

Achieving Environmental Justice in North Carolina Public Participation Policies

**Huei-An Chu^{*},
2005 Environmental Justice Intern,
Clean Water for North Carolina[†]**

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Environmental Justice for All.

^{*}Currently post-doctoral fellow, UNC-Chapel Hill, School of Public Health.

To contact, please email: hachu@email.unc.edu

[†]2009 Chapel Hill Rd., Durham, NC 27707 (919) 401-9600

<http://www.cwfnc.org>

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Executive Summary

Achieving Environmental Justice in NC's Public Participation

Public participation is critical to achieving environmental justice, as many injustices neglected by policy-making can be noted and considered early in any decision-making. Public notice and participation requirements are mandated in various environmental laws, at both federal and state levels. Many compliance guidances, program and policy tools have also been developed to enhance public participation.

Public Participation in Federal and State Environmental Justice Policies and Guidance

On February 11, 1994, President Clinton issued Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," and an accompanying Presidential memorandum, to focus federal attention on the environmental and human health conditions in minority and low-income communities. Since then, several federal policy and guidance documents have been provided for regulatory, case settlement, and other policy-related information supporting the Agency's enforcement and compliance activities. In this report, we address public participation components in the most important federal and North Carolina policies and guidance incorporating environmental justice issues. Among these critical policies and guidances are: *Presidential Executive Order 12898*; *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*; *President's Cover Memorandum for Executive Order 12898*; *EPA's Environmental Justice Strategy and EPA's 1996 Environmental Justice Implementation Plan by Office of Environmental Justice (OEJ)*; *CEQ's Environmental Justice Guidance Under the National Environmental Policy Act and EPA's Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses*; *National Environmental Justice Advisory Council (NEJAC)'s Model Plan for Public Participation*; *Memo EPA's Commitment to Environmental Justice*, and *EPA's Environmental Justice Strategic Plan*; *Region 4 Action Plans to Integrate Environmental Justice*; *NC Department of Environment and Natural Resources (DENR)'s Environmental Equity Initiative (EEI)*.

Public Participation in Environmental Statutes and Federal Policies

Several Agency statutes and regulations contain public involvement/participation and other requirements relevant to environmental justice communities. The federal environmental statutes discussed in this report include *The National Environmental Policy Act (NEPA)*, *The Clean Water Act (CWA)*, *The Safe Drinking Water Act (SDWA)*, *The Clean Air Act (CAA)*, *The Resource Conservation and Recovery Act (RCRA)*, *The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund)*, *The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)*, *The Federal Food, Drug, and Cosmetic Act (FFDCA)*, *The Toxic Substances Control Act (TSCA)*, *The Emergency Planning and Community Right-to-Know Act (EPCRA)*, *The Freedom of Information Act (FOIA)*. Community involvement in research endeavors is also addressed in the report.

The public notice and participation of various environmental laws are addressed in three areas, including: 1. Public Notice and Comment; 2. Public Hearings and Meetings ; and 3. Citizen Advisory Groups and Other Forms of Participation.

A Survey of Environmental Justice and Public Participation Needs

To learn about people's experience and viewpoints regarding public participation and environmental justice issues and to learn if there is any gap between public participation policies and how those policies are actually implemented, we conducted surveys at the North Carolina Environmental Justice Network's 3rd Quarter Community Meeting on July 16, 2005, as well as a group of minority college students interested in health careers registered in NCHCAP (North Carolina Health Career Access Program) and some local residents.

This survey contains three parts: Environmental Justice Priorities, Public Participation, and Environmental Justice (EJ) Factors.

a. Environmental Justice Priorities

To learn the concerns about various environmental justice issues and their priorities for the public, we asked people to rank the potential importance (from 1=least important to 5=most important) of each topic and provide comments on each of them, as well as additional suggested priorities. The results show that "Reduce exposure to air toxics (health impacts, strong odors)" and "Safe drinking water – protecting lakes & rivers" are the most important environmental issues, followed by "Safe drinking water – preventing well contamination". On the contrary, "Reuse of partially cleaned-up sites", "Reduce exposure to diesel" and "Safe swimming, fishing & boating" are the three least important priorities. Therefore, in general, we can say that clean water and air are the highest EJ priorities for these survey participants. The lowest priority was "Reuse of partially cleaned-up sites;" some people simply commented that this kind of site shouldn't be reused.

a. Public Participation

We divided this questionnaire according to the three aspects of public notice and participation of various environmental laws.

1) Public Notice and Comment Provisions

Survey results show that the most effective public notice tool is "poster in local churches", followed by "mail" and "poster in local community centers". By contrast, the least effective tool is a "poster in front of facility under construction", followed by "local newspaper", "email" and "poster in local supermarkets or convenience stores".

"Poster in local churches" is the most effective tool probably due to the high level of church attendance in NC. Considering that North Carolina lies in Bible belt and a very high percentage of population (especially minority people) goes to church on Sunday, local church could be a critical place to enhance public participation. Also, the result shows that "mail" is another effective tool to improve public notice. Therefore, even though mailing notices may increase the cost, this method should still be considered in critical cases, or where contact information for citizen's groups is available. EPA and NC-DENR should keep this in mind and seek any possible way to improve and consider various alternatives when it comes to public notice and participation.

Another noticeable result is that “Poster in front of facility under construction” and “local newspaper” happen to be the two most common used tools by NC DENR. “Poster in front of facility under construction” got both the lowest points in “effectiveness” and highest points in “not effective,” which results in their lowest rankings.

c) Public Hearings and Meeting Provisions

The results show that about half of these people are actively attending various public hearings and half of them are not. The reason they haven’t attended any of the public meeting is mostly because they didn’t receive notice. For people who have attended public meetings, most of them have had meaningful involvement. For those who don’t think they have meaningful participation, the reason is mostly because of the bad atmosphere, such as arrogant officials. A few more responses prefer “speaking at a public hearing” than prefer “sending written comments to the agency,” so EPA and NC-DENR should provide both channels to collect public comments.

d) Citizen Advisory Groups and Other Forms of Participation.

In the survey about local citizen advisory groups, a higher percentage of people expressed distrust when such advisory groups are organized by business or industries as compared to those organized by local government. Decreasing the distrust of local people by providing reliable and substantive information must be a priority of EPA and NCDENR when making recommendations to a business or industry which wants to organize such a citizen advisory group.

e. EJ Experiences and EPA Proposal to Drop Race and Socio-economic Status

We asked some deeper questions about people’s experience about environmental injustice, and their opinions about EJ factors and the issue of dropping race and socioeconomic status as EJ factors. These questions include: *“Have you or your community ever experienced any environmental injustice (see front page for explanation) due to your race, national origin, income, or where you live or work?”* *“An Executive Order issued during the Clinton administration says every federal agency should identify and address the “disproportionately high and adverse” environmental effects of its programs on minority and low-income communities. Other than race and socioeconomic status, what factors do you think have to be considered in future environmental justice decisions?”* *“EPA has proposed dropping race and socioeconomic status as factors in future decisions, asserting that all communities should be treated equally regardless of their race and socioeconomic status. How do you feel about this proposal and what do you think its impact will be on you and your community?”* Detailed summaries of all responses to these questions about experiences and factors are given in the report.

I. Background Information about Environmental Justice (EJ)

I-1. Definition ^[1]

According to the definition from U.S. EPA website^[1], **environmental justice (EJ)** is “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” **Fair treatment** means that no group of people (including a racial, ethnic, or socioeconomic group) should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. **Meaningful involvement** means that: (1) Potentially affected community residents have an appropriate opportunity to participate in decision-making about a proposed activities that may affect their environment and/or health; (2) The contribution of the public can influence the regulatory agency's decision; (3) Their concerns will be considered in the decision-making process; and (4) The decision-makers seek out and facilitate the involvement of those potentially affected. Finally, environmental justice will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

I-2. Historical Background ^[2]

Local activities related with environmental justice have been organizing on issue related to environmental justice since as far back as 1968. Dr. Martin Luther King Jr. went to Memphis on an environmental and economic justice mission; seeking support for striking garbage workers who were underpaid and whose basic duties exposed them to dangerous environmentally hazardous conditions.

In 1979, the first lawsuit to challenge environmental discrimination using civil rights law, *Bean v. Southwestern Waste Management, Inc.*, was filed in Houston to challenge a waste facility siting. From the early 1920s through 1978, more than 80 percent of Houston's garbage landfills and incinerators were located in mostly Black neighborhoods, even though Blacks made up only 25 percent of the city's population. The residents failed to halt the landfill, but they were able to impact the city and state waste facility siting regulations.

In 1978, predominantly Black Warren County, N.C., was selected as the final resting place for toxic waste. Oil laced with highly toxic PCBs (polychlorinated biphenyls) was illegally dumped along roadways in 14 North Carolina counties in 1978 and cleaned up in 1982. The decision to dispose of the contaminated soil in a landfill in the county sparked protests and more than 500 arrests - marking the first time any Americans had been jailed protesting the placement of a waste facility. The Warren County protesters

put "environmental racism" on the map. Environmental racism refers to any environmental policy, practice, or directive that negatively affects (whether intentionally or not) individuals, groups, or communities based on race or color. Although the Warren County protesters were also unsuccessful in blocking the PCB landfill, they galvanized Black church leaders, civil rights organizers, youth and grassroots activists around environmental issues in the Black community.

The events in Warren County prompted District of Columbia Delegate Walter Fauntroy to request a General Accounting Office (GAO) investigation of hazardous waste facilities in the EPA's Region IV which includes Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, North Carolina and Tennessee. The 1983 GAO study found that three of four off-site hazardous waste landfills in the region were located in predominantly Black communities, even though Blacks make up only 20 percent of the region's population. The events in Warren County led the United Church of Christ (UCC) Commission for Racial Justice to publish its landmark 1987 "Toxic Wastes and Race in the U.S." report. The UCC study documented that three of every five African-Americans live in communities with abandoned toxic waste sites.

In 1990, the publication of Robert D. Bullard's book "Dumping in Dixie: Race, Class and Environmental Quality" offered the nation a firsthand glimpse of environmental racism struggles all across the South - a region whose "look-the-other-way" environmental policies allowed it to become the most environmentally befouled overall region of the country.

Environmental justice networks and grassroots community groups keep making their voices heard loud and clear. Meanwhile, several statutes and policies to implement those laws have been created in the response to the environmental justice movement, and will be addressed in details in the following chapters. Table I lists some milestones of environmental justice.

Table I. EJ Milestones

| Year | Events |
|-------------|---|
| 1982 | The environmental justice movement captured national attention, when a demonstration took place against the siting of a hazardous waste landfill in Warren County, North Carolina, a county comprised of a predominately African-American population. |
| 1987 | The United Church of Christ published a nationwide study (Toxic Waste and Race in the United States), considering the association between hazardous waste facilities and the racial/socioeconomic composition of the communities hosting such facilities. |
| 1990 | EPA forms the Environmental Equity Work Group to address the allegations of disproportionate waste siting and general environmental inequities. |
| 1991 | First National People of Color Environmental Leadership Summit held October 24-27, 1991, in Washington, DC; drafting of the Principles of Enviro. Justice |
| 1992 | <p>The Environmental Equity Workgroup issued its findings in reports (<i>“Environmental Equity: Reducing Risk in All Communities”</i> Volumes I and II) which stated that racial minorities and low-income people were disproportionately exposed to lead, selected air pollutants, hazardous waste facilities, contaminated fish and agricultural pesticides in the workplace.</p> <p>As a result of the findings by the Environmental Equity Workgroup, the USEPA created the Office of Environmental Justice (OEJ). This office is charged with coordinating the Agency's efforts to address environmental justice issues.</p> <p>OEJ establishes an internship program with the Environmental Careers Organization to provide job training opportunities for students from culturally diverse communities and tribes.</p> |
| 1993 | <p>The Center for Policy Alternatives, the National Association for the Advancement of Colored People and the United Church of Christ Commission for Racial Justice released a study confirming environmental inequalities. They found that minorities are 47 percent more likely than others to live near hazardous waste facilities.</p> <p>EPA established the National Environmental Justice Advisory Council (NEJAC), which provides independent advice and recommendations to EPA on environmental justice issues.</p> |
| 1994 | <p>On February 11, President Clinton issued an Executive Order 12898 (<i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>) requiring Federal agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health and environmental effects on minority and low-income populations to the maximum extent practical and as permitted by law.</p> <p>EO 12898 established the Interagency Working Group (IWG) on Environmental Justice, which is made up of 12 federal agencies and chaired by</p> |

| | |
|------|--|
| | <p>EPA. OEJ established the Environmental Justice Small Grants Program to provide financial assistance to communities.</p> |
| 1995 | <p>OEJ convenes 1st National Interagency Environmental Justice Public Meeting. EPA established the Environmental Justice through Pollution Prevention (EJP2) grant program to support pollution prevention approaches in environmental justice communities.</p> |
| 1996 | <p>OEJ issues the Model Plan for Public Participation.</p> |
| 1998 | <p>OEJ launches the Environmental Justice software, enabling communities to learn more about their local environment. EPA and the President's Council for Environmental Quality (CEQ) convened the 1st listening session in Los Angeles.</p> |
| 1999 | <p>NEJAC held the 1st broad public meeting on environmental justice in the permitting process. Subsequent public meetings focus on specific policy issues.</p> |
| 2000 | <p>OEJ's Community Intern Program placed students in new community groups to learn about environmental justice issues at the grassroots level. 1st American Indian and Alaskan Native Environmental Justice Roundtable. IGW issued the 1st Environmental Justice Action Agenda, which includes 15 community revitalization projects. Office of General Council (OGC) issued a landmark memorandum, <i>EPA Statutory and Regulatory Authorities Under Which Environmental Justice Issues May Be Addressed in Permitting</i>. OEJ formed the National Environmental Justice Training Collaborative to develop workshops and train instructors.</p> |
| 2001 | <p>EPA Administrator issues a memorandum (<i>EPA's Commitment to Environmental Justice</i>) on the integration of environmental justice into Agency policies, programs, and activities. Training Collaborative held 1st Environmental Justice Fundamentals Workshop.</p> |
| 2002 | <p>EPA regional offices began planning listening sessions around the country. OEJ held the 1st Alternatives Dispute Resolution Workshop for community representatives. EPA develops their 1st comprehensive Environmental Justice Action Plans.</p> |
| 2005 | <p>On June 22, the Office of Environmental Justice in EPA issued its newest Environmental Justice Policy (the draft, "Framework for Integrating Environmental Justice" and "Environmental Justice Strategic Plan Outline") and asked for public comment in the Federal Register (70 FR 36167). More information is available at: http://www.epa.gov/compliance/resources/reports/ej.html. EPA proposes to drop race as factor in future decisions.</p> |

I-3. Federal Agencies Related to EJ

(1) U.S. EPA ^[3]

The statutes that EPA implements provide the Agency with authority to consider and address environmental justice concerns. EPA's environmental justice mandate encompassed the breadth of the Agency's work, including setting standards, permitting facilities, awarding grants, issuing licenses or regulations, and reviewing proposed actions of the federal agencies.

- ***EJ Coordinator in EPA Headquarters Office and Region***

Every Headquarters Office and Region has an environmental justice coordinator to serve as a key role in outreach and education to external as well as internal individuals and organizations.

- ***Office of Environmental Justice (OEJ)***

While all EPA offices have the duty to address environmental justice, the Office of Environmental Justice (OEJ) is the entity within EPA with the primary responsibility for coordinating the Agency's efforts to integrate environmental justice into all policies, programs, and activities. OEJ also works with all stakeholders to constructively and collaboratively address environmental and public health issues and concerns. In addition, OEJ provides information, technical and financial resources to assist and enable the Agency to meet its environmental justice goals and objectives.

(2) National Environmental Justice Advisory Council (NEJAC) ^[4]

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee established to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice.

(3) Interagency Working Group (IWG) on Environmental Justice ^[5]

One of the provisions of the Executive Order established an Interagency Working Group (IWG) on environmental justice. IWG is chaired by the EPA Administrator and comprised of the heads of eleven departments/agencies and several White House offices. These include the EPA, the Departments of Justice, Defense, Energy, Labor, Interior, Transportation, Agriculture, Housing and Urban Development, Commerce, and Health and Human Services, the Council on Environmental Quality, the Office of Management and Budget, the Office of Science and Technology Policy, the Domestic Policy Council, and the Council of Economic Advisors. The IWG is supposed to meet on a monthly basis to continue the collaborative projects.

(4) Region 4 Environmental Justice and Community Liaison (EJ/CL) Staff Office^[6]

EPA Southeast Region (Region 4) Environmental Justice and Community Liaison Staff Office is responsible for integrating environmental justice into the region's programs, policies, and procedures. Also, the Office promotes the integration of environmental justice into local, state, and federal government programs, policies, and procedures. In addition, the Office encourages stakeholder involvement in environmental justice by providing workshops, training, and information.

Other major functions of the Office are to manage environmental justice small grants and process environmental justice inquiries and complaints. The grants are awarded on an annual basis to eligible community groups and federally recognized tribal governments that are working on or planning to carry out projects to address environmental justice issues. Inquiries and complaints are reported to the Environmental Justice and Community Liaison Staff Office on a daily basis. Resolution of these inquiries and complaints is coordinated by the Office and referred to other EPA Region 4 programs for action.

The mission of their Environmental Justice Program includes:

- 1) Raise awareness of environmental justice issues.
- 2) Identify, assess, address, and respond to inequitable environmental impacts.
- 3) Focus resources on areas shouldering a disproportionate share of environmental harm.
- 4) Communicate to the public about opportunities to get involved in environmental decision-making.

I-4. Public Participation and EJ

One of the general environmental justice goals is ensuring and enhancing “meaningful input” of affected communities in identifying impacts, making decisions and implementing environmental programs, so they can participate in the regulatory process “early and often.” For many communities of color and low-income communities, the economic, cultural, linguistic and other barriers are often substantial.

This report focuses on the review and critique of key federal and state public participation policies and statutes for achieving Environmental Justice, and includes the results of interviewing impacted communities that CWFNC has worked with, member organizations of the NC Environmental Justice Network, state policy officials about how those policies are actually implemented.

II. Public Participation in Federal and State Environmental Justice Policies and Guidance

Outline

1. Presidential Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (2/1994)
2. President's Cover Memorandum for Executive Order 12898 (2/1994)
3. EPA's Environmental Justice Strategy (4/1995) and EPA's 1996 Environmental Justice Implementation Plan by Office of Environmental Justice (OEJ)
4. CEQ's Environmental Justice Guidance Under the National Environmental Policy Act (12/1997) and EPA's Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses (4/1998)
5. NEJAC's Model Plan for PP
6. Memo EPA's Commitment to Environmental Justice (8/9/2001), and EPA's Environmental Justice Strategic Plan (6/2005)
7. Region 4 Action Plans to Integrate Environmental Justice
8. NC DENR's Environmental Equity Initiative (EEI) (10/19/2000)

On February 11, 1994, President Clinton issued Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," and an accompanying Presidential memorandum, to focus Federal attention on the environmental and human health conditions in minority and low-income communities. Since then, several federal policy and guidance documents have been provided for regulatory, case settlement, and other policy-related information supporting the Agency's enforcement and compliance activities.

This section addresses public participation components in the most important federal policies and guidance incorporating environmental justice issues.

II-1. Presidential Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (2/1994)

Introduction

Executive Order 12898 established generally that each federal agency must make environmental justice part of its mission and address disproportionate health and

environmental impacts throughout its programs, policies and activities to the extent appropriate and permitted by law.

Public Participation

In Section 1-103, *Development of Agency Strategies*, it was stated that “the environmental justice strategy shall list public participation processes and ensure greater public participation.” In Section 5-5, *Public Participation and Access to Information*, it was mentioned that “the public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.” In a word, the Executive Order requires agencies to work to ensure effective public participation and access to information. In the Order, there is no mention about the consequences for failure to comply.

II-2. President's Cover Memorandum for Executive Order 12898 (2/1994)

Introduction

In the memorandum to heads of departments and agencies that accompanied Executive Order 12898, the President specifically recognized the importance of procedures under the National Environmental Policy Act (NEPA) for identifying and addressing environmental justice concerns. The memorandum provides that “each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by NEPA.”

Public Participation

The public participation provision in Executive Order 12898 and its accompanying memorandum are designed to ensure that **there is adequate and effective communication between federal decision makers and affected low-income communities and minority communities.** This memorandum particularly emphasizes the importance of NEPA’s public participation process, directing that “each Federal agency shall provide opportunities for community input in the NEPA process.” Agencies are further directed to “identify potential effects and mitigation measures in consultation with affected communities, and improve the accessibility of meetings, crucial documents, and notices.” It was also stressed that the order is intended to promote non-discrimination in federal programs substantially affecting human health and the environment, and to “provide minority and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.”

II-3. EPA's Environmental Justice Strategy (4/1995) and EPA's 1996 Environmental Justice Implementation Plan by Office of Environmental Justice (OEJ)

Introduction

The Executive Order, as amended, directs federal agencies to develop an Environmental Justice Strategy that identifies and addresses disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations. In response to Executive Order 12898, the EJ Strategy was developed by EPA in 1995 and the two-year Implementation Plan was prepared by EPA Office of Environmental Justice (OEJ) in 1996 to supplement EPA's strategy as "an initial step in an ongoing effort to integrate environmental justice objectives into Agency's activities". This Implementation Plan contains goals and objectives that track directly to the Strategy, with the additional elements of key efforts, measures of progress, lead organization, and dates of completion.

Public Participation

One goal of the Implementation Plan states that "those who live with environmental decisions - community residents, State, Tribal, and local governments, environmental groups, businesses - must have every opportunity for *public participation* in the making of those decisions".

Two guiding principles of the EJ Strategy related to public participation are: (1) Environmental justice begins and ends in our communities. EPA will work with communities through communication, partnership, research, and the *public participation* processes. (2) EPA will help affected communities have access to information, which will enable them to *meaningfully participate* in activities.

Moreover, the agency is committed to ensuring *active public participation* of our stakeholders and to receive their input early in environmental decision-making. EPA will enhance partnerships and coordination with stakeholders, including: affected communities, Federal, Tribal, State, and local governments, environmental organizations, non-profit organizations, academic institutions (including Historically Black College and Universities (HBCUs), Hispanic Serving Institutions (HSIs), and Tribal Colleges, and business and industry. EPA will use input from the National Environmental Justice Advisory Council (NEJAC), their *public participation models*, and other outreach and communication activities along with input from other stakeholders, particularly those from affected communities, early in the decision-making process.

"*Public Participation, Accountability, Partnerships, Outreach, and Communication with Stakeholders*" is one of the EPA's five mission areas and are related to achieving environmental justice through public participation. This mission area and its five goals are listed in the Table 1 of Appendix I.

II-4. Council for Environmental Quality (CEQ)'s Environmental Justice Guidance Under the National Environmental Policy Act (NEPA) (12/1997) and EPA's Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses (04/1998)

Introduction

The National Environmental Policy Act (NEPA) requires federal agencies to prepare environmental assessment (EA) or environmental impacts statement (EIS) for actions that significantly affect the human environment. This law reflects the federal government policy that action affecting the environment must be taken on an informed basis.

Considering Public Participation in Order to Incorporate EJ under NEPA

Adequate public participation in NEPA process is crucial to incorporate environmental justice considerations into EPA's NEPA actions, both to enhance the quality of the analyses and **to ensure that potentially affected parties are not overlooked and excluded from the process**. Ideal public participation under NEPA should involve two-way communications, with EPA receiving information, comments, and advice, as well as circulating information by using possible approaches, analyses, and decisions. This goal can be accomplished through careful identification of target audiences and aggressive community outreach beyond the traditional forms.

In the 1997 EJ Guidance, Council for Environmental Quality (CEQ) developed six principles for considering environmental justice under NEPA, and three of them are related to public participation: (1) Agencies should develop effective *public participation* strategies; (2) Agencies should assure *meaningful community representation* in the process; and (3) Agencies should seek tribal representation in the process in a manner that is consistent with the government-to-government relationship between the United States and tribal governments, the federal government's trust responsibility to federally-recognized tribes, and any treaty rights.

CEQ also required agencies to make diligent efforts to involve the public throughout the NEPA process, and suggested several steps in developing an innovative strategy for *effective public participation*, including (1) educate the public in the affected community about potential health and environmental impacts and enhance public involvement; (2) translate major documents or provide translators at meetings to reduce language barriers to potentially affected limited-English speakers; (3) offer opportunities for affected limited-English speakers to provide comments throughout the NEPA process; (4) provide opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments; (5) use periodic newsletters or summaries to provide updates on the NEPA process to keep the public informed; (6) use different meeting sizes or formats, or variation on the type and number of media used, so that communications are tailored to the particular community or population; (7) circulate or create specialized materials that reflect the concerns and sensitivities of particular populations such as information about risks specific to subsistence consumers of fish, vegetation, or wildlife; (8) use locations