

Environmental Protection Agency

Initiate Reorganization of the Environmental Protection Agency

RECOMMENDATION

The budget of the Environmental Protection Agency (EPA) is small relative to total federal spending, but its regulatory actions have enormous consequences, including the erosion of individual liberty and tremendous costs to the economy. Extensive reforms are needed to return the agency to a proper limited role. The following changes would constitute incremental progress toward that goal:

- Eliminate the Office of Public Engagement and Environmental Education, which is largely focused on generating agency propaganda;
- End the EPA's control of state funds for implementing regulatory dictates and to support environmental advocacy groups;
- Defund all agency activities related to the Renewable Fuel Standard, which constitutes a subsidy for the production and consumption of ethanol and other biofuels;¹
- Close the EPA's 10 regional offices that micromanage states' environmental policies;
- Devolve to states all authority to manage Superfund cleanups; and
- Devolve to states all authority for implementation and enforcement of the Safe Drinking Water Act.

RATIONALE

The environment shows vast improvement by nearly every objective measure,² making the environmental statutes crafted 40 years ago largely obsolete. Reforms are needed that reflect today's cleaner conditions and technological innovations, and that account for the regulatory experience of the past four decades.

A major part of the problem with current policy is the centralization of regulatory power in Washington. But federal bureaucrats hardly possess sufficient information and expertise to impose controls on hundreds, if not thousands, of dissimilar locations across the 50 states.

Regulatory goals are often based on politics, not empiricism. Moreover, the EPA often fails to properly perform scientific analyses before imposing rules, and many of the analyses that are conducted are biased toward regulation. The agency has been thoroughly captured by environmental activists, politicians, and corporate interests.

OPEE. The EPA's Office of Public Engagement and Environmental Education (OPEE) produces curriculum and training materials that are highly politicized and contradict scientific principles. The Government Accountability Office determined that the agency engaged in covert propaganda and violated federal anti-lobbying prohibitions with respect to its "waters of the United States" rulemaking.³

The office is also mismanaged: A report by the agency's Office of Inspector General concluded that

the "OEE is significantly impaired in its ability to provide evidence of program results and benefits, manage the program to achieve results, or spot waste and abuse."⁴

Categorical Grants and Regional Offices. Many of America's environmental statutes were based on the principle of cooperative federalism, that is, shared responsibility between the federal government and the states. Over time, however, an excess of judicial deference and congressional delegation of lawmaking powers has turned the EPA from collaborator to dictator—including its control of billions of dollars in "categorical grants" doled out to states and special interests to carry out the agency's bidding.

The extent to which the EPA has abandoned any pretext of federalism is evident in its deep reach into local affairs, such as school curricula, and programs to "enhance the livability and economic vitality of neighborhoods" and "promote more sustainable, healthier communities."⁵

States are better equipped to customize policies for local conditions, and land owners have greater incentives than the government to protect private property. Both groups can act regionally when there are cross-border components to environmental issues. There is no need for the EPA's 10 regional offices, which interfere with state conservation activities and expose citizens to regulatory redundancy.

A less-centralized regime would mean more direct accountability—taxpayers would have an easier time identifying the officials responsible for environmental policies, and the people making those regulatory decisions would have to live with the consequences. Property owners would be held accountable through common law.

Renewable Fuel Standard. Congress created the Renewable Fuel Standard to force refiners to blend gasoline with corn-based ethanol. Because of the artificial demand for corn and other biofuel “feedstocks,” farmers devoted evermore acres to biofuel crops. The consequent reduction in U.S. supplies of soybeans and other displaced crops propelled commodity prices.

Biofuel mania is hardly environmentally benign. Researchers have documented the fact that the cultivation of corn for ethanol and other biofuel feed stocks substantially increases emissions of the greenhouse gases that are supposedly causing climate change. (The excess emissions result from land conversions that are driven by demand for corn and other crops used to produce “renewable” fuels.) The National Academy of Sciences has reported that ethanol production is draining water supplies, while the boom in corn and other feed-stock production fosters soil erosion and fertilizer runoff.⁶

The EPA has not complied with the requirement to report to Congress every three years on the impacts

of biofuels.⁷ Nor has the agency fulfilled anti-backsliding requirements to analyze and address any negative air-quality impacts of the RFS.⁸

Superfund. The Superfund program for cleaning and redeveloping contaminated and hazardous waste sites is inefficient and ineffective.⁹ Funds are consumed by environmental studies, compliance with handbooks, regulations and guidance, and lawsuits. From FY 1999 through FY 2013, the total number of nonfederal sites on the National Priorities List remained relatively constant, while the number of completions declined. Funding for the programs should be eliminated, and responsibility for program functions should be shifted to the states. The EPA has had more than 35 years to perfect the program, and it has failed.

Safe Drinking Water Act. The EPA has failed to keep America’s drinking water safe—one of its primary functions. For example, the agency had the authority, and sufficient information, to issue an emergency order to protect residents in Flint, Michigan, from lead-contaminated water a full year before the agency took action.¹⁰ The EPA’s Office of Inspector General also documented inconsistencies in the agency’s adherence to enforcement policies; only three of 20 enforcement orders reviewed by the Inspector General met the timeliness standard, and few cases were escalated by the EPA or state when noncompliance persisted.¹¹

ADDITIONAL READING

- Robert Gordon and Diane Katz, eds., “Environmental Policy Guide: 167 Recommendations for Environmental Policy Reform,” The Heritage Foundation, March 4, 2015.
- The Heritage Foundation, *Blueprint for Reform: A Comprehensive Policy Agenda for a New Administration in 2017*, July 14, 2016.
- Diane Katz, “An Environmental Policy Primer for the Next President,” Heritage Foundation *Backgrounder* No. 3079, December 14, 2015.

ENDNOTES

1. Nicholas Loris, "Examining the Renewable Fuel Standard," testimony before the Subcommittee on the Interior and the Subcommittee on Healthcare, Benefits, and Administrative Rules, Committee on Oversight and Government Reform, U.S. House of Representatives, March 16, 2016, <http://www.heritage.org/testimony/examining-the-renewable-fuel-standard>.
2. Stephen Moore, "State of the Planet: Better than Ever," Heritage Foundation *Commentary*, May 7, 2015, <http://www.heritage.org/research/commentary/2015/5/state-of-the-planet-better-than-ever>.
3. Government Accountability Office, "Environmental Protection Agency—Application of Publicity or Propaganda and Anti-Lobbying Provisions," December 14, 2015, <http://www.gao.gov/assets/680/674163.pdf> (accessed May 31, 2017).
4. Environmental Protection Agency Office of Inspector General, "EPA Cannot Assess Results and Benefits of Its Environmental Education Program," July 29, 2016, https://www.epa.gov/sites/production/files/2016-07/documents/_epaig_20160729-16-p-0246_glance.pdf (accessed May 31, 2017).
5. Environmental Protection Agency, "Fiscal Year 2017 Justification of Appropriation Estimates for the Committee on Appropriations," February 2016, <https://www.epa.gov/sites/production/files/2016-02/documents/fy17-congressional-justification.pdf> (accessed May 31, 2017).
6. National Academies of Sciences, "Increase in Ethanol Production from Corn Could Significantly Impact Water Quality and Availability If New Practices and Techniques Are Not Employed," October 10, 2007, <http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=12039> (accessed May 31, 2017).
7. Environmental Protection Agency Office of Inspector General, "EPA Has Not Met Certain Statutory Requirements to Identify Environmental Impacts of Renewable Fuel Standard," August 18, 2016, <https://www.epa.gov/office-inspector-general/report-epa-has-not-met-certain-statutory-requirements-identify> (accessed May 31, 2017).
8. *Ibid.*
9. Environmental Protection Agency Office of Inspector General, "EPA's Financial Oversight of Superfund State Contracts Needs Improvement," June 27, 2016, https://www.epa.gov/sites/production/files/2016-06/documents/20160627-16-p-0217_glance.pdf (accessed May 31, 2017).
10. Environmental Protection Agency Office of Inspector General, "FY 2017 EPA Management Challenges, May 18, 2016," https://www.eenews.net/assets/2017/05/18/document_gw_07.pdf (accessed May 31, 2017).
11. *Ibid.*