

## SECTION 7

### REGIONAL CONTINUING PLANNING PROCESS

#### INTRODUCTION

The purpose of this section is to identify the SouthEastern Arizona Governments Organization's (SEAGO's) Regional Continuing Planning Process so the plan can be maintained and updated. This will outline a process to ensure the Water Quality Management (WQM) Plan remains responsive to changes in and/or adoption of new federal and state laws, regulations and/or programs and describe a process by which local community problems and needs can be addressed by the Water Quality Management Plan (WQMP).

This section will first describe the general history of water quality management planning in the SEAGO region; it will outline the responsibilities of the Designated Planning Agency (DPA) and SEAGO's role in the planning process; develop a mechanism for SEAGO's own continuing planning process to meet the minimum federal requirements for plan amendments and consistency review and attempt to establish minimum regional requirements for plan amendments and consistency reviews for NPDES, APP and effluent reuse permits; and will describe how plan amendments should be proposed and implemented.

#### HISTORY OF WATER QUALITY MANAGEMENT PLANNING IN THE SEAGO REGION

On April 26, 1976, Governor Raul Castro designated the SouthEastern Arizona Governments Organization (SEAGO) as the areawide Water Quality Management Planning agency for Cochise, Graham, Greenlee and Santa Cruz Counties and the incorporated cities and towns of Benson, Bisbee, Clifton, Douglas, Duncan, Huachuca City, Nogales, Patagonia, Pima, Safford, Sierra Vista, Thatcher, Tombstone and Willcox. This area currently has an estimated population of 199,000 and encompasses approximately 13,947 square miles.

SEAGO applied for a grant from the Environmental Protection Agency (EPA) to develop a Water Quality Management Plan (WQMP) for the region as required under Section 208 of the 1972 Clean Water Act (CWA). This plan was completed in October 1978 and last updated in 1980.

The 1980 update to the WQMP was in response to several changes which had taken place since 1978, including higher growth rates and population projections, changes in water quality standards, infrastructure inventory, and revised wastewater treatment configurations. Expanded nonpoint source planning and area identification sections were added to the 1980 update.

More than ten years have passed since the 1980 Water Quality Management Plan update. Since the last major revision, the following amendments and special studies have been completed:

- Water Quality on the San Pedro River: An Update on Discharges Emanating from Mexico, SEAGO, 1979-80.
- San Pedro River Valley Water Quality Monitoring, SEAGO, 1979-80.
- Copper Mining Spills and Water Quality in the San Pedro Basin, Arizona, SEAGO, 1980.
- 208 Water Quality Management Plan, SEAGO, 1978; Update.
- Sampling Design for the San Pedro River Study, SEAGO and ADHS, 1980.
- Upper Santa Cruz Groundwater Nitrates Conditions: 208 Amendment, SEAGO, 1982.
- St. David Area Nitrates Study, SEAGO, 1985.
- 205(j) Cochise School Wells Study, SEAGO, 1988.
- Regional Solid Waste Study, SEAGO, 1989.

An up-to-date Areawide Water Quality Management Plan is essential for wastewater treatment facility planning, nonpoint source pollution control and general water quality planning. Many changes have occurred since the 1980 revision and in addition, it is becoming clear that issues such as solid waste management, nonpoint source pollution, large scale use of septic systems and the need for alternative on-site disposal methods should be addressed on a regional basis.

## **PARTICIPANTS IN THE WATER QUALITY MANAGEMENT PLANNING PROCESS IN THE SEAGO REGION**

### **Designated Planning Agencies**

Responsibility for water quality planning and management is shared by a wide variety of federal, state, local, and regional agencies. The Arizona Department of Environmental Quality (ADEQ) is the lead agency for carrying out the mandates of the CWA and SDWA and is identified in the Environmental Quality Act (EQA) as the state planning agency for environmental quality management programs. In order to accomplish state WQM goals, ADEQ depends upon and encourages the participation of all interested and affected entities in the region.

The ADEQ can extend its WQM power to other agencies through its local delegation authority (ARS 49-107). "Delegation" is the authorization of one agency to act as the representative agent for another. The Director of ADEQ may delegate to a local environmental agency, health department or municipality, or a county board of health, any functions, powers, or duties which can be competently, efficiently, and properly performed by the local agency. The local agency must accept the delegation and agree to perform according to the standards of performance required by law and ADEQ.

As stated earlier, in 1976, SEAGO was appointed by the Governor to serve as the DPA for the four county region of southeastern Arizona. A Designated Planning Agency (DPA) is an established local, regional, state, or federal agency or another entity with adequate resources, authority, and desire to assume responsibility for WQM planning activities in a particular area.

As the regional Designated Planning Agency, SEAGO responsibilities include revisions to the area 208 Water Quality Management Plan; consistency reviews for proposed waste water treatment systems in the SEAGO area coordinated with the Arizona Department of Environmental Quality; provision of technical assistance to its member entities, coordination with related state agencies on water quality issues, participation in the Water Quality Management Working Group (WQMWG), public participation efforts, and conducting special studies at the request of SEAGO's member entities.

The SEAGO carries out its water quality planning mission with the aid of the SEAGO Environmental Review Committee (ERC). The Committee is composed of a representative from each member entity who usually is an individual who has a working knowledge with water quality concerns and issues for the entity. Other non-voting members of the committee may include the general public, special interest groups, or industry representatives. These entities can attend any meeting at anytime as all meetings are open to the public, and they may be nominated by any voting member for membership, or petition SEAGO to be included as members. Non-voting members will be included in all ERC mailings, and receive advance copies of mailings and agendas. This body meets at least quarterly or more often if needed to discuss environmental issues and make recommendations to the SEAGO decision-making bodies.

As the Designated Planning Agency (DPA) SEAGO has the responsibility to ensure that the Council of Governments (COG) and its member entities remain involved in development of laws, regulations, and programs affecting water quality throughout the region. The regularly scheduled meetings of the Environmental Review Committee (ERC) will serve as a vehicle to:

- Provide information on proposed legislation, rules, regulations, and programs to affected parties in a concise, understandable summary with an evaluation of potential impacts.
- Provide input to legislators, regulators, and managers using individual/agency input and develop a regional position if appropriate.
- Identify areas where existing laws or programs should be changed or where new programs are needed.
- Disseminate information on adopted laws and regulations and provide clear, concise,

understandable information to affected parties. Summarize requirements for implementation with schedules for compliance.

All recommendations are forwarded to the Administrative Council for their review before being forwarded to the SEAGO Executive Board. The Administrative Council can approve, disapprove, or amend the proposed recommendations prior to being forwarded to the Executive Board.

### **Designated Management Agencies**

Several of the member entities of SEAGO play a particularly important role in the planning process as Designated Management Agencies or DMAs. A designated management agency is an entity with adequate resources, authority, and desire to implement and enforce portions of the Areawide Water Quality Management Plan. The Governor, in consultation with the DPA, designates DMAs for specific areas. Designated management status differs from delegation status in that the designated agency already possesses the necessary authorities through law, rule, or statute. The DMAs in SEAGO vary in their specific characteristics and capabilities but all to some degree or another will share the following attributes:

- ◆ Appropriate legal authority to carry out designated responsibility.
- ◆ Financial solvency including, if appropriate, the ability to raise revenue through taxes or fee collection, the ability to accept grants or funds from other sources for water pollution management purposes, and the ability to incur short- and/or long-term indebtedness for water quality management.
- ◆ Administrative competence with the organizational resources, personnel resources, equipment and facilities necessary to provide administrative and management support required for effective water quality management programs.
- ◆ Technical competence with the personnel resources, equipment, and facilities needed to carry out the required technical water quality management activities.
- ◆ Public acceptability so that the designated management agency will be recognized and accepted as a legitimate entity with the appropriate water quality management mission, within its management area.
- ◆ Political accountability so that the leadership of the management agency is accountable to the public served within the agency's management area.

The 1980 plan stated that one of the fundamental responsibilities of the WQM Plan is to identify and designate DMAs for publicly-owned waste treatment works in the region. The plan should also identify the service area for which the DMA will accept responsibility. Based on the criteria above, the only agencies that qualify for DMA status are municipalities, sanitary districts, and some improvement districts. Historically, the DMA designation has primarily referred to point source dischargers and wastewater treatment facility management.

### Designation Process

An eligible entity desiring DMA status would be required to hold a public meeting in the affected area about the designation to be a DMA. The governing body of the DMA would then pass a resolution requesting DMA status. Such a resolution must be passed at a public hearing requiring a legal notice. The entity submits the designation package to SEAGO with a self-certification letter which states that the entity possesses the financial, administrative, managerial, and technical capabilities to carry out the responsibilities along with a map showing the service area.

The SEAGO Environmental Review Committee will review this request at one of its regularly scheduled

meetings and make a recommendation to the SEAGO Administrative Council and Executive Board. Final regional approval rests with the Executive Board.

Currently, 12 of the 14 municipalities are designated and serve as DMAs. There are three entities in the region that are serving as DMAs but have not received formal designation from the state because they have not gone through the WQMP designation process. These are the Towns of Duncan and Patagonia and the Naco Sanitary District. Their formal requests for designation as a DMA are included as a part of this plan update.

### **Planning Implications, Designated Management Agencies**

There are currently entities within the region that are performing the functions of a DMA without having received formal designation. This omission must be corrected with the update of this plan. There are other agencies in the region that are interested in the water quality planning process, what changes to the WQMP are needed in their particular area of concern and how the process affects lands under their jurisdiction. Such agencies include the NRCDs, RC&Ds, public land managers, and private agencies such as the Nature Conservancy. The region should look toward expanding its customary definitions of DMA to include these other agencies and entities in their appropriate areas of interest and expertise.

On-site septic failures are starting to appear throughout the region. In addition to alternative treatment methods, possible solutions include the establishment of small package treatment plants. Funding for these plants would most probably be obtained through the formation of special taxation or sanitary districts, which in turn could be eligible for designation as DMAs. These new districts will need technical assistance from the local jurisdictions while they are in the process of organizing and later on in requesting designation as a DMA.

### **Recommendations, Designated Management Agencies (DMAs)**

- All eligible entities currently performing duties as a DMA should be so designated by ADEQ.
- ADEQ in cooperation with SEAGO, should look at expanding the use of the DMA designation to include federal, other public, and private agencies that have the desire and technical expertise to perform the function.
- Local governments should ensure that guidelines are available to assist rural communities in forming sanitary and improvement districts and provide technical advice and assistance to such entities, when requested.

### **CONSISTENCY REVIEWS GUIDELINES**

Consistency reviews for water quality are performed to help improve the coordination and integration of federal, state, and local programs regulating pollution prevention for both point and non-point sources. As outlined in Section 1, various federal and state laws, regulations, and programs require activities to be consistent with the areawide Water Quality Management Plan. As changes occur in federal and state laws and programs, the plan must also be updated to be consistent with these laws and programs.

Federal and state laws require consistency review for certain activities including individual facility permits, approvals to construct, subdivision approval, and projects seeking funding through the State Revolving Fund (SRF). The WQMP is the reference document used to ensure that activities such as awarding of the State Revolving Fund loans, construction of wastewater treatment facilities and the issuance of National Pollution Discharge Elimination System (NPDES) permits are consistent with the region's water quality planning goals. Proposed activities which are found to be inconsistent with the WQMP are required to be modified to be consistent with the existing plan, or the Plan must be amended.

Consistency review is currently performed by ADEQ, with input by SEAGO, as needed. The ADEQ is the decision-making body for consistency determination but SEAGO is formulating recommendations that will get the COG more involved in the process.

Consistency review should start at the local or regional level, with regional input, to ensure areawide goals are carried out. The DPAs or DMAs should provide technical assistance and recommendations concerning the project to ADEQ. Potentially controversial requests could be taken to the ERC and/or Executive Board, as needed. A proposed activity found to be inconsistent, may require a plan amendment.

Plan amendments and consistency reviews can be time consuming and the required public participation process further adds to these costs. The region should begin looking at charging fees for technical assistance and consistency reviews to non-member entities as a means of recouping some of these costs.

### **Planning Implications, Consistency Review**

Consistency review requirements will require all governmental officials to be aware of the provisions of the region's WQMP, or they might find themselves in a position of being asked to make a decision about development of an area within their jurisdiction that would require a plan amendment. This could conceivably slow down the development process. Secondly, if SEAGO becomes more involved in the consistency review process, it needs to avoid potential conflicts of interest in finding a proposal inconsistent and then charge a fee to process an amendment. Lastly, at present, consistency review is only required for certain activities, (i.e., NPDES permits and approval to construct and operate certain type of wastewater facilities). The SouthEastern Arizona Governments Organization (SEAGO) could require consistency review for all facilities requiring permits to include reuse permits and APPs in order to keep the ERC involved and aware of all water quality matters in the region.

### **Recommendations, Consistency Review**

- ADEQ, in coordination with SEAGO, should continue to make final determinations of consistency with the SEAGO areawide Water Quality Management Plan.
- SEAGO should review plans and permits for consistency and supply information and other technical reports to ADEQ for use in their determination of consistency.
- The ERC should take a larger role for the region in the consistency review process, and make recommendations to the SEAGO Administrative Council and Executive Board.
- SEAGO should consider establishing fees for services to applicants for technical assistance and consistency reviews.

## **PLAN AMENDMENT PROCESS**

### **Conditions Which Require a Plan Amendment**

Amendments to the region's Water Quality Management Plan may be required for any of the following:

- New WQM planning and/or management agency designations.
- New or renewed National Pollution Discharge Elimination System (NPDES) permits, Aquifer Protection Permits (APP) or any other type of water quality permits are found to be inconsistent with the existing WQMP.
- Changes occur in the service area, planning area boundaries, and/or population figures used in the current Wastewater Treatment Facility (WWTF) plans or WQM Plan.
- For proposed construction and permitting of a WWTF, regardless of the funding source, which is inconsistent with the existing WQMP.

- Construction activities or expansion of existing WWTFs, and changes in effluent discharge method and/or quality of the effluent discharged.
- Changes in or adoption of the site-specific water quality standards occur or TMDLs.

In addition to these minimum WQMP amendment requirements, SEAGO will also consider, as part of the plan update, if there are regional instances when a plan amendment is necessary, or some type of enforcement action is required. The following are examples of instances that might require a WQMP amendment:

- When ADEQ enforcement actions are taken without the prior notification of SEAGO and/or when such actions are inconsistent with the current WQMP.
- When new rules, regulations, standards, and/or policies are determined to cause substantial and burdensome economic consequences to a DMA as defined by the Regulatory Flexibility Act of 1980.
- When a system reaches 80 percent capacity and should commence a preliminary design and engineering study for expansion, as well initiate the plan amendment process.

The SouthEastern Arizona Governments Organization is a regional planning organization and therefore, has no enforcement capabilities. Enforcement will be difficult if not impossible in some instances, and the member entities may have to look at enacting local ordinances and zoning regulations to bring about changes. Actual enforcement of these regulations will fall to the jurisdictions and the state.

This plan update has been designed so that much of the information, figures and statistics that change frequently have been provided in an appendix format. The intent is that these appendices can be updated by the COG, as needed without going through a formal amendment process to change the body of the plan. This change in format is intended to make the plan more flexible and to streamline the amendment process.

### **Plan Amendment Process**

The formal amendment and approval process for the region's Water Quality Management Plan is outlined in the ADEQ "Continuing Planning Process" (April 1993). The general plan amendment process in the SEAGO region is as follows:

#### Request and Amendment Process

- E A request for a WQMP amendment is prepared by the appropriate Designated Management Agency (DMA) or facility owner. Developers or other non-DMA entities should go to the local political jurisdiction or DMA to obtain sponsorship of the amendment request. Sponsorship is required for regional consideration of the request but does not necessarily guarantee endorsement by the sponsoring agency.
- E The amendment author coordinates the preparation and content of the draft WQM plan amendment with SEAGO, affected local government officials, and the DMA, if applicable. These entities can provide input on the technical aspects and completeness of the plan amendment. The ADEQ should also be consulted during this phase of the process.

### **Review and Approval Process**

#### Regional Review and Approval

- E In order to facilitate the formal required review, SEAGO will provide ADEQ with a copy of the draft amendment and checklist no later than 30 days prior to the public hearing. The DPA and ADEQ staff will work together, as resources allow, to identify and resolve issues prior to the close of the public review

period.

- E The SEAGO will conduct a local public hearing on the plan or plan amendment with a notice at least 45 days prior to the hearing. Amendment materials must be available for public review at least 30 days before the hearing. The SEAGO will be responsible for the preparation of a transcript of the hearing and a responsiveness summary of the issues and comments, although it may require the sponsoring agency to provide personnel to accomplish this.
- E The SEAGO will coordinate the review and approval of the plan/plan amendment. A packet consisting of the proposed amendment, documentation of the public participation process and the responsiveness summary will be submitted to the ERC for review and recommendations. Amendments, along with the ERC recommendation, will be forwarded to SEAGO's Executive Board for the review and decision.

#### State and Federal Review and Approval

- E After regional approval, SEAGO will present the plan/plan amendment to the state Water Quality Management Working Group (WQMWG). The Working Group, after reviewing the document and the public participation process involved, makes a recommendation to the Director of ADEQ concerning amendment adoption.
- E The SEAGO will submit the responsiveness summary for the public hearing, as well as the plan/plan amendment, verification of appropriate approvals, self-certification letter and the completed checklist, to ADEQ for formal review. The ADEQ will, within 30 days of submittal, review the plan/amendment for consistency with federal and state laws and regulations and with state procedures.
- E Once the amendment is approved by the ADEQ Director, the plan/plan amendment is submitted to the Governor for state certification that the amendment has been incorporated into, and is consistent with, the state WQM Plan.
- E The ADEQ will submit all certified areawide WQM Plan amendments affecting federally-funded waste water facilities, water quality standards and other federal water programs to EPA for review and approval. The submittal to EPA includes the amendment, all necessary approvals and certifications, a summary of public participation activities, including documentation of local public hearings, and a responsiveness summary.

#### **Planning Implications, Plan Amendment Process**

It is recognized that counties and municipalities may have developed their own water quality plans, and may amend these plans in such a way that they would at that time be inconsistent with the regional plan. ERC members are encouraged to coordinate with offices of the governmental agency they represent and ensure that local plans and ordinances, where they exist, are consistent with the area Water Quality Management Plan. If these local plans are subsequently amended in such a manner that they conflict with the regional plan, it is incumbent upon the ERC member to offer the appropriate amendment to the area plan in order to ensure consistency between the two plans. A general reconciliation between all local water quality plans and the regional plan will take place during scheduled updates of the plan.

The plan amendment process is currently at no cost for all SEAGO member entities and consultants doing work under contract for SEAGO members. The region should look at charging private developers and consultants a fee for the plan amendment process. Actual fee schedules for plan amendments, consistency reviews and ancillary activities should be developed by SEAGO and presented to the Executive Board for review and approval.

#### **Public Participation in the WQM Process**

One of SEAGO's responsibilities as the Designated Planning Agencies for southeastern Arizona is to

provide opportunity to public participation and public input into the WQM process. Public participation requirements include the following:

- E Holding public hearings on all revisions to the WQM plan.
- E Maintaining at least one set of documents relevant to the appropriate WQM plan, in a location which is accessible to the public.
- E Developing, maintaining, and utilizing a notification list of persons or organizations interested in, or significantly affected by, the WQM plan and amendments.
- E Publishing public notices 45 days before hearings. Notification may be reduced to 30 days, or waived in some circumstances, upon EPA approval.
- E Making relevant documents available at least 30 days before hearings.
- E Keeping records of public hearings.
- E Developing a responsiveness summary for each public hearing.

The SouthEastern Arizona Governments Organization (SEAGO) should encourage informal public meetings early in the WQM plan amendment process, so that public views and concerns may be considered during the planning process.

## **WQMP MAINTENANCE AND UPDATE PROCESS**

### **Financing and Update of the WQMP**

When the 1978 WQMP was developed, federal funds financed the planning effort and these funds were expected to be available in the future for plan implementation. However, funding has become very limited and is not expected to be readily available for water quality planning implementation during the 1990s.

Because of limited financial resources, updating existing WQMPs may be difficult, but at a minimum, a plan update should occur biannually. Such an update should take into consideration and incorporate changes in population, economic growth, new rules and regulations, new treatment technologies, changes to the water resources in the region, new funding sources and successful mitigation of problem areas.

It became apparent during the review of the 1978 WQMP and the 1980 updated plans that if plans are not updated on some type of regular basis, they soon become so outdated that they are clearly not consistent with goals of the region or with state rules and policies. Applications for new facilities and construction projects could be approved by ADEQ, even though they would not be supported by the region's governing bodies.

As the Designated Planning Agency (DPA) for the region, SEAGO is responsible for plan amendments and revisions, and must ensure that a process is in place to accommodate them. Currently, ADEQ has some limited funding in the form of a CWA Section 604(b) grant funding which will provide for basic water quality planning for the region. The basic activities would include baseline planning, public involvement and participation, consistency reviews, and the compilation of information for periodic updates of the plan. The SEAGO must develop a mechanism that will efficiently use limited resources and incorporate the elements identified above.

With federal and state pass-through funding diminishing, SEAGO must also actively pursue new funding sources in order to continue water quality planning in the region, and if no outside source of funding can be identified, determine if the member entities are willing to fund the planning process through some type of assessment or fee schedule.

Other avenues of funding that should be explored include: increased assessments for all member entities specifically earmarked for water quality planning activities; fees for processing plan amendments, to include

some type of reduced fee structure for SEAGO member entities; actively seeking other federal grant funds for water quality and other environmental grants, to include air quality funds.

### **Planning Implications, Finance and Update of the WQMP**

Funding for the Water Quality Management process will continue to be an issue. If water quality planning is to continue, SEAGO must look at financing alternatives other than solely federal and state funding.

Plan amendments and consistency review can be time consuming, and the required public participation process further adds to these costs. Some mechanism needs to be developed to recover these costs. Member entities already pay yearly assessment dues and would most likely balk at the prospect of an increased cost for things they perceive as having little or no tangible benefit. The majority of the cost should be incurred by the agency, entity, the private developer, or individual that will receive the most benefit from an amendment. Additionally, increased information and publicity of the effort that goes into water quality planning for the region, and the benefits to the region, both tangible and intangible, should be fostered at all Administrative Council and Executive Board meetings.

### **Recommendations, Finance and Update of the WQMP**

- SEAGO should develop a schedule of fees for processing plan amendments and consistency reviews. Ensure that these costs are recovered and go back into water quality planning activities for the region.
- SEAGO should go over the activities of the region's Environmental Review Committee at each Administrative Council and Executive Board meeting, and ensure that elected officials and administrators remain informed and involved with the planning process.
- SEAGO should research other possible funding sources for water quality planning and pollution prevention activities in the region. These include loans and grants from CDBG, FmHA, EDA, and the RCAC.