

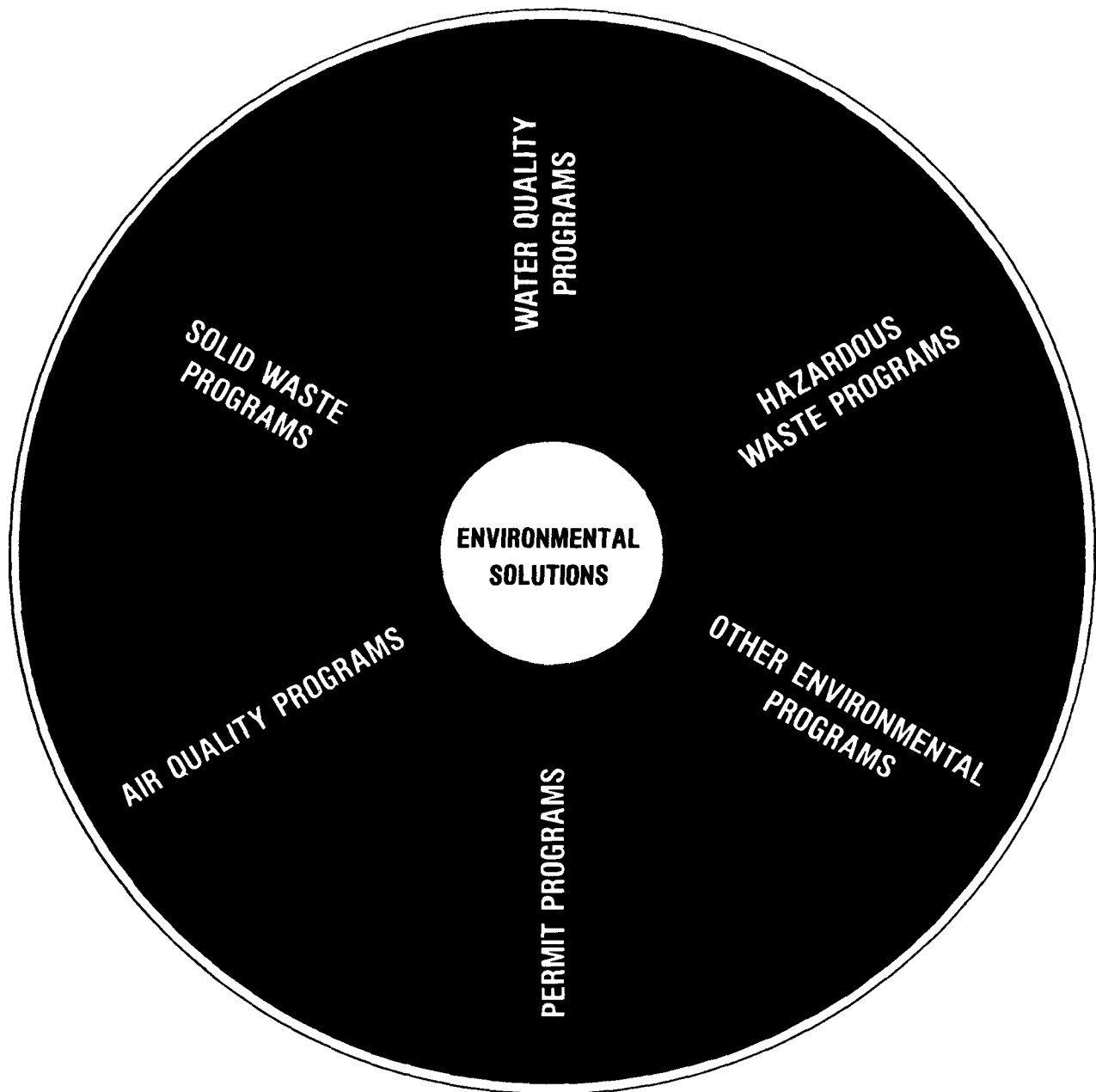
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# STATE/EPA AGREEMENTS

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A Handbook for Substate Regional Agencies

000R79100



NATIONAL ASSOCIATION OF  
REGIONAL COUNCILS

AUGUST 1979

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## **THE NATIONAL ASSOCIATION OF REGIONAL COUNCILS (NARC) IS . . .**

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- . . . A nonprofit membership organization serving the nation's regional councils. Its fundamental purpose is to strengthen and assist all regional councils.
- . . . An association which provides its members with a variety of technical assistance and research services, with representation before Congress and the Administration in Washington, with regular communications services, and with key conferences and workshops.
- . . . Most important, an organization that needs its members' involvement. NARC seeks the participation of staff directors and policy officials through the Staff Directors Advisory Committee, through election to the Board of Directors, through membership in policy committees, through suggestions and comments, and through participation in national and state meetings.

Those who wish to learn more about NARC and its membership services are welcome to call or write the Executive Director.

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National Association of Regional Councils  
1700 K Street, N.W.  
Washington, D.C. 20006  
(202) 457-0710

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## FOREWORD

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Over the past year or so, the Environmental Protection Agency has been instituting State/EPA Agreements between its regional offices and the states within each region.

EPA's goal is to more effectively combat environmental problems by integrating and coordinating programs developed by state and local governments under the Clean Water Act, the Safe Drinking Water Act, the Clean Air Act and the Resource Conservation and Recovery Act. The Agreements and the process of developing them certainly have the potential of achieving EPA's objective.

This guide has been prepared to help substate

regional councils understand the State/EPA Agreement process and use it to work more effectively with the state. Although this may be difficult in some cases, the potential results are worth the effort.

NARC would like to hear from substate regional councils about their experiences in the State/EPA Agreement process. We will help all regional councils function better in the State/EPA Agreement arena by learning about the techniques that work as well as those that don't.

We are indebted to the Water Planning Division of EPA for its continuing support and contributions in the preparation of this publication.

Richard C. Hartman  
Executive Director  
August 1979

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## INTRODUCTION

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The U.S. Environmental Protection Agency (EPA) has put into action a new plan to improve the coordination and effectiveness of clean-up programs carried out under three key environmental laws.

The major feature of this plan is the annual State-EPA Agreement — a mechanism for managing some EPA grants to the 56 states and territories.

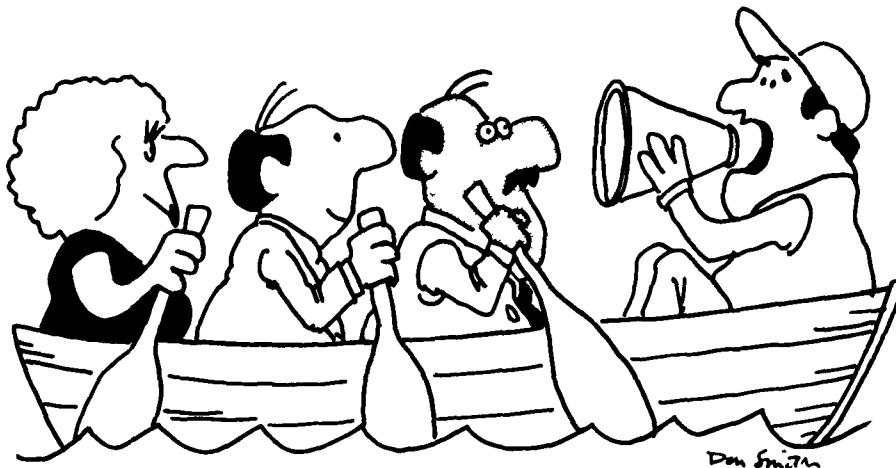
Under EPA's plan, governments at the local, state and federal levels will work closely together both to identify priority environmental problems and to find appropriate solutions. The results will be more effective and coordinated use of the sometimes overlapping authorities contained in the Safe Drinking Water Act, the Clean Water Act, and the Resource Conservation and Recovery Act.

The goal is to promote more creative, effective and efficient solutions to problems affecting public health and environment. The Agreements

will focus on priority environmental problems and will utilize the resources and authorities contained in the three laws to solve those specific problems. The Agreements are also intended to be a useful management tool in integrating environmental programs and in conserving federal and state resources through such practices as combining duplicative requirements in two or more programs into a single product that satisfies all administrative and legal requirements.

In Fiscal Year 1980, State-EPA Agreements will present integrated approaches to solving water supply, solid waste and water pollution control problems. The integration of these program areas will be a major step toward the objectives of overall environmental planning and management versus an approach which tries to solve interrelated environmental problems in a piece-meal fashion, program by program.

The State-EPA Agreement, which each state



*“... governments at the local, state, and federal levels will work closely together to identify problems and to find appropriate solutions.”*

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and its corresponding EPA Region will negotiate, will include a brief statement of environmental problems and objectives based on state problem assessments and strategies. Agreements will also include or make reference to work programs which integrate the various products under each of the "covered" programs.

The State-EPA Agreement will reflect important decisions on environmental priorities (including those set forth in the annual EPA operating guidance), administrative problems, timing, responsibilities and allocation of funds. It will focus top management attention on the evaluation and accomplishment of major environmental objectives.

According to EPA regulations and guidance, substate regional planning and implementation agencies — such as designated Water Quality Management Planning Agencies under section 208 of the Clean Water Act or Solid Waste Planning Agencies under subtitle D of the Resource Conservation and Recovery Act — shall participate in the development of relevant portions of the Agreement and it shall reflect their views.

Substate regional planning and implementation agencies will continue to have full interaction with EPA. In programs such as areawide water quality management planning under section 208 of the Clean Water Act, designated areawide agencies will continue to be funded directly by EPA. EPA will also negotiate water quality management work programs directly

with designated areawides and will continue to have ultimate authority over the evaluation of products.

Regional agencies have a lot at stake in the State/EPA Agreement. In order for an agency's environmental programs to receive federal funding, they must be consistent with the state program enunciated in the Agreement. The great advantage to this is that the Agreement puts the state on record as to precisely what its environmental program is, thus better defining state review and evaluation criteria. Furthermore, the development of the State/EPA Agreement should give regional planning and implementation agencies an opportunity to influence the shape of state environmental policy.

Properly implemented, the State/EPA Agreement and the process of deriving it should help to better integrate environmental programs; but perhaps just as important, it should help to better integrate the efforts of the various levels of government involved. This publication is intended to help local elected officials, regional council staff and citizens to better understand the State/EPA Agreement and to take advantage of the opportunities it offers.

# I. THE AGREEMENT AS A MANAGEMENT TOOL

The State/EPA Agreement will be a management tool to ensure that the various environmental programs run by the state are well coordinated and not conflicting or duplicative. Integration of programs in this way will not only make the states' overall environmental management more efficient, it will also enhance the individual programs themselves.



*"The State/EPA Agreement will be a management tool to ensure that the various environmental programs run by the state are well coordinated . . ."*

## Integration

Enactment of the Clean Water Act, Safe Drinking Water Act and Clean Air Act provided for controls of water and air pollution. Passage of the Resource Conservation and Recovery Act (RCRA) in 1976 closed the gaps in the waste disposal cycle, providing control over disposal of pollutants on or in the land. Congress recognized the relationship among air, water and solid waste pollution and controls in Section 1002(b)(3) of RCRA, which says:

... as a result of the Clean Water Act, the Water Pollution Control Act, and other Federal and State laws respecting public health and the environment, greater amounts of solid waste . . . have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health.

There are a number of reasons why it makes sense to coordinate and integrate environmental programs. Linking planning, implementation, and management of major environmental programs will allow a comprehensive and

systematic approach. This type of approach should lead, for instance, to an identification of the best place to control pollutants in their overall life cycle. As a result of program integration, generators of pollution should be able to plan all controls at one time.

## Efficiency

Coordination and integration of environmental programs should also reduce duplication. Since resources are limited at all levels of government, an integrated approach should achieve maximum environmental benefits from limited resources. It should also help prevent the unplanned movement of pollutants from one medium to another, e.g., from the air or water to the land and back to the water. In addition, the Agreement must have early and continuous public involvement. As a result, the strategy derived from the agreement process will be more likely to succeed and will reflect broader public interests.

Many state governments are large, highly decentralized organizations with numerous centers of power. Without integration, different state agencies can and do make conflicting decisions. The State/EPA Agreement process will require greater coordination in related areas. This should end contradictory state policies and resolve unproductive interagency disputes.

Finally, an objective of the State/EPA Agreement process is to prevent redundant paperwork and work elements and to limit the need for burdensome regulations.

## Communication

In addition, the State/EPA Agreement will be used to improve communication among the various levels of government and the public and to integrate environmental management throughout the federal, state, areawide and local levels.

One important link in this communications network is that between the states and the regional and local agencies. The states need local government to assess problems, to develop workable plans and to implement resulting environmental management decisions. The local governments and their regional agencies need the power and authority of the state to accomplish their local environmental management agendas. The states will be required to consult local and regional planning and implementation agencies in developing the state strategy and the State/EPA Agreement.

## II. PROGRAMS THAT ARE COVERED

The programs that must be covered under State/EPA Agreements for fiscal year 1980 are generally those providing federal grants to the states for planning and management solutions to water quality and related solid waste problems. They fall under three major federal environmental laws: The Clean Water Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. Other programs may be included at the discretion of the Regional Administrator.

### Clean Water Act

*Section 106* (federal grants to the states to administer pollution control programs) includes point source permit programs, enforcement programs, water quality monitoring programs, and emergency cleanup programs.

*Section 205(g)* (federal grants to states to administer construction of wastewater treatment works) may also include costs of administering point source permit programs, permit programs for discharge of dredge or fill material, statewide water quality management programs, and management of treatment works construction grants for small communities.

*Section 208* (Water Quality Management Planning) is a broad management program carried out by state and areawide agencies to identify needed treatment works; set priorities for building them; assess advanced wastewater treatment needs; solve nonpoint source pollution problems from urban storm runoff, agriculture, construction, mining, silviculture, on-lot disposal and other nonpoint sources.

*Section 314* (Clean Lakes Program) provides grants to states to identify, classify and develop procedures and methods to control sources of pollution in publicly owned freshwater lakes.

### Resource Conservation and Recovery Act (RCRA)

*Section 4008* (State Solid Waste Plans) provides grants to states for the development and implementation of state solid waste management plans and for evaluating individual disposal sites to determine which should be closed or upgraded. State plans address all solid waste in the state that poses potential adverse effects on health or the environment. They include municipal, industrial, mining, and agricultural wastes, and pollution control wastes

such as septic tank pumpings. The plan will also provide for the development of policy and strategy for resource recovery and conservation practices.

*Section 4009* (Rural Communities Assistance) provides grants for solid waste management facilities in rural communities.

*Section 3011* (State Hazardous Waste Program) allows states to develop a regulatory framework for the control and disposal of hazardous wastes, including appropriate permitting mechanisms, monitoring, record keeping and reporting procedures. RCRA regulations will define hazardous wastes and establish requirements for generators, transporters, and owners and operators of facilities for the disposal, treatment, and storage of hazardous wastes.

### Safe Drinking Water Act (SDWA)

*Section 143(a)* (State Public Water Supervision Program) establishes and maintains standards and controls for drinking water sources, surveillance of public water systems and conducting sanitary surveys. The program also assures adequate laboratory capacity and enforcement capabilities.

*Section 1443(b)* (Underground Injection Control Programs) requires that a responsible state agency establish and maintain an inventory of underground waste injection practices, and carry out surveillance and investigation of underground injection operations.

*Section 1442(b)(3)(C)* allows grants to states and municipalities for projects or activities to carry out the purposes of the Safe Drinking Water Act, other than those covered by the previously mentioned SDWA programs.

*"The State/EPA Agreement will cover programs conducted under the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and others."*





# III. IT IS AN INTERACTIVE PROCESS

## Negotiation

Development of a State/EPA Agreement is an interactive process requiring the personal commitment of high-level EPA and state officials as well as citizens. It requires consultation among EPA regional program managers, state agencies, regional and local planning and implementation agencies, related federal agencies and affected or interested citizens. The involvement of each group is important if the objectives of the Agreement are to be met.

The negotiation of the State/EPA Agreement is part of a process which gets decision-makers together to determine priorities for environmental problems and to develop creative solutions. EPA recommends that the state and EPA regional personnel should begin developing the Agreement as early as possible each year. Before development begins, the state, EPA and the public should review basic background information such as current state plans, strategies, problem assessments, annual EPA operating guidance, applicable laws and deadlines, and funding sources.

Consultation will be an important component of the negotiation process. Even though the states and EPA have primary responsibility for negotiating the agreements, other segments of the environmental management community such as various state agencies, local and regional planning and implementation agencies and the public will be included in the process through consultation.

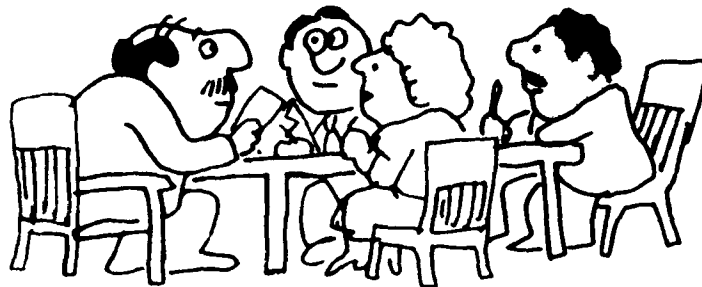
## Development

Developing a State/EPA Agreement is an annual process which, mentioned earlier, requires the personal commitment and constant involvement of EPA, state officials, and the public. It should bring people together to identify and solve the environmental problems they face.

Generally, the agreement process should include the following activities:

- identify priority problems;
- identify available resources;
- consider alternative solutions and their impacts;
- choose the best solutions;
- identify sources of funds;
- define tasks, including timing, funding, and responsible parties;
- implement the Agreement; and
- revise the Agreement and evaluate the process annually.

Wherever possible, the schedule for develop-



*"The negotiation of the State/EPA Agreement is part of a process which gets decision-makers together to determine priorities for environmental problems and to develop creative solutions."*

ing the State/EPA Agreement should accommodate the existing schedules of the various programs. Generally, the draft Agreement should be completed and submitted to the regional EPA administrator by June to cover the federal fiscal year beginning in October. The regional administrator will then review the draft and provide comments to the state within 30 days. The final Agreement is to be submitted to the regional administrator in September of each year so that it may be signed and take effect October 1.

## Components

While the key to the success of the Agreement is flexibility in accommodating differences among individual states, it should have several major components:

- (1) A brief statement of the environmental goals and problems to be acted on. The statement should be based on the state's problem assessments, strategies, or other identification of needed activities for the covered programs. As much as possible, the state should prepare an integrated multi-year strategy to be updated annually.
- (2) A detailed work program based on a multi-year strategy, or reference to such a program in other documents.
- (3) A summary of the major integrated work elements compiled from the detailed work programs, as well as EPA actions needed.
- (4) Other information and coordination requirements which the Regional Administrator determines are necessary to meet the goals of the Agreement, such as formal agreements with other federal programs.

If the Agreement is longer than 20-25 pages,

it is recommended that a summary be prepared as an overview of the work to be performed during the coming year.

### EPA — Local Relationships

The State/EPA Agreement is meant to assist EPA and the states in being more responsible for managing and coordinating environmental programs. The agreement is not intended to insulate EPA from local and regional agencies. For instance, the Water Quality Management regulations (40 CFR 35, May 23, 1979) state:

#### 35.1515 State/EPA Agreement

(b) Role of areawide agencies. For areawide agencies, the State's work program sets a policy framework based on the State strategy, and should include priorities for areawide action and timing of major outputs. Because of the importance of their role, areawide agencies shall be involved in development of all relevant aspects of the Agreement. Comments of the areawide agencies (if any), the State's responses, and a brief summary of the participation of areawide agencies in development shall be forwarded to EPA with the draft Agreement. Nothing shall preclude the right of the areawide agency to submit comments directly to EPA. and

#### 35.1513-3 WQM Work Program, Relationship To State/EPA Agreement

(c) Areawide agencies' work programs are separate submissions. However, the State work program sets a policy framework for areawide agencies based on the State strategy, and should include priorities for areawide action and timing of major outputs. Approval of areawide work programs will not be delayed based on delay in ap-



## STATE/EPA AGREEMENTS

- Problems & Goals
- Work Program
- Summary of Work Elements
- Other Information

proval of a State work program, unless the Regional Administrator determines that an unapproved element of the State's work program is critical to the effectiveness of areawide efforts.

As the State/EPA Agreements are formulated, local and regional planning and implementation agencies must continue to cultivate EPA contacts and maintain relations with the EPA regional office. As long as they want it, local agencies will have access to EPA for assistance and consultation as in the past.

## IV. HOW AND WHY YOUR AGENCY SHOULD BE INVOLVED

By now it is clear that the State/EPA Agreement will be the management focus for many federal environmental programs. The states will be responsible for the performance of those programs. If they are to be successful, they will need help from local and regional agencies. But many states have not yet determined how to involve local governments and regional agencies effectively in the State/EPA Agreement process. It is up to you as a regional agency official to demonstrate how regional agencies are important to the success of the statewide environmental program and what your agency can do.

### Regional Agencies and State Program Management

The state can benefit greatly from working with regional agencies. State governments are responsible for the activities of 80,120 local governments which spend in excess of \$200 billion per year and have untold effects upon personal lives and business. It is difficult for state governments to deal with that level of detail. They need regional council help to acquire and disseminate information. In the final analysis, state officials judge regional planning and implementation agencies on the basis of their usefulness to the state and their acceptance by local political leaders.



*"In the final analysis, state officials judge regional agencies on the basis of their usefulness to the state and their acceptance by local political leaders."*

### Communication

While formulating an integrated environmental management program for the State/EPA Agreement may be relatively easy, state agencies may find it difficult to achieve regular, reliable communication with all the local governments that must participate in the implementation of the program. To secure the local governments' commitment to implementation, local interests must be respected and addressed in developing the program. Effective communications among the various levels of government is an objective of the State/EPA Agreement; such communication can be provided by regional agencies.

The number of regional agencies in any state is limited. It is less costly and easier for state governments to establish and maintain relations with them than with each local government.

### Resolving Conflicts

State governments spend countless hours and dollars attempting to resolve local disputes. As problem solvers, regional agencies reduce the number of disputes that reach state government. They sort out conflicting local interests and present the state with a locally negotiated assessment of needs and expectations.

Regional agencies also provide a mechanism for determining allocations of scarce state and federal funds, thus placing those decisions closer to home. Conflict resolution is a difficult and unpopular task, but it provides regional agencies with opportunities to prove how worthwhile they can be to state administrative and political leaders, especially in sensitive environmental areas such as sanitary landfill siting and sewage treatment capacity allocation.

### Citizen Participation

The state is required to seek effective public involvement in developing its State/EPA Agreement. Establishing a citizen participation program from the bottom up could be costly and time-consuming. However, many regional agencies actively involve citizens in environmental programs. Some have already integrated various citizen participation efforts. Regional efforts can provide a framework for a state citizen participation program.

## State/Regional Impact

State government, supported by regional and local officials and citizens, can be far more effective in influencing EPA policy and funding decisions. A state with enthusiastic local support will be negotiating its Agreement from a position of maximum strength.

Regional agencies can help the state build local support through:

- A ready organization, including a citizens' participation system, for developing a unified state-regional-local position on key environmental issues; and

- A vehicle for communicating that unified position to Congressional representatives, state legislators, and federal officials in Washington.

## Management Improvements and Cost Reductions

Regional agencies make it possible for local governments to share expensive facilities, technical equipment and specialized professional manpower. And it becomes easier for the state to establish local data gathering or environmental management efforts that would be too costly or too difficult to manage on a jurisdiction-by-jurisdiction basis.

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# V. DEVELOPING A POSITIVE RELATIONSHIP WITH YOUR STATE

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Whether dealing with the state on environmental matters generally or trying to involve your agency in the development of the State/EPA agreement specifically, it is important to remember that working with state government is, after all, working with and through people. While laws and policies may structure and limit the kinds of relationships possible, intergovernmental relations are prin-

cipally interactions among the elected and appointed representatives of the agencies involved.

Now is the time to start working closely with your state to influence the State/EPA Agreement. The effort must be continuous. The people who make the environmental management decisions for the state must know you, and understand that what your agency does is important and effective.

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# VI. HOW TO GET INVOLVED IN THE PROCESS

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The best way to assure that your regional agency is involved in the formulation of the State/EPA Agreement is to establish and maintain strong relationships with each part of state government: the governor and the executive branch; the line agencies directly responsible to the governor; the legislature and legislative staff agencies; autonomous or semi-autonomous boards, commissions and state administrative agencies. States are governments of many parts; a regional agency program for working with the state should give attention to each.

## Identify the Decision Makers

Identify those officials in the governor's office, at the line agencies and at the EPA regional office who will be making decisions about the State/EPA Agreement. This may involve knowing the extent to which decisions are delegated by the governor, the state agency head or the regional EPA administrator.

## Outline a Realistic Program and Push It

Regional agencies cannot do everything at once. Look for achievable objectives and then

*"States are governments of many parts; a regional agency program for working with the state should give attention to each."*



follow through to complete them. Make sure the decision makers understand your program and see how it will benefit the state. Be aggressive and persistent. It is good practice to initiate proposals rather than react to the initiatives of others.

### Work Statewide

Mobilize your state association of regional councils or state municipal league or state county association to participate in the State/EPA Agreement formulation process. Understandably, the state government is accustomed to dealing with statewide organizations. This is especially true on major policy issues such as the state environmental management plan and the State/EPA Agreement. Time limitations, cost, and simple inertia weigh against systematic state efforts to survey all regional or local agencies. Because of this, benefits of state

association action accrue to both member agencies and the state.

State associations should supplement your program for working with the state, not replace it. Some perils to avoid when working with state associations are:

- Regional agencies that previously looked after their own interests can be lulled into dangerous complacency by assuming that the association is on top of everything.
- State officials may attempt to substitute casual consultation with the state association for more substantial interaction with individual agencies.
- Splits within and among regional council and county associations and municipal leagues can weaken the position of all local governments before the state.
- Internal politics of an association can waste valuable time and effort.

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## VII. OVERCOMING BARRIERS

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There is a natural tension in the interactions between states and local and regional agencies. If managed properly, that tension can provide a creative impetus leading to productive results. Unfortunately, that tension often degenerates into distrust and even open hostility. Of course, when this happens the quality of government suffers and nobody wins.

### Combat Hostility

- Maintain high quality work.
- Be alert, but don't over-react.
- Be aggressive, but be constructive and positive.
- Emphasize agency work for local government.
- Demonstrate that you can help state officials.

### Be Political

- Have elected officials from your agency communicate with state officials.
- Have your state legislators advance your program. Use local elected officials to accomplish this.
- Use statewide clout, either through state associations or through *ad hoc* organizations of agencies.
- Mobilize local citizen action. State officials are responsive to constructive public suggestions.
- Be persistent.
- Always give credit where credit is due.
- Keep the EPA regional administrator informed of your progress, especially when the state begins to involve your agency.

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# GET IN STEP WITH YOUR STATE

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## Make Meetings Productive

- Know who you are meeting with and what he/she can do for you.
- Pick the proper person(s) to attend: policy officials or staff.
- Brief the state staff in advance so they can prepare their boss; avoid surprises.
- Limit your requests.
- Include at least one item that you are sure the state official can agree to (don't let the meeting be a total loss to both sides).
- Avoid criticism; be positive; be respectful.
- Have a draft document that can be acted upon.
- Follow up with a thank-you, regardless of the outcome.
- Inform lower-echelon state staff of what was requested and any action taken in the meeting.
- Schedule a follow-up action if necessary.
- Give credit publicly and privately to the state official.

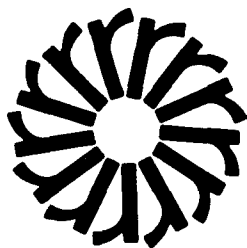
## Assist State Officials

- Respond quickly to data requests from the state.
- On occasion, handle "hot potatoes" for the state.
- Help arrange hearings in the region (provide the hall, alert the news media, bring a crowd, provide staff).
- Co-sponsor meetings with state agencies.
- Help state agencies make citizen participation work.
- Accompany state officials as they visit communities within the region.
- Issue news releases that provide information on state programs and the work of specific state officials.
- Give state officials a telephone list of your staff and invite them to call when they need help.

# STATE/EPA AGREEMENT TIMETABLE

The following schedule for development of an effective State/EPA Agreement is suggested in EPA regulations and guidance.

<b>Deadline</b>	<b>Activity</b>
by April 1	Proposed state policy framework made available to relevant state and local agencies.
by June 1	Draft Agreement completed and submitted to EPA regional administrator.
Within 30 days of submission	EPA regional administrator provides comments to the state.
during September	Final Agreement submitted to EPA regional administrator.
October 1	Final Agreement signed and takes effect.



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ASSOCIATION  
OF REGIONAL  
COUNCILS**

1700 K Street, N.W., Washington, D.C. 20006  
(202) 457-0710