

PANEL

Federal Water Quality Information Responsibilities, Activities and Needs

Kenton Kirkpatrick
Deputy Director

Water Division
United States Environmental Protection Agency

It's always nice to be back in New Mexico. I'm pleased to say that in 20 years of professional experience, I've been fortunate enough to have spent at least a couple of those years in this state. I first wanted to compliment Russ Rhoades and his Environmental Improvement Division (EID) staff on the very fine presentations I've heard here today. It's made my job very easy because much of the work and the legislation the U.S. Environmental Protection Agency (EPA) receives from Congress is carried down to the state level in New Mexico by the EID.

When the EPA was created in 1970, we were given the responsibility of cleaning up the nation's waters and also of protecting them from future pollution. Over the years, Congress has enacted a number of laws to give the EPA the authority it needs to meet that responsibility. I want to touch briefly on three of those laws. The Clean Water Act (CWA) which has been amended several times over the past 27 years and which has been mentioned a number of times here today, is the cornerstone of the national water quality program. And the cornerstone of that law is that it provides for the establishment of state water quality standards that, in turn, designate water uses and the protection of those uses throughout the state.

The CWA, through the National Pollutant Discharge Elimination System, also gives the EPA the authority to regulate all discharges through permits. The law provides for enforcement actions against municipalities and industries that fail to obtain permits or fail to adhere to permit conditions. In addition, the CWA provides a construction grant program to help municipalities build wastewater treatment facilities. This program was initiated in 1956. Congress established the program to provide grant funds to communities to help them clean up the nation's water. The idea then was for the federal government to bow out and allow the communities, through the use of fee systems, to generate the funds necessary to operate their systems and build for future needs on their own. That was in 1956, and in 1983 we still have a construction grants program.

The most recent law passed by Congress in 1980, is the Comprehensive Environmental Response Compensation and Liability Act, better known as "superfund." This law provides the authority to clean up the hazardous waste sites which threaten the public health and the environment. It also provided the authority to develop contingency programs to clean up the spills of oil and hazardous chemicals in the environment. Of course, both ground and surface water are frequently involved in these spills. The other major law directly affecting water quality is one that was passed by the Congress in December 1974. The Safe Drinking Water Act basically has two components. The first is the establishment and regulation of maximum contaminant levels for public water supplies which provides a national program to ensure the quality of the public water supplies in our state and throughout the country. Until 1974, the drinking water standards were recommended by the U.S. Public Health Department.

Most of those recommended drinking water standards were in effect prior to the Safe Drinking Water Act of 1974. The other component of the Safe Drinking Water Act provides for the control and regulation of underground injection wells such as brine reinjection wells, hazardous waste wells and in situ mining wells. One comment I would like to make on the Safe Drinking Water Act is that the EID has established an excellent system for monitoring communities with poor quality drinking water. The EPA is using the EID system developed in New Mexico as a national model for monitoring and improving the quality of drinking water. It's a very good system; we've made presentations on it in Atlanta, Chicago and Washington, D.C.

Each of the laws I've mentioned provides for the delegation of programs to states which are willing and able to handle them. We believe that the best way to implement these and other environmental laws is to administer them through those closest to the problems. I am pleased to say that New Mexico is one of the first to take on the responsibility for bringing to the state level, the public water supply program, the underground injection control program, the Hazardous Waste Management Program, and the Resource Conservation and Recovery Act. All of the EPA's legislation states right up front that "it is the responsibility of the states to manage environmental control programs." There are provisions for the EPA to delegate those programs to the responsible state agencies willing to run those programs. We're very pleased with what has been accomplished to date in New Mexico. We are encouraging the delegation of both the construction grants program and the National Pollutant Discharge and

Elimination System permit program to the Environmental Improvement Division.

Information plays a key role in the effective administration in delegating the programs. The exchange of information is essential to our success. We rely heavily on our state agencies for environmental data gathered through their monitoring network and through their special studies, many of which we referred to here today. Congress has required under Section 305(b) of the CWA that each state prepare a report every two years describing a status of the trends in the state's water quality. Congress wants to know how we're doing in cleaning up the nation's waterways and how we are doing by extending the construction grants for municipal cleanup. From a national perspective, the data gathered under Section 305(b) is used to assess how our country is doing on water quality cleanup and in preventing further water pollution.

New Mexico's EID also has documented 105 sites where ground water contamination is suspected. The EID also has identified six particular stream reaches in the state that have surface water quality violations in need of improvement.

There was some discussion this morning about the proposed revisions of regulations governing the development, review, revision and approval of water quality standards. This proposal was published in the Federal Register in October 1982 and has been the subject of a series of public hearings around the country. Comments received during those hearings on the proposed revised regulations on water quality standards are now being evaluated. It has been anticipated that the regulations will be published in final form in about six months. It might be out in six months, but I

think it may be a year or more before publication. The proposed changes are important because they are designed to enable states to use water quality standards as a pragmatic tool to protect water uses. This protection was not always possible under the more rigid regulations initially adopted.

I want to take a moment to amplify on the response to the question raised earlier today about proposed water quality standards. It is the states' responsibility to establish water quality standards and the criteria that affect water uses. The regulations that have been proposed do not allow changes in a stream's given use. It does not provide for removal of that use. That use is there and it must be protected. For example, if the use is for a public water supply, a trout fishery or irrigated agriculture, the proposed regulations provide for protection of that use. These proposed regulations are trying to remedy regulations that, in our haste to pass water quality standards under the 1966 Federal Water Pollution Control Act, were not correct or realistic. As a result, we have streams designated for uses that do not exist. For example, I know of some streams over in the eastern part of one of our states in a region where all these years, since 1966-67, some streams have been designated for use as public water supplies. Those uses simply are not there. The state health department does not want those uses on those streams because better and safer waters are available for drinking water. Under existing regulations--not the proposed regulations--it is very difficult for a state to say, "That use is wrong. It's not there. We have to change it." The new regulations will not downgrade a stream but simply remove a designated use that doesn't exist. In some cases we have

found that because a stream's uses are improperly designated, we may be forcing a community to use advanced waste treatment processes unnecessarily, resulting in large expenditures of public funds to protect a use that doesn't exist in that stream.

The other question I want to address concerns public hearings. I believe we will always require public hearings on water quality standards changes. I really can't see that there would be any reason for the states to say unilaterally that we are going to change the standards without telling people and letting them participate in the decision. We will continue to work with the states in resolving problems because our success will depend largely on the two-way flow of information.