



Report Of The Task Force To Enhance State Capacity

Strengthening Environmental Management In The United States



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Note To Reader

This report presents the findings and recommendations of the State Capacity Task Force, a group of EPA and state officials who worked together for more than a year to generate ideas for improving the partnership between EPA and states.

The Executive Summary outlines the purpose, background, and major findings of the Task Force, along with next steps for implementing the Task Force's recommendations. The Consolidated Report provides an overview of the current state-EPA relationship and the capacity of state governments for carrying out environmental programs. It summarizes the findings and recommendations developed by the four teams that were formed to carry out the work of the Task Force: "Building State/EPA Relations," "Alternative Financing Mechanisms," "Building State Capability," and "Streamlining the Grants Process."

Additional information and copies of the more detailed individual team reports are available from: Office of Regional Operations and State/Local Relations, H-1501, U.S. Environmental Protection Agency, Washington, D.C. 20460; Phone (202) 260-4719.

While the Task Force focused on state capacity, many of its recommendations relate directly to the issues of local government and tribal capacity. These issues are being addressed in parallel efforts.

Acknowledgements

The State Capacity Task Force wishes to acknowledge the valuable assistance provided by a large number of organizations and individuals. Many groups and people contributed to our research during the development of our findings and recommendations, and provided insightful suggestions in reviewing our draft reports. We thank all who made this effort productive, and look forward to continuing to work with them as the recommendations of this report are debated and implemented. Because this effort was so broad ranging and developed over a lengthy period of time, we may have inadvertently left someone off this list. We apologize for this oversight.

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"The Task Force on State Capacity, under the leadership of John Wise, has presented me with a report that recommends a major new emphasis on the working relationship between EPA and the states. The report recognizes the interdependence between state and federal environmental programs and offers a number of specific recommendations on how to succeed in carrying out our shared mission. The timing of this report is most fortunate, because I view strengthened state/EPA relations as one of my top priorities.

I commend the Task Force for its excellent work, especially for bringing representatives from the regions, programs, and states into the process. I strongly endorse the principles promoted in this report, and agree with the statement that "we have reached the beginning of our journey" on this issue. Much good work is underway across the Agency to build stronger working relationships with the states. Building on that work, it is now time for EPA and the states to establish a new and bolder framework for implementing our ever-growing, shared agenda.

There are several important themes in this report I want to pursue as we develop the implementation plan: increased state participation in Agency policy and priority-setting processes; measuring progress in environmental terms more than just program activities; improving our processes, infrastructure, and delivery systems to support the state/EPA partnership; and making it clear that enhancing state capacity is part of EPA's job. Ultimately, we need to link this work to the parallel efforts on local and tribal capacity."

Administrator Carol M. Browner
May 17, 1993

EXECUTIVE SUMMARY

The concept that states should hold primary responsibility for the operation of regulatory and enforcement programs is inherent in most federal environmental statutes. As a result, EPA has a long-standing responsibility to enhance state capacity and to strengthen environmental management in the United States. Much progress has been made. Today most states stand as competent environmental managers. Yet the onslaught of statutory and program demands, plus the limitation of funds, is slowly driving states into perennial shortfalls and is compromising state capacity to manage environmental programs. The bottom-line lesson is that if the states fail, then EPA fails.

The State Capacity Task Force was created to invigorate EPA and state efforts to enhance capacity. Building on past efforts (both successes and shortfalls), the Task Force engaged a wide range of stakeholders in a participatory process of continuous improvement such that total quality would come to characterize the state/EPA relationship.

The Task Force focused on four areas, supported by four teams comprised of EPA and state officials:

- Improving state/EPA relations;
- Encouraging alternative financing mechanisms;
- Investing in state management infrastructure; and
- Streamlining the grants assistance process.

The recommendations of the Task Force envision a long-term change process, motivated by continuous improvement and building upon past successes. The recommendations set forth a policy framework to enhance state capacity; specific implementation actions will subsequently give tangible expression to each recommendation. There is no magic solution to building state capacity; rather the Task Force envisions a long hard journey employing a collaborative process involving EPA, the states, and other interested parties that will firmly

establish the states as primary environmental managers.

Following is a summary of the recommendations of the states and EPA.

Framework and Policy

- Establish a new framework and policy for state/EPA relations emphasizing flexibility, a mutually supportive working relationship, and a shared responsibility for success.
- Initiate a review of the current policy statements that set out the governing principles for state/EPA relations with the intent of issuing a new concise statement to reflect the new framework.
- Restructure program oversight practices to:
 - Ensure that program performance is reviewed in terms of environmental as well as fiduciary outcomes;
 - Recognize both shared and unique EPA and state environmental priorities; and
 - Provide for peer review and self-assessment of environmental accomplishment.

- Issue a new policy statement on grant oversight to clearly define EPA's and the grantee's fiduciary responsibilities for managing and accounting for public funds.

Strategic Planning and Integration of Priorities

- Establish a joint process with each state to identify and define clear environmental goals and to systematically integrate federal and state priorities.
- Regional Administrators should meet with states within their jurisdictions to discuss regional priorities and state priorities, and agree on integrated federal and state priorities.
- States should be active participants in EPA's long-term planning process and be included in setting its agenda.

- EPA should devise mechanisms to include states in setting goals and developing planning guidance.

- EPA and states should issue periodic public reports detailing state and federal environmental goals, objectives, and priorities, and discussing progress in meeting them.

- Implement collaborative projects to promote state/EPA co-management of geographic projects and to build joint experience, technical exchange, and mutual trust.

- Vigorously promote operational efficiency in all state/EPA programs.

Mechanisms to Institutionalize State Capacity

- Establish a central contact in the Office of the Administrator to guide and monitor state capacity efforts.
- Form an EPA steering committee on state capacity, comprised of state and EPA representatives, to advise and consult on EPA matters that affect states. The steering committee will focus on developing and carrying out an implementation plan based on the recommendations of this report. The steering committee will work closely with the State/EPA Operations Committee to ensure full collaboration.
- Convene a conference of states with the new Administrator to review this report, and initiate a continuing dialogue on state/EPA relations.
- Strengthen the State/EPA Operations Committee to serve as the primary forum for a continuing dialogue on state/EPA policies and relationships, including state capacity.
- Consult other advisory groups, such as the Environmental Financial Advisory Board (EFAB) and the National Advisory Council for Environmental Policy and Technology (NACEPT), as sources of outside advice and counsel on major issues facing states and EPA.

- Initiate, in cooperation with program-specific state associations and state and local officials' organizations, a dialogue on managing the environment, researching critical issues, and improving management of environmental programs.

- Significantly expand the exchange of EPA and state employees, through both individual assignments and team efforts.

Building State Capability and Management Infrastructure

- Use EPA's planning and budget processes to incorporate state capability support as a key investment priority.

- Ensure state representation and consideration of state needs and priorities throughout the planning and budget processes.

- Seek to obtain maximum delegation of national programs in order to efficiently manage an integrated collection of state and federal programs.

- Exercise maximum flexibility in negotiating grant-assisted work plans while respecting statutory and regulatory authority, mutually agreed upon strategies and sound management practices. Expect mutual accountability or the negotiated terms of the grant-assisted work plan.

- Encourage the use of innovative approaches to improve the efficiency and effectiveness of state environmental programs. For example, promote the use of general permits, administrative penalty authority, professional certification, and tickets for minor violations.

- Energize EPA's environmental training function to provide learning experiences for federal, state, and local employees, including enhancing knowledge of program delivery; building scientific and technical skills; and assisting state and local governments in developing local, on-site training.

- Invest in a state/EPA integrated data and information portfolio designed to enhance information exchange.

- Continue to provide consultation and assistance on environmental management needs, risk assessment, information system management, management advice and assistance, and Total Quality Management.

- Implement programs to improve the scientific and technical capability of state and local personnel, including technology transfer, research assistance, and scientific information.

Environmental Finance

- State and local governments with environmental management responsibilities should critically assess and challenge the funding mechanisms used for each component of their capital and operating budgets, using the opportunities for alternative financing presented in the Compendium of Alternative Financing Mechanisms.

- Expand the existing multi-media environmental finance program within EPA, and at university-based Environmental Finance Centers, to develop strategies and approaches to assist state and local governments in financing and carrying out their environmental mandates. The thrust would be to enhance the ability of state and local governments to finance rising costs.

Grants Administration

- Establish a State/EPA Grants Steering Committee to ensure continuous improvements in grants management processes.

- Continue research on alternative grant mechanisms and advocate new authorities for multi-media grants.

- Seek more efficient grant award and management processes by improving the integration of state and federal planning cycles.

Legislative Action

- Offer language for legislative initiatives that would make state-capacity building a primary mission of the Agency.

- Articulate the current limits and opportunities under the Administrative Procedure Act (APA) for including states in the rule-making process, and propose specific legislative changes to the APA that would address EPA and state needs.

- Offer guidelines on how EPA can currently work with the states under the Federal Advisory Committee Act (FACA). Propose specific changes to FACA that would recognize the right of states, as delegated managers of EPA programs, to be consulted on matters of policy and management of national environmental programs without the need to charter formal advisory committees.

- When EPA's basic statutes are reauthorized, seek amendments that clarify the roles and responsibilities of the states and EPA, and recognize the collaborative relationship between them. The statutes should facilitate multi-media funding and cross-jurisdictional geographic activities, and recognize state and local responsibility and accountability.

The Task Force proposes that initial implementation efforts be managed by a central contact in the Office of the Administrator. The Administrator should appoint a State Capacity Steering Committee to guide and monitor the state capacity effort.

With these recommendations, the Task Force has reached the beginning of its efforts; we are at a critical juncture where implementation must now proceed. We must move forward with the same joint commitment and close collaboration between EPA and the states that has distinguished this effort to date.

CONSOLIDATED REPORT

INTRODUCTION

Federal environmental programs were designed by Congress to be administered at the state and local level wherever possible. The clear intent of this design is to use the strengths of federal, state, and local governments in a partnership to protect public health and the nation's air, water, and land. State and local governments are expected to assume primary responsibility for the implementation of national programs, while EPA is to provide national environmental leadership, develop general program frameworks, establish standards as required by legislation, ... assist states in preparing to assume responsibility for program operations, and ensure national compliance with environmental quality standards.

EPA's policy has been to transfer the administration of national programs to state and local governments to the fullest extent possible, consistent with statutory intent and good management practice....

William D. Ruckelshaus, 1984

Environmental management in the United States is a complex and dynamic system. States, cities, villages, towns, townships, boroughs, counties, parishes, special districts, multi-state commissions, international commissions, and recognized indigenous organizations all share with the federal government responsibilities for environmental management. This structure is the result of our nation's commitment to federalism and a testimony to our belief in the dispersal of authority and responsibility and in public involvement in the exercise of governmental functions.

For many years states have provided the lion's share of environmental management controls—permits, discharge standards, and public health and natural resource regulations. Since 1970, with the creation of the Environmental Protection Agency (EPA), the federal government has joined states and localities in regulating particular environmental activities.

In states, several different governmental agencies manage, regulate, and promote environmental protection policies and practices; commonly, these are health departments, agricultural agencies, and environmental and natural resource agencies. At the local government level, environmentally-related activities traditionally have been confined to the provision of public services (such as wastewater treatment, drinking water, and trash removal) and the regulation of land use and personal safety (such as zoning and building codes). Local governments are also involved in the regulation and management of activities that affect the environment, such as district-wide air pollution regulation, industrial pretreatment for wastewater discharges, stormwater controls, public health protection, and sanitation regulation.

For EPA, responsible stewardship of the nation's environmental agenda requires constant, open communication and interaction with states and local governments. Likewise, in their effort

to manage the environment, in their attempt to use resources most efficiently, and in their need to coordinate with others, states must communicate effectively with EPA and local governments. In their role, local governments must communicate and coordinate with states and the federal government, but they must also integrate legislated requirements with the ongoing service needs of their individual communities.

The challenge for all levels of government is to develop appropriate techniques and institutions to protect the health of citizens adequately and to nurture and sustain the environment appropriately, thus providing for future with itself.

In 1984, Administrator William D. Ruckelshaus articulated a national policy for federal-state-local management of national environmental programs. This statement, a synthesis of history, law, and practice, has been identified for a decade as the guiding principle of management within EPA.¹

Time, circumstance, and human behavior have altered the policy so carefully enunciated. Over the last decade, a host of dynamic and often independent factors has brought pressure to recognize change in federal, state and local environmental programs. In light of these evolving circumstances it has become evident that EPA, states, tribes, and localities need to re-examine their working relationships and to jointly develop proposals, recommendations, and new systems for the future. The following summary of these forces for change will underline some of the issues addressed in this report.

ELEMENTS OF CHANGE AND CHALLENGE

Environmental management burdens on states and municipalities have increased dramatically and will continue to escalate. State and local capacity for managing the environment is affected by an increase in environmental laws, changes in regulatory jurisdiction, scientific developments, and today's fiscal realities. First, environmental responsibility is increasingly being borne by the states. New federal statutes have been passed, mandating an increased regulatory presence and delegating primary responsibility to the states. Early national environmental laws were enacted with a strong federal focus driven by high public concern, increasing demands from the regulated community for consistency in standards, and lack of broad-ranging and integrated state environmental programs. In actuality, some states have instituted environmental programs that go beyond federal requirements. Simply relying on traditional command and control methods has become less effective in meeting our environmental protection needs, especially as resources become increasingly constrained. New environmental concerns, such as the need for location-specific responses and the need to address more and more small, dispersed polluters have changed management requirements.²

State Budgetary Health

At the state level, the overall availability of general revenues has declined. Furthermore, even though this varies from state to state, the federal government's relative contribution to state environmental budgets has slowed. Finally, direct federal support to local governments for environmental improvements has also declined. The gap between the cost of environmental protection and resources available to meet those costs is widening at an alarming rate. Competition for revenue dollars is intense and the prolonged economic downturn has threatened general revenue levels and forced states and localities to cut current budgets and adopt alternative funding sources. As environmental statutory and program demands increase and available resources decrease or remain level, state and local capacity to provide environmental protection is compromised.

State Funding for Environmental Programs

Environmental management has grown exponentially over the past two decades. Fueled by legislative action at the national, state, and local levels, this expansion led to growth in operating budgets of states and localities for environmental management. For most of the period, the nation's economic vitality provided increasing resources for this growth. Recently, however, two converging national developments have brought into question the ability of states and localities to continue, unabated, the expansion of environmental management activities.

- **Increased Demand on Expenditures**

First, scientific inquiry, identification of environmental concerns, and specificity of environmental law have accelerated

at a great pace over the past decade, increasing the need for more sophisticated regulatory action and highly complex environmental controls, as well as requiring greater commitment of both capital and operating funds.³

- **Decreased Revenues** Second, national economic growth has slackened. Government revenues are suffering, while many costs have risen.

Consequently, states and localities are experiencing severe budget stress. More than ever before, environmental demands must actively compete with human service needs (such as medical assistance, corrections, general assistance, and education) for scarce resources.⁴

As the economy grows slowly and budget deficits swell, environmental programs are facing increasing competition for limited resources from other programs. In the long term, this fiscal stress increases the risk that state and local governments will be unable to maintain their administrative responsibility, resulting in non-compliance and diminished enforcement, delays in program implementation, and postponement or cancellation of crucial environmental investments.

- **States' Response** Governments at all levels are trying to cope, looking at new incentive mechanisms, public-private partnerships, interagency cooperative efforts, and other innovative strategies to address complex environmental problems that do not respond to traditional approaches. Individually, these trends are new in the field of environmental protection; collectively, they entail a larger policy-setting and fiscal role for states and localities than ever before.

Relationship Between EPA and States

Relations between states and federal agencies have always been characterized by compromises born of necessity. On one hand, Congress and the public expect a federal agency to maintain adequate stewardship of its responsibilities; on the other hand, they expect states to share substantially in managing many activities. While public policy options create the most visible conflicts between individual states and federal agencies, these disputes are frequently settled in the political arena. Issues of day-to-day program management, however, often strain the relationships between states and federal agencies. This Task Force's work has been focused on the crucial issues of day-to-day management and cooperation.

• Oversight

Existing national oversight practices were born at a time when states had limited technical and managerial capacity and EPA was the acknowledged leader. Now, state officials have experience in administering environmental programs that often equals or surpasses that of the EPA managers and staff who "oversee" them. In fact, since EPA has less responsibility than in the past for day-to-day field level operations, its staff capability in these areas is eroding. The obsolescence of the existing accountability system is especially apparent in states that have adopted innovative policies, laws, or organizational structures that do not mirror EPA's guidance. Ironically, innovative states often make changes that EPA itself has been unable to accomplish.

• Delegation

There are dozens of program components that can be and are delegated to states. Currently, the extent of delegation is uneven and performance of these delegated programs is also uneven. The national picture is, in fact, a mosaic of situations, even within a single state. Thus, the "state/EPA relationship" is really a complicated series of relationships that can only be described accurately on a program-by-program and state-by-state basis.⁵

Adding to the federal government's management challenge are two facts: (1) states are not monolithic, in their organizations, approaches, or traditional environmental responsibilities (as established by common law, treaty, constitution or statute); and (2) federal agencies cannot force states to adopt particular organizational or management systems. Thus, in dealing with states, federal agencies must forge compromises of style and direction in order to fulfill congressional mandates.

For EPA, therefore, responsible stewardship of the nation's environmental agenda requires constant, open communication and interaction with states. Similarly, in their efforts at environmental management, in their quest for efficient use of resources, and in their need to coordinate with others, states must effectively work with EPA and other states.

THE CHALLENGE

Failure to fully address this complex web of changing circumstances, advancing science, evolving accountability, growing responsibility, and increasing financial difficulty will have serious consequences. Inattention to the issues of state capacity and the state/EPA relationship will exacerbate problems of national environmental management, lead to a deterioration in environmental protection, and compromise the environmental standards envisioned by the Congress and the American people. The challenge for states, localities, and EPA is to acknowledge the difficulty and the necessity of collaborating in common efforts and find new approaches and methods for managing national environmental programs.

TASK FORCE ON ENHANCING STATE CAPACITY

In response to these serious, evolving challenges to the established national environmental management system, and based on recommendations from the State/EPA Operations Committee that capacity development was an important issue for states, EPA established the State Capacity Task Force in October 1991.

The Task Force was charged with focusing on three major areas of concern:

- Explore the viability of creative financing mechanisms such as fee-based revenues, public-private partnerships, and alternative financial planning as a means of bolstering state environmental programs.
- Examine federal investment in state infrastructure in areas such as training, information networks, laboratories, monitoring, and technical assistance.
- Investigate how improved working relationships can help states get the most out of federal financial assistance and capital investments.

Several key premises were fundamental to the Task Force's efforts:

- States and localities should be actively involved in all aspects of the Task Force's deliberations.
- Efforts should focus on three basic areas--innovative financing assistance, federal investment in state and local management infrastructure, and efficiency enhancements through improved intergovernmental relations and quality management coordination.
- The Task Force should not "reinvent the wheel," but make use of the many excellent, but underutilized, reviews of federal/state/local relations completed over the last decade.

- The Task Force should seek to overcome past implementation inertia by constantly examining each recommendation to ensure that it incorporated techniques for integrating the proposed changes into the environmental management system.

- Throughout the effort, the concept of continuous improvement would be paramount.

Structure and Participation

As the Task Force began to examine preliminary information on intergovernmental fiscal conditions, capabilities for program management, and program infrastructure investment opportunities, it became clear that the challenge of enhancing state and local capacity was much more complex than initially perceived, and that the range of options upon which the Task Force should focus and for which it was to develop recommendations was far broader than originally envisioned. Further, the Task Force soon recognized that participation of stakeholders outside EPA was essential to effectively gathering information and formulating implementable recommendations. In order to better manage the flow of information, increase the breadth of participation, exploit the expertise of each Task Force member, ensure the quality of recommendations, and facilitate the ultimate production of this report, the Task Force established an operating structure consisting of a steering committee and four teams (State/EPA Relations, State Capability, Grants Management, and Alternative Financial Mechanisms).

Parallel and Spin-Off Activities

Early in its deliberations the Task Force struggled with the issue of how to adequately address local government and tribal issues without so enlarging the scope of the study as to risk failure to reach closure. From the outset, the Task Force was expected to examine all aspects of the environmental management capacity issue, including Indian tribal government capacity and the ability of local governments to maintain strong environmental management functions. Since it became apparent that each of these topics was a major undertaking in itself, separate efforts have been launched to address them individually. Recommendations from these parallel studies will be merged into the overall Agency-wide effort to enhance the capacity of its collaborating organizations and institutions.

This report is a synthesis of the deliberations of the four teams based on input from a wide assortment of internal and external participants. A more detailed discussion of the individual team conclusions is contained in the team reports.⁶

Conclusion

The Task Force believes that this report is only a beginning. There is no magic solution to building state capacity; rather, the Task Force envisions a long, hard journey employing a collaborative process involving EPA, states, and other interested parties that will firmly establish states as primary environmental managers.

GENERAL FINDINGS AND RECOMMENDATIONS

Overarching Themes

In reviewing the components of building state capacity, several overarching themes emerged. A new state/EPA relationship will require joint activity in several key areas:

- Building a system of state and local participation in policy and regulatory development, priority-setting, and implementation planning;
- Increasing investment in training and technical assistance;
- Integrating state capacity issues into EPA's budgeting and planning functions;
- Building state and federal performance systems that highlight the importance of collaborative activity, shared responsibility, and flexibility, and that recognize unique state environmental priorities;
- Improving the delivery of financial assistance to states including streamlined grants, technical assistance on alternative financing, and multi-media funding that targets risk-based priorities;
- Developing a sound program review system based on environmental outputs and fiduciary accountability, and including tools such as peer review and continuous improvement;
- Improving the efficiency and effectiveness of state environmental programs by using innovative approaches to program delivery; and
- Achieving statutory acceptance of the concepts of shared responsibility and joint management.

The following section contains the primary findings and recommendations of the Task Force. They are divided into seven major subject areas:

1. New Framework and Policy
2. Strategic Planning and Integration of Priorities
3. Mechanisms to Institutionalize State Capacity
4. Building State Capability and Management Infrastructure
5. Environmental Finance
6. Grants Administration
7. Legislative Action

Each of these areas captures the critical changes necessary to enhance state capacity.

Framework And Policy

BACKGROUND

By the mid-1980s, states had assumed primary responsibility for day-to-day operations of many environmental programs, under authority delegated from EPA. This led to an effort to define a new relationship, based on joint responsibility. In the envisioned partnership, EPA would maintain ultimate responsibility for ensuring that national environmental goals were met, but would accomplish this through a mutually supportive partnership that would enable states to carry out their implementation activities.

During this period, broad policies on state/EPA relations were developed and adopted.⁹ In reviewing the implementation of these policies, however (see Appendix A), there is little indication that they effected a cultural shift towards full partnership with the States.

The lack of success in implementing earlier policies demonstrates that it will take more than jawboning and good intentions to bring about real change in the entrenched culture.

FINDING

It will take strong leadership from both EPA and the states, backed by strong performance systems, new forms of communication, and joint program implementation to shift the state/EPA relationship to one of mutual support and commitment to strengthening state responsibility and capacity.

NEW APPROACHES NEEDED

The recommendations that follow are designed to move EPA into a new way of doing business by promoting:

- **policies and principles** for a state/EPA relationship based on mutual respect and recognition of the unique responsibilities and abilities of each party;
- **effective state participation** in setting priorities and developing plans for meeting environmental goals that reflect the unique conditions, authorities, and opportunities in each state;
- **implementation strategies to guide EPA's transition** to a balanced culture that emphasizes flexibility in working with the states, shared responsibility, and a mutually supportive working relationship;
- **modified management accountability and performance** systems, devised and supported by both the states and EPA, to provide appropriate rewards and sanctions for actions affecting state/EPA relations or state capacity-building; and
- **internal and external mechanisms to ensure continuous improvement** in state capacity matters and implementation of Task Force recommendations.

EPA's relationship with the states is characterized by program implementation by media, delegation by directive, structured grant support, and sometimes overly rigid enforcement. Furthermore, as a function of how EPA has historically delegated programs and congressional expectations, EPA's oversight, at times, is overly rigid. As we move towards the end of this century, the state/EPA relationship must mature. The relationship must be redefined

FINDING

The state capacity issue is characterized by highly complex and interdependent statutory requirements and management systems. There are no existing mechanisms to systematically redefine the relationship between states and the federal government.

through a joint discussion of national and state environmental problems, goals, strategies, and processes for working together. These are crucial to developing a successful system of operation.

Increasingly, national statutes and state legislation must become tools for jointly meeting environmental goals and delivering environmental protection-- means to an end, not ends in themselves. In the future, the state/EPA relationship must be restructured on three sets of goals: shared environmental values, national program objectives, and unique state priorities. In the latter two instances, there must be mutual respect for differing goals; EPA headquarters and regional offices must assist each state as it moves towards its goals, and all states must do their share to achieve the national agenda. Both EPA and states must acknowledge responsibility for quality performance and a dedication to sound management.

NEW POLICIES

RECOMMENDATION

- Establish a new policy and framework for state/EPA relations emphasizing flexibility, a mutually supportive working relationship, and a shared responsibility for success.

Review of Current Policies

Today, the state/EPA relationship is described in several documents.¹⁰ These five detailed policies should be reviewed collaboratively by appropriate state and EPA representatives to determine what kinds of changes are necessary to draft a new, concise statement capturing the principles espoused in this report.

New Framework and Policy

To guide efforts to implement the Task Force's recommendations, EPA should develop a framework and policy, setting out guidelines and expectations. Particular emphasis should be given to actions intended to shift EPA's culture to one more supportive of states. The strategy should address:

- improving the participation of states in policy development, priority-setting, and implementation planning;
- increasing investment in support activities, such as training and technical assistance;
- integrating state capacity issues into planning and budgeting activities throughout the Agency;
- revising managers' performance standards and career advancement

opportunities to highlight support for state and local government programs;

- delegating optimum authority from EPA headquarters offices to regional offices to expedite transactions with states, localities, and tribes;
- instituting oversight practices and procedures that foster state capacity; and
- reforming grant procedures to ensure timely award and reduction of unnecessary paperwork.

The framework implementation plan should set priorities for major actions; establish timeframes for key milestones; discuss process considerations, including lead responsibility for carrying out elements of the plan; address resource implications; and provide a tracking method for gauging progress toward full implementation.

New Oversight Policy

RECOMMENDATIONS

- Restructure oversight practices to:
 - Distinguish between fiduciary accountability and environmental outcomes, and
 - Provide for peer review and self-assessment of environmental accomplishment.
- Issue a new policy statement on grant oversight to clearly define EPA's and the states' fiduciary responsibilities for managing and accounting for public funds.

States and EPA recognize that a joint environmental management system requires flexibility on important issues. It is also important to develop a strong, collaborative working relationship. States and EPA perceive a clear and important distinction between fiduciary accountability for public funds and

managerial discretion in reaching environmental goals. In addition, fiduciary accountability for grant funds should not unduly limit program managers' flexibility to use particular techniques and practices to achieve environmental objectives.

The conduct of oversight largely defines the tone of the relationship between EPA and states. It is important that states and EPA work together to define oversight in a way that ensures both stewardship of public resources and effective implementation of environmental programs.

Individual agreements between states and EPA can serve to define appropriate oversight. Such agreements should describe the level and type of qualitative and quantitative oversight that EPA will exercise with respect to a state's activities. Clear distinctions between fiduciary accountability and environmental outcomes should be maintained. Specifically, there is a need for balance to ensure that:

- environmental goals are the focus of state and EPA activities;
- appropriate joint management programs are implemented and tracked to achieve those goals;
- environmental programs are managed to accommodate both national and state goals; and
- fiduciary responsibilities are being met.

"Appropriate oversight" should be defined in light of such factors as whether a state has a delegated program, a state program's history of compliance and enforcement activity, its past success in reducing environmental risks, its maturity (new programs may require greater oversight than established programs).

Both quantitative and qualitative oversight should be conducted primarily through appropriately scheduled reviews of progress toward

Strategic Planning And Integration Of Priorities

agreed-upon goals and objectives. In these reviews, EPA and state personnel should evaluate each other's performance with respect to the agreements between states and EPA.

- Have the state and EPA met their commitments? If not, what circumstances prevented them from meeting the commitments?
- Does the agreement need to be modified in order to better achieve the desired environmental result?
- Do other states and/or federal agencies need to be brought in to ensure success?
- Does the level of oversight need to be adjusted?

On the basis of such reviews, EPA and the states should issue periodic reports to the public on the progress they are making toward agreed-upon environmental goals.

Regional Administrators and Assistant Administrators should periodically report to senior management on the progress being made in program delivery and on EPA efforts at assisting states in reaching environmental goals.

Over time, oversight activities can be curtailed as greater professional collaboration evolves between EPA and the states. Such collaboration might include creating environmental initiatives, crafting national legislation, developing and implementing regulations, and integrating state and federal programs and priorities. In addition, strengthening technical assistance between EPA and states will ensure that all parties know how various programs are best administered, thus reducing the need for oversight.

BACKGROUND

The responsibilities of EPA and states are changing in response to emerging environmental challenges. As the roles of states expand, EPA needs to fully involve them in developing planning and implementation strategies.

The lack of a comprehensive mechanism for state and federal interaction on researching, planning, and designing environmental strategies seriously weakens the ability of states to be co-managers. EPA must assume an increasingly diverse set of responsibilities for strategic coordination and support of state and local environmental programs. To make this transition, EPA must continue to shift decision-making authority from national program staff to its regional offices.

States will play an increasingly prominent role in shaping environmental programs at the state, local, and regional levels, based on their assessments of priorities and comparative risks. States must also be active in congressional debates on environmental priorities and programs and assist EPA in shaping the national agenda. States should continue to have important responsibilities for providing information, training, and technical assistance to local governments and the regulated community. Ultimately, states are fundamentally responsible for the environmental management activity within their borders. Local governments will assume a greater role in addressing environmental issues relating to land use; small, dispersed, non-point source emissions; indoor environmental issues; and traffic-related air quality concerns. While local governments continue to meet their responsibilities as members of the regulated community (as managers of sewage and solid waste, for example), they will be an integral part of the efforts of state environmental protection agencies and EPA to address critical environmental issues.

FINDING:

The lack of integrated state and federal strategic planning and risk-based priority setting has weakened the ability of both EPA and the states to carry out cost-effective environmental management.

SETTING JOINT ENVIRONMENTAL GOALS

Refocusing the state/EPA relationship to meet emerging challenges requires establishing clear environmental goals. These will serve to frame issues for federal and state legislative consideration and to guide program decisions at the state and federal levels. States and EPA agree that environmental progress can best be determined by measurable improvement toward agreed-upon environmental goals.

Accurate evaluation of environmental effectiveness does not rest on activity measures (permits issued or dollars collected). Unless well formulated with demonstrable environmental improvement measures, assessment systems will measure functions performed, not improvement in the environment. Further, single media activity assessment fails to detect the shifting of pollution from one media to another, which is counterproductive to achieving environmental improvement.

Similarly, enforcement strategies strictly focused on punitive measures (such as obtaining fines or convictions) may miss opportunities to fashion creative, multi-media approaches that could act as a deterrent, avoid expensive legal confrontation, and improve environmental performance.

RECOMMENDATIONS

- Establish a joint state/EPA process to identify and define clear environmental goals and to systematically integrate state and federal environmental priorities.
 - Regional Administrators should meet with states to discuss regional priorities and individual state priorities, and agree on integrated state and federal priorities.
 - Agreements between individual states and EPA should be signed and published to confirm shared state and federal priorities.
 - States should be active participants in EPA's long-term planning process, and be included in setting its agenda.
- Jointly issue EPA and state periodic public reports detailing state and federal environmental priorities, goals, and objectives, and discussing progress in meeting them.
- Continue to provide financial and technical assistance to states on planning, priority-setting, and comparative risk assessment.
- Develop collaborative projects to promote state/EPA co-management of geographic projects and to build joint experience, technical exchange, and mutual trust.
- Vigorously promote operational efficiency in all state/EPA programs.

The Task Force believes that it is imperative to articulate a set of joint environmental priorities (defined in terms of measurable environmental goals) to assess performance, establish state/federal roles and responsibilities, and allocate resources.

These would prevail over a multi-year planning horizon. Once measurable goals have been defined, EPA and each state should work to integrate their priorities. This entails identifying joint priorities, state-only priorities, and national priorities for which states have implementation responsibilities. We anticipate that two types of environmental goals and associated management plans should be developed: those focusing on issues of regional, national, and international concern, and those addressing state-specific issues.

Goals for Regional, National, or International Issues

In consultation with the states, Congress, and other relevant stakeholders, EPA should identify specific environmental goals for global, national, regional, or geographically-defined issues. For each goal, EPA will develop a strategic plan for achieving these goals.

Goals for State-Specific Concerns

According to a planning schedule that meets its needs, each state will identify its environmental priorities, stating them in terms of environmental results. EPA should assist states in this goal-setting process, including the development of a public outreach program, which is critical to ensure that relevant and ambitious environmental goals are set and achieved. As in the case of national goals, EPA and the states will jointly develop a strategic plan for achieving these goals.

Goals for Both State and National Concerns

The Task Force sees public reporting as an integral part of the evolving state/EPA relationship. Consistent reporting by EPA and states on goals, progress, and issues they face in providing environmental protection will serve to inform the public debate. EPA and each state should periodically issue a joint public report on their progress toward meeting these environmental goals and the related milestones.

INTEGRATING PRIORITIES

Strengthening the state/EPA relationship requires integrating state/EPA environmental priorities and coordinating program implementation so that *both* state and national goals are achieved and critical statutory mandates satisfied. States and EPA must work collaboratively, both to strategically implement federal and state statutory mandates and to shape future legislation to reflect an efficient division of responsibilities at the local, state, and federal levels.

State and federal environmental priorities identified through assessing environmental risks and other methods may vary widely because of the different mandates of EPA and the States. In some states, specific national priorities may have little relevance to local circumstances. Priorities in each state will be uniquely shaped by such factors as economic base, presence or absence of federal facilities, urban/rural mix, climate, geography, and topography. Comparative risk projects are a useful tool for environmental priority setting. By January 1994, almost one half of the states will have initiated or completed comparative risk projects.

An integrated state/EPA environmental strategy must consider potentially conflicting demands on their resources.

Given the fiscal constraints at all levels of government, integrating priorities requires creative and innovative approaches to achieving effective results with limited resources. An ongoing dialogue on priorities is an important element in the emerging state/EPA relationship. Although this dialogue will work best when both EPA and the states have clearly articulated their environmental goals, it is not necessary to wait for those goals to be fully identified. The Task Force believes that the sooner this dialogue begins, the better.

STATES' INVOLVEMENT IN THE AGENCY'S LONG-TERM PLANNING PROCESS

Since the planning process within EPA is one of the primary ways the Agency sets its priorities, states should have a more structured involvement in these deliberations. Integrating states into a collaborative planning and priority-setting process will move both EPA and states a long way toward joint environmental management. Ideally, all states should participate in such a process, but the practical consideration of group size and the need to maintain meaningful interaction argue for inviting representative state participants. Since the Task Force is also recommending major increases in the responsibilities of the State/EPA Operations Committee, we suggest that members of the Committee serve as the state representatives in EPA's planning processes.

Each Regional Administrator should also convene a regional meeting with states to integrate priorities. Meeting participants should:

- determine how EPA can best support states in addressing their specific priorities;
- define states' contributions to national priorities;

- agree on integrated state and federal priorities;

- align activities for concurrent state and federal priorities into the most efficient combination of resources;

- review progress toward environmental goals;

- assess progress and continuous improvement of programs; and

- build interactive teamwork, respect, and trust.

This planning process could serve to establish multi-year resource commitments, joint responsibilities, and working relationships. Multi-year approaches could greatly reduce the work entailed in the current grant process.

To codify decisions on integrating priorities achieved at the regional planning meetings, EPA's regional offices and the states could establish formal agreements that define roles and responsibilities. These agreements, either single-state, or if appropriate, multi-state in character, are intended to be concise statements that specify:

- state/federal environmental goals driving program efforts;

- integrated state/EPA priorities with reference to action plans and resource commitments;

- specific action plans and resource commitments;

- measurements of success; and

- methods for accomplishing oversight.

In addition, EPA and the states should work to create similar agreements with other states and federal/state agencies to address issues that are geographically defined or shared by other agencies. These agreements should be updated regularly.

Accountability to the Public

The Regional Administrator and each state's senior official should codify their environmental decisions in a public document that will provide the basis for individual, grant-funded work plans. They should integrate their respective comparative risk assessments and strategic plans, especially with regard to a state's geographically-targeted environmental priorities and multi-media enforcement initiatives.

The key to public support for environmental regulation and control is building confidence in government actions. As more of the day-to-day operations of national environmental programs are delegated to states and localities, the need grows to maintain the public's faith that national objectives and goals are being adequately addressed. Likewise, state citizens need assurance that their individual, parochial interests will not be neglected as states take on more national responsibilities. Public reporting and accountability are fundamental to maintaining public trust and basic to realizing the changes espoused in this report.

Public accountability is the ultimate "audit" of performance. As states and EPA move toward greater integration of their goals and operating principles, each segment of the public—state, local, and national—must be satisfied that its interests are not being forgotten or compromised.

The Task Force recommends that the Steering Committee on State Capacity design and propose a mechanism for issuing biennial reports on the state of the environment. These reports would portray the status of the environment, changes implemented, and management successes on a state-by-state and multi-state basis. The individual state reports and other national data should serve as the basis for a quadrennial EPA report on the national state of the environment.

Mechanisms To Institutionalize State Capacity

EPA Assistance for State Strategic Planning

EPA should expand its support for state strategic planning projects and continue its active support for training programs and centers to coordinate risk assessment, planning, and priority-setting. These training opportunities provide welcome assistance to states in developing new expertise and in linking states for mutual activities.

Co-Management of Environmental Initiatives

The strategic planning process should identify projects in special geographic areas that lend themselves to co-management by EPA and states. Co-managed projects can serve to share learning experiences, build teamwork, and engender mutual respect and trust. Such projects are especially important in fostering ecosystem and basin-wide management approaches.

Operational Efficiency of Programs

EPA and all states should work together to eliminate inefficient operations. Joint management teams operating on Total Quality Management principles should be encouraged. Techniques such as general permits, administrative penalty authority, multi-media inspections capability, and citations should be examined for unique benefits. All of these approaches should be implemented in such a way as to minimize paperwork and bureaucracy.

BACKGROUND

Improving intergovernmental relations and building state capacity will require constant vigilance. EPA and state managers need effective mechanisms to monitor progress, raise and address issues, and exchange ideas. Existing forums could serve some of these functions. Some of these include State/EPA Operations Committee, the National Advisory Council for Environmental Policy and Technology (NACEPT), the Environmental Financial Advisory Board (EFAB), and the Steering Committee on the State/Federal Enforcement Relationship. Also, the various program-specific state organizations could be formalized and expanded to serve some of these functions.

FINDING

EPA and states lack established approaches, mechanisms, and institutions to ensure continued attention to, and progress on, state and local capacity issues.

STRENGTHEN AGENCY MECHANISMS TO INSTITUTIONALIZE STATE CAPACITY

Appoint an Agency Focal Point

EPA should send a strong signal of its commitment to effect real change by establishing a central contact in the Office of the Administrator to oversee the implementation of the Task Force recommendations and to champion state capacity issues. Although the magnitude of this initiative will require Agency-wide coordination, it should be noted that the program offices and regions will have the central responsibility for carrying out these recommendations. The Agency focal point will work closely with them and also states to coordinate the ongoing dialogue on this issue. Responsibilities of this focal point would include:

- developing the Agency-wide strategy framework and implementation plan;
- monitoring progress on strategy implementation;
- developing guidelines on providing effective support to state and local governments;
- conducting studies and analyses of state/local needs, oversight practices, and related capacity issues;
- providing consultation services to program and regional offices;
- identifying and analyzing innovative state and local programs and their implications for national policy;
- disseminating information about successful state and local initiatives, policies, and practices;
- brokering policy disputes; and
- setting-up and evaluating pilot state cooperative peer-structured oversight projects.

Establish a Steering Committee on State Capacity

The Agency needs an internal management vehicle for soliciting advice on intergovernmental issues and policies and for ensuring continued attention to state capacity issues and policies. The Task Force recommends that EPA form a Steering Committee on State Capacity, comprised of state and EPA representatives, to carry out these functions. This group could work closely with the Agency focal point.

The Steering Committee's initial focus would be to review proposed policies and principles, review the implementation plan, and promote pilot oversight projects. It would receive staff support from the Office of Regional Operations and State/Local Relations and members would be expected to assign experienced staff to

assist in implementation efforts. The Steering Committee would work closely with the State/EPA Operations Committee on state capacity implementation issues. Finally, the Steering Committee will explicitly seek to avoid a cumbersome, bureaucratic approach in favor of more streamlined, total quality methodology.

Convene a Conference with All States

If it is to be successful in addressing capacity matters, EPA must make particular efforts to understand the needs of state and local governments and to solicit their candid views. Other important stakeholders with an interest in how EPA and states work together, such as Congress, environmental groups, and the business community, need to be involved in a continuing dialogue.

Several existing organizations and

mechanisms serve to solicit state and local views on an ongoing basis. When and how they are consulted and on which matters, however, is somewhat ad hoc. EPA's strategy should include identifying the appropriate involvement of state and local officials in policy and program development. The role of other interest groups with regard to policy on state/EPA relations should also be examined.

As a first step, EPA should convene a conference of state environmental directors with the new Administrator to review this report, and start a new dialogue on state/EPA relations.

Strengthen the State/EPA Operations Committee

The State/EPA Operations Committee should be strengthened to serve as a primary forum for a continuing dialogue on state/EPA policies and relationships, including state capacity.

Encourage Advisory Bodies

EPA should also continue to engage such advisory boards as the Environmental Financial Advisory Board (EFAB) and National Advisory Council for Environmental Policy and Technology (NACEPT) as consultants on environmental finance, environmental policy, and state capacity.

Create Dialogue on Improving Management of Environmental Programs

EPA should also continue to engage the program-specific state associations (STAPPA/ALAPCO, ASIWPCA, and others) and the various state government groups (such as NGA, NCSL, and CSG) in capacity-building issues. These organizations can bring to bear a wealth of information and

RECOMMENDATIONS

- Establish a central contact in the Office of the Administrator to guide and monitor state capacity efforts.
- Form an EPA steering committee on state capacity, comprised of state and EPA representatives. The steering committee will focus on developing and carrying out an implementation plan based on the recommendations of this report.
- Convene a conference of states and territories with the new Administrator to review this report, and initiate a dialogue on state/EPA relations.
- Strengthen the State/EPA Operations Committee to serve as the primary forum for a continuing dialogue on state/EPA policies and relationships.
- Continue to use other advisory groups, such as EFAB and NACEPT, as sources of advice and counsel on major issues facing states and EPA.
- Initiate in cooperation with program-specific state associations and state and local officials' organizations, a dialogue on managing the environment, researching critical issues, and improving management of environmental programs.
- Significantly expand the exchange of EPA and state employees, through both individual assignments and team efforts.

Building State Capability And Management Infrastructure

practical experience that will be invaluable in developing a strong national environmental management system and in maintaining the credibility of collaboration.

Expand Personnel Exchanges

EPA and states should implement a range of programs for exchanging personnel, as many benefits can result from this interchange, including greater consistency in nationwide programs and increased sharing of ideas and new approaches. Implementing this recommendation will include the following options:

- expanding the use of Intergovernmental Personnel Act (IPA) assignments;
- increasing opportunities for EPA and states to work together on short-term assignments, task forces, and longer-term assignments;
- providing support for state-to-state personnel exchanges;
- assigning state/EPA "SWAT" teams to provide peer consulting on areas of concern to states; and
- improving access to technology for meeting by telephone, including video teleconferencing and enhanced equipment for traditional teleconferencing.

BACKGROUND

The term "capability" refers to the strength and effectiveness of a state's institutions, technology, and human resources, as well as to its ability to use financial resources with maximum efficiency. State capability includes such components as training, modernizing and streamlining processes and procedures, information systems, education, outreach, and the ability to overcome institutional barriers to greater efficiency.

Building capability has become important for three major reasons. First, there is considerable disparity among states in the sophistication of their program infrastructure. The greater the level of technical and organizational competence in all states, the more likely that uniform national compliance is achievable. Second, all of the Task Force's studies have found

that, to build environmental management capacity most efficiently, EPA should invest more in state infrastructure. This investment will ensure the viability of federal and state environmental programs over the long term. Finally, the nation is experiencing a period of fiscal difficulty. Federal and state funding increases for environmental protection have slowed; thus, efficiency has become a key component of effective environmental programs.

Building state capability will require attention in three key areas:

- Integrating state capability building into EPA's programs;
- Investing in building state infrastructure; and
- Improving the efficiency and effectiveness of state and national program delivery.

FINDING

To fully utilize the organizational capacity and the individual skills of state environmental agencies in the management of national programs, three key areas need attention:

- EPA's ability to integrate state capabilities into its programs.
- Wide variation in state program infrastructure relating to managing financial resources, building and maintaining a skilled work force, enhancing hardware and data systems, and maintaining adequate laboratory capacity.
- Dissemination of innovative state approaches to management challenges.

INTEGRATE STATE CAPABILITY BUILDING INTO EPA'S PROGRAMS

Currently, improving state capability is not seen as an integral part of EPA's program responsibilities. EPA must make a concerted effort to institutionalize state capability building into all of its activities. We can no longer afford to ignore the importance of this responsibility.

Recognize Building State Capability as an Agency Goal

The goal of improving state capability must become an integral part of EPA's program operations, including an emphasis on state support in the Agency's current planning, budgeting, and accountability systems. State

capability must be explicitly recognized as a priority in all areas of the Agency's budget, and included as a performance standard for personnel at all levels.

The Task Force recommends:

- explicitly defining state capability support and enhancement in the budgets of EPA program offices;
- amending Strategically Targeted Activities for Results System (STARS) and program office strategic plans to add performance measures and ensure accountability for creating specific capabilities in states;
- adding requirements for building state capabilities into EPA personnel's performance standards;
- recognizing state efforts to build capability, identifying state programs that are successful, telling the public about these successes, sharing "what works" with other state programs; and
- creating grants designed to enhance specific state capabilities, like the core grant program in Superfund.

RECOMMENDATION

- Revise planning and budget processes to recognize state capability support as a key priority and to include state representation and consideration of state needs and priorities at every juncture.
- Seek maximum delegation of national programs in order to efficiently manage an integrated collection of state and federal programs.
- Provide maximum flexibility for states in negotiated work plans, consistent with statutory authority and sound management practice.

Increase Delegation of Programs to States

Maximum delegation of national environmental programs to states is essential for achieving a collaborative federal/state/local system of environmental protection. When EPA must directly manage individual state programs or elements of programs, it undercuts the objective of building a state-centered, national environmental management system.

The reasons for states' reluctance to pursue program delegation are complex including economic, political, and policy concerns. In some cases, EPA's criteria for delegation and complex review processes have hindered states from pursuing program delegation.

The Task Force recommends that EPA and the states establish a Quality Action Team to develop proposals for more efficient ways to process delegation petitions and for methods by which EPA can work with states to encourage acceptance of national responsibilities. Absent such an effort, we believe that, over time, national programs will erode and the environment will suffer.

Change Processes That Inhibit State Capability Building

Innovation in management is successful only when unwarranted and artificial restraints on creativity are removed.

Both EPA and states must cooperate to eliminate overly restrictive guidance, procedures, and regulations. EPA must allow states maximum administrative flexibility in pursuing agreed upon environmental goals.

INVEST IN BUILDING STATE PROGRAM INFRASTRUCTURE

State environmental programs are comprised of a variety of elements that make up its program infrastructure. These elements include a skilled work force, data and information systems, and laboratories. The health of states' infrastructure varies considerably. Because these elements are essential in delivering successful programs, the Task Force believes that EPA should play a role in strengthening them.

Energize Training

State, federal, and local environmental programs depend on a highly skilled work force. Appropriate and timely training is crucial in attracting, developing, and retaining such a work force.

Although EPA invests considerable resources in training, there are major difficulties in delivering EPA training to states. Most EPA sponsored training is not offered at locations convenient to state personnel. It is often quite costly and is scheduled without sufficient lead time for states to be involved. State staff need training that is specific to their job responsibilities or that focuses on new rules or mandates. EPA training does not generally meet these needs, because states are not often involved in designing or delivering the training.

State capability depends not only on fully trained state personnel but also on fully trained federal personnel. As partners in environmental management, states have considerable expertise and experience, from which EPA managers could benefit. States should be routinely given the opportunity to train their EPA counterparts.

We recommend that EPA assess its training practices and revitalize its entire training function, with major

emphasis on providing and coordinating training assistance and learning experiences to states and localities. To support states in maintaining a skilled work force, the Task Force recommends that EPA review its training function to strongly focus on the needs of states, as defined by the states. Specifically:

- the subject matter of EPA training should reflect the needs of state and local trainees;
- state recipients of training should participate in training program design;
- states should be involved in delivering the training and in providing learning experiences;
- EPA should enhance its "train the trainer" approach, enabling states to conduct training programs at sites and times convenient for trainees; and

RECOMMENDATIONS

- Energize EPA's environmental training function to provide learning experiences for federal, state, and local employees. Improvements should include enhanced knowledge of program delivery, building scientific and technical skills, and assisting state and local governments to develop local, on-site training.
- With state help, develop a renewed, integrated data and information portfolio designed to build capability, promote access, and ensure compatibility throughout the entire management system.
- Assist states in communicating environmental management needs to the public in order to build support for enhancing state capability.

- training should emphasize subjects that build state program infrastructure, such as management development and emerging environmental issues.

The Task Force also believes that to enrich EPA's training program the Agency should:

- establish "centers of excellence" and training academies to give state employees access to high-quality training resources, such as the National Enforcement Training Institute (NETI);
- provide learning experiences through such innovative methods and technology as interactive video, satellite downlinks, self-paced instruction, and electronic bulletin boards, and award academic credit for successful completion of courses taught through such methods.

Strengthen Data and Information Management Systems

Because of the growing complexity of protecting the environment, states and EPA need now, more than ever, effective and efficient data and information management systems to carry out their work. Advances in information technology also have the potential of increasing the efficiency of operating state environmental programs.

Although the State/EPA Data Management program and the Electronic Data Interchange are producing improvements in information systems use and support, a number of basic problems remain. A number of state programs are still using outmoded technology that is time-consuming, inadequate for today's data storage needs, and unable to interface with national database systems. Most state information systems cannot support cross-media regulatory initiatives. Furthermore, technical transfer and regional sharing of data and information occur

infrequently without facilitation. As a result, current data quality is not high. Although states are beginning to adopt Geographic Information Systems (GIS), which are integrated, cross-media data systems, additional funding is needed for their expansion. Very few states and EPA, to a limited degree, have integrated systems that can support such cross-media initiatives.

Ongoing and new initiatives to address data management needs include:

- **Strengthen National Facilitation**
EPA should review its data systems to determine what actions could be taken to facilitate their consolidation and integration. This will facilitate state use of national data systems and enable states and EPA to share their data.
- **Provide Assistance and Training in EPA Systems**
EPA can help states to learn how to access EPA systems effectively and efficiently, thereby enabling states to use them to complement their own systems and avoid the cost of acquiring new, state-specific systems. EPA should encourage and support states in developing data management systems that can interface with EPA systems. The Agency should provide training courses and assistance in such areas as system-level hardware and software, the use of data in specific EPA national and scientific systems, and emerging information resources management technologies (e.g., supercomputer modeling).
- **Incorporate State Needs in Systems Development**
Most states must access, or provide data input to, EPA data systems that support program operations. To facilitate state interaction with these systems, EPA should solicit and incorporate state needs and concerns when developing or changing them. Additionally, state experience and skills in strong data and information management development offer to EPA an important resource.

- **Consult and Provide Technical Assistance**

EPA should continue to provide consultation and technical assistance to states in system design, hardware platforms, software programs, and telecommunications linkages. EPA should share with the states acquisition and contracting information relevant to information systems and technology. EPA can also assist in disseminating the experiences of other federal agencies and states that recently have undertaken major procurement.

- **Provide Clearinghouse Services**

EPA and states should jointly develop new methods for sharing innovative solutions to various data management challenges.

- **Support Technology Demonstrations**

EPA should sponsor state pilot projects to experiment with innovative data management approaches and assist states in examining new, cost-effective technologies.

- **Encourage Developing Geographic Information Systems**

EPA and the states should implement the locational accuracy policies and ensure latitude-longitude data for all permitted facilities; to do so would speed development of state GISs. (This is already required by Part A forms for RCRA Subtitle C facilities.) The Agency should provide states its locational data policy and related implementation plans and procedures, as they are issued by program offices.

- **Improve State/EPA**

- Telecommunications Systems**

Improve telecommunications between EPA and states to enhance transfer of spatial and image data. Fully engage states in opportunities offered by NREN and high performance computing.

Laboratories

Laboratory analysis has become increasingly important because of technological advances and federal regulations requiring detection of contaminants at low levels of concentration. Unfortunately, state laboratories often lack the most modern technology, are staffed by personnel without up-to-date training, and have a large backlog. State governments usually do not perceive investment in labs as imperative, and their budget officials are often reluctant to invest in modern technology when existing equipment appears functional. EPA should provide information on technologies and "state of the art" evolving equipment.

Build Public Support for State Capability

Institutionalizing state capability concerns in EPA's management systems constitutes only part of the capability-building equation. It is crucial that states and EPA work together to communicate to the public why state capability is so important so that EPA and states can make changes that will permanently break down barriers to building capability.

EPA and states should build public support through various outreach methods, such as demonstrating gains from environmental protection, encouraging pollution prevention, publicizing the benefits of investment in environmental program infrastructure, helping states to develop effective public relations campaigns, enhancing the environmental awareness of local officials, and promoting use of alternative financing mechanisms.

IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF STATE AND NATIONAL PROGRAM DELIVERY

State environmental program efficiency can be improved through adopting institutional change and innovative management techniques focusing on total quality and continuous improvement. Such changes can be rewarding, effective, and low-cost, but they are often difficult to make.

Some state and federal environmental programs have begun to use innovative approaches to manage their responsibilities. Substantial efficiencies, however, will come only with greater management and legislative attention and participation. Innovative solutions need to be diffused throughout the system and encouraged on a national basis.

RECOMMENDATIONS

- Encourage the use of innovative approaches to improve the efficiency and effectiveness of state environmental programs. For example, promote the use of general permits, administrative penalty authority, professional certification, and tickets for minor violations.

Foster Institutional Innovations

The Agency can further foster institutional innovations in the following ways:

- to the extent that states delegate regulatory programs to local governments, EPA should assist states to develop partnerships with local

governments. This effort should focus on training local staff and enhancing the skills of local inspectors;

- EPA should work to transcend administrative and statutory barriers to implementing multi-media approaches;

- EPA should examine its reward and accountability systems to ensure that they are conducive to team-building and integrated approaches, thereby encouraging multi-media approaches supportive of state needs;

- states should increase the efficiency of their environmental programs with such reforms as general permits, administrative penalties, professional certifications, environmental law judges, tickets for minor violations, improved inspections, and permits issued on a watershed basis;

- EPA should encourage states to emphasize pollution prevention as the centerpiece of state environmental management programs, thus increasing program efficiency and support for programs within the regulated community; and

- EPA should issue timely program guidance so that state program budgets can be synchronized with EPA's implementation schedules.

Diffuse Innovation

Some state environmental programs have instituted new approaches to their management challenges. If such innovations have been successful, it is worthwhile to publicize them. Strong support for state capability depends on demonstrating competence in program management and disseminating positive results, both within the EPA/State community and to the general public.

EPA and the states must communicate more extensively with the public and among themselves. In order to endorse increases in state capability, the public must be aware of environmental

program needs. Information about innovative solutions must be disseminated rapidly. States should publicize their compliance efforts, draw attention to instances of non-compliance and their environmental impacts, and recognize cases of successful compliance. EPA and states should facilitate technology transfer by documenting and publishing information on innovative approaches to state capability-building. They must also encourage and sponsor innovative management approaches at all levels.

To ensure the spread of innovation, EPA should:

- facilitate the diffusion of news about creative, institutional changes;

- foster technology transfer by documenting the success of innovative approaches and disseminating those documents to all states;

- encourage innovative approaches by providing support for promising demonstration projects to promote institutional change and state capability;

- increase interstate communication through EPA-supported outreach and publicity;

- monitor innovative state efforts to improve program efficiency and effectiveness and share experiences with other interested states; and

- sponsor innovative approaches at the local level, particularly in areas with a significant number of regulated entities.

BACKGROUND

Typically, state and local governments have funded environmental activities through a variety of revenue sources, such as appropriated general state funds, federal grants, fees, taxes, penalties, and bond proceeds. There is no single funding formula for state programs, as each environmental medium and state circumstance is different. Trends show a decrease in funding from federal resources and state general revenues; thus, alternative financing mechanisms (AFMs) have taken on increasing importance as a relative percentage of state environmental budgets. In air and water programs, for example, fees are the most widely used AFM. In the future, AFMs are likely to provide funding for a greater variety of services, grow more complex and flexible, and focus more on generating revenue rather than on achieving particular goals.

FINDING

The prime responsibility for implementing, administering and enforcing federally mandated environmental programs has shifted to the states and localities. This shift places a growing financial burden on state and local governments at a time of widening gap between the cost of environmental protection and available resources. This shift also creates a growing competition among all programs for funding from general revenues. To meet this financial challenge, program reforms must be made and new alternative sources of revenue and capital must be found to finance environmental programs.

INCREASE FINANCING OPTIONS

Review Funding Mechanisms

As economic pressures tighten, governments must weigh expenditures against priority of needs and existing revenues. Governments must also critically review the funding mechanisms used for each program based upon equity and efficiency. By using this process, state and local governments can assure citizens that the most appropriate and equitable sources of revenue are being used and that funds are being expended most efficiently.

Governments may make this dual assurance, yet still project revenue shortfalls. Also, existing funding mechanisms may not be fully responsive to identified needs. In such circumstances, governments should consider instituting alternative financing mechanisms to assist in securing sufficient revenues to carry out their environmental mandates. The public will be more likely to accept these funding mechanisms since they are especially targeted for environmental protection. The strengths and weaknesses of each available AFM should be examined in light of financing needs. Time and resources necessary to implement any given mechanism should be evaluated, as AFMs vary in the process required for approval and the speed at which they can be put in place. Each has basic characteristics, and many are amenable to adjustments to meet the needs of the specific user. The inherent nature of some AFMs precludes their use in certain circumstances. An AFM's utility depends on the individual political, fiscal, and legal conditions in the area where it may be adopted.

This report is complemented by a compendium of AFMs developed for the Task Force. It provides a

RECOMMENDATIONS

- All state and local governments with environmental management responsibilities must critically assess and challenge the funding mechanisms used for each component of their capital and operating budgets using the opportunity for alternative financing as presented in the Compendium of Alternative Financing Mechanisms.
- Expand the existing integrated multi-media environmental finance program to develop strategies and approaches for assisting state and local governments in financing and carrying out their environmental mandates. The thrust would be to enhance the ability of state and local governments to finance rising costs.

description of each AFM, along with an evaluation of its relative strengths and weaknesses and likely applications. An evaluation matrix is included to aid in the selection of an appropriate mechanism. The compendium will be made widely available to the public.

Provide Technical Assistance

It is essential that EPA increase its role in providing ongoing technical assistance in the area of environmental finance, especially as it relates to small communities and local governments. The existing environmental finance program in the Office of the Comptroller serves as the model for promoting careful investment through integration of environmental finance and programmatic objectives. The environmental finance program offers significant assistance to local governments in dealing with "how to pay" issues in financing both capital

and operating environmental programs. Specific activities involve:

- helping state and local governments develop new ways to pay for mandated environmental improvement and protection;
- continuing research on Alternative Financing Mechanisms with cooperative state, local government, and EPA efforts;
- strengthening national expertise in public finance through increased use of the Environmental Financial Advisory Board (EFAB), a group of over thirty prominent experts from the public and private finance community who provide advice to the Administrator on a wide range of environmental financing issues;
- expanding operations of the Environmental Financing Information Network (EFIN), an electronic bulletin board of financing information and activities that has interactive expansion capabilities. With EFIN as a component of the environmental finance program, EPA and states will have an on-line automated finance information system that will bring environmental finance information directly to states and localities; and
- establishing Environmental Finance Centers (EFCs) at universities throughout the country. These permanent, self-sustaining centers can be effective vehicles for promoting innovative financing techniques. Currently, the environmental finance program has underway two pilot EFCs at the Universities of New Mexico and Maryland. The purpose of these EFCs is to promote financing options by providing training to state and local officials, distributing publications, giving technical assistance targeted to specific local needs, and hosting town meetings and workshops for state and local officials.

Grants Administration

BACKGROUND

The Task Force's review of grant processes disclosed problems and inefficiencies in several key areas.

The Task Force has, however, found many worthwhile and important grants management activities currently under way that begin to address these deficiencies. These activities should be continued and evaluated, and the most productive results incorporated in Agency policy or legislative requests.

Following are seven key areas in need of attention:

• Funding

Delays in federal funding often trigger state financial and operating difficulties. Frequently, delays are caused by EPA's uncertainty about what funds will be made available in congressional appropriations. Other delays arise during grant negotiations between states and EPA.

• Planning

Congressional add-ons and EPA's planning and guidance systems often fail to consider impacts on states. EPA is sometimes late in issuing program guidance and planning targets. States and EPA often disagree on ranking environmental priorities. Enlarging the number of EPA grant programs and categories is intensifying the burden on the states to account for and administer their EPA grant programs.

• Communications

Communication links with states are inadequate. States may be awarding grants and contracts to undesirable contractors because they do not receive information on suspensions and debarment. Also, no clearinghouse exists for sharing information about EPA grant processing improvements.

• Accountability

EPA sometimes exercises an undue amount of direction in the financial administration of state programs.

States believe that EPA tends to micro-manage their grant activities. Furthermore, the states' flexibility in funding EPA's and their own environmental priorities is hampered by the proliferation of congressional mandates.

FINDING:

- A review by state and Agency officials of grant processes has revealed problems and inefficiencies in several key areas including funding, planning, communications, accountability, data processing, flexibility, and general policy.
- Many of these issues are being addressed in eleven current reform enterprises that offer important opportunities for improvement in grants management. These should be continued until they are completed and their results evaluated. They include:
 - comparative risk demonstration projects;
 - multi-media grants to Indian tribes;
 - a study of alternative mechanisms;
 - TQM reviews of Sec. 106 and 319 grant processes;
 - a review of administrative management requirements;
 - an automated workplan development pilot project;
 - development of an allocation formula for distribution of state personnel costs;
 - suspension and debarment pilots;
 - grants administration training development; and
 - development of a grants administration repository.

• Data Processing

EPA has not adequately explored automating the grant application process; as a result, it is inefficient and time-consuming. Grant application and award processes are paper-intensive, requiring proposals, applications, and several award and amendment documents.

• Flexibility

Continued program grant funding restrictions imposed by statute impede the states' ability to meet multi-media needs. Funds appropriated for State Continuing Environmental Program Grants must be used to fund media-specific programs and activities authorized by Congress. This legal constraint makes it difficult to move funds among individual, media-specific grant programs to address multi-media program activities. Multi-media approaches are also hampered by the requirement to track funds to the original, specific media appropriation. All these restrictions make it difficult for a state to maximize use of its staff and resources; they are barriers to achieving efficiencies through consolidating such activities as monitoring, inspection, and administration.

• Policy

Differing matching and maintenance of effort (MOE) requirements derived from different federal statutes adversely affect states' implementation of national initiatives. Each environmental program has its own matching and MOE requirements. These differences increase the fiscal and management burdens on states receiving multiple grant awards, as states must ensure that all the varying requirements are met. The various matching and MOE requirements affect not only how states manage federal grant funds, but also how they use their own funds.

IMPROVEMENTS TO GRANTS ADMINISTRATION

Grants Steering Committee

The Task Force recommends that a Grants Steering Committee ensure continuous improvement in grants management. Such a committee should invite participation by EPA's legal, program, and grants management staff, as well as representatives of state and local governments and Indian tribes. Although several activities already under way are addressing some concerns raised in this report, the Steering Committee would provide a long-term, continuous process involving all stakeholders. An existing committee should be augmented to serve this purpose if at all possible. The Grants Steering Committee should focus initially on such matters as:

- timely availability of funds;
- timely grant awards;
- improved communications and training;
- reduction of administrative burdens and transaction costs;
- automation of the grants process;
- development of proposals for grant flexibility; and
- oversight of the audit process.

Integrate State and Federal Planning Cycles

The federal fiscal year and the fiscal years of some states are different. When the federal government switched the start of its fiscal year from July 1 to October 1, most states did not follow suit. EPA usually does not receive its congressional appropriations until well after the start of a new fiscal year; thus, it is frequently forced to operate under a continuing resolution. Because EPA officials may be reluctant to negotiate funding agreements without knowing with certainty what funds will be appropriated, they postpone negotiations. Thus, grant funding cycles are thrown further off course and become even more poorly aligned with state planning cycles. Ways must be found to coordinate state and federal work planning schedules to facilitate a more efficient grant award and management process.

RECOMMENDATIONS

- Establish a State/EPA Grants Steering Committee to actively pursue streamlining of grants.
- Seek greater efficiencies by improving the integration of state and federal planning cycles.

Legislative Action

BACKGROUND

Fine-tuning an efficient national environmental management system requires the active participation of government agencies at all levels, legislative bodies, and the general public.

The Task Force believes that the key to implementing this report's recommendations is serious administrative deliberation (and action!) at the state and national levels, as well as interest and action on the part of legislators. Public support, bolstered by better management and more efficient use of resources, will be paramount throughout the undertaking.

Implied in most national environmental statutes and explicit in some is the involvement of both EPA and states in actively managing national environmental programs. As joint managers, EPA and the states need to regularly, substantively interact. Nevertheless, Congress ultimately holds EPA principally accountable for program management. If EPA and the states are to make the fundamental shift in operational philosophy envisioned in this report, legislative changes are needed to recognize EPA's role as a technical resource and collaborator in a cooperative system with states.

FINDING

Changing the methods by which national environmental programs are managed and building a credible system of joint management will require not only the cooperation of states and EPA, but also the assistance of Congress and state legislatures and the support of the public.

AMEND STATUTES TO SUPPORT STATE CAPACITY

Amend Basic Statutes

Congress should be encouraged to incorporate cross-cutting language in each of EPA's statutes to reaffirm and establish the necessary framework underlying the state/EPA relationship. Such language should emphasize flexibility, a mutually supportive working relationship, and a shared responsibility for success. It is the Task Force's recommendation that this be done at the time existing statutes are reauthorized.

Amend FACA

Although they are managers of national environmental programs, states are considered by some to be restricted in providing continuing advice to EPA on issues of policy and process. In most cases, challenges to the role of states as advisors to EPA occur when an aggrieved party at interest, in attempting to defeat an action or assert its own position, insists that states' involvement is inappropriate. The resulting restrictions on the free exchange of information between EPA and states is a serious problem. We believe that an amendment to FACA is needed to recognize the right of states, as delegated managers of EPA programs, to be consulted on matters of policy and management of national environmental programs without the need to charter formal advisory committees.

Amend APA

Current processes and practices in rule-making are founded on the legal premise that states are not managers of national environmental programs, but rather parties at interest, and that they should not be formally included in rule-making processes after the rules are published for comment, except as

part of the general public. The Task Force believes that this interpretation deprives EPA of an important source of insight and analysis while the Agency is reviewing comments on proposals and constructing final management procedures. EPA should seek to amend the Administrative Procedures Act to allow state participation in final rule development when states are to be co-managers and co-regulators of the issues and programs at issue.

RECOMMENDATIONS

- Offer language for EPA cabinet status elevation that would make state-capacity building a primary mission of the Agency.
- When EPA's basic statutes are reauthorized, seek amendments to outline clearly the roles and responsibilities of the states and EPA and the nature of the collaborative relationship between states and EPA; facilitate cross-media activities, multi-year program funding, and cross-jurisdictional geographic activities; and recognize state and local responsibility and accountability.
- Articulate the current limits and opportunities under the Administrative Procedures Act (APA) for including states in the rule-making process, and propose specific legislative changes to the APA that would address EPA and state needs.
- Offer guidelines on how EPA can currently work with the states under the Federal Advisory Committee Act (FACA). Propose specific changes to FACA that would recognize the right of states, as delegated managers of EPA programs, to be consulted on matters of policy and management of national environmental programs without the need to charter formal advisory committees.

ENDNOTES

1. Policy Paper: "EPA Policy Concerning Delegation to State and Local Governments," April 4, 1984.

2. See: "Environmental Federalism: Allocating Responsibilities for Environmental Protection," Staff Working Paper, Frances G. Sussman, Congressional Budget Office, Washington, D.C., September 1988.
- "Protecting Human Health and the Environment Through Improved Management, A Report to Congress," United States General Accounting Office, Washington, D.C., GAO/RCED-88-101, August 1988.

3. Compared with the U.S. economy as a whole, total public and private environmental expenditures, as a percentage of gross national product (GNP), grew from 0.9 percent in 1972 to 2.1 percent in 1990. By the year 2000, environmental expenditures are projected to rise to 2.8 percent of GNP. (In 1986 dollars, the GNP for 1990 was \$4.7 trillion, and for the year 2000 is projected to rise to \$7.1 trillion.)

The gap between current resources and the investments needed to maintain existing standards and meet new requirements is increasing. By the year 2000, total annual environmental spending requirements (public and private) will be about \$200 billion, compared to a 1988 level of \$115 billion.

At the local level, the funding gap is even more dramatic. In the year 2000, local governments will have to spend an extra \$12.8 billion per year, or 65 percent more than they did in 1988, just to maintain current levels of environmental quality. They will need to spend at least another \$3.6 billion per year to comply with new regulations. In all, communities may need to spend 83 percent more per year by the year 2000.

Even if state and local governments could borrow enough to pay for capital investments, annual cash flow requirements to repay their debts will outstrip their financial capacity. Between now and the end of the century, local governments will need to raise 32 percent more money to cover operating and debt service costs. This amounts to an increase in cash requirements of over 3.5 percent per year. Yet, over the same period, U.S. GNP is estimated to grow by only 2.37 percent per year and population to grow by only 0.66 percent per year.

4. "State governments' fiscal outlook is as cloudy as that of the national economy. Legislative fiscal officers do not expect conspicuous improvement in state finances in the coming year...."

- Year-end balances...are nearly non-existent for most states and will not recover significantly in FY 1993.

- Legislators have avoided tax increases far more successfully in 1992 than 1991. Substantial budget cuts, a low rate of state expenditure growth, and major tax cuts in NJ and PA held the net national tax increase to 1.4 percent of FY 1991 collections (down from 5.4 percent in 1991).

- Expenditures for the 40 reporting states will grow by 4.8 percent in FY 1993, continuing a long trend of reduced growth rates for state general fund budgets.

- At least 12 states made broad-based or across-the-board budget cuts to control spending growth in FY 1993.

"Aid to local governments, salary and benefit costs, and health care costs have been particular targets for cuts....AFDC and Medicaid costs grew faster than expected in FY 1992, but not as fast as they have grown in recent years....But just as in other recent years, spending for K-12 education, corrections, AFDC, and Medicaid continues to require a larger portion of general funds each year. This and the need to hold down tax increases led to substantial budget cuts in other areas of state government...."

"State finances are at a very low point....State officials do not expect significant recovery in FY 1993." State Budget and Tax Actions, A Preliminary Report, National Conference of State Legislatures (Denver, CO, July 22, 1992).

5. This is best shown by an array of current Delegations as reported by Regional offices.

Topical Team Reports:
State/EPA Relations
Alternative Financing Mechanisms
State Capability
Streamlining the Grants Process