



Thomas L. Freedman
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Will you find if there is a book/or article on how the EPA was created?

11/1/99

I Found this on
my desk in 216 and
thought it might belong
to you.

Autumn

edent turnover at the position of di-

d not take a return to war for the BEP to to a state of full mobilization, for the depression and the government programs to alleviate it during the 1930s seriously its capacities. First, there was the contrac- prompted by the contracting economy, ed to employee furloughs and a general wn in demand for the bureau's products. me the New Deal, with immediate stimu- effects on the money supply. The emer- anking legislation of 9 March 1933 au- a new issue of Federal Reserve notes to liquidity to the economy, and once again moved into high gear. Millions of gov- checks to the millions of new recipients nment transfer payments, millions of ings bonds (an entirely new product), ions of newly designed silver certificates, rtificates, and Federal Reserve notes l from the bureau's presses. Thus, when ar II arrived, the BEP was well prepared esses and easily managed the switch in on from savings bonds to war bonds, ulating currency to special issues for use ilitary in liberated territories, and from amps to military postage.

years since World War II, the bureau a variety of technological challenges. ntly, its ingenuity and the security of ican money supply have been tested by gly resourceful counterfeiters armed -resolution color copiers. In 1996, after cemeal changes and years of research lopment in cooperation with the U.S. vice, the Federal Reserve system, and ernment agencies, the BEP began pro- f new \$100 bills embodying the latest rterfeiting advances. It amounted to the prehensive overhaul of the basic cur- gn in four generations. Today, the BEP ith a work force of some three thou- maintains production facilities in n, D.C., and Forth Worth, Texas.

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—JESSE STILLER

A Historical Guide to the US GOVT

Environmental Protection Agency



During the 1960s and early 1970s, people in the United States and other nations be- came more aware of the harm- ful effects of industrial devel- opment on the quality of the environment. After two de- cades of steady economic growth since the end of World War II, citizens in the United States, Eu- rope, Japan, and elsewhere began to call for gov- ernment intervention to reduce levels of air and water pollution and to remedy the effects of past industrial pollution.

In the early 1970s many nations created gov- ernment agencies or ministries to respond to these growing environmental concerns. The United Nations Conference on the Human Envi- ronment, held in Stockholm in 1972, drew atten- tion internationally to environmental issues. As part of this trend, the United States Environmen- tal Protection Agency (EPA) was created in De- cember 1970. Since then, the EPA has come to be recognized as one of the leading environmental agencies in the world. Other nations turn to it for scientific expertise. Experts often use environ- mental and health standards that the EPA has is- sued as a reference point. And yet, the EPA's poli- cies are controversial because of their substantial effects on the economy as well as their ecological and health implications. This article examines the EPA's origins, the institutional setting in which it operates, its organization, history, and changing role.

ORIGINS AND INSTITUTIONAL SETTING

The EPA was not created through an organic law, as environmental agencies in many countries were, but as part of a reorganization of the execu-

tive branch authorized by President Richard Nixon in December 1970. This reorganization combined health and regulatory responsibilities from across the federal government into one agency. The EPA was patched together from the Department of Health, Education, and Welfare (air quality, solid waste, and drinking water); the Department of the Interior (water quality, pesticides research); the Department of Agriculture (pesticides regulation); and other agencies, such as the Food and Drug Administration and the Atomic Energy Commission. Because the EPA and its many legal authorities were pieced together from several sources, it is not as fully integrated as environmental agencies in other nations. As a result, the EPA is "not a single organism with a single will but a series of different organisms with different wills" (Marcus, p. 201).

This aspect of the EPA's creation was reinforced by the several different laws that establish its authority. Rather than pass one environmental law, Congress passed several laws, each responding to a different kind of problem. The EPA was granted regulatory authority over sources of air pollution in 1970, surface water pollution in 1972, drinking water quality in 1974, the generation and disposal of hazardous wastes in 1976, the manufacture and marketing of chemicals in 1976, and cleanup of abandoned waste sites in 1980. Separate legal authorities exist for such varied issues as protection of estuaries and coastal areas, removal of asbestos from schools, handling and disposal of medical wastes, lead abatement and control, and many others.

This fragmentation in its legal authorities affects the EPA and the operation of its programs. Each law specifies different goals, requires different approaches to balancing risks and benefits, and relies on different implementation strategies. Both the EPA and most state-level environmental agencies are organized along programmatic (air, water, waste, and chemicals) lines. As a result, many critics argue, U.S. environmental programs are not well integrated.

American federalism is an important influence on the EPA and U.S. environmental programs. Although many pollution standards are set nationally, much of the authority for imple-

menting them is assigned to state governments. In air, water, and waste pollution control programs, the EPA sets national ambient or technical standards that states are charged with implementing and enforcing. For example, in the control of common air pollutants, such as nitrogen oxide, Congress directed the EPA to establish National Ambient Air Quality Standards that set air quality goals, but gave the states responsibility for developing State Implementation Plans for achieving those standards. Federal and state authorities work in a close and often complex partnership. A trend in recent years has been to shift more authority to states to allow for more state and local discretion over problems that are geographically limited.

The EPA functions within the particular institutional setting of the U.S. policy system. The constitutional principle of separation of powers divides power among legislative, executive, and judicial branches of government. Although the EPA's authority is established by the Congress, through the enactment of such laws as the Clean Air Act, it is part of the executive branch of government and is accountable to the president as well. Regularly in recent years, the White House and Congress have come into direct conflict in their oversight of the EPA. The federal courts also review the EPA's decisions on a regular basis, and they have authority to reverse or remand decisions when they are inconsistent with the authorizing law or are not grounded adequately in the available evidence. Interest groups that represent a range of views on environmental matters—from regulated companies, to trade associations, to nonprofit environmental and citizens' groups—participate actively in legislative, executive, and judicial arenas to influence policy.

THE EPA'S ORGANIZATION AND RESPONSIBILITIES

When the EPA was established in 1970, many people argued that it should function as part of a larger Department of Natural Resources that would also include the current Department of the Interior. To the advocates of an aggressive national pollution control agency, however, this meant that environmental issues and concerns would be subordinated to the goals of resource

development and exploitation, which characterize much of the Interior Department's agenda today. Instead, the EPA was established as a separate organization within the executive branch, and thus is formally accountable to the president, but not as part of a cabinet-level department. Like cabinet-level secretaries, the administrator of the EPA is appointed by the president and confirmed by the U.S. Senate for the position. Although the administrator is not formally a member of the president's cabinet, recent presidents (George Bush and Bill Clinton) have invited administrators to cabinet meetings and accorded them cabinet status, as a measure of commitment to environmental protection programs. [See Cabinet.]

The formal organization of the EPA reflects many basic features of the federal government in the United States. One such feature is a distinction between the top layer of political appointees and the much larger number of career officials who staff federal agencies. In addition to the administrator, a deputy administrator and ten assistant administrators are formally responsible for setting the policy direction of the agency. They are publicly accountable for the EPA's decisions. Like the administrator, all of these officials are appointed by the president and confirmed by the Senate. They serve at the pleasure of the president, and they almost always are replaced during a change in presidential administrations. Regional administrators, responsible for policy and implementation in ten geographic areas of the United States, are also appointed by the president.

Although political appointees are allowed a limited number of staff positions that may be filled outside the civil service, the rest of the EPA is staffed by career officials. As part of the federal civil service, career staff are protected from changes in political administrations and may spend their entire career with the EPA or other federal agencies. The EPA's career staff in 1995 numbered some eighteen thousand. It is a highly professional group; two-thirds have college degrees, and one-third have graduate degrees. The largest single discipline represented is engineering, followed by law and business; health, agricultural, and biological sciences; physical

and environmental sciences; and the social sciences. Agency staffing declined from about 13,000, at the start of Ronald Reagan's administration, to about 11,000 in 1983, then rose to its peak of about 18,000 in 1995. It has declined since then, to some 17,000 in 1996, owing to debate over its policies and spending limits imposed by the budget deficit.

Assistant administrators lead each of the main operating units of the EPA. Responsibility for main pollution control programs (such as air, water, and waste) lies with assistant administrators for Air and Radiation; Water; Solid Waste and Emergency Response; and Prevention, Pesticides, and Toxic Substances. Other assistant administrators lead offices with functional rather than program responsibilities. These are the Offices of Policy, Planning, and Evaluation; Research and Development; Enforcement and Compliance Assurance; International Activities; Administration and Resources Management; and General Counsel. There are ten regional offices.

Presidents Bush and Clinton both proposed elevating the EPA to the status of a cabinet-level agency as a sign of the importance of environmental issues to the nation. Although a law creating a cabinet-level Department of Environmental Protection was passed by the Senate in 1993, it failed in the House of Representatives, owing to disagreement on peripheral issues regarding EPA decision-making. When the Republican party gained control of both houses of the U.S. Congress in 1995, the proposal for elevating the EPA to cabinet status was lost in the broader debate over the EPA's budget and policies. The EPA remains a separate agency with nondepartmental status, a situation that is more important at a symbolic than at a practical level.

By 1995 the EPA's annual budget was nearly \$7 billion. In current dollars, this was slightly above its funding for 1981; so in real terms, the EPA lost ground, despite the apparent expansion in its resources. Less than half of this total is available to the EPA for its operating budget. The remainder is used for hazardous waste cleanup, construction of water treatment facilities, and grants to state environmental programs. After the Republican victories in the 1994 congressional elections, however, and given the continu-

ing effort to reduce the U.S. budget deficit, spending for the EPA will be under close scrutiny in the coming years.

Unlike environmental agencies in many other countries, the EPA does not hold authority over the use and preservation of natural resources. Most of those programs are assigned to the Department of the Interior. Nor is it responsible for national energy policy, which is assigned to the Department of Energy. The EPA's authority is focused on the control, prevention, and cleanup of pollution and scientific, planning, and other activities associated with it. Many issues with environmental effects—natural resources, energy, transportation, agriculture—lie outside its direct control.

THE EPA'S TURBULENT HISTORY

Environmental protection inevitably involves a clash of many important social values. It pits the advocates of economic growth against the defenders of environmental preservation; those who want to use natural resources against those who want to conserve them; those who believe the market should operate free of restraint and those who want government intervention to protect the interests of society as a whole. The EPA has been at the center of such conflicts.

Under its first administrator, William Ruckelshaus, the EPA set out to define an aggressive enforcement profile. Highly visible problems of industrial air and water pollution had created a public demand for action. The new agency moved quickly to take advantage of this public support by issuing rules for controlling pollution and enforcing them as visibly as possible. This invited criticism from many people, who argued that environmental regulation would cost jobs, slow economic growth, and add to inflation. Yet the EPA was able to maintain the necessary level of political support to build credibility as an institution to expand pollution control programs.

The 1970s were a period of expanding legal authority for the EPA. Congress passed new laws regulating hazardous and solid wastes and reauthorized earlier laws on air and water pollution. In the late 1970s the energy crisis, high inflation rates, and a troubled economy brought environ-

mental policies under close scrutiny. More and more, from the mid-1970s on, the EPA was required to analyze and justify the economic effects of its regulations. To maintain the EPA's political support, Administrator Douglas Costle (1977-1981) began to cast the agency more as a health than an environmental agency, especially in its efforts to identify and reduce risks from cancer. It was not until the late 1980s that ecological issues again began to compete with health issues (principally cancer) on the EPA's agenda.

More than a decade of steady growth in EPA resources and legal authority ended abruptly in 1981, when President Ronald Reagan took office. An advocate of reduced government interference in economic activity, Reagan set out to reverse the growth in environmental regulation. Reagan's appointee as EPA administrator, Anne Gorsuch, set out to reduce the EPA's legal authority, cut its budget, pare back its regulations, and delegate more authority to state and local governments. Although the Reagan administration was responding to some genuine political and economic concerns, its effort to dismantle the nation's environmental programs encountered intense opposition. Public support for environmental protection remained high, and Congress did not accede to proposals to reduce the EPA's authority.

Unable to achieve its legislative goals, the administration instead pursued a budgetary and administrative strategy for change. The new political leadership at the EPA tried to insulate itself from career staff, weakened the agency's enforcement capabilities, cut research budgets, and catered to industry influences, often in violation of administrative procedures. Public opposition to the administration's environmental policies, combined with conflict with Congress, led by March 1983 to the resignation of nearly all of the EPA's political leadership. The administration's strategy to roll back national environmental protection programs had failed.

To repair the damage done by the failed leadership at the EPA, President Reagan asked William Ruckelshaus to return as the head of the EPA in the spring of 1983. Ruckelshaus rebuilt the

agency and its credibility by restoring the budget, improving morale, rebuilding enforcement programs, and mending relations with Congress. Despite lukewarm White House support, Ruckelshaus and his successor, Lee Thomas, were able to restore the EPA's credibility and capacities. In Congress, however, distrust of the administration led to passage of more stringent and prescriptive laws that covered waste management, waste cleanup, drinking water, and surface water quality issues.

When he took office in 1989, President George Bush adopted a more environmentally friendly posture than his predecessor. He named William Reilly, leader of an international environmental organization, as the EPA administrator. For a time Reilly enjoyed a close relationship with the White House. The administration supported the EPA's programs and worked with the Democratic Congress to enact a major reauthorization of the Clean Air Act in 1990. Reilly stressed the importance of international environmental issues and the EPA's role in working with other countries on such problems as global climate change, deforestation, and transboundary pollution. As the 1992 election approached, however, the Bush administration decided to stress economic over environmental concerns. By the time of the United Nations Conference on the Environment and Development, held in Rio de Janeiro in June 1992, the administration had beat a tactical retreat on environmental issues. It was criticized for abdicating the U.S. (and the EPA's) role as international leader.

Another phase in the EPA's history began with President Bill Clinton's appointment of Carol Browner as administrator in 1993. The new administration pledged to maintain environmental programs as well as to improve them in a broad effort to "reinvent government." But many of the administration's initiatives were derailed by the Republican party's victories in the 1994 congressional elections. With a majority in the House and the Senate, the Republicans challenged many environmental regulatory programs and led efforts to reduce the EPA's authority and budget. As of mid-1996, those efforts had enjoyed very limited success, because the Ameri-

can public again (as in the early 1980s) showed strong support for environmental values. However, the Republican proposals set off a debate about the EPA's role and its programs.

THE EPA'S ROLE AND THE FUTURE OF U.S. ENVIRONMENTAL POLICY

In the United States, more than in other countries, policymakers have relied on a strategy of direct regulation to achieve their goals. The EPA issues regulations that define standards for industry, usually based on a judgment about the available technologies, requires reports and conducts inspections to ensure compliance, and takes enforcement action against pollution sources that fail to meet the standards. Often the laws and the regulations that implement them are detailed and prescriptive; they give industry little discretion for deciding how to achieve environmental goals most effectively. Relations between the EPA and industry have often been adversarial.

The EPA reflects this orientation toward direct regulation. Its primary task over the first twenty-five years of its existence was to issue and enforce pollution standards. Often these standards were based, as required, on judgments about the "best available technology" that would control pollutants in different industry categories.

Even within the EPA, debate has been growing about what its role should be. Should it continue mainly as a national regulator, with standard setting and enforcement its most visible activities? Or should it move toward a new conception that recognizes the limits of a purely regulatory approach? This conception pictures the EPA less as a regulator and more as a source of education, technical advice, technological innovation, and international leadership. Instead of deciding what new technology requirements to place on industry, the EPA would act more as a leader in a national debate about environmental problems and priorities. Rather than focus on pollution control, the EPA would work with industry and other interest groups to devise and promote better methods of preventing pollution at the source.

This debate took on a new dimension when

the Republicans took control of the U.S. Senate and House of Representatives in 1995. Congressional critics of environmental regulation argued that it was too costly, too inflexible, and often addressed problems that posed too small levels of environmental and health risk. The House passed and the Senate considered a bill that would have required extensive cost-benefit analyses and risk assessments for major regulations. Critics of federal regulation argued for delegations of authority to state and local levels of government and for a streamlining of reporting, permitting, and compliance programs. Congress voted for severe reductions in the EPA's budget, in part as disapproval of the costs and complexity of environmental programs. President Clinton accepted a need for change. In March 1995 he announced initiatives for "Streamlining Environmental Regulation."

By the late 1990s, the EPA and environmental policy in the United States were at a crossroads. Supporters could document clear evidence of progress on many environmental indicators. The levels of many pervasive air pollutants had declined. Major water bodies were far cleaner than they had been in the 1960s. International cooperation was supporting progress on global issues. Public opinion polls demonstrated strong levels of support for environmental protection. And yet the role of government in American society and the economy was the subject of debate. Although the public supported the goals of the nation's environmental programs, many people questioned the means by which those goals were being achieved. Many observers recommended efforts to better integrate the EPA's internal programs (regarding air, water, waste, and chemicals use) as well as to integrate with environmentally related programs at other agencies (such as energy, resources, transportation, and others). Even defenders of environmental programs called for changes to make them more flexible, performance-based, and effective. Accomplishing these changes while maintaining the needed levels of environmental protection will present the EPA with major challenges in the coming decades.

[See also Agriculture, Department of; Environmental Quality, Council on; Health and Human

Services, Department of; Interior, Department of the; and Science and Technology Policy, Office of.]

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—DANIEL J. FIORINO

Environmental Quality, Council on

Created by an act of Congress as part of the National Environmental Policy Act of 1969 (P.L. 91-190; 83 Stat. 852), the Council on Environmental Quality (CEQ) was established to formulate and recommend national policies aimed at improving the quality of the environment by issuing studies and reports for Congress and the president. The CEQ's responsibilities are divided into three categories for budget purposes: development and analysis of environmental policy; coordination of environmental programs among other agencies; and the gathering and assess-

Environmental Protection Agency

*Federal Regulatory
Directory*



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INTRODUCTION

Established in 1970, the Environmental Protection Agency (EPA) is an independent agency in the executive branch. It is headed by an administrator who is assisted by a deputy and nine assistant administrators, all nominated by the president and confirmed by the Senate.

Responsibilities

In the area of air quality, the EPA:

- Establishes U.S. air quality standards.
- Sets limits on the level of air pollutants emitted from stationary sources such as power plants, municipal incinerators, factories, and chemical plants.
- Establishes emission standards for new motor vehicles.

▪ Sets allowable levels for toxic substances like lead, benzene, and toluene in gasoline.

- Establishes emission standards for hazardous air pollutants such as beryllium, mercury, and asbestos.
- Supervises states in their development of state implementation plans (SIPs).

In the area of water quality and protection, the EPA:

- Issues permits for the discharge of any pollutant into navigable waters
- With the Coast Guard, coordinates cleanup of oil and chemical spills into U.S. waterways.
- Develops "effluent guidelines" to control discharge of specific water pollutants, including radiation.
- Develops criteria that enable states to set water quality standards.
- Administers grants program to states to subsidize the cost of building sewage treatment plants.
- Regulates disposal of waste material, including sludge and low-level radioactive discards, into the oceans.

- Cooperates with the Army Corps of Engineers to issue permits for the dredging and filling of wetlands.
- Sets national drinking water standards to ensure that drinking water is safe.
- Regulates underground injection of wastes to protect purity of ground water.

To control the disposal of hazardous waste, the EPA:

- Maintains inventory of existing hazardous waste dump sites.
- Tracks more than 500 hazardous compounds from point of origin to final disposal site.
- Sets standards for generators and transporters of hazardous wastes.
- Issues permits for treatment, storage, and disposal facilities for hazardous wastes.
- Assists states in developing hazardous waste control programs.
- Maintains a multibillion-dollar fund, the "superfund," from industry fees and general tax revenues to provide for emergency cleanup of hazardous dumps when no responsible party can immediately be found.
- Pursues identification of parties responsible for waste sites and eventual reimbursement of the federal government for superfund money spent cleaning up these sites.

To regulate chemicals, including pesticides, and radioactive waste, the EPA:

- Maintains inventory of chemical substances now in commercial use.
- Regulates existing chemicals considered serious hazards to people and the environment, including fluorocarbons, asbestos, and PCBs.
- Issues procedures for the proper safety testing of chemicals and orders them tested when necessary.
- Requires the registration of insecticides, herbicides, or fungicides intended for sale in the United States.
- Requires pesticide manufacturers to provide scientific evidence that their products will not injure humans, livestock, crops, or wildlife when used as directed.
- Classifies pesticides for either general public use or restricted use by certified applicators.
- Sets standards for certification of applicators of restricted-use pesticides. (Individual states may certify applicators through their programs based on the federal standards.)
- Cancels or suspends the registration of a product on the basis of actual or potential unreasonable risk to humans, animals, or the environment.
- Issues a "stop sale, use, and removal" order when a pesticide already in circulation is found to be in violation of the law.
- Requires registration of pesticide producing establishments.

GLOSSARY

Chlorofluorocarbons (CFCs)—chemical compounds, such as refrigerants, suspected of causing the depletion of the ozone layer in the atmosphere.

Greenhouse effect—the trapping of carbon dioxide and other gases within the atmosphere, leading to global warming and health hazards.

Radon—an odorless and colorless gas produced from the decay of radium 226 in soil and rocks. High levels of radon trapped indoors can pose health hazards.

State implementation plans (SIPs)—Plans created by the states in place of national EPA directives. The EPA oversees the development of such plans, which must be at least as stringent as EPA plans.

Superfund—A multibillion-dollar fund set up in 1980 to provide for emergency cleanup of hazardous sites when no responsible party can be found.

Wetlands—marshes, swamps, or bogs. Many environmentalists see wetlands as providing wildlife habitat and other valuable ecological functions.

- Issues regulations concerning the labeling, storage, and disposal of pesticide containers.
- Issues permits for pesticide research.
- Monitors pesticide levels in the environment.
- Monitors and regulates the levels of radiation in drinking water, oceans, and air.
- Conducts research on toxic substances, pesticides, air and water quality, hazardous wastes, radiation, and the causes and effects of acid rain.
- Provides overall guidance to other federal agencies on radiation protection matters that affect public health.

Powers and Authority

The EPA encourages voluntary compliance by government agencies, private industries, and communities and, as mandated by federal environmental laws, encourages state and local governments to perform direct enforcement activities needed to meet local environmental standards. If state and local agencies fail to produce effective plans for pollution abatement, or if they do not enforce the programs they develop, the EPA is authorized to do so under provisions of major environmental laws.

National enforcement functions are carried out by the EPA where delegation to the states is not practical. For example, the EPA inspects and tests automobiles to ensure compliance with air pollution control standards. The agency also can recall vehicles that fail to meet those standards. The agency maintains a staff of inspectors who

spot-check compliance with unleaded gasoline regulations, monitor air and water quality, check radiation levels in the environment, and collect other data to use in enforcing environmental laws.

The Office of Enforcement and Compliance Assurance is responsible for overseeing all of the EPA's enforcement activities. The office gathers and prepares evidence and conducts enforcement proceedings for water quality, stationary and mobile sources of air pollution, radiation, pesticides, solid wastes, toxic substances, hazardous wastes, and noise pollution (*see p. 60*).

EPA's 10 regional counsels review administrative enforcement actions and develop judicial enforcement cases for headquarters' review. In addition they provide regional administrators and regional program managers with legal advice and assistance for all program areas in an attorney-client relationship.

Under the terms of most statutes administered by the agency, the alleged polluter is notified of a violation of EPA standards and ordered to stop. If the violation is not corrected, informal negotiations begin. If the informal meeting fails, the agency has authority to start civil court proceedings to force compliance.

Penalties for violations of environmental laws can be severe. For example, the court can order civil penalties for violations of the Clean Air Act Amendments of up to \$25,000 per day for as long as each violation continues and impose a one-year jail sentence.

Without going into federal court the EPA may revoke or suspend licenses and permits for activities regulated by the agency. Under the Toxic Substances Control Act, for example, the EPA may order the seizure of any substances found to be toxic. It also may order the manufacturer of the toxic substances to publicize the violation and issue a notice of possible risk of injury.

The Resource Conservation and Recovery Act mandated a record-keeping system to keep track of the handling and disposal of hazardous wastes. The system was designed specifically to thwart "midnight dumpers," who dump toxic wastes in sewers, woods, fields, or streams under cover of darkness.

The Enforcement Office also has a criminal investigation unit to prosecute persons who willfully discharge wastes into waterways, engage in midnight dumping of toxic substances, and deliberately destroy or falsify vital environmental reports. Willful violators may be subject to imprisonment and be personally liable for fines.

Among the major laws administered by the EPA are those dealing with clean air and water, safe drinking water, pesticides, waste treatment and disposal, control of toxic substances, and the superfund program to deal with release of hazardous substances in spills and abandoned disposal sites.

The statutes take two basic approaches in their civil enforcement provisions: administrative and judicial. Administrative enforcement encompasses a wide range of responses, including informational orders, notices of noncompliance, notices of violation, administrative orders, and administrative penalty complaints. An administrative penalty complaint is a notice sent to a violator informing the recipient that he or she is in violation and that he or she is entitled to an administrative hearing. An administrative law judge presides over the hearing and renders a final decision that may in turn be appealed to the EPA administrator. The administrator's decision may be further appealed to the federal court system and ultimately to the Supreme Court. However, the vast majority of these administrative cases never reach the courts.

The second basic approach to enforcement is judicial action. Here the violator again receives notice that he or she is in violation. If the problem cannot be resolved at this level, the EPA refers the case to the Justice Department for prosecution. The Justice Department reviews the case and then sends it to a U.S. attorney who initiates the case at the federal district court level.

The authority to take enforcement action varies under each statute. The following summarizes the statutory powers granted to the EPA under the major environmental laws and its enforcement powers under those laws.

Background

Since its establishment, the EPA has evolved into one of the largest, as well as most criticized, federal regulatory agencies. Controversy over the agency stemmed partly from its wide-ranging responsibilities, involving the administration of a multitude of complex and costly laws. In most cases of EPA action or inaction to implement those statutes, environmentalists and industry representatives squared off to fight for or against a deadline, a delay, or a new standard. And at times the agency was the target of complaints from both supporters and opponents of the environmental movement. Nonetheless, over time it has succeeded in forcing significant reductions in the levels of pollutants in the environment.

EARLY HISTORY

When the EPA came into being in 1970, it took over the air pollution, water pollution, solid waste, pesticide, and radiation programs scattered around the federal government. Between the EPA's establishment and the early 1980s those programs were broadened and improved, and Congress heaped major new responsibilities on the agency. "Many of EPA's difficulties over the years can be traced to the fact that Congress loaded the agency with far more statutory responsibilities within a brief period of time than perhaps any agency could effectively perform,"

commented Russell Train in 1982. Train served as EPA administrator from 1973 to 1977.

The EPA was established at a time when the nation was becoming increasingly concerned about declining air and water quality and a general deterioration of the environment. The dramatic blowout of an oil well in the channel off the coast of Santa Barbara, Calif., in January 1969 focused public attention on the seriousness of environmental problems. Miles of beaches were covered with oil, and thousands of fish and wildfowl were killed.

Some months after the Santa Barbara incident, on June 3, President Richard Nixon established by executive order the Cabinet-level Environmental Quality Council (EQC). Congress was not satisfied and in December 1969 it passed the National Environmental Policy Act (NEPA), which made environmental protection a matter of national policy. The act required all federal agencies to submit environmental impact statements for all proposed actions and created the three-member Council on Environmental Quality (CEQ) within the executive office of the president to replace the EQC. Many industry groups denounced NEPA, but conservation organizations such as the Sierra Club hailed it as "an environmental Magna Carta."

During the early days of his administration, Nixon was widely criticized for lacking a strong commitment to environmental protection. As the pressure for corrective action mounted, the president in 1970 submitted to Congress a plan to consolidate the federal government's widespread environmental protection efforts into a single agency. Against little congressional opposition, the EPA was created by executive order. Most existing environmental programs were transferred to the EPA from other government departments. The EPA's first administrator was William D. Ruckelshaus, a vigorous enforcer of water and air quality standards; he infused the EPA with an enthusiasm and sense of mission not unlike that associated with the Peace Corps.

The CEQ continued to exist as an advisory and policy-making body. While the EPA was charged with setting and enforcing pollution control standards, the CEQ focused on broad environmental policies and coordination of the federal government's environmental activities.

Enthusiasm for environmental legislation continued throughout the early 1970s. Congress passed several laws designed to limit or halt the entry of pollutants into the environment, including the Water Quality Improvement Act and the Clean Air Act Amendments, both of 1970, and the Federal Environmental Pesticide Control Act, the Noise Control Act, the Marine Protection, Research and Sanctuaries Act, and the Water Pollution Control Act Amendments, all of 1972. Responsibility for enforcing these laws was given to the EPA.

The energy shortage created by the 1973 Arab oil embargo slowed the rush of environmental programs as legislators sought to balance the benefits of a sometimes costly antipollution program against the need for a stable and productive economy. Opponents of stricter environmental standards argued that the costs of complying with EPA regulations slowed industrial expansion. In some cases companies reportedly closed their doors rather than attempt to meet EPA-imposed standards. Moreover, the environmental movement, which was the impetus behind many of the environmental laws passed by Congress, had lost much of its momentum by the mid-1970s.

Nonetheless, the EPA's responsibilities expanded in certain areas. The Safe Drinking Water Act of 1974 set standards for chemical and bacteriological pollutants in water systems. The Toxic Substances Control Act of 1976 gave the EPA responsibility for studying the risks attached to toxic substances and protecting the public from them. The Resource Conservation and Recovery Act (RCRA) of 1976 was intended to ensure that hazardous and nonhazardous wastes were disposed of in environmentally sound ways. During 1977 clean water standards were redefined and deadlines extended.

Carter's EPA head, Douglas M. Costle, who had served on an advisory council that recommended establishing the agency, focused on dealing with the concerns of industry while continuing to protect the environment. The EPA undertook a review of existing regulations and attempted to streamline its regulatory process and to be more cost conscious in its enforcement procedures.

During Costle's tenure in office, the innovative "bubble" and "offset" methods of getting private industry to comply with air emission standards were introduced. Instead of determining emission standards for every process within a factory, in the first approach, the EPA puts an imaginary bubble over the plant and sets allowable standards for the entire operation. This procedure gives factory managers greater incentive to make changes in basic plant operations rather than just adding pollution control devices.

The second approach is to grant "offsets" in areas where pollution standards are not being met. If a new factory wants to move into an over-polluted area, it must induce existing factories to reduce their pollution levels by more than the amount the new factory will produce. Another variation allows a company having more than one factory in the same area to offset higher-than-standard emissions at one factory by lower-than-standard emissions at another.

SUPERFUND

More responsibilities in the hazardous waste area were given to the EPA with the passage of the controversial

superfund legislation in the waning days of the 96th Congress. In December 1980 President Jimmy Carter signed the Comprehensive Environmental Response, Compensation and Liability Act of 1980, which established a \$1.6 billion emergency fund to clean up toxic contaminants spilled or dumped into the environment. The major part of the Hazardous Substance Response Trust Fund—86 percent—was scheduled to come from the chemical and oil industries; appropriations of general revenue in fiscal years 1981–1985 would provide the remaining 14 percent. The EPA was given responsibility for administering the fund.

Under the superfund authority, the EPA first notifies responsible parties of their potential liability. If the responsible parties are unwilling to perform appropriate abatement measures, the EPA will either issue an order requiring cleanup (the violation of which subjects the respondent to punitive damages); bring suit to obtain a judicial order requiring cleanup; or tap superfund monies to finance the necessary removal or remedial activities. If the EPA performs the cleanup, the agency will later bring an action against the responsible parties to recover the costs.

Complaints about the way the EPA carried out the superfund law prompted congressional investigations through the years. Congressional probers found that the EPA was slow in spending money in the fund, preferred to negotiate rather than litigate against dumpers to collect costs, and settled for inadequate cleanups at some sites. The agency also has been criticized for spending more on lawyers than on site cleanup.

THE EPA IN THE 1980S

President Ronald Reagan's first term produced little in the way of new legislation. The RCRA, which had governed "cradle-to-grave" handling of hazardous wastes since its enactment in 1976, was reauthorized at the end of 1984 with stronger controls. But the legislative mandates for other major environmental laws, such as the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, the Ocean Dumping Act, and laws governing the use of pesticides, expired and were funded only on a year-to-year basis. In general, neither industry-sponsored measures for relaxation of controls nor environmentalists' proposals for tighter regulations made much headway.

Rather than environmental issues, personalities, scandal, and internal problems dominated the agency in the early 1980s. Critics of Reagan's first administrator, Anne M. (Gorsuch) Burford, complained that she circumvented the legislative process by using regulatory decisions and budget cuts to undermine the agency's effectiveness.

In response Burford claimed that she was carrying out her mandate from the president to make the agency more

efficient, cost conscious, and a part of the "new federalism" program. She tried to reduce the agency's budget and to cut funding for many of its programs. But Congress consistently appropriated more money for the EPA than the administration requested.

Of particular concern to environmentalists and their supporters in Congress was the reduction Burford made in the Office of Enforcement and the number of enforcement cases earmarked for court action. She defended the moves, saying violations should be dealt with at the lowest appropriate level wherever possible. And she claimed her enforcement methods, which stressed voluntary compliance, were yielding better results than those of the Carter administration.

The House Energy and Commerce Subcommittee on Oversight and Investigations disagreed. In an October 1982 report the panel criticized the EPA's enforcement program and noted a 69 percent decline between calendar years 1980 and 1981 in the number of civil case referrals from the agency to the Justice Department under the major acts the EPA administered.

In December 1982, the House cited Burford for contempt for refusing—on Reagan's orders—to turn over documents sought by a subcommittee regarding the agency's management of the superfund program. She was the highest executive branch official ever cited for contempt by Congress. But the constitutional issue of executive privilege, Reagan's justification for withholding the documents, was never resolved. In the end, administration and congressional representatives struck a compromise that allowed the committees to examine nearly all the documents they sought. In August 1983, the House dropped the contempt citation.

The political damage to the agency was enormous. The controversy drew widespread publicity to charges that some EPA officials had been lax in enforcing toxic waste laws, made "sweetheart deals" with polluters, stood to profit from conflicts of interest, manipulated toxic cleanup grants to influence elections, shredded papers subpoenaed by Congress, and used political "hit lists" to terminate the appointments of science advisers and career employees who disagreed with the administration's environmental policies. Although none of the charges was prosecuted by the Justice Department, the White House began distancing itself from Burford. She resigned in March 1983.

More than a dozen top EPA aides resigned or were fired during the turmoil of this period. Among them was Rita M. Lavelle, head of the superfund program and the only EPA official to face criminal charges in the scandal. Lavelle was convicted of perjury and obstructing a congressional investigation. In January 1984 she was sentenced to six months in prison and fined \$10,000.

Deputy Assistant Administrator for Management	HENRY LONGEST II
Deputy Assistant Administrator for Science	(VACANCY)
Director, Office of Resources Management and Administration	LEK G. KADELI, <i>Acting</i>
Director, Office of Science Policy	DOROTHY E. PATTON
Director, National Exposure Research Laboratory	GARY J. FOLEY
Director, National Risk Management Research Laboratory	E. TIMOTHY OPPELT
Director, National Health and Environmental Effects Research Laboratory	LAWRENCE W. REITER
Director, National Center for Environmental Assessment	WILLIAM H. FARLAND
Director, National Center for Environmental Research and Quality Assurance	PETER W. PREUSS

[For the Environmental Protection Agency statement of organization, see the *Code of Federal Regulations*, Title 40, Part 1]

The mission of the Environmental Protection Agency is to protect human health and to safeguard the natural environment—air, water, and land—upon which life depends to the fullest extent possible under the laws enacted by Congress.

The Environmental Protection Agency was established in the executive branch as an independent agency pursuant to Reorganization Plan No. 3 of 1970 (5 U.S.C. app.), effective December 2, 1970. It was created to permit coordinated and effective governmental action on behalf of the environment. The Agency is designed to serve as the public's advocate for a livable environment.

Activities

Air and Radiation The air activities of the Agency include:

- developing national programs, policies, regulations, and standards for air quality, emission standards for stationary and mobile sources, and emission standards for hazardous air pollutants;
- conducting research and providing information on indoor air pollutants to the public;
- providing technical direction, support, and evaluation of regional air activities;
- providing training in the field of air pollution control; and
- providing technical assistance to States and agencies having radiation protection programs, including radon

mitigation programs and a national surveillance and inspection program for measuring radiation levels in the environment.

For further information, call 202-260-7400.

Water The Agency's water quality activities represent a coordinated effort to restore the Nation's waters, including:

- development of national programs, technical policies, and regulations for water pollution control and water supply;
- ground water protection;
- marine and estuarine protection;
- enforcement of standards;
- water quality standards and effluent guidelines development;
- technical direction, support, and evaluation of regional water activities;
- development of programs for technical assistance and technology transfer; and
- training in the field of water quality.

For further information, call 202-260-5700.

Solid Waste and Emergency Response The Office of Solid Waste and Emergency Response provides policy, guidance, and direction for the Agency's hazardous waste and emergency response programs, including: