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WATER POLLUTION

**Observations on EPA's Efforts
to Clean Up the Great Lakes**

Statement of
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Resources, Community, and Economic Development Division



Mr. Chairman and Members of the Subcommittee:

More than 45 million people from the United States and Canada rely on the Great Lakes for a variety of uses, including drinking water. However, the water quality of the Great Lakes and their tributaries has deteriorated over the years because of industrial development, urbanization, and agricultural activities. We are pleased to be here today to discuss the Environmental Protection Agency's (EPA) efforts to address water pollution problems caused by these activities.

As you requested, our testimony presents the results of our prior reports on and a current examination of this issue. Among other things, you asked us to (1) examine compliance and enforcement issues associated with the Great Lakes' area National Pollutant Discharge Elimination System (NPDES) program--the program that regulates discharges into surface waters; (2) determine how the NPDES program controls the discharge of four specific pollutants--polychlorinated biphenyls (PCBs), mercury, lead, and oil and grease--into the Great Lakes; and (3) describe EPA's efforts to implement a United States/Canadian agreement's goal of eliminating discharges of persistent toxins into the Great Lakes.

In summary, our work shows the following:

- The NPDES program in the Great Lakes area is faced with many of the same compliance and enforcement problems that we found in prior reviews of the program: many serious and long-standing violations of permit discharge limits; weak and sporadic enforcement against violators; and inadequate EPA oversight of states' enforcement activities.
- Although the NPDES program places limits on discharges of some toxic and other harmful pollutants, it is not designed to eliminate these discharges totally. For example, in 1990 alone, about 7.3 million gallons of oil and grease and 89,000 pounds of lead were discharged into the Great Lakes under the NPDES program.
- Although EPA has several efforts underway to implement the U.S./Canadian Great Lakes agreement, progress has been slow because of a variety of technical, organizational, and resource problems.

Before I expand on our findings, I would like to provide some background on how the NPDES program works and on the United States/Canada Great Lakes Water Quality Agreement.

BACKGROUND

EPA implements many of its primary water quality programs by issuing permits that limit pollutant levels. Under the NPDES program, limits are placed on the pollutants that industrial, municipal, and federal facilities discharge into the nation's waters. To determine if the limits are being complied with, pollutant levels are to be monitored by the dischargers and reported to the regulatory authority--EPA or a state with delegated

authority.¹ If the discharges exceed permit limits, the violations are to elicit an enforcement response that can range from informal actions such as verbal warnings or written notices of violation to formal actions such as fines or penalties. The type of action to be taken depends on various factors, including how significant and long-standing the violations are, whether the violations are intentional, and how successful informal actions are in correcting them.

Increased concern over contaminants in the Great Lakes prompted both the U.S. and Canadian governments to sign the first international Great Lakes Water Quality Agreement in 1972 to restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes. The Agreement was revised in 1978 and again in 1983 and 1987. Although one of the Agreement's long-term goals is to virtually eliminate the discharge of persistent toxic substances into the Great Lakes, the Agreement recognizes that this may not be a feasible, near-term objective. Instead, the Agreement calls for the development of lakewide and area-specific plans that identify problems in the lakes, the sources of these problems, and strategies to address them. The plans are intended to serve as an important step toward virtual elimination of persistent toxics and toward restoring and protecting the Great Lakes Basin ecosystem.

In 1978, EPA established the Great Lakes National Program Office (GLNPO) as the focal point to plan and coordinate cleanup efforts by EPA, other federal agencies, and the Great Lakes states. As we stated in a 1982 report on efforts to clean up the Great Lakes, however, GLNPO was continually frustrated in its attempts to accomplish these objectives.² Reflecting similar concerns by the Congress, the Water Quality Act of 1987 formally required GLNPO to (1) identify problems regarding the Great Lakes, (2) coordinate the activities of organizations that could help solve these problems, and (3) report to the Congress on progress made in implementing the Great Lakes Water Quality Agreement.

THE NPDES PROGRAM IN THE GREAT LAKES SHARES PROBLEMS FOUND NATIONWIDE

Many of the problems we identified in our earlier reports on the NPDES program were also evident in the program in the Great Lakes area. These problems include noncompliance with permit requirements, reluctance on the part of states to take strong enforcement actions against violators, and inadequate oversight by EPA to ensure that timely and appropriate enforcement actions are taken against permit violators.

¹Under the Clean Water Act, EPA can delegate NPDES regulatory authority to authorized states; all of the states bordering the Great Lakes have been delegated such authority.

²A More Comprehensive Approach Is Needed to Clean Up the Great Lakes (CED-82-63, May 21, 1982).

Violations Are Frequent and Often Long-standing and Serious

In our 1983 report on the NPDES program, we estimated that over 80 percent of the 531 major dischargers in six states exceeded their permit discharge limits at least once during an 18-month period.³ Similarly, on the basis of EPA's own tracking system data, 84 percent of the 583 major dischargers in the Great Lakes basin exceeded their monthly average limits at least once during the 18-month period October 1989 to March 1991.

However, EPA officials note that a single exceedence by a given facility during an 18-month period should not be unexpected given the number of discharge points and number of pollutants regulated. EPA therefore focuses on those violators in "significant noncompliance."⁴ We found that at the end of 1990, 19 percent of the Great Lakes dischargers were in significant noncompliance with permit conditions. Of these, 56 percent were in significant noncompliance with their discharge limits; 31 percent for missing reporting requirements; and 13 percent for not meeting construction schedules to correct outstanding problems that caused facilities to exceed their discharge limits.

Enforcement Responses to Serious Violations Are Weak and Sporadic

According to EPA policy, states should take formal enforcement actions against violators before they have been in significant noncompliance for 2 consecutive quarters. Furthermore, the Clean Water Act authorizes EPA to take enforcement actions against violators when states fail to do so.

Our review disclosed, however, that many violators remain in significant noncompliance longer than 2 consecutive quarters before formal actions are taken. For example, during the 18-month period July 1989 to December 1990, 51 of the 583 major Great Lakes dischargers were in significant noncompliance for 2 or more consecutive quarters. Despite EPA's enforcement policy, however, formal enforcement actions were only taken against 24 of these violators during this period. In fact, 13 of the 51 violators were in significant noncompliance for 4 or 5 consecutive quarters, and required formal actions were taken by states in only 7 of the 13

³Wastewater Dischargers Are Not Complying With EPA Pollution Control Permits (GAO/RCED-84-53, Dec. 2, 1983). The estimates in the report were based on a review of randomly selected major dischargers in six states.

⁴According to EPA criteria, a facility is in significant noncompliance with discharge limits when it either exceeds its monthly average permit limit (1) twice in any 6-month period by 40 percent for conventional pollutants or by 20 percent for toxic pollutants or (2) four times in any amount in any 6-month period. A facility that fails to provide any monthly discharge report is also classified by EPA as in significant noncompliance.

cases.⁵ EPA regional officials attributed delays in taking formal actions to a 1989 hiring freeze and a heavy litigation workload.

In recent years, EPA has taken some strong enforcement actions that have focused national attention on the problems facing the Great Lakes. In one notable case, EPA obtained a court-approved agreement from a major steel company to spend over \$32 million to install pollution control equipment and to begin cleaning up the Grand Calumet River in Indiana. While this type of effort demonstrates that the agency is able to take strong actions, EPA needs to ensure that timely, formal enforcement actions are consistently taken against facilities in significant noncompliance.

PERMITS ALLOW
SIGNIFICANT DISCHARGES
OF SOME POLLUTANTS

Even if the program were working precisely as intended, it can only go so far in limiting the discharge of toxic and other harmful pollutants. While NPDES permits contain discharge limits for some conventional and toxic pollutants, the permits do not preclude discharges altogether. Furthermore, the permits do not place discharge limits on many pollutants and may only require facilities to monitor and report discharges.

Even when permits contain discharge limits, the limits are often expressed in terms of pollutant concentrations rather than the total quantity or mass that may be discharged into surface waters. Unlike mass limits, concentration limits allow dischargers to meet their permit limits by diluting pollutants in their wastewater. Although this practice can cause problems with many pollutants, it is especially problematic with toxic pollutants that are persistent and bioaccumulate up through the food chain. The bioaccumulation of toxins in fish tissues has led to numerous fishing restrictions in the Great Lakes over the years.

Although EPA regulations state that all discharge limits should be stated in terms of mass, the regulations provide for several exceptions. For example, if a form of pollution cannot be expressed in terms of mass, such as temperature, radiation, or pH, mass limits are inappropriate. The regulations also provide for exceptions when the standards⁶ used to develop permit limits are expressed in terms other than mass.

⁵According to EPA officials, since December 1990, the states and EPA have taken formal actions in 4 of the outstanding cases and the remaining 2 facilities have returned to compliance without the initiation of formal enforcement actions.

⁶Permit discharge limits are derived from technology-based and/or water quality-based standards. Technology-based standards are based on the results achieved by actual industry practices in limiting the amounts of pollutants in their discharges. Water quality standards consist of the designated use of a water body (such as drinking water or commercial fishing) and the water quality criteria (expressed in numeric or narrative form) needed to protect the designated use.

Our review showed that most permits do not contain mass limits for discharges of the four pollutants we were asked to examine: PCBs, mercury, lead, and oil and grease. (PCBs, mercury, and lead are persistent toxics that bioaccumulate.) For example, only 5 percent of the pipes with permits that cover PCB discharges into the Great Lakes basin have discharge limits stated in terms of mass. Another 37 percent of the pipes have discharge limits stated in terms of concentration, and 57 percent of the pipes have permits that only require the permittees to monitor and report their discharges. Table 1 shows permit requirements for the pipes discharging the four pollutants.

Table 1: NPDES Permit Discharge and Reporting Requirements

<u>Pollutant</u>	<u>Number of pipes</u>	<u>Percent of pipes with limits</u>		<u>Total</u>	<u>Percent reporting only</u>
		<u>Mass</u>	<u>Concentration</u>		
PCBs	75	5	37	42	57
Mercury	375	14	17	31	69
Lead	633	24	24	48	53
Oil and grease	1,641	10	70	80	20

EPA has recently acknowledged the importance of setting discharge limits in terms of mass. In a March 1991 guidance document for EPA regional and state permit writers,⁷ EPA recommended that permits contain mass limits where possible to discourage permittees from diluting their wastewater in order to meet concentration-based limits. According to EPA officials, permits issued after this guidance was issued reflect an increased use of mass discharge limits. For example, a review by EPA's Region V of the 33 permits issued by the six states in that region after March 1991 reveals that nearly half of the permits contain discharge limits for toxic pollutants expressed in terms of mass as well as concentration.

Annual Discharges into Great Lakes

Because most of the pipes discharging PCBs, mercury, lead, and oil and grease into the Great Lakes do not have permits that state limits in terms of mass, it is not possible to precisely quantify the total level of discharges allowed under the NPDES program. Nonetheless, EPA officials told us that they can calculate total Great Lakes discharges by converting the concentration levels reported by some dischargers into mass levels (by multiplying concentration levels by reported total flow rates), and adding this amount to the mass levels reported by other dischargers. Table 2

⁷Technical Support Document for Water Quality-based Toxics Control, EPA (Mar. 1991).

shows the quantities of the four pollutants discharged into the Great Lakes under the NPDES program during calendar year 1990.

Table 2: Average Daily and Total Annual Discharges During 1990

<u>Pollutant</u>	<u>Number of dischargers</u>	<u>Average/Day</u>	<u>Total annual</u>
PCBs	48	5.3 lbs. ^a	1,935 lbs. ^a
Mercury	200	2.6 lbs. ^a	933 lbs. ^a
Lead	295	244 lbs.	89,000 lbs.
Oil and grease	731	20,000 gal.	7,300,000 gal.

^aAccording to EPA officials, the agency's data base converts reported PCB and mercury discharges of "under detection levels" to the amount that can be detected by monitoring techniques. Accordingly, while they were unable to provide precise figures, EPA officials believe that the actual discharge of these pollutants may be somewhat lower than shown in table 2.

A relatively small number of facilities were responsible for the discharges shown in table 2. For example, about 90 percent of the oil and grease discharges came from only 19 permittees, primarily steel companies and municipal sewage treatment plants. Similarly, about 80 percent of the lead discharges came from only 20 of the permittees, primarily steel manufacturers and sewage treatment plants.

EFFORTS TO REDUCE TOXIC DISCHARGES INTO THE GREAT LAKES

I have already noted that the NPDES program does not eliminate, nor is it designed to eliminate, all discharges of toxic and other harmful pollutants. While the NPDES program could be used to better control these discharges, additional programs that address sources of toxic pollutants not covered by NPDES are also needed to effectively deal with the problem.

EPA and the states have a number of efforts underway to help limit the discharge of pollutants into the Great Lakes and to restore their health. While these efforts should yield tangible and significant gains for the Lakes, a number of technical, organizational, and resource problems have limited progress on these efforts.

The Great Lakes Water Quality Initiative

In an effort to help restore the health of the Great Lakes, in 1989, EPA established the Great Lakes Water Quality Initiative. To date, the primary focus of the Initiative has been to have the Great Lakes' states develop uniform water quality standards. These standards, in turn, will be used by the states in establishing

discharge limits for toxic pollutants under the NPDES program. Establishing uniform water quality standards for the Great Lakes states should help reduce toxic discharges into the Great Lakes by expanding the number of toxics covered by NPDES permits and by reducing incentives for industrial facilities to move their operations to Great Lakes states with less stringent standards.

According to EPA officials, however, although the Initiative should help in reducing the discharge of toxic pollutants into the Great Lakes, it will be several years before this effort results in more stringent NPDES discharge limits for toxic pollutants. In particular, because of the difficulties involved in obtaining needed data and in having states reach consensus, current efforts are only focusing on a minority of the toxic pollutants of greatest concern. Because the standards developed under the Initiative must go through states' rulemaking processes, EPA officials estimate that it will take at least another 2 to 3 years before this work starts to translate into more stringent NPDES permits. Furthermore, while more stringent NPDES permits will help reduce the discharge of toxic pollutants from facilities' wastewater, the program does little to address other sources of toxic pollution, such as air emissions or urban and agricultural run-off that eventually find their way into the Great Lakes.

The Great Lakes Water Quality Agreement

Recognizing that toxic and other harmful pollutants enter the Great Lakes from a number of sources, the 1987 amendments to the Great Lakes Water Quality Agreement emphasized an ecosystem approach to address these problems. As part of this approach, the Agreement calls for the development of both lakewide and area-specific management plans. Among other things, the Lakewide Management Plans (LMPS) are to include (1) an evaluation of sources and levels of toxic pollutants, (2) the actions needed to meet the Agreement's objectives, and (3) the identification of remedial actions needed.

LMPs are currently under development for Lake Michigan and Lake Ontario. EPA's Region V, five other federal agencies, and the states of Illinois, Indiana, Michigan, and Wisconsin are developing the Lake Michigan LMP, while Environment Canada, the Ontario Ministry of the Environment, EPA, and the New York State Department of Environmental Conservation are developing the Lake Ontario LMP. According to EPA, work on the LMPs for Lakes Superior, Erie, and Huron is scheduled to begin in fiscal years 1992, 1993, and 1994, respectively.

In addition, the Agreement calls for the development of Remedial Action Plans (RAPs) to address pollution problems in 43 designated "areas of concern." Areas of concern are geographic areas in the Great Lakes Basin that have failed to meet the objectives of the Agreement. Beyond identifying problems, sources, and causes, each RAP must identify needed remedial actions, time frames, and who is responsible for implementing the actions. Affected U.S. states and Canadian provincial governments are responsible for developing the RAPs with EPA regional assistance. As of June 1991, however, only 19 draft RAPs had been reviewed by a

joint U.S./Canada commission, and 13 were found to be deficient and need to be revised.

The Agreement's emphasis on an ecosystem approach and the number of parties involved in developing and implementing the plans create an important role for EPA's Great Lakes National Program Office (GLNPO). One of GLNPO's key responsibilities is the design and supervision of applied research and monitoring programs for the Great Lakes. This information is critical for the development of the LMPs and RAPs. Another key GLNPO role is to coordinate the efforts of the many federal, state, and local institutions with responsibilities for developing and implementing the plans.

As we noted in our 1990 report on EPA's progress in cleaning up the Great Lakes,⁸ GLNPO's problems in carrying out both of these responsibilities have contributed to delays in developing LMPs and RAPs. For example, we noted that more data were needed for the development of LMPs and that disagreements existed over GLNPO's appropriate role in developing RAPs. We concluded that EPA needed to clarify GLNPO's roles and responsibilities to speed progress on developing and implementing the plans.

EPA's own review of its efforts to clean up the Great Lakes reached similar conclusions. For example, in its February 1991 report to the House and Senate Committees on Appropriations,⁹ EPA found that GLNPO's monitoring efforts need to be reprioritized. Specifically, the report noted that GLNPO's monitoring program focuses on nutrients rather than toxic pollutants, even though much is already known about nutrients and that problems associated with them have been largely solved. In contrast, EPA's regional offices and the states have a great need for more data on toxics to assist them in developing LMPs and RAPs. The report called for a reevaluation of GLNPO's monitoring and research programs to ensure that they support the goals and priorities of the Water Quality Agreement. In response to EPA's 1991 report, GLNPO has established working groups with the states and EPA regional offices in order to better address their monitoring and research needs.

The EPA report also found that GLNPO needed to improve its efforts as coordinator. The report stated that GLNPO has inappropriately performed activities that are more typically the responsibility of EPA regional offices, such as reviewing permits, and has not been fully successful in getting others to undertake Great Lakes activities. To illustrate the point, the report concluded that "GLNPO should assume the role of orchestra conductor rather than trying to play all of the instruments in the orchestra itself." In response to this concern, GLNPO has established a number of working groups with EPA regional offices, other federal agencies, and Great Lakes states. GLNPO and EPA regional offices

⁸Water Pollution: Improved Coordination Needed to Clean Up the Great Lakes (GAO/RCED-90-197, Sept. 28, 1990).

⁹A Review of EPA's Great Lakes Program: Report to the Committees on Appropriations (Feb. 7, 1991). The report was in response to a requirement of H.R. 101-556 that EPA review the effectiveness and efficiency of GLNPO and associated activities.

have also met with state environmental directors and other state representatives to explain EPA's approach to clean up the Great Lakes and to enlist state support.

Finally, an important barrier to the successful implementation of the Great Lakes Water Quality Agreement is the magnitude of the task at hand. Both the GAO and EPA reports point out that cleaning up the Great Lakes will be costly and will take decades. For example, we stated in our report that it will cost at least \$1.8 billion to bring Michigan's Rouge River--only one of the Basin's 43 areas of concern--up to the state's public health standards by the year 2005, as planned in the area's RAP. Similarly, the EPA report concluded that lack of resources have hindered the development of LMPs and RAPs. For these reasons, both reports emphasize the importance of setting clear priorities and wisely and creatively using limited resources. In response to these concerns, GLNPO has solicited input from the Great Lakes states and EPA regional offices in developing its 5-year strategic and 1-year action plans for the Great Lakes. According to GLNPO officials, this involvement will help GLNPO identify its most pressing work and help to ensure that its limited resources are wisely used.

CONCLUSIONS

We believe the NPDES program in the Great Lakes area shares many of the same problems found in the program throughout the nation. While improvements in the NPDES program can help to better control the discharge of toxic and other harmful pollutants into the Great Lakes, the program is not designed to totally eliminate such discharges and, therefore, can only go so far in contributing to the U.S./Canada Great Lakes Water Quality Agreement's goals.

EPA recognizes these limitations and has a number of other efforts underway that attempt to address Great Lakes' problems through an ecosystem approach. The success of this approach depends to a large extent on EPA's ability to provide needed data and to effectively coordinate the activities of many different parties. However, GLNPO, the office charged with this responsibility, has only started to address problems it has had in both of these areas. Because even under the best of circumstances, cleaning up the Great Lakes will be extremely costly and will take well into the next century, it is all the more important for GLNPO, EPA's regions, and the states to wisely use their limited resources.

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This concludes my prepared statement. I would be happy to respond to any questions at this time.



United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

DEC

The Honorable Carl Levin
Chairman, Subcommittee on Oversight
of Government Management
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

Dear Mr. Chairman:

This letter responds to your request of October 18, 1991, that we provide information on issues raised during your Subcommittee's October 4, 1991, hearing on efforts to clean up the Great Lakes. Specifically, you asked us to (1) update information on the amounts of oil, lead, PCBs, and mercury discharged into the Great Lakes under the National Pollutant Discharge Elimination System (NPDES) in 1990; (2) estimate the levels of these four pollutants that come from nonpoint sources; (3) compare the volume of PCBs discharged into Lake Michigan from contaminated sediments in two rivers and a harbor with the amount discharged under the NPDES program; and (4) assess the Great Lakes Water Quality Initiative's potential effects on the level of NPDES discharges and on enforcement activities.

1990 DISCHARGES INTO THE GREAT LAKES UNDER NPDES

The following shows both the original EPA estimates of oil, lead, mercury, and PCBs discharged into the Great Lakes under the NPDES program in 1990, as presented at the October 4, 1991 hearing, and EPA's recently revised estimates.

<u>Pollutant</u>	<u>Original estimate</u>	<u>Revised estimate</u>
Oil	7,300,000 gal.	7,733,235 gal.
Lead	89,000 lbs.	91,637 lbs.
Mercury	933 lbs.	1,326 lbs.
PCBs	1,935 lbs.	290 lbs.

The revised figures reflect EPA's recent efforts to improve the accuracy of data collected from dischargers, eliminate errors, and, in the case of PCBs, remove estimates of discharges that could not be confirmed by existing testing technology. EPA officials told us that they are also improving the reliability of the 1990 discharge data for other pollutants regulated by NPDES permits and will be able to provide these figures in early 1992.

POLLUTANTS FROM NONPOINT SOURCES

Pollutants enter the Great Lakes not only from NPDES discharge points but also from nonpoint sources: for example, the air, agricultural and urban run-off, and seepage from waste and landfill sites. Insufficient data exist to estimate how much oil and mercury come from nonpoint sources. However, as the following table shows, the Great Lakes receive a significant portion of their lead from the atmosphere. Similarly, the majority of PCBs in Lakes Superior, Huron, and Michigan comes from the atmosphere, although air deposition accounts for less than 10 percent of the PCBs in Lakes Ontario and Erie.

Air Deposition of Lead and PCBs Into the Great Lakes

<u>Lake</u>	<u>Percentage due to air deposition</u>	
	<u>Lead</u>	<u>PCBs</u>
Superior	97	90
Huron	94	63
Michigan	99	58
Erie	39	7
Ontario	50	6

Source: Mass Balancing of Toxic Chemicals in the Great Lakes, International Joint Commission, 1988.

PCB DISCHARGES INTO LAKE MICHIGAN FROM CONTAMINATED SEDIMENTS

Available data indicate that the annual volume of PCBs entering Lake Michigan from contaminated sediments far exceeds the amounts discharged under NPDES permits. For example, in 1989, the International Joint Commission estimated that contaminated sediments from Waukegon Harbor

contributed about 45 pounds of PCBs to Lake Michigan annually. In contrast, according to EPA's permit compliance system, fewer than 2 pounds of PCBs were discharged into the harbor under the NPDES program during 1990.

Available data for the Fox and Kalamazoo rivers yield similar results. Using data from a 1985 report prepared by researchers at the University of Wisconsin, the National Wildlife Federation estimated in 1990 that 1,144 pounds of PCBs were entering Lake Michigan from Fox River sediments. In contrast, only about 60 pounds of PCBs were discharged into the Fox River under the NPDES program during 1990. Similarly, while the National Wildlife Federation estimated that 251 pounds of PCBs were entering Lake Michigan annually from Kalamazoo River sediments, about 24 pounds were discharged under the NPDES program during 1990.

INITIATIVE'S POTENTIAL EFFECTS ON LEVELS OF DISCHARGES AND ON ENFORCEMENT ACTIVITIES

Because EPA and the eight Great Lakes states are still working on the Water Quality Initiative, it is too soon to estimate precisely how the Initiative will affect the level of discharges into the Great Lakes.¹ Nonetheless, an EPA Region V water quality official stated that, as currently proposed, the Initiative's standards for PCBs and mercury will be more stringent than national standards, while those for lead will be about the same. Because the standards developed under the Initiative must go through states' rulemaking processes, EPA officials estimate that it will take at least 2 to 3 years before this work starts to translate into more stringent NPDES permits.

EPA believes that the Initiative should make NPDES permits more legally defensible because water quality standards would be based on sound science and would be reached by consensus among the affected parties. However, states and EPA will still have to take timely and appropriate enforcement actions when dischargers violate their NPDES permits. As we pointed out in the October 4, 1991, hearing, EPA has often not been aggressive in ensuring that states take timely and appropriate actions, or in taking actions itself when states fail to do so.

¹Because the Initiative will address only toxic pollutants, new standards will not be developed for oil.

Accordingly, while the Initiative can increase the states' and EPA's legal basis for taking strong enforcement actions, it will not ensure that such actions are taken. In fact, because the Initiative will likely result in more stringent water quality standards and NPDES permits, a growing number of dischargers can be expected to violate their permits. This, in turn, would entail an even stronger commitment by the states and EPA to take timely and appropriate enforcement actions.

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If you have any questions on the information contained in this letter, please call me on (202) 275-6111.

Sincerely yours,



Richard L. Hembra
Director, Environmental Protection
Issues