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ENVIRONMENTAL  
PROTECTION

Current Environmental  
Challenges  
Require New Approaches

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Resources, Community, and Economic Development Division



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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to testify before this Subcommittee as it reviews the management and direction of the Environmental Protection Agency (EPA). My testimony today is based on studies of environmental issues that we have issued over the past several years, including a recent report on EPA's relationship with the states. In my remarks, I will point out connections between our findings and those of the National Academy of Public Administration's (NAPA) recent review of EPA. As you know, we have examined many of the issues that NAPA addressed.

We believe that the NAPA report comprehensively and accurately analyzes EPA's central role in protecting the nation's environment and provides a good foundation for charting the future course of environmental management. Today, I would like to focus on two major issues discussed in the NAPA report: (1) EPA's ability to target its resources to the nation's highest environmental priorities and (2) EPA's relationship with the states.

In summary, our work has found the following:

- EPA has not been able to target its resources as efficiently as possible to the nation's highest environmental priorities because it does not have an overarching legislative mission and its environmental responsibilities have not been integrated. Furthermore, the agency has not established coordinated systems for planning, budgeting, and evaluating that would help it allocate its resources to reduce the greatest risks to human health and the environment.
- EPA requires a good working relationship with the states because it relies upon them to manage most federal environmental programs. However, the relationship between the federal and state environmental agencies has been strained by differences over priorities for spending limited resources. In addition, states have criticized EPA for imposing federal mandates at the expense of state priorities, failing to involve states in decision-making, and making too little technical assistance available to the states.

Before discussing these issues in more detail, I would like briefly to review the fiscal and legislative context in which EPA operates and summarize the findings of the NAPA review.

#### BACKGROUND

Like other federal agencies, EPA is charged with implementing federal mandates in an era of constrained resources. At both the federal and the state levels, the available resources are not

sufficient to carry out all of the requirements. Hence, both the federal and the state environmental agencies have to choose among responsibilities and identify their highest priorities for funding.

Over the years, the Congress has enacted over a dozen environmental statutes to protect human health and the nation's air, land, and water from identified pollutants. EPA is charged with implementing these statutes and their associated regulations. EPA, in turn, delegates many of its responsibilities to authorized states but retains its authority to oversee the states' implementation of federal environmental requirements.

As specified in the Conference Report to EPA's fiscal year 1994 appropriations, EPA requested that NAPA review the agency's allocation of resources and determine whether it is addressing the nation's most pressing environmental problems. EPA also asked NAPA to examine the impact of the agency's organizational structure on meeting environmental priorities, the role of risk assessment in regulatory decision-making and priority-setting, and the agency's relationship with states and communities.

NAPA's 1995 report concluded that the United States has made significant progress in reducing pollution from the biggest and most obvious sources, but that the rate of progress will slacken considerably unless profound changes are made in the legal foundation and management structure of EPA. The report recommended greater flexibility for EPA in carrying out its statutory mission and, in turn, more responsibility and decision making authority for states and localities. NAPA further recommended that EPA support legislation to provide flexibility and accountability to the private sector and local governments in exchange for better-than-required performance.

NAPA also called for EPA to put its own house in order by redesigning and improving its management operations to support its new direction. It said that EPA should refine and expand its use of risk and cost-benefit analysis and begin work on a reorganization plan that would break down the internal walls between the agency's media program offices for air, water, waste, and toxic substances.

#### MANAGING SCARCE RESOURCES TO ACHIEVE THE GREATEST RESULTS

Although progress has been made, the United States is still faced with numerous and diverse environmental problems. The magnitude of the task is reflected in over a dozen environmental statutes containing a wide range of responsibilities and requirements for EPA. Although these requirements would be daunting for the agency at any time, the current federal budget outlook makes it critically important that EPA's limited resources be directed at the environmental problems that pose the greatest

risk to human health or the environment. Prioritizing environmental efforts is also important because of the cumulative financial impact of these requirements on industry and local governments, which are largely responsible for taking action.

Setting priorities and allocating resources on the basis of risks have been difficult for EPA. A major reason has been that the agency, which was created under an executive reorganization plan, has no formal, overarching legislative mission. Over the years, as environmental threats were identified, the Congress has responded with individual laws. These laws were not coordinated or integrated to provide EPA with an overall system for prioritizing problems so that the most serious are addressed first. Instead, these separate pieces of legislation tended to assign pollution control responsibilities according to environmental medium (such as air or water) or category of pollutant. In addition, the laws often prescribed in detail the implementing requirements and mandated time frames for their completion.

One of NAPA's most important recommendations is that work begin to integrate environmental statutes. Along these lines, in prior testimony we have supported exploring ways of giving EPA greater flexibility to integrate its environmental statutes so as to address the most pressing environmental problems.<sup>1</sup> While difficult within the current statutory framework, we pointed out in a 1991 report that EPA needs to take maximum advantage of flexibility, to the extent provided under existing laws, to set priorities and allocate resources on the basis of risks.<sup>2</sup> In that report, we also pointed out that EPA could more fully use its existing flexibility if it developed methods for (1) demonstrating convincingly that it can determine relative risks among different environmental problems and (2) obtaining more meaningful indicators of its environmental protection efforts by measuring actual changes in environmental conditions, rather than levels of regulatory activities.

EPA has been working to put effective planning and budgeting systems in place. But progress has been slow. In our 1988 general management review of EPA, we identified changes needed in these systems.<sup>3</sup> For example, we found that the agency's annual priority lists, which should identify the most significant issues to be

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<sup>1</sup>Creation of a Department of Environmental Protection (GAO/T-RCED-93-39, May 6, 1993).

<sup>2</sup>Environmental Protection: Meeting Public Expectations With Limited Resources (GAO/RCED-91-97, Jun. 18, 1991).

<sup>3</sup>Environmental Protection Agency: Protecting Human Health and the Environment Through Improved Management (GAO/RCED-88-101, Aug. 16, 1988).

addressed during the future budget year, were too open-ended--allowing program offices to include too many potential activities as agency priorities. Our report also pointed out that EPA had limited success in its efforts to develop measures of environmental quality that could serve to gauge the extent to which EPA's programs contribute to environmental improvement. In our 1991 report, we concluded that EPA had made some strides in these areas but much work remained.

According to NAPA, EPA still needs to focus on environmental results and still needs to develop strong central management systems, including those for setting priorities, allocating resources, and assessing results. For example, NAPA concludes that EPA's five-year strategic plan, which covers the period from 1995 through 1999, improves on past efforts but neither establishes explicit priorities nor supports agency decision-making, concerns similar to those that we previously raised.

Another EPA initiative is the National Environmental Goals Project. Under this effort, EPA is developing long-range goals addressing the quality of the environment that the United States is trying to achieve. The agency is also developing benchmarks for each goal for the year 2005 that are designed to be measurable aspects of environmental quality and realistic for the nation to achieve. EPA plans to hold public meetings on its proposal and prepare a final report this fall. NAPA recommends that EPA complete the project and incorporate the goals and benchmarks into the agency's next strategic plan. We believe that such goals are important to the agency's efforts to establish priorities and that the benchmarks can serve as useful indicators of agency programs' performance in achieving environmental results.

#### A BETTER EPA/STATE RELATIONSHIP COULD IMPROVE ENVIRONMENTAL PERFORMANCE

The Congress designed most federal environmental programs so they could be administered at the state and local levels. As a practical matter, EPA cannot operate environmental programs without state assistance. GAO, NAPA, and EPA agree that a good working relationship between EPA and the states is vital to efficient program management and cost-effective environmental protection.

In April 1995, we issued a report<sup>4</sup> on EPA and state working relationships, based on our discussions with EPA officials and our interviews with and questionnaire responses received from state officials located in 16 states within three EPA regions. On the basis of this work, we reported that the EPA/state relationship

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<sup>4</sup>EPA and the States: Environmental Challenges Require a Better Working Relationship (GAO/RCED-95-64, Apr. 1995).

continues to be strained and program implementation suffers as a result. While state and EPA program managers we interviewed agreed overwhelmingly that meeting the costs of an effective environmental program is their most important challenge, they noted that an improved EPA-state relationship could help make program management more efficient and cost-effective.

#### Program Costs Have Strained Federal-State Relations

The costs of implementing the growing number of federal environmental requirements are overwhelming the budgets of many state governments. For example, EPA estimated that states needed \$304 million during fiscal year 1993 to meet the requirements of EPA's drinking water program, yet only \$142 million was available from state and federal sources, leaving a shortfall of approximately \$162 million. Similarly, a \$154 million shortage was estimated in the National Pollutant Discharge Elimination System (NPDES) program for fiscal year 1995.<sup>5</sup> For instance, in Arkansas alone, the need to fund new and existing program requirements caused the state to increase its use of water fees by about 237 percent between fiscal years 1989 and 1994.

Funding limitations have caused each of the states included in our analysis to experience recent difficulty performing some high-priority tasks in the federal environmental programs we reviewed. For example, significant backlogs of expired NPDES permits have accumulated in some states, while many states are also having difficulty monitoring environmental quality, setting standards, and enforcing compliance. The director of Wisconsin's Bureau of Wastewater Management told us that, in fiscal year 1994, the state needed a 75 percent increase in staff just to run a credible NPDES program. Similarly, Ohio's NPDES program experienced a \$4 million shortfall in fiscal year 1994, causing the state to scale back the number of permits issued and the amount of water quality monitoring done.

EPA is exploring ways to help the states address their resource shortages by providing them with additional administrative flexibility. For example, in June 1992, EPA issued guidance to set short-term priorities for the drinking water program so that EPA and the states could focus limited resources on the highest priorities. And every year since fiscal year 1992, EPA's guidance for implementing the Resource Conservation and Recovery Act of 1976 (RCRA)--the statute that governs the management of hazardous waste in the United States--specifies that a strategic management

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<sup>5</sup>Under the Clean Water Act, the NPDES program limits the discharge of pollutants into U.S. waters. Under the program, permits commonly establish discharge limits for specific pollutants.

framework for priority themes are to be identified and each state is to be given some latitude to determine the most environmentally significant activities.

EPA has also supported state efforts to take a more integrated approach to environmental management. It has been suggested that integrated, or multi-media approaches may encourage pollution prevention better, and be more cost-effective than single-medium approaches. NAPA advocates integrated environmental management, and recommends that the Congress authorize EPA to provide deserving states with integrated, rather than medium-specific funding. We are currently reviewing state integration efforts, the role EPA has played in those efforts, and their experiences to date. In the future, we plan to evaluate EPA's role in this area more fully.

#### Improved EPA/State Relationship Could Help Program Implementation

The need to bring environmental program costs and resources into line represents the greatest concern of federal and state program managers. However, the difficulties caused by resource shortages are sometimes heightened by poor federal-state relations. We found several major obstacles that hinder the development of better EPA-state cooperation. They involve the extent of federal oversight, state input into major EPA program decisions, and technical assistance.

#### EPA Oversight of States

EPA's formal policy on dealing with the states emphasizes mutual respect and trust, as well as sufficient flexibility to accommodate differing federal and state priorities. However, many state managers believe that EPA dominates this relationship, imposing federal mandates over state priorities which, from the state's perspective, often results in inefficient uses of state resources. As resources have grown tighter, philosophical disagreements over program priorities have become more frequent. We found that states are more likely to view EPA's oversight as too intrusive when they are required to implement programs in accordance with priorities that differ significantly from their own.

Although roughly one-third of the state managers we interviewed said that EPA oversight had improved, 63 percent said that the level of control EPA exerts over the states is still a significant barrier to program implementation. For example, almost all of the state officials who found excessive control a problem said that, despite the states' growing abilities to administer environmental programs, EPA routinely second-guesses state decisions and dictates program activities.

State officials frequently cited EPA's inflexible adherence to



its regulations as a major impediment to efficient program management. For example, drinking water officials in Wisconsin were frustrated with EPA's requirement that the state monitor for radionuclides,<sup>6</sup> even though Wisconsin monitoring data show that these elements do not exist in the state's drinking water. According to Wisconsin officials, it would have been more cost-efficient to spend resources on preventive activities, such as sanitary surveys and wellhead protection programs.<sup>7</sup> EPA drinking water officials stated that even if radionuclides have not been detected in Wisconsin's (or any state's) drinking water, EPA regulations do not allow waivers from radionuclide monitoring. In 1994 EPA proposed regulations to allow states to issue monitoring waivers for radionuclides (as it allows for other contaminants under the Safe Drinking Water Act).

EPA has made the adoption of new drinking water regulations required by the Safe Drinking Water Act a top priority, which has often forced states to defer or eliminate other important elements of their programs in order to devote resources to developing and implementing regulations. Ironically, many of the state activities that have suffered the most--such as technical assistance, operator training and certification, and wellhead protection--have the greatest potential to avert contamination and to reduce water systems' long-term compliance costs. Nearly nine out of every ten state drinking water officials we interviewed told us that they prefer to rely on technical assistance and preventive efforts such as operator training to keep water systems in compliance. Several of them said that EPA's emphasis on adopting new regulations represents an important difference in state and EPA priorities. They said that the agency's general unwillingness to compromise on this point adds to long-term program costs and hurts the federal-state working relationship.

NAPA and GAO have encouraged EPA to focus oversight on improvements in environmental quality without prescribing how states should achieve them. In our April 1995 report, we recommended that EPA periodically negotiate with each state a level of oversight that takes into account the ability of the state to fulfill its environmental program obligations. Similarly, in our

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<sup>6</sup>Radionuclides include radium 226 and radium 228, beta particles and photons, uranium, gross alpha particle activity, and radon. Adverse health effects from exposure to radionuclides include bone and lung cancer, leukemia, and kidney damage.

<sup>7</sup>Sanitary surveys are periodic visits by state inspectors to water systems, during which inspectors may test water quality, observe operator procedures, and/or assess the condition of equipment. Wellhead protection programs focus on preventing contamination from all sources within a wellhead area (the surface and subsurface area surrounding a water well or wellfield).

1988 general management review of EPA, we recommended that EPA adopt a new approach to oversight that would emphasize results over process, thereby giving states more latitude in day-to-day operations. These recommendations are consistent with NAPA's recommendation that EPA tailor its oversight of state programs according to state performance.

#### State Input Into Major Program Decisions

Over 80 percent of the state managers we contacted indicated that EPA needs to do a better job of routinely consulting the states on key issues, such as new regulations or program policies, that affect them directly. According to these state officials, EPA's consultations are too often perfunctory, leaving them feeling somewhat alienated and "out of the loop." Several state RCRA officials indicated, for example, that they had not been consulted on EPA's new Combustion Policy, announced in early 1993. Officials in Texas and Louisiana--two of the states most directly affected because they have the most regulated facilities--said that they found out about the new policy from press releases.

According to EPA and state officials, recent steps have been taken to improve state participation in decision-making. For example, federal and state managers now hold regular meetings and conference calls to stay abreast of technical and management developments. In addition, EPA has sought authority for fiscal year 1996 to develop "performance partnerships" with the states. In these partnerships EPA would consolidate existing state grant programs to provide states with greater flexibility to implement their environmental responsibilities. EPA and the states would work together to tailor the programs' requirements to individual state and local needs.

#### Technical Assistance for States

In its policy statements on its relationship with the states, EPA has emphasized that providing technical assistance to the states should be an agency priority. However, we found that the agency is sometimes hard pressed to follow through on its commitments in this area and that, as a result, some state programs are disadvantaged. One state drinking water official, for instance, said that it often takes EPA regional staff 6 months or longer to respond to requests for technical information.

State program managers in each of the programs we reviewed also noted problems developing defensible standards, preparing and enforcing permit limits, and performing other activities essential to managing their programs. For example, states depend on EPA to publish water quality criteria on which states base their water quality standards. As of September 1994, EPA had published criteria for only 9 of 126 "priority pollutants." Most of these criteria have been in effect since November 1980, nearly 15 years

ago. EPA officials conceded that new scientific findings may justify changes to many of its published criteria, and one state official we interviewed told us that he has been reluctant to base regulatory standards on EPA's criteria.

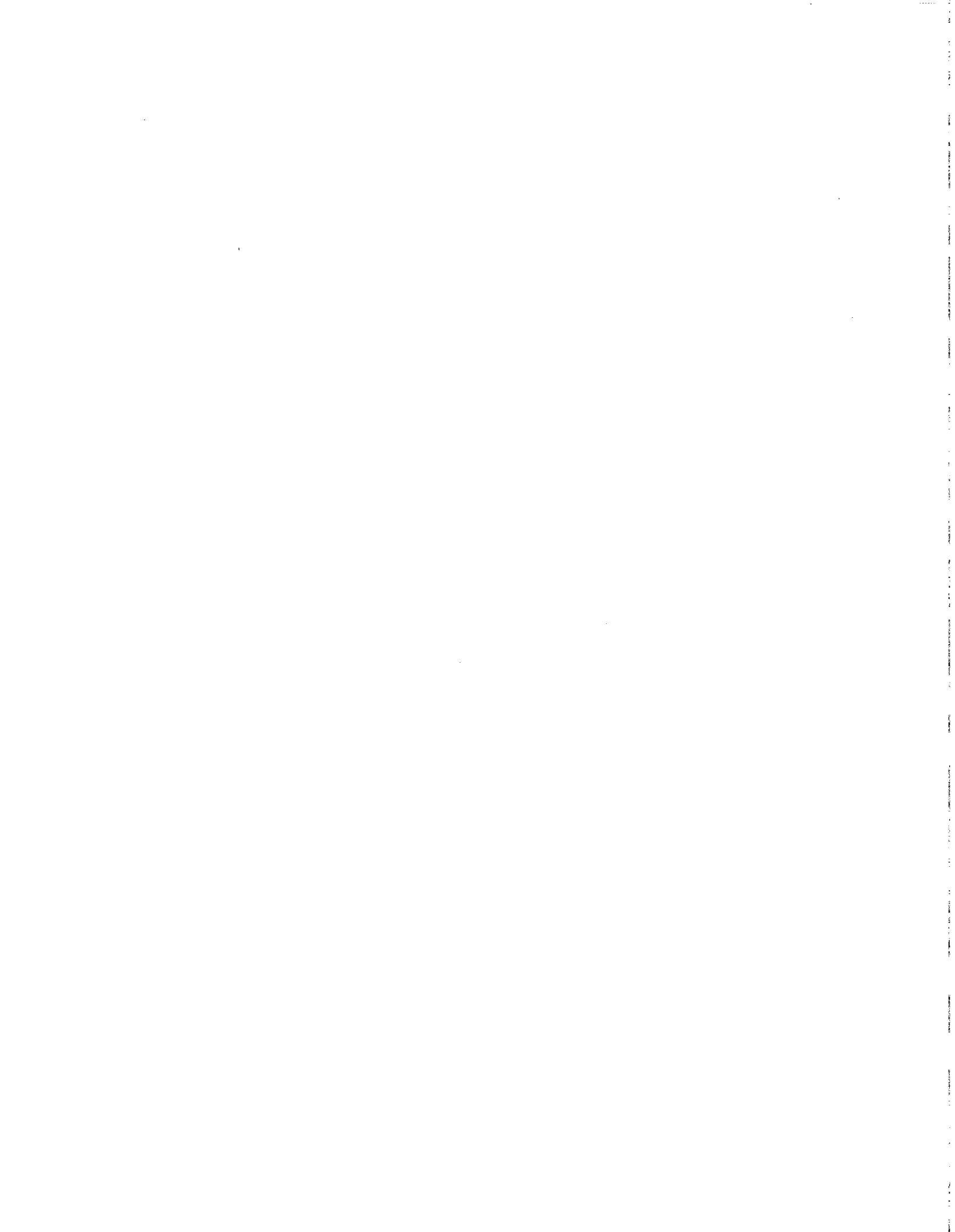
#### CONCLUSIONS

The breadth of the environmental challenge facing the nation means that EPA has to target its resources. As we have recommended in past reports, EPA needs to work with the Congress to identify flexible approaches for shifting resources to address those problems that pose the greatest risk to health and the environment. For example, in setting priorities and allocating resources, EPA and the states need to be able to demonstrate that they have the capability to measure whether their environmental protection efforts are effective. In this regard, the agency needs to continue its efforts to develop performance measures that reflect changes in environmental conditions rather than changes in the levels of agency regulatory activities.

Given EPA's reliance on the states to implement federal environmental programs, we believe that if the agency is to confront the challenges awaiting it now and in the next century, it and the states must solve the perennial problems affecting their relationship. In particular, as recommended in our recent report, agency should, within the limits of current environmental laws, be more flexible in dealing with the states by focusing on achieving environmental results through the most cost-effective ways possible, without prescribing in detail how the states are to achieve those results. Such an approach will require that EPA obtain the states' input on key issues before important decisions are made, and work with the states to identify how each state's limited funds can be most efficiently allocated.

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Mr. Chairman, this completes my prepared statement. We would be happy to respond to any questions that you or any other members of the Subcommittee may have.



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