

# H-Net Reviews

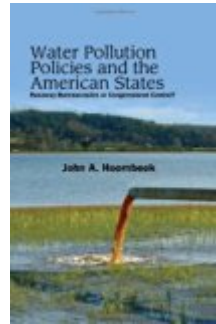
in the Humanities & Social Sciences

John A. Hoornbeek. *Water Pollution Policies and the American States: Runaway Bureaucracies or Congressional Control?* Albany: State University of New York Press, 2011. 320 pp. \$85.00 (cloth), ISBN 978-1-4384-3541-1.

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## Cleaning Up the Nation's Waters One Law At A Time

When Congress passed the 1972 Clean Water Act (CWA), it included two deadlines: that all U.S. waters would be fishable and swimmable by 1983 and that all wastewater discharges would be eliminated by 1985. Given how dismally polluted the nation's rivers, lakes, and oceans were at the time, the politicians had promised far more than those carrying out the law were able to accomplish. And, while water pollution is far less a problem than it was forty years ago, those two goals have yet to be met.

So what happened? Having written about one extreme case—massive pollution in California's Santa Monica Bay which came from two huge sewage treatment plants disgorging into the bay hundreds of millions of gallons of partially treated wastewater every day for decades—I thought I knew the answer: The City of Los Angeles, which ran one of the treatment plants, didn't want to spend the money on rebuilding its aging facility to CWA standards. Even when the Feds threatened the city with lawsuits to make it comply, Los Angeles delayed action. The city's engineers argued that by dumping in the ocean, "dilution was the solution to pollution." One influential individual even claimed that the fish were dining on the sewage. If not for protests started by a local school teacher in 1985, this spurning of the CWA would have continued perhaps for years, but instead the city was forced to build a multi-billion-dollar facility and long after Congress's original deadline, Santa Monica Bay is now *cleaner* than it was. The wastewater goes through

two treatment processes as mandated by law, and, depending on who you talk to, the bay is indeed fishable and swimmable.

In other words, Congress may have thought it had given local entities known as dischargers a short leash, but in fact dischargers throughout the country found ways to drag their feet.

As it turns out, the reasons for the CWA failing to clean up the nation's waters as fast as Congress wanted are far more complicated than just a matter of cities unwilling to cough up the money for improving their wastewater facilities. And I only wish I had had a copy of John A. Hoornbeek's book, *Water Pollution Policies and the American States: Runaway Bureaucracies or Congressional Control?*, when I was researching the Santa Monica Bay story. Drawing on a substantial amount of previous research and what the author cryptically refers to as personal experience, Hoornbeek breaks down the complex state and federal machinery behind the country's water pollution laws, and how some of it has succeeded while leaving much left to do. As he puts it, "as one looks at the evolution of congressional direction in water pollution control, one sees a continuing process of largely predictable policy outputs, followed by less certain policy impacts, followed by highly uncertain policy outcomes" (p. 131). Nothing is easy when it comes to a problem as endemic as water pollution.

The 1972 Clean Water Act wasn't the first major at-

tempt to clean up the nation's waters. Beginning in 1948, Congress passed a series of acts over more than two decades that merely encouraged states to develop and improve their water pollution efforts using federal funding as the primary incentive. By 1958, states had received 1,005 grant offers totaling \$84.1 million for wastewater treatment projects, but they were only able to cash the checks if they spent more than three times that much of their own money on the construction bills. This went on from 1948 to 1971 and not surprisingly Hoornbeek calls it the Era of Supportive Federalism. While the different legislations passed during this period did begin the long road to pollution control, Hoornbeek concludes that Congress's light approach "produced enforcement procedures that yielded no significant incentives for action, and were quite cumbersome even when such incentives did exist" (p. 76).

And thus came the Era of Directive Federalism (1972-86) with the launch of the Federal Water Pollution Control Act, otherwise known as the Clean Water Act. While this is the most significant of all water pollution laws to come out of Congress, its ambitious goals have never been met and even though the casual observer might think the law hovered over states and municipalities like a sword to come down on them if they didn't comply, not all of them felt inclined to leap into action as fast as they were expected.

With good reason, Hoornbeek spends a great deal of the book's pages analyzing the various elements of the CWA and how well they were implemented. The Act's good intentions included federal funds to flow into the states which would then construct wastewater treatment facilities that would comply with the CWA's regulations. Under the Reagan administration, however, the Environmental Protection Agency slowed that money to a trickle. Nevertheless, more than \$80 billion in subsidies for municipal wastewater treatment since the CWA's enactment have been spent, but it hasn't been enough. "These investments have been significant ones for point source water pollution control," Hoornbeek writes, "but they have not been sufficient for full implementation of the CWA" (p. 178).

This brings us to the Era of Experimental Federalism (1987-present) where Congress has tried a mix of supportive programs along with directives which were designed to involve the states in much of the heavy lifting—deciding where the pollution existed and how best to clean it up—and not have it all come from the federal level. Much of the latest legislation addresses the thorn-

iest issue remaining now that wastewater treatment is largely under control—non-point source (NPS) pollution. This has long been pushed aside if for no other reason than few states and local entities wanted to tackle the incredibly difficult task of dealing with it. For example, in Los Angeles, the major contributor to water pollution in Santa Monica Bay is now storm runoff. This includes a noxious mix of car oil on the streets, animal fecal material, and metals from air pollution that have settled out of the air onto the ground, all of which are washed down the drains during heavy rains. When the city's storm drains were originally built more than a century ago, they were purposely routed to the beaches because the water volume during the area's infrequent rainstorms is so high, no treatment plant—even the modern Hyperion Sewage Treatment Plant that handles the city's wastewater today—has the capacity to deal with both the everyday effluent and storm water all at once. Elsewhere, NPS pollution comes from agricultural run-off, logging, and mining, among many other sources. Controlling these industries has produced uneven results across the country depending on how much influence the polluters have at the local or state level.

In detailed fashion, Hoornbeek demonstrates just how difficult NPS pollution has been to solve. To be sure, he barely touches the technical aspect of this, but delves deeply into the policy side of it, showing just how varied the states are in their efforts to tackle the problem. As Hoornbeek puts it, "Some states—such as Maine, Oregon, Washington, New Jersey, and California—took their policymaking roles in this area quite seriously and implemented relatively aggressive non-point source water pollution control programs in these areas. Other states appear to have done little more than was necessary to collect federal monies under the Section 319 grant program. Thus, while procedural measures of state compliance suggest high rates of state compliance with federal mandates, the federal policy structures used to address non-point source water pollution concerns do not result in anything close to consistently aggressive state policy efforts in furtherance of federal policy goals" (p. 236).

Hoornbeek draws conclusions such as these from a huge stack of previous research conducted on water pollution control policy. Indeed, through much of the book, there is a feeling of his summarizing the various literature out there, which clearly is his intent, and then using it to analyze the past effectiveness of federal water pollution laws. He argues decisively for Congress to not just hand off the problem to the states but take on more of a leadership role: "The current experimental era has now

outlived its usefulness,” he writes, and later, “continued progress is best facilitated in the context of strong actions that only Congress can enable” (p. 260). Given the strong sentiment these days for less federal involvement at the local level, this might be a tough sell, but given the data that Hoornbeek rolls out, he is persuasive.

This is one of the greatest values of this book. It takes us through what has gone wrong and what has gone right in terms of implementing water pollution law, and then how to build upon those successes. As a journalist and not an academic, I would have preferred a few concrete, ground-level examples of how this has taken place instead of the litany of number-crunching research that

starts to come across as a lot of generalizations. Then again, Hoornbeek is incredibly thorough in his analysis of that research, making it abundantly clear that just because Congress passes a law, it doesn’t mean that it will be fully implemented across the land.

Given that the deadline for clean waters passed twenty-six years ago, the book should be required reading not just for academics interested in understanding the role of government in cleaning up our polluted waters, but for Congress itself. It would seem there’s a naive philosophy running through that body that local and state entities know best in every policy matter. When it comes to water pollution, this isn’t necessarily the case.

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