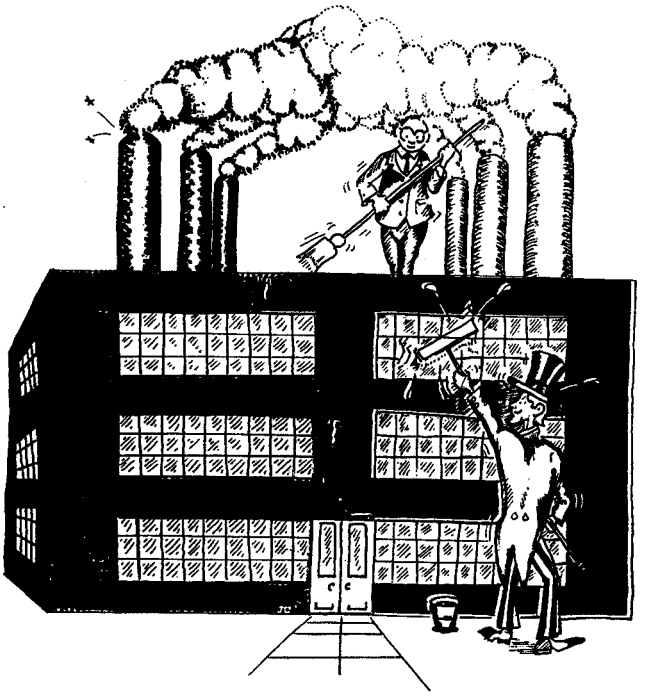
Stronger Partnership: How States and EPA Can Improve Performance and Build Public Trust

by Peter D. Robertson

As we approach the year 2000, a variety of forces are exerting pressure for change to the nation's environmental protection system. EPA and State environmental directors are well aware of these pressures and are already well along the path of change. In 1995, State and EPA leaders created a new, more flexible framework for working together as partners and collaborators, aptly called the National Environmental Performance Partnership System (NEPPS). NEPPS is built on our shared commitment to continuous improvement in the performance of environmental programs, as well as our shared recognition of our responsibilities to the public. An underlying theme of NEPPS is the importance of earning public trust by achieving better program performance and measurable environmental results.



Bolstered by NEPPS, EPA and the States have been working in concert for several years to revamp the nation's 30-year-old environmental regulatory system to meet evolving needs and realities. *Finding New Ways of Doing Business: How the States and EPA are Working Together to Improve Environmental Protection,* a report jointly published by ECOS and EPA in early 1998, profiles many of the innovative projects that EPA and State environmental agencies are developing together. Its title captures the spirit of collaborative change needed to take us successfully into the 21st century.

EPA and the States Have Made Major Progress

Looking back over the last 30 years, the States and EPA should be proud of our strong track record of achievement. The public widely recognizes our work as having dramatically improved environmental conditions throughout the country. We enabled American towns to improve wastewater treatment—one of the biggest public works efforts in U.S. history. We have cleaned up hazardous waste sites and closed unsafe local garbage dumps all over the nation. Our air, land and water are safer and visibly cleaner, even with significant economic expansion and population growth. And U.S. environmental expertise and technology are in demand worldwide. Clearly, the strong regulatory approach embodied in most of our statutes has proved very effective in controlling major industrial and municipal sources of pollution and raw sewage discharges.

EPA and the States must remain vigilant to ensure that we maintain the progress already achieved. We will always need traditional regulatory tools—such as nationally applicable air and water quality standards, permitting and enforcement—to maintain a baseline of environmental protection. In the future, we must measure environmental progress against that baseline.

New and Remaining Problems Demand New Solutions

Our challenge now is to build on the progress we have made. But the problems we face today are much more complex than those of the past. Though significant, past problems were easier to deal with in some ways. We could identify the "point sources" of pollution, and track results from

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our work fairly quickly. But that is no longer the case. For example, polluted runoff—our largest remaining water quality problem—comes from sources far less evident and greater in number. Scientists are concerned that certain toxic chemicals may be disrupting endocrine systems by emulating natural hormones. Many issues are international in scope, such as depletion of stratospheric ozone and global climate change.

Our ability to address these and additional problems in the future will be particularly challenging for two reasons—the need for new approaches and the limits on public resources. First, we know that regulatory approaches alone cannot and will not solve all remaining problems. The job will require more and better environmental information, more innovative approaches and more creative tools to complement traditional regulatory approaches.

We have made progress on these fronts, and must continue to do so. Today, innovative policy tools and new technological advances provide environmental managers with more options for addressing environmental problems. For example, EPA and many States are finding that market-based trading programs can provide voluntary, cost-effective options for controlling acid rain, water pollution and loss of wetlands. Moreover, geographic information systems, the Internet and other computer capabilities are helping to transform environmental data into a much more powerful, accessible tool for understanding and managing environmental issues (see box).

Second, public resources for environmental programs are limited. Neither federal nor State funding has kept pace with the number and complexity of problems we face. Of course, we must and will continue to press for adequate funding to run our programs. But the likelihood is, there will simply never be enough funding to address all of our priorities. It is therefore critical that we continue working together to find new ways of doing business so that we can make the most of our limited resources. In recent years, pragmatic resource considerations have been a significant driver behind successful alternative strategies—such as the Brownfields redevelopment initiative and other community-based efforts—that effectively leverage added resources from participating stakeholders and other quarters.

Our roles will continue to evolve as we develop, test and implement innovative, more cost-effective solutions—many of which may be unique to individual States. One recent milestone in this evolution is the Joint EPA-State Agreement to Pursue Regulatory Innovations, signed by EPA and ECOS in April 1998. The

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Better Environmental Information—A Foundation to Build On

Better environmental information—and better use of that information—will be a cornerstone for improving public health and environmental protection in the future. To support the increasing information needs of EPA and the States—and to provide better, more accessible and more understandable environmental information to the public—last October Administrator Carol Browner launched an agency-wide analysis and restructuring of EPA's various information management activities.

As part of this process, EPA is consolidating related activities into a single Information Office. We are working closely with the States to identify the information we all need to manage our programs well, to develop mechanisms for providing this information as efficiently as possible and to eliminate unnecessary or duplicative requirements. We are also working closely with our stakeholders in industry, other agencies, interest groups and the general public to take their issues and concerns into account.

EPA is also working with the States on information reforms through the "One-Stop" program, which provides grants to States, and through the Joint ECOS/EPA Information Management Work Group, created in January 1998. The Work Group has adopted the following vision, along with strategic priorities, to guide its efforts:

"The States and USEPA are committed to a partnership to build locally and nationally accessible, cohesive, and coherent environmental information systems that will ensure that both the public and regulators have access to the information needed to document environmental performance, understand environmental conditions, and make sound decisions that ensure environmental protection."

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agreement sets forth seven basic principles—including experimentation, stakeholder involvement, measuring and verifying environmental progress and accountability—to guide innovations at the State level. Wisconsin has already stepped forward as the first State to put these principles to the test.

EPA and the States Have Complementary Roles

Under the nation's environmental laws, EPA and the States each have important duties. There has always been a division of labor—not a static arrangement, but an evolving one. Broadly speaking, EPA is charged with developing standards that provide baseline protection for all citizens. States, local governments and tribes are the primary delivery agents, working directly with businesses, communities and concerned individuals.

State Role

Many federal environmental statutes call for EPA to delegate[1] to States the primary responsibility for implementing programs, once EPA has confirmed that the State meets certain qualifying criteria. Over the last quarter century, most States have assumed responsibility for implementing many federal programs, with EPA retaining standard-setting responsibility and an oversight role to ensure effective implementation. In assuming responsibility for a delegated program, a State basically promises that it will maintain legal authority, provide its share of program resources, carry out the work required to implement the program and be accountable for the federal funds allocated to support it.

States have now assumed responsibility for approximately 70 percent of the programs eligible for delegation.[1] Over nearly three decades, States, localities and tribes have developed environmental management capacity, gaining experience and expertise. States in particular have increased their financial investment in environmental programs, and many have adopted laws and programs of their own, covering issues ranging from erosion control to coastal management. Some States have environmental standards that are more stringent than existing federal requirements.

EPA Role

As States have assumed more responsibility for implementing federal programs, EPA's role has changed significantly. We still have sole responsibility for implementing several major environmental laws, and for ensuring that national standards are met. But, like the States, we have taken on expanded responsibilities.

At this point, we see our most important responsibilities as:

- **Designing, overseeing, and enforcing national programs** to protect public health and the environment, and ensuring a "level playing field" for regulated entities across State lines by establishing nationally applicable baseline standards. In addition, EPA is accountable to Congress for federal environmental program expenditures, and for federal enforcement of environmental laws. We conduct civil and criminal investigations and take direct enforcement actions to address significant en-

Baseline Standard Setting—More Complex Than It Used To Be

Like many other aspects of environmental protection, the process of setting environmental standards has become increasingly complex, requiring more sophisticated analysis and more extensive consultation with stakeholders. For example, the 1990 Clean Air Act Amendments set out a regulatory calendar that spans two decades. We are now only about halfway through that calendar and must promulgate over 70 new federal clean-air regulations within the next two years, with more to follow. Moreover, promulgating a rule now takes far more resources than it did 10 or 15 years ago. For example, the current "Tier 2" automobile emissions standards will require over twice the federal dollars and twice the amount of staff effort than the comparable 1985 standards for trucks and buses. The increase in costs paid for better analysis and interactive consultations with State and local governments, small businesses, and the public. The result is definitely better quality rules, but the price for this result is considerably higher.

[1] "Delegation" is a term commonly used as a generic substitute for the different legal terms used in each statute. Once EPA determines that they satisfy statutory criteria, State programs are "authorized" under RCRA, "approved" under CAA and CWA, or given "primacy" under SDWA.

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vironmental or public health problems, interstate issues or significant patterns of noncompliance. EPA also has oversight responsibilities to ensure the quality and effectiveness of State programs after they have assumed primary responsibility.

- **Implementing federal laws that were not designed for implementation by States.** For a variety of reasons, Congress set up certain statutes to be carried out at the national level. For example, the Federal Insecticide, Fungicide and Rodenticide Act requires EPA to make nationally applicable registration, re-registration, and labeling decisions on thousands of pesticide products every year, and the Toxic Substances Control Act regulates toxic substances other than pesticides at the national level. The Food Quality Protection Act is a new example of national statutory protection.
- **Building and ensuring States' and tribes' capacities to implement national programs.** For delegable programs, we provide procedures, tools and technical training to facilitate program implementation at the State level. Where necessary, EPA works intensively with struggling State programs to help bring their performance up to par. We must also maintain our own capacity to implement programs not yet assumed by the States (approximately 30 percent today).
- **Keeping Congress and the American public informed** of environmental problems, trends and conditions. EPA has specific responsibilities for reporting to Congress under most federal environmental statutes. We also support numerous activities (such as the new beach program and "AIR NOW") to make timely information available to the public.
- **Anticipating new and emerging problems** based on sound, forward-looking science. We set and pursue a strategic environmental research agenda to develop the science that enables us to understand and solve problems. The agency also plays an important leadership role as we work with scientists from other nations to detect problems before they can become crises.
- **Dealing with international and transborder issues.** EPA is responsible for coordinating U.S. policy development on international environmental issues and for addressing transboundary and global issues. The agency manages major programs that cross State borders, including the Great Lakes and Chesapeake Bay programs. Internationally, we're working with other countries on issues, such as protecting ocean resources, and addressing stratospheric ozone depletion and global climate change.

Supporting State Environmental Program Success—One of EPA's Highest Priorities

Along with our own responsibilities, EPA believes that strong State environmental programs are essential for successful public health and environmental protection nationwide. In fact, a sizable part of EPA's budget and efforts go toward supporting State programs. The most direct support takes the form of the operating program grants to help develop and run basic programs. This year, EPA provided States and Tribes approximately $880 million in operating program grants (equal to about 25 percent of EPA's operating budget). Since 1988, State support through these grants has grown by more than 200 percent.

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The agency also provides grants that States use to provide low-interest revolving loans to communities for wastewater and drinking water treatment. In FY 1999, States received $2.1 billion for these purposes. Next year, the President's budget calls for additional financial support to the States through a $200 million grant program to support clean air partnerships. These grants, along with operating program and State revolving loan fund grants, exceed $3 billion, and represent 42 percent of EPA's proposed FY 2000 budget. Other EPA assistance to States includes technical support and training, interagency staff loans, and joint EPA-State research projects, as well as investigations and enforcement support.

While these budget figures are significant, I

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want to return to an earlier point—that available federal and State resources will simply not be enough if we adhere to the status quo. That is one reason why, in the last few years, EPA has pushed hard to give States the additional tools and mechanisms they need to address their own environmental priorities in tailored, more cost-effective ways. NEPPS is a milestone along this path.

NEPPS is About the Future

When EPA and State officials signed the NEPPS agreement at the annual All-States/EPA meeting in May 1995, we jointly committed to: "encourage continuous improvement and foster excellence in State and federal environmental programs ...direct scarce public resources toward improving environmental results, allow States greater flexibility to achieve those results and enhance our accountability to the public and taxpayers."

In NEPPS, we have created the foundation for a flexible partnership system with the long-term resilience to adapt to changing priorities, resource limitations and increased public demands. NEPPS focuses us on performance rather than process, on environmental results rather than procedural details. In doing so, it frees the States to work with EPA to target their highest environmental priorities and to select the best management strategies to get needed results.

Since 1995, 33 States have chosen the NEPPS option of individualized annual Performance Partnership Agreements (PPAs) with EPA. Forty-five States have chosen the related option of Performance Partnership Grants, which combine two or more single-media grants and allow States more flexibility to target and leverage their resources for greater environmental gains than could otherwise be achieved.

Building on the NEPPS experience, several State and EPA regions are leading the way in developing better measures of environmental progress, using environmental data to drive planning and priority-setting, sharing their findings with the public, articulating more efficient oversight arrangements and using grant funds in more efficient ways.

Challenges to the Partnership

The EPA/State partnership has come a long way, but we have shared challenges to confront in the near term. In addition to advancing the vital information reforms described earlier, we need to jointly focus our concerted efforts in the following strategic areas:

- **Program Integration**: Both EPA and the States still need to concentrate on breaking down the "stovepipe" or media-specific approaches to environmental management. We need to learn to do a better job of managing across traditional program boundaries so we can address problems more holistically and effectively.
- **Joint Planning and Priority-Setting**: We still need to find better ways of harmonizing federal, State, tribal and local priorities in the face of limited public resources. Better data should enhance EPA and States' abilities to set priorities, while informing and involving the public.

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- **Reduced Reporting Burden**: EPA and State agencies need sound data to support decision-making, but we also want to reduce burdensome paperwork and cost. We have made a good start on information reforms that can bring significant burden reductions down the road, but we can and should do more.
- **Measuring Results**: Along with developing better measures of environmental progress, we need to get better at balancing short-term management objectives, such as permits and inspections, with environmental results. The recent agreement between EPA and the States on Core Performance Measures for Fiscal Year 2000 and beyond is a major step forward.

Our Shared Commitment to the Public

Citizens want and expect efficiency and effectiveness from government. And that is why the State-EPA partnership is so important—quite sim-

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ply we can do more together than we can alone. We can generate new ideas, leverage resources and achieve greater results. Doing so will build public trust in our ability to solve problems in a sound, responsible way.

Without this confidence, we cannot expect citizens to join us in working toward environmental goals. All of us who work on environmental issues recognize how limiting this would be, for it is neither EPA nor State agencies that actually protect and improve the environment. In reality, it is the millions of people who live and work in our communities, and who make lifestyle choices with environmental consequences each and every day. Clearly, we need their trust and their commitment to take actions that will protect the environment and ensure quality of life in the 21st century.

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