA contractors were not required to provide any information on their interests that might represent an organizational conflict-of-interest.

At the time of our review in June 1981, EPA had drafted proposed regulations that would shift the responsibility for determining the existence of an organizational conflict-of-interest from the contractor to the contracting officer. A new solicitation provision would require a prospective contractor to disclose relevant facts relating to its interest or certify that, to the best of its knowledge, no such relevant circumstances exist. As of September 13, 1982, EPA was still considering the issuance of these draft regulations as proposed rulemaking.

LEGALITY OF CERTAIN ASPECTS OF TWO CONTRACTS EPA AWARDED

As requested by the Chairman, we examined the legality of certain aspects of two contracts EPA awarded for fiscal year 1982. The first contract, for a minimum of \$500,223, was awarded to the Maxima Corporation for typing, photocopying, and editing assistance to EPA in conjunction with its responsibilities under the Toxic Substances Control Act to compile and assess scientific evidence supporting decisions to require testing or restrict manufacture of chemical substances. The second was a \$6.2 million contract awarded to A. T. Kearney, Inc., for support services to EPA in implementing the hazardous waste program. The Kearney contract is to provide support personnel to assist EPA in carrying out the hazardous waste program activities which are mandated by law and implementing regulations.

We examined the following aspects of these two contracts: (1) the award procedure, (2) possible organization conflict-of-interest, (3) the appropriateness of using level-of-effort type contracts, (4) compliance with OMB contracting policies, and

(5) whether the contractors are performing tasks which should be performed by EPA employees.

Award procedures

The Maxima contract was awarded under section 8(a) of the Small Business Act. The 8(a) program authorizes the Small Business Administration (SBA) to contract with other Government agencies having procurement powers and to arrange for the performance of such contracts by letting subcontracts to socially and economically disadvantaged small businesses under such terms and conditions as may be agreed upon between SBA and the procuring officer. Maxima was the only firm recommended to EPA by SBA. Maxima submitted a proposal which EPA found to be technically acceptable; the contract was awarded to SBA which in turn subcontracted with Maxima.

There is no legal objection to this sole-source procurement under the 8(a) program. To further a socioeconomic policy of fostering the economic self-sufficiency of certain small businesses, section 8(a) authorizes a contracting approach which, in general, is not subject to competition and procedural requirements of Federal procurement statutes and regulations. Thus, noncompetitive awards under the 8(a) program are not legally objectionable solely because others might have been able to compete for the award.

Regarding the Kearney contract, EPA did not conduct a sole-source procurement, but conducted a competitive negotiated procurement. Offers were received from eight firms, and two firms, were found to be within the competitive range. While Kearney's estimate was higher, the second firm's estimate was considered questionable by EPA because it reflected an overestimate of the amount of work which EPA believed could be done in the field rather than in home offices. The proposal had emphasized technical considerations as being more significant than cost as an award factor, and the evaluation panel concluded that the second firm's best and final offer failed to satisfactorily address and remedy a number of technical deficiencies. Therefore, it was considered technically unacceptable; Kearney's proposal was found to be technically acceptable. We did not find any legal deficiency in the award procedure.

Possible organizational conflict-of-interest

The Kearney contract involves the use of a number of subcontractors which have done work for certain of the firms whose plants are being evaluated and monitored under the contract. EPA's policy is to avoid situations where conflict may exist between the performance of work or services for the Government in an impartial manner and the company's own self-interest. EPA regulations require that when a contracting officer determines that a potential conflict exists, the facts and area of concern and the nature of the conflict must be forwarded to the Director, Contracts Management Division, who, after obtaining advice of counsel, prepares an

appropriate clause for use in the solicitation and/or contract, or takes other appropriate action.

Pursuant to this, an article, which provides that if a successful offeror receives a work assignment which results in a conflict of interest, the offeror is required to notify the contracting officer in writing and stop work on the assignment until the contracting officer determines whether a conflict exists, was included in the proposal and in Kearney's contract with the Government and with Kearney's subcontractors. The offeror is to proceed with work which the contracting officer determines does not involve a conflict, and to arrange for performance of other work in a manner that the contracting officer agrees does not result in a conflict.

To the extent that the backup material available provides information in this respect, it appears that Kearney has notified EPA when the types of potential conflicts contemplated under the regulations have been likely to occur. As a result, where significant conflict-of-interest possibilities were deemed likely by EPA, different subcontractors have been substituted, or tasks shifted in order to avoid such situations. Accordingly, it appears that EPA has complied with its obligations with respect to avoiding organizational conflicts-of-interest under the Kearney contract.

The question of possible organizational conflict-of-interest does not apply to the Maxima contract because the nature of the work, that is, typing and editing, does not lend itself to organizational conflict-of-interest.

Appropriateness of using level-of-effort type contracts

This issue does not apply to the Maxima contract which is essentially a requirements contract; that is, the contractor provides services as ordered by the agency on the basis of direct labor hours at specified fixed hourly rates.

The Kearney contract is a cost-plus-a-fixed fee, level-of-effort contract. The cost-plus type of contract was used because EPA determined that its requirements could not be made definite because the scope of work was broad and general. While EPA could generally define the outline of the work required, it determined that it could not specify exactly what work would be required.

After making this determination, EPA further determined that a "level-of-effort (term) contract," rather than a "completion contract," was warranted. The applicable regulation provides that the "completion form" of cost-plus contract is preferable to the "term form" when the work in question lends itself to the development of definable points in a program when specific objectives can be said to have been accomplished. However, the Agency determination and finding indicated that this was not feasible.

Therefore, it appears to us that EPA acted within its discretion in using the level-of-effort form of contract.

Compliance with OMB contracting policies

OMB Circular A-76 establishes a preference for relying on the private sector to supply the commercial or industrial goods and services the Government needs. However, A-76 also recognizes that certain functions are inherently governmental in nature and therefore require that such functions be performed by Government personnel. OMB Circular A-120 provides guidelines on the use of consultants and contains, among other provisions, a requirement that consultant services not be used in performing policy/decision-making or managerial work which is the direct responsibility of agency officials. However, these circulars represent policy only and are not legally binding. We have consistently taken the position in our prior reports 1/ that we regard the question of whether an agency properly determined to perform work in-house rather than to contract work as one involving a policy matter to be resolved by the executive branch.

The Maxima contract is one for services which are essentially clerical, and which are of the kind listed in A-76 as office services that are suitable for contracting out. In addition, as previously noted, the Maxima contract is an 8(a) set-aside. Circular A-76 specifically provides that contracts awarded under authorized set-aside programs need not be reviewed for possible in-house performance and that new requirements which are suitable for award under a set-aside program should be satisfied by such a contract without a comparative cost analysis. Thus, it appears that the Maxima contract is in accordance with OMB policy as articulated in A-76.

Regarding the question of whether the contracting out to Kearney of such functions as assistance in compliance and enforcement matters might be considered questionable under A-76 or A-120, EPA indicated that OMB denied requests for the required positions, and OMB directed that the work be performed by contracting out. In view of this, we believe that OMB has itself expressed its view approving the contracting out of these particular functions.

1/"The Department of Energy's Practices for Awarding and Administering Contracts Need To Be Improved" (EMD-80-2, Nov. 2, 1979).

"The Department of Energy's Use of Support Service Contractors To Perform Basic Management Functions" (EMD-81-144, Sept. 14, 1981).

"EPA's Use of Management Support Services" (CED-82-36, Mar. 9, 1982).

Contractors' performance of services which should be performed by EPA employees

As a general rule, personal services for the Government are required to be performed by Federal personnel under Government supervision. A proper contract for services is one where the relationship established between the Government and the contract personnel is not that of employer-employee. Where services directed at the performance of a Federal function are obtained by contract, the question of whether contractor personnel are functioning in an employer-employee relationship with respect to the Government is one of supervision. If contractor personnel are, in fact, supervised by a Federal officer or employee, the contract is not one for independent services but involves procuring personal services in avoidance of civil service laws and regulations.

The EPA project officer in charge of the Maxima contract has indicated that all assignments of work are made through an employee of Maxima who functions as a supervisor of the Maxima staff at the EPA site. There is no direct supervision provided by EPA staff; rather, all such supervision is provided by the Maxima employee supervisor. In view of this information, we believe that the services provided do not fall into the category of prohibited personal services. With respect to the Kearney contract, while the EPA final review indicated that EPA personnel could have performed the work required if EPA had been allowed to hire the necessary additional personnel, the requisite contractor supervision of its employees also appears to be present.

An additional consideration is whether certain functions are so crucially related to an agency's mission that it would be inappropriate to contract out such functions. As a general matter, we would consider it inappropriate for EPA to contract out a function which included discretionary authority to render decisions relating to the agency's legal mission.

As discussed previously, the Kearney contract involves consultant services with respect to a range of management functions which appear to significantly affect EPA's obligations under the hazardous waste program. If Kearney or its subcontractors were invested with discretionary authority with respect to compliance or enforcement matters, or with the authority to essentially promulgate any of the regulations required under the legislation, we believe that it would constitute an improperly contracted out function which should be performed by EPA personnel. However, our review of the contract discloses that Kearney's functions are consistently expressed in terms of providing assistance to the agency in the performance of such tasks.

For example, we reviewed 16 of the 106 Kearney task orders' scope of work statements to determine whether any may have given the contractor latitude to perform basic management functions.

Our review indicated that while the scope of work attached to the request for proposal was general enough to encompass basic management functions, the individual scope of work for each task, which was agreed upon after the contract was awarded, was fairly detailed and did not appear to give Kearney sufficient latitude to perform basic management functions. The individual tasks we reviewed were generally for information gathering, documentation, and collation in accordance with the project officer's instructions and sample selection.

In one instance, the request for proposal's scope of work required the contractor to develop a methodology for assessing the adequacy of ground water monitoring plans and systems, which may be interpreted as contracting out for basic government functions. However, the individual work assignment related to this task required the contractor to (1) review existing guidance materials, (2) develop a checklist and guidelines to be used during a hazardous waste site inspection to determine the reasonableness of the ground water monitoring plans prepared in accordance with the hazardous waste program requirements (a preliminary check only), and (3) prepare a detailed evaluation procedure to instruct and assist a field inspector in visually inspecting the facility and ensuring that the conditions at the facility are commensurate with the conditions described in the plan. We believe this task was detailed enough to not allow the contractor latitude in performing basic management.

Therefore, if Kearney's role is restricted to nondiscretionary providing of such assistance, it is not objectionable.

Compliance with appropriation act provisions

In connection with EPA's contracting policies, we were asked to determine whether EPA appropriation acts contain provisions limiting the agency's hiring of Federal personnel to perform such activities as inspections, enforcement, compliance, and management.

We examined the legislation providing appropriations for EPA in fiscal years 1981 and 1982 and found no such restrictions in the "Salaries and Expenses" (S&E) category under which EPA's employees are paid. For both fiscal years EPA's S&E funds were appropriated in lump sums with no relevant limitations.

For fiscal year 1981, the S&E appropriation as enacted reflected an administration budget request amendment recommending a \$7 million reduction from its original request. The House Appropriations Committee went along with this request, stating

"The Committee recommends that the reduction reflected in the April budget amendment be applied entirely to personnel compensation and benefits."
H.R. Rep. No. 96-1114, 96th Cong., 2d Sess. 19.

The Senate Appropriations Committee also accepted the reduced S&E request, directing in its report that \$4.5 million of the reduction come from expenses for consulting services. This earmarking of consulting services expenses for reduction was accepted by the conference committee, but only as to \$3.8 million. In neither instance, however, was the term "consulting services" defined, nor was EPA advised on the application of these S&E reductions to specific staff activities. Similar recommendations are not found in reports accompanying EPA's fiscal year 1982 appropriation act.

Restrictions set forth only in legislative reports, and not contained in the legislation itself, have no binding legal effect on the authority of an agency. Therefore, as long as the funds are appropriated in a lump sum form, the moneys may be used for any authorized purpose. In this case, EPA's lump sum S&E appropriation did not direct or restrict the agency's hiring of and assigning particular duties to Federal employees and consultants. The only limitations were those imposed indirectly by the reduced funding levels, which may have had the effect of restricting the number of persons actually hired.

EPA's INTERNAL MANAGEMENT OF CONTRACTS

While we did not find any of the previously identified contract problems in our review of A.T. Kearney and Maxima, our review was too limited to determine whether EPA's contracting procedures have improved. However, EPA reported to OMB that the following actions, among others, have been taken to streamline and improve procurement procedures and processes since our March review:

- An EPA procurement executive with agencywide responsibility for developing the procurement system and evaluating system performance has been designated.
- Procurement planning processes have been strengthened.
- Accountability on major procurements to ensure that awards are congruent with current policies and priorities has been enhanced.
- Aggressive management of contract processing, establishing milestones and reducing overall processing time, has been implemented.

In response to concerns about contracting activities expressed during congressional oversight hearings in November 1981, EPA's Assistant Administrator for Administration and its Inspector General agreed to conduct a cooperative evaluation of the agency's contracting procedures. This joint initiative, entitled "Vulnerability Assessment of Agency Contracting," is intended to produce a report to the Administrator in January 1983, which reflects both audit and management perspectives and the ability to correct contracting vulnerabilities and weakness through management action.

The joint effort will include a review of

- all existing contracts of \$100,000 or more;
- EPA's procurement offices' systems and procedures;
- program offices' contracting decision and management processes; and
- compliance with OMB Circulars A-76 and A-120, including possible unnecessary substitution of contractor for Government personnel, relevance of contractor work to EPA's mission, use of contractor end products, contract monitoring, adequate competition, sole-source justifications, and contract modification.

IMPLICATIONS FOR THE FUTURE

There are several potential ways that budget reductions can affect EPA's level of contracting, the nature of such contracts, and the degree of oversight they subsequently receive. For instance, budget reductions may translate into personnel ceilings, which limit EPA's ability to do work in-house, resulting in an increase in the amount of contractual activities. Also, attrition losses may mean fewer staff members monitoring more contractual activities. Further, reduced or limited travel funds may affect the amount of contract monitoring and direct oversight which can be performed.

Based on the fiscal year 1983 budget proposal, some groups within EPA planned to increase contractual activities even though the number of staff to monitor such activities was to decrease. In the five laboratories we visited at Research Triangle Park, North Carolina, there was one such case. Also, our prior 1980 report had identified problems with monitoring contracts.

Contractor activities are increasing in the research and development area

The Environmental Criteria and Assessment Office, Office of Research and Development, collects and evaluates the scientific literature EPA scientists and national and international researchers produce. Preparing and publishing criteria documents, ^{1/} which must be thoroughly reviewed and updated every 5 years in

^{1/}Criteria documents cover each of the seven national ambient air quality standard pollutants. These documents serve as the basis for determining the level to which ambient air concentrations of a given pollutant should be limited. The criteria documents consist of a comprehensive review and evaluation of the pollutant, its effects on the public and the environment, and the avenues through which the public and the environment are exposed to the pollutant.

accordance with the Clean Air Act, is this office's major objective. It also prepares assessment documents on hazardous air pollutants such as arsenic, vinyl chloride, and asbestos.

The recent budget history for the Criteria and Assessment Office is as follows:

	<u>Total budget</u>	<u>Extramural</u>		<u>Travel</u>		<u>Personnel</u>
		<u>Budget</u>	<u>Percent of total</u>	<u>Budget</u>	<u>Percent of total</u>	
-----(\$ in thousands)-----						
1981	\$1,900.0	\$880.0	46	\$30.0	1.6	35
1982	1,471.7	524.4	36	25.7	1.7	<u>a/</u> 24
1983 (pro- posed)	1,845.0	850.8	46	26.0	1.4	<u>b/</u> 25

a/Number on-board, authorized 28.5.

b/Number on-board strength will be no more than 24 in 1983 if current policy of not replacing attrition losses continues.

According to the deputy director, the Criteria and Assessment Office had wanted to reduce the amount of contracting it did because it has had previous problems with contractors. The contracting problems were in three areas:

- The quality of the contractor's work was not in line with the work performed by in-house staff.
- The timeliness and dependability of contractors meeting product deadlines, critically important factors for the office, were very poor.
- The distortion of communications regarding research direction from the office to researchers was significantly increased by using contractors to interface between the office and well-known external researchers. The external scientists were generally contracted to write a chapter or section of a criteria document, but sufficient in-house staff were unavailable to monitor the work of those scientists, so the Criteria and Assessment Office had to contract with others to provide interface between the two groups. According to the deputy director, this just did not work "all that well."

The deputy director also told us that the nature of the work, the lack of personnel, and the lack of travel funds necessary to adequately monitor these contracts and assure good performance during the contract were the primary causes of problems in these contracts. As evidenced by its fiscal year 1982 budget figures, the deputy director told us that the office had made a concerted effort to do more work in-house and less extramurally in recent years. He said that, in his opinion, in 1982 the office had just reduced its level of contracting to the point where it could be adequately managed. Travel funds were still viewed as insufficient to do the job.

Nonetheless, based on the budget proposal, its contract activities were expected to increase in fiscal year 1983 instead of decrease, as the deputy director had hoped. Because the budget reductions coincided with the accelerated schedules for the required lead and ozone criteria documents, in-house staff said that they would contract for an estimated 50 to 75 percent of the lead criteria document and 90 to 95 percent of the ozone criteria document. Additionally, contractors would be used to monitor the contracts. Since all available staff were anticipated to be used on these two major projects, all hazardous air pollutant assessment documents would be done by contract in fiscal year 1983 under the budget proposal. The Criteria and Assessment Office has averaged four to six such assessment documents annually in the past.

Based on the proposal for fiscal year 1983, while the contracting dollars for this office were to be at the same level in the overall budget in 1983 as in 1981, the number of personnel to monitor contracts would have dropped approximately 30 percent. It is too early to discern the effect, if any, of the increase in the appropriated 1983 budget on this office.

In our October 1980 report, 1/ we found the following contract monitoring problems:

- Project offices could not adequately monitor researchers' technical progress in conducting extramural research because of heavy workloads and travel limitations.
- Contracts generally take substantially longer to award than EPA's standard acquisition leadtimes, thereby unduly delaying the start of needed research.
- EPA lacks information on past performances of outside researchers for use in determining which applicants appear best qualified to perform new projects.

1/"Promising Changes Improve EPA's Extramural Research; More Changes Needed" (CED-81-6, Oct. 28, 1980).

As a result of this work, we recommended that the EPA Administrator seek sufficient appropriations for project officers to make necessary site visits to observe extramural research and instruct laboratory directors to make sure that such visits receive high priority in the use of available travel funds. In addition, we suggested that EPA train project officers to properly contract with extramural researchers and require them to complete technical evaluations of contract proposals within established time frames. Also, we recommended that EPA improve its evaluations of the performance of those who perform extramural research for the agency.

In its response to the report, EPA agreed that project officers' workloads and travel funds for site visits to their extramural projects required attention but stated that relief for neither is wholly at the discretion of EPA management. EPA added that it had consistently sought travel funds for this purpose, but the Congress had reduced its requests and OMB had also imposed travel ceilings.

Unless EPA corrects the problems already noted, similiar contracting problems may recur or continue to exist.

CONCLUSIONS

EPA's use of contractors has historically been related to the agency's growth of program missions and its corresponding budget from inception in 1971 to 1980. Often EPA did not have personnel levels sufficient to keep up with the budget increases and would turn to contractors to carry out its program missions. However, these budget reductions may result in EPA having less personnel to perform work, which may then be contracted out, or have less personnel to monitor contracts--an area where we have already found EPA to be deficient.

In our review of two contracts awarded for fiscal year 1982, we found no legal problems with

- the award procedures,
- EPA's compliance with its obligation to avoid organizational conflict-of-interest,
- EPA's propriety in using level-of-effort type contracts,
- the contracts' compliance with OMB circulars A-76 and A-120, and
- EPA's compliance with appropriation acts provisions.

While EPA has taken steps to improve its contracting procedures, our review was too limited to determine whether EPA's contracting activities have improved.

EPA's OPERATING PROGRAM BUDGET BY PROGRAMFOR FISCAL YEARS 1981 to 1983

	Actual obligations <u>1981</u>	Estimate <u>1982</u>	Budget proposal <u>1983</u>	Budget appropriations <u>1983</u>
	----- (millions) -----			
Air (note a)	\$ 235.4	\$ 219.8	\$184.1	\$ 198.8
Water quality (note a)	318.2	236.8	186.0	212.5
Drinking water (note a)	79.3	83.8	69.8	77.1
Hazardous waste (note a)	141.4	107.2	103.3	112.6
Pesticides (note a)	64.8	53.7	50.8	52.6
Radiation	14.2	10.4	10.3	10.4
Noise	12.2	2.0	-	-
Interdisciplinary	13.9	17.7	20.7	20.7
Toxic substances (note a)	94.1	77.4	68.6	68.6
Energy	84.6	52.5	34.5	34.5
Management and support	212.0	221.1	230.3	228.9
Buildings and facilities	3.1	3.6	3.0	3.0
Undistributed (note b)	-	-	-	20.0
Total operating program (note a)	<u>\$1,273.2</u>	<u>\$1,086.0</u>	<u>\$961.4</u>	<u>\$1,039.7</u>

a/Includes applicable grant funds.

b/Includes \$10.5 for salaries and expenses
 8.5 for research and development
 1.0 for academic training
\$20.0

to be used in the various program areas at EPA's discretion.

EPA'S GRANT ASSISTANCE FORFISCAL YEARS 1981 TO 1983

	<u>1981</u>	<u>1982</u>	<u>Proposed</u> <u>1983</u>	<u>Appropriated</u> <u>1983</u>
	(millions)			
<u>Air</u>	\$ 87.7	\$87.7	\$70.0	\$84.7
<u>Water Quality</u>				
State Management	51.2	51.2	40.9	54.2
Areawide Planning	33.5	-	-	-
Clean Lakes	11.0	9.0	-	-
<u>Drinking Water</u>				
Public Water Systems	29.5	29.5	23.6	27.4
Groundwater Protection	6.6	6.6	5.5	7.1
Special Projects	1.5	1.8	-	-
<u>Hazardous Waste</u>				
Hazardous Waste Management	26.5	41.7	35.1	44.1
Solid Waste Management	8.1	-	-	-
Resource Recovery	4.0	-	-	-
<u>Pesticides Enforcement</u>	8.0	8.7	6.9	8.7
Toxic Substances <u>Enforcement</u>	<u>1.0</u>	<u>.5</u>	<u>-</u>	<u>-</u>
Total	<u>\$268.6</u>	<u>\$236.7</u>	<u>\$182.0</u>	<u>\$226.2</u>

DELEGATION STATUS OF AIR AND HAZARDOUS WASTE
PROGRAMS FOR STATES AND LOCALITIES WE VISITED

AS OF JUNE 30, 1982

	<u>NSPS</u>	<u>NESHAPS</u>	<u>PSD</u>	<u>RCRA phase I</u>	<u>RCRA phase II</u>
Region III:					
Delaware	Full	Full	Full	Authorized	None
Maryland	Full	Full	Full	Authorized	Draft stage
Pennsylvania	Full	Full	Partial	Authorized	Draft stage
Virginia	Full	Full	Full	Authorized	None
Region IV:					
Kentucky	Incomplete	Full	Full	Authorized	Draft stage
Mississippi	Incomplete	Full	Full	Authorized	Draft stage <u>1/</u>
North Carolina	Incomplete	Full	Full	Authorized	Authorized
Winston-Salem	Incomplete	Full	Full	-	-
Tennessee	Incomplete	Full	Full	Authorized	Draft stage <u>1/</u>
Knoxville	Full	Full	Full	-	-
Memphis	Full	Full	Full	-	-
Region V:					
Indiana	Full	Full	Full	Draft stage <u>1/</u>	None
Michigan	Full	Full	Full	Draft stage	None
Ohio	Incomplete	None <u>1/</u>	Full	Draft stage	None
Region VI:					
Arkansas	Full	Incomplete	Full	Authorized	Authorized
Texas	Full	Full	Partial	Authorized	Authorized
Region X:					
Oregon	Incomplete	Incomplete <u>1/</u>	None	Authorized	Draft stage
Washington	Incomplete	Full	None <u>1/</u>	None <u>1/</u>	None <u>1/</u>

1/Status expected to change in fiscal year 1982.

EPA's MANAGEMENTACCOUNTABILITY SYSTEM

In response to the perceived need for an agency accountability system, based in part on an internal September 1980 study, the Administrator established the Management Accountability System in late 1981. The system allows the Administrator to track the progress of assistant and regional administrators in meeting established agency goals. In January 1982 EPA's Office of Management Systems and Evaluation issued its first quarterly report under the system. Three additional quarterly reports have since been issued. To date, the system has been developed in-house at a cost of \$145,900. The cost of operating the system during the last three quarters of fiscal year 1982 was estimated to be \$390,000. The full year operating cost estimate for fiscal year 1983 is \$475,000. Further refinements to the system, such as the development of environmental results indicators for measuring and managing for the highest priority environmental results (see ch. 3), are planned. Until such measures are completed, we are unable to fully assess the practicability and usefulness of the system.

NEED FOR A BETTER SYSTEM

During July and August 1980 EPA conducted a survey of headquarters reporting and accountability systems to identify and assess how the agency tracks progress against its operating year guidance. The survey included an examination of the current and other reporting systems used by program managers at that time. It culminated in a September 1980 report which showed that

- EPA did not use a consistent, uniform, or agencywide system to track program accomplishments against its operating year guidance;
- the system was virtually unused in the context of accountability;
- there was little evidence of corrective action taken where the system identified performance below the commitment level;
- agency accountability was hindered by the absence of clearly defined long-range goals; and
- there was substantial agreement that the agency needs an overall system of accountability.

As a result the study recommended that EPA develop a comprehensive long-range plan. In addition, it recommended that the agency emphasize headquarters accountability and limit operating

year objectives to a more reasonable number and state them in measurable terms. Also, these objectives should be clearly written into the performance standards of the managers responsible for carrying them out, thus linking individual performance appraisals specifically to agency operating goals.

Furthermore, the need for a system of accountability was discussed in both fiscal years 1980 and 1981 operating guidance documents. In the fiscal year 1981 guidance, a first-level priority involved filling

"* * * probably the most critical remaining gap in our management process by putting in place the necessary means through which the administrator and the agency's managers can measure performance against promise and hold both regional and headquarters accountable."

System objectives and design

The Administrator defined six broad goals in fiscal year 1983 which reflected her key concerns for the Agency, including (1) delegating programs to States, (2) developing and reviewing critical regulations, (3) meeting program commitments, (4) improving the quality of EPA science, (5) conducting an effective enforcement program, and (6) incorporating environmental results indicators into measurements of EPA's progress in meeting its overall environmental goals. Assistant and regional administrators will be held accountable for implementing the system to achieve these goals.

These goals have been translated into approximately 70 objectives, to be established in the fiscal year 1983 guidance document. These objectives are tracked and measured in the system by outputs such as management improvements, milestones, and environmental results.

The system has added new output measures as well as incorporated some output measures from the previous system. For example, to measure regional progress in delegating air programs to States, one of the agency's critical goals, the system tracks whether State delegation strategies are completed on schedule and whether delegation targets are being met.

Each regional administrator is held accountable for meeting predetermined time frames and targets. The assistant administrators are similarly held accountable. For example, the Assistant Administrator for Air, Noise, and Radiation is responsible for output goals such as whether a policy guidance on States' willingness to accept delegation is issued on schedule.

The number of operating year objectives measured has been limited. The major difference between the new and old systems is that the new system is based on the Administrator's six critical goals and about 70 objectives established in EPA's fiscal year operating guidance. According to the Chief, Accountability Systems Branch, Management Systems and Evaluation, in order to track progress in meeting the Agency's goals and objectives, the Agency is tracking about 200 outputs. The old system tracked up to 1,400 projected program accomplishments in relation to each program's operating plan and, according to current EPA managers, was generally not useful for accountability purposes. Also, the system has stated its objectives in measurable terms. For example, the national target for delegated programs in fiscal year 1982 was 47 percent.

Finally, the system design appears to link the objectives of the operating goals of the Agency to the performance standards of the managers responsible for carrying them out. For example, according to the Director, Management Systems and Evaluation, the system allows EPA to "do more important things with less" because it directly ties the assistant and regional administrators into working toward meeting the Administrator's critical goals. He said that by building the agency's budget requests, performance standards, merit pay system, and award structure into the system, the system ties together all management functions.

TOP LEVEL SUPPORT

The Administrator is emphasizing headquarters and regional accountability and has shown a commitment to the new system. For example, after reviewing the fiscal year 1982 first quarter system report, the Administrator sent letters to each acting assistant and regional administrator commenting on progress to date and noting where corrective actions were needed. In her March 1982 letter to the Assistant Administrator for Air, Noise, and Radiation she said, in connection with the Agency goal of increasing State delegation:

"* * *it is apparent that we are a long way from full delegation of our programs, with NSPS [New Source Performance Standards] being about 66 percent delegated overall, and NESHAPS [National Emission Standards for Hazardous Air Pollutants] being about 55 percent delegated overall. Improving the percentages for these and other programs should be one of your top priorities."

Letters to regional administrators showed similar concern on the delegation issue. The Administrator commented that:

"I am particularly concerned that we meet our national targets for delegation, to increase full delegation from 30% to 47% (not including NPDES [National Pollution Discharge Elimination System] and Construction Grants delegations). The first quarter report gives us a benchmark against which to measure Region-by-Region progress over the next three quarters. Regions III and IV are the clear front runners with 42% and 50% of their programs fully delegated, respectively. On the other end of the scale, Regions VI, X, and IX are trailing in overall progress towards delegation."

COST OF THE SYSTEM

The following tables, supplied by EPA, describe the estimated developmental and operational costs of the system and the developmental costs to date of the environmental results work.

COST OF THE MAS*

I. START-UP COSTS FOR THE MAS

Estimate of start-up cost during the fourth quarter of fiscal year 1981 and the first quarter of fiscal year 1982:

Salaries and Benefits

11 full-time employees for 4 months @ \$36,100/yr =	\$132,400
Expenses (Travel, Printing Supplies, Equipment)	3,500
Contracts	-0-
Automated Data Processing (In-house)	<u>10,000</u>
TOTAL START-UP COSTS	<u>\$145,900</u>

II. OPERATING COSTS TO RUN THE MANAGEMENT
ACCOUNTABILITY SYSTEM:

	FISCAL YEAR	
	1982 (3 quarters)	1983
<u>Salaries and Benefits</u>		
10 full-time employees @ \$36,100/yr	\$270,800	\$361,000
Expenses	25,000	25,000
Contracts	40,000	74,000
Automated Data Processing (External)	40,000	-0-
Automated Data Processing (In-house)	<u>15,000</u>	<u>15,000</u>
TOTALS	<u>\$390,800</u>	<u>\$475,000</u>

COST TO CARRY OUT THE ENVIRONMENTAL RESULTS MANAGEMENT
DEVELOPMENT EFFORTS

	Fiscal Year	
	1982 (3 quarters)	1983
<u>Salaries and Benefits</u>		
7 full-time employees @ 36,100/yr	\$189,500	\$252,700
Expenses	35,000	25,000
Contracts	150,000	125,000
Automated Data Processing (External)	-0-	20,000
Automated Data Processing (In-house)	<u>-0-</u>	<u>53,000</u>
TOTALS	<u>\$374,500</u>	<u>\$475,700</u>

EPA could not provide us with direct cost data on the previous system, the Program Accountability System. However, a branch chief in the Office of the Comptroller estimated that during fiscal year 1981, the last year of the system, the system cost approximately \$175,000, for an 8-month period. He said that this system, instituted in 1979, was never more than a paperwork system, and that reports generated in 1980 and 1981 were used for informational purposes, not management accountability. The Accountability Systems Branch Chief within the Management Systems Division cautioned that cost comparisons of the new system to the old system are difficult to make. First, the environmental results management effort is a separate cost area not incurred under the previous management system. Second, the new system saves reporting costs by reducing by 85 percent the number of measures to be reported each quarter. Last, the majority of the new system's expense comes from adding quality assurance and management review functions that were not in the previous management system.

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