



Annual Report State-EPA Agreements



HIGHLIGHTS

STATE-EPA AGREEMENT PROCESS

September 1978 -- August 1979

A NEW PARTNERSHIP

The purpose of this report is to highlight the problems and achievements that have occurred during the past year (September 1978-August 1979) in implementing the SEA process. The Environmental Protection Agency (EPA) has entered into a new kind of partnership with the 56 States and territories. The idea of partnership is hardly new -- EPA and the States have long worked together on many different environmental programs. But pollution ignores program boundaries and political boundaries alike. What is new is that the State-EPA partnership is becoming an effective tool for coordinating and consolidating programs to solve problems.

The key to this new partnership is the annual State-EPA Agreement (SEA). This is a mechanism designed to streamline and integrate the management of environmental programs. Its ultimate goals are to:

Ensure that the large sums of Federal money going to the States produce tangible results in solving priority environmental problems; and,

Realign available resources to identify and solve the problems that separate programs cannot handle alone.

The State-EPA Agreement is meant to be an important decision document, identifying high-priority environmental issues that the States and EPA agree must be addressed. It will be a management tool, focusing the attention of top officials on integrated planning and tracking the progress made toward solving the identified problems. It will also serve as an information document useful to EPA, State and local governments, areawide agencies, and the public. It is expected that the SEA will help simplify Federal guidance and regulations, eliminate duplication of effort, and reduce the paperwork associated with environmental programs.

Since the SEA process is new, much work needs to be done by the States and EPA if the goals of the State-EPA Agreement are to be met. A strong commitment is needed on the part of both the States and EPA. In addition, the

tasks specified in the Agreement must be carefully tracked and evaluated to assure that they are carried out.

Each State and territory must negotiate an Agreement with the appropriate EPA Regional Office. The public and other interested parties must have an opportunity to participate. The process of developing an SEA generally consists of eight steps:

1. *Identify priority problems,*
2. *Identify available resources,*
3. *Consider alternative solutions and their impacts,*
4. *Choose the best solutions,*
5. *Identify funding sources,*
6. *Define tasks, including timing, funding, and responsible parties,*
7. *Implement the agreement,*
8. *Revise the Agreement and evaluate the process annually.*

The SEA process is only in its second year and is still evolving. For Fiscal Year 1979, EPA encouraged its Regions and the States to develop SEA's covering programs under the Clean Water Act. In Fiscal Year 1980 the Agreements became mandatory. They now go beyond the Clean Water Act (CWA) to cover programs under the Safe Drinking Water Act (SDWA) and the Resource Conservation and Recovery Act (RCRA), which regulates the disposal of solid and hazardous waste.

In order to assess the current status of the SEA process and to determine what steps should be taken to improve it, Regional assessments were undertaken by EPA during the summer of 1979. The conclusions drawn and the recommendations made in this *Annual Report* are based on the findings of these surveys. The Report reviews the progress made to date on development of the SEA process; evaluates its strengths and weaknesses; and makes recommendations for improvements where they are needed.

STATUS OF AGREEMENTS

Partial participation in FY 1979, Full participation expected in FY 1980.

State-EPA Agreements were encouraged but not required for Fiscal Year 1979. Still, 32 States and territories successfully negotiated and signed Agreements. Most of these covered Clean Water Act programs only. Because Fiscal Year 1979 was a proving ground for the new process, the SEA's generally reflected the traditional emphasis on individual programs and existing grant processes. However, in a few cases environmental issues that cut across program categories were identified. The 1979 experience was a good beginning. It started the States and Regions on the road to eventual consolidation and integration of programs.

All States and territories are working toward Fiscal Year 1980 Agreements and expect to execute them. These SEA's will cover a broader range of programs under the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), and the Resource Conservation and Recovery Act (RCRA). In addition, most Regions are also including Air Quality priorities, even though this is not a requirement for Fiscal Year 1980. Based on their experience with the 1979 and 1980 Agreements, the Regions have strongly urged that the FY 1981 State-EPA Agreement Guidance include all EPA media programs, not just those under the Clean Water Act, the Resources Conservation and Recovery Act, and the Safe Drinking Water Act. Many States have been hesitant about including air programs because EPA policy does not require them to be covered.

It appears that the Fiscal Year 1980 Agreements will move closer to true integration, but the overall emphasis will remain programmatic rather than problem-specific. However, the Regions and many of the States appear enthusiastic and are pushing to make the process work. The 1980 experience represents an encouraging advance since 1979, and suggests that the SEA process is evolving toward the cross-cutting problem solving approach that EPA intended it to be.

PROCESS AND ORGANIZATION

The organizational arrangements and negotiation procedures used by EPA Regional Offices for SEA development vary considerably, but the most successful methods always include representation by staff members responsible for specific programs.

Regional organizations for SEA development have taken many forms, but generally the job is either assigned to an SEA task force or intermedia group, or is taken on by the Regional Administrator's office as a special undertaking. Priority issues are sometimes defined first by the Regional Office and then negotiated with the States. In other instances priorities are worked out jointly. But whatever the organization or procedure, program staff involvement is essential if the content of an SEA is to match reality. Without this involvement, work plans and grant applications cannot meet the needs and intent of the SEA development process, and integration cannot occur.

In *Regions VI and VIII*, an SEA Coordinating Team has been established under the leadership of the Regional Administrator and Deputy Regional Administrator. It is composed of the Division Directors, each of whom is responsible for SEA development in a given State as well as coordination of their functional areas in all States. Negotiations with each State are handled by a team headed by the appropriate Division Director and made up of program staff detailed to the task. Program staff members approved of this approach since it involved them directly throughout the SEA development process.

State approaches to SEA development also differ widely. But methods of organizing and negotiating prove less important than the character of the negotiations themselves. EPA has often seemed to demand commitments from States without making specific commitments of its own. States are demanding a more even-handed approach.

State arrangements for SEA development varied, but in general they could be broken down into two types. Negotiations were conducted by a single environmental agency that has responsibility for all of the covered programs; or were part of an umbrella agreement with the Governor or Directors of the involved State agencies, with individual sections of the Agreement negotiated with each program grant recipient.

Some States are skeptical of the SEA process and have participated reluctantly. Many States perceive that EPA will not make specific commitments other than grant funds, and may not play its own part in integration or provide consistent, stable support for the SEA process over time.

IDENTIFICATION OF PROBLEMS AND ISSUES

Generally, the issues identified and prioritized in most SEA's have been within the boundaries of individual program categories. The trend now is toward problem-specific issues. Notable progress is evident in consolidating activities relating to hazardous waste, groundwater, and emergency response problems.

An important purpose of the SEA process is to induce the States and Regions to define issues in ways that cut across artificial program boundaries and address problems in a comprehensive way. To date this purpose has not been fulfilled in most SEA's. The emphasis remains on individual programs. This is partly because the SEA process is still new and partly because the concept of integration has not yet taken hold within EPA itself. Still, the progress since Fiscal Year 1979 has been encouraging, and a number of significant cross-cutting issues have been identified. The process has been successful in establishing a climate in which a better job of identifying problem-specific issues can be done in the future.

In Region II, multi-year water priorities for New York were established for Fiscal Year 1979 on the basis of river basins, resulting in identification of problem-oriented issues. An existing mechanism, the environmental assessment process, was used to identify and rank issues.

In Region X, the SEA process for 1979 and 1980 generated the initiatives for development of 5-year strategies.

In Region I, St. Alban's Bay has been identified as a priority problem and funding from Sections 201, 208 and 314 of the Clean Water Act are being used to clean up the Bay.

The SEA process for Fiscal Year 1980 enabled the *Region VII* office and *Iowa* to work out commitments to address a specific toxics problem at Charles City involving industrial waste discharge and leachate at a dump site. Responsibilities were assigned to correct pollution of riverwater and groundwater through interim pretreatment, eventual completion of an industrial waste treatment facility, and final closing of the dump site.

In *Region IX*, the Fiscal Year 1980 SEA process is expected to result in an agreement among EPA and the five *California* agencies concerned with aspects of the toxics problem. The agreement will address coordination of land use planning and growth management, residuals management, coordinated permitting, air pollution mitigation, hazardous materials management, and public participation.

MANAGEMENT

The SEA process has not transformed State or EPA management arrangements. They remain largely geared to administration of individual programs. But a start has been made which can lead eventually to integrated work programming, resource allocation, and management.

The States and Regions are generally pleased with the enhanced communication resulting from the SEA process.

A few instances of real coordination and integration of management have occurred. But overall, arrangements are mainly program-oriented rather than problem-specific. SEA work programs are generally revisions or duplications of work programs developed for particular programs. Tracking arrangements vary in quality, but are generally weak. Nevertheless, the SEA process has caused Regions and States to begin working together toward integrated management. The SEA process needs to be synchronized with the Federal and State budget cycles and with program grant negotiation schedules. Interagency communications have definitely improved. Paperwork and procedural requirements have not been reduced or simplified, but are expected to be when integration improves. Integration will not occur unless EPA demonstrates a commitment to it.

The Fiscal Year 1979 *New York* SEA in *Region II* was principally responsible for reestablishing cooperation between the State Department of Environmental Conservation and the Department of Public Health regarding water quality and supply issues. In *Maryland*, the SEA process brought the Department of Natural Resources and the Department of Health together to discuss the overlap of their activities.

In *Region I* the Grants Policy Committee--composed of the Deputy Regional Administrator, and Division and Office Directors--conducts regular quarterly reviews

of each SEA. Progress reports for each work plan are submitted to project managers prior to each meeting. The Regional Administrator and Deputy Regional Administrator provide follow-up with both EPA and the States. A new Grants Administration Group, headed by the Management Division Director, has been established to coordinate program grants with SEA.

In *Region VIII*, all major Regional activities are included in the Fiscal Year 1980 SEA's, including Air, Pesticides, Enforcement and Monitoring. Regional policy is that an SEA constitutes all of each State's EPA non-construction grant applications for a given year. *Region VIII* is attempting to streamline the work plan requirements. Headquarters is examining this effort to determine if the work plan submissions meet the basic requirements. If so, all Regions will be encouraged to streamline the work plans included in the SEAs.

In the *Region III* States, the State legislators have been briefed on the Fiscal Year 1980 SEA process to obtain their general endorsement. This should help achieve legislative approval of priority initiatives through the State budget process.

In *Regions I and IX*, it appears that most 1980 SEAs will be signed by State Governors.

PUBLIC PARTICIPATION

Despite a few conspicuous successes, SEA public participation has generally proved inadequate. This is partly due to timing problems, including the late issuance of the State-EPA Agreement Guidance for FY 1980. But the chief reason for the unsatisfactory showing is that most EPA Regions have not taken an active lead.

Timing difficulties have impeded public participation in many cases because the proposed SEA's have gone to the public too late for the citizens to have any meaningful effect on the Agreements. Most Regions are leaving the function to the States, who regard it generally as just another pro forma requirement or treat it routinely as a part of individual program requirements. The public has not been involved early enough in the process, and draft Agreements have been offered for public review in the summer when many people are on vacation. Some States believe the SEA concept is too broad or too complex to attract active public interest. Regional and area-wide agencies were not generally involved in the SEA development process. Regional Offices must take an active role in planning and implementing SEA public participation. EPA Headquarters should provide guidance specifically tailored to the needs and constraints of the SEA process.

Although SEA public participation was not an overall success in FY 1979 (e.g., public meetings were held to discuss the Agreements, with only a few people in attendance), there were several instances where programs proved effective. In *Region VI*, an SEA Advisory Committee of 61 persons provided the Regional Office with an independent assessment of Region-wide environmental priorities which the SEA's should address in Fiscal Year 1980. The State of *Arkansas* sent out a questionnaire to the people on its environmental mailing list and received over 200

responses identifying priority environmental problems. In *New York*, the *Region II* Advisory Council, composed of citizens and interest groups, participated in Fiscal Year 1979 SEA development. In *New Jersey*, public comment brought about substantial revisions in a December draft of the Fiscal Year 1980 SEA.

THE NEW PARTNERSHIP: AN ASSESSMENT

On balance, the new partnership between EPA and the States seems to have gotten off to a respectable start. The process has suffered a number of growing pains, but a lot has been accomplished as well. The State-EPA Agreement is definitely being used as a management tool and a communication tool to solve environmental problems.

The SEA process is still reflecting the programmatic character of the EPA-State relationships of the past. This is neither unexpected nor particularly alarming; institutional habits are difficult to break, and the SEA process is still a novelty. But some regions and States have successfully converted to an integrated approach despite all the obstacles. This is a promising sign. It shows that the process can and will work.

This is a critical time for SEA. There have been some breakthroughs, several successes, some shortcomings, a few failures. EPA must move now to remedy the problems and capitalize on the successes, so that the momentum of the SEA effort is not lost. Integration and coordination can be achieved, but not without stable, consistent support and effort from EPA.

RECOMMENDATIONS

The following recommendations are based on the findings made as a result of the Regional SEA assessments conducted during the summer of 1979.

- o It is imperative that EPA commitment to the State-EPA Agreement process be maintained at the Administrator, Assistant Administrator and Regional Administrator levels.
- o Future State-EPA Agreement Policy and Guidance must include all EPA media programs, that is, the programs under the Offices of Enforcement, Air, Noise and Radiation, and Toxic Substances, as well as those programs under the Office of Water and Waste Management. If we expect the Regions to integrate environmental programs to solve problems, Headquarters must set the example and integrate its programs.
- o Headquarters must make it clear that using the State-EPA Agreement to manage programmatic issues is not the primary goal of the State-EPA Agreement process and that the Regions will be evaluated on their ability to attack cross-cutting, integrative, problem-specific issues and solutions through the State-EPA Agreements. Strong emphasis must be placed on the use of the State-EPA Agreements to address specific policy problems, not just process or programmatic ones, and to delineate the funds that will be brought to bear on those problems. Funding flexibility would be a useful incentive for the States.
- o The EPA Agency Guidance (both National and State) should be released in a timely fashion to assist the Regions and the States in negotiating the State-EPA Agreements. In addition, the FY 1981 State-EPA Agreement Guidance should be issued early in 1980.

- o EPA must issue a clear statement on the relationship between the State-EPA Agreement process and Zero Based Budgeting -- i.e., the 1981 Zero Based Budget will set the parameters for the FY 1981 State-EPA Agreement negotiations, but the multi-year strategies being developed as a part of the State-EPA Agreement process should be used by the Regions in future years to develop their Zero Based Budget requests.
- o The Agency audit, reporting and work plan requirements must be reviewed to determine where the requirements can be combined and streamlined to assist in the reduction of paperwork, a goal of the State-EPA Agreement process.